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REPROVING THE LEGAL STATUS OF EDUCATIONAL INSTITUTIONS IN THE MINISTRY OF INTERNAL AFFAIRS - PERIOD REQUIREMENT

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Kulmuradov Ulugbek Islamovich

Republic of Uzbekistan, Independent researcher of the Academy of the Interior Ministry, Uzbekistan

ABSTRACT

In this article, the need to revise the legal status of educational institutions in the system of the Ministry of Internal Affairs is justified due to the fact that the principles of a market economy are being integrated into modern social life in our country and the growth of competitive educational services.

KEYWORDS

Educational institutions in the system of the Ministry of Internal Affairs, paid educational services, academic (financial) freedom.

INTRODUCTION

The transition of Uzbekistan to a market economy has created a competitive struggle in the field of education, as well as in all areas. The fact that the market economy is based on free commodity-money relations and the movement of various forms of service on its basis accelerated these processes. It is known that during the times of the former Soviet Union, all types of education were provided free of charge, and this was enshrined at the constitutional level (Article 43

of the Constitution of the USSR).[1] However, the market economy created the need for self-sufficiency of educational institutions and their need to provide paid educational services. As a result of such cases, it is necessary to revise the civil legal status of educational institutions that did not need to operate as a legal entity in the former Soviet Union.



The market economy of the Republic of Uzbekistan has made paid education and paid educational services the subject of civil law contracts, and these provisions are reflected in our national legislation. In particular, Article 6 of the Law of the Republic of Uzbekistan "On Education" dated August 29, 1997 stated that "Educational institutions have the right to provide paid educational services in accordance with their charter functions, as well as to engage in other types of entrepreneurial activity." [2]

The introduction of the principles of market economy into the social life of the country has made the participation of educational institutions, including those of the Ministry of Internal Affairs (hereinafter - the Ministry of Internal Affairs) in civil society an objective necessity. After all, today educational institutions are widely involved in civil-legal relations, especially in property relations related to the provision of paid educational services.

The scientific analysis carried out to determine the civil-legal status of educational institutions in the system of the Ministry of Internal Affairs made it possible to emphasize the following features:

first, educational institutions of various organizational and legal forms (school, lyceum, academy, center, etc.) operate in the system of the Ministry of Internal Affairs, each of which has its own legal status;

secondly, the activities of educational institutions in the system of the Ministry of Internal Affairs are regulated by legislative acts of various levels. In particular, the Civil Code (hereinafter - the Civil Code), general laws (for example, on non-governmental non-commercial organizations) and special laws (for example, on education) and bylaws apply.

It should be noted that the reforms aimed at improving the legal status of educational institutions as legal

entities and expanding their participation in civil law relations in our country were mainly carried out in two stages. At the first stage, educational institutions were given the right to provide paid educational services and engage in entrepreneurial activities, and at the second stage, the establishment and operation of private educational institutions was allowed.

According to M.V.Grechko, the basis for the emergence of private educational institutions was the recognition of private property in society and the recognition of the equality of all forms of property. [3] However, in our opinion, the recognition of private property and ensuring the equality of all forms of property is one of the important principles of a market economy. Therefore, the basis for the emergence of private educational institutions was not the recognition of the equality of private property and forms of ownership in society, but the transition to a market economy. In other words, without the transition to a market economy, there would be no equality between private property and forms of property in society.

Indeed, according to the traditional rule formed in civil law, legal entities are divided into commercial and non-commercial types according to their property rights and the nature of their activities. As A.S. Fedoryashenko noted, "there was no division of legal entities into commercial and non-commercial types due to the absence of permission for entrepreneurial activities in Soviet civil law." [4] That is, in the Civil Code of the Republic of Uzbekistan adopted after independence, legal entities were divided into commercial and non-commercial types. And this is reflected in the first part of Article 40 of the Civil Code in the following content: "An organization (non-commercial organization) that has the main goal of its activity to make a profit (commercial organization) or does not have such a goal to make a profit (non-



commercial organization) may be a legal entity." [5] The criteria for classifying legal entities into such types are their main goals and the procedure for using the income gained. That is, if the main goal of commercial organizations is to make a profit and distribute this profit among the participants who created it, the original goal of non-commercial organizations (including educational institutions) will be aimed at performing socio-cultural tasks. It should be noted that our national legislation allows non-commercial organizations (including educational institutions) to engage in entrepreneurship and income-generating activities. However, it is not allowed that such activities become their main activities and the profit gained as a result of it is distributed among the participants.

Naturally, the market economy has turned non-commercial legal entities into active subjects of civil law relations. Articles 7-78 of Paragraph 3 of Chapter 4 of the Civil Code indicate 6 forms of non-commercial organizations. However, the law does not prohibit the organization of other forms of non-commercial organizations. That is, Article 40 of the Civil Code provides that non-commercial organizations can be created in another form provided for by law.

The most common legal form of non-commercial organizations are institutions, which have a special place in ensuring and implementing the interests of the state and society. For example, "educational institutions" with a civil-legal status play an important role in the training of strong and competitive mature personnel necessary for the work of the state and society. It is known that in our country, it is allowed to establish private educational institutions in order to train talented and competitive personnel. These processes created a new trend in the market of educational services, and as a result, new organizational and legal forms of educational organizations (private, international, etc.) appeared.

According to A.A. Popov, "the active involvement of institutions in civil circulation, that is, the implementation of functions of a non-commercial nature on the one hand and the active participation in property relations on the other, creates the need to reconsider their legal status in civil-legal relations." [6] Indeed, the emergence of private educational institutions and the competitive environment in the process of training personnel has created the need to revise the organizational and legal status of state educational institutions, such as the implementation of traditional management, other non-commercial functions, full or partial financial support by the founders. Implementation of this will allow to solve the problems related to the participation of relatively new institutions in civil law relations among subjects of civil law. In addition, today, while private educational institutions are developing in the education market with their paid and competitive educational services, it serves to make educational institutions in the system of the Ministry of Internal Affairs a worthy competitor.

Educational institutions in the system of the Ministry of Internal Affairs, on the one hand, are a structure in the system of the ministry, which is a state management body, and on the other hand, they are a subject in the group of non-commercial organizations, that is, an institution with the status of a legal entity. In this sense, it is necessary to pay attention to a number of features of the activities of educational institutions in the system of the Ministry of Internal Affairs:

firstly, the activities of educational institutions in the system of the Ministry of Internal Affairs are both in the system of the state governing body [7] and as a non-profit legal entity, that is, as an institution;

secondly, educational institutions in the system of the Ministry of Internal Affairs, along with the implementation of socio-cultural tasks or other non-



commercial tasks, carry out special, i.e. when necessary, activities related to the implementation of tasks assigned to the internal affairs bodies on the basis of Article 2 of the Law "On Internal Affairs bodies."

Speaking about the activities of educational institutions in the system of the Ministry of Internal Affairs, first of all, it should be noted that it is an organization created by the owner and fully or partially financially supported for the training of qualified specialists for internal affairs bodies, that is, for the implementation of socio-cultural tasks or other non-commercial tasks specified in Article 76 of the Civil Code.

In this regard, in the conditions of market economy and educational competition, the issue of competition of educational institutions in the system of the Ministry of Internal Affairs with educational institutions granted academic freedom (financial independence) in the training of qualified personnel is also relevant. After all, the number of educational institutions granted academic freedom (financial independence) in our country is increasing year by year.

Although, as defined in Article 76 of the Civil Code, educational institutions with the status of an institution are organizations created by the owner to carry out management, socio-cultural tasks or other non-commercial tasks, it cannot be denied that they are also actively involved in relations related to entrepreneurial activity. In other words, even if educational services are provided by non-profit organizations, their paid educational services are the subject of a fee-for-service contract. This means that the subjective composition of paid service providers - executors includes educational institutions in the system of the Ministry of Internal Affairs.

The Decree of the President of the Republic of Uzbekistan dated December 24, 2021 No. PP-61 "On measures to grant financial independence to state higher educational institutions"[8] gave a significant impetus to the participation of educational institutions, including educational institutions in the system of the Ministry of Internal Affairs, in civil-legal relations. In other words, this legal document became the legal basis for changing the organizational and legal forms of educational institutions, that is, the beginning of reforms related to the formation of modern educational institutions in accordance with the requirements of the market economy. According to this decision, starting from January 1, 2022, 35 universities in Uzbekistan will operate on the basis of academic independence. It should be noted that the new norm, which was included in part 2 of Article 51 of the new version of the Constitution of the Republic of Uzbekistan, adopted by universal voting at the referendum of the Republic of Uzbekistan held on April 30, 2023, "Higher educational organizations have the right to academic freedom, self-government, freedom of research and teaching in accordance with the law,"[9] caused a revolutionary change in the activities of educational institutions.

As a result of academic independence, higher educational institutions (hereinafter - HEIs) independently solve a number of important tasks, such as determining curricula, programs, qualification requirements, educational form, study duration, additional admission to the doctoral program with a grant at their own expense, introducing distance, distance and evening education for master's programs, creating and publishing textbooks and other educational and scientific literature based on their own griff, internal control of the quality of education, attracting the cost of the contract, local and foreign professors

The rapid entry into the education market of Uzbekistan of not only private, but also foreign and international educational institutions with paid educational services created competition in the education market and ultimately served the modernization of state educational institutions. These processes were also implemented in the activities of educational institutions of the Ministry of Internal Affairs. In particular, in accordance with the Decree of the President of the Republic of Uzbekistan dated August 16, 2017 No. PP-3216 "On measures to radically improve the system of training, retraining and advanced training of employees of internal affairs bodies," starting from the 2018/2019 academic year, the form of external education was introduced, and training was organized on a paid-contract basis. Also, by the Decree of the President of the Republic of Uzbekistan dated August 18, 2023 No. PP-282 amendments and additions were made to the above-mentioned Decree No. PP-3216, which provided for the Academy to accept up to 700 people with an annual quota of admission to the full-time form of education, as well as an additional 200 people on a paid contract basis.[10]

In our opinion, it is becoming a requirement of the time to ensure the right of state educational institutions, including the educational institutions of the Ministry of Internal Affairs, to academic freedom, self-government, the right to freedom of research and teaching, the freedom to independently implement the main directions of their activities, the right to be independent in making decisions on the procedure and conditions of education. The competitive environment in the education market of our country requires the independent functioning of educational institutions, inappropriate interference of higher organizations and their officials in the activities of educational institutions, the need to drastically reduce the cases of issuing instructions to educational institutions on

conditions and requirements for conducting education. In short, today's processes show the need to drastically change the form of management inherited from the former Soviet system in relation to educational institutions.

CONCLUSION

In conclusion, it can be said that in civil law, determining the legal signs of educational institutions that are a non-profit organization in the system of the Ministry of Internal Affairs as a legal entity is important in entering into civil legal relations, being recognized as a subject of civil law, concluding agreements with individuals and legal entities on the provision of paid educational services, resolving civil disputes with other subjects in court and participating in the court as plaintiffs and defendants, and in the legal management of their assigned property. The existence of different educational institutions in the system of the Ministry of Internal Affairs and the specificity of their organizational and legal form require a separate study of their legal characteristics as a legal entity.

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