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Information Article

Improving measures for the development of financial and legal back up of state support for development programs of higher education institutions in Russia

Nikolay A. Vlasenko, Sergey B. Zinkovskiy, Irina A. Gronik

Peoples' Friendship University of Russia (RUDN University)
Moscow, Russian Federation

Abstract. The RUDN Law Institute research team headed by the Doctor of Sciences, professor of the Department of Theory of Law and State Nikolay Vlasenko performed an expert and analytical work for the formation of a package of proposals on measures and law-making initiatives in order to implement the amendments to the Constitution of the Russian Federation adopted in 2020. The aim was to assess the need to determine the additional source of income of a constituent of the Russian Federation for state support for the development programs of higher educational organizations by changing the system of distribution of tax revenues between federal and regional levels of the budget. The research team included Sergei Zinkovskiy, Ph.D., associate professor of the Department of Theory of Law and State, Mikhail Katsarsky, Ph.D., associate professor of the Department of Theory of Law and State, Irina Gronik, Ph.D., assistant professor of the Department of Civil Law and Civil Procedure Law and Private International Law, Denis Dobryakov, Irina Chernykh and other specialists of RUDN Law Institute. The results of the research can be used by the Government of the Russian Federation, the Ministry of Higher Education and Science of the Russian Federation to form theoretically based proposals related to the dynamics of financial and legal support for state efforts for programs of higher education organizations development in Russia on the territories of subjects of the Russian Federation in connection with the implementation of the amendments to the Constitution of the Russian Federation.

Key words: Constitution of the Russian Federation, budget, tax, higher education, source of income, funding, state support

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Информационная статья

**Совершенствование мер по развитию
финансово-правового обеспечения государственной
поддержки программ развития
организаций высшего образования в России**

Н.А. Власенко, С.Б. Зинковский, И.А. Гроник*

Российский университет дружбы народов,
г. Москва, Российская Федерация
* gronik-i@rudn.ru

Аннотация. Временным творческим коллективом РУДН под руководством д.ю.н., проф. кафедры теории права и государства юридического института Власенко Н.А. выполнено экспертно-аналитическое сопровождение формирования пакета предложений о мерах и правотворческих инициативах в целях реализации принятых в 2020 году поправок к Конституции РФ в части оценки необходимости определения дополнительного источника дохода субъекта РФ на государственную поддержку программ развития образовательных организаций высшего образования за счет изменения системы распределения налоговых поступлений между федеральными и региональными уровнями бюджета. Во временном творческом коллективе активно трудились к.ю.н., доц. Зинковский С.Б., к.ю.н., доц. Кацарский М.И., к.ю.н. Добряков Д.А. и другие специалисты института. Результаты исследования могут быть использованы Правительством РФ, Минобрнауки РФ для формирования научно-обоснованных предложений, связанных с динамикой мер финансово-правового обеспечения государственной поддержки программ развития высшего образования в субъектах Российской Федерации в связи с реализацией обновленной Конституции Российской Федерации.

Ключевые слова: Конституция РФ, бюджет, налог, высшее образование, источник дохода, финансирование, государственная поддержка

Конфликт интересов. Авторы заявляют об отсутствии конфликта интересов.

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The amendments to the Constitution of the Russian Federation adopted in 2020 were evoked by the development of modern Russian society. Among other things, Russian State needed to revise a number of mechanisms of state regulation in such important areas as education and science.

In order to study the financial measures and legal support of state efforts for the development programs of higher educational organizations in, the research team analyzed the amendments to the Constitution of Russia adopted in 2020 and performed the expert and analytical work. The aim was to elaborate the proposals for measures and law-making initiatives to determine the additional source of income of a constituent of the Russian Federation for state support of the development programs of higher educational organizations by changing the system of distribution of tax revenues between federal and regional budget levels.

As a part of the expert and analytical work, a detailed analysis of state regulation, program documents, existing practice, legislative initiatives, and doctrinal materials in the field of generating income sources and development of higher educational organizations was carried out.

RUDN University has created a fruitful scientific collaboration with the Institute of Legislation and Comparative Law under the Government of the Russian Federation.

The first stage of the research program concentrated on the task of assessment of the current legislation and analysis of the provisions of the Federal Act of Amendment to the Constitution of the Russian Federation No. 1-FKZ On Improving the Regulation of Certain Aspects of the Organization and Functioning of Public Authority dated 14 March 2020. The research team has analyzed its provisions related to legal regulation of the field of science and

education. Also, the specifics of regulatory legal acts defining the procedure and forms of financial support of higher educational organizations as well as legal regulation of funds received by higher education institutions from the commercial education were revealed. The team performed a comprehensive analysis of the legal status of programs for developing higher educational organizations as well as measures for their support by the state.

The second stage of the research program was focused on the task of legal assessment and identifying the methodology for legislative regulation (legislative approaches) in the field of distribution of tax revenues between federal and regional budgets on the example of higher educational institutions. This stage of the research program included a) definition of methodological principles for changing the system of distribution of tax revenues between federal and regional levels of the budget, b) analysis of regulatory decisions describing the general procedure for generating incomes of the regions of the Russian Federation, and c) assessment of the criteria for their use.

The subsequent stages of the research program comprised justification of the need to determine the additional source of income of a Russian constituent for state support of the programs of development of higher education organizations due to the amendments to the Constitution of the Russian Federation adopted in 2020. The essential problems of such state support before 2020, as well as relationship between the identified challenges and the amendments to the Russian Constitution were revealed.

The basic results of the research included justification of the directions and structure of possible and recommended changes in the system of distribution of tax revenues between federal and regional levels of the budget to determine the additional source of income of a Russian constituent for state support of programs for the development of higher educational organizations in connection with the amendments to the Russian Constitution adopted in 2020. Also, the system of specific initiatives to amend the current legislation of the Russian Federation to determine the additional source of income of a constituent for state support of programs for development of higher education organizations by changing the system of distribution of tax revenues between federal and regional levels of the budget was proposed.

The research resulted in a scientific report prepared on the basis of the analytical study. It contained a) comprehensive analysis of regulatory acts on the financial measures and legal support for State efforts for the development of higher education organizations in the regions of the Russian Federation; b) arguments on the need to determine an additional source of income of a constituent for state support of the above programs, c) determination of di-

rections and structure of possible and recommended changes in the system of distribution of tax revenues between federal and regional levels of the budget to determine an additional source of income a region for such programs due to the amendments to the Constitution adopted in 2020.

As a result of the research of the regulatory legal framework the main trends in the field of state regulation of science and education in the Russian Federation were identified. The research team proposed the methodology for legislative regulation of the system of distribution of tax revenues between the federal and regional budgets of Russia in the field of science and education. That allowed to come to the following conclusions:

1) The development of Russian science received constitutional support in the form of four articles of the Constitution, which contributes to further development of constitutional norms in the provisions of particular legislative acts. First of all, this idea concerns the provisions of the new version of the federal constitutional law On the Government of the Russian Federation, as well as the Federal Law No. 127-FZ of 23 August 1996 On Science and State Scientific and Technical Policy and provisions of the budget and tax codes regulating particular issues in the field of science, technology and innovation.

2) The federal law No. 273-FZ of 29 December 2012 On Education in the Russian Federation is the backbone act for education in general that lays the regulatory foundation of the higher education system in the Russian Federation. The significant shortcomings of this law resulted in a large number of declarative norms, as well as inconsistency of its norms with the provisions of other legal acts. Its norms often do not consider the specifics of relations in the field of science; in particular, they do not correlate with the real social needs in the field of science, innovation, and modern standards of legal regulation.

3) There is currently a trend related to further legal formalization of the Institute of Integration of Science and Higher Education. The measures are being taken to create additional guarantees to ensure the right of citizens to higher education. New mechanisms are being put in practice in the context of globalization and integration of States, including student and labor migration. The higher education system does not stand aside from general reforms in the field of legal regulation; for example, the systematization of mandatory requirements is one of the elements of such phenomenon as *regulatory guillotine*.

4) The legislation of the Russian Federation provides for the possibility of functioning of both public and private educational institutions. However, Article 8 of the Federal Law On Education in the Russian Federation does not provide special authority of the state bodies of the constituents of the Russian Federation to create higher education organizations.

The following problems are currently unresolved for higher education organizations: a) the gap between constitutionally and legislatively established standards in the field of education and their actual implementation for each citizen of Russia, b) the issue of legislative consolidation of the legal status of scientific divisions in educational organizations remains unresolved, c) there is a need to change approaches to evaluating the terms of contract for education services, d) participation of employers and their associations is not reflected at the normative level in the process of forming the state task for education.

5) Combining the types of financing higher education (state financing, financing through tuition fees, private financing (from various funds, by private investors, stakeholders, *etc.*); cooperation between universities and real sector will ensure financial stability of educational organization. In addition, funding of higher educational institutions should also take into account the additional funds of the budget system allocated for implementation of national programs and related sub-programs affecting the field of education.

6) The following problems of financing educational organizations can be distinguished: a) a large number of acts do not make the procedure for financing educational organizations transparent, b) centralization of financial resources leads to a rapid shift in government priorities, as well as to an outflow of funds from regional education organizations, c) insufficient public funding is compensated by instruments that create opportunities to attract private funds, but their effective implementation requires a long and stable economic environment.

7) Educational organization development program is one of the types of innovative management tools for moderating individual social institutions, the key tasks of which are to predict possible negative risks of functioning and develop mechanisms for overcoming them, as well as to effectively use the infrastructure, personnel, and financial resources in order to achieve the stated goals. This program covers all aspects of organization's functioning — educational, scientific, normative, material, and economic activities — in the context of long-term planning and modelling the final result. Such a program should be developed along with educational programs, plans and other program documents in certain areas of educational organization. An important requirement for the development programs of higher educational organizations is the need to coordinate these programs with the Russian Academy of Sciences.

8) The development program and state task are the most important documents determining educational organizations' functioning. They have a financial content and contribute to effective functioning of educational system and implementation of constitutionally guaranteed educational rights of citizens.

9) The conflicts regarding approaches to determining tax revenues between the norms of the Budget Code and the Tax Code of the Russian Federation were identified. This fact is important in terms of defining the additional source of income of a Russian constituent to support programs for the development of higher educational organizations.

10) The main feature of the methodology of legislative regulation of tax revenues distribution system between federal and regional budgets is centralization of most of tax revenues into the federal budget, including VAT, which is the highest profitable source. These revenues are then sent to the regions of the Russian Federation in the form of subsidies to ensure the sufficient level of their budgetary security.

11) The methodology of legislative regulation of the system of distribution of tax revenues between the federal and regional budgets of the Russian Federation is complicated by the absence of a general federal law establishing standards for crediting tax revenues to different budgets. Currently, such standards are established partially by the norms of the Budget Code of the Russian Federation, by current budget legislation including by the Federal Law On the Federal Budget for 2020 and the Planning Period of 2021 and 2022. This complicates the methodology of legislative regulation of the tax revenue distribution system between the levels of the budget system of Russia, making it less transparent.

12) Due to the budget principle of general expenses, the higher educational organizations pay taxes, which are accumulated in the different budgets of the state budget system in a general manner, and then they are allocated to finance higher education out of the total budget revenues.

13) The higher educational organizations focused on educational programs in the field of health care and medical services, art and culture, as well as in the field of some technical areas, have a number of financial advantages. This situation is due to the fact that the amount of the basic standards of expenses is established taking into account differences depending on the direction of training or specialty of the corresponding cost group, as well as application of higher coefficients for universities depending on specifics of educational program and individual characteristics of educational organization. As a result, the financial support in the areas of training and specialties belonging to the first cost group (mathematics and mechanics, law, pedagogical sciences, linguistics, *etc.*) is carried out in conditions of an underestimated basic cost standard and significant separation from the standard of the third cost group.

14) As a result of the analysis of the financial management quality, the research team revealed some shortcomings and violations committed by man-

agers of the budget funds and higher educational institutions during provision of public services of higher education. Among them are gaps in financial planning, violations of the procedure of formation and execution of a state task (e.g., failure to fulfil state tasks with the full expenditure of subsidies).

15) The research revealed impossibility for federal constituencies to be directly financed from the regional budget programs for development of higher educational organizations, which are subordinate to the federal department (financing is carried out depending on the departmental affiliation of education organizations). The norms of budget legislation — including the principle of subordinating budget expenditures, the norms of legislation on education, e.g., admission control figures — are distributed among educational organizations according to the results of a public competition and in agreement with state or local self-government bodies that perform the functions of their founders.

16) Absence of clear indicators of effectiveness of spending budget funds (indicators of assessing the quality of provided public services by higher educational organizations) entails absence of clear evidence of fulfilment of the state task for provision of such services and, respectively, the unclear criteria for budget funding, since effectiveness of educational organization affects its rating in admission figures distribution. The research team proposed the possible solution: adoption at the federal and regional level, or adoption at the federal level of the criteria for assessing the fulfilment of a state task and the use of funds provided within its framework considering the regional specifics of functioning of higher educational organizations.

17) Connection between the identified problems and amendments to the Constitution of the Russian Federation adopted in 2020 can be traced in the goals of the State Program of Education Development (on the basis of which financing of university development programs is mainly carried out). Among them are educating a harmoniously developed and socially responsible person based on the moral values, historical and national cultural traditions; this is provided, among other things, by the students' involvement into the activities of public associations based on educational organizations. A similar connection between the identified problems and the amendments adopted in 2020 on the problems of financing programs for the development of universities can be traced through the powers of the Government to ensure state support for culture and to preserve cultural heritage in the Russian Federation, which can be transferred to the executive authorities of the federal constituent in accordance with Articles 43 and 44 of Act No. 2-FKZ On the Government of the Russian Federation dated 17 December 1997.

18) In order to improve inter-budgetary relations at the regional level, it is necessary to work out the measures aimed at increasing predictability of inter-budgetary transfers to local budgets. The research team proposed: a) to introduce a deadline for approval of transfer distribution no later than February 15 for other inter-budget transfers with certain exceptions, b) to establish the limits of unallocated reserves for other inter-budgetary transfers (5% for the first year of the planning period, 10% for the second year of the planning period), c) to establish the requirement to conclude agreements on subsidies provision and other inter-budgetary transfers for a period not less than the period for which the distribution is approved, d) to introduce a deadline for forming agreements on subsidies and other inter-budgetary transfers to local budgets — until February 15.

6) Expanding of the powers of the federal constituents due to the adoption of amendments to the Constitution means expanding the budgetary powers of the constituents, and respectively, their expenditure obligations, which prompts the need to find additional sources of income. The state allocations remain the main source of funding for higher education in the Russian Federation and is unlikely to change in the short term. For this reason, it seems more relevant at this stage to improve the existing state system of financing higher education, including through redistribution of tax revenues between budgets of various levels.

The results and scientific recommendations as well as the legislative proposals may form the basis for the respective development of financial and legal measures to provide the effective state support for the development programs of higher education organizations in the subjects of the Russian Federation.

About the authors:

Nikolay A. Vlasenko — Doctor of Legal Sciences, Full Professor of the department of Theory of Law and State, Law Institute, Peoples' Friendship University of Russia (RUDN University); 6 Miklukho-Maklaya str., Moscow, 117198, Russian Federation

ORCID ID: 0000-0002-9548-3396

e-mail: vlasenko-na@rudn.ru

Sergey B. Zinkovskiy — Candidate of Legal Sciences, Acting Director of the Law Institute, Deputy Director for Research, Associate Professor of the department of Theory of Law and State, Law Institute, Peoples' Friendship University of Russia (RUDN University); 6 Miklukho-Maklaya str., Moscow, 117198, Russian Federation

ORCID ID: 0000-0001-6494-0542

e-mail: zinkovskiy-sb@rudn.ru

Irina A. Gronic — Candidate of Legal Sciences, Assistant of the department of Civil Law and Procedural Law and Private International Law, Law Institute, Peoples' Friendship University of Russia (RUDN University); 6 Miklukho-Maklaya str., Moscow, 117198, Russian Federation

ORCID ID: 0000-0003-0893-5655

e-mail: gronik-i@rudn.ru

Об авторах:

Власенко Николай Александрович — доктор юридических наук, профессор кафедры теории права и государства, Юридический институт, Российский университет дружбы народов; 117198, Российская Федерация, г. Москва, ул. Миклухо-Маклая, д. 6

ORCID ID: 0000-0002-9548-3396

e-mail: vlasenko-na@rudn.ru

Зинковский Сергей Борисович — кандидат юридических наук, и.о. директора юридического института, заместитель директора по научной работе, доцент кафедры теории права и государства, Юридический институт, Российский университет дружбы народов; 117198, Российская Федерация, г. Москва, ул. Миклухо-Маклая, д. 6

ORCID ID: 0000-0001-6494-0542

e-mail: zinkovskiy-sb@rudn.ru

Гроник Ирина Александровна — кандидат юридических наук, ассистент, кафедра гражданского права и процесса и международного частного права, Юридический институт, Российский университет дружбы народов; 117198, Российская Федерация, г. Москва, ул. Миклухо-Маклая, д. 6

ORCID ID: 0000-0003-0893-5655

e-mail: gronik-i@rudn.ru