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FACULTY OF LAW

**THESIS**

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Deák Ferenc Doctoral School in Law and  
Political Sciences

**TOPIC:**

INTERNATIONAL LEGAL MECHANISM OF ENSURING  
THE IMPLEMENTATION OF THE RIGHT TO HIGHER  
EDUCATION: RECENT CHALLENGES AND  
ACHIEVEMENTS IN THE INTERNATIONAL  
INTEGRATION OF EDUCATION

**Submitted by:** Zhanna Amanbayeva,  
PhD candidate

**Submitted to:** Dr. Anita Paulovics,  
Professor, Head of the Department of Constitutional Law

## THESIS SUPERVISOR RECOMMENDATION

**Zhanna Amanbayeva**

for her PhD thesis "*International Legal Mechanism of Ensuring the Implementation of the Right to Higher Education: Recent Challenges and Achievements in the International Integration of Education*"

Zhanna Amanbayeva has been researching the guarantees of the right to education in an international context since 2021, following a change of subject after one year of PhD studies. The right to education is a fundamental right of great importance, both as a constitutional right and from an international perspective.

No comprehensive work has yet been carried out on this topic, so the Candidate's research can be regarded as a new scientific contribution.

After defining the concept of the right to education, the Candidate identifies the relevant international conventions addressing this right. In addition to universal conventions, she also examines regional conventions in Europe, Asia, and Africa.

The right to education encompasses two broad areas: public education and higher education. This thesis focuses public and higher education at international level. The Candidate effectively demonstrates that, although the right to education is enshrined in numerous international conventions, there are significant differences in how this right is implemented across the States Parties. She also presents possible reasons for these discrepancies.

In the research summary, the Candidate outlines her findings, identifies key issues, and proposes potential solutions.

Based on the above, I consider Zhanna Amanbayeva's paper to be fully suitable for public discussion.

Miskolc, 25. July 2025.

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Prof. Dr. Paulovics Anita

Supervisor

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## INTRODUCTION

Education is a cornerstone of societal progress and plays an essential role not only in shaping domestic policies but also in forging international partnerships. In today's globalized era, education transcends national boundaries, becoming a powerful instrument for economic development, cultural exchange, and social inclusion. Recognized as one of the fundamental human rights in international law, the right to education is enshrined in numerous treaties and declarations that bind states to uphold and promote accessible, quality education for all citizens.

Despite the widespread recognition of this right, the mere existence of legal norms is insufficient to guarantee its realization. As Soviet lawyer and diplomat S.V. Chernichenko famously asserted, "The social value and effectiveness of legal norms, including the norms of international law, are ultimately manifested in the process of their implementation. It is this process that is the life of law"<sup>1</sup>. In other words, without robust mechanisms for enforcement, legal provisions remain abstract ideals rather than tangible guarantees of individual rights. This observation underpins the need to analyze not only the legal content of the right to education but also the practical systems that translate these norms into everyday realities.

Over the past decades, the concept of the right to education has evolved considerably. Initially conceived in a narrower sense as the provision of primary education, it now embraces a broader spectrum of educational opportunities - from secondary and higher education to vocational training and lifelong learning. This expansion reflects a growing understanding that education is not only about acquiring knowledge but also about empowering individuals to fully participate in an increasingly complex and interconnected world.

A noteworthy development in recent years is the emergence of an integration element within the mechanism for implementing international legal norms<sup>2</sup>. Integration, in this context, refers to the process through which states and international organizations harmonize their policies, legal frameworks, and educational standards to create a more unified approach to ensuring the right to education. This phenomenon has significant implications: by fostering coordination and collaboration across different legal and cultural systems, integration enhances the effectiveness of both international and domestic measures for protecting educational rights.

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<sup>1</sup> Chernichenko S.V. *Teoriya mezhdunarodnogo prava*. V 2-h tomah. Tom 1: *Sovremennyye teoreticheskie problemy*. Moscow: Izdatelstvo «NIMP». 1999. pp. 49.

<sup>2</sup> Amanbayeva Zh. *International legal mechanism of ensuring the implementation of the constitutional right to education*. National Conference of Doctoral Students in Law. University of Miskolc. 2021.

The significance of integration can be observed on multiple levels. Internationally, efforts such as the Bologna Process in Europe illustrate how states can work collectively to standardize higher education systems, thereby facilitating student mobility, mutual recognition of qualifications, and cross-border research collaborations. Domestically, many countries have begun to incorporate integration strategies into their national policies to address regional disparities and to modernize their educational systems in line with global trends. The dual focus on international cooperation and internal reform is essential for developing a comprehensive mechanism that not only sets high standards for education but also ensures that these standards are practically realized.

This study aims to provide a thorough analysis of the current state of the international legal mechanism designed to implement the right to education, with a specific focus on the role of international educational integration as a key element of this mechanism. By examining the interplay between traditional legal frameworks and emerging integrative processes, the study seeks to reveal both the theoretical underpinnings and practical challenges of ensuring education for all. Special attention is given to comparative insights drawn from European and post-Soviet countries, which offer contrasting models of legal implementation and integration. Through this comprehensive approach, the study endeavors to contribute to a deeper understanding of how educational rights can be effectively protected and promoted in a world where the dynamics of globalization continue to reshape national boundaries and social priorities.

In summary, the right to education is more than a legal norm; it is a vital societal asset whose full potential can only be realized when robust, integrative mechanisms are in place. By exploring both the international and domestic dimensions of its implementation, this research highlights the need for coordinated efforts and innovative approaches to overcome the challenges that continue to hinder universal access to quality education.

In recent years, education has become a focal point of international legal and policy discourse, particularly in light of global disruptions such as armed conflicts, mass displacement, climate change, and the COVID-19 pandemic. These challenges have not only exposed the structural weaknesses of national education systems but also highlighted the critical need for resilient, inclusive, and rights-based educational frameworks. As a result, the right to education has acquired new significance as a strategic tool for social stability, recovery, and sustainable development. In particular, its codification and enforcement at the international level have become central to efforts aimed at bridging gaps in access, equity, and quality across diverse legal and cultural contexts.

At the same time, digital transformation has dramatically reshaped the educational landscape. The rapid expansion of online learning platforms, artificial intelligence in education, and cross-border academic exchanges has created both unprecedented opportunities and complex regulatory challenges. These developments underscore the importance of coherent legal mechanisms that can accommodate innovation while safeguarding fundamental educational rights. The tension between technological advancement and legal protection forms an emerging field of inquiry that this research seeks to address within the broader context of international legal integration.

The theoretical framework of the study is grounded in a multidimensional understanding of international human rights law, drawing particularly from the works of Katarina Tomaševski<sup>3</sup>, Klaus Dieter Beiter<sup>4</sup>, Manfred Nowak<sup>5</sup>, and Philip Alston<sup>6</sup>. It also engages with critical legal scholarship that views the right to education not merely as a static entitlement but as an evolving legal norm responsive to societal, economic, and technological changes. Furthermore, the study incorporates theories of legal pluralism and transnational legal ordering to explain the interaction between national education systems and international regulatory frameworks. These perspectives provide a robust analytical lens through which the processes of harmonization and normative convergence can be examined.

Methodologically, the dissertation combines doctrinal legal analysis with comparative, historical, and systemic approaches. It applies the formal-dogmatic method to examine the binding force and interpretative evolution of treaties and conventions, while also employing the comparative-legal method to highlight differences and similarities across jurisdictions. In addition, the legal forecasting method is used to identify emerging trends and anticipate future directions for the international legal regulation of education. This integrated methodology ensures that the study captures both the normative content and the functional dynamics of the international legal mechanisms under consideration.

Beyond its academic contribution, the study aims to contribute to policy discourse by offering practical recommendations for strengthening international educational cooperation. It advocates for an enhanced role of legal integration in achieving Sustainable Development Goal

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<sup>3</sup> Tomaševski K. *Human Rights Obligations in Education: The 4-A Scheme*. Wolf Legal Publishers. 2001.

<sup>4</sup> Beiter K.D. *The protection of the right to education by international law: including a systematic analysis of Article 13 of the International Covenant on Economic, Social, and Cultural Rights*. Leiden: Koninklijke Brill NV. 2006. pp. 50.

<sup>5</sup> Nowak M. *The Right to Education: Analysis of UNESCO Convention against Discrimination in Education*. *Human Rights Law Review*, 5(1). 2005.

<sup>6</sup> Alston P. *Ships Passing in the Night: The Current State of the Human Rights and Development Debate Seen Through the Lens of the Millennium Development Goals*. *Human Rights Quarterly*, 27(3). 2005.



4 (SDG 4)<sup>7</sup> and in bridging the persistent implementation gap that undermines the universality of educational rights. The proposed legal solutions are intended to inform multilateral negotiations, inspire regional harmonization efforts, and provide a framework for states seeking to align their national education policies with international legal standards.

Thus, this dissertation is not only a legal inquiry into the current state of educational rights but also a forward-looking analysis of how integrative legal approaches can shape a more just and inclusive global education system. It invites scholars, policymakers, and legal practitioners to rethink the role of law in education - not as a mere set of obligations, but as an enabling structure for cooperation, equity, and innovation in a rapidly transforming world.

### **Problem of the study**

Every year, the number of international legal acts regulating the right to education grows significantly. These legal instruments govern not only the basic guarantee of educational access but also address issues such as the implementation of educational rights, cooperation between states and educational institutions, and the recognition of qualifications and foreign educational documents. These acts are adopted at multiple levels - universal, regional, and bilateral - each contributing a unique perspective to the global framework for the right to education. As a result, the concept of the right to education is in a state of dynamic evolution, reflecting shifts in societal needs and the expansion of what education encompasses. Today, the content integrated into this right differs markedly from that envisioned in the earliest international treaties, underscoring the evolution from a basic provision of schooling to a comprehensive right covering all stages of lifelong learning.

At the same time, domestic regulatory frameworks are actively trying to align with these international trends. However, the practical effectiveness and feasibility of these reforms require thorough analysis. This gap between international norms and domestic implementation often results in inconsistencies that challenge policymakers. As states update their legal and policy frameworks, they must balance the need for conformity with international standards while addressing local conditions and developmental priorities.

A particularly influential example of evolving legal and policy frameworks is seen in the acts and declarations emerging from the Bologna Process and other integration initiatives

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<sup>7</sup> Resolution adopted by the General Assembly on 25 September 2015 “Transforming our world: the 2030 Agenda for Sustainable Development”, [https://www.un.org/en/development/desa/population/migration/generalassembly/docs/globalcompact/A\\_RES\\_70\\_1\\_E.pdf](https://www.un.org/en/development/desa/population/migration/generalassembly/docs/globalcompact/A_RES_70_1_E.pdf) (Retrieved on 3 of February 2025)

in education. These documents not only outline guidelines for harmonizing educational legislation but also provide concrete steps toward building common educational standards across regions. While some regions have successfully established integrated education systems, in others the search for optimal interaction models continues. The diverse experiences of different regions highlight the complexities involved in reconciling varied educational traditions and legal frameworks, making the study of these processes both timely and essential.

Furthermore, there is an urgent need to refine the definition of the constitutional right to education and to clearly delineate what educational integration entails. Determining the precise role of educational integration within both international legal mechanisms and domestic regulatory frameworks is critical. This entails assessing how integration initiatives contribute to the realization of educational rights and how they might be adapted to enhance the effectiveness of national education systems.

The relevance of this study has been underscored by the unprecedented challenges posed by the coronavirus pandemic. In response to the health crisis, many countries around the world were forced to close all educational institutions, affecting the education of one and a half billion children. Although a significant number of students shifted to distance learning, about a third faced serious obstacles - ranging from lack of access to computers or reliable Internet connections to difficulties in sharing limited technological resources among siblings in large families. Additionally, many schools struggled to establish robust online learning systems, further widening the educational gap.

UNESCO has highlighted that nearly half of the world's students are still experiencing disruptions, whether through prolonged school closures or reduced instructional hours. In a message on the International Day of Education, the UN Secretary-General emphasized that these disruptions not only impact students but also affect families and teachers alike, underscoring the far-reaching consequences of educational discontinuity.

Considering these challenges, the study aims to examine the evolving landscape of international legal acts on education, the shifting understanding of educational rights, and the interplay between international integration efforts and domestic educational reforms. The goal is to provide a comprehensive analysis that informs future policy initiatives and contributes to the development of more effective legal mechanisms to guarantee the right to education for all.

**The object of the research** encompasses public relations that are intricately connected to the implementation and protection of the fundamental right to education. This right is a cornerstone of human development, and as such, the interactions between various actors -

governments, international organizations, educational institutions, and individuals - constitute the foundation of the study. The examination of these public relations seeks to uncover the mechanisms and dynamics that influence how educational rights are established, safeguarded, and realized across different regions and cultures. This area includes the strategies and practices used by governments, international organizations, educational institutions, and civil society to promote awareness, enforce legal standards, and build consensus around educational rights.

One of the core original insights of the dissertation is the identification of a major gap in international legal regulation: the absence of a clear, universally accepted legal definition of the right to education. This omission results in legal uncertainty and inconsistency across national systems, and highlights the need for conceptual clarity in global educational norms.

**The subject of the research** consists of the international and national normative as well as law enforcement acts that directly or indirectly regulate the mechanisms for ensuring and protecting the right to education. This includes a diverse array of legal instruments such as treaties, conventions, statutes, administrative regulations, and judicial decisions that establish standards and procedures for guaranteeing access to quality education. Furthermore, the study explores how these legal frameworks facilitate cooperation among states, enabling harmonized educational policies, mutual recognition of qualifications, and collaborative measures to address cross-border challenges in education. By scrutinizing both the explicit provisions and the broader interpretative practices of these legal acts, the research aims to shed light on how they collectively support and sustain the global commitment to educational rights. Together, the object and subject provide a holistic view of the legal and social frameworks that constitute the global educational norm and enable the study of both its ongoing development and challenges.

### **Relevance and aim of the research**

In today's rapidly globalizing world, education is increasingly recognized as a cornerstone of human development and social progress. The relevance of this research lies in its timely examination of the international legal mechanisms that underpin the right to education - a fundamental human right. Despite the existence of numerous international legal instruments and domestic regulations, the effective implementation of the right to education remains a challenge. Discrepancies in legal frameworks, varied interpretations of educational rights, and differences in national capacities to enforce these rights call for a comprehensive approach to building and refining the international legal mechanism for education.

This concern is echoed in UNESCO's Right to Education Handbook (2019), which offers a comprehensive framework of indicators, accountability mechanisms, and legal references designed to assist states in assessing their compliance with international standards<sup>8</sup>.

The primary purpose of this study is to develop a robust concept of an international legal mechanism that ensures the full and effective implementation of the right to education. The research aims to formulate proposals that can enhance the legal impact on states, thereby increasing the effectiveness of the mechanisms that safeguard education as an essential human right. This study is particularly significant in light of the growing complexity of educational governance, which now intersects with global health crises, technological innovation, and geopolitical fragmentation. Within this evolving context, educational integration is no longer optional - it is an indispensable legal and policy response to international interdependence.

The objectives of the research are as follows:

- to analyze the international legal framework of the right to education, including relevant treaties and conventions;
- to assess the institutional and procedural mechanisms for implementing these norms at the international and regional levels;
- to examine the contribution of international organizations and supranational bodies to the promotion and regulation of the right to education;
- to study the phenomenon of international educational integration and its impact on the realization of the right to (higher) education;
- to evaluate the effectiveness of international legal protection compared to national approaches.

These objectives collectively aim to structure the dissertation's comparative and analytical approach, enabling a comprehensive evaluation of how international legal mechanisms function in practice and how they can effectively contribute to the realization of the right to (higher) education across different legal systems.

Through these interconnected tasks, the research seeks to contribute to the development of more effective legal instruments and cooperative frameworks. By bridging theoretical insights with practical policy proposals, the study aims to advance the global agenda of ensuring that education remains accessible, equitable, and of high quality for all.

## **Hypothesis of the Research**

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<sup>8</sup> UNESCO. Right to Education Handbook. UNESCO, 2019.

The central hypothesis of this dissertation is that the existence of international legal instruments alone is not sufficient to ensure the effective realization of the right to education. Rather, the actual implementation of this right requires integrative legal mechanisms that promote coordination, harmonization, and enforceability across national systems. Without such mechanisms, many international commitments risk remaining declarative and lacking in practical effect.

### **Scientific novelty of research**

This dissertation introduces a novel approach of an international legal mechanism specifically designed to ensure the effective implementation of the right to education. Drawing on a comprehensive analysis of international legal regulations in the educational field, the work synthesizes diverse normative instruments - from universal treaties and regional conventions to bilateral agreements - into a coherent framework that not only safeguards educational rights but also facilitates cooperative integration among states. By positioning the right to education within the broader system of international human rights standards, the study redefines its scope and reinterprets its practical dimensions in light of contemporary challenges.

For the first time, the research delves into the dynamic evolution of the understanding of the right to education in international law. It examines historical shifts and emerging trends, aiming to provide the most complete and nuanced definition of this right, as informed by modern legal instruments and international practices. In doing so, it highlights the transformative nature of educational rights, which have expanded from a basic guarantee of primary schooling to encompass secondary, higher, vocational, and lifelong learning opportunities.

Importantly, the research emphasizes that despite the growing body of international instruments, there is still no unified and legally binding definition of the right to education at the international level. This conceptual gap is a key scientific finding of the dissertation, as it explains the fragmentation and varied national interpretations in enforcing educational rights.

A key aspect of the dissertation is its critical evaluation of the role played by integration processes in reinforcing the international legal mechanism for education. This includes a detailed assessment of how regional initiatives - such as the Bologna Process - and other integration efforts contribute to harmonizing national policies and standards, thereby enhancing the overall effectiveness of educational rights implementation. The study uniquely considers the impact of global crises, including the coronavirus pandemic, on these processes,

shedding light on how emergencies can accelerate the need for adaptable, integrative legal frameworks.

Moreover, the work substantiates the feasibility of implementing the principles of educational integration. It systematically analyzes current trends, identifies the distinctive features of integration in the educational sector, and anticipates potential solutions to the emerging challenges associated with reforming the education systems of states engaged in such processes.

In summary, the scientific novelty of this research lies in its pioneering effort to conceptualize and articulate an integrated international legal mechanism for the right to education, its comprehensive redefinition of the right in the modern era, and its forward-looking analysis of educational integration as a vital component of legal and policy reform in a rapidly changing global landscape.

### **Research methodology**

The methodology reflects the interdisciplinary and forward-looking character of this study, which seeks to bridge theoretical legal constructs with practical policy applications in an increasingly interconnected educational landscape.

The methodological foundation of this study rests on a combination of general scientific and specific scientific methods of investigation, enabling a comprehensive and multilevel analysis of the issues surrounding the right to education and its legal enforcement. The research applies a diverse set of methodological approaches, each chosen for its relevance to specific aspects of the study.

Among the general scientific methods employed, several fundamental techniques will be utilized:

- **Dialectical method:** This will guide the analysis of the development and interaction of different legal concepts, frameworks, and mechanisms related to the right to education. It will help explore the contradictions, dynamics, and evolution within international legal instruments and domestic regulations.
- **Statistical method:** This will be used to analyze trends and patterns in the implementation of educational rights, especially with regard to the impact of international legal developments across different regions and countries. Statistical analysis will offer valuable insights into the quantitative aspects of educational access and compliance with legal frameworks.

- Systemic method: By employing this method, the research will view the international legal mechanisms for education as an interconnected system, examining how various components - or legal instruments - function together as a cohesive whole to safeguard and promote educational rights.
- Abstraction method: This method will be used to distill the core elements of complex legal texts and render abstract principles intelligible and applicable within the context of both international and domestic legal systems.

In addition to these general methods, specific logical techniques will be applied, including:

- Analysis and Synthesis: These approaches will be used to break down complex legal concepts and then synthesize them into unified frameworks and propositions.
- Hypothesis formation: Throughout the study, hypotheses will be constructed to explore variables, test assumptions, and offer potential legal solutions and frameworks for more effective protection and implementation of the right to education.

Finally, the research will integrate several specific legal methods:

- Formal-dogmatic method: This method will be used to scrutinize the letter of international treaties, national laws, and legal acts regulating education, with a particular focus on their precise wording and legal validity.
- Historical-legal method: This approach will help trace the historical development of the right to education and international legal norms, highlighting how ideas on education have evolved over time within legal and political contexts.
- Comparative-legal method: By comparing different legal systems and frameworks across regions and countries, the research will explore the diverse ways in which the right to education is realized and enforced. This method will also enable a better understanding of global trends and their influence on national legal practices.
- Method of legal forecasting: This method will be employed to predict potential future developments in the legal landscape of education, considering emerging trends such as educational integration and shifting global priorities.

Through the application of these diverse methods, this dissertation aims to provide a well-rounded, rigorous analysis of the international legal mechanisms for ensuring the right to education, highlighting both their strengths and areas needing further development.

The territorial scope of the study includes analysis at the international level (primarily UN and UNESCO legal instruments) as well as selected regional and national practices in Eurasian and African countries. These regions were chosen due to their active participation in international educational initiatives, diverse legal frameworks, and the existence of well-documented legal instruments and institutional mechanisms relevant to the right to education.

It should be noted that the present research does not aim to cover all global regions equally. The exclusion of Latin American and Australian systems from the comparative analysis is due to limited accessibility to relevant legal sources, institutional fragmentation, and the need to maintain methodological coherence and analytical depth within the selected regional focus.

### **Limitations of the research**

This dissertation is subject to several limitations inherent to its scope and methodology. First, the analysis focuses on selected international and national legal systems, primarily from Eurasian and African regions, and does not include a comprehensive global survey. Second, the study is limited by the availability of legal materials in English and Russian, which may have constrained access to relevant documents in other languages. Third, the dissertation emphasizes normative legal analysis and does not incorporate empirical data such as implementation reports, interviews, or field studies. These limitations are acknowledged as a necessary trade-off for maintaining analytical depth and focus.



## **CHAPTER 1. INTERNATIONAL LEGAL PROVISION OF THE RIGHT TO EDUCATION**

### **1.1. Securing the right to education in multilateral international legal acts of the universal level**

The right to education is one of the human rights enshrined in both universal and regional international instruments.<sup>9</sup> It is not only a fundamental human right in itself but also creates conditions for the further development of a person and the realization of all other rights. This approach to the right to education has found anchorage in the Sustainable Development Goals<sup>10</sup>, endorsed by the international community at the Sustainable Development Summit on September 25-27, 2015. Out of seventeen goals, the fourth place is “quality education”.

Traditionally, the sphere of education was considered the sphere of internal interests of states and was practically not regulated at the international level, but already in the middle of the twentieth century, norms on the protection of the right to education, addressed to states, appeared at the international level, and recently there has been a tendency of an ever-increasing volume of acts regulating education issues on the international level.

In the first chapter of the dissertation, these various types of legal acts will be analyzed in detail. The study will also explore the interplay between binding and non-binding instruments, the role of international organizations in shaping education policies, and the challenges states face in implementing global education commitments.

#### **1.1.1. General foundations and evolution of international regulation**

##### **1.1.1.1. The concept and core elements of the right to education**

Before analysing specific international instruments, it is important to clarify the core legal elements of the right to education: the subject, object, content, and possible limitations.

The subject of the right is primarily the individual. International standards emphasize the entitlement of all individuals - especially children - but also explicitly include adults, persons with disabilities, migrants, and marginalized groups. While international law

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<sup>9</sup> Joel H. Spring. The universal right to education: justification, definition, and guidelines. L.: Taylor & Francis. 2008. pp. 191.

<sup>10</sup> Resolution adopted by the General Assembly on 25 September 2015 “Transforming our world: the 2030 Agenda for Sustainable Development”, [https://www.un.org/en/development/desa/population/migration/generalassembly/docs/globalcompact/A\\_RES\\_70\\_1\\_E.pdf](https://www.un.org/en/development/desa/population/migration/generalassembly/docs/globalcompact/A_RES_70_1_E.pdf) (Retrieved on 3 of February 2025)

guarantees education universally, national legislation often defines beneficiaries more narrowly, leading to practical exclusions<sup>11</sup>.

The object of the right is the institutionalized provision of education - schools, curricula, infrastructure, and the legal framework that supports them. This includes access to different levels of education (primary, secondary, higher), as well as non-formal and vocational training.

The content of the right includes both freedoms and entitlements: access to education without discrimination, the obligation of states to provide free and quality education, and the assurance of legal remedies for violations<sup>12</sup>. These standards are intended to guide national implementation in diverse contexts.

The limitations of the right may be introduced in exceptional cases, such as for reasons of national security or public order. However, such limitations must be lawful, necessary, proportionate, and non-discriminatory<sup>13</sup>. In practice, national systems vary widely in how these standards are interpreted and enforced.

Clarifying these elements helps to understand how international norms are translated into national legal systems - where constitutions and education laws operationalize treaty obligations. This framework also supports more precise comparison between national and international protections<sup>14</sup>. Moreover, it exposes enforcement gaps: national traditions, cultural frameworks, and economic disparities all affect how fully the right is guaranteed. Finally, this layered understanding reinforces the central hypothesis of this dissertation - namely, that international legal protection, due to its universality and binding normative force, offers a more coherent and effective framework than fragmented national approaches.

Through this examination, the dissertation will provide a deeper understanding of the international legal framework governing education, highlighting both achievements and gaps in ensuring equal access to quality education worldwide.

While this chapter focuses on the legal and institutional dimensions of international education law, it does not include empirical data or implementation monitoring. The analysis remains within the framework of doctrinal and comparative legal methods.

First, international treaties related to education will be analysed. These international treaties, in turn, are divided into two groups: the treaties of the first group contain separate

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<sup>11</sup> UNESCO. Right to Education Handbook. UNESCO. 2019. pp. 35–37.

<sup>12</sup> UN Committee on Economic, Social and Cultural Rights. General Comment No. 13: The Right to Education (Art. 13), E/C.12/1999/10. 8 December 1999.

<sup>13</sup> UN Committee on Economic, Social and Cultural Rights. General Comment No. 13: The Right to Education (Art. 13), E/C.12/1999/10. 8 December 1999.

<sup>14</sup> Robeyns I. Three Models of Education: Rights, Capabilities and Human Capital. *Theory and Research in Education*, vol. 4, no. 1. 2006. pp. 69–84.

norms concerning the right to education, the treaties of the second group are fully devoted to issues in the field of education.

The analysis of these international treaties will focus on their legal impact, enforcement mechanisms, and the extent to which they influence national education policies. It will also explore the limitations of binding international law in education, including challenges related to state compliance, lack of enforcement mechanisms, and variations in domestic implementation.

Secondly, an array of recommendatory acts devoted to education issues will be considered. First, these are the recommendations and declarations of UNESCO, filling in the gaps on those issues that, for whatever reason, are not covered by international treaties, as well as the reports of the UN Special Rapporteur on the right to education. Special attention in this group deserves a set of recommendation acts that are adopted within the framework of the Education for All movement and represent a consistent development strategy for the development of lifelong education throughout the world<sup>15</sup>.

The analysis will focus on the effectiveness of these soft law instruments, examining how they influence national education systems, drive policy reforms, and complement binding legal obligations. The interplay between binding and non-binding international legal instruments will be explored, highlighting cases where soft law provisions have led to the development of customary international law norms or have been later incorporated into legally binding treaties.

#### **1.1.1.2. Foundational treaties: UDHR, ICESCR and UNESCO framework**

For the first time, the right to education was enshrined at the universal level in Article 26 of the Universal Declaration of Human Rights<sup>16</sup>, adopted at the third session of the UN General Assembly, and further enshrined at the treaty level in the International Covenant on Economic, Social and Cultural Rights<sup>17</sup>.

The bulk of the universal international treaties affecting education have also been adopted within or under the auspices of the United Nations.

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<sup>15</sup> Ainscow M., Miles S. Making Education for All inclusive: where next? Prospects 38. 2008. pp. 15 – 34.

<sup>16</sup> Universal Declaration of Human Rights, adopted by the UN General Assembly on 10 December 1948, <https://www.un.org/en/about-us/universal-declaration-of-human-rights> (Retrieved on 3 of February 2025)

<sup>17</sup> International Covenant on Economic, Social and Cultural Rights, adopted by the General Assembly resolution 2200A (XXI) on 16 December 1966, <https://www.ohchr.org/en/professionalinterest/pages/cescr.aspx> (Retrieved on 3 of February 2025)

Researchers distinguish two groups of universal acts devoted to education issues:<sup>18</sup> universal international treaties, which include only certain norms relating to some aspects of education, and universal treaties entirely devoted to education issues. Both groups share a common focus on protecting the human right to education and non-discrimination.

The first category of universal-level treaties includes:

1. Constitution of the United Nations Educational, Scientific and Cultural Organization<sup>19</sup>;
2. International Convention on the Elimination of All Forms of Racial Discrimination<sup>20</sup>;
3. International Covenant on Economic, Social and Cultural Rights<sup>21</sup>;
4. Convention on the Elimination of All Forms of Discrimination against Women<sup>22</sup>;
5. Convention on the Rights of the Child<sup>23</sup>;
6. International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families<sup>24</sup>;
7. Worst Forms of Child Labour Convention<sup>25</sup>;
8. Convention on the Rights of Persons with Disabilities<sup>26</sup>.

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<sup>18</sup> Kondratyuk A.V. Mezhdunarodno-pravovoe regulirovanie sotrudnichestva gosudarstv v sfere obrazovaniya. Diss. kand. yur. nauk. Sankt-Peterburg, 2007. pp. 51.

<sup>19</sup> Constitution of the United Nations Educational, Scientific and Cultural Organization, adopted in London on 16 November 1945, <https://www.unesco.org/en/legal-affairs/constitution> (Retrieved on 3 of February 2025)

<sup>20</sup> International Convention on the Elimination of All Forms of Racial Discrimination, adopted by the UN General Assembly resolution 2106 (XX) on 21 December 1965, <https://www.ohchr.org/en/professionalinterest/pages/cerd.aspx> (Retrieved on 3 of February 2025)

<sup>21</sup> International Covenant on Economic, Social and Cultural Rights, adopted by the General Assembly resolution 2200A (XXI) on 16 December 1966, <https://www.ohchr.org/en/professionalinterest/pages/cescr.aspx> (Retrieved on 3 of February 2025)

<sup>22</sup> Convention on the Elimination of All Forms of Discrimination against Women, adopted by the United Nations General Assembly on 18 December 1979, <https://www.ohchr.org/en/instruments-mechanisms/instruments/convention-elimination-all-forms-discrimination-against-women> (Retrieved on 3 of February 2025)

<sup>23</sup> Convention on the Rights of the Child, adopted by the General Assembly resolution 44/25 on 20 November 1989, <https://www.ohchr.org/en/instruments-mechanisms/instruments/convention-rights-child> (Retrieved on 3 of February 2025)

<sup>24</sup> International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families, adopted by the General Assembly resolution 45/158 on 18 December 1990, <https://www.ohchr.org/en/instruments-mechanisms/instruments/international-convention-protection-rights-all-migrant-workers> (Retrieved on 3 of February 2025)

<sup>25</sup> Worst Forms of Child Labour Convention, adopted on 87th ILC session on 17 June 1999, [https://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0::NO::P12100\\_ILO\\_CODE:C182](https://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0::NO::P12100_ILO_CODE:C182) (Retrieved on 3 of February 2025)

<sup>26</sup> Convention on the Rights of Persons with Disabilities, adopted on 13 December 2006 at the United Nations Headquarters in New York, <https://www.un.org/disabilities/documents/convention/convoptprot-e.pdf> (Retrieved on 3 of February 2025)

The UNESCO Constitution occupies a special position, since it defines the goals and significance of education, as well as the directions and methods of cooperation in this area. The norms of the remaining listed acts are mainly aimed at protecting the right to education and non-discrimination, in particular, non-discrimination in obtaining education for certain groups of subjects (children, women, disabled people) based on relevant criteria.

In addition, the UNESCO Constitution serves as the foundational document guiding global cooperation in education, setting key principles for promoting education for all, fostering international collaboration, and eliminating discrimination<sup>27</sup>. The broader legal framework for education protection has evolved significantly, with international and regional treaties reinforcing the principles of equality, inclusion, and accessibility. Despite these legal advances, challenges remain in ensuring effective implementation, closing educational gaps, and addressing new forms of discrimination in the digital era. Moving forward, a stronger commitment to enforcing international education rights, coupled with targeted policy interventions, will be essential in realizing the full potential of inclusive and equitable education worldwide.

The International Convention on the Elimination of All Forms of Racial Discrimination, adopted in 1965, is one of the core international human rights treaties aimed at eradicating racial discrimination and ensuring equality in access to fundamental rights, including education and vocational training. It imposes binding obligations on state parties to take immediate and effective measures to prohibit, eliminate, and prevent racial discrimination in both law and practice<sup>28</sup>.

The Convention recognizes that racial discrimination in education is a major barrier to social inclusion, economic opportunity, and personal development. It obliges states to ensure that educational policies, laws, and practices do not discriminate on the basis of race, color, national, or ethnic origin. This includes the right to equal access to educational institutions, scholarships, and vocational training programs, as well as protection from segregation and exclusion in the education system.

The International Convention on the Elimination of All Forms of Racial Discrimination plays a crucial role in ensuring that education is a tool for social justice and empowerment, rather than a mechanism for exclusion and marginalization. By prohibiting racial

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<sup>27</sup> Kenevan T.J. The United Nations in the Field of Education (Constitution United Nations Educational, Scientific and Cultural Organization). *Focus Journal Law Review*. Vol. 2(2). 2022. pp. 34.

<sup>28</sup> Schwelb E. The International Convention on the Elimination of all Forms of Racial Discrimination. *International and Comparative Law Quarterly*. Vol. 15(4). 1966.

discrimination, mandating equal access to educational opportunities, and requiring affirmative action where necessary, the Convention lays the foundation for a more just and inclusive education system.

However, the full implementation of the Convention's principles requires stronger political commitment, enhanced enforcement mechanisms, and continuous efforts to address systemic inequalities. As education remains one of the most powerful tools for breaking cycles of poverty and discrimination, states must prioritize the fight against racial disparities in education to achieve true equality and inclusion for all learners, regardless of race, ethnicity, or national origin<sup>29</sup>.

A broader global assessment by Heymann and McNeill reveals that while many countries have formally adopted laws supporting inclusive education, significant implementation gaps remain. The authors emphasize that legal guarantees must be matched with enforcement mechanisms, sufficient funding, and cultural change to ensure meaningful access. Their comparative study underscores that inclusive education is not only a legal obligation but a vital component of social justice, particularly for children with disabilities, ethnic minorities, girls, and migrants. Without robust implementation, even the best-formulated laws fail to deliver educational equality<sup>30</sup>.

Among the universal treaties, the main place in the regulation of the right to education is, of course, the International Covenant on Economic, Social and Cultural Rights, which in article 13 establishes the right of every person to education, and in addition to securing the right, the article names the goals and objectives of education, such as: full development of the human personality, strengthening respect for human rights and fundamental freedoms, the opportunity for everyone to be a member of a free society, promoting mutual understanding, tolerance and friendship between peoples.

A key legal element within this framework is the obligation of states to provide compulsory education, particularly at the primary level. Article 13 of the ICESCR and Article 14 further clarify that primary education must be not only free but also compulsory, ensuring that no child is excluded on account of parental inaction or social background. Compulsory education functions as a legally enforceable guarantee and reflects the binding nature of state responsibility. National legislation typically defines both the age range and enforcement

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<sup>29</sup> Meron T. The Meaning and Reach of the International Convention on the Elimination of All Forms of Racial Discrimination. *American Journal of International Law*. Vol. 79(2). 1985.

<sup>30</sup> Heymann J., McNeill K. Expanding Equality: Laws and Policies for Inclusive Education Worldwide. *Comparative Education Review*, vol. 57, no. 4. 2013. pp. 539–565.

mechanisms - ranging from administrative penalties to state intervention - aimed at ensuring attendance. For example, the Law of the Republic of Kazakhstan "On Education" (Article 30) establishes compulsory education between the ages of 6 and 16. While most countries recognize this obligation, the scope and effectiveness of its implementation vary significantly, depending on national priorities, resources, and governance mechanisms. Thus, compulsory education bridges the normative ideal of universal access with practical enforceability at the domestic level.

However, if we carefully examine the norms of the Covenant, we can conclude that they rather set the standards for the realization of the right to education, but do not disclose the scope and content of this right. In particular, the Covenant provides for the following actions aimed at ensuring the full realization of this right:

1. Primary education shall be compulsory and available free to all;
2. Secondary education in its different forms, including technical and vocational secondary education, shall be made generally available and accessible to all by every appropriate means, and in particular by the progressive introduction of free education;
3. Higher education shall be made equally accessible to all, on the basis of capacity, by every appropriate means, and in particular by the progressive introduction of free education;
4. Fundamental education shall be encouraged or intensified as far as possible for those persons who have not received or completed the whole period of their primary education;
5. The development of a system of schools at all levels shall be actively pursued, an adequate fellowship system shall be established, and the material conditions of teaching staff shall be continuously improved.

Article 14 of the Covenant establishes the obligation of each State party to ensure the principle of compulsory education free of charge for all.

The International Covenant on Economic, Social and Cultural Rights plays a crucial role in defining and safeguarding the right to education. Article 13 provides not only legal recognition of education as a universal right but also a vision for its role in human development, democracy, and international cooperation.

While many states have made significant progress in expanding access to education, ongoing challenges require stronger legal enforcement, increased funding, and innovative policies to ensure that education remains a reality for all, regardless of economic or social

background<sup>31</sup>. Moving forward, the international community must continue to uphold and strengthen the principles of the Covenant, ensuring that education remains a powerful tool for individual and societal progress worldwide.

#### **1.1.1.3. Group-specific protection: women, migrants, and children**

The Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) provides a comprehensive legal framework for addressing gender disparities in education and ensuring equal opportunities for women and girls at all levels of learning. While many international treaties recognize the right to education as a universal human right, CEDAW is particularly significant because it explicitly addresses the specific barriers and challenges faced by women in accessing education<sup>32</sup>. By doing so, it seeks to correct historical injustices and promote gender equality in both formal and informal education settings.

Articles 10 and 14 of CEDAW establish specific standards aimed at eliminating gender-based discrimination in education and achieving equal access and opportunities for men and women. These provisions recognize that education is not only a basic right but also a critical tool for social empowerment, economic independence, and political participation.

The main provisions on non-discrimination against women in education can be grouped as follows:

1. Equal conditions for choosing a profession and access to education, which include: vocational guidance, accessibility of education, the possibility of obtaining a diploma, as well as the possibility of continuing education and reducing the number of girls and women who do not finish school.
2. Equal learning conditions, such as: the same curricula, the same examinations, teaching staff with qualifications of the same standard and school premises and equipment of the same quality (including access to specific educational information to help ensure the health and well-being of families, including information and advice on family planning).
3. The same opportunities to benefit from scholarships and other study grants.
4. Eliminate stereotypical roles of men and women at all levels and in all forms of education by encouraging collaborative learning, active sports and physical fitness.

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<sup>31</sup> Welling J.V. International Indicators and Economic, Social, and Cultural Rights. Human Rights Quarterly. Johns Hopkins University Press. Volume 30. Number 4. 2008. pp. 933 - 958.

<sup>32</sup> Cole W. Convention on the Elimination of All Forms of Discrimination against Women (CEDAW). The Wiley Blackwell Encyclopedia of Gender and Sexuality Studies. First Edition. John Wiley & Sons, Ltd. 2016. pp. 1 - 3.



To fully implement the provisions of CEDAW, states should adopt the following measures:

1. Legal and policy reforms

- Enforce anti-discrimination laws to ensure equal access to education.
- Strengthen laws against child marriage and school-related gender-based violence.

2. Incentives for girls' education

- Provide scholarships, free school meals, and transportation for girls in low-income and rural areas.
- Implement cash transfer programs that encourage families to keep girls in school.

3. Gender-responsive curriculum and teacher training

- Develop curricula that challenge gender stereotypes and promote women's empowerment.
- Train teachers to eliminate unconscious bias and encourage gender-sensitive teaching methods.

4. Promote women in STEM fields

- Create mentorship programs for girls in science, engineering, and technology.
- Encourage universities to increase female enrollment in traditionally male-dominated fields.

5. Expand digital education for women and girls

- Bridge the gender digital divide by providing technology access and ICT training for women.
- Ensure that digital learning platforms cater to the needs of women with caregiving responsibilities.

The Convention on the Rights of the Child (CRC) is one of the most comprehensive international legal instruments for the protection and promotion of children's rights, including the right to education. As a legally binding treaty, it reinforces and expands upon the provisions of the International Covenant on Economic, Social and Cultural Rights, particularly in Article 28, which outlines specific state obligations related to ensuring universal access to education.

The CRC has significantly influenced both national and international education policies, encouraging governments to:

- Adopt legal reforms to ensure free and compulsory primary education.

- Ban corporal punishment and other abusive disciplinary practices.
- Develop inclusive education policies, particularly for girls, children with disabilities, and marginalized groups.
- Invest in teacher training programs to improve the quality of education and promote child-centred learning approaches.
- Increase international collaboration to support education in conflict zones, refugee camps, and underdeveloped regions.

Despite the widespread ratification of the CRC, many challenges remain in achieving universal quality education:

1. Persistent educational inequalities – Many children, particularly girls, refugees, and children with disabilities, still face barriers to schooling.
2. Underfunding of public education – In some countries, lack of investment in education infrastructure, teacher salaries, and learning resources hinders progress.
3. School violence and bullying – Ensuring safe and supportive learning environments remains a major concern.
4. Conflicts and displacement – Armed conflicts continue to disrupt education systems, forcing children out of school.
5. Lack of enforcement mechanisms – While the CRC is legally binding, not all states fully comply with its obligations, and enforcement mechanisms remain weak.

The Convention on the Rights of the Child (CRC) has played a transformative role in the global recognition of education as a fundamental right. While it builds upon earlier international instruments, it goes further in defining the purpose, quality, and methods of education, ensuring that learning is not only accessible but also meaningful and empowering<sup>33</sup>.

By establishing clear state obligations - from free primary education to inclusive and respectful learning environments - the CRC continues to shape education policies worldwide. However, achieving its full potential requires stronger enforcement mechanisms, increased investment in education, and sustained international cooperation.

The right of the child to education is further developed in the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (ICMW), recognizing the particular vulnerabilities faced by migrant children in accessing

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<sup>33</sup> McGoldrick D. The United Nations Convention on the rights of the child. *International Journal of Law, Policy and the Family*. Volume 5. Issue 2. 1991. pp. 132 - 169.

educational opportunities. Education is a fundamental right, essential for a child's personal development, integration into society, and future economic opportunities. The convention aims to eliminate barriers that prevent migrant children from receiving quality education due to their parents' legal status, economic instability, or lack of documentation<sup>34</sup>.

#### Key Provisions of the ICMW Regarding Education:

##### 1. Prohibition of discrimination in access to education (Article 30)

Article 30 of the convention explicitly guarantees that no child shall be denied access to education or face restrictions in attending state-run preschool, primary, or secondary schools due to the migration status of their parents.

This provision establishes the following principles:

- Equal access to education for all migrant children, regardless of whether their parents have regular or irregular status.
- Prohibition of state discrimination in school admissions based on nationality, immigration status, or work permits.
- Right to attend public educational institutions without additional legal or financial barriers.

This article reinforces the idea that education is a fundamental right that must be protected, regardless of a child's legal or migratory situation. It aligns with other international human rights treaties, such as the Convention on the Rights of the Child (CRC) and the International Covenant on Economic, Social and Cultural Rights (ICESCR), which emphasize universal access to education without discrimination.

##### 2. Access to public and private education institutions

The convention does not limit migrant children's rights to public education alone but extends protection to their access to private and vocational education institutions. States are encouraged to eliminate legal, financial, and administrative barriers that could hinder their access to different forms of education.

This is especially relevant in countries where undocumented migrant children face difficulties enrolling in schools due to requirements such as:

- Providing proof of residence or legal immigration status.
- Submitting work permits of parents as a prerequisite for school enrolment.
- Facing higher tuition fees than national students.

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<sup>34</sup> Edelenbos C. The international convention on the protection of the rights of all migrant workers and members of their families. *Refugee Survey Quarterly*. Vol. 24(4). 2005. pp. 93 - 98.

### 3. Right to vocational and higher education

While Article 30 focuses primarily on preschool and primary/secondary education, other provisions of the ICMW encourage states to ensure access to vocational education and training for migrant children. This includes:

- Access to technical and vocational training programs that prepare them for employment.
- Recognition of previous educational qualifications obtained in their home countries.
- Special programs for language learning to support their integration into the host country's education system.

This is crucial for migrant youth, who often struggle with language barriers, cultural adjustments, and bureaucratic obstacles in accessing higher education and training programs.

### 4. Protection against discriminatory educational practices

Migrant children often face discrimination, segregation, or lower-quality education due to their status or ethnic background. The convention seeks to address these issues by:

- Ensuring that migrant children are not placed in lower-quality schools or segregated classes.
- Encouraging inclusive and culturally sensitive curricula that reflect the diverse backgrounds of migrant students.
- Protecting migrant children from bullying, xenophobia, and social exclusion in educational settings.

### 5. Support for linguistic and cultural integration

To ensure full participation in education, the convention encourages states to provide language support and bilingual education programs for migrant children. Language barriers are one of the most significant challenges for migrant children in accessing quality education. The convention highlights:

- The importance of providing language assistance programs to support non-native speakers.
- The need for teachers trained in multicultural and multilingual education<sup>35</sup>.
- The recognition of migrant children's right to maintain their cultural identity while integrating into the education system of the host country.

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<sup>35</sup> European Commission: European Education and Culture Executive Agency, Learning for sustainability in Europe – Building competences and supporting teachers and schools – Eurydice report, Publications Office of the European Union, 2024, <https://data.europa.eu/doi/10.2797/81397> (Retrieved on 3 of February 2025)

## 6. International cooperation in education for migrant children

The convention recognizes that migration is a global phenomenon and calls for international cooperation to ensure that migrant children receive continuous, uninterrupted education regardless of where they move. This includes:

- Recognition of foreign qualifications to facilitate the transfer of students between educational systems.
- Exchange programs to promote best practices for integrating migrant children into national education policies.
- Financial and technical assistance for countries receiving large numbers of migrant children to strengthen their education systems.

Despite the legal guarantees provided by the ICMW, many challenges remain in ensuring the right to education for migrant children:

- Legal and administrative barriers – Some countries still deny undocumented migrant children access to education, citing immigration policies that prioritize national citizens over non-citizens.
- Financial constraints – In many cases, migrant children face higher tuition fees or hidden costs (e.g., uniforms, books, transportation) that make education unaffordable.
- Discrimination and social exclusion – Migrant children often experience bullying, xenophobia, and racial discrimination in schools, which can lead to low academic performance and high dropout rates.
- Language barriers – Many migrant children struggle to integrate into their new education systems due to limited proficiency in the host country's language.
- Lack of recognition of prior learning – Many education systems fail to recognize foreign academic credentials, forcing migrant children to restart their education from lower levels.

To fully implement Article 30 of the ICMW, states should adopt the following measures:

### 1. Remove legal and administrative barriers

- Ensure automatic enrolment of migrant children in public schools without requiring proof of legal residence.
- Prohibit discriminatory practices that prevent children from attending school based on their parents' immigration status.

2. Expand financial assistance programs
  - Provide free or low-cost education for migrant children to eliminate financial barriers.
  - Offer scholarships and financial aid programs for migrant families.
3. Enhance language and integration programs
  - Establish intensive language training for non-native speakers.
  - Train teachers in intercultural and multilingual education methods.
4. Strengthen anti-discrimination policies in schools
  - Implement zero-tolerance policies for bullying and discrimination.
  - Introduce inclusive curricula that reflect diverse cultures and histories.
5. Recognize foreign educational qualifications
  - Develop mutual recognition agreements for academic credentials to facilitate student transfers.
  - Allow flexible assessment policies to integrate migrant children into age-appropriate education levels.
6. Promote international cooperation
  - Encourage cross-border collaboration on migrant education policies.
  - Provide technical assistance and financial support to developing countries hosting large migrant populations.

Thus, the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (ICMW) reinforces the universal right to education by prohibiting discrimination against migrant children in accessing school and vocational training. By ensuring equal access to education regardless of legal or migratory status, the convention plays a crucial role in protecting the dignity and future opportunities of migrant children<sup>36</sup>.

However, significant challenges remain, requiring stronger national policies, increased funding, and global cooperation to ensure education remains a reality for all migrant children. As migration continues to be a defining global issue, it is imperative that education policies adapt to meet the needs of children on the move, ensuring that no child is left behind.

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<sup>36</sup> Touzenis K., Sironi A. Current Challenges in the Implementation of the UN International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families. EPRS: European Parliamentary Research Service. Belgium. 2013. pp. 6 – 13.

#### **1.1.1.4.Addressing systemic vulnerabilities: labour and disability**

The “Worst Forms of Child Labour” Convention No. 182 (1999), adopted by the International Labour Organization (ILO), recognizes education as a fundamental tool in the fight against child labour, particularly its worst forms, which include forced labour, child trafficking, debt bondage, forced recruitment for armed conflict, sexual exploitation, hazardous work, and other conditions that endanger a child’s well-being<sup>37</sup>. This Convention builds on previous international commitments, particularly the Minimum Age Convention No. 138 (1973), and strengthens global efforts to eradicate exploitative child labour by emphasizing the role of education.

Education is considered one of the most effective means to combat poverty and break the cycle of child labour, as it provides children with the knowledge and skills necessary to secure better future employment opportunities and avoid exploitative work conditions. Recognizing this, Convention No. 182 obligates states to provide access to free basic education and, where possible, vocational training to children who have been rescued or withdrawn from the worst forms of child labour.

This obligation includes the following commitments:

1. Providing free and compulsory basic education
  - States must ensure universal access to quality basic education as a preventative measure against child labour.
  - Basic education under the Convention includes both primary and secondary education, ensuring that children remain in school until they reach the legal minimum working age.
2. Reintegration of child labour victims into education
  - States must develop targeted educational programs to help children transition from exploitative labour conditions back into formal schooling.
  - Special efforts should be made to provide catch-up education for children who have missed years of schooling due to work obligations.
3. Ensuring access to vocational training and skills development
  - Recognizing that some children may not return to formal schooling, states are encouraged to expand vocational education and skills training programs to help them gain meaningful employment opportunities.

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<sup>37</sup> Dennis M.J. The ILO Convention on the Worst Forms of Child Labor. American Journal of International Law. Vol. 93(4). 1999. pp. 943 - 948.

- Vocational training should be age-appropriate, non-exploitative, and aligned with decent work opportunities.

#### 4. Addressing economic barriers to education

- Many children engaged in child labour come from low-income families where the cost of schooling is a barrier.
- The Convention encourages states to implement financial support mechanisms, such as:
  - School feeding programs to encourage attendance.
  - Conditional cash transfers to families to compensate for lost child income.
  - Scholarships or free school supplies for disadvantaged children.

#### 5. Eliminating workplace exploitation and ensuring safe learning environments

- The Convention requires states to enforce strict labour laws, ensuring that children are not subjected to hazardous work.
- Schools must also be safe, child-friendly, and free from abuse or discrimination, particularly for girls, migrant children, and marginalized communities.

Despite strong legal frameworks, millions of children worldwide continue to engage in hazardous and exploitative labour due to various economic and social challenges:

1. Lack of access to quality schools – In many rural and underdeveloped areas, children cannot attend school due to geographic, infrastructural, or economic barriers.
2. Hidden forms of child labour – Domestic work, informal labour, and family-run businesses often involve child workers who remain outside government monitoring systems.
3. Gender disparities in education – Girls are disproportionately affected, as they are often forced into domestic work, child marriages, or caregiving roles, preventing them from receiving an education.
4. Weak law enforcement – Many countries lack effective monitoring and enforcement mechanisms, allowing illegal child labour practices to persist.
5. Social and cultural factors – In some societies, child labour is normalized as part of the family economy, making it difficult to enforce anti-child labour laws.
6. Armed conflicts and displacement – In war-affected regions, many children lose access to education and are vulnerable to forced labour, recruitment by armed groups, and human trafficking.



To fully implement Convention No. 182, governments, international organizations, and civil society should prioritize the following actions:

1. Strengthening free and inclusive education systems

- Governments should increase investment in free, high-quality education to ensure that all children, especially those at risk of child labour, can attend school.
- Schools must be equipped with trained teachers, adequate learning materials, and child-friendly infrastructure.

2. Expanding vocational training and alternative learning pathways

- Technical and vocational education programs should be expanded to accommodate children who cannot return to formal schooling.
- These programs should be aligned with decent work opportunities, ensuring that children do not transition from one form of exploitation to another.

3. Providing economic support to families

- Governments should implement cash transfer programs, stipends, or school feeding programs to help families who depend on child labour for survival.
- Community-based microfinance initiatives can also help families develop alternative sources of income.

4. Enhancing law enforcement and monitoring mechanisms

- Strengthen child labour monitoring systems by increasing inspections, reporting mechanisms, and penalties for violators.
- Engage civil society organizations and child protection agencies to ensure effective oversight.

5. Raising awareness and changing social norms

- Governments and NGOs should launch public awareness campaigns to educate families and employers about the dangers of child labour and the benefits of education.
- Community-based initiatives should work to shift cultural attitudes that normalize child labour.

6. Improving international cooperation

- Given that child labour is a global issue, international collaboration is essential in addressing cross-border trafficking, forced labour, and migrant child workers.

- Strengthening partnerships between ILO, UNICEF, UNESCO, and regional organizations can improve global efforts to eliminate child labour through education-based interventions.

The Worst Forms of Child Labour Convention No. 182 recognizes that education is both a protective measure and a long-term solution to child labour. By ensuring free and compulsory basic education and providing vocational training opportunities, states can empower children with the skills necessary for future economic independence, reducing their vulnerability to exploitative labour conditions<sup>38</sup>.

However, education alone is not enough - governments must also tackle the root causes of child labour, including poverty, weak law enforcement, and social inequalities. Through a combination of strong legal frameworks, economic support for families, quality education initiatives, and international cooperation, the vision of a world free from child labour can become a reality.

The Convention on the Rights of Persons with Disabilities (CRPD) represents a significant advancement in international human rights law, particularly in its comprehensive recognition of the right to education for persons with disabilities. Unlike previous international treaties that only mentioned non-discrimination in education, the CRPD goes further by emphasizing inclusive education, ensuring that persons with disabilities are not only granted access to learning but also provided with meaningful participation and tailored support to maximize their potential<sup>39</sup>.

One of the longest and most detailed articles in the CRPD is Article 24, which is entirely devoted to the right to education for persons with disabilities. It establishes a clear legal obligation for states to create inclusive, accessible, and adaptive education systems that meet the needs of all learners.

The primary goals of inclusive education outlined in the CRPD include:

- Full development of human potential, allowing persons with disabilities to reach their highest intellectual, emotional, and physical capabilities.
- Enhancing self-esteem and confidence, fostering a sense of independence, dignity, and social integration.

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<sup>38</sup> Rapatsa M.T. Understanding trends in the worst forms of child labour and the state's legal responses: a descriptive analysis. *Juridical Tribune*. Vol. 7. Special Issue. 2017. pp. 186 - 199.

<sup>39</sup> The Convention on the Rights of Persons with Disabilities. Training Guide. Professional Training Series No. 19. United Nations Publication. 2014. pp. 88 – 89.

- Promoting respect for human rights, diversity, and acceptance, ensuring that all learners, regardless of disability, are valued members of society.
- Providing persons with disabilities with the tools to actively participate in economic, political, and social life, reducing exclusion and marginalization.

Paragraph 2 of Article 24 specifies the unique implementation mechanisms necessary to guarantee that persons with disabilities receive quality, equitable education. These provisions include:

1. Prohibition of Exclusion from General Education
2. Right to Reasonable Accommodation and Individualized Support

While access to education is a universal right, the CRPD recognizes that individualized accommodations are necessary for students with disabilities to effectively learn and participate.

3. Development of Life and Social Skills for Persons with Disabilities

Education must also prepare students with disabilities to navigate daily life and develop social competencies<sup>40</sup>.

One of the most groundbreaking aspects of the CRPD is its explicit recognition of the right to lifelong learning (Article 24, Paragraph 5). While the concept of lifelong learning had been present in recommendatory international documents prior to the CRPD, this was the first time it was codified in a legally binding treaty.

The inclusion of lifelong learning in the CRPD acknowledges that:

- Education is a continuous process, extending beyond childhood and formal schooling.
- Adults with disabilities must have access to training programs, higher education, and professional development throughout their lives.
- States should ensure equal access to lifelong learning opportunities, whether in academic institutions, community-based programs, or workplace training.

Despite the progressive legal framework established by the CRPD, several challenges remain in fully implementing inclusive education policies worldwide:

1. Inaccessible Educational Infrastructure
2. Lack of Trained Educators and Support Staff
3. Discriminatory Attitudes and Social Stigma

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<sup>40</sup> Winzer M. The Convention on the Rights of Persons with Disabilities: Notes on Genealogy and Prospects. *Journal of International Special Needs Education*. 2014. pp. 55.

4. Limited Availability of Assistive Technology
5. Higher Education and Employment Barriers

To fully realize the right to education for persons with disabilities, governments, educators, and international organizations must take proactive measures:

1. Strengthening Legal and Policy Frameworks
2. Investing in Teacher Training and Support Staff
3. Enhancing Accessibility in Schools and Universities
4. Expanding the Use of Assistive Technologies
5. Promoting Disability Awareness and Social Inclusion
6. Guaranteeing Access to Lifelong Learning

The Convention on the Rights of Persons with Disabilities (CRPD) marks a historic step forward in recognizing inclusive education as a human right<sup>41</sup>. By prohibiting exclusion, ensuring reasonable accommodation, and promoting lifelong learning, the CRPD sets a global standard for educational equality.

However, full implementation remains a challenge. Governments, educators, and policymakers must work together to eliminate systemic barriers, invest in inclusive teaching practices, and foster environments where persons with disabilities can thrive. Through stronger legal frameworks, innovative policies, and international cooperation, the goal of inclusive, equitable education for all can become a reality.

To enhance clarity and enable a structured comparison of key international treaties addressing the right to education, the following matrix summarizes their legal characteristics. It presents a cross-sectional view of five foundational human rights instruments, focusing on their legal binding force, scope of protection, target beneficiaries, enforcement mechanisms, and observed implementation challenges. This comparative overview helps to visualize how each treaty contributes to the development of international education law and where significant gaps remain.

*Table 1: Comparative Matrix on Education Rights*

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<sup>41</sup> Winzer M., Mazurek K. The Convention on the Rights of Persons with Disabilities. The Wiley Handbook of Diversity in Special Education. 2017. pp. 11 – 13.

Treaty	Legal Binding Force	Explicit Recognition of Right to Education	Target Group	Enforcement Mechanism	Implementation Challenges Noted
ICESCR (1966)	Yes	Yes, Article 13 & 14	All persons	UN Committee on Economic, Social and Cultural Rights	Lack of enforceability, reliance on state reporting
CRC (1989)	Yes	Yes, Article 28	Children	Committee on the Rights of the Child	Weak enforcement in conflict zones
CEDAW (1979)	Yes	Yes, Articles 10 & 14	Women and girls	CEDAW Committee	Cultural barriers, gender norms
CRPD (2006)	Yes	Yes, Article 24	Persons with disabilities	CRPD Committee	Infrastructure, stigma, limited support
ICMW (1990)	Yes	Partially, Article 30	Migrant workers and families	Committee on Migrant Workers	Access barriers due to legal/immigration status

### 1.1.2. Treaties fully devoted to education

The second group of international treaties includes the Convention against Discrimination in Education<sup>42</sup> and the Convention on Technical and Vocational Education<sup>43</sup>, as well as the International Labour Organization Convention No. 140 “On Paid Educational Leave”<sup>44</sup>.

Article 1 of the Convention against Discrimination in Education provides a detailed definition of the term “discrimination” which includes any distinction, exclusion, limitation or preference which, being based on race, colour, sex, language, religion, political or other

<sup>42</sup> Convention against Discrimination in Education, adopted by the General Conference of the UNESCO on 14 December 1960, <https://www.ohchr.org/EN/ProfessionalInterest/Pages/DiscriminationInEducation.aspx> (Retrieved on 3 of February 2025)

<sup>43</sup> Convention on Technical and Vocational Education Adopted by the General Conference of UNESCO at its twenty-fifth session Paris on 10 November 1989, [https://unevoc.unesco.org/fileadmin/user\\_upload/pubs/conv-e.pdf](https://unevoc.unesco.org/fileadmin/user_upload/pubs/conv-e.pdf) (Retrieved on 3 of February 2025)

<sup>44</sup> Paid Educational Leave Convention, adopted by the Governing Body of the International Labour Office on 5 June 1974, [https://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0::NO::P12100\\_ILO\\_CODE:C140](https://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0::NO::P12100_ILO_CODE:C140) (Retrieved on 3 of February 2025)

opinion, national or social origin, economic condition or birth, has the purpose or effect of nullifying or impairing equality of treatment in education. Article 2 identifies three cases that are not considered discrimination, namely, the separation of students of different sexes, the separation of education based on religious or linguistic differences, and education in private institutions. However, according to Weckstein P. and Wermiel S.J. it is emphasized that in all cases equal access to education must be ensured, as well as the compliance of programs with the norms prescribed or approved by the competent education authorities<sup>45</sup>. Article 3 of the Convention sets out the obligations of states to eliminate and prevent discrimination.

The full development of the human personality is declared as the main goal of education, therefore, the researchers emphasize the importance of provisions enshrining the state's obligations to make primary education compulsory and free, to ensure the general availability of secondary education and to make higher education accessible to all on the basis of full equality and depending on the abilities of everyone<sup>46</sup>. It is also worth noting the provisions on the inadmissibility of the imposition of religious education incompatible with the beliefs of the parents or legal representatives of the child (subparagraph "b" of paragraph 1 of Article 5 of the Convention) and the possibility of learning and teaching their own language of national minorities only provided that the exercise of this right does not interfere with individuals belonging to minorities, understand the culture and language of the state as a whole and participate in its activities, and that it does not undermine the sovereignty of the country (paragraph "I" of subparagraph "c" of paragraph 1 of Article 5 of the Convention).

Based on the considered provisions, it can be concluded that the Convention against Discrimination in Education partially repeats and concretizes the provisions of the previously considered international treaties<sup>47</sup>. The definition of education given in Article 1, which in this document includes access to education, the standard and quality of education, and the conditions under which it is given, seems to be important from the point of view of disclosing the right to education.

The Convention on Technical and Vocational Education differs from other acts of the universal level in the widest coverage of various issues of education, however, the formulations of the norms of this international treaty are probably the most general of all those previously

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<sup>45</sup> Weckstein P. and Wermiel S.J. The need for Equal Opportunity and a Right to Quality Education. // Human Rights, Volume 35 №3. 2008. pp. 21 - 23.

<sup>46</sup> Kastel Yu.E. Mezhdunarodno-pravovyye standartyi v oblasti obrazovaniya // Rossiyskiy yuridicheskiy zhurnal. 2001. # 1. pp. 147

<sup>47</sup> Van Dyke V. Equality and Discrimination in Education: A Comparative and International Analysis. International Studies Quarterly. Vol. 17(4). 1973. pp. 375 - 404.

considered. Perhaps it is precisely this lack of specificity of provisions that affects the low attractiveness of this convention for states. Technical and vocational education is understood in the Convention as “all forms and levels of the educational process involving, in addition to general knowledge, the study of technologies and related sciences and the acquisition of practical skills, know-how, attitudes and understanding relating to occupations in the various sectors of economic and social life” (paragraph "a" of Article 1). Article 2 of the Convention once again establish guarantees of non-discrimination in admission to technical and vocational educational institutions, including for persons with disabilities, as well as equal access to education and equality of opportunity in the educational process.

Much attention is paid to training programs, which should be developed considering the principle of lifelong education<sup>48</sup>. For the first time at the universal level, the problem of determining qualifications is touched upon. Paragraph 5 of Article 3 of the Convention establishes the need to define qualifications as clearly as possible at each occupational level and curricula must be continuously updated to incorporate new knowledge and technical processes.

The Convention defines the areas of international cooperation between states in the field of education, such as the collection and exchange of information, the exchange of students and teachers, the exchange of scientific achievements between developed and developing countries, as well as promoting the development of approaches that ensure the recognition of the equivalence of qualifications.

The issue of implementation of the provisions of the Convention is resolved in the most generalized way, states must implement “legislative provisions, regulations and other measures” (Article 7). As "other measures" A.V. Kondratyuk suggests considering, among other things, "joint cooperation of states aimed at specifying the provisions of the Convention"<sup>49</sup>.

As for the International Labour Organization Convention No. 140 “On Paid Educational Leave”, it is devoted to one narrow issue - the provision of paid leave for an employee for educational purposes for a certain period with the payment of appropriate cash security. Analysing this document, one can especially clearly trace the connection between the

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<sup>48</sup> Schmidt H. Challenges to Technical and Vocational Education. Second International UNESCO Congress on - Technical and Vocational Education. 1999. pp. 4 - 5.

<sup>49</sup> Kondratyuk A.V. Mezhdunarodno-pravovoe regulirovanie sotrudnichestva gosudarstv v sfere obrazovaniya. Diss. kand. yur. nauk. Sankt-Peterburg, 2007. pp. 54.

right to education and the right to work<sup>50</sup>. Also interesting is the provision of Article 3 of this Convention, which clarifies that the policy of granting paid leave is carried out, *inter alia*, in order to promote continuing education. Here "lifelong education" is understood rather narrowly, as a means "helping workers to adapt to modern requirements"<sup>51</sup>. This is not yet "lifelong education" in the modern sense, but it is obvious one of the prerequisites for the subsequent development of this concept.

### **1.1.3. Legal effect and implementation challenges of binding treaties**

Comparing the number of universal compulsory and recommendatory acts on education issues, as well as the content of these acts, it can be concluded that states express interest in educational cooperation on a variety of issues, but, by and large, are not ready to take on any specific obligations. Certain principles are clearly enshrined, such as the principle of non-discrimination, equal access to education and equality of opportunity in the educational process. The gaps in conventional regulation on the development of programs, on the organization of the educational process and research work at the universal level are compensated by UNESCO recommendations. Many acts of a recommendatory nature are inherent in the regulation of education issues not only at the universal level, but in general is characteristic of international educational law. So, for example, at the regional level, almost all acts of the Bologna process belong to the so-called "soft law". At the universal level, the option of cooperation in the form of adopting soft law documents currently seems to be the most effective, since the states, obviously, are not yet ready to take on serious obligations on cooperation in the field of education, but they are showing interest in such cooperation. An interesting example is the Education for All movement, which has developed rather slowly for twenty years, but has received attention and active development over the past years. Concretization of the concept of the right to education should also be carried out first at a non-contractual level so that states could orient themselves towards certain standards.

### **1.1.4. Soft law instruments and global initiatives**

On education issues, in addition to conventions, several UNESCO recommendations were adopted at the universal level: Recommendation on the Status of Scientific Researchers

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<sup>50</sup> Kostić M., Maksimović A. Achieving educational equality as sustainable development goal. International scientific conference: "Challenges of modern economy and society through the prism of green economy and sustainable development"- Cesged 2023. Novi Sad. 2023. pp. 329 – 338.

<sup>51</sup> Morrissey M., McNamara G. Paid Educational Leave in the Context of Lifelong Learning. Widening Participation and Lifelong Learning. Volume 7. Number 1. 2005. pp. 1-7.



of November 20, 1974<sup>52</sup>, Recommendation on the International Standardization of Education Statistics of December 3, 1958<sup>53</sup>, Recommendation on the Recognition of studies and qualifications in higher education of 13.11.1993<sup>54</sup>, Recommendation concerning the Status of Teachers of 05.10.1966<sup>55</sup>. Also, at the UNESCO World Conference "Higher Education in the 21st Century: Vision and Action", which took place in Paris from 05.10.1998 to 09.10.1998, the "World Declaration on Higher Education for the 21st Century: Vision and Action"<sup>56</sup> was adopted.

The UNESCO Recommendation "On the Status of Scientific Researchers" is notable for the fact that, in addition to securing the status of scientific researchers and defining the terms "science", "technology", "scientific research", in the section "The initial education and training of scientific researchers" contains specific measures that states should implement to ensure the emergence of high-quality research workers, in particular, ensuring non-discriminatory access to the initial education and training required for research work, inclusion in curricula and courses in natural sciences and engineering elements of social sciences and environmental sciences.

In the Recommendation on the International Standardization of Education Statistics, it is interesting, first, to define the term "educational attainment"<sup>57</sup>. According to Article 6 of this Recommendation, "a person's educational attainment corresponds to the last completed year of study and / or the highest level attained or completed in general education, special education and adult education in his own country or elsewhere".

Particularly noteworthy is the UNESCO Recommendation on the Recognition of studies and qualifications in higher education. This Recommendation provides definitions of

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<sup>52</sup> Recommendation on the Status of Scientific Researchers, adopted by the General Conference of UNESCO at its 18th session, Paris, 20 November 1974, <https://unesdoc.unesco.org/ark:/48223/pf0000023891> (Retrieved on 3 of February 2025)

<sup>53</sup> Recommendation concerning the International Standardization of Educational Statistics, adopted by the General Conference at its Tenth Session, Paris on 3 December 1958, <https://atom.archives.unesco.org/wcges> (Retrieved on 3 of February 2025)

<sup>54</sup> Recommendation on the Recognition of studies and qualifications in higher education, adopted by the UNESCO's General Conference on 13.11.1993, <https://unesdoc.unesco.org/ark:/48223/pf0000369615/PDF/369615eng.pdf.multi> (Retrieved on 3 of February 2025)

<sup>55</sup> Recommendation concerning the Status of Teachers, adopted by UNESCO on 05.10.1966, [https://www.ilo.org/sites/default/files/wcmsp5/groups/public/@ed\\_dialogue/@sector/documents/normativeinstrument/wcms\\_493315.pdf](https://www.ilo.org/sites/default/files/wcmsp5/groups/public/@ed_dialogue/@sector/documents/normativeinstrument/wcms_493315.pdf) (Retrieved on 3 of February 2025)

<sup>56</sup> World Declaration on Higher Education for the Twenty-first Century: Vision and Action, adopted by the World Conference on Higher Education: Higher Education in the Twenty-first Century, Vision and Action on 9 October 1998, <https://unesdoc.unesco.org/ark:/48223/pf0000141952> (Retrieved on 3 of February 2025)

<sup>57</sup> Reynolds P.D. Recommendation on the Status of Scientific Researchers. International Social Science Journal. Vol. 27(4). 1975. pp. 27.

the concepts of higher and secondary education<sup>58</sup>, as well as discloses options for understanding the term "recognition" ("recognition of a foreign certificate of higher education for the purpose of continuing education, participation in scientific activities and for the implementation of professional activities", "recognition of a foreign certificate of secondary education for the purpose of learning at a higher level") and emphasizes that "the right to recognition should not depend on citizenship or legal status". The Recommendation sets out specific measures that States should take to promote wider recognition of higher education qualifications, in particular:

1. Accession to regional conventions on the recognition of studies, diplomas and degrees in higher education;
2. Establish a procedure for the recognition of diplomas and certificates of education;
3. Establish or empower existing recognition bodies to coordinate the application of the Recommendation;
4. Encourage collaboration among educational institutions to develop common and comparable policies for assessment.

Also, the Recommendation identifies priority areas of international cooperation that states should develop to implement the recognition of studies and qualifications: providing other states with up-to-date lists of recognized educational institutions on their territory; creation and promotion of cooperation of bodies for the assessment and certification of the quality of higher education; joint research on assessment criteria and national terminology to harmonize their mutual understanding and interpretation; compilation of catalogues of bilateral and other agreements between states and educational institutions and their popularization<sup>59</sup>.

The Recommendation concerning the Status of Teachers covers a wide range of issues in higher education<sup>60</sup>, in addition to directly defining the status of teaching personnel (paragraphs 25-36 detail the rights, freedoms, duties and responsibilities of higher education teaching personnel), it defines goals, policies and guidelines. principles in the field of education; rights, duties and responsibilities of institutions of higher education. The need to provide such institutions with autonomy is emphasized and the term "autonomy" is defined: "Autonomy is that degree of self-governance necessary for effective decision making by

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<sup>58</sup> Beridze D. The recognition of studies and qualifications in higher education: A challenge for the twenty-first century. *Prospects* 28. 1998. pp. 443 – 454.

<sup>59</sup> Rauhvargers A. Improving the Recognition of Qualifications in the Framework of the Bologna Process. *European Journal of Education*. Vol. 39. 2004. pp. 331 - 347.

<sup>60</sup> Hargreaves L., Flutter J. The Status of Teachers. *Oxford Research Encyclopedia of Education*. 2019. pp. 87.

institutions of higher education regarding their academic work, standards, management and related activities consistent with systems of public accountability, especially in respect of funding provided by the state, and respect for academic freedom and human rights” (paragraph 17).

The World Declaration on Higher Education for the 21st Century: Vision and Action, adopted at the 1998 UNESCO World Conference in Paris, is a UNESCO policy document on higher education, which reflects the main challenges in higher education and the proposed solutions as well as some statistics on higher education around the world. This is an important milestone for the development of international policy in the field of education, which will subsequently be developed in the formation of the global movement "Education for All".

The problems that arise in the field of higher education are the following: financing, creating fair conditions for access to training courses, promoting professional development, focusing training on the acquisition of specific skills, improving and maintaining the quality of teaching, employing graduates, concluding effective cooperation agreements.

The Declaration is the final document of the conference convened with the aim of finding solutions to the identified problems and, in the long term, launching the process of a serious reform of higher education around the world<sup>61</sup>.

The first two articles outline the tasks and functions of higher education, where not only the goals of training highly qualified specialists, the dissemination of education and the conduct of scientific research are brought to the fore, but also ethical goals and values: qualified graduates should also be responsible citizens, observing intellectual ethics and exactingness. they should foster citizenship and a global outlook in order to build endogenous capacity and strengthen human rights. It also emphasizes the need to ensure development and social mobility in the context of cultural pluralism.

The second part of the Declaration (Articles 3-10) is entitled “Shaping a New Vision of Higher Education”. These articles formulate the principles based on which higher education should be reformed:

1. Equitable access, without any discrimination, based on the abilities of everyone. Higher education should be an integral part of the lifelong learning system. (This provision once again repeats the slightly modified norm of the Covenant on Economic, Social and Cultural Rights).

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<sup>61</sup> Días M.A.R. Higher education: Vision and action for the coming century. Prospects 28. 1998. pp. 367 - 375.

2. Promotion of access to higher education for special target groups: indigenous peoples, cultural and linguistic minorities, persons with disabilities, as well as increasing the participation and role of women. Those. summarizes the provisions of the previously discussed conventions on discrimination.
3. Promotion of knowledge through scientific research (emphasizing that research should be intensified in all disciplines, including social and human sciences)
4. The relevance of activities of higher education to goals and needs, ensured by ethical standards, political impartiality and a critical approach.
5. Strengthening cooperation with the world of work, analysis and forecast of the needs of society.
6. Diversification of higher education models to ensure equality of opportunity.
7. Support for innovative learner-centred approaches, the development of critical thinking and creativity.

The third part of the Declaration (Articles 11-17) is devoted to the transition from vision to action and comprehensively addresses the problems of assessing the quality of education, funding, opportunities and problems associated with the use of information and communication technologies, as well as the problems of "brain drain" and the establishment of partnerships. Article 11 of the Declaration emphasizes that the quality of higher education is a multidimensional concept and, in addition to institutional assessment, it is necessary to establish its international dimension, which means the exchange of knowledge, the creation of interactive networks, the mobility of teachers and students, and international research projects. The inclusion of the concept of "quality" in the Declaration deserves special attention, since this characteristic of education began to appear in international instruments relating to the right to education only towards the end of the twentieth century. One can observe the development of an understanding of law, if at first the states at the international level set themselves the goal of providing the population with at least some kind of education, then later, with the development of the concept of lifelong learning and understanding it as a special good that is important not only for an individual, but also for society as a whole, the criterion of "quality" first appeared in separate documents, and by 2015 it became the defining one in setting the UN development goals.

In addition, in the same 1998, just before the UNESCO World Conference on Higher Education, the Commission on Human Rights Resolution No. 1998/33<sup>62</sup> established the thematic mandate of the UN Special Rapporteur on the Right to Education, which is part of the Special Procedures of the Council on human rights of the United Nations.

During the early years of the mandate of the UN Special Rapporteur on the Right to Education, the focus was on primary education<sup>63</sup>. However, the focus of attention has now shifted to higher education, in particular, the report by Special Rapporteur Kishore Singh “The Digital Revolution in Education”<sup>64</sup> highlights the issues and challenges in the field of the right to education in the digital age.

Separately, it is worth considering the Education for All movement, which originated in 1990 within the UN, which was initiated at a conference in Jomtien (Thailand), and was reflected in the World Declaration on Education for All and Framework for Action to Meet Basic Learning Needs<sup>65</sup> of the Declaration.

The Declaration emphasized that "education is a fundamental right for all people, women and men, of all ages, throughout our world", as well as a prerequisite for the improvement of the individual and the improvement of social conditions. The Declaration sets out the goal of the opportunity for all people (children, adolescents and adults) to receive education to meet basic learning needs. Moreover, basic education is not an end in itself, but the foundation for further lifelong learning. According to Karmel J. this is a key moment, a turning point in the development of an understanding of the right to education<sup>66</sup>. It was in 1990 that the modern understanding of the right to education as the right to lifelong learning was initiated, although this declaration and functional understanding places a lot of emphasis on it. Article 2 defines the so-called “extended vision”, which is necessary to achieve the main goal. This approach is as follows: universalizing access and promoting equity; focussing on learning;

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<sup>62</sup> Commission on Human Rights Resolution No. 1998/33, adopted on 17 April 1998, [https://www.ohchr.org/EN/HRBodies/CHR/54/Documents/E.1998.23\\_EN.pdf](https://www.ohchr.org/EN/HRBodies/CHR/54/Documents/E.1998.23_EN.pdf) (Retrieved on 3 of February 2025)

<sup>63</sup> Tomaševski K. Has the Right to Education a Future Within the United Nations? A Behind-the-Scenes Account by the Special Rapporteur on the Right to Education 1998–2004. Human Rights Law Review. Vol. 5(2). 2005. pp. 205 – 237.

<sup>64</sup> Report of the Special Rapporteur on the right to education, adopted by the Human Rights Council on 6 April 2016, [https://www.right-to-education.org/sites/right-to-education.org/files/resource-attachments/Report\\_UNSR RTE\\_HRC\\_the\\_Right\\_to\\_Education\\_in\\_the\\_Digital\\_Age\\_2016\\_En.pdf](https://www.right-to-education.org/sites/right-to-education.org/files/resource-attachments/Report_UNSR RTE_HRC_the_Right_to_Education_in_the_Digital_Age_2016_En.pdf) (Retrieved on 3 of February 2025)

<sup>65</sup> World Declaration on Education for All and Framework for Action to Meet Basic Learning Needs, adopted by the World Conference on Education for All Meeting Basic Learning Needs Jomtien on 5-9 March 1990, [https://www.right-to-education.org/sites/right-to-education.org/files/resource-attachments/UNESCO\\_World\\_Declaration\\_For\\_All\\_1990\\_En.pdf](https://www.right-to-education.org/sites/right-to-education.org/files/resource-attachments/UNESCO_World_Declaration_For_All_1990_En.pdf) (Retrieved on 3 of February 2025)

<sup>66</sup> Karmel J. The Right to Education: Examining its Meanings and Implications. Vancouver: VDM Verlag. 1998. pp. 296.

broadening the means and scope of basic education; enhancing the environment for learning; strengthening partnerships. The creation of favourable political conditions, the mobilization of financial resources and the strengthening of international solidarity are highlighted as a condition for the full provision and use of basic education both in the interests of the individual and society.

The Global Education for All Movement received a new impetus in the Dakar Framework for Action<sup>67</sup>, which was adopted at the World Education Forum on April 26-28, 2000. This document contains the “collective commitment of its members to act” to achieve the goals and objectives of the Education for All movement, the extended comments to the Framework for Action describe the achievements over the past 10 years (from 1990 to 2000), as well as the goals and challenges for implementation goals not yet achieved<sup>68</sup>. Article 3 reiterates that education systems must ensure lifelong learning opportunities for all. In all subsequent documents of the Education for All movement, the right to education is understood precisely as education for all throughout life.

In 2014, the Muscat Agreement<sup>69</sup> was adopted, which highlights the post-2015 Education for All agenda, as well as key challenges and global goals. Also in 2014, the Aichi-Nagoya Declaration on Education for Sustainable Development<sup>70</sup> was adopted. It identifies education for sustainable development as “an integral and transformative element of inclusive quality education and lifelong learning”. The elements of the right to education are being clarified<sup>71</sup>. This document is notable for calling on governments to analyse the goals and values that underlie educational systems. Thus, the special social role of education and the responsibility of states for its quality are emphasized. At the World Education Forum, held in the Republic of Korea in 2015, the Incheon Declaration (Education 2030) was adopted, in which a new concept of education was finally formed. Education is recognized as the main

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<sup>67</sup> The Dakar Framework for Action: Education for All: meeting our collective commitments, adopted by the World Education Forum on 26-28 April 2000, <https://unesdoc.unesco.org/ark:/48223/pf0000121147> (Retrieved on 3 of February 2025)

<sup>68</sup> Daudet Y., Singh K. The Right to Education: An analysis of UNESCO's standard-setting Instruments. Education Policies and Strategies 2. UNESCO. 2001. pp. 13-31.

<sup>69</sup> The Muscat Agreement, adopted by the Global Education for All Meeting on 12–14 May 2014, <https://unesdoc.unesco.org/ark:/48223/pf0000228122> (Retrieved on 3 of February 2025)

<sup>70</sup> Aichi-Nagoya Declaration on Education for Sustainable Development, adopted by the UNESCO World Conference on Education for Sustainable Development on 10-12 November 2014, [https://sustainabledevelopment.un.org/content/documents/5859Aichi-Nagoya\\_Declaration\\_EN.pdf](https://sustainabledevelopment.un.org/content/documents/5859Aichi-Nagoya_Declaration_EN.pdf) (Retrieved on 3 of February 2025)

<sup>71</sup> Tyukhov I. UNESCO activity in education for Sustainable Development and Aichi-Nagoya Declaration. Research in Agricultural Electric Engineering. Vol. 3(2). 2015. pp. 43 - 47.

"engine" of human development and a tool for improving people's lives<sup>72</sup>. The Declaration sets out the goals of ensuring inclusive education based on the principle of social justice for all and throughout life.

## **1.2. Securing the right to education in multilateral international legal acts of the regional level.**

In addition to universal legal instruments, regional human rights systems have developed their own mechanisms to protect and promote the right to education. These systems reflect specific historical, cultural, and political contexts and contribute to the diversification and deepening of international legal standards. This section examines how the right to education is secured in the European, African, and Eurasian regions, focusing on the legal instruments, institutions, and cooperative initiatives at each level. While the degree of binding force and enforcement varies, regional frameworks often complement universal provisions and play a crucial role in adapting international norms to regional realities.

### **1.2.1. European region**

#### **1.2.1.1. Treaty-based guarantees of the right to education in Europe**

Cooperation of states in the field of education takes place in various regions of the world: in Europe, Asia, Africa, Latin America and Australia. The right to education is enshrined in many regional international treaties. The norms enshrining this right are contained in Article 2 of Protocol to the Convention for the Protection of Human Rights and Fundamental Freedoms<sup>73</sup>, Article 14 of the Charter of Fundamental Rights of the European Union, Article 27 of the Commonwealth of Independent States Convention on Human Rights and Fundamental Freedoms<sup>74</sup>, Article 17 of the African Charter on Human and Peoples' Rights<sup>75</sup>, in Article 49 of the Charter of the Organization of American States<sup>76</sup> and many others. This

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<sup>72</sup> Wollhuter C. Towards the Recovery of Education: Reaching for 2030 and Comparative and International Education. The Annual International Conference of the Bulgarian Comparative Education Society (BCES). 2023. pp. 23 – 28.

<sup>73</sup> Protocol to the Convention for the Protection of Human Rights and Fundamental Freedoms, signed at Rome on 4 November 1950, <https://rm.coe.int/168006377c> (Retrieved on 3 of February 2025)

<sup>74</sup> CIS Convention on Human Rights and Fundamental Freedoms, signed in Minsk on 26 May 1995, <https://www.unhcr.org/protection/migration/4de4eef19/cis-convention-human-rights-fundamental-freedoms.html> (Retrieved on 3 of February 2025)

<sup>75</sup> African Charter on Human and Peoples' Rights, adopted on 27 June 1981, [https://au.int/sites/default/files/treaties/36390-treaty-0011\\_-\\_african\\_charter\\_on\\_human\\_and\\_peoples\\_rights\\_e.pdf](https://au.int/sites/default/files/treaties/36390-treaty-0011_-_african_charter_on_human_and_peoples_rights_e.pdf) (Retrieved on 3 of February 2025)

<sup>76</sup> Charter of the Organization of American States, adopted by the Ninth International Conference of American States on 30 April 1948,

paragraph will examine in detail the acts of cooperation between states in the space of the European region.

Certain steps to create a common European educational space were taken back in the early fifties of the twentieth century. Moreover, the integration took place within the framework of several regional associations: the Council of Europe, the European Communities, and later - the European Union. Next, we will sequentially consider the consolidation of the right to education and further efforts to implement this right, as well as the evolution of international legal acts of cooperation in the field of education in these international organizations.

In the middle of the twentieth century, the regulation of the education sector takes place mainly within the framework of international treaties. However, in the future, the role of recommendatory acts became much more noticeable, which, despite being classified as "soft law", had a huge impact on the state of education systems in almost all European states. It is worth noting that such a change in the influence of recommendatory acts is characteristic not only for the regulation of the education sector. R.Sh. Davletgildeev pays attention to the tendency of strengthening the role of "soft law" in international legal regulation at the regional level, discussing regionalism and fragmentation of international law<sup>77</sup>.

Among the recommendatory acts, the main attention will be devoted to the acts of the Bologna process, both preceding the signing of the Bologna Declaration and after it. Including will be considered the Salamanca Statement and Framework for action<sup>78</sup>, as well as the Student Göteborg Declaration<sup>79</sup>. These acts are unique because, even though they were adopted by powerless subjects, they occupy a place in the system of sources of the Bologna process.

The right to education was enshrined in Protocol to the Convention for the Protection of Human Rights and Fundamental Freedoms. Article 2 of the Protocol states: "No person shall be denied the right to education. In the exercise of any functions which it assumes in relation to education and to teaching, the State shall respect the right of parents to ensure such education and teaching in conformity with their own religious and philosophical convictions". The wording of the article is rather ambiguous, and in order to reveal the understanding of the right to education, it is necessary to refer to the practice of the European Court of Justice, since it is

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<http://www.oas.org/dil/1948%20charter%20of%20the%20organization%20of%20american%20states.pdf> (Retrieved on 3 of February 2025)

<sup>77</sup> Davletgildeev R.Sh. K voprosu o podhodah k fragmentatsii mezhdunarodnogo prava//Rossiyskiy yuridicheskiy zhurnal. 2013. # 3 (90). pp. 25.

<sup>78</sup> The Salamanca Statement and Framework for Action on Special Needs Education, adopted by the World Conference on Special Needs Education: Access and Quality on 7-10 June 1994, <https://www.european-agency.org/sites/default/files/salamanca-statement-and-framework.pdf> (Retrieved on 3 of February 2025)

<sup>79</sup> Student Göteborg Declaration, adopted by the Student Göteborg Convention on 22-25 of March 2001, [http://www.aic.lv/bolona/Bologna/maindoc/STUD\\_GOETEB.pdf](http://www.aic.lv/bolona/Bologna/maindoc/STUD_GOETEB.pdf) (Retrieved on 3 of February 2025)



this body that has the competence to interpret and apply the provisions of the Convention. It should be immediately clarified that this dissertation will only consider the practice of the European Court of Justice, since in the practice of other regional human rights courts (namely, the Inter-American Court of Human Rights and the African Court of Human and Peoples' Rights<sup>80</sup>), no stable practice has developed, concerning the issues of the right to education.

Despite the negative formulation of the first sentence of Article 2 of Protocol to the Convention for the Protection of Human Rights and Fundamental Freedoms, it uses the word “right” and refers to the “right to education”, therefore the European Court of Justice, relying, inter alia, on the Preamble to the Protocol to the Convention, expressed an unambiguous position that Article 2 of Protocol to the Convention really enshrines the right. In the study by B.L. Zimnenko rightly emphasizes that “Article 2 of Protocol to the Convention prohibits the denial of the right to education. This proposal has no established exceptions, and its structure is like that of Articles 2 and 3, Article 4 paragraph 1 and Article 7 of the Convention (“No one shall be...”), which together embody the fundamental values of democratic societies that have created the Council of Europe”<sup>81</sup>.

The essence of the negative formulation is that the contracting states do not recognize the right to education in the form that would require them to create or subsidize a certain type or a certain level of education at their own expense. Thus, there is no positive obligation on states to create a public education system or subsidize private schools. These areas are left to the discretion of the state, but it is worth clarifying here that at the time of the signing of the Protocol, public education systems already existed in all the states of the Council of Europe.

However, it would be a mistake to think that the state only has a duty to refrain from interfering with education and there are no positive obligations. The state has a positive obligation to respect everyone's right to education. Since a “right” exists, it must be provided, in accordance with Article 1 of the Convention, to everyone within their jurisdiction of a Contracting State. In the Belgian Linguistic Case<sup>82</sup>, the Court explains that this should be understood as a duty to guarantee to persons subject to the jurisdiction of the Contracting Parties the right, in principle, to avail themselves of the means of instruction existing at a given time.

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<sup>80</sup> Tinta M. F. The Landmark Rulings of the Inter-American Court of Human Rights on the Rights of the Child. Leiden: Martinus Nijhoff, 2008. pp. 671.

<sup>81</sup> Zimnenko B.L. Pravovye pozitsii mezhsudarstvennykh organov po zaschite prav i svobod cheloveka: Spravochnoe posobie. Moscow: RGUP, 2017.

<sup>82</sup> Case "Relating to certain aspects of the laws on the use of languages in education in Belgium" V. Belgium (merits), <https://hudoc.echr.coe.int/fre#%7B%22itemid%22%3A%22001-57525%22%7D> (Retrieved on 3 of February 2025)

In the practice of the Court, the following elements of the right to education have been developed:

- 1) The right to access educational establishments existing at a given time (Belgian Linguistic Case, paragraph 4);
- 2) The right to transfer knowledge and intellectual development (Campbell and Cosans v. United Kingdom, paragraph 33<sup>83</sup>);
- 3) The ability to benefit from the education received, that is, the right to receive, in accordance with the rules in force in each state, in one form or another, official recognition of the completed education (Belgian Linguistic Case, paragraph 4).

The right to education is not absolute, it can be limited, because by its very nature it requires government regulation, which can change depending on the place and time, in accordance with the needs and resources of both society and individuals. As the Court has repeatedly stressed, regulation must not prejudice the substance of the right to education or conflict with other rights enshrined in the Convention (The Belgian Linguistic Case; and Golder v. The United Kingdom<sup>84</sup>). Accordingly, the Contracting States enjoy a certain margin of appreciation in this sphere, although the final decision as to the observance of the Convention's requirements rests with the Court. In order to ensure that the restrictions that are imposed do not curtail the right in question to such an extent as to impair its very essence and deprive it of its effectiveness, the Court must satisfy itself that they are foreseeable for those concerned and pursue a legitimate aim (Leyla Sahin v. Turkey, paragraph 154<sup>85</sup>). Moreover, in contrast to the position in relation to Articles 8 to 11 of the Convention, there is no exhaustive list of "legitimate goals". Moreover, the restrictions would be consistent with Article 2 of Protocol if a reasonable and proportionate balance was achieved between the means used and the purpose.

Interesting in this respect is the Timishev v. Russia case<sup>86</sup>, in which the applicant's children were denied school attendance solely on the grounds that the applicant had no residence registration and no migration card. In this case, not only the Court, but also the

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<sup>83</sup> Case of Campbell and Cosans v. United Kingdom, [https://hudoc.echr.coe.int/eng#{%22itemid%22:\[%22001-57455%22\]}](https://hudoc.echr.coe.int/eng#{%22itemid%22:[%22001-57455%22]}) (Retrieved on 3 of February 2025)

<sup>84</sup> Case of Golder v. The United Kingdom, [https://seafarersrights.org/wp-content/uploads/2018/03/EUROPE\\_CASE\\_GOLDER-V-UK\\_1975\\_ENG.pdf](https://seafarersrights.org/wp-content/uploads/2018/03/EUROPE_CASE_GOLDER-V-UK_1975_ENG.pdf) (Retrieved on 3 of February 2025)

<sup>85</sup> Case of Leyla Sahin v. Turkey, [https://hudoc.echr.coe.int/fre#{%22itemid%22:\[%22001-70956%22\]}](https://hudoc.echr.coe.int/fre#{%22itemid%22:[%22001-70956%22]}) (Retrieved on 3 of February 2025)

<sup>86</sup> Case of Timishev v. Russia, [https://hudoc.echr.coe.int/fre#{%22itemid%22:\[%22001-71627%22\]}](https://hudoc.echr.coe.int/fre#{%22itemid%22:[%22001-71627%22]}) (Retrieved on 3 of February 2025)

representatives of the Russian Federation agreed that the children's right to education was unlawfully restricted.

However, children are not the only subjects of the right to education. Article 2 of the Protocol deals with primary<sup>87</sup>, secondary<sup>88</sup>, higher education and specialized courses. Consequently, the circle of subjects of the right to education includes not only children, but also adults. Thus, the Court considers that the subject of the right to education is any person who wishes to benefit from the right to education (*Velyo Velev v. Bulgaria*<sup>89</sup>).

The first document signed at the pan-European level directly related to education was the European Convention on the Equivalence of Diplomas leading to Admission to Universities<sup>90</sup>. Other important documents include the European Convention on the Equivalence of Periods of University Study<sup>91</sup> and the European Convention on the Academic Recognition of University Qualifications<sup>92</sup>.

In the text of the European Social Charter<sup>93</sup>, the right to higher education is enshrined, in accordance with paragraph 1 of Article 10, the Contracting Parties undertake "to provide or promote, as necessary, the technical and vocational training of all persons, including the handicapped, in consultation with employers' and workers' organisations, and to grant facilities for access to higher technical and university education, based solely on individual aptitude". The revised Charter<sup>94</sup> pays more attention to education, in addition to the specified provision of paragraph 1 of Article 10 on access to higher education, paragraph 2 of Article 17 establishes the obligation of states "to provide to children and young persons a free primary and secondary education as well as to encourage regular attendance at schools". Within the European Communities and subsequently the European Union, the right to education was enshrined in

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<sup>87</sup> Case of *Sulak v. Turkey*, <https://hudoc.echr.coe.int/eng#%7B%22itemid%22%3A%5B%22001-2669%22%5D%7D> (Retrieved on 3 of February 2025)

<sup>88</sup> Case of *Cyprus v. Turkey*, <https://hudoc.echr.coe.int/Eng#%7B%22itemid%22%3A%5B%22001-59454%22%5D%7D> (Retrieved on 3 of February 2025)

<sup>89</sup> Case of *Velyo Velev v. Bulgaria*, <https://hudoc.echr.coe.int/eng#%7B%22appno%22%3A%5B%2216032/07%22%5D%2C%22itemid%22%3A%5B%22001-144131%22%5D%7D> (Retrieved on 3 of February 2025)

<sup>90</sup> European Convention on the Equivalence of Diplomas leading to Admission to Universities, signed on 11th of December 1953, <https://rm.coe.int/168006457b> (Retrieved on 3 of February 2025)

<sup>91</sup> European Convention on the Equivalence of Periods of University Study, signed on 15th of December 1956, <https://rm.coe.int/1680064581> (Retrieved on 3 of February 2025)

<sup>92</sup> European Convention on the Academic Recognition of University Qualifications, signed on 14<sup>th</sup> of December 1959, <https://rm.coe.int/16800656d0> (Retrieved on 3 of February 2025)

<sup>93</sup> European Social Charter, signed on 18<sup>th</sup> of October 1961, <https://rm.coe.int/168006b642> (Retrieved on 3 of February 2025)

<sup>94</sup> European Social Charter (Revised), signed on 3th of May 1996, <https://rm.coe.int/168007cf93> (Retrieved on 3 of February 2025)

the Charter of Fundamental Rights of the European Union<sup>95</sup> (paragraph 1 of Article 14): “Everyone has the right to education and to have access to vocational and continuing training”. In paragraph 2 of Article 14 of the EU Charter of Fundamental Rights, in addition to establishing the right to education, the principle of free compulsory education is introduced. In the Clarification of Article 14, this principle is deciphered rather narrowly: “each child has the possibility of attending an establishment which offers free education. It does not require all establishments which provide education or vocational and continuing training, in particular private ones, to be free of charge”<sup>96</sup>

As regards the issues of free education, the case "Ponomaryovy v. Bulgaria"<sup>97</sup>, which was considered in the European Court of Justice, can be illustrative. In interpreting certain aspects of the right to education, the Court refers, inter alia, to the revised European Social Charter. The applicants were required to pay for their secondary school education in Bulgaria on the grounds that they were foreign citizens and did not have a permanent residence permit, while for citizens of the country and some foreigners, secondary education in Bulgaria is free. According to the European Court of Justice, “the State’s margin of appreciation in this domain increases with the level of education, in inverse proportion to the importance of that education for those concerned and for society at large. Thus, at the university level, which to this day remains optional for many people, higher fees for aliens – and indeed fees in general – seem to be commonplace and can, in the present circumstances, be considered fully justified. The opposite goes for primary schooling, which provides basic literacy and numeracy – as well as integration into and first experiences of society – and is compulsory in most countries” (paragraph 56). Regarding secondary education, the Court emphasized that secondary education plays a growing role in the successful personal development and in the social and professional integration of the persons concerned, and referred to the obligation of states, under the European Social Charter, to provide free primary and secondary education, as well as Article 14 of the European Union. Convention on Human Rights on the Prohibition of Discrimination and found a violation of Article 2 of Protocol to the European Convention on Human Rights.

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<sup>95</sup> Charter of Fundamental Rights of the European Union, signed on 14th of December 2007, [https://fra.europa.eu/sites/default/files/charter-of-fundamental-rights-of-the-european-union-2007-c\\_303-01\\_en.pdf](https://fra.europa.eu/sites/default/files/charter-of-fundamental-rights-of-the-european-union-2007-c_303-01_en.pdf) (Retrieved on 3 of February 2025)

<sup>96</sup> Explanations relating to the Charter of Fundamental Rights, <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex%3A32007X1214%2801%29> (Retrieved on 3 of February 2025)

<sup>97</sup> Case of Ponomaryovy v. Bulgaria, <https://hudoc.echr.coe.int/eng#%7B%22itemid%22%3A%22001-105295%22%7D> (Retrieved on 3 of February 2025)

In the literature, cooperation in the field of education in the European Communities and later in the European Union is conventionally divided into three periods. The beginning of the first period is considered the signing of the Treaty of Rome<sup>98</sup>, establishing the European Community. At the Conference of European Ministers of Education in 1971, five main points of a pan-European change in educational systems were identified: mutual recognition of diplomas, substantiation of the idea of forming a European university, cooperation of secondary and higher education, the creation of a European centre for the development of education, the formation of non-national institutions of higher education not limited by state borders.

In 1976, the first program of action was presented, which contained six points related to higher education: access to universities, recognition of diplomas, joint study programs, short training courses, information policy and the European University.

The second period, which lasted from 1983 to 1992, was more characterized by cooperation at the Community level. The most important document adopted at this time was the agreement concluded with the aim of facilitating the free movement of teachers, students and researchers and closer cooperation between institutions of higher education<sup>99</sup>.

The third period has begun in 1992, when the Maastricht Treaty<sup>100</sup> was signed. This treaty expanded the Treaty of Rome and, in particular, enshrined the principle of subsidiarity. In accordance with this principle, the powers to implement any competence should be transferred to a higher level only if the lower level does not have the ability (economic, social and others) to implement them. This principle seemed to impede further integration: education was seen as a symbol of the nation state. In many European countries, European education policy was viewed as an "invasion from Brussels" into the internal area of sovereignty. However, despite the initial rejection and opposition in society to the abandonment of national symbols and sovereignty, the conviction that developing Europe is not only the Europe of nation states was spreading more and more, no matter how important the principles of sovereignty and non-interference in the internal affairs of the state remained. Moreover, at

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<sup>98</sup> The Treaty of Rome, signed on 25<sup>th</sup> of March 1957, [https://ec.europa.eu/archives/emu\\_history/documents/treaties/rometreaty2.pdf](https://ec.europa.eu/archives/emu_history/documents/treaties/rometreaty2.pdf) (Retrieved on 3 of February 2025)

<sup>99</sup> Ivanova V.I. Mezhdunarodnye pravovye aspekty integratsionnykh protsessov v Evrope, predshestvovavshikh podpisaniyu Bolonskogo soglashiya // Mezhdunarodnoe publichnoe i chastnoe pravo. 2005. # 3. pp. 49 - 51.

<sup>100</sup> Treaty on European Union, signed on 7 February 1992, <https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:11992M/TXT> (Retrieved on 3 of February 2025)

present, the so-called "principle of integration"<sup>101</sup> is singled out as one of the principles of the relationship between European law and national law.

### **1.2.1.2. Soft law instruments and the Bologna Process**

The signing of the Bologna Declaration was preceded, among others, by three important documents: the University Charter - Magna Charta Universitatum<sup>102</sup> (1988), the Lisbon Convention<sup>103</sup> (1997) and the Sorbonne Declaration<sup>104</sup> (1998). The Charter emphasizes the special role of universities, which in the modern world are centres of culture, knowledge and research.

The Convention on the Recognition of Qualifications concerning Higher Education in the European Region aimed to “link” all national education systems in Europe by comparing their main levels/diplomas with the aim of mutual recognition. The Lisbon Convention laid the foundations for the development of close cooperation between European countries in the field of education, which at that time was the least integrated and most fragmented sector of the united Europe. The main advantage of the Convention is that it contains definitions of the main terms: higher education; higher educational institution; period of study; qualification (higher education qualification; qualification giving access to higher education). The text of this convention is also referred to by the European Court of Justice. For example, in *Leyla Sahin v. Turkey* case, the Court cites the text of the convention when determining the scope of the right to education.

Another important document, preceding the Bologna Declaration, was signed on May 25, 1998, by the ministers of four countries (Great Britain, Germany, France and Italy), who gathered on the occasion of the 800th anniversary of the Sorbonne University in Paris. This is the so-called Joint declaration on harmonisation of the architecture of the European higher education system.

Thus, pan-European integration in the field of education is a long, complex process that affects many aspects of the political and economic activities of the participating countries. The principles and main directions of creating a unified European educational space have been

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<sup>101</sup> Abdullin A.I., Bezborodov Yu.S., *Evropeyskoe pravo: uchebnik i praktikum dlya akademicheskogo bakalavriata*. Moscow: Izdatelstvo Yurayt. 2016. pp. 35.

<sup>102</sup> Magna Charta Universitatum, adopted in 1988, [https://www.magna-charta.org/magna-charta-universitatum/mcu-1988/mc\\_english.pdf/@download/file/mc\\_english.pdf](https://www.magna-charta.org/magna-charta-universitatum/mcu-1988/mc_english.pdf/@download/file/mc_english.pdf) (Retrieved on 3 of February 2025)

<sup>103</sup> Convention on the Recognition of Qualifications concerning Higher Education in the European Region, adopted on 11 April 1997, <https://rm.coe.int/168007f2c7> (Retrieved on 3 of February 2025)

<sup>104</sup> Joint declaration on harmonisation of the architecture of the European higher education system, signed on May 25<sup>th</sup> 1998, <https://ehea.info/page-sorbonne-declaration-1998> (Retrieved on 3 of February 2025)

formed for more than half a century, and it is obvious that the creation of a unified educational environment requires more detailed regulation.

The documents reviewed above paved the way for the ministers of education of 29 European states to sign a joint statement in the Italian city of Bologna in June 1999 on the "Zone for European Higher Education", which is also called the Bologna Declaration<sup>105</sup>. This event marked a milestone in the reform of higher education.

The Bologna Declaration of 1999 defines integration not only in the educational systems of European states, but also in other directions. At the same time, education itself acts as a powerful factor in bringing together national states and the formation of transnational socio-state systems, since the main goals of the declaration envisage a common European labour market for highly qualified workers, free access to European education, and the provision of a comparable system of higher education degrees. The Bologna Declaration sets out six goals, towards the achievement of which further cooperation in the field of higher education should be directed.

The main goal is to provide employment opportunities for European citizens and increase the international competitiveness of the European higher education system, for the achievement of which it is necessary to adopt a system of easily readable and comparable degrees, also through the implementation of the Diploma Supplement.

Also, the goal is the adoption of a system essentially based on two main cycles, undergraduate and graduate. Access to the second cycle shall require successful completion of first cycle studies, lasting a minimum of three years.

It is intended to promote mobility by overcoming obstacles to the effective exercise of free movement. Moreover, special attention is paid to the following points: providing students with access to study and training opportunities and to related services; ensuring that teachers, researchers and administrative staff are recognized and valorised of periods spent in a European context researching, teaching and training, without prejudicing their statutory rights. Further, it is envisaged to establish a credit system of the ECTS type - the European system of transferring credit units of labour intensity, as an appropriate means promoting the most widespread student mobility. Credits could also be acquired in non-higher education contexts, including lifelong learning, provided they are recognised by receiving Universities concerned.

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<sup>105</sup> The Bologna Declaration of 19 June 1999, [https://ehea.info/Upload/document/ministerial\\_declarations/1999\\_Bologna\\_Declaration\\_English\\_553028.pdf](https://ehea.info/Upload/document/ministerial_declarations/1999_Bologna_Declaration_English_553028.pdf) (Retrieved on 3 of February 2025)



Another goal is to promote European co-operation in quality assurance with a view to developing comparable criteria and methodologies. And here it should be noted that the criterion of the quality of education appeared in the regional international legal act. At the universal level, this criterion was first addressed in 1998; at the regional level, it was first identified in 1999.

Finally, one of the main tasks that must be solved within the framework of the Bologna Process is to attract more students to Europe from other regions of the world. To achieve this goal, it is envisaged to promote the necessary European dimensions in higher education, particularly with regards to curricular development, interinstitutional co-operation, mobility schemes and integrated programmes of study, training and research. It is believed that the introduction of a pan-European system for guaranteeing the quality of education, a credit accumulation system, easily understood qualifications, etc. will lead to increased interest in higher education. The third chapter of this dissertation will examine in more detail the implementation of each of the goals set in the declaration in individual European states<sup>106</sup>.

In addition to the Bologna Process and associated declarations, the European Union has adopted binding instruments that strengthen educational integration through the recognition of professional qualifications. One of the most important is Directive 2005/36/EC, which establishes the legal framework for mutual recognition of professional qualifications across EU member states. It ensures that individuals with regulated professions - such as doctors, engineers, teachers, and lawyers - can have their qualifications recognized and practice in other EU countries without needing to requalify. This directive demonstrates how educational integration directly supports labour mobility and economic cooperation, making professional qualifications portable across borders<sup>107</sup>.

### **1.2.1.3. Institutional cooperation in the European Higher Education Area**

In 2001, the Salamanca Convention of European Higher Education Institutions was adopted, in the creation of which more than 300 European universities participated, with the aim of preparing the Prague Meeting of Ministers Responsible for Higher Education. In this convention, the basic principles of the formation of the European Higher Education Zone were derived:

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<sup>106</sup> Caddick S. Back to Bologna: The long road to European higher education reform // EMBO reports. Vol. 9, No. 1. January 2008. pp. 18 - 21

<sup>107</sup> Directive 2005/36/EC of the European Parliament and of the Council of 7 September 2005 on the recognition of professional qualifications.



- 1) Autonomy with accountability. This principle implies the right of universities to shape their strategies, choose their priorities in teaching and research, allocate their resources, profile their curricula and set their criteria for the acceptance of professors and students.
- 2) Education as a public responsibility. In accordance with this principle, broad and open access to undergraduate as well as graduate studies should be ensured; education should be aimed at personal development and lifelong learning.
- 3) Research-based higher education. As research is a driving force of higher education, the creation of the European Higher Education Area must go hand in hand with that of the European Research Area.
- 4) Organising diversity. European higher education is characterised by its diversity in terms of languages, national systems, institutional types and profiles and curricular orientation. At the same time its future depends on its ability to organise this valuable diversity effectively to produce positive outcomes rather than difficulties, and flexibility rather than opacity.

Almost simultaneously with the Salamanca Convention of European Higher Education Institutions, the Gothenburg Declaration of Students on the Development of the Bologna Process was adopted. The Declaration underlines the active role of students, in particular the – the National Unions of Students in Europe (ESIB), in shaping the European Higher Education Area. It criticizes the Bologna Declaration in terms of the lack of a description of the social consequences of the process for students: universities are important operating structures of civil society; therefore, it is necessary to involve all members of the higher education community in the creation of a European higher education area. The Declaration emphasizes that students are not consumers of a tradable education service, and consequently it is the governments' responsibility to guarantee that all citizens have equal access to higher education, regardless of their social background. It concludes by proclaiming the role of students as competent, active and constructive partners who must be perceived as one of the driving forces behind educational change.

Having considered the Salamanca Convention and the Gothenburg Declaration, one cannot fail to note the active participation of powerless subjects, namely, higher educational institutions and the student union in the preparation and implementation of the Bologna process activities.

P.P. Kensovskiy, analysing the legal nature of international law and the European educational space, notes that “the nature of the generally recognized principles of international

law is universal, comprehensive, and the principles of the Bologna Process are regional in nature and apply only to the territory of a certain geographical region. In other educational spaces, the principles arising in the field of education are also not identical to the principles of the Bologna process, since some countries can simultaneously be members of different educational spaces (CIS, SCO, ASEAN), and then we should talk not so much about their unification character as about their harmonizing effect”<sup>108</sup>.

Of course, the principles enshrined in the documents of the Bologna Process are not generally recognized and do not act as imperative norms, since they are enshrined in documents that are not international treaties. At its core, the principles of the Bologna Process relate to the so-called "soft law" and are regional principles that formulate and proclaim several major general goals and objectives that require further specification. According to Nowak Manfred achievement of these goals is intended to contribute to the formation of a common European area of higher education; the main function of the principles is to harmonize educational systems and approaches to the development of higher education in the European region<sup>109</sup>. And even though some researchers note a slowdown in the intensity of the Bologna process, associated, among other things, with the geopolitical situation<sup>110</sup>, at present the project of European educational integration is the most elaborated from a normative and organizational point of view.

### **1.2.2. African region**

Work to create a common educational space is being carried out not only in the European region. In addition to the European space discussed in the previous paragraph, it should be noted that the African, Asian and American regions are also engaged in cooperation in the field of education, albeit with different intensity. However, in these regions, the relatively successful experience of European educational integration was taken as a basis, so we will not consider the processes in depth. This paragraph will highlight the consolidation of the right to

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<sup>108</sup> Kensovskiy P.P. *Obshepravovoy analiz printsipov Bolonskogo protsessa* // *Obschestvo i pravo*. 2010. # 2. pp. 251 - 254.

<sup>109</sup> Nowak Manfred. *The Development of Human Rights in Europe after the End of the Cold War*. European Yearbook of Human Rights. Vol. 10. Ed. by: Wolfgang Benedek and others. Vienna, Graz. 2010. pp. 31 - 49.

<sup>110</sup> Lihachev V.N., Nikitin I.Yu., Volov V.T., Muhametzyanova F.G. *Sovremennaya studencheskaya molodezh v kontekste tolerantnosti i progressa obschestva: etnoreligioznyy sindrom i razvitie Bolonskogo protsessa v Rossii i Evrosoyuze*// *Sbornik: Tolerantnost - "olivkovaya vetv" chelovechestva na etape istoricheskogo razloma. Materialy Mezhdunarodnogo gumanitarnogo foruma, posvyaschennogo 70-letiyu OON i UNESCO*. Nauchnyie redaktoryi: R.R. Yusupov, R.M. Valeev, E.R. Tagirov; Sostaviteli: V.R. Aliakberova, A.A. Muhamadeeva. 2016. pp. 204 - 206.

education and the steps taken to integrate in the field of education in the acts of various integration international organizations existing on the African continent.

Integration in education, in particular, is an integral part of the “human resource development” policy of the member states of the Cooperation Council for the Arab States of the Gulf (GCC). As one of the goals in the GCC Charter, “the formulating of similar regulations in various fields including education and culture”<sup>111</sup>, is declared, then this goal is further developed in the articles of the GCC Economic Agreement<sup>112</sup>. The preamble to the Economic agreement states that towards achieving Gulf citizenship, it is necessary to ensure equality of treatment in the exercise of the rights to movement, residence, work, investment, education, health and social services.

Paragraph 10 of Article 3 of the Agreement provides the same treatment without differentiation or discrimination for all citizens of the GCC member states to education, Article 14 provides for the introduction of compulsory basic education and the total eradication of illiteracy. A.O. Chetverikov, considering the processes of educational integration in Asian, African and American countries, notes in comparison that illiteracy or insufficient literacy of the population remains a problem not only in developing, but also in some developed, including European, states<sup>113</sup>. Article 15 of the Agreement is directly devoted to education and provides for the following obligations of states:

- Cooperation in the development of programs and curricula of public, higher, and technical education, ensuring high levels of scientific content and compatibility with the development needs of Member States;
- Taking measures on achieving integration between GCC universities in all fields;
- Adopting appropriate policies and mechanisms to ensure compatibility between the outputs of higher education and scientific and technical research on the one hand, and the needs of the labour market and economic development, on the other.

It should be noted that the norms aimed at educational integration in the text of the agreement coexist with the norms on the recognition of professions and ensuring the openness

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<sup>111</sup> Article 4 of the Cooperation Council Charter for the Arab States of the GULF, <https://www.gcc-sg.org/en-us/AboutGCC/Pages/Primarylaw.aspx> (Retrieved on 3 of February 2025)

<sup>112</sup> The Economic Agreement between the GCC States adopted by the GCC Supreme Council (22nd Session), on 31 December 2001 (Muscat, Sultanate of Oman), <https://www.bahrainedb.com/app/uploads/2020/08/The-Economic-Agreement-GCC-States.pdf> (Retrieved on 3 of February 2025)

<sup>113</sup> Chetverikov A.O. Voprosyi nauki i obrazovaniya v uchreditelnyih aktah integratsionnyih organizatsiy stran Azii, Afriki i Ameriki//Aktualnyie problemyi rossiyskogo prava. 2014. pp. 2050.

of information about the labour market, which once again emphasizes the inextricable link between educational and economic integration.

African integration associations also paid attention to the issues of educational integration. Already in the Treaty establishing the African Economic Community of 1991<sup>114</sup>, which later included the African Union, the creation of a Committee on Education, Culture and Human Resources was envisaged (Article 25). Chapter 12 “Education, Training and Culture” sets out measures to be taken by Member States to strengthen cooperation in the field of education and training and to coordinate and harmonize policies in the field of education. Part 2 of Article 68 provides that states undertake to:

- Improve the efficiency of existing educational systems by promoting the training of trainers and using appropriate methods and aids;
- Cooperate in the strengthening of existing regional and Community training institutions and where necessary, establish new institutions;
- Prepare, coordinate and harmonize joint training programmes with a view to adapting them to development needs thereby ensuring progressive self-sufficiency in skilled personnel;
- Promote the systematic exchange of experience and information on education policy and planning;
- Take appropriate measures to stop the brain-drain from the Community and encourage the return of qualified professionals and skilled manpower to their countries of origin.

Due to the instability in many African countries, as well as the low level of economic development, the integration processes are most intensive within individual regions, but not across Africa. The result achieved by the Central African and West African countries should be highlighted. Currently, active work is underway on the formation of an educational and research space within the Central African Economic and Monetary Community (CEMAC), which was initially purely economic in nature. In 2005, the Libreville Declaration was adopted, which aims to integrate the education, research and training system of the SEMAC countries with education around the world and, in particular, with the European one. As a follow-up to the Libreville Declaration, the CEMAC countries have established a unified higher education system based on the Bologna system. The introduction of this system was announced in the

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<sup>114</sup> Treaty establishing the African Economic Community adopted by the Organization of African Unity on 3 June 1991, [https://au.int/sites/default/files/treaties/37636-treaty-0016\\_-\\_treaty\\_establishing\\_the\\_african\\_economic\\_community\\_e.pdf](https://au.int/sites/default/files/treaties/37636-treaty-0016_-_treaty_establishing_the_african_economic_community_e.pdf) (Retrieved on 3 of February 2025)

2006 Action Program, and in the same year two directives of the SEMAC Council of Ministers were adopted, regulating the operation of the “LMD system” (Licence-Master-Doctorat).

WAEMU guarantees equal rights of access to public institutions of higher education for all citizens of WAEMU member states, effectively removing barriers to student mobility within the region. This measure reflects a commitment to regional integration, ensuring that higher education opportunities are not limited by national borders within WAEMU.

Building on this foundation, in 2007, WAEMU introduced a unified system of higher education, known as the "LMD system" (Licence-Master-Doctorat), which aligns closely with the educational structure adopted by the Central African Economic and Monetary Community (CEMAC). This system mirrors the Bologna Process in Europe, establishing a three-tier degree structure:

- Licence (Bachelor's degree) – 3 years

"License" is an analogue of a bachelor's degree and provides for a student to study for 6 semesters and receive at least 180 credits. It is also possible to obtain a professional license for specialized vocational training in partnership with the business community, the training for obtaining it must last 2 semesters and the student must receive at least 60 credits.

- Master's degree – 2 years

The second stage of training is "Master". To obtain a diploma of this level, a student must study 4 semesters and receive 120 credits.

- Doctorat (PhD) – 3 years or more

The third stage is "doctor". To obtain a doctoral degree, it is necessary to undergo training for 3 years (it is possible to increase this period by another 2 years) and publicly defend a doctoral dissertation.

The LMD system enhances the comparability and compatibility of degrees across West and Central African states, making it easier for students to transfer credits, continue their studies in another country, and have their qualifications recognized regionally and internationally.

The WAEMU and CEMAC approaches illustrate a broader trend in African regional educational integration, which follows a model similar to that of the European Higher Education Area (EHEA). Several key characteristics define this approach:

1. Free movement of students and academic staff
  - The WAEMU directive on student equality ensures that students from any member state can enrol in universities across the region without discrimination.

- Similar policies exist in CEMAC, where member states recognize each other's university degrees and academic qualifications.
  - These measures encourage academic mobility, cultural exchange, and labor market integration.
2. Harmonization of higher education systems
- By adopting the LMD system, both WAEMU and CEMAC have aligned their educational structures, making it easier for students to transition between institutions.
  - This reform standardizes degree recognition, academic credits, and curriculum frameworks.
3. Mutual recognition of diplomas and qualifications
- Regional agreements facilitate the automatic recognition of qualifications, ensuring that students can pursue careers across member states without needing additional certifications.
  - This system benefits employers, as they can hire graduates with confidence, knowing their qualifications meet regional standards.
4. Commitment to lifelong learning and skills development
- The African Union's Continental Education Strategy for Africa (CESA 16-25) highlights lifelong learning as a priority.
  - Regional educational policies increasingly emphasize technical and vocational education (TVET) to equip students with practical skills aligned with labor market needs.
5. Strengthening research collaboration and academic networks
- Initiatives such as the Pan-African University (PAU) and African Research Universities Alliance (ARUA) encourage cross-border research partnerships and faculty exchanges.
  - WAEMU and CEMAC also support regional research funding and joint doctoral programs.
6. Regional accreditation and quality assurance mechanisms
- Institutions such as the African and Malagasy Council for Higher Education (CAMES) help establish common accreditation standards, ensuring high-quality education across the region.

- These efforts enhance academic credibility, attract international students, and increase global recognition of African universities.

The educational integration efforts in Africa closely resemble those of the European Higher Education Area (EHEA). Some similarities include:

- Harmonization of degree structures (LMD system in Africa, Bologna Process in Europe).
- Mutual recognition of qualifications across member states.
- Regional mobility programs for students and academic staff.
- Common accreditation frameworks to ensure educational quality.

However, key differences remain:

- Funding and infrastructure challenges: Many African universities struggle with underfunding, lack of resources, and outdated facilities, making full implementation of integration policies difficult.
- Language barriers: Unlike Europe, where English is the dominant academic language, African higher education institutions operate in multiple languages (French, English, Portuguese, Arabic, and indigenous languages), creating additional challenges for harmonization.
- Limited digital education infrastructure: While Europe has invested significantly in online education and digital learning tools, African universities are still developing the necessary infrastructure for widespread e-learning adoption.

Despite the challenges, the future of educational integration in Africa looks promising, with several ongoing initiatives aimed at further strengthening cooperation:

1. Expanding digital and distance learning
  - The African Virtual University (AVU) and other e-learning platforms aim to expand online education opportunities.
  - WAEMU and CEMAC are exploring digital solutions for student records, diploma verification, and remote learning.
2. Developing a continental higher education framework
  - The African Union is working toward a Pan-African higher education strategy, building on the successes of WAEMU and CEMAC.
3. Strengthening public-private partnerships in higher education

- Governments are collaborating with international organizations and private sector stakeholders to improve university funding, expand research capacity, and develop industry-relevant curricula.

#### 4. Increasing student scholarships and exchange programs

- Programs such as Intra-Africa Academic Mobility Scheme and Erasmus+ for Africa are helping to increase student mobility within Africa and between Africa and Europe<sup>115</sup>.

The regulation of the right to education and regional cooperation in Africa follows a model similar to Europe's, demonstrating a strong commitment to harmonization, student mobility, and academic collaboration. The WAEMU Directive on Student Equality and the LMD system represent key milestones in creating a unified higher education space in Africa.

However, continued progress depends on addressing challenges related to funding, infrastructure, digital education, and language barriers. By further strengthening institutional frameworks, expanding digital education, and fostering research collaboration, the African higher education system can become more globally competitive and accessible, ensuring greater opportunities for students and educators across the continent.

Projects for the creation of a single educational space are also being developed in ASEAN countries, however, in the countries of Southeast Asia, as well as on the African continent, regionalization is very strong<sup>116</sup>, which prevents the effective implementation of such projects.

O.A. Chetverikov notes that soon a common space of education may also emerge on the territory of South America, since in the Founding Act of the Union of South American Nations (UNASUR), the sphere of education is recognized as one of the priority spheres of integration<sup>117</sup>.

### **1.2.3. Eurasian region**

In addition to European educational integration, attempts are being made to create a common educational space in other regions, in particular, within the framework of the

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<sup>115</sup> Intra-Africa academic mobility scheme 2022-2027. European Education and Culture Executive Agency (European Commission). 2024. pp. 3 - 5.

<sup>116</sup> Choy E. Regionalizatsiya vysshego obrazovaniya v Vostochnoy Azii// Mezhdunarodnoe vyisshee obrazovanie. Strany i regiony. #90. 2017. pp. 33 - 35.

<sup>117</sup> Chetverikov A.O. Voprosy nauki i obrazovaniya v uchreditelnykh aktakh integratsionnykh organizatsiy stran Azii, Afriki i Ameriki//Aktualnyye problemy rossiyskogo prava. 2014. pp. 2055.



Commonwealth of Independent States (CIS), the Eurasian Economic Community (EurAsEC) and, subsequently, the Eurasian Economic Union (EAEU).

### **1.2.3.1. Phases of CIS educational cooperation**

Many researchers of cooperation in the field of higher education analyse in detail the international treaties concluded within the framework of the CIS<sup>118</sup>. In the literature, there are three stages of cooperation between states in the field of education in the CIS space<sup>119</sup>.

The first stage begins on May 15, 1992, when the Agreement on Cooperation in the Field of Education was adopted<sup>120</sup>, signed by all CIS states, except Georgia. At this stage, various agreements were concluded on certain issues in the field of education: the Agreement on the principles of recognition and nostrification of documents on academic degrees, compatibility of academic degrees<sup>121</sup> (1993), as well as the Agreement on preparation and training of military and civil personnel of the State Parties of CIS for participation in peace support operations<sup>122</sup> (1996). A.V. Kondratyuk notes that all the agreements adopted at the first stage of cooperation were notable for their ambiguous goals, an abundance of declarative norms, and also contained a weak economic base<sup>123</sup>.

The second stage begins with the adoption by the CIS member states of the Agreement on cooperation on forming of single (general) educational space of CIS<sup>124</sup> (1997). The agreement does not define a single (common) educational space, only its characteristics are given, such as common principles of state policy in the field of education, consistency of state educational standards, programs and requirements for the training and certification of scientific

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<sup>118</sup> Kananyikina E.S. Mezhdunarodnoe obrazovatelnoe pravo: dokumenty po voprosam obrazovaniya mezhdunarodnykh i regionalnykh organizatsiy // Yuridicheskoe obrazovanie i nauka. 2013. # 4. pp. 24 - 29; Kondratyuk A.V. Mezhdunarodno-pravovoe regulirovanie sotrudnichestva gosudarstv v sfere obrazovaniya. Diss. kand. yur. nauk. Sankt-Peterburg, 2007. pp. 69 - 83.

<sup>119</sup> Kondratyuk A.V. Mezhdunarodno-pravovoe regulirovanie sotrudnichestva gosudarstv v sfere obrazovaniya. Diss. kand. yur. nauk. Sankt-Peterburg, 2007. pp. 69.

<sup>120</sup> The agreement on cooperation in the field of education adopted on May 15, 1992, <https://cis-legislation.com/document.fwx?rgn=4549> (Retrieved on 3 of February 2025)

<sup>121</sup> Agreement on the principles of recognition and nostrification of documents on academic degrees, compatibility of academic degrees adopted on May 17, 1993, <https://cis-legislation.com/document.fwx?rgn=4553> (Retrieved on 3 of February 2025)

<sup>122</sup> The agreement on preparation and training of military and civil personnel of the State Parties of the Commonwealth of Independent States for participation in peace support operations adopted on January 19, 1996, <https://cis-legislation.com/document.fwx?rgn=28570> (Retrieved on 3 of February 2025)

<sup>123</sup> Kondratyuk A.V. Mezhdunarodno-pravovoe regulirovanie sotrudnichestva gosudarstv v sfere obrazovaniya. Diss. kand. yur. nauk. Sankt-Peterburg, 2007. pp. 70.

<sup>124</sup> Agreement on cooperation on forming of single (general) educational space of Commonwealth of Independent States adopted on January 17, 1997, <https://cis-legislation.com/document.fwx?rgn=4552> (Retrieved on 3 of February 2025)

and pedagogical personnel, equal opportunities and free exercise of citizens' rights to receive education in educational institutions on the territory of the member states of the CIS.

In the development of the above-mentioned agreement, the Agreement on cooperation in the field of education<sup>125</sup> (1992) was adopted. This Agreement also lacks a definition of a unified educational space; however, Articles 2-10 establish specific measures for its formation.

The definition of a unified educational space was proposed in the scientific literature, the most often cited definition was given by O.S. Sabden; "a single educational space is the space occupied by the CIS member states after the collapse of the USSR, in which, on the basis of voluntarily assumed obligations, coordinated activities in the field of education, science and culture are carried out that meet both the national interests of each of them and the interests of the Commonwealth as a whole, and based on the historical community of people living in it"<sup>126</sup>. This definition seems to be correct only for the first two stages of development of cooperation within the CIS, since at the third stage the need to coordinate the process of educational integration within the CIS with the Bologna process will be recognized.

As was mentioned above, on January 17, 1997, an Agreement on cooperation on forming of single (general) educational space of CIS, was signed based on which the Council for Cooperation in the Field of Education of the Member States of the CIS was established, which is still in effect. At the same time, the Agreement on cooperation in the field of dissemination of knowledge and education of adults<sup>127</sup> was signed along with the Regulation on the Interstate Committee on the dissemination of knowledge and education for adults, but the Regulation ceased to be effective on 07.09.2009 in accordance with the Protocol on Amendments, which was adopted on 14.11.2008.

In 2001, the CIS member states concluded the Agreement on coordination of works in the field of licensing of educational activities, certification and accreditation of educational institutions of the State Parties of the CIS<sup>128</sup>, as well as the Concept of information exchange in the field of formation of the CIS<sup>129</sup>.

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<sup>125</sup> The agreement on cooperation in the field of education adopted on May 15, 1992, <https://cis-legislation.com/document.fwx?rgn=4549> (Retrieved on 3 of February 2025)

<sup>126</sup> Sabden O.S. Problemy formirovaniya obschego obrazovatel'nogo prostranstva SNG // Vestnik MPA SNG. 2011. #1(28). pp. 59.

<sup>127</sup> The agreement on cooperation in the field of dissemination of knowledge and education of adults adopted on January 17, 1997, <https://cis-legislation.com/document.fwx?rgn=4809> (Retrieved on 3 of February 2025)

<sup>128</sup> The agreement on coordination of works in the field of licensing of educational activities, certification and accreditation of educational institutions of the State Parties of the Commonwealth of Independent States adopted on November 29, 2001, <https://cis-legislation.com/document.fwx?rgn=4570> (Retrieved on 3 of February 2025)

<sup>129</sup> Decision of the Conference of Ministers of Education of the State Parties of the Commonwealth of Independent States adopted on October 10, 2000, <https://cis-legislation.com/document.fwx?rgn=4810> (Retrieved on 3 of February 2025)

At the second stage, agreements were also concluded concerning private issues in the field of education, including the Agreement on cooperation in the field of training of specialists on radio ecology, radiation safety, radiobiology and interdisciplinary sciences<sup>130</sup>, the Agreement on procedure for creation and functioning of branches of higher educational institutions in the State Parties of the CIS<sup>131</sup>.

In the mid-1990s, there is a tendency for closer cooperation between a small group of CIS member states, both in the economy as a whole and, in particular, in education. In 1998 Belarus, Kazakhstan, Kyrgyzstan and the Russian Federation signed an Agreement about provision of the equal rights to citizens of the State Parties of the Agreement on deepening of integration in economic and humanitarian areas of March 29, 1996, on receipt in educational institutions<sup>132</sup> and the Agreement about mutual recognition and equivalence of education documents, academic degrees and ranks<sup>133</sup>. In 2000, Tajikistan joined both agreements. It is worth paying attention to the fact that all the states that signed these agreements subsequently entered the EurAsEC.

The third stage begins in May 2003, when the decision of the Conference of Ministers of Education "On interaction of the higher school of the State Parties of the CIS in the course of integration into the all-European system of the higher education, development of cooperation with the international organizations"<sup>134</sup> was adopted and continues to this day. The decision gives a positive assessment of the measures taken to form a single European area of higher education, expresses commitment to the goals and principles formulated in the Bologna Declaration. Also, the preamble of the decision declares that the participation of the State Parties of the CIS in Bologna Process should be considered in the context of national interests of the State Parties of the CIS, in the field of cooperation and integration with the European

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<sup>130</sup> The agreement on cooperation in the field of training of specialists on radio ecology, radiation safety, radiobiology and interdisciplinary sciences adopted on November 30, 2000, <https://cis-legislation.com/document.fwx?rgn=4670> (Retrieved on 3 of February 2025)

<sup>131</sup> The agreement on procedure for creation and functioning of branches of higher educational institutions in the State Parties of the Commonwealth of Independent States adopted on September 28, 2001, <https://cis-legislation.com/document.fwx?rgn=4567> (Retrieved on 3 of February 2025)

<sup>132</sup> Agreement about provision of the equal rights to citizens of the State Parties of the Agreement on deepening of integration in economic and humanitarian areas on receipt in educational institutions adopted on March 29, 1996, <https://cis-legislation.com/document.fwx?rgn=3971> (Retrieved on 3 of February 2025)

<sup>133</sup> Agreement between the Government of the Republic of Belarus, Government of the Republic of Kazakhstan, Government of the Kyrgyz Republic and Government of the Russian Federation and Government of the Republic of Tajikistan about mutual recognition and equivalence of education documents, academic degrees and ranks adopted on November 24, 1998, <https://cis-legislation.com/document.fwx?rgn=3967> (Retrieved on 3 of February 2025)

<sup>134</sup> Decision conference of Ministers of education of the state parties of the CIS about interaction of the higher school of the State Parties of the CIS in the course of integration into the all-European system of the higher education, development of cooperation with the international organizations adopted on May 13, 2003, <https://cis-legislation.com/document.fwx?rgn=4816> (Retrieved on 3 of February 2025)

countries, considering the need of coordinated actions in case of integration into the all-European system of the higher education.

The Bologna Declaration contains a provision according to which the participating States will promote a European approach to higher education. This provision is aimed at increasing the attractiveness of higher education in Europe, while the CIS member states could follow a similar principle of increasing the attractiveness of higher education systems in the CIS countries in the formation of a common educational space.

In November 2006, the Model Educational Code for the CIS Member States was adopted, which also indicates the need to comply with the Bologna Declaration. In 2013, a new edition of the Model Code was adopted, where the article on the Bologna Process was also preserved. Some concepts are fixed in the Model Educational Code: education, general education, vocational education, special education, etc. Unfortunately, the right to education itself is not covered in the code in any way, its subjects and elements are not considered. In general, analysing the provisions of the Model Code, one can note that many of them are somewhat slogan and absolutely non-specific. And if the CIS states plan to continue creating a common educational space, it is necessary to pay attention to this and amend this document, which has the potential to unite the educational systems of the Commonwealth states, but in fact does not have any impact on their activities in the field of education.

At the same time, already in the first edition of the Model Educational Code for the CIS member states, article 10 contains a provision on the need to ensure lifelong education. In the new edition of 2013, this provision remains. Thus, at the regional level, there is also a revision of the understanding of the right to education, from the functional to the more general.

This understanding of the right to education is reflected in the Model Law “About education of adults”<sup>135</sup>. If in the original edition in the wording of the articles only the term “lifelong education” is used, which is used primarily for professional development and, on a leftover basis, for other purposes, then in the new edition of 2013, along with the term “lifelong education”, the term “education throughout life”, which is also used in many UNESCO acts adopted at the beginning of the 21st century. This change in terminology characterizes the transition from a functional, discrete understanding of the right to education to a more general one.

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<sup>135</sup> Model law about education of adults adopted by the resolution of December 6, 1997 No. 10-9 at the tenth plenary session of Inter-Parliamentary Assembly of the State Parties of the CIS, <https://cis-legislation.com/document.fwx?rgn=30966> (Retrieved on 3 of February 2025)

At present, despite the adoption of numerous documents, including the Model Educational Code for the CIS member states, as well as the creation of special cooperation bodies, the process of educational integration within the CIS cannot be considered effective. Researchers of educational processes in the post-Soviet space note that despite all efforts, the common educational space of the CIS has not yet been created, since the common educational space is not limited by the coherence of educational policy and forms of education, it should include “the accessibility of education and general criteria for assessing its qualities, common goals and understanding of the socializing role of education”<sup>136</sup>. Unfortunately, these issues in the CIS area are still problematic.

### **1.2.3.2. The EurAsEC period and legal innovations**

Cooperation within the framework of the EurAsEC promised to become closer and more organized. Within the framework of this international organization, in addition to traditional international agreements on cooperation (for example, the Agreement on Cooperation of the Member States of the EurAsEC in the field of education; the Agreement between the Government of the Republic of Belarus, the Government of the Republic of Kazakhstan, the Government of the Kyrgyz Republic, the Government of the Russian Federation and the Government of the Republic of Tajikistan about the mechanism of mutual recognition and establishment of equivalence of documents on academic degrees in state members of EurAsEC<sup>137</sup>), the Concept of the Fundamentals of EurAsEC Legislation on Education was also developed. And if the Model Educational Code of the CIS was adopted as a “legislative act of a recommendatory nature” and contains in a systematic presentation common ideas about educational law for the CIS member states, then, according to the Concept, the Fundamentals of EurAsEC Legislation on Education should have become a mandatory act of direct action, which was enshrined in Article 6 of the Concept, which established the correlation of the Fundamentals of EurAsEC Legislation on Education with generally recognized principles and norms of international law and national legislation on

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<sup>136</sup> Zhulikova O.V. Tendentsii razvitiya transnatsionalnogo obrazovaniya: perspektivy i Rossiyskoy Federatsii i Respubliki Belarus// Integratsiya nauki i obrazovaniya kak osnova evolyutsii Evraziyskogo ekonomicheskogo soyuza: sb. st. iz materialov Evraziyskogo nauchnogo foruma 08 dekabrya 2017 g. / Obsch. nauchn. red. M.Yu. Spirinoy. Chast II. SPb.: Universitet pri MPA EvrAzES. 2018. pp. 57.

<sup>137</sup> Agreement of State Members of Eurasian Economic Community about the mechanism of mutual recognition and establishment of equivalence of documents on academic degrees in state members of Eurasian economic community adopted on September 27, 2005, <https://cis-legislation.com/document.fwx?rgn=13652> (Retrieved on 3 of February 2025)

education. The concept was distinguished by its elaborate and balanced approach to the development of education integration in the Eurasian region.

Unfortunately, from 01.01.2015, the EurAsEC ceased to exist and, in accordance with the Agreement “About the termination of activities of Eurasian economic community”<sup>138</sup>, the Agreement “On the status of Bases of the legislation of Eurasian economic community, procedure for their development, acceptance and realization”<sup>139</sup>, is also terminated. As for the Agreement on Cooperation of the Member States of the Eurasian Economic Community in the field of education and the Agreement between the Government of the Republic of Belarus, Government of the Republic of Kazakhstan, Government of the Kyrgyz Republic, Government of the Russian Federation and Government of the Republic of Tajikistan “About mutual recognition and equivalence of education documents, academic degrees and ranks”<sup>140</sup>, these agreements, in accordance with paragraph 2 of Article 3 of the Agreement “About the termination of activities of Eurasian economic community”, “continue to be effective between their participants in that part in what they can be performed in the absence of the bodies of EurAsEC mentioned in them liquidated according to this Agreement. In the relations between state members of the EurAsEC, being participants of the specified agreements, these agreements are applied in the part which is not contradicting the Agreement on the Eurasian Economic Union of May 29, 2014.”.

However, P.N. Biryukov rightly noted that "the legal system of the EurAsEC is extremely complex and confused"<sup>141</sup>. Considering that the Agreement on Cooperation of the EurAsEC Member States in the Field of Education considers the implementation of agreed measures to consistently expand cooperation in the field of education aimed at creating a common educational space of the EurAsEC (Article 1) as the main task and it is stipulated that the implementation of this agreement is responsible The Education Council under the EurAsEC Integration Committee, and together with the termination of the EurAsEC activities, the action of its bodies is also terminated, the Agreement on cooperation in the field of education actually

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<sup>138</sup> Agreement about the termination of activities of Eurasian economic community adopted on October 10, 2014, <https://cis-legislation.com/document.fwx?rgn=70692> (Retrieved on 3 of February 2025)

<sup>139</sup> Agreement on the status of Bases of the legislation of Eurasian economic community, procedure for their development, acceptance and realization adopted on June 18, 2004, <https://cis-legislation.com/document.fwx?rgn=13644> (Retrieved on 3 of February 2025)

<sup>140</sup> Agreement between the Government of the Republic of Belarus, Government of the Republic of Kazakhstan, Government of the Kyrgyz Republic and Government of the Russian Federation and Government of the Republic of Tajikistan about mutual recognition and equivalence of education documents, academic degrees and ranks adopted on November 24, 1998, <https://cis-legislation.com/document.fwx?rgn=3967> (Retrieved on 3 of February 2025)

<sup>141</sup> Biryukov P.N. K voprosu ob implementatsii norm Evraziyskogo ekonomicheskogo soyuza.// Mezhdunarodniy pravovoy kurer. 2014. # 5 (5). pp. 8.



ceases to be in effect. Thus, of the documents aimed at educational integration within the EurAsEC, only the Agreement "About mutual recognition and equivalence of education documents, academic degrees and ranks"<sup>142</sup> remains valid. In the Treaty on the Eurasian Economic Union<sup>143</sup>, education issues are addressed only within the framework of labour migration regulation. Article 96 "Cooperation between Member States in the Field of Labour Migration" defines the concept of "Educational documents" - documents of State education, as well as documents on education, recognized at the level of public education documents issued by educational organizations (educational institutions and organizations in education) of the member States.

Aide to the President of the Russian Federation, Yuriy Ushakov, explained that "in those areas that do not fall under the EAEU regulation (social and humanitarian, interregional cooperation, sectoral interaction), the implementation of previously concluded international treaties and adopted interstate target programs will continue at the interstate level". Thus, the issues of educational cooperation again faded into the background and are transferred from the level of regional international organizations to the level of bilateral cooperation<sup>144</sup>.

Formally, discussions of the need for integration in the field of education in the EAEU space continue, in December 2017, the Forum "Integration of Science and Education as the Basis for the Evolution of the Eurasian Economic Union" was held. And if representatives of the Russian side, in particular, Adviser to the President of the Russian Federation, Academician of the Russian Academy of Sciences S.Yu. Glazyev, drew attention to the need to develop a common ideology, since "a qualitative ideological substantiation of the commonality and reciprocity of interests of states with the targeted activation of cooperation between universities of states will help restore the humanitarian dimension integration in the part necessary for the formation of a unified educational space and harmonization of labour legislation"<sup>145</sup>, then representatives of the Kyrgyz Republic, D.A. Asenalhanov and A.N. Bakirov express the opposite opinion. Noting that in all the EAEU member states education is very strongly

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<sup>142</sup> Agreement between the Government of the Republic of Belarus, Government of the Republic of Kazakhstan, Government of the Kyrgyz Republic and Government of the Russian Federation and Government of the Republic of Tajikistan about mutual recognition and equivalence of education documents, academic degrees and ranks adopted on November 24, 1998, <https://cis-legislation.com/document.fwx?rgn=3967> (Retrieved on 3 of February 2025)

<sup>143</sup> Treaty on the Eurasian Economic Union adopted on 29 May 2014, [https://www.wto.org/english/thewto\\_e/acc\\_e/kaz\\_e/wtacckaz85\\_leg\\_1.pdf](https://www.wto.org/english/thewto_e/acc_e/kaz_e/wtacckaz85_leg_1.pdf) (Retrieved on 3 of February 2025)

<sup>144</sup> Associations in Eurasia, unlike NATO, aimed at developing cooperation - Presidential aide, <https://tass.com/politics/1546599> (Retrieved on 3 of February 2025)

<sup>145</sup> Glazyev S.Yu. Integratsiya nauki i obrazovaniya kak osnova evolyutsii Evraziyskogo soyuza //Integratsiya nauki i obrazovaniya kak osnova evolyutsii Evraziyskogo ekonomicheskogo soyuza: sb. st. iz materialov Evraziyskogo nauchnogo foruma 08 dekabrya 2017 g.

ideologized, they believe that “this nature of educational activity forms a real obstacle to the convergence of the educational systems of the Eurasian states. In the humanitarian sphere, a huge ideological baggage is laid, and it will be very difficult to bring curricula to a common denominator”<sup>146</sup>, and in general they are very cautious about the idea of educational integration. Despite heated discussions on cooperation in the field of education on the territory of the EAEU, it should be recognized that nothing equal to the Concept of the Fundamentals of EurAsEC Legislation on Education was proposed.

### **1.2.3.3. Decline of regional initiatives and future prospects**

It is likely that educational integration will be carried out within the CIS, since the states are showing formal interest in this area (in particular, a new version of the Model Educational Code for the CIS member states was developed and adopted, the Council for Cooperation in the Field of Education regularly meets and accepts decisions on various issues of cooperation), but it must be admitted that a step back was taken in comparison with the level of documents developed within the framework of the EurAsEC. Perhaps this is since educational integration is secondary in relation to economic integration and the level of economic integration sufficient for closer cooperation in the field of education has not yet been achieved in the EAEU space. Either state decided to move away from the model of regional educational integration in the Eurasian space and focus on harmonizing their education systems with the European model, since they are all participants in the Bologna process. But the integration of education in the EAEU countries is not an obstacle to coordination with the European model of higher education, since within a single educational space there may well be a group of states that are united by closer ties.

Regional and universal acts on education are characterized by the predominance of documents that are not international treaties and related to "soft law". In international treaties, mainly the aspects related to the right to education, issues of non-discrimination, equal access to education are enshrined<sup>147</sup>. Specific issues of organizing cooperation, assessing the quality of education, ensuring lifelong learning are covered mainly in soft law acts: resolutions, declarations, communiqués. On the one hand, documents that are not formally legally binding

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<sup>146</sup> Asenalhanov D.A., Bakirov A.N. Mezhdunarodnoe sotrudnichestvo Kyrgyzystana v sfere obrazovaniya // Integratsiya nauki i obrazovaniya kak osnova evolyutsii Evraziyskogo ekonomicheskogo soyuza: sb. st. iz materialov Evraziyskogo nauchnogo foruma 08 dekabrya 2017 g. / Obsch. nauchn. red. M.Yu. Spirinoy. Chast II. SPb.: Universitet pri MPA EvrAzES. 2018. pp. 30.

<sup>147</sup> Knight Stephen. Proposition 187 and international human rights law: Illegal discrimination in the right to education. // Hastings International and Comparative Law Review. Vol. 19. № 1. 1995. pp. 23.



on states may seem to be an insufficiently effective instrument of cooperation. On the other hand, on the example of building a common European educational space, one can trace how effective such cooperation can be. Over the 22 years since the signing of the Bologna Declaration, the number of states participating in the Bologna Process has increased from 29 to 47 (inclusive Kazakhstan), these countries are actively participating in the creation of the European Higher Education Area and the European Research Area. Thanks to the reforms, real mobility of students and teachers, recognition of qualifications and periods of study, cooperation in the framework of joint scientific research are ensured. Unfortunately, this is the only relatively successful and completed project of regional educational integration; in the CIS space, cooperation is largely formal and does not receive development, as for the Eurasian space, with the dissolution of the EurAsEC and the formation of the EAEU, cooperation in education remained outside the sphere of active interest of the EAEU member states. In our opinion, this is a rather serious omission, and the states should take into account the developments of the EurAsEC. In particular, the Concept of the Fundamentals of EurAsEC Legislation on Education can be taken as a basis and reworked under the new conditions of cooperation in the Eurasian space.

### **1.3. Securing the right to education in bilateral treaties in the Eurasian region.**

#### **1.3.1. Types and scope of bilateral treaties**

Cooperation in the field of education is carried out at all levels, from universal to local, and bilateral agreements play an important role in regulating issues of cooperation and ensuring the realization of the right to education. There are a huge number of bilateral agreements in the field of education, since within the framework of bilateral interaction it is easier for states to develop a common position on a certain problem or come to a decision not to touch on problems, but to outline only general areas of cooperation. In this paragraph, bilateral agreements of the Republic of Kazakhstan with other states will be analysed.

Unfortunately, bilateral agreements practically do not cover general issues of the concept of the right to education, levels of education, subjects of the right to education<sup>148</sup>. Most of all, there are agreements that are concluded on the most general issues, for example, on cultural cooperation in general, or on cooperation in the field of science, culture and education.

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<sup>148</sup> Amanbayeva Zh. Securing the right to education in bilateral international treaties. “Current state and prospects for the development of modern science and education” International Scientific Conference. Bilim Innovation Group. 2023.

### 1.3.2. Bilateral treaties between CIS and Eurasian states: practical examples

Among them are agreements between the government of the Republic of Kazakhstan and the governments of Romania<sup>149</sup>, the Russian Federation<sup>150</sup>, the Islamic Republic of Afghanistan<sup>151</sup>, the Republic of Cuba<sup>152</sup>, Turkmenistan<sup>153</sup>, the Republic of India<sup>154</sup>, the Republic of Turkey<sup>155</sup>, the Republic of Lithuania<sup>156</sup>, the Hellenic Republic<sup>157</sup>, the Arab Republic of Egypt<sup>158</sup>, and the People's Republic of China<sup>159</sup>.

These agreements contain, as a rule, one or two articles in which the need for cooperation in the field of education is proclaimed, and the directions for such cooperation can be briefly outlined. For example, Article 3 of the Agreement between the Government of the Republic of Kazakhstan and the Government of Romania on cultural cooperation establishes that: “The Parties will promote cooperation and exchange of experience in the field of education in the following areas:

- a) exchange of lecturers, interns, graduate students and other specialists for lecturing and conducting scientific research;

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<sup>149</sup> Agreement between the Government of the Republic of Kazakhstan and the Government of Romania on cultural cooperation adopted on 21 September 1998, <https://adilet.zan.kz/rus/docs/P990001008> (Retrieved on 3 of February 2025)

<sup>150</sup> Agreement between the Government of the Republic of Kazakhstan and the Government of the Russian Federation on cooperation in the field of culture, science and education adopted on 28 March 1994, <https://adilet.zan.kz/rus/docs/P980001160> (Retrieved on 3 of February 2025)

<sup>151</sup> Agreement between the Government of the Republic of Kazakhstan and the Government of the Islamic Republic of Afghanistan on cooperation in the field of culture adopted on 20 November 2015, [https://online.zakon.kz/Document/?doc\\_id=31893781&pos=3;-116#pos=3;-116](https://online.zakon.kz/Document/?doc_id=31893781&pos=3;-116#pos=3;-116) (Retrieved on 3 of February 2025)

<sup>152</sup> Agreement between the Government of the Republic of Kazakhstan and the Government of the Republic of Cuba on cultural and scientific cooperation adopted on 4 January 1995, <https://adilet.zan.kz/rus/docs/P960000421> (Retrieved on 3 of February 2025)

<sup>153</sup> Agreement between the Government of the Republic of Kazakhstan and the Government of Turkmenistan on the Joint Intergovernmental Commission on Trade, Economic, Scientific, Technical and Cultural Cooperation adopted on 10 April 2017, <https://adilet.zan.kz/rus/docs/P1700000186> (Retrieved on 3 of February 2025)

<sup>154</sup> Agreement between the Government of the Republic of Kazakhstan and the Government of the Republic of India on cooperation in the field of culture, art, education, science, mass media and sports adopted on 22 February 1992, <https://adilet.zan.kz/rus/docs/O9200000005/links> (Retrieved on 3 of February 2025)

<sup>155</sup> Agreement on cooperation between the Government of the Republic of Kazakhstan and the Government of the Republic of Turkey in the field of military science, technology and education adopted on 8 August 1994, <https://adilet.zan.kz/rus/docs/P990000065> (Retrieved on 3 of February 2025)

<sup>156</sup> Agreement between the Government of the Republic of Kazakhstan and the Government of the Republic of Lithuania on cooperation in the field of education, science, culture and art adopted on 6 October 2011, <https://adilet.zan.kz/rus/docs/P1300001193> (Retrieved on 3 of February 2025)

<sup>157</sup> Agreement between the Government of the Republic of Kazakhstan and the Government of the Hellenic Republic on cooperation in the field of education and culture adopted on 24 June 2002, <https://adilet.zan.kz/rus/docs/P020000691> (Retrieved on 3 of February 2025)

<sup>158</sup> Agreement between the Government of the Republic of Kazakhstan and the Government of the Arab Republic of Egypt on cooperation in the field of education, culture and science adopted on 20 June 1998, <https://adilet.zan.kz/rus/docs/P990000949> (Retrieved on 3 of February 2025)

<sup>159</sup> Agreement on cultural cooperation between the Government of the Republic of Kazakhstan and the Government of the People's Republic of China adopted on 10 August 1992, <https://adilet.zan.kz/rus/docs/O9200000008> (Retrieved on 3 of February 2025)

- b) providing places and scholarships for studying at universities, postgraduate studies and internships;
- c) study of the language and literature, history and culture of the peoples of the two countries;
- d) exchange of students and pupils;
- e) interaction in the correct reflection of the history, culture, geography, economics and socio-political development of both countries in school textbooks, university courses, including through the creation of joint working groups, the exchange of documents and materials;
- f) development and deepening of direct links between academic institutions, educational institutions, research institutes and other organizations”.

In the development of such agreements, short-term cooperation programs in the field of culture and education are adopted, where specific forms of interaction are fixed, such as direct cooperation between higher educational institutions, the exchange of texts of legal acts in the field of education, the exchange of statistical data, holding expert meetings, organizing language learning etc.

In addition to cooperation programs, in the development of the provisions on cooperation, agreements are concluded directly on cooperation in the field of education, and they can be concluded both on behalf of the Governments (Government of the Socialist Republic of Vietnam<sup>160</sup>, Government of the Republic of Tajikistan<sup>161</sup>, Government of the Islamic Republic of Afghanistan<sup>162</sup>, Government of the Kyrgyz Republic<sup>163</sup>, Government of the Hashemite Kingdom of Jordan<sup>164</sup>, Government of the Syrian Arab Republic<sup>165</sup>,

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<sup>160</sup> Agreement between the Government of the Republic of Kazakhstan and the Government of the Socialist Republic of Vietnam on cooperation in the field of education adopted on 14 September 2009, <https://adilet.zan.kz/rus/docs/P090001375> (Retrieved on 3 of February 2025)

<sup>161</sup> Agreement between the Government of the Republic of Kazakhstan and the Government of the Republic of Tajikistan on cooperation in the field of education adopted on 13 June 2000, <https://adilet.zan.kz/rus/docs/P000001946> (Retrieved on 3 of February 2025)

<sup>162</sup> Agreement between the Government of the Republic of Kazakhstan and the Government of the Islamic Republic of Afghanistan on cooperation in the field of education adopted on 22 November 2009, <https://adilet.zan.kz/rus/docs/Z100000332> (Retrieved on 3 of February 2025)

<sup>163</sup> Agreement between the Government of the Republic of Kazakhstan and the Government of the Kyrgyz Republic on cooperation in the field of education adopted on 30 June 2006, <https://adilet.zan.kz/rus/docs/P060000630> (Retrieved on 3 of February 2025)

<sup>164</sup> Agreement between the Government of the Republic of Kazakhstan and the Government of the Hashemite Kingdom of Jordan on cooperation in the field of education and science adopted on 29 November 2006, <https://adilet.zan.kz/rus/docs/P060001135> (Retrieved on 3 of February 2025)

<sup>165</sup> Agreement between the Government of the Republic of Kazakhstan and the Government of the Syrian Arab Republic on cooperation in the field of education and science adopted on 5 November 2007, <https://adilet.zan.kz/rus/docs/P080000039> (Retrieved on 3 of February 2025)

Government of the Republic of Armenia<sup>166</sup>, Government of the Republic of Poland<sup>167</sup>), and on behalf of the Ministries of Education of the cooperating states. At present, such agreements have been concluded with the Republic of Azerbaijan<sup>168</sup>, the Islamic Republic of Pakistan<sup>169</sup>, the Republic of Bulgaria<sup>170</sup>, Georgia<sup>171</sup>, the People's Republic of China<sup>172</sup>, the Republic of Turkey<sup>173</sup>, the Republic of Hungary<sup>174</sup>, Ukraine<sup>175</sup>, the Slovak Republic<sup>176</sup>, Republic of Finland<sup>177</sup>, etc. As a rule, in the first articles they contain a detailed list of areas of cooperation, the definition of the competent authorities responsible for the implementation of the agreement and then regulate the organization of each of the declared areas of cooperation: the exchange of students and teachers, language learning, exchange of methodological and educational materials.

And, finally, there are several agreements dedicated directly to cooperation in the field of higher education. These include, for example, the Agreement between the Government of

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<sup>166</sup> Agreement between the Government of the Republic of Kazakhstan and the Government of the Republic of Armenia on cooperation in the field of education and science adopted on 26 April 2010, <https://adilet.zan.kz/rus/docs/P1100000224> (Retrieved on 3 of February 2025)

<sup>167</sup> Agreement between the Government of the Republic of Kazakhstan and the Government of the Republic of Poland on cooperation in the field of education adopted on 15 September 2014, <https://adilet.zan.kz/rus/docs/P1600000328> (Retrieved on 3 of February 2025)

<sup>168</sup> Agreement between the Ministry of Education and Science of the Republic of Kazakhstan and the Ministry of Education of the Republic of Azerbaijan on cooperation in the field of education adopted on 3 April 2017, <https://adilet.zan.kz/rus/docs/O1700000014> (Retrieved on 3 of February 2025)

<sup>169</sup> Agreement between the Ministry of Education and Science of the Republic of Kazakhstan and the Ministry of Education of the Islamic Republic of Pakistan on cooperation in the field of education adopted on 18 July 2001, <https://adilet.zan.kz/rus/docs/O0100000007> (Retrieved on 3 of February 2025)

<sup>170</sup> Agreement between the Ministry of Science and Higher Education of the Republic of Kazakhstan, the Ministry of Health, Education and Sports of the Republic of Kazakhstan and the Ministry of Education and Science of the Republic of Bulgaria on cooperation in the field of education adopted on 15 September 1999, <https://adilet.zan.kz/rus/docs/O9900000012> (Retrieved on 3 of February 2025)

<sup>171</sup> Agreement between the Ministry of Education, Culture and Health of the Republic of Kazakhstan and the Ministry of Education of Georgia on cooperation in the field of education adopted on 11 November 1997, <https://adilet.zan.kz/rus/docs/P9800000890> (Retrieved on 3 of February 2025)

<sup>172</sup> Agreement between the Ministry of Education and Science of the Republic of Kazakhstan and the Ministry of Education of the People's Republic of China on cooperation in the field of education adopted on 25 April 2003, <https://adilet.zan.kz/rus/docs/P030000405> (Retrieved on 3 of February 2025)

<sup>173</sup> Agreement on cooperation in the field of education between the Ministry of National Education of the Republic of Turkey and the Ministry of Education of the Republic of Kazakhstan adopted on 4 March 1997, <https://adilet.zan.kz/rus/docs/O9700000002> (Retrieved on 3 of February 2025)

<sup>174</sup> Educational and scientific cooperation agreement between the Ministry of education and science of the Republic of Kazakhstan and the Ministry of human resources of Hungary adopted on 19 November 2013, [https://online.zakon.kz/Document/?doc\\_id=34270338#activate\\_doc=2](https://online.zakon.kz/Document/?doc_id=34270338#activate_doc=2) (Retrieved on 3 of February 2025)

<sup>175</sup> Agreement between the Ministry of Education of the Republic of Kazakhstan and the Ministry of Education of Ukraine on cooperation in the field of education adopted on 21 September 1995, [https://online.zakon.kz/Document/?doc\\_id=1045637](https://online.zakon.kz/Document/?doc_id=1045637) (Retrieved on 3 of February 2025)

<sup>176</sup> Memorandum between the Ministry of Education and Science of the Republic of Kazakhstan and the Ministry of Education of the Slovak Republic on cooperation in the field of education adopted on 2 November 2009, [https://online.zakon.kz/Document/?doc\\_id=30568598](https://online.zakon.kz/Document/?doc_id=30568598) (Retrieved on 3 of February 2025)

<sup>177</sup> Memorandum of Understanding between the Ministry of Education and Science of the Republic of Kazakhstan and the Ministry of Education of the Republic of Finland in the field of education and science adopted on 24 March 2009, <https://adilet.zan.kz/rus/docs/O0900000003> (Retrieved on 3 of February 2025)

the Republic of Kazakhstan and the Government of the People's Republic of China on the mutual recognition of documents on education and academic degrees<sup>178</sup>, the Agreement between the Government of the Republic of Kazakhstan and the Government of Turkmenistan on the mutual recognition of documents on education, academic degrees and titles<sup>179</sup>, the Agreement between the Government of the Republic Kazakhstan and the Government of the Republic of Belarus on cooperation in the field of higher and postgraduate education<sup>180</sup>.

Such agreements follow a similar pattern. The first articles establish the goals and principles of cooperation in the field of higher education and the recognition of documents on education and academic degrees, then contain a list of measures that contribute to the development of cooperation, establish the competent executive and control bodies, as well as the procedure for changing the agreement and the procedure for resolving possible disputes. The issue of financing joint programs is touched upon very briefly and boils down to the fact that the parties will finance by agreement.

### **1.3.3. Fragmentation and challenges in bilateral legal regulation**

#### **1.3.3.1. Limitations of bilateral agreements in higher education**

In the context of international cooperation, bilateral agreements in the field of higher education are typically characterized by limited scope and legal fragmentation. Some countries maintain packages of agreements that address various dimensions of educational collaboration, including general frameworks for cooperation, mutual recognition of educational documents, language instruction, and joint action plans. However, the absence of uniform standards and implementation mechanisms across these agreements often limits their effectiveness and coherence. Bilateral acts on cooperation in the field of higher education are currently fragmented and tend to address only specific aspects of educational relations rather than establishing a comprehensive regulatory framework. These agreements lack a unified conceptual approach to higher education cooperation, do not provide clear definitions of key terms, and generally serve a functional and service-oriented purpose. Their primary focus is often on student and faculty exchanges, scholarship programs, joint research initiatives, and

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<sup>178</sup> Agreement between the Government of the Republic of Kazakhstan and the Government of the People's Republic of China on the mutual recognition of documents on education and academic degrees adopted on 20 December 2006, <https://adilet.zan.kz/rus/docs/P070001040> (Retrieved on 3 of February 2025)

<sup>179</sup> Agreement between the Government of the Republic of Kazakhstan and the Government of Turkmenistan on the mutual recognition of documents on education, academic degrees and titles adopted on 5 July 2001, <https://adilet.zan.kz/rus/docs/P010000919> (Retrieved on 3 of February 2025)

<sup>180</sup> Agreement between the Government of the Republic Kazakhstan and the Government of the Republic of Belarus adopted on 10 June 2009, <https://adilet.zan.kz/rus/docs/P090001705> (Retrieved on 3 of February 2025)

recognition of qualifications, but they fail to reflect a modern, integrated understanding of the right to education as a lifelong process.

Moreover, none of the analyzed bilateral agreements explicitly recognize lifelong learning as a fundamental right or policy priority, despite its growing significance in international education policy. This is a notable gap, considering that international organizations such as UNESCO, the OECD, and the European Union have emphasized the importance of continuous education and skills development throughout a person's life. Without explicit provisions on lifelong learning, bilateral agreements fall short of aligning with contemporary global educational trends that focus on reskilling, upskilling, and digital learning initiatives in response to technological and labor market transformations.

Even though bilateral agreements provide a more flexible and targeted mechanism for resolving specific education-related issues, in practice, bilateral regulation of the education sector lags behind the standards developed at higher levels - such as regional and universal treaties. Bilateral agreements often lack enforceability, rely on mutual goodwill, and may not be consistently implemented due to changing political and economic conditions between the cooperating states.

The main limitations of bilateral cooperation in education include:

1. Lack of standardization and harmonization

- Many bilateral agreements do not align with regional or universal education frameworks, leading to inconsistencies in degree recognition, accreditation, and credit transfer mechanisms.
- The absence of standard definitions results in ambiguities in implementation, making it difficult for students and institutions to navigate bilateral education programs.

2. Limited scope and short-term focus

- Most bilateral agreements are highly specific, addressing narrow issues such as exchange programs, research collaboration, or technical assistance rather than comprehensive educational cooperation.
- They often fail to establish long-term commitments, making them vulnerable to political shifts and funding constraints.

3. Lack of legal and institutional frameworks for monitoring and evaluation

- Many bilateral agreements lack mechanisms for oversight and enforcement, resulting in ineffective implementation.

- There is often no formal institution or working group responsible for monitoring compliance and evaluating the impact of such agreements.

#### 4. Failure to recognize lifelong learning and digital education

- The modern educational landscape is evolving to include lifelong learning, distance education, and digital platforms, yet bilateral agreements rarely address these aspects.
- The growing importance of digital education, micro-credentials, and online learning opportunities is not reflected in most bilateral treaties<sup>181</sup>.

#### **1.3.3.2. The case of Kazakhstan: fragmented practice and limited effect**

Examining Kazakhstan's bilateral cooperation in education reveals that these agreements are highly fragmented and inconsistent<sup>182</sup>. The agreements do not establish a holistic approach to education but instead seek to address specific gaps or urgent policy needs. While bilateral cooperation has facilitated academic mobility, cultural exchange, and joint research initiatives, it does not enshrine the right to education or contribute to the harmonization of educational systems.

Most of Kazakhstan's education-related bilateral agreements are framework agreements that:

- Lack binding commitments beyond general principles of cooperation.
- Fail to establish permanent mechanisms for policy coordination or mutual recognition of degrees.
- Do not include provisions for continuous education, vocational training, or non-formal learning pathways.

As a result, these agreements function more as stopgap measures rather than contributing to the development of a coherent, integrated education policy framework.

#### **1.3.3.3. Regional integration as an alternative to bilateralism**

Given the limitations of bilateral agreements, regional integration appears to be the most promising solution for harmonizing education policies and ensuring greater consistency in the recognition of academic qualifications.

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<sup>181</sup> OECD. Micro-credentials for lifelong learning and employability: Uses and possibilities, OECD Education Policy Perspectives, No. 66, OECD Publishing, Paris, <https://doi.org/10.1787/9c4b7b68-en>. (Retrieved on 3 of February 2025)

<sup>182</sup> Amanbayeva Zh. Realization of the right of citizens to education in the Republic of Kazakhstan. Doctoral Conference. University of Miskolc. 2021.



Regional educational integration offers several advantages over bilateral cooperation, including:

1. Standardization of degrees and qualifications
  - A regional framework allows for mutual recognition of diplomas, credit transfer systems, and quality assurance mechanisms, facilitating student mobility and employment opportunities across countries.
2. Greater legal and institutional stability
  - Unlike bilateral agreements, which can be affected by diplomatic and political changes, regional agreements provide a more stable and enforceable legal framework.
3. Inclusion of lifelong learning and digital education
  - A regional approach would be better suited to incorporate modern educational trends, including lifelong learning, vocational training, and digital education<sup>183</sup>.
4. Economies of scale in research and development
  - Joint research programs, innovation hubs, and shared education infrastructure can be more efficiently managed at the regional level.
5. Improved funding opportunities
  - Regional cooperation often attracts greater financial support from international organizations, such as UNESCO, the World Bank, and the European Union<sup>184</sup>.

Bilateral agreements in the field of higher education, while useful for addressing specific issues, are insufficient as a long-term solution for ensuring comprehensive education policy integration. Their fragmented nature, limited scope, and lack of alignment with global education trends make them less effective in advancing harmonized and equitable education systems.

To enhance the effectiveness of educational cooperation, countries should prioritize regional integration strategies, which offer:

- A more consistent and standardized approach to higher education.
- Stronger institutional frameworks for monitoring and enforcement.

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<sup>183</sup> Bennett S., Ryley P. The Bologna Process and Lifelong Learning: Complexity and Flexibility as Watchwords for Change. *Journal of Adult and Continuing Education*. Vol. 13. 2007. [https://www.researchgate.net/publication/277576294\\_The\\_Bologna\\_Process\\_and\\_Lifelong\\_Learning\\_Complexity\\_and\\_Flexibility\\_as\\_Watchwords\\_for\\_Change](https://www.researchgate.net/publication/277576294_The_Bologna_Process_and_Lifelong_Learning_Complexity_and_Flexibility_as_Watchwords_for_Change) (Retrieved on 3 of February 2025)

<sup>184</sup> Korez S., Le Gohebel M., Marinkovic I. Bilateral and Regional Agreements of Cooperation of South Eastern European (SEE) Countries in the Field of Scientific Research and Higher Education - An Assessment Study. 2010. <https://www.zsi.at/en/object/publication/3181> (Retrieved on 3 of February 2025)



- Recognition of modern educational trends, including lifelong learning and digital education<sup>185</sup>.

For Kazakhstan and other post-Soviet states, gradual regional integration through organizations such as the Eurasian Economic Union (EAEU) or through new regional education initiatives could be the most effective approach. A well-structured regional framework can ensure greater alignment with international education standards, attract more investment in higher education, and ultimately provide better opportunities for students and academic institutions.

Thus, moving forward, bilateral agreements should complement broader regional initiatives rather than serving as the primary regulatory mechanism for educational cooperation. By focusing on regional education integration, countries can achieve a more unified, flexible, and forward-looking education system that meets the challenges of the 21st-century knowledge economy.

Analyzing the international legal consolidation of the right to education and the accompanying regulation in the field of education, one can observe certain inconsistencies between universal, regional, and bilateral acts. These discrepancies arise due to several factors, including the evolving nature of international educational law, differences in regional priorities, and the lack of uniform enforcement mechanisms. The "youth" of international legal regulation in the education sector means that global frameworks are still in the process of developing comprehensive, enforceable standards that effectively balance national sovereignty with international commitments.

At the universal level, there has been a shift from merely recognizing the right to education toward developing clear, structured implementation mechanisms. This transition is evident in the progressive refinement of international treaties, as seen in the International Covenant on Economic, Social and Cultural Rights (ICESCR), the Convention on the Rights of the Child (CRC), and the Convention on the Rights of Persons with Disabilities (CRPD). These documents not only affirm the right to education but also set out obligations for states regarding accessibility, inclusivity, and quality education.

In our view, the most promising initiative for ensuring the right to education is the "Education for All" (EFA) movement within UNESCO. This initiative is significant not only because it helped redefine education from a purely functional perspective (as a service aimed

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<sup>185</sup> What you need to know about digital learning and transformation of education. <https://www.unesco.org/en/digital-education/need-know?hub=84636> (Retrieved on 3 of February 2025)

at economic productivity) to a broader human rights-based approach but also because it expanded the concept of education beyond its traditional limits, recognizing it as a lifelong process that spans early childhood, formal schooling, adult learning, and vocational training.

The Education for All (EFA) movement has been instrumental in shaping global education policy by:

- Shifting the focus of education from a utilitarian and service-based model to a human rights-based approach.
- Expanding the definition of education, making it inclusive of lifelong learning rather than limiting it to primary and secondary schooling.
- Encouraging international cooperation and regional adaptation of global educational goals<sup>186</sup>.

Since its inception, each subsequent act adopted within the EFA framework has expanded and refined educational standards, strengthening legal and policy commitments to education. Some of the key international agreements influenced by EFA include:

- The Dakar Framework for Action (2000), which established six key education goals aimed at achieving universal primary education and improving educational quality.
- The Education 2030 Framework for Action, which aligned EFA objectives with Sustainable Development Goal 4 (SDG 4), reinforcing the commitment to inclusive, equitable, and quality education for all.

The understanding of the right to education as a lifelong right has gradually moved from the universal level to regional frameworks. This trend can be seen in both European educational integration efforts and the educational policies of post-Soviet states.

#### 1. European educational integration and lifelong learning

The European Union (EU) has been at the forefront of integrating lifelong learning principles into its education policies. The Bologna Process and the European Higher Education Area (EHEA) are prime examples of regional efforts to:

- Standardize higher education systems across member states.
- Facilitate student mobility through the European Credit Transfer and Accumulation System (ECTS).

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<sup>186</sup> Torres R. Lifelong learning: moving beyond Education for All (EFA). Conceptual evolution and policy developments in lifelong learning. UNESCO Institute for Lifelong Learning. Germany. 2011. pp. 40 – 50.

- Promote adult education and vocational training, ensuring that education extends beyond traditional schooling and aligns with labor market needs<sup>187</sup>.

Moreover, the EU's Lifelong Learning Programme (LLP) and its successor, Erasmus+, have played a crucial role in developing cross-border education initiatives, funding research and training programs, and strengthening collaboration among universities<sup>188</sup>.

## 2. Post-Soviet space and lifelong education

In the post-Soviet space, the adoption of lifelong learning policies has been more gradual<sup>189</sup>. While countries like Kazakhstan, Russia, and Belarus have made strides in aligning their education systems with global standards, significant gaps remain in implementing lifelong learning strategies<sup>190</sup>.

Some challenges in post-Soviet educational integration include:

- Inconsistent implementation of education reforms across different states.
- Limited mutual recognition of qualifications and diplomas, despite regional agreements.
- A lack of a structured lifelong learning policy, particularly in adult education and vocational training.
- Heavy reliance on traditional education models, with insufficient emphasis on digital education, micro-credentials, and flexible learning pathways<sup>191</sup>.

However, there are promising developments:

- The Eurasian Economic Union (EAEU) has begun discussing greater harmonization of education policies.
- Kazakhstan's State Program for Education Development includes lifelong learning principles, recognizing the need for continuous skills development<sup>192</sup>.

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<sup>187</sup> European Education and Culture Executive Agency: Eurydice, The European higher education area in 2024 – Bologna process implementation report, Publications Office of the European Union, 2024, <https://data.europa.eu/doi/10.2797/483185> (Retrieved on 3 of February 2025)

<sup>188</sup> Bourdon M. Lifelong Learning from the '70s to Erasmus for All: A Rising Concept. *Procedia - Social and Behavioral Sciences*. Elsevier. 2014. pp. 3005 - 3009

<sup>189</sup> Malinovskiy S., Shibanova E. Higher education in welfare regimes: Three worlds of post-Soviet transition. *Journal of European Social Policy*. Sage Publications. 2023. pp. 67 – 83.

<sup>190</sup> Leskina N., Harden-Wolfson E. Constructing a Eurasian higher education region: "Points of correspondence" between Russia's Eurasian Economic Union and China's Belt and Road Initiative in Central Asia. *Eurasian Geography and Economics*. 62. 2021. pp. 716 - 744.

<sup>191</sup> Kalimullin, A., Valeeva R. Teacher Education in Post-Soviet States: Transformation Trends. *The Palgrave Handbook of Teacher Education Research*. Palgrave Macmillan, Cham. 2022. [https://doi.org/10.1007/978-3-030-59533-3\\_65-1](https://doi.org/10.1007/978-3-030-59533-3_65-1) (Retrieved on 3 of February 2025)

<sup>192</sup> Education in Kazakhstan, <https://wenr.wes.org/2021/07/education-in-kazakhstan> (Retrieved on 3 of February 2025)

- Russia has introduced professional retraining programs and online education initiatives to expand access to non-traditional education<sup>193</sup>.

Despite progress at both global and regional levels, significant gaps in the harmonization of education laws, policies and frameworks remain in the Eurasian region. To fully realize the right to lifelong education, several key steps must be taken:

Several key steps need to be taken to fully realize the right to lifelong learning:

1. Strengthening the legal recognition of lifelong learning
  - Bilateral and regional agreements should explicitly recognize lifelong learning as a legal right.
  - Governments should integrate lifelong education provisions into national constitutions and legal frameworks.
2. Enhancing regional coordination and policy harmonization
  - Post-Soviet states should strengthen cooperation within the EAEU to align education systems, qualifications frameworks, and vocational training standards.
  - Establish a unified Eurasian Higher Education Area, similar to the Bologna Process in Europe.
3. Increasing investment in adult education and vocational training
  - Expand vocational training programs to meet labor market demands.
  - Provide financial support and incentives for adults seeking continuing education opportunities.
4. Leveraging technology and digital learning
  - Expand access to online education to ensure greater inclusivity and accessibility.
  - Support the development of open educational resources (OERs) to provide free learning materials.
5. Enhancing monitoring and accountability mechanisms
  - Establish regional education observatories to track progress in lifelong learning policies.
  - Strengthen data collection systems to assess learning outcomes and policy effectiveness<sup>194</sup>.

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<sup>193</sup> Zajda J. Lifelong Learning and Adult Education: Russia Meets the West. *International Review of Education*. 49, 2003. pp. 111–132. <https://doi.org/10.1023/A:1022922006270> (Retrieved on 3 of February 2025)

<sup>194</sup> Smolentseva A. Access to Higher Education in the Post-Soviet States: Between Soviet Legacy and Global Challenges. Salzburg Global Seminars. 2012. pp. 19 - 25.

The international legal regulation of the right to education is gradually evolving, moving from a simple declaration of rights toward a structured approach to implementation. The Education for All movement has played a crucial role in shaping global education policies, particularly by expanding the concept of lifelong learning<sup>195</sup>.

While universal frameworks have successfully influenced regional education policies, there is still significant inconsistency between universal, regional, and bilateral educational agreements. This is particularly evident in the post-Soviet space, where educational integration remains fragmented and underdeveloped.

To fully realize the right to education throughout life, greater international cooperation, policy harmonization, and investment in lifelong learning programs are necessary. By adopting best practices from European educational integration, strengthening regional coordination, and embracing digital education innovations, the Eurasian region can effectively transition toward a more integrated and inclusive education system.

The ultimate goal should be to ensure that education is not just a privilege for the early stages of life but a continuous right that empowers individuals throughout their entire lives<sup>196</sup>.

In the previous paragraph, more or less successful examples of regional integration were considered, and it would be useful to return to the issue of integration in the Eurasian region. As already mentioned, with the demise of the Eurasian Economic Community (EurAsEC) and the creation of the Eurasian Economic Union (EAEU), certain policy areas, including education, were left out of the EAEU's regulatory scope and instead transferred to the bilateral level. This shift has led to a fragmented, uncoordinated approach to educational cooperation, which significantly slows down broader regional integration in Eurasia.

Although there is general skepticism regarding the economic and political feasibility of Eurasian integration, it is essential to recognize that education plays a fundamental role in sustaining and advancing regional cooperation. If considered as an integral part of economic integration, education functions like a circulatory system, providing the intellectual and professional capital needed to sustain economic development. The free movement of knowledge, skills, and academic qualifications fosters innovation, research collaboration, and workforce mobility, making economic integration more effective.

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[https://sgs.salzburgglobal.org/fileadmin/user\\_upload/Documents/2010-2019/2012/495/Session\\_Document\\_AccesstoHigherEducation\\_495.pdf](https://sgs.salzburgglobal.org/fileadmin/user_upload/Documents/2010-2019/2012/495/Session_Document_AccesstoHigherEducation_495.pdf) (Retrieved on 3 of February 2025)

<sup>195</sup> Miles S., Singal N. The Education for All and inclusive education debate: conflict, contradiction or opportunity? *International Journal of Inclusive Education*, Vol. 14(1). 2009. pp. 1–15.

<sup>196</sup> European Education and Culture Executive Agency: Eurydice, Key data on early childhood education and care in Europe 2025 – Eurydice report, Publications Office of the European Union, 2025, <https://data.europa.eu/doi/10.2797/66224> (Retrieved on 3 of February 2025)

However, bilateral treaties in the field of education are too fragmented, limited in scope, and primarily utilitarian, addressing only specific cooperation needs rather than promoting a unified educational space. While one might assume that bilateral agreements allow for more precise alignment of national interests, the actual practice of bilateral educational agreements - exemplified by Kazakhstan's experience - suggests otherwise<sup>197</sup>.

A detailed analysis of Kazakhstan's bilateral agreements on education reveals that:

1. A limited number of agreements contain substantive, specific provisions
  - Most legally binding agreements are framework agreements, establishing only general principles of cooperation rather than detailed, enforceable commitments.
  - The absence of concrete mechanisms for implementation, monitoring, and compliance reduces the effectiveness of such agreements.
2. Heavy reliance on memorandums and program-based cooperation
  - Instead of legally binding treaties, many agreements take the form of memorandums of understanding or joint action programs, which lack binding legal force.
  - This reduces predictability and accountability, as these agreements can easily be discontinued or altered based on changing political and economic conditions.
3. No unified approach to mutual recognition of qualifications
  - Unlike the European Higher Education Area (EHEA), which has standardized degree recognition through the Bologna Process, Eurasian states continue to lack a harmonized system for recognizing diplomas and academic credits.
  - This hinders student mobility and academic cooperation, making it more difficult for graduates to have their degrees recognized across the region.
4. Lack of regional research cooperation mechanisms
  - While Kazakhstan, Russia, and Belarus have signed bilateral agreements on scientific and academic cooperation, there is no overarching regional framework that facilitates large-scale joint research initiatives.
  - This limits opportunities for innovation, joint funding applications, and international academic collaboration<sup>198</sup>.

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<sup>197</sup> Hartley M., Gopaul B., Sagintayeva A. Learning autonomy: higher education reform in Kazakhstan. *High Educ* 72. 206. pp. 277–289.

<sup>198</sup> Makoelle T. M., Burmistrova V. Teacher education and inclusive education in Kazakhstan. *International Journal of Inclusive Education*. Vol. 29(4). 2021. pp. 447–463. <https://doi.org/10.1080/13603116.2021.1889048> (Retrieved on 3 of February 2025)

In contrast to the bilateral approach dominant in the Eurasian region, the European Higher Education Area (EHEA) provides a compelling example of successful educational integration using soft law instruments<sup>199</sup>. The Bologna Process, which led to the creation of the EHEA, did not impose binding obligations on states but rather encouraged gradual convergence through:

- Common principles and voluntary cooperation in higher education policies.
- The standardization of degree structures (e.g., Bachelor-Master-Doctorate system).
- The implementation of a unified credit system (ECTS) to facilitate academic mobility and diploma recognition.

Despite its non-binding nature, the Bologna Process proved highly effective, demonstrating that soft law instruments - recommendations, declarations, and mutual agreements - can drive significant policy convergence over time<sup>200</sup>.

If the states of the Eurasian region - particularly those within the CIS or EAEU - seek to develop a regional educational space comparable to the EHEA, then bilateral agreements alone will not be sufficient. A more structured and coordinated approach is necessary, which could involve:

1. The revival of a Eurasian Education Agreement

- The failure of the Concept of Fundamentals of EurAsEC Legislation on Education demonstrated that regional consensus-building remains a challenge.
- However, this does not diminish the necessity of a regional framework. A revived and updated version of the EurAsEC Education Concept could provide a starting point for developing shared principles, mutual recognition of qualifications, and coordinated education policies.

2. Creation of a Eurasian Higher Education Area

A Eurasian version of the European Higher Education Area could:

- Standardize degree structures and credit transfer systems.
- Facilitate student and faculty mobility.
- Promote joint research projects and academic exchanges.

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<sup>199</sup> Flückiger A. *Soft Law Instruments in Public Law*. Swiss Public Administration. Governance and Public Management. Palgrave Macmillan, Cham. 2019. pp 121–135.

<sup>200</sup> Deca L., Harmsen R. *Taking Stock of the Bologna Process at 20: The Possibilities and Limits of Soft Law Governance*. European Higher Education Area: Challenges for a New Decade. Springer, Cham. 2020. pp 417–436.

- Ensure mutual recognition of qualifications through common accreditation standards.

### 3. Institutionalizing regional education cooperation

Establish a regional education council within the EAEU or CIS, responsible for:

- Developing and monitoring the implementation of regional education policies.
- Coordinating quality assurance mechanisms to ensure comparable standards across institutions.
- Encouraging joint educational programs and research initiatives.

### 4. Digital education and lifelong learning integration

- Recognizing that modern education is no longer confined to traditional classroom settings, a regional education strategy should incorporate policies on distance learning, digital education, and lifelong learning programs.
- The use of digital platforms for cross-border education would allow for greater accessibility, particularly in remote and underserved regions.

### 5. Expanding scholarship and student exchange programs

- Eurasian scholarship programs modelled after Erasmus+ could be introduced to promote educational mobility within the region.
- Governments could invest in regional student exchange programs that allow for greater cultural and academic integration<sup>201</sup>.

The current model of bilateral educational agreements in the Eurasian region is insufficient for fostering deep educational integration. The lack of binding commitments, fragmented policies, and limited standardization prevents the emergence of a cohesive regional education space<sup>202</sup>.

The success of the European Higher Education Area suggests that regional cooperation in education does not necessarily require legally binding treaties but can be effectively advanced through soft law instruments, voluntary cooperation, and shared principles.

To move forward, Eurasian states should develop a regional education framework - whether through a revival of the EurAsEC Education Concept, the creation of a Eurasian Higher Education Area, or a structured education council within the EAEU. Without such

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<sup>201</sup> Vinokurov E. Eurasian Economic Union: Current state and preliminary results. Russian Journal of Economics. Vol. 3. 2017. pp. 54 - 70.

<sup>202</sup> Gershuni M. The Eurasian Union: Future of Integration or Failure in the Making. Proceedings of GREAT Day. Vol. 2017. 2018. pp. 73 - 74.



efforts, the region will continue to lag behind in educational integration, limiting the potential benefits of economic and academic collaboration.

A well-structured, regionally integrated education system would:

- Enhance academic mobility.
- Foster innovation and research collaboration.
- Ensure the global competitiveness of Eurasian universities.
- Strengthen workforce development to support economic growth<sup>203</sup>.

By taking decisive steps toward regional education integration, Eurasian states can create a stronger, more unified educational space that aligns with international trends and prepares future generations for the challenges of a rapidly changing world.

#### **1.3.3.4. From soft law to structured frameworks: the case for a Eurasian education convention**

The largest number of international treaties related to education is concluded at the bilateral level, while regional and universal legal frameworks on education are characterized by the predominance of non-binding documents, commonly referred to as "soft law" instruments. These soft law sources, including declarations, recommendations, and policy frameworks, play a crucial role in shaping educational policies but lack enforceability, making them dependent on voluntary cooperation and national implementation. Given the fragmented state of educational regulation in the Eurasian region, the development of a comprehensive convention on the regulation of education could provide a structured and legally binding framework to facilitate cooperation, standardization, and harmonization of educational policies.

If the Eurasian region aims to create a common field for joint activities in education, a dedicated convention on education regulation could:

1. Standardize definitions and key concepts
  - Establish clear definitions of higher education, vocational education, digital learning, and lifelong learning.
  - Define mutual recognition mechanisms for degrees, diplomas, and qualifications.
2. Create a unified legal and institutional framework

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<sup>203</sup> Chou M., Ravinet P. The Rise of "Higher Education Regionalism": An Agenda for Higher Education Research. The Palgrave International Handbook of Higher Education Policy and Governance. 2015. pp. 361 - 378.

- Develop a regional accreditation system to harmonize education quality standards across participating states.
  - Establish a governing body responsible for overseeing implementation, monitoring compliance, and resolving disputes.
3. Enhance student and faculty mobility
- Simplify visa procedures for students and academic staff.
  - Develop student exchange programs and research collaboration platforms.
4. Acknowledge the Social Role of Education
- Recognize that universities are not merely service providers but key institutions of civil society.
  - Strengthen academic freedoms and institutional autonomy, fostering critical thinking, innovation, and democratic participation.
5. Bridge the gap between education and economic development
- Align higher education programs with labor market needs.
  - Support innovation, technology transfer, and entrepreneurial education<sup>204</sup>.

One of the most critical aspects of educational regulation that the proposed Eurasian education convention should address is the social function of education. While many modern education policies tend to commodify education, treating students as consumers of educational services, a more holistic approach should recognize that:

- Education is a public good, not merely a market-driven commodity.
- Universities serve as key institutions of civil society, fostering social cohesion, civic engagement, and democratic participation.
- The ultimate beneficiary of education is not just the individual student but society as a whole<sup>205</sup>.

The Gothenburg Declaration of Students highlights this perspective by stating that “students are not consumers of educational services sold.” This statement is particularly relevant in the context of regional educational integration, as it challenges the notion of education as a transaction and emphasizes its role in producing skilled professionals who contribute to the long-term development of their countries.

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<sup>204</sup> Kurbanov R., Gurbanov R., Belyalova A. Education Systems in Eurasia. Education Systems Around the World. IntechOpen. 2020. pp. 15 - 19

<sup>205</sup> Ilieva-Trichkova P., Boyadjieva P., Dimitrova R. Higher education as a public good and social cohesion: an exploratory study from a European comparative perspective. European Journal of Higher Education. Vol. 14(1). 2024. pp. 69–87.

Indeed, if education is viewed purely as a commercial service, it risks becoming a privilege rather than a right, accessible only to those who can afford it. The social responsibility of universities must therefore be reinforced in the proposed convention, ensuring that education remains an inclusive, equitable, and accessible right for all.

#### **1.3.3.5. Reinforcing the social function of education**

The proposed convention should explicitly recognize that higher education is not just about producing graduates but about creating knowledge, fostering social mobility, and driving economic innovation. Some of the key principles that should be enshrined in the convention include:

1. Higher education as a public good
  - Governments should ensure adequate funding for universities, reducing dependence on tuition fees.
  - Education policies should prioritize accessibility and affordability, preventing the commercialization of higher education<sup>206</sup>.
2. University autonomy and academic freedom
  - Higher education institutions must be protected from political interference.
  - Universities should have the freedom to develop curricula based on academic merit rather than economic or political pressures.
3. Education and workforce development
  - The convention should establish regional cooperation between universities and industries to ensure that graduates are equipped with relevant skills.
  - Promote vocational education and lifelong learning to support continuous workforce development.
4. Integration of digital and distance learning
  - Establish regional e-learning platforms and digital credential recognition.
  - Facilitate cross-border online courses, virtual academic mobility, and digital certification systems.

The only actively developing supranational educational space remains the European Higher Education Area (EHEA), which has successfully harmonized degree recognition, credit transfer systems, and quality assurance standards. If the Eurasian region wishes to establish an

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<sup>206</sup> Marginson S., Higher Education and Public and Common Good. Centre for Global Higher Education Working Paper series. Working paper no. 114. 2024. pp. 24 - 33.

alternative model, relying on bilateral agreements will not be sufficient<sup>207</sup>. Instead, the EAEU or another regional body must take the lead in:

- Creating a structured legal and institutional framework for educational integration.
- Encouraging research collaboration and academic networking across member states.
- Providing funding for joint initiatives, student exchanges, and digital education programs.

The current model of bilateral agreements in the Eurasian education sector is insufficient for fostering deep educational integration. To effectively promote student mobility, diploma recognition, and academic collaboration, a regional convention on education should be developed. This convention should:

- Standardize key definitions and legal mechanisms.
- Promote the social role of education rather than treating it as a commercial product.
- Ensure higher education institutions serve as drivers of economic and social progress.
- Align regional education policies with international best practices<sup>208</sup>.

If successfully implemented, this Eurasian Education Convention could provide a strong alternative to the European Higher Education Area, helping to build a cohesive, competitive, and innovative regional education system that meets the needs of the 21st-century knowledge economy.

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<sup>207</sup> Parkhitko N., Martynenko S., Kurylev K. Higher education as a promising sphere of cooperation in the Eurasian economic union. ICERI2020 Proceedings. 2020. pp. 1238 - 1243.

<sup>208</sup> Meshcheryakov K., Burkov V., Shamgunov R., Berdegulova L., Ragulina M. A historical analysis of the failure of the Eurasian economic integration. *Studia Politica: Romanian Political Science Review*. Vol. 19(2). 2019. pp. 261 - 282.

## **CHAPTER 2. RIGHT TO EDUCATION AND ENSURING ITS IMPLEMENTATION**

### **2.1. The right to education: concept, elements, place in the system of other rights and freedoms**

#### **2.1.1. Definition and nature of the right to education**

The volume of international legal regulation in the field of education is constantly increasing both at universal and local levels<sup>209</sup>. States are striving to harmonize education systems, ensure comparability of degrees, and increase the mobility of students and teachers.

The normative content of the right to education itself is quite vague. To effectively regulate the sphere of educational relations and active cooperation, states need to define concepts. Having analysed the currently existing international legal acts, we can note that none of them contains a definition of the right to education. As far as doctrine is concerned, both international relations scholars and constitutionalists usually do not examine the right to education in detail, merely mentioning that it exists.

For example, K.D. Beiter, in a work devoted to the defence of the right to education, argues that the right to education refers simultaneously to economic, social and cultural rights and emphasizes that, among other things, the right to education requires states to make efforts to ensure access to education at all levels: at primary, middle and higher<sup>210</sup>. This statement can hardly be called a definition of the right to education, since it only indicates the nature of the right and one of the issues of its implementation.

B.A. Strashun defines the right to education as “one of the most essential social rights of a person, which creates the necessary prerequisites for the development of both his individual and the entire society”.<sup>211</sup>

According to A.I. Kazannik, the right to education should be understood as “a person’s legally guaranteed opportunity to obtain systematized knowledge and skills necessary to master a future profession, acquire a specialty for the purpose of engaging in physical or mental

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<sup>209</sup> Amanbayeva Zh. The right to education: concept, elements, place in the system of other rights and freedoms. "Science of the Present and Future" International Scientific and Practical Conference. Kazakh University of Technology and Business. 2023.

<sup>210</sup> Beiter K.D. The protection of the right to education by international law: including a systematic analysis of Article 13 of the International Covenant on Economic, Social, and Cultural Rights. Leiden: Koninklijke Brill NV. 2006. pp. 52.

<sup>211</sup> Strashun B.A. Konstitucionnoe (gosudarstvennoe) pravo zarubezhnyh stran. Obshchaya chast': Uchebnik dlya vuzov. 4th ed., updated. Moscow: NORMA: INFRA-M. 2010. pp. 211.

labour”<sup>212</sup>. He classifies the right to education as a cultural right. E.I. Kozlova identifies as a feature of the right to education its socio-economic nature and “the nature of public duty”<sup>213</sup>.

M.V. Baglay also classifies the right to education as a social right and emphasizes that the implementation of this right directly ensures the economic, social and spiritual progress of society, while simultaneously creating the precondition for the development of the individual, his culture, and well-being<sup>214</sup>.

Thus, attempts to define the right to education come down mainly to considering its nature and classifying it as social, economic, cultural or mixed rights. This approach does not seem appropriate, since the regulation and implementation of the law depends little on the sphere of social life the law is assigned to in theory.

The right to education is discussed in a little more detail in the textbook by E.V. Martynenko. The right to education is understood as “one of the most essential constitutional social rights of a person, creating a prerequisite for the development of both his personality and the entire society”, while the right to education is a natural human right, which the author proposes to consider as an element of the right to life and rights for development<sup>215</sup>. Thus, the definition is also derived on the basis of reference to the social sphere and is not exhaustive.

The definition of A.N. Kozyrin differs from the above, who distinguishes the right to education in an objective and subjective sense. The right to education in an objective sense is “a set of legal norms regulating social relations related to obtaining education”<sup>216</sup>. The right to education in the subjective sense is “the actual opportunity of a person, guaranteed by the state and international law, to possess and use knowledge, skills and abilities in order to improve his educational and cultural level”<sup>217</sup>. These definitions seem to be the most capacious and convincing of those considered, however, we would like to give a more precise and detailed definition of the subjective right to education, which is the subject of regulation by international law, and at the same time trace changes in its understanding over time.

In international legal acts there is an attempt to formulate a definition of the right to education. According to Alston P. and Quinn G. the International Covenant on Economic, Social and Cultural Rights is of particular importance in establishing and defining the right to

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<sup>212</sup> Kazannik A.I. *Konstitucionnoe pravo: universitetskij kurs: uchebnik*. Moscow: Prospekt. 2015. V. 2. pp. 18.

<sup>213</sup> Kozlova E.I. *Konstitucionnoe pravo Rossii: Uchebnik*. 5-th ed. Moscow: Prospekt. 2014. pp. 184.

<sup>214</sup> Baglay M.V. *Konstitucionnoe pravo Rossijskoj Federacii: uchebnik dlya vuzov*. 6th ed. Moscow: Norma. 2007. pp. 289.

<sup>215</sup> Martynenko E.V. *Mezhdunarodnoe obrazovatel'noe pravo: Uchebnoe posobie*. Moscow: RUDN. 2008. pp. 52 - 53.

<sup>216</sup> Kozyrin A.N. *Obrazovanie i pravo na obrazovanie // Reformy i pravo*. 2015. № 2. pp. 42 - 53.

<sup>217</sup> Kozyrin A.N. *Obrazovanie i pravo na obrazovanie // Reformy i pravo*. 2015. № 2. pp. 53.

education, therefore, one should first refer to the General Comments clarifying it, which were adopted by the Committee on Social, Economic and Cultural Rights<sup>218</sup>.

General Comment No. 11 - Plans of Action for Primary Education (Article 14)<sup>219</sup> emphasizes that the right to education is simultaneously an economic, social and cultural right, as well as, in many respects, a civil and political one, since it is fundamental to the full and effective implementation these rights. Here it is appropriate to cite the statement of A.H. Abashidze regarding the development of understanding of human rights that “the legitimacy of any attempts to distinguish civil and political rights (referred to as the “first generation” of human rights) from economic, social and cultural human rights (referred to as the “second generation” of human rights), no matter what the basis did not have, was refuted by the subsequent development of rule-making and human rights activities”<sup>220</sup>. According to Vasak Karel it is the right to education that most comprehensively and vividly combines the features of the rights of the first and second generations and personifies the indivisibility and interdependence of all human rights<sup>221</sup>.

General Comment No. 13 - The Right to Education (Article 13)<sup>222</sup> understands the right to education functionally, as “the primary means by which economically and socially marginalized groups of adults and children can escape poverty and gain full participation in the life of their communities”. This is the only definition of the right to education that can be found in acts of the universal level and this definition cannot be called complete and exhaustive.

As noted by Langthaler, international development discourse has frequently instrumentalized the right to education by aligning it primarily with economic outcomes<sup>223</sup>. In doing so, it often neglects the human rights dimension of education. Comparing the human capital, human rights, and capabilities approaches, Langthaler argues that a purely economic view of education may undermine its emancipatory potential and legal enforceability. To

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<sup>218</sup> Alston P., Quinn G. The Nature and Scope of States Parties Obligations under the International Covenant of Social, Economic and Cultural Rights // Human Rights Quarterly. Vol.9 №2. Baltimore. 1987. pp. 156 - 229.

<sup>219</sup> Compilation of general comments and general recommendations adopted by human rights treaty bodies HRI/GEN/1/Rev.9 (Vol. I) 27 May 2008, pp. 78, <https://digitallibrary.un.org/record/629675?ln=ru&v=pdf> (Retrieved on 3 of February 2025)

<sup>220</sup> Abashidze A.H., «Izmenilos' li otnoshenie k voprosu o pravovom obespechenii ekonomicheskikh, social'nyh i kul'turnyh prav cheloveka spustya 50 let s momenta prinyatiya Mezhdunarodnogo pakta ob ekonomicheskikh, social'nyh i kul'turnyh pravah?»// 50 let Mezhdunarodnym paktam o pravah cheloveka: materialy nauchno-prakticheskoy konferencii/ Moscow: RUDN. 2017. pp. 42.

<sup>221</sup> Vasak Karel. Human Rights: A Thirty-Year Struggle: the Sustained Efforts to give Force of law to the Universal Declaration of Human Rights. UNESCO Courier 30:11. Paris. 1977. pp. 29.

<sup>222</sup> Compilation of general comments and general recommendations adopted by human rights treaty bodies HRI/GEN/1/Rev.9 (Vol. I) 27 May 2008, pp. 65, <https://digitallibrary.un.org/record/629675?ln=ru&v=pdf> (Retrieved on 3 of February 2025)

<sup>223</sup> Langthaler M. Right to Education in International Development Discourse: Theoretical Perspectives and Practical Challenges. International Review of Education, vol. 61, no. 3. 2015. pp. 273–292.

ensure that education retains its role as a fundamental right rather than a development tool, international legal frameworks must guard against its reduction to utilitarian purposes.

A similar distinction is drawn by Robeyns, who identifies three dominant models of education: the human capital model, the rights-based model, and the capabilities model<sup>224</sup>. While the first focuses on education as a tool for economic productivity, the rights-based model treats it as a universal legal entitlement, and the capabilities approach views it as essential to individual freedom and agency. Robeyns argues that prioritizing the capabilities and rights-based models over the purely economic perspective is crucial for safeguarding the dignity and autonomy of learners, particularly in disadvantaged communities.

### **2.1.2. Elements of the right to education in international law**

According to Alexy R. the definition of the right to education can be derived from individual elements that are highlighted both in international legal acts and in theory<sup>225</sup>. However, it is worth immediately noting that there is often a mixture of elements of education (as a process, as a social phenomenon) and elements of the right to education (as a subjective opportunity of a person). For example, General Comment No. 13 discusses the essential features of education that a state party must ensure to ensure the best interests of students:

1. Availability - i.e. organization of a sufficient number of educational institutions and programs on the territory of a state party to the Covenant.
2. Accessibility, which, in turn, breaks down into three interrelated factors: the first is non-discrimination, the second is physical accessibility, the third is economic accessibility.
3. Acceptability - the form and content of education must be of high quality, meet the minimum requirements of the state, and also take into account the cultural characteristics of the students.
4. Adaptability - implies flexibility and the ability to change education in accordance with the needs of a changing society, as well as compliance with the needs of students associated with differences in socio-cultural norms.

K. Tomaševski further elaborated on this approach in her Manual on Rights-Based Education, where she outlined concrete steps for states to comply with their international legal obligations. Her practical framework translates the 4-A scheme into actionable policy guidance

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<sup>224</sup> Robeyns I. Three Models of Education: Rights, Capabilities and Human Capital. *Theory and Research in Education*, vol. 4, no. 1. 2006. pp. 69–84.

<sup>225</sup> Alexy R. *A Theory of Constitutional Rights*. Oxford: Oxford University Press. 2002. pp. 462.



for governments, especially in relation to education legislation, financing, and administrative practices<sup>226</sup>.

E.V. Martynenko, when studying the right to education, identifies the following elements, which partly correlate with the elements of education mentioned in the Comment<sup>227</sup>:

1. Its integrity, i.e. the ability to attribute it to various groups of human rights and freedoms - social, cultural, civil (personal). This feature is purely doctrinal in nature.
2. Its constitutional character. The right to education is contained in the constitutional acts of all modern democratic states. This circumstance alone indicates that the right to education is given exceptional importance by the state and society through the Basic Law. This feature of the right to education is certainly important, but the mention of “modern democracies” is somewhat reminiscent of the once so popular “civilized nations”. The terminology has changed a little, but the essence remains the same: if there are in those states that are considered “modern” and “democratic”, then it can be generalized for everyone.
3. Its universality. This right applies to all citizens of the state, without exception, foreign citizens and stateless persons residing in the territory of the state legally, regardless of age. This feature is perhaps decisive. The universality of the right to education is reflected both in international treaties and in the practice of the European Court of Human Rights, which classifies as subjects of this right all persons without exception who wish to receive an education.
4. The expected accessibility of education for everyone, which implies the freedom to receive both general and professional and postgraduate education in accordance with the beliefs of the parents, one’s own desires and capabilities. This feature is inextricably linked with universality, but the obligation of states to provide access to existing educational institutions is usually highlighted separately, therefore, highlighting this feature seems appropriate.

### **2.1.3. The right to education in the system of interrelated rights and freedoms**

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<sup>226</sup> Tomaševski K. Manual on Rights-Based Education: Global Human Rights Requirements Made Simple. UNESCO, 2004.

<sup>227</sup> Martynenko E.V. Mezhdunarodnoe obrazovatel'noe pravo: Uchebnoe posobie. Moscow: RUDN. 2008. pp. 58 - 59.

The right to education is fundamental because it determines both the development of society and the individual development of each person.

According to K.D. Beiter the right to education is inextricably linked with other human rights, this follows both from normative formulations and from law enforcement practice related to ensuring and protecting the right to education<sup>228</sup>. In almost all complaints regarding violations of the right to education, violations of other rights are considered in aggregate. First and foremost, the right to education is inextricably linked with the broader right to participate in cultural life<sup>229</sup>, as well as the right to freedom of thought, conscience and religion<sup>230</sup>. Moreover, it is no coincidence that the International Covenant on Economic, Social and Cultural Rights provides in Article 13, which enshrines the right to education, including the right of parents to choose a school, as well as to ensure the religious and moral education of their children, i.e. in the case where the subject of the right to education is a child, his right to education is inextricably linked with the right to freedom of thought, conscience and religion of his parents. The issue of the connection between the right to education and the right to freedom of thought, conscience and religion, including the freedom not to profess any religion, has been repeatedly raised in the practice of the European Court of Human Rights<sup>231</sup>.

The right to education is most closely related to the right to work. Firstly, the possibility of fully realizing the right to work is often limited by educational qualifications, and this directly implies the dependence of the right to an adequate standard of living. Secondly, in the ILO Convention No. 182 “On the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labor”, which we have already discussed, it is education that is called upon to combat the worst forms of child labour, therefore, the right to education is not only the basis for the full implementation of the right to work, but can also serve as a barrier to its violations. Also noteworthy is ILO Convention No. 140 “On Paid Study Leave”, the preamble of which directly links the realization of the right to education and the right to work.

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<sup>228</sup> Beiter K.D. The protection of the right to education by international law: including a systematic analysis of Article 13 of the International Covenant on Economic, Social, and Cultural Rights. Leiden: Koninklijke Brill NV. 2006. pp. 47.

<sup>229</sup> In particular, when considering a communication to the Committee on Economic, Social and Cultural Rights, the right to education (Article 13 of the Covenant) and the right to participate in cultural life (Article 15 of the Covenant) are considered together (Communication No. 3/20141, Views, adopted by the Committee at its fifty-eighth session from 6 to 24 June 2016).

<sup>230</sup> Otteson J.R. Freedom of Religion and Public Schooling. // The Independent Review. Volume IV. Number 4. 2000. pp. 35.

<sup>231</sup> See, for example, the Judgements of the Grand Chamber in the cases of *Lautsi and Others v. Italy*, *Folgerø and Others v. Norway*, *Leyla Şahin v. Turkey*.

The transformative role of education in post-conflict societies underscores its function beyond individual development. As highlighted in the UNICEF synthesis report on peacebuilding through education in Lebanon, Nepal, and Sierra Leone, the right to education contributes significantly to social cohesion, reconciliation, and long-term stability in fragile contexts<sup>232</sup>. This finding reinforces the idea that ensuring access to quality education is not merely a legal obligation, but a cornerstone of sustainable peace and development, particularly in African states emerging from conflict.

The right to education is a prerequisite for the realization of certain political rights, for example, an educational qualification is established for occupying certain civil service positions<sup>233</sup>. The close connection of the right to education with the enjoyment of rights to political and public participation is also noted by the Human Rights Council, emphasizing that “discrimination and other barriers to the full realization of these supporting rights will, therefore, undermine efforts to ensure the equal enjoyment of other political and public participation rights”<sup>234</sup>. Noting the close connection of the right to education with the rights to political participation, the Human Rights Council, citing the findings of the Human Rights Committee, emphasizes that “discrimination against eligible candidates for public office on grounds such as education, residence or descent or political affiliation is prohibited”<sup>235</sup>.

The Committee on Economic, Social and Cultural Rights notes the connection between the right to education and the right to social security, emphasizing that “the realization of the right to social security carries significant financial implications for States parties, the latter have an obligation to ensure the satisfaction of, at the very least, minimum essential levels of this right enunciated in the Covenant. Among other things, they are required to ensure access to a social security scheme that provides a minimum essential level of benefits to all individuals and families that will enable them to acquire at least essential health care, basic shelter and housing, water and sanitation, foodstuffs, and the most basic forms of education”<sup>236</sup>.

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<sup>232</sup> Barrett A.M., et al. *The Role of Education in Peacebuilding: A Synthesis Report of Findings from Lebanon, Nepal and Sierra Leone*. UNICEF. 2011.

<sup>233</sup> The Law of the Republic of Kazakhstan dated 23 November 2015 № 416-IV LRK “On the civil service of the Republic of Kazakhstan”

<sup>234</sup> “Factors that impede equal political participation and steps to overcome those challenges” Report of the Office of the United Nations High Commissioner for Human Rights [https://www.ohchr.org/sites/default/files/HRBodies/HRC/RegularSessions/Session27/Documents/A\\_HRC\\_27\\_29\\_ENG.doc](https://www.ohchr.org/sites/default/files/HRBodies/HRC/RegularSessions/Session27/Documents/A_HRC_27_29_ENG.doc) (Retrieved on 3 of February 2025)

<sup>235</sup> “Factors that impede equal political participation and steps to overcome those challenges” Report of the Office of the United Nations High Commissioner for Human Rights [https://www.ohchr.org/sites/default/files/HRBodies/HRC/RegularSessions/Session27/Documents/A\\_HRC\\_27\\_29\\_ENG.doc](https://www.ohchr.org/sites/default/files/HRBodies/HRC/RegularSessions/Session27/Documents/A_HRC_27_29_ENG.doc) (Retrieved on 3 of February 2025)

<sup>236</sup> Views of the Committee on Economic, Social and Cultural Rights under the Optional Protocol to the International Covenant on Economic, Social and Cultural Rights (fifty-seventh session) Concerning

#### **2.1.4. Comparative constitutional approaches to the right to education in post-Soviet states**

The right to education is enshrined in the constitutions of all post-Soviet states, yet its formulation, scope, and emphasis vary significantly, reflecting both shared Soviet legal heritage and national specificities. Comparative constitutional analysis reveals important legal nuances, particularly regarding the scope of educational guarantees, levels of compulsory education, and the state's obligation in providing free education.

For example, the Constitution of the Republic of Kazakhstan in Article 30 states:

«Мемлекет азаматтарға заңмен белгіленген кепілді көлемде тегін орта білім алуды қамтамасыз етеді. Орта білім алу міндетті.»

(“The state guarantees citizens free secondary education within the volume established by law. Secondary education is compulsory.”)<sup>237</sup>.

The Kazakh-language formulation emphasizes the limited scope of the state's obligation - “заңмен белгіленген кепілді көлемде” (within the volume established by law), which introduces a discretionary element. Moreover, “орта білім алу міндетті” imposes a strict duty on citizens to complete secondary education.

The Constitution of the Russian Federation (Art. 43) guarantees:

“Everyone shall have the right to education... Basic general education is compulsory. Parents or persons in loco parentis shall ensure that children receive basic general education.”<sup>238</sup>

The absence of statutory limitation language - unlike Kazakhstan's - implies a more expansive obligation. The Constitution also imposes a direct responsibility on parents, which is not always explicitly stated in other constitutions.

The Constitution of Ukraine (Art. 53) offers one of the most comprehensive approaches:

“Everyone has the right to education. Complete general secondary education is compulsory. The state ensures access to free preschool, complete general secondary,

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Communication

No.

1/2013

<https://docstore.ohchr.org/SelfServices/FilesHandler.ashx?enc=4slQ6QSmlBEDzFEovLCuW1Xt9%2FAM48919J%2BLiF0hYPeHvxmyw%2FwMYbssLpdEl4gJDMLSvvL06lLzyKoOpUTCjEgi72tCh4rpK8MRKHhZl0CcWJwXE7lusmQW%2BiRokFUhPbWW%2B%2FJUsmtIEDyf9XjVKeJPfo0nUADmvidzmJ4dFM%3D>

(Retrieved on 3 of February 2025)

<sup>237</sup> Constitution of the Republic of Kazakhstan, adopted on August 30, 1995 (as amended in 2023), Article 30.

<sup>238</sup> Constitution of the Russian Federation, adopted on December 12, 1993, Article 43.

vocational, higher, and postgraduate education in state and communal educational establishments.”<sup>239</sup>

Ukraine’s model explicitly extends free access to multiple levels of education, including higher and postgraduate education, which reflects a broad social welfare orientation.

In the Republic of Belarus, Article 49 of the Constitution guarantees the right to education and specifies:

“Secondary education is compulsory. Everyone has the right to free general, secondary and vocational education in state institutions.”<sup>240</sup>

This provision stands out for ensuring vocational education free of charge, an explicit constitutional guarantee not always found in neighbouring states.

In Armenia, the Constitution (Article 38) stipulates:

“Everyone shall have the right to education. Secondary education shall be compulsory, while higher and vocational education shall be accessible on the basis of abilities.”<sup>241</sup>

Here, the right to accessible post-secondary education is conditioned by merit, i.e., ability, which introduces a selection-based model and reflects a shift toward competitive access.

The Constitution of Kyrgyzstan (Art. 45) also mandates compulsory and free basic education but is less detailed regarding other levels.

In Uzbekistan and Turkmenistan, the constitutional provisions remain concise and declarative, affirming the right to education and compulsory general education but often lacking enforceable financial or institutional obligations.

This comparative overview shows that although all post-Soviet states declare education as a constitutional right, its scope, enforceability, and linkage to state duties vary. Kazakhstan’s model is distinguished by legal precision and limitation through statutory law, while Ukraine and Belarus reflect broader commitments. The Armenian provision emphasizes merit-based access, illustrating the tension between rights as entitlements and rights as opportunities.

The following section provides a consolidated matrix summarizing international and national constitutional approaches to the right to education.

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<sup>239</sup> Constitution of Ukraine, adopted on June 28, 1996, Article 53.

<sup>240</sup> Constitution of the Republic of Belarus, adopted on March 15, 1994 (as amended in 2022), Article 49.

<sup>241</sup> Constitution of the Republic of Armenia, adopted on July 5, 1995 (as amended in 2015), Article 38.

### 2.1.5. Comparative matrix of international and constitutional provisions on the right to education

To complement the analysis above, the following matrix presents a comparative overview of how the right to education is defined and structured across selected international legal instruments and the constitutions of post-Soviet states, including Kazakhstan, Russia, Ukraine, Belarus, and Armenia. These countries were selected due to their shared legal traditions, similar transitional contexts, and divergent approaches to education policy. This visual summary helps to identify patterns, differences in legal formulation, and the extent of state obligations with respect to compulsory and free education.

*Table 2: Comparative Matrix of the Right to Education in International and National Legal Documents*

Source / Country	Scope of Right	Compulsory Education	Free Education	Notable Features
<b>ICESCR (Art. 13)</b>	Universal right to education	Yes (primary)	Yes (primary); progressive for others	Emphasis on progressive realization
<b>CRC (Art. 28)</b>	Right to education for every child	Yes (primary)	Yes (primary); progressive implementation	Focus on equal opportunity and discipline
<b>Kazakhstani Constitution</b>	Free secondary education “within the volume established by law”	Yes (secondary)	Yes (secondary, limited)	Conditional scope; obligation on state
<b>Russia Constitution</b>	Everyone has right to education	Yes (basic general)	Yes (basic general, general access to free HE)	Parental duty to ensure education
<b>Ukraine Constitution</b>	Right to preschool, secondary, vocational, higher, postgraduate	Yes (general secondary)	Yes (multiple levels)	Broad state obligation for various education levels

Source / Country	Scope of Right	Compulsory Education	Free Education	Notable Features
<b>Belarus Constitution</b>	Right to general, secondary, vocational education	Yes (secondary)	Yes (general, secondary, vocational)	Explicit inclusion of vocational education
<b>Armenia Constitution</b>	Right to education; access to HE and vocational by ability	Yes (secondary)	Conditional (HE/vocational by merit)	Merit-based access emphasized
<b>UNESCO Convention (1960)</b>	Right to education without discrimination	Not specified	Encouraged (no direct obligation)	Anti-discrimination focus
<b>Bologna Process Declarations</b>	Right to higher education and mobility	Not compulsory	Not specified	Emphasis on harmonization and quality assurance

#### 2.1.6. Legal specificities of primary, secondary and higher education rights

One of the features of the right to education is the change in its content depending on the levels. In the initial international legal acts establishing the right to education, it was already clearly divided into three main types: the right to primary education, the right to secondary education and the right to higher education. Consequently, a single definition of the right to education was not enough, so there was a need to formulate the content for each type. As for vocational education, according to paragraph 2 of Article 6 of the Covenant on Economic, Social and Cultural Rights and paragraph 1 of Article 26 of the Universal Declaration of Human Rights, it is a component of all levels of education, including secondary and higher, and therefore it is inappropriate to separately highlight the right to vocational education. Until recently, the same position could be traced in the practice of the European Court of Human Rights. For example, in *Leyla Şahin v. Turkey* case, the court emphasized that certain rights guaranteed at one level may be completely different at another and made a clear distinction between the State's duty to provide universal primary and secondary education and the State's right to restrict access to higher education<sup>242</sup>.

<sup>242</sup> Hoopes T. The *Leyla Şahin v. Turkey* Case Before the European Court of Human Rights. *Chinese Journal of International Law*. Volume 5. Issue 3. 2006. pp. 719–722.

In order to derive working definitions for each type of education, we turn to the General Comments, which were adopted by the Committee on Economic, Social and Cultural Rights, and following the Covenant on Economic, Social and Cultural Rights, differentiate the right to education depending on the level education.

The clearest position has been developed regarding the right to primary education; General Comment No. 11<sup>243</sup> is entirely devoted to the action plan for primary education. This document emphasizes that primary education is vital and is an essential component of basic education (basic education in the terminology of the Notes is the totality of primary and secondary education). The following elements of the right to primary education are distinguished:

1. Compulsory;
2. Free of charge;
3. Adoption of a detailed plan;
4. Obligations;
5. Progressive implementation.

Unfortunately, in this case there is a clear confusion of concepts; the listed elements can be called rather elements of education, but not the right to education. Yet, from the elements listed in General Comments No. 11 and No. 13, a working definition of the right to primary education can be derived. The right to primary education is the state-guaranteed ability of a person to satisfy basic educational needs without any discrimination based on universality, compulsoriness and free of charge, taking into account cultural characteristics.

The right to secondary education is discussed in General Comment No. 13 (paragraphs 11-14) and implies the right to complete basic education and create the basis for further learning and personal development. Basic education is considered as a combination of primary and secondary education that contributes to the further development of the individual and creates the basis for subsequent education. The main elements highlighted in the Note are also elements of education itself rather than the right to it:

1. Openness;
2. Difference in forms, which implies flexibility of programs and encouragement of alternative state educational programs;

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<sup>243</sup> Compilation of general comments and general recommendations adopted by human rights treaty bodies HRI/GEN/1/Rev.9 (Vol. I) 27 May 2008, pp. 65, <https://digitallibrary.un.org/record/629675?ln=ru&v=pdf> (Retrieved on 3 of February 2025)



3. Gradual introduction of free education (including reduction of indirect costs such as school uniforms);
4. Equal accessibility, i.e. A student's access to secondary education should not be made dependent on his or her abilities.

Based on General Comment No. 13, the following definition of the right to secondary education can be derived: the right to secondary education is the state-guaranteed opportunity for a person to complete basic education in any form recognized in the state based on openness and accessibility to all.

And finally - the right to higher education. The right to higher education is considered in General Comment No. 13 (paragraphs 17-20) through comparison with the right to secondary education and, accordingly, the following elements are highlighted for it:

1. Various forms, which include flexible programs and a variety of systems, including distance learning.
2. Access to all based on ability, and this element is the main difference between higher education and secondary education. Abilities are assessed based on all acquired experience and knowledge.

Regarding the right to higher education in the light of the Convention for the Protection of Human Rights and Fundamental Freedoms, the study “Law of the European Convention on Human Rights” questions the correct use of the term “right” in relation to the right to higher education. The authors motivate this by the ability of the state to limit access to higher education by establishing admission criteria, as well as to limit places in certain professional fields with reference to the resources and needs of society<sup>244</sup>.

The regulation of the right to education and, in particular, to higher education is discussed in the dissertation of Gusejnova K.M. “The human right to higher education under international law and the problems of ensuring it in the context of globalization”. The author for the first time defines the right to higher education and proposes to understand it as “a natural, fundamental and fundamental right of an individual, which in a society based on knowledge is transformed into a tool for the maximum development of human potential, aimed at achieving the personal competitiveness of the individual, allowing him to achieve proper social status”<sup>245</sup>. This definition seems very vague, since the definitions “fundamental” and

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<sup>244</sup> Harris, O'Boyle, and Warbrick: Law of the European Convention on Human Rights, Fifth Edition, Oxford University Press, 2023. pp. 817.

<sup>245</sup> Gusejnova K.N. «Pravo cheloveka na vysshee obrazovanie po mezhdunarodnomu pravu i problemy ego obespecheniya v usloviyah globalizacii». Diss. ... kand.yur.nauk. Moscow, 2015. pp. 18.

“basic” in relation to the right are redundant, the clarification that this right “in a society based on knowledge” seems to exclude this right from any other society and sounds just as vague, as once “the principles recognized by civilized nations”. What is it like - a society based on knowledge? Has such a society been formed in every country on the globe, and if not, does this automatically mean that in these countries there is no right to higher education? The transformation of law into an instrument also seems strange.

In the dissertation of S.A. Myshenko “The right to higher education in Russia and Germany (comparative legal research)” also provides a definition of the right to higher education, according to which the right to higher education is “a state-guaranteed opportunity for a person who has the required level of basic education to obtain professional knowledge, skills, abilities, competencies and their official recognition in order to meet the needs of society and the state in a higher educational institution or scientific organization according to established educational programs and standards in the training of highly qualified specialists, as well as individuals in intellectual, cultural and moral development”<sup>246</sup>.

This definition seems more balanced and justified, since it is derived based on the criteria of higher education, established by law, but it seems too broad and difficult to understand.

Since the international integration of states most actively occurs at the level of higher education, it seems necessary to give a clear definition of the right to higher education and further consider cooperation between states based on it. The right to higher education is a state-guaranteed opportunity for a person who has the required level of primary and secondary education to receive a high-quality professional education of the highest level based on their abilities.

### **2.1.7. Lifelong learning and the evolving understanding of the right**

The understanding of the right to education is actively developing and at present the differentiation of the content of the right to education depending on the level of education still takes place but is no longer fundamental. D.V. Galushko puts forward the thesis that “all over the world, for every working person, higher education is actually becoming the minimum level of education”<sup>247</sup>. This thesis is controversial and true only with certain reservations. However,

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<sup>246</sup> Myshenko S.A. Pravo na vysshee obrazovanie v Rossii i Germanii (sravnitel'no-pravovoe issledovanie). Diss. kand.yur.nauk. Irkutsk, 2015. pp. 7.

<sup>247</sup> Galushko D.V. Razvitie i pravovoe regulirovanie distancionnogo obucheniya za rubezhom. Vestnik Voronezhskogo gosudarstvennogo universiteta. Seriya: Problemy vysshego obrazovaniya. 2015. № 2. pp. 117.

it cannot be denied that the framework limiting the right to education has gradually expanded and, since the first mention of this right in international legal acts, has expanded significantly. Since 1990, when the Education for All movement was organized, there has been a qualitative revision of the content of the right to education. The boundaries of the right to education of an individual subject are the entire human life. From birth to death, throughout his life, a person has the right to continuous education<sup>248</sup>. All recent UNESCO declarations are devoted to the right to lifelong education; the right to lifelong education is promoted at the level of regional international legal regulation. In connection with this transformation in the understanding of the right to education, there is a need to give a broader definition.

The right to education is the state-guaranteed opportunity for any person to satisfy their educational needs and continuously develop the individual's potential throughout life, through receiving quality education based on free and equal access to currently existing educational institutions and official recognition of completed education<sup>249</sup>.

To achieve all goals and objectives in the field of education, it is worth noting that this right itself must not only be declared but also be real. Reality in this case means that states must create the opportunity to apply the entire range of measures in the field of education, as well as eliminate artificial barriers that create difficulties for the individual in the process of acquiring knowledge and skills. The reality of the right to education also implies the presence and accessibility in the state of all levels of education (primary, secondary and higher).

Close cooperation and subsequent integration of states in the field of education is necessary to ensure the full implementation of this right, which to one degree or another affects all spheres of life of society and the individual and affects economic, social, cultural, as well as political and civil rights. The right to education, if used wisely, can be an undeniable benefit both for a specific person and for society.

## **2.2. International conventional mechanism for ensuring the realization of the right to education**

### **2.2.1. The concept of implementation in international legal doctrine**

A right that cannot be realized loses its practical significance. Issues of implementation, realization and application of law have been developed in the doctrine for a long time. There

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<sup>248</sup> Jakobi A., Rusconi A. Lifelong Learning in the Bologna Process: European Developments in Higher Education. Compare: A Journal of Comparative and International Education. 2009. 39(1). pp. 51 - 65

<sup>249</sup> Right to Education: Scope and Implementation. General Comment 13 on the Right to Education. UNESCO, 2003. pp. 27.

are different positions regarding the use of the terms “implementation”, “realization”, “application”. The definition of “implementation” given by A.S. Gaverdovsky is still used in the literature, according to which “Implementation of international law is a purposeful organizational and legal activity of states, undertaken individually, collectively or within the framework of international organizations for the purpose of timely, comprehensive and full implementation of the obligations they have accepted in accordance with international law”<sup>250</sup>.

S.V. Chernichenko noted that the terms “implementation”, “application”, “realization” of the norms of international law are very close and mean “the activities of participants in international legal relations to implement these norms”<sup>251</sup>.

According to the definition of V.YA. Suvorova, the implementation of law is its embodiment “in the practical activities of states and other entities”<sup>252</sup>. A.M. Vasiliev emphasized that “only in the process of implementation is law established as an active, creative instrument of influence on the formation of social relations”<sup>253</sup>.

### **2.2.2. The conventional mechanism for implementation of international legal norms**

We examined the right to education and its elements reflected in regulations at various levels. In this chapter we would like to highlight the international conventional and international institutional mechanisms for realizing the right to education, as well as the relationship between the processes of implementation and educational integration.

The analysis in this chapter also integrates a broader international perspective by incorporating non-Eurasian legal literature and comparative studies from regions such as Africa, South Asia, and Latin America. This ensures that the legal discussion reflects both regional specificities and global legal developments in the field of education rights.

The implementation of law is the embodiment of law in the practical activities of states and other entities. Implementation includes two types of activities - direct actual activity to achieve a socially significant result and legal and organizational support for actual activity<sup>254</sup>. When we say, “implementation of a right,” we often mean the implementation of a subjective

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<sup>250</sup> Gaverdovsky A.S. Implementaciya norm mezhdunarodnogo prava. Kyiv. 1980. pp. 62.

<sup>251</sup> Chernichenko S.V. Teoriya mezhdunarodnogo prava. V 2-h tomah. Tom 1: Sovremennyye teoreticheskie problemy. Moscow: Izdatelstvo «NIMP». 1999. pp. 57.

<sup>252</sup> Suvorova V.YA. Realizaciya norm mezhdunarodnogo prava// Ekaterinburg. Izdatel'stvo Sverdlovskogo yuridicheskogo instituta. 1992. pp. 3

<sup>253</sup> Vasiliev A.M. Pravovye kategorii: Metodologicheskie aspekty razrabotki sistemy kategorij teorii prava. M. 1976. pp. 172.

<sup>254</sup> Suvorova V.YA. Realizaciya norm mezhdunarodnogo prava// Ekaterinburg. Izdatel'stvo Sverdlovskogo yuridicheskogo instituta. 1992. pp. 9.

right, but in the case of the right to education, as in many others, the implementation of a subjective right is impossible without the creation of certain conditions, i.e. without the efforts of the state. “Implementation of the rules of law” is a necessary condition for the “realization of subjective rights,” and to avoid confusion in terms, when talking about the efforts of states aimed at ensuring that an individual has the opportunity to realize subjective rights, we use the expression “ensuring the implementation of rights”. The implementation of legal norms does not necessarily occur through a legal relationship, however, a legal relationship, according to S.V. Chernichenko, may be “one of the channels for implementing the relevant norm”. S.V. Chernichenko argues that the activities of participants in a specific legal relationship to implement subjective rights and obligations, which are elements of this legal relationship, will ultimately be the implementation of the corresponding legal norm<sup>255</sup>.

At the national level, the realization of the right to education is operationalized through a variety of concrete instruments. These include strategic policy frameworks, state budget allocations, public funding mechanisms, oversight by ministries of education, and the establishment of independent quality assurance bodies. Ministries play a key role in defining curricular standards, teacher qualification frameworks, and school accreditation systems. Public authorities are also responsible for enforcing compliance with minimum education standards, collecting education-related data, and ensuring inclusive access through affirmative policies. These instruments ensure that international obligations are translated into national education systems.

To understand how the right to education is realized, it is necessary to study the mechanism for implementing international legal norms relating to this right. According to V.V. Lazarev, “the totality of means ensuring the implementation of law, their application and action, constitutes a special mechanism for translating general instructions into the individual behaviour of subjects of law”<sup>256</sup>.

G.I. Kurdyukov emphasized that “the legal basis for the implementation of international law is the principle of conscientious compliance with international obligations”<sup>257</sup>. Studying the mechanism for implementing the rules relating to the right to education, we will use the general scheme of the mechanism for implementing the rules of law, which was proposed in

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<sup>255</sup> Chernichenko S.V. *Teoriya mezhdunarodnogo prava*. V 2-h tomah. Tom 1: *Sovremennyye teoreticheskie problemy*. Moscow: Izdatelstvo «NIMP». 1999. pp. 61.

<sup>256</sup> Lazarev V.V. *Primenenie sovetskogo prava*. Kazan'. Izd-vo Kazanskogo universiteta. 1972. pp. 12.

<sup>257</sup> Kurdyukov G.I. *Realizaciya norm mezhdunarodnogo prava v sfere vnutrigosudarstvennoj kompetencii//Mezhdunarodnoe i vnutrigosudarstvennoe pravo: problemy sravnitel'nogo pravovedeniya*. Sverdlovsk, 1984. pp. 24.

1992 by V.YA. Suvorova in her work “Implementation of International Law” and has not lost its relevance at the present time.

### **2.2.3. Preliminary law-making: framework treaties and soft law in education**

The conventional mechanism for implementing legal norms is “a set of international legal means for implementing norms, their operation and application”<sup>258</sup>. It includes law enforcement rulemaking (preliminary and specific), as well as control and enforcement activities. We will address each of these elements.

The first chapter examined, among other things, acts of “soft law”. Some researchers pay attention to the specifics of the implementation of soft law norms<sup>259</sup>, but, for example, R.M. Khalafyan, considering in his dissertation the mechanism for implementing soft law norms<sup>260</sup>, describes a mechanism that generally coincides with the one proposed by V.YA. Suvorova, therefore, further we will consider the elements of the implementation mechanism as a whole and, where necessary, highlight the features relating to soft law.

The previous chapter examined in detail the norms of international treaties relating to the right to education. At the universal level there are not many preliminary norms. The provisions of the Convention on Technical and Vocational Education of 1989 can be classified as preliminary norms. This convention, of all universal acts, covers the largest number of issues relating to education and educational relations, and at the same time, its wording is extremely general and requires specification. When analysing the Convention, among the “other measures” provided for by the convention to implement its provisions, experts highlight cooperation between states as a separate area, the purpose of which will be to specify the provisions of the convention<sup>261</sup>.

Many preliminary rules concerning the right to education are contained in bilateral treaties. Almost all agreements on cooperation in the field of education between the two states contain the wording “will promote cooperation”, “will take all possible measures to organize cooperation” and the like, without establishing clear obligations. In the future, if states really intend to cooperate in the field of education, to specify the provisions of these agreements, they

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<sup>258</sup> Suvorova V.YA. *Realizaciya norm mezhdunarodnogo prava*// Ekaterinburg. Izdatel'stvo Sverdlovskogo yuridicheskogo instituta. 1992. pp. 28.

<sup>259</sup> Brizkun K. A. *Vliyanie rekomendatel'nyh aktov mezhdunarodnyh organizacij na razvitie mezhdunarodno-pravovyh i vnutrigosudarstvennyh norm Rossijskoj Federacii*: diss. kand. jurid. nauk. M., 2011.

<sup>260</sup> Khalafyan R.M. *Normy mezhdunarodnogo «myagkogo prava» v pravovoj sisteme Rossijskoj Federacii*: diss. kand.yurid.nauk. Kazan', 2016. pp. 35.

<sup>261</sup> Kondratyuk A.V. *Mezhdunarodno-pravovoe regulirovanie sotrudnichestva gosudarstv v sfere obrazovaniya*. Diss. kand. yur. nauk. Sankt-Peterburg, 2007. pp. 54.

adopt cooperation programs in the field of education or separate agreements on cooperation directly in the educational field, which already provide for specific steps towards rapprochement.

The main body of preliminary rulemaking is the so-called “soft law” norms, which were discussed in the first chapter: UNESCO resolutions and recommendations, almost all documents of the Bologna process and other acts of regional integration associations aimed at creating a single educational space.

Although the Bologna Process is often characterized as a soft law framework due to its reliance on non-binding declarations, communiqués, and voluntary cooperation, this qualification does not fully capture the diversity of its implementation across Europe. In some jurisdictions, such as Hungary, the principles and structural reforms of the Bologna Process have been explicitly incorporated into binding national legislation, thereby transforming its provisions into hard legal norms at the domestic level<sup>262</sup>.

As a result, the legal nature of the Bologna Process is best described as context-dependent: while its instruments are non-binding at the international level, they may acquire binding force within national legal systems through legislative acts. This reflects a hybrid legal character that straddles the divide between soft law and hard law. Such an approach is supported by legal scholarship emphasizing that the Bologna Process - though lacking coercive mechanisms - exerts strong normative influence on domestic legal reforms<sup>263</sup>.

There are different points of view regarding what “soft law” is. According to the point of view of M.YU. Velizhanina, soft law can be called “a set of legally non-binding international norms that do not contradict the basic principles and norms of international law, do not contain legal obligations and are enshrined in advisory acts of international organizations and political acts of states”.

R.M. Khalafyan proposes to use a narrower definition of soft law in order not to blur the boundaries of the concept: “international soft law is a set of international legally non-binding (recommendatory) norms containing “models”, “standards” of behaviour, embodied in decisions of international organizations and their bodies, intergovernmental conferences”<sup>264</sup>.

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<sup>262</sup> Bárd K. Implementation of the Bologna Process in Hungary: Legal Aspects. In: Higher Education in Hungary: Transition and Integration. Budapest: Ministry of Education. 2010.

<sup>263</sup> Sursock A., Smidt, H. Trends 2010: A decade of change in European Higher Education. European University Association. 2010.

<sup>264</sup> Khalafyan R.M. Normy mezhdunarodnogo «myagkogo prava» v pravovoj sisteme Rossijskoj Federacii: diss. kand.yurid.nauk. Kazan', 2016. pp. 28.

In our opinion, trying not to “blur” the boundaries of soft law, one can limit it too much. I.I. Lukashuk wrote about the norms of “soft law” that they can be of great importance and are not so much legal as moral and political. And their importance is especially great in new areas of international legal regulation, and the field of education is one of the “young” areas; the formation of an array of norms around it began only in the second half of the twentieth century. According to I.I. Lukashuk, the norms of “soft law” perform a very important function: “they provide preliminary, pre-legal regulation, paving the way for law”<sup>265</sup>. This is especially true in the field of education, where it is very difficult for states to develop a common position and agreement to adopt specific “hard” norms. Moreover, in the educational sphere, the specification of preliminary “soft” norms often also occurs at the expense of other “soft” norms and this, oddly enough, contributes to a more effective implementation of the right to education and the intensification of integration processes in the field of education.

While soft law instruments such as declarations, recommendations, and communiqués have played an essential role in promoting educational integration, their legal limitations must also be acknowledged. Soft law lacks enforceability in the traditional sense - it does not impose binding obligations nor provide direct remedies for individuals whose educational rights are violated. As Manfred Nowak observes, soft law relies on voluntary compliance and lacks judicial enforceability, making its impact heavily dependent on political will and consensus-building<sup>266</sup>. Similarly, Katarina Tomaševski warns that despite their aspirational value, non-binding instruments often fail to provide concrete guarantees or effective remedies for rights-holders<sup>267</sup>. Consequently, although soft law may guide state behaviour and shape international expectations, its ability to guarantee educational rights remains structurally limited. These limitations must be weighed when assessing the overall effectiveness of soft law in realizing the right to education.

If we consider “soft law” not only as a set of norms, but also as moral and political regulation, in our opinion, it should not be limited only to advisory acts of international bodies and organizations, as well as joint statements and communiqués of states. We should not rely on formal aspects when defining what “soft law” is. In our opinion, the most important are the substantive and legal implementation aspects taken together. “Soft law” depends not so much

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<sup>265</sup> Lukashuk I.I. *Mezhdunarodnoe pravo. Obshchaya chast': ucheb.dlya studentov yurid.fak. i vuzov*/ I.I.Lukashuk; Ros.akad.nauk, In-t gosudarstva i prava, Akadem.pravovoj un-t. Izd. 3-e, pererab. i dop. Moscow: Volters Kluver. 2007. pp. 140

<sup>266</sup> Nowak M. *U.N. Covenant on Civil and Political Rights: CCPR Commentary* (2nd ed.). Kehl: N.P. Engel. 2005.

<sup>267</sup> Tomaševski K. *Human Rights Obligations in Education: The 4-A Scheme*. Wolf Legal Publishers. 2001.



on the form in which its norms are expressed and in what source they are contained, but more on whether states make efforts to implement them. And by and large, we can determine whether this or that phenomenon of legal reality is “soft law” only after the fact. If states make massive efforts to implement certain regulations, then these regulations are “soft law”, i.e. have that degree of binding force that forces states to act in a certain way, despite the absence of a strictly defined obligation. If no action is taken, then there is no right, there are only vague intentions, or expressions of politeness, or any other words that are in no way supported by actions. Returning to the acts regulating educational issues, it is worth noting that both the Salamanca Convention of European Higher Education Institutions “Shaping the Future” and the Gothenburg Declaration of Students on the Development of the Bologna Process are traditionally included in the literature among the sources of Bologna Process law. And this is justified. In the educational sphere, we consider it possible to include acts adopted by influential but powerless subjects as “soft law” norms: higher educational institutions, as well as subjects of educational relations - students and teachers, or their associations. According to Aldrich R. this is partly due to the historical context of the development of educational relations and the wide autonomy that European universities have historically enjoyed<sup>268</sup>. However, the most important thing for the mentioned documents is that their provisions were considered in the communique of the Prague meeting of ministers responsible for higher education in Europe, i.e. States consider it necessary to take them into account in the formation of the European educational space and direct efforts towards their implementation.

#### **2.2.4. Specific law-making and legal interpretation**

In the field of education, it is not so easy to identify primary and specific norms, because if we expand this chain from Article 13 of the International Covenant on Economic, Social and Cultural Rights, the remaining conventions adopted at the universal level can be considered specific norms in relation to it. On the other hand, each of these conventions continues to be specified in other international legal acts. Thus, the articles on the right to education in the Convention on the Elimination of All Forms of Discrimination against Women, the Convention on the Rights of the Child and the Convention on the Rights of Persons with Disabilities are specific provisions of the provisions enshrined in the International Covenant on Economic, Social and Cultural Rights. At the same time, certain provisions of the Convention against Discrimination in Education are specific rules regarding the Convention on the Elimination of

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<sup>268</sup> Aldrich R. *Lessons from History of Education*. Routledge: Cromwell Press. 2006. pp. 238.

All Forms of Racial Discrimination and the Convention on the Elimination of All Forms of Discrimination against Women. UNESCO's recommendations on the recognition of courses and certificates of higher education, on the status of teaching staff in higher education institutions can be considered as specific acts for the Convention on Technical and Vocational Education.

When considering regional regulation of the education sector, we drew attention to the fact that many international treaties aimed at creating a common space for higher education contain very vague formulations that do not even have basic definitions, this is especially true for acts adopted within the Commonwealth of Independent States. V.YA. Suvorova wrote that “Concretization and interpretation are closely related. Concretization is unthinkable without interpretation, and interpretation often turns into concretization”<sup>269</sup>. This relationship is especially evident when analysing legal acts of the European region. Specification here is most closely intertwined with interpretation and is carried out mainly in the process of enforcement by the European Court of Human Rights.

#### **2.2.5. Control activities in the field of education**

Control activities are aimed at establishing factual circumstances and their assessment from the point of view of compliance with the requirements of international law; it is based on the collection and assessment of information.

R.M. Khalafyan raises the question of the admissibility of using the very concept of “international control” in relation to the norms of soft law<sup>270</sup>. According to the definition of R.M. Valeev, international control is “the activity of subjects of international law or bodies created by them, based on generally accepted principles and norms of modern international law, which consists in verifying compliance by states with international legal obligations and taking measures to fulfil them”<sup>271</sup>. R.M. Khalafyan proposes to use the concept of monitoring instead of the concept of control in relation to soft law norms, but in our opinion, such a narrowing of the concept is inappropriate. First, the literature identifies two approaches to international control: narrow and broad. In his monograph R.M. Valeev draws attention to the fact that many international lawyers adhere to a narrow approach, according to which

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<sup>269</sup> Suvorova V.YA. *Realizaciya norm mezhdunarodnogo prava*// Ekaterinburg. Izdatel'stvo Sverdlovskogo yuridicheskogo instituta. 1992. pp. 31.

<sup>270</sup> Khalafyan R.M. *Normy mezhdunarodnogo «myagkogo prava» v pravovoj sisteme Rossijskoj Federacii*: diss. kand.yurid.nauk. Kazan', 2016. pp. 60.

<sup>271</sup> Valeev R. M. *Mezhdunarodnyj kontrol'*. Kazan', 1998. pp. 19.

international control is a verification of the fulfilment of obligations assumed under a treaty<sup>272</sup>. However, even if we take a broad approach and include in the concept of control the adoption of certain measures to fulfil obligations, we should not replace one concept with another. In the literature there is no clear distinction between international control and monitoring, and in treaties monitoring is often prescribed as part of control, one of its procedural stages, and there is no need to focus on the use of one or another term, so further we will operate with the concept of control in the mechanism for implementing all acts, regardless of their rigidity.

The United Nations Children's Fund (UNICEF), established on December 11, 1946, by UN General Assembly Resolution A/RES/57 (I)<sup>273</sup>, has some control functions. UNICEF staff collect information on the state of the education system in various countries and based on the results, publish materials designed to point out existing problems to states<sup>274</sup>.

In the field of education, the UN Special Rapporteur on the right to education is primarily responsible for collecting and assessing information. And if the institution of the special rapporteur itself belongs to the institutional mechanism and will be discussed further, then the reports prepared by it can be clearly attributed to the results of control activities, in which a huge amount of data is processed on the state of the education sector in different countries, and which are subsequently used for law enforcement.

At the same time, it cannot be said that control in the mechanism for realizing the right to education is effective. Unfortunately, the reports of the UN Special Rapporteur on the right to education are only considered by the UN General Assembly and do not have a decisive influence on states that are not inclined to listen to the conclusions contained in the reports if they are not satisfied with them for some reason.

#### **2.2.6. Law enforcement practice: application of legal norms**

In the scientific literature, there are different positions regarding the use of the concept “application of law”. A.M. Vasiliev classifies the application of law as a means of implementation and puts it on a par with the concepts of “compliance”, “execution”, “use” of legal norms. However, L.P. Anufrieva also cites a “narrow” or “special” meaning of the concept, according to which “the application of law is its authoritative exercise that occurs in

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<sup>272</sup> Valeev R. M. *Mezhdunarodnyj kontrol'*. Kazan', 1998. pp. 16.

<sup>273</sup> UN General Assembly Resolution A/RES/57 (I) on Establishment of an International Children's Emergency Fund, United Nations Digital Library System, <https://digitallibrary.un.org/record/195819?ln=en&v=pdf> (Retrieved on 3 of February 2025)

<sup>274</sup> Education for Some More than Others? A Regional Study on Education in Central and Eastern Europe and the Commonwealth of Independent States (CEE/CIS). UNICEF regional office for CEE/CIF. 2007.

the event of an offense or a dispute about the law”<sup>275</sup>. She emphasizes that it is in this sense that “application of international law” is meant in Article 38 of the Statute of the International Court of Justice, and is also used in the practice of international organizations and their institutions<sup>276</sup>. In the context of the mechanism for implementing the rules relating to the right to education, we consider application in a narrow sense, i.e. in cases where the right has been violated in one way or another.

There are not many bodies carrying out law enforcement activities regarding the right to education and their practice is not very extensive.

In this paragraph we will touch only on universal law enforcement practice, because selected cases from the practice of regional law enforcement bodies (in particular, the European Court of Human Rights, which is most actively involved in issues of the right to education in the European region) were considered in the first chapter.

At the universal level, there is the Committee on Economic, Social and Cultural Rights, which was created in accordance with the Optional Protocol to the International Covenant on Economic, Social and Cultural Rights<sup>277</sup>, and is authorized to consider communications from individuals about violations of their rights established by the International Covenant on Economic, Social and Cultural Rights. The Committee may also investigate gross or systematic violations of these rights. Based on the results of consideration of communications, he can only present to the parties “his views on the communication with his recommendations” (clause 1 of Article 9) and invite the state to provide additional information about the measures taken in connection with its recommendations. To date, the Committee has not yet developed a stable practice specifically in terms of protecting the violated right to education, since the Committee received the authority to consider individual communications relatively recently (the Optional Protocol to the Covenant entered into force on 05/05/2013).

According to A.H. Abashidze, “there is no doubt that the Committee’s views on individual complaints will be in demand conceptually both by regional human rights mechanisms to ensure economic, social and cultural rights, and by the states parties themselves to the International Covenant on Economic, Social and Cultural Rights to improve national

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<sup>275</sup> Anufrieva L.P. Sootnoshenie mezhdunarodnogo publichnogo i mezhdunarodnogo chastnogo prava: pravovyye kategorii. Moscow: Spark. 2002. pp. 282.

<sup>276</sup> Anufrieva L.P. Sootnoshenie mezhdunarodnogo publichnogo i mezhdunarodnogo chastnogo prava: pravovyye kategorii. Moscow: Spark. 2002. pp. 282.

<sup>277</sup> Optional Protocol to the International Covenant on Economic, Social and Cultural Rights, adopted on 10 December 2008 by sixty-third session of the General Assembly by resolution A/RES/63/117, <https://www.ohchr.org/en/instruments-mechanisms/instruments/optional-protocol-international-covenant-economic-social-and> (Retrieved on 3 of February 2025)

legislation and increasing the effectiveness of domestic remedies"<sup>278</sup>. It is likely that when practice concerning the right to education becomes more extensive, such influence will be traceable.

Two examples of violations of the right to education considered by the Committee on the Rights of Persons with Disabilities can also be considered as examples. Both communications were submitted in relation to Sweden (Communication O.O.J. dated 03/18/2015 (CRPD/C/18/D/28/2015<sup>279</sup>) and Communication D.I. dated 07/08/2015 (CRPD/C/17/D/31/2015<sup>280</sup>)). Both communications were declared inadmissible for failure to exhaust domestic remedies, but in the O.O.J. the position of the Committee on state responsibility for possible violations that another state may commit is interesting. The Committee considers that the expulsion by a state party of a person to a jurisdiction where he or she may face a risk of violation of the Convention may, in some circumstances, entail the responsibility of the expelling State and on this basis applies the principle of extraterritorial effect of the Convention on rights of persons with disabilities.

Two communications concerning the right to education were also considered by the Committee on the Elimination of Racial Discrimination (communication by Murat Er dated 20.12.2006 (CERD/C/71/D/40/2007<sup>281</sup>) in relation to Denmark and communication by D.R. dated 01.06.2008 (CERD/C/75/D/42/2008<sup>282</sup>) in relation to Australia). In the Murat Er case, a violation of the International Convention on the Elimination of All Forms of Racial Discrimination was found due to the fact that a situation of refusal to undergo training after

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<sup>278</sup> Abashidze A.H., «Izmenilos' li otnoshenie k voprosu o pravovom obespechenii ekonomicheskikh, social'nyh i kul'turnyh prav cheloveka spustya 50 let s momenta prinyatiya Mezhdunarodnogo pakta ob ekonomicheskikh, social'nyh i kul'turnyh pravah?»// 50 let Mezhdunarodnym paktam o pravah cheloveka: materialy nauchno-prakticheskoy konferencii/ Moscow: RUDN. 2017. pp. 47.

<sup>279</sup> Decision adopted by the Committee under article 2 of the Optional Protocol, concerning communication No. 28/2015  
[https://tbinternet.ohchr.org/\\_layouts/15/TreatyBodyExternal/Download.aspx?symbolno=CRPD%2FC%2F18%2FD%2F28%2F2015&Lang=en](https://tbinternet.ohchr.org/_layouts/15/TreatyBodyExternal/Download.aspx?symbolno=CRPD%2FC%2F18%2FD%2F28%2F2015&Lang=en) (Retrieved on 3 of February 2025)

<sup>280</sup> Decision adopted by the Committee under article 2 of the Optional Protocol, concerning communication No. 31/2015  
[https://tbinternet.ohchr.org/\\_layouts/15/TreatyBodyExternal/Download.aspx?symbolno=CRPD%2FC%2F17%2FD%2F31%2F2015&Lang=en](https://tbinternet.ohchr.org/_layouts/15/TreatyBodyExternal/Download.aspx?symbolno=CRPD%2FC%2F17%2FD%2F31%2F2015&Lang=en) (Retrieved on 3 of February 2025)

<sup>281</sup> Opinion of the Committee on the elimination of racial discrimination under article 14 of the International convention on the elimination of all forms of racial discrimination on Seventy-First session concerning Communication No. 40/2007,  
[https://tbinternet.ohchr.org/\\_layouts/15/TreatyBodyExternal/Download.aspx?symbolno=CERD%2FC%2F71%2FD%2F40%2F2007&Lang=en](https://tbinternet.ohchr.org/_layouts/15/TreatyBodyExternal/Download.aspx?symbolno=CERD%2FC%2F71%2FD%2F40%2F2007&Lang=en) (Retrieved on 3 of February 2025)

<sup>282</sup> Opinion of the Committee on the elimination of racial discrimination under article 14 of the International convention on the elimination of all forms of racial discrimination on Seventy-Fifth session concerning Communication No. 42/2008,  
<https://undocs.org/Home/Mobile?FinalSymbol=CERD%2FC%2F75%2FD%2F42%2F2008&Language=E&DeviceType=Desktop&LangRequested=False> (Retrieved on 3 of February 2025)

training on the basis of Turkish or Pakistani origin was found and the state failed to carry out an effective investigation and did not provide effective remedies to the applicant legal protection. In a message from D.R. the alleged violation of the right to access higher education was appealed, but the Committee found no violations.

Separately, it is worth paying attention to the cases considered by the Human Rights Committee, whose competence includes consideration of communications regarding violations of the International Covenant on Civil and Political Rights. Although the right to education is provided for in the International Covenant on Economic, Social and Cultural Rights, the practice of the Human Rights Committee illustrates the inextricable link between the right to education and other rights. In particular, the Committee considered more than twenty communications, which highlighted the impact of the organization of the education system in the state on the implementation of the rights provided for by the International Covenant on Civil and Political Rights, including the right to freedom of thought, conscience and religion, the right to private life, the right to participate in public life, the right to participate in free and fair elections.

### **2.3. International institutional mechanism to ensure the realization of the right to education**

The international institutional mechanism for the implementation of norms relating to the right to education is a set of bodies and organizations, as well as the states themselves, that carry out activities to implement the right. V.YA. Suvorova identifies the following forms of activity within the institutional mechanism: negotiations, consultations, meetings, conferences, as well as judicial proceedings and consideration of issues in conciliation commissions<sup>283</sup>. The mechanism for ensuring the realization of the right to education contains many of the listed forms.

Judicial and quasi-judicial proceedings were examined in the previous paragraph, describing law enforcement practice relating to the right to education. In this paragraph we will consider other forms of organizational and legal support for the implementation of the right to education.

#### **2.3.1. Ministerial Meetings and Conferences**

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<sup>283</sup> Suvorova V.YA. *Realizaciya norm mezhdunarodnogo prava*// Ekaterinburg. Izdatel'stvo Sverdlovskogo yuridicheskogo instituta. 1992. pp. 38 - 42.

One of the most common forms is meetings and conferences of various officials of cooperating states. Meetings and conferences play a particularly noticeable role in integration processes in the European space. Since the launch of the Bologna Process, meetings of ministers responsible for higher education have been held every two years, following which communiqués are adopted that reflect the results and prospects for the implementation of Bologna Process activities.

The Prague Communiqué of the Meeting of European Ministers Responsible for Higher Education “Towards the European Higher Education Area”<sup>284</sup>, adopted in May 2001, two months after the Salamanca Convention and the Gothenburg Declaration, emphasized that the ministers took into account both of these documents and appreciated the active participation in the Bologna Process of the European University Association and the Association of National Unions of Students in Europe, and also supported the thesis that higher education should be seen as a public good and students are full members of the higher education community. The communiqué then comments on the six objectives of the Bologna Process and places emphasis on certain points: lifelong learning, the need to involve universities and students in shaping the European Higher Education Area and helping to make the European Higher Education Area attractive.

Two years later, in September 2003, the next conference of ministers of higher education took place in Berlin. Much of the final communiqué “Realising the European Higher Education Area”<sup>285</sup> is devoted to achievements related to the goals of the Bologna Process. The need to create common criteria and methods for assessing quality is emphasized, and at the same time the need to comply with the principle of university autonomy, according to which responsibility for ensuring quality rests with the universities themselves. A noticeable process of restructuring of higher education associated with the development of a system of comparable qualifications has been noted and further steps for the development of this system have been identified. A significant increase in student mobility and the need to improve statistical recording of student mobility were also noted. The implementation of the European Credit

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<sup>284</sup> “Towards the European higher education area”, Communiqué of the meeting of European Ministers in charge of Higher Education in Prague on May 19th 2001, [https://www.ehea.info/media.ehea.info/file/2001\\_Prague/44/2/2001\\_Prague\\_Communique\\_English\\_553442.pdf](https://www.ehea.info/media.ehea.info/file/2001_Prague/44/2/2001_Prague_Communique_English_553442.pdf) (Retrieved on 3 of February 2025)

<sup>285</sup> “Realising the European Higher Education Area”, Communiqué of the Conference of Ministers responsible for Higher Education in Berlin on 19 September 2003, [www.ehea.info/media.ehea.info/file/2003\\_Berlin/28/4/2003\\_Berlin\\_Communique\\_English\\_577284.pdf](https://www.ehea.info/media.ehea.info/file/2003_Berlin/28/4/2003_Berlin_Communique_English_577284.pdf) (Retrieved on 3 of February 2025)

Transfer System (ECTS) is also considered satisfactory and is increasingly becoming a common basis for the creation of national credit systems.

The communiqué notes the particular importance of the Lisbon Convention on the Recognition of Qualifications concerning Higher Education in the European Region<sup>286</sup>, which must be ratified by all countries participating in the Bologna Process, and the networks of the European Network of National Information Centres on Academic Mobility and Recognition (ENIC) and the National Information Centre on Academic Recognition (NARIC) together with national authorities should promote the implementation of the provisions of the Convention<sup>287</sup>.

In the Berlin Communiqué, for the first time, the thesis about the need to expand the Bologna process in order to strengthen the ties between the European higher education area and the European scientific research area appears; for this purpose, it is proposed to include in the process a third cycle of education - postgraduate studies (doctoral studies).

In 2005, the Bergen Communiqué “The European Higher Education Area - Achieving the Goals”<sup>288</sup> was adopted, and in 2007 the London Communiqué “Towards the European Higher Education Area: responding to challenges in a globalised world”<sup>289</sup> was adopted. In these communiqués, the range of issues covered remained the same as in the previous ones.

In 2009, another conference was held at which the Leuven Communiqué “The Bologna Process 2020 - The European Higher Education Area in the new decade”<sup>290</sup> was adopted. This communiqué was adopted 10 years after the start of the Bologna process and shortly after the global economic crisis. In these circumstances, the achievements of the first decade of the construction of the European Higher Education Area were assessed and it was emphasized that it is necessary to maintain sufficient higher education resources to continue to fulfil such tasks as: preparing students for life as active citizens of a democratic society; preparing students for

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<sup>286</sup> Convention on the Recognition of Qualifications concerning Higher Education in the European Region (ETS No. 165), <https://www.coe.int/en/web/conventions/full-list?module=treaty-detail&treaty-num=165> (Retrieved on 3 of February 2025)

<sup>287</sup> Uvalić-Trumbić S., Bergan, S. The Lisbon Convention on the recognition of qualifications concerning higher education in the European region: an example of successful co-operation between the council of Europe and UNESCO. Higher Education in Europe. Vol. 21(4). 1996. pp. 9–25.

<sup>288</sup> “The European Higher Education Area - Achieving the Goals” Communiqué of the Conference of European Ministers Responsible for Higher Education, Bergen, 19-20 May 2005, [http://www.ehea.info/media.ehea.info/file/2005\\_Bergen/52/0/2005\\_Bergen\\_Communique\\_english\\_580520.pdf](http://www.ehea.info/media.ehea.info/file/2005_Bergen/52/0/2005_Bergen_Communique_english_580520.pdf) (Retrieved on 3 of February 2025)

<sup>289</sup> London Communiqué “Towards the European Higher Education Area: responding to challenges in a globalised world”, [https://www.ehea.info/Upload/document/ministerial\\_declarations/2007\\_London\\_Communique\\_English\\_588697.pdf](https://www.ehea.info/Upload/document/ministerial_declarations/2007_London_Communique_English_588697.pdf) (Retrieved on 3 of February 2025)

<sup>290</sup> “The Bologna Process 2020 - The European Higher Education Area in the new decade”, Communiqué of the Conference of European Ministers Responsible for Higher Education, Leuven and Louvain-la-Neuve, 28-29 April 2009, [www.ehea.info/media.ehea.info/file/2009\\_Leuven\\_Louvain-la-Neuve/06/1/Leuven\\_Louvain-la-Neuve\\_Communique\\_April\\_2009\\_595061.pdf](http://www.ehea.info/media.ehea.info/file/2009_Leuven_Louvain-la-Neuve/06/1/Leuven_Louvain-la-Neuve_Communique_April_2009_595061.pdf) (Retrieved on 3 of February 2025)



future careers and developing their personalities; creating and maintaining a broad base of advanced knowledge and stimulating research and innovation. At the same time, the policy of reforming higher education must comply with the principles of institutional autonomy, academic freedom and social justice and be carried out with the active participation of students and staff of higher education. The communiqué also set goals for the development of a “Europe of Knowledge” for the decade until 2020.

As a result of the Bucharest forums on April 26-27, 2012, the communiqué “Making the Most of Our Potential: Consolidating the European Higher Education Area”<sup>291</sup> was adopted. This document highlights the real achievements of the Bologna Process: higher education structures in Europe have become more comparable and compatible, quality assurance systems have increased trust, higher education qualifications are becoming more comparable across countries, and the involvement of different stakeholders in higher education has increased. However, many goals were not fully achieved and the parties again set themselves the goals of ensuring quality higher education for all, increasing the employability of graduates and increasing mobility to improve learning, as well as ensuring the highest possible level of public funding for universities.

In the communiqué of the conference of ministers of higher education, adopted on May 14-15, 2015, in Yerevan<sup>292</sup>, in addition to the achievements of the Bologna process, shortcomings are also noted: the implementation of structural reforms is uneven, and the Bologna instruments are sometimes used incorrectly, superficially or in a bureaucratic formal manner. The serious challenges facing the European higher education area, namely the ongoing socio-economic crisis, high unemployment, increasing marginalization of youth, demographic changes, new patterns of migration and inter- and intra-state conflicts, as well as extremism and radicalization, have required an updated development concept. The updated concept included the following goals:

- Enhancing the quality and relevance of learning and teaching;
- Fostering the employability of graduates throughout their working lives in rapidly changing labour markets;
- Making education systems more inclusive;

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<sup>291</sup> “Making the Most of Our Potential: Consolidating the European Higher Education Area”, Bucharest Communiqué,

[https://www.ehea.info/Upload/document/ministerial\\_declarations/Bucharest\\_Communique\\_2012\\_610673.pdf](https://www.ehea.info/Upload/document/ministerial_declarations/Bucharest_Communique_2012_610673.pdf)

(Retrieved on 3 of February 2025)

<sup>292</sup> Yerevan

Communiqué,

<https://ehea.info/media.ehea.info/fi>

[/2015\\_Yerevan/70/7/YerevanCommuniquéFinal\\_613707.pdf](https://ehea.info/media.ehea.info/fi/2015_Yerevan/70/7/YerevanCommuniquéFinal_613707.pdf) (Retrieved on 3 of February 2025)

- Implementing agreed structural reforms;
- The governance and working methods of the EHEA must develop to meet the challenges<sup>293</sup>.

Since then, European higher education systems have worked to ensure that efforts to raise the quality of teaching and research would go hand-in-hand with raising opportunities for under-represented groups, instead of bringing about increased social exclusion. The commitment to making higher education more socially inclusive was firmly inscribed in the 2015 Yerevan communiqué announcing the implementation of the European Higher Education Area (EHEA) social dimension strategy<sup>294</sup>.

This communiqué is characterized by its emphasis on “enhancing the quality and relevance of learning and teaching” as one of the main areas of cooperation, which echoes the approach to education that is gaining momentum at the universal level. “Quality education” is one of the already mentioned “2015 Sustainable Development Goals”, and states at the regional level also highlight this goal as the main one and propose steps to achieve it. Even greater emphasis on improving the quality of education and organizing lifelong learning was placed in the latest Paris Communiqué<sup>295</sup>, adopted in May 2018. In addition, emphasis is placed on the need to strengthen the social aspect of education.

It can be concluded that meetings, as an element of the institutional mechanism for ensuring the realization of the right to education, play a very important role, especially at the regional level. During meetings regarding the implementation of the provisions of the Bologna Process, states not only report on the progress of reforms; when developing final communiqués, goals and objectives are clarified, the course of cooperation is adjusted, and the highest priority areas of development are determined.

### **2.3.2. International Organizations and Cooperation Programs**

There are few international bodies and organizations whose goal is to ensure the realization of the right to education.

The main universal organization is UNESCO, within which the texts of international treaties affecting the right to education are developed, as well as programs of cooperation and

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<sup>293</sup> Martínez-Carrasco R. The politics of learning within Post-Yerevan EHEA: Some epistemological remarks on the role of university lecturers. *Fòrum de recerca*. 2016. pp. 369 - 379.

<sup>294</sup> Curaj A., D. Ligia, P. Remus. *European Higher Education Area: The Impact of Past and Future Policies*. Cham: Springer Nature. 2018. pp. 142.

<sup>295</sup> Paris Communiqué, Paris, May 25th 2018, [www.ehea.info/Upload/document/ministerial\\_declarations/EHEAParis2018\\_Communique\\_final\\_952771.pdf](http://www.ehea.info/Upload/document/ministerial_declarations/EHEAParis2018_Communique_final_952771.pdf) (Retrieved on 3 of February 2025)

assistance to states in ensuring the right to education. In particular, it is UNESCO that is responsible for ensuring universal, inclusive and equitable quality education and lifelong learning based on the Education 2030 Framework for Action<sup>296</sup>, develops programs, and encourages international exchange of persons involved in the educational process. The structure of the UNESCO education sector includes 6 institutes and 2 educational centres, which are designed to help individual states cope with specific challenges in the field of education. Among them are the International Bureau of Education, the UNESCO International Institute for Educational Planning, the UNESCO Institute for Lifelong Learning, the UNESCO Institute for Information Technologies in Education, and the UNESCO International Centre for Technical and Vocational Education and Training.

There is also a Committee on Conventions and Recommendations of the Executive Council of UNESCO, which has the power to consider individual communications of alleged violations of rights, including the right to education. Based on the results of its work, the Committee approves a report, which may contain recommendations that are formulated either in a general form or in relation to a specific communication. The main criticism of the committee's activities is that it is not well known and overly politicized<sup>297</sup>, but despite some shortcomings, the Committee's activities regarding the right to education are quite intensive, and the adoption of the 2030 Agenda for Sustainable Development has contributed to even greater intensification. In particular, one of the latest reports of the Committee on Conventions and Recommendations (202 EX/46<sup>298</sup>), adopted on 16.10.2017, covers issues of general monitoring of the implementation of regulations in the field of education, as well as issues of implementation of individual conventions and recommendations in the light of the implementation of Goal 4 ("Quality education") in the field of sustainable development. Regarding the implementation of the 1960 Convention and Recommendation against Discrimination in Education, the Director of the Division of Policy and Lifelong Learning Systems of the Education Sector noted that "the monitoring of the right to education was crucial to guarantee government accountability and transparency". In considering the implementation of the 1993 Recommendation on the Recognition of Courses and Certificates in Higher Education, information was provided on the work carried out in each region, as well as on the

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<sup>296</sup> Incheon Declaration and Framework for Action for the implementation of Sustainable Development Goal 4, [https://uis.unesco.org/sites/default/files/documents/education-2030-incheon-framework-for-action-implementation-of-sdg4-2016-en\\_2.pdf](https://uis.unesco.org/sites/default/files/documents/education-2030-incheon-framework-for-action-implementation-of-sdg4-2016-en_2.pdf) (Retrieved on 3 of February 2025)

<sup>297</sup> Mingazov L.H. Zashchita prav cheloveka v ramkah UNESCO//Mezhdunarodnaya zashchita prav cheloveka: uchebnik/pod red. A.H.Abashidze. Moscow: RUDN. 2017. pp. 169.

<sup>298</sup> Report of the committee on conventions and recommendations, dd. 16 October 2017, <https://unesdoc.unesco.org/ark:/48223/pf0000259588> (Retrieved on 3 of February 2025)

development of a preliminary draft of a Global Convention for the Recognition of Higher Education Qualifications.

In realizing the right to education, especially the right to primary education, UNICEF plays a significant role, within the framework of which it conducts research on the state of the education system in various regions, monitors the quality of education, as well as develops and implements standards and programs. The priority themes of UNICEF developments in the field of education are equal access and universal primary education, gender equality in access to education, as well as the implementation of an educational cluster for emergencies and post-crisis situations.

### **2.3.3. The Mandate and Impact of the UN Special Rapporteur**

The only specialized body whose activities are aimed exclusively at ensuring the realization of the right to education is the UN Special Rapporteur on the right to education.

The mandate of the UN Special Rapporteur on the right to education was established in 1998. Paragraph 6 of Commission on Human Rights Resolution 1998/33<sup>299</sup> establishes the following functions of the Special Rapporteur on the right to education:

- To report on the status, throughout the world, of the progressive realization of the right to education, including access to primary education, and the difficulties encountered in the implementation of this right, taking into account information and comments received from Governments, organizations and bodies of the United Nations system, other relevant international organizations and non-governmental organizations;
- To promote, as appropriate, assistance to Governments in working out and adopting urgent plans of action, wherever they do not exist, to secure the progressive implementation, within a reasonable number of years, of the principle of compulsory primary education free of charge for all, bearing in mind, inter alia, levels of development, the magnitude of the challenge and efforts by Governments;
- To take into account gender considerations, in particular the situation and needs of the girl child, and to promote the elimination of all forms of discrimination in education;

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<sup>299</sup> “Question of the realization in all countries of the economic, social and cultural rights contained in the Universal Declaration of Human Rights and in the International Covenant on Economic, Social and Cultural Rights, and study of special problems which the developing countries face in their efforts to achieve these human rights”, Commission on Human Rights resolution 1998/33, <https://ap.ohchr.org/documents/E/CHR/resolutions/E-CN-4-RES-1998-33.doc> (Retrieved on 3 of February 2025)

- To make his or her reports available to the Commission on the Status of Women whenever they concern the situation of women in the field of the right to education;
- To develop a regular dialogue and discuss possible areas of collaboration with relevant United Nations bodies, specialized agencies and international organizations in the field of education, inter alia the United Nations Educational, Scientific and Cultural Organization, the United Nations Children's Fund, the United Nations Conference on Trade and Development and the United Nations Development Programme, and with international financial institutions, such as the World Bank;
- To identify possible types and sources of financing for advisory services and technical cooperation in the field of access to primary education.

In the almost twenty years since the establishment of the mandate of the UN Special Rapporteur on the right to education, more than 40 reports have been prepared on various issues related to the right to education. In addition to annual reports and reports on visits to individual states, thematic reports were published based on the results of activities, which raised issues of the right to education of certain categories of people (girls<sup>300</sup>, disabled people<sup>301</sup>, people in emergency situations<sup>302</sup> and persons in detention<sup>303</sup>). The reports also highlighted certain problems that states face in ensuring the realization of the right to education: equality of opportunity in the learning process, financing of education, ensuring the safety of educational institutions, regulatory support for quality education, protecting education from commercialization. The Special Rapporteur on the right to education, who held this post from 2010 to 2016, Professor Kishore Singh, did not ignore the pressing issue of the right to education in a digital environment, as well as the issue of the relationship between the right to education and the right to lifelong learning<sup>304</sup>.

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<sup>300</sup> “Girls’ right to education”, Report submitted by the Special Rapporteur on the right to education, Mr. V. Muñoz Villalobos, [www.right-to-education.org/sites/right-to-education.org/files/resource-attachments/UNSR\\_Girls\\_Right\\_to\\_Education\\_2006.pdf](http://www.right-to-education.org/sites/right-to-education.org/files/resource-attachments/UNSR_Girls_Right_to_Education_2006.pdf) (Retrieved on 3 of February 2025)

<sup>301</sup> Implementation of General Assembly Resolution 60/251 of 15 March 2006 entitled “Human Rights Council”, “The right to education of persons with disabilities”, Report of the Special Rapporteur on the right to education, Vernor Muñoz, <https://www.ohchr.org/Documents/Issues/Disability/A.HRC.4.29.doc> (Retrieved on 3 of February 2025)

<sup>302</sup> “The right of the child to education in emergency situations” recommendations adopted on 19 September 2008, [www.right-to-education.org/sites/right-to-education.org/files/resource-attachments/CRC\\_Report\\_Right\\_of\\_the\\_Child\\_to\\_Education\\_in\\_Emergencies\\_2008.pdf](http://www.right-to-education.org/sites/right-to-education.org/files/resource-attachments/CRC_Report_Right_of_the_Child_to_Education_in_Emergencies_2008.pdf) (Retrieved on 3 of February 2025)

<sup>303</sup> “The right to education of persons in detention”, Report of the Special Rapporteur on the right to education, Vernor Muñoz, [www.right-to-education.org/sites/right-to-education.org/files/resource-attachments/UNSR\\_RTE\\_of\\_Persons\\_in\\_Detention\\_2009.pdf](http://www.right-to-education.org/sites/right-to-education.org/files/resource-attachments/UNSR_RTE_of_Persons_in_Detention_2009.pdf) (Retrieved on 3 of February 2025)

<sup>304</sup> Annual thematic reports, Special Rapporteur on the right to education, <https://www.ohchr.org/en/special-procedures/sr-education/annual-thematic-reports> (Retrieved on 3 of February 2025)

In a 2020 report to the Human Rights Council, Special Rapporteur Koumbou Boly Barry emphasized that the digital transformation of education, while promising greater access and flexibility, also risks exacerbating existing inequalities (A/HRC/44/39). The report warns that without public investment, universal connectivity, and regulatory safeguards, marginalized groups may be further excluded. It also calls for robust legal protections to ensure the right to education in digital contexts, including safeguards for data privacy, the prevention of commercial exploitation, and the promotion of digital literacy. The Special Rapporteur urged states to approach digital education not merely as a technological opportunity, but as a human rights obligation<sup>305</sup>.

International legal and institutional mechanisms for the implementation of norms related to the right to education are the basis for the implementation of the right to education, for the embodiment of this right. Of course, not everything in these mechanisms works smoothly; certain difficulties arise, especially when specific actions are required. As in many areas of international law, in the implementation of the right to education, a lot of attention is paid to words: reports, meetings, development of plans and programs. This may be partly due to the “youth” of the education sector as a focus of international law. For full implementation, a gradual transition from words to actions is necessary. One of the most obvious steps is to develop a more effective mechanism for monitoring the implementation of rules relating to the right to education, for example, expanding the powers of the Special Rapporteur on the right to education.

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<sup>305</sup> UN Human Rights Council. Report of the Special Rapporteur on the Right to Education, Koumbou Boly Barry. A/HRC/44/39, 2020.

## CHAPTER 3. EDUCATIONAL INTEGRATION IN THE MECHANISM OF ENSURING THE EXERCISE OF THE RIGHT TO EDUCATION

### 3.1. The concept and features of international integration

Integration is a general scientific category and can be an object of study in both the humanities and natural sciences. This chapter will examine the use of the integration category in international law, in particular, in the emerging field of international educational law. The term "integration" means the unification of any parts into a single whole<sup>306</sup>.

In the general scientific sense, "integration is a dynamic movement towards unity, the unification of disparate elements into a new, larger, perfect, integral system"<sup>307</sup>.

In modern international law, the term "integration" is included in the methodological toolkit and is defined as "a process in which the quality of relations between autonomous social units is measured in such a way that each autonomous entity becomes an integral part of a larger social association"<sup>308</sup>. However, not all international law scholars have a positive attitude towards the use of the concept of "integration". For example, A.V. Klemin calls integration "a vague and unconventional pseudo-concept"<sup>309</sup> that replaces the classical international legal terms "cooperation," "interaction," and sometimes "international trade". A.V. Klemin denies the word "integration" the status of a term or concept, since even if the word is used in a convention, it does not find a "conceptual explanation" anywhere. Indeed, a normative definition of integration has not yet been formed, but the concept of integration is used very actively in the scientific community, and, in our opinion, it is not entirely fair to consider this concept non-existent.

The understanding of the term is evolving, for example, A.O. Chetverikov initially equated the concepts of international integration and "internationalization of public life"<sup>310</sup>, but in a later work he emphasized that "internationalization in itself is not synonymous with integration"<sup>311</sup>.

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<sup>306</sup> Usenko E.T. Kurs mezhdunarodnogo prava: V 7 tomah. Volume 7: Mezhdunarodno-pravovye formy integracionnyh processov v sovremennom mire. Moscow. 1993. pp. 8 - 16.

<sup>307</sup> Kashkin S.Yu., Chetverikov A.O. Osnovy integracionnogo prava: uchebnoe posobie. Moscow: Prospekt. 2015. pp. 16.

<sup>308</sup> Kashirkina A.A., Morozov A.N. Mezhdunarodno-pravovye modeli Evropejskogo soyuza i Tamozhennogo soyuza: sravnitel'nyj analiz: Monografiya. Moscow: IZiSP; KONTRAKT. 2012. pp. 22 - 24.

<sup>309</sup> Klemin A.V. Imidzhevye epitety terminami ne yavlyayutsya. Sovremennaya Evropa. 2015. № 5 (65). pp. 144.

<sup>310</sup> Kashkin S.Yu., Chetverikov A.O. Osnovy integracionnogo prava: uchebnoe posobie. Moscow: Prospekt. 2015. pp. 21.

<sup>311</sup> Kashkin S.Yu., Chetverikov A.O. Osnovy integracionnogo prava: uchebnoe posobie. Moscow: Prospekt. 2015. pp. 17.

International integration is generally assessed positively in legal doctrine and is considered by scholars as a process by which states remove barriers to free trade and free movement of people across national borders in order to reduce tensions that could lead to international conflict<sup>312</sup>. The doctrine also distinguishes between international integration in a broad and narrow sense. International integration in a broad sense is an objective and spontaneous process of unification of countries and peoples due to the expansion of international relations and increasing internationalization of public life. In a narrow sense, international integration is understood as targeted joint activity of states that serves to overcome mutual isolation<sup>313</sup>.

The term "legal integration" is often used in jurisprudence. A.V. Egorov defines legal integration as an objective manifestation of the socio-psychological need of communities to come together<sup>314</sup>. At the same time, he emphasizes that law in itself does not generate economic, political or any other integration. According to A.V. Egorov, integration is an independent objective process of interpenetration of elements of the sphere of human existence, where law is one of the formal-structural formations that ensure integration<sup>315</sup>.

Researchers of integration processes in the post-Soviet space offer the following definition: "Integration is a means of solving global social problems of states, connected by the historical past and economic present, and its legal regulation is a juridical mechanism that ensures their effective implementation"<sup>316</sup>.

The processes of interstate integration are classified on various grounds. For example, based on the scale of integration processes, regional and international integration are distinguished.

According to the criterion of belonging to a certain sphere of public life, political, legal, cultural, and economic integration are distinguished<sup>317</sup>. Political integration is understood as the process of convergence and interaction of political structures of different states, through which supranational governing bodies are formed. Legal integration is the process of convergence of legal systems of different countries, because of which a single legal space can

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<sup>312</sup> Kashirkina A.A., Morozov A.N. *Mezhdunarodno-pravovye modeli Evropejskogo soyuza i Tamozhennogo soyuza: sravnitel'nyj analiz: Monografiya*. Moscow: IZiSP; KONTRAKT. 2012. pp. 10.

<sup>313</sup> Kashkin S.Yu., Chetverikov A.O. *Osnovy integracionnogo prava: uchebnoe posobie*. Moscow: Prospekt. 2015. pp. 17.

<sup>314</sup> Egorov A.V. *Pravovaya integraciya i ee sodержanie* // *Gosudarstvo i pravo*. 2004. № 6. pp. 74 - 84.

<sup>315</sup> Egorov A.V. *Pravovaya integraciya i ee sodержanie* // *Gosudarstvo i pravo*. 2004. № 6. pp. 74.

<sup>316</sup> Zhbakov V.A., Kashkin S.Yu., Slepak V.Yu. *Osnovy pravovogo regulirovaniya integracionnyh processov na postsovet'skom prostranstve: monografiya*. Moscow: Norma, Infra-M. 2013. pp. 10.

<sup>317</sup> Zhbakov V.A., Kashkin S.Yu., Slepak V.Yu. *Osnovy pravovogo regulirovaniya integracionnyh processov na postsovet'skom prostranstve: monografiya*. Moscow: Norma, Infra-M. 2013. pp. 13.



be created. Cultural integration is the process of interpenetration of cultures of different communities, ethnic groups, and societies into each other. Economic integration can be defined as the interaction and mutual adaptation of national economies of different countries, leading to the gradual merger of national economies<sup>318</sup>.

This classification is not exhaustive. The doctrine of international law distinguishes the following types of international integration<sup>319</sup>:

1. By direction of action: negative and positive
  - Negative integration consists of mutual elimination by integrating states of obstacles to the development of cross-border relations (for example, the elimination of border controls, the abolition of visa regimes, the elimination of barriers to trade turnover, etc.);
  - Positive integration involves the development and implementation by integrating states of a common policy for managing public life on their combined territory (for example, the unification of monetary systems and the introduction of a single currency).
2. By the degree of convergence of the participants: full and partial
  - Full integration is that in which the states complete the integration processes in certain areas or aspects of public life. In the areas of exclusive competence of the European Union, the Member States have achieved full integration. For example, economic integration in the aspect of "free movement of workers and free movement (provision) of services" has been fully implemented;
  - Partial integration is that in which integration measures remain unfinished or have not been fully implemented. The areas of politics and public life that fall within the joint and subsidiary competence of the European Union are areas of partial integration.
3. By territorial scope: regional, interregional and global
  - Global - integration in which most countries on the planet, located in different parts of the globe, participate. For example, the UN and its specialized agencies, the WTO;

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<sup>318</sup> Balassa B. Types of Economic Integration. Economic Integration: Worldwide, Regional, Sectoral. International Economic Association Series. Palgrave Macmillan, London. 1976. pp. 17 - 40.

<sup>319</sup> Kashkin S.Yu., Chetverikov A.O. Mezhdunarodnaya obrazovatel'naya integraciya: sodержanie i pravovoe regulirovanie: monografiya. Moscow: Prospekt. 2018. pp. 35 - 71.

- Interregional - integration, the processes of which occur between states, as well as integration organizations located in different regions, including on different continents of the globe;
- Regional integration - that occurs between individual groups of states located close to each other, usually within the framework of one continent or another geographic region.

#### 4. By spheres of public life

- Economic;
- Political;
- Scientific and technical;
- Educational;
- etc.

#### 5. By the degree of involvement of states: integration-unification and integration-accession

- Integration-unification is a process based on rules jointly developed by the integrating states;
- Integration-accession is a process based on rules established by one of the integrating states, and the other integrating state voluntarily submits to them.

According to G.M. Velyaminov, integrative processes are divided into three successive stages: declarative, constructive and real<sup>320</sup>.

The most common is the so-called declarative integration. Two or more states, often for purely political reasons, enter into an agreement on the intention to build an integration community, after which things often do not go any further. An example of this type of integration is the intention to build an integration association within the Commonwealth of Independent States (CIS), declared back in 1991.

By constructive integration G.M. Velyaminov means integration gradually and consistently organized on the legal basis of a previously agreed schedule of events to bring the economic conditions of individual participating countries closer together based on common planned parameters. This type of integration, with greater or lesser success, is taking place, in particular, within the framework of building an integrated market in the Union of Russia and Belarus, in the North American Free Trade Association - NAFTA (USA, Canada, Mexico), in

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<sup>320</sup> Velyaminov G.M. *Mezhdunarodnoe ekonomicheskoe pravo i process (Akademicheskij kurs): Uchebnik*. Moscow: Volters Kluver. 2004. pp. 478.

the "Andean Group" (Bolivia, Colombia, Peru, Ecuador), in the South American countries that are members of MERCOSUR, in the Association of Southeast Asian Nations (ASEAN).

Finally, the European Union is in the process of real integration<sup>321</sup>.

In legal acts, the term "integration" is also used in various meanings. Thus, often it is not about integration as a complex phenomenon, but only about the need to coordinate the work of domestic and international systems.

The Declaration on Eurasian Economic Integration<sup>322</sup> describes the content of integration as follows: full realization of the potential of the Customs Union and the Single Economic Space, improvement and further development of the legal framework, institutions and practical cooperation in key areas (these include, for example, ensuring the effective functioning of the common market for goods, services, capital and labor resources; cooperation in migration policy; ensuring compatibility of educational standards).

In UN conventions, the term integration is most often used in the sense of economic integration<sup>323</sup>. In conventions that permit accession by economic integration organizations, a regional economic integration organization is defined as follows: an organization composed of sovereign States that are members of the United Nations or of one of its specialized agencies, to which those States have transferred their competence in respect of matters governed by this Convention and which has been duly authorized, in accordance with its internal procedures, to become a party to the Convention<sup>324</sup>.

International integration assumes that interested states, as well as individuals and legal entities, must comply with the rules that states develop to regulate integration processes or that are enshrined in acts of integration organizations with supranational powers. These rules are combined into "integration law", which as a phenomenon was first mentioned in the work of P. Pescatore<sup>325</sup> and the prospects for the development of this phenomenon are currently being

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<sup>321</sup> Velyaminov G.M. Mezhdunarodnoe ekonomicheskoe pravo i process (Akademicheskij kurs): Uchebnik. Moscow: Volters Kluver. 2004. pp. 485.

<sup>322</sup> Declaration "On Eurasian Economic Integration" dated November 18, 2011, <https://policy.thinkbluedata.com/sites/default/files/Declaration%20on%20Eurasian%20Economic%20Integration%20%28EN%29%20.pdf> (Retrieved on 3 of February 2025)

<sup>323</sup> United Nations Convention on the Use of Electronic Communications in International Contracts (Art.17), [https://uncitral.un.org/sites/uncitral.un.org/files/media-documents/uncitral/en/06-57452\\_ebook.pdf](https://uncitral.un.org/sites/uncitral.un.org/files/media-documents/uncitral/en/06-57452_ebook.pdf) (Retrieved on 3 of February 2025), United Nations Convention Against Corruption (Art.67), [https://www.unodc.org/res/ji/import/international\\_standards/united\\_nations\\_convention\\_against\\_corruption/unit\\_ed\\_nations\\_convention\\_against\\_corruption.pdf](https://www.unodc.org/res/ji/import/international_standards/united_nations_convention_against_corruption/unit_ed_nations_convention_against_corruption.pdf) (Retrieved on 3 of February 2025), United Nations Framework Convention on Climate Change (Art. 1), [https://treaties.un.org/doc/source/RecentTexts/unfccc\\_eng.pdf](https://treaties.un.org/doc/source/RecentTexts/unfccc_eng.pdf) (Retrieved on 3 of February 2025)

<sup>324</sup> Convention on the Protection and Promotion of the Diversity of Cultural Expressions, <https://unesdoc.unesco.org/ark:/48223/pf0000142919> (Retrieved on 3 of February 2025)

<sup>325</sup> Pescatore P. The Law of Integration. Emergence of a New Phenomenon in International Relations, Based on the Experience of the European Communities. Leiden: Sijthoff, 1974.

discussed in legal science<sup>326</sup>. L.M. Entin emphasized that integration law is an autonomous and independent legal system. S.Yu. Kashkin gives the following definition of integration law - it is "a set of legal norms that regulate social relations that develop in the process of international integration". He emphasizes that, due to the diversity of relations developing in the process of integration, it is difficult to single out the subject of integration law as a branch. It is also difficult to single out a single type of source, since they include both public and private law, both material and procedural norms. Consequently, one can agree with the conclusion of S.Yu. Kashkin that integration law acts as an inter-branch complex of legal norms related to different branches and legal institutions. Within the framework of integration law, S. Yu. Kashkin identifies not institutions, but separate categories, both inherent only to integration law and borrowed from other branches of international and domestic law. Educational integration in this case can be considered as a category of international integration law, while remaining an institution of international educational law.

In conclusion, regarding our consideration of the issue of international integration, it is worth noting several key points. The most accurate definition of integration is "a dynamic movement toward unity, the unification of disparate elements into a new, larger and more perfect integral system"<sup>327</sup>. There are different types of integration: by territory, by direction of action, by the degree of involvement of states, and by spheres of public life. In the classification by spheres of public life, educational integration can be particularly distinguished, which most often occurs at the regional level, combines the features of negative and positive integration, and can occur both in the form of accession and in the form of unification of states<sup>328</sup>. The next chapter will examine this type of integration in detail.

### **3.2. The concept and features of international educational integration**

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<sup>326</sup> Marochkin S. Y. On the Recent Development of International Law: Some Russian Perspectives // Chinese Journal of International Law. 2009. № 3. pp. 695 - 714; Bezborodov Yu.S. Mezhdunarodno-pravovaya integraciya: podhody k ponimaniyu fenomena // Rossijskij juridicheskij zhurnal. 2012. № 1. pp. 62 - 67; Integration Through Law. Europe and the American Federal Experience. Vol. 1. Methods, Tools and Institutions. Book 1. A Political, Legal and Economic Overview. Book 2. Political Organs, Integration Techniques and Judicial Process / ed. by M. Cappelletti, M. Seccombe, J.H. Weiler. Florence: European University Institute, 2013; Berry D. S. Caribbean Integration Law. Oxford: Oxford University Press, 2014; Cruz J. B. What's Left of the Law of Integration?: Decay and Resistance in European Union Law. Oxford: Oxford University Press, 2018; Mezhdunarodnaya integraciya i integracionnoe pravo / V. A. Shamahov, E. M. Abayeldinov, P. A. Kalinichenko, i. dr. Rossijskaya akademiya narodnogo hozjajstva i gosudarstvennoj sluzhby pri Prezidente RF, Severo-zapadnyj institut upravleniya Saint Petersburg. 2017. pp. 880.

<sup>327</sup> Gulleddge T. What is integration? Industrial Management & Data Systems. Vol. 106. No. 1. 2006. pp. 5 - 20.

<sup>328</sup> Shaidullina, A. R., Pavlova, N. A., Minsabirova, V. N., Burdukovskaya, E. A., Yunusova, A. B., Letyaev, V. A., & Afanasev, A. S. Integration processes in education: Classification of integration types. Review of European Studies. Vol. 7. No. 4. 2015. pp. 27 - 30.

### 3.2.1. Educational integration as a result of economic convergence

Economic integration is a process of interaction between countries, leading to the convergence of economic mechanisms, a process that takes the form of interstate agreements and is coordinated between interstate bodies. As a rule, within the economic space, the so-called "common space" is formed - a phenomenon that denotes the result of the unification of integrating states in specific areas of public life. An example of such a common space is the single internal market of the EU, which in the founding documents is called "a space without internal borders", within which the free movement of goods, people, services and capital is ensured<sup>329</sup>. Also, within the EU, the "European scientific research area" is being formed, which was created already at the beginning of the twenty-first century and is aimed at "the free movement of researchers, scientific knowledge and technology"<sup>330</sup>. Another broad common space, which covers almost all European countries, is the "European Higher Education Area", the purpose of which is to ensure higher mobility of students and teachers of higher education institutions based on the harmonization of educational standards. The emergence of common spaces of science and education are inextricably linked with the processes of economic integration and are their logical consequence.

Integration processes in the economic sphere give impetus to the increase of territorial mobility of the workforce, and accordingly, there is a need to form a single educational space, in mechanisms of recognition and identification of educational documents, professional qualifications in different countries. The process of integration in the sphere of education is developing most intensively in Europe. The first steps were taken back in the 50s of the twentieth century, when the Council of Europe signed the first document at the pan-European level: the European Convention on the Equivalence of Diplomas granting access to universities.

The higher education systems of European countries in the second half of the 20th century exhibited an extraordinary diversity of courses, programs and degrees. The initial research carried out in preparation for the Bologna meeting included an overview of the higher education systems that existed at that time. This research showed that there were more educational structures in Europe than countries, with in some cases up to a hundred different academic qualifications in a single country. Therefore, in addition to the historical traditions of

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<sup>329</sup> Treaty on the Functioning of the European Union (Art. 26), <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex%3A12012E%2FTXT> (Retrieved on 3 of February 2025)

<sup>330</sup> Art. 179 of the Treaty of Lisbon amending the Treaty on European Union and the Treaty establishing the European Community, signed at Lisbon, 13 December 2007, <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A12007L%2FTXT> (Retrieved on 3 of February 2025)

the organization of educational systems in different countries, the following factors were identified that needed to be harmonized<sup>331</sup>:

- different types, scope and duration of secondary education in terms of age and preparation for further education;
- the presence or absence of higher education subsystems, their role and scope, the relationships between them and the possibility of transferring from one subsystem to another;
- different access to higher education (from open choice to various forms of selection and restrictions on admission);
- tuition fees (from allowances to differentiated or generalized tuition fee systems);
- calendar organization of training (from annual courses to block modules), choice (from a set curriculum to virtually free choice), frequency and type of examinations (regular examinations, final examinations, a block of examinations after several semesters of study);
- structure, number and type of degrees awarded and the duration of study to obtain them.

Potential employers who were prepared to recruit workers from other EU member states rarely had the opportunity to make meaningful comparisons of qualifications, since in such circumstances comparisons between degrees and degree structures are limited and cannot give an adequate result if the various factors that determined the award of those degrees in a given national education system are ignored<sup>332</sup>.

### **3.2.2. Legal dimensions and stages of educational integration**

In the monograph by S. Yu. Kashkin and A. O. Chetverikov "International Educational Integration" several variants of definition are given. Firstly, "international educational integration is a new condition of relations between states, arising under the influence of educational integration processes"<sup>333</sup>, however, the authors themselves note the vagueness of such a definition. Further, international educational integration is defined as "joint activities of

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<sup>331</sup> Ivanova V.I. Mezhdunarodnye pravovye aspekty integracionnyh processov v Evrope, predshestvovavshih podpisaniyu Bolonskogo soglasheniya // Mezhdunarodnoe publichnoe i chastnoe pravo. 2005. № 3. pp. 49 - 51.

<sup>332</sup> Ivanova V.I. Mezhdunarodnye pravovye aspekty integracionnyh processov v Evrope, predshestvovavshih podpisaniyu Bolonskogo soglasheniya // Mezhdunarodnoe publichnoe i chastnoe pravo. 2005. № 3. pp. 53.

<sup>333</sup> Kashkin S.Yu., Chetverikov A.O. Mezhdunarodnaya obrazovatel'naya integraciya: sodержanie i pravovoe regulirovanie: monografiya. Moscow: Prospekt. 2018. pp. 75.

two or more states, aimed, on the one hand, at eliminating obstacles to transnational (cross-border) education, and on the other hand, at developing a common educational policy"<sup>334</sup>. At the same time, the authors make a clear distinction between the internationalization of education, international cooperation in the field of education and educational integration and emphasize that educational integration is the highest form of interstate cooperation, i.e. they identify only states as subjects of integration, while individuals and legal entities are only subjects of internationalization processes. In our opinion, given the degree of involvement in integration processes, for example, in the European space, of associations of universities, as well as teachers and students, there is no need for such a categorical separation of processes and their subjects; universities and communities of students and teachers can also be considered as subjects of integration processes.

According to Lawrence M. covering the main directions of educational integration, the authors focus on the economic component of educational processes, emphasizing that in its current form, the tendencies of commercialization of education are very strong, and therefore, we can talk about the formation of a competitive market for educational services, therefore, the most extensive subsection describing the direction of integration is devoted to the liberalization of international trade in educational services and the associated liberalization of the migration regime for students and teachers<sup>335</sup>.

Of course, the approach to educational integration from the point of view of economic integration has its advantages. However, in our opinion, when discussing what educational integration is, one cannot lose sight of the special social role of education. Despite the fact that regulation of the education sector is closely connected with international economic law, it is not part of it. Education cannot be mechanically reduced to a service, this logically follows from the provisions of the International Covenant on Economic, Social and Cultural Rights, which enshrined the principles of compulsory and free primary education and the gradual introduction of free secondary and higher education, and is further confirmed by other

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<sup>334</sup> Kashkin S.Yu., Chetverikov A.O. *Mezhdunarodnaya obrazovatel'naya integraciya: sodержanie i pravovoe regulirovanie: monografiya*. Moscow: Prospekt. 2018. pp. 78.

<sup>335</sup> Lawrence M. *Student and Parental Rights in Education*. // *Materials of the Concerned Women For America Conference*. Maryland. 1988. pp. 11.

international legal acts<sup>336</sup>, and this position has been repeatedly expressed by the UN Special Rapporteur on the right to education<sup>337</sup>.

U. Baxi has cautioned against the commodification of human rights, including the right to education, within global neoliberal frameworks. In *The Future of Human Rights*, he warns of the emergence of “market-friendly human rights” that serve capital rather than justice. Applied to the field of education, this critique highlights the risk of reinterpreting educational rights as consumer entitlements rather than legal obligations of the state. Baxi’s perspective reinforces the importance of framing education as a public good, grounded in solidarity and emancipation, rather than as a transactional service subject to market logic<sup>338</sup>.

The first chapter examined not only European educational integration, but also integration in the CIS countries and on the African continent. Applying the stages proposed by G.M. Velyaminov to the processes of educational integration, we can conclude that in the countries participating in the Bologna process, educational integration is in the real stage, on the African continent there is a slow transition from the declarative stage to the constructive one, in the CIS space, unfortunately, development has frozen at the declarative stage.

In connection with the strengthening of international cooperation of states, the doctrine widely discusses the relationship between the terms "unification" and "harmonization" of law. According to the definition of N.G. Doronina, unification of law in a broad sense is a harmonious interaction of various national legal systems<sup>339</sup>. Harmonization is considered a narrower concept, one of the methods of unification, along with the creation of model legal acts. N.G. Doronina notes that integration acquires a more intensive character if it is based on such a method of unification of law as harmonization, since harmonization does not imply achieving complete uniformity in legal regulation and therefore provides the opportunity to pursue a flexible policy within the established boundaries. Harmonization is defined as a type of international treaty unification of law, based on the obligation of the state, when developing

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<sup>336</sup> World Declaration on Higher Education for the Twenty-first Century: Vision and Action, <https://unesdoc.unesco.org/ark:/48223/pf0000141952> (Retrieved on 3 of February 2025), Charter of Fundamental Rights of the European Union, [https://www.europarl.europa.eu/charter/pdf/text\\_en.pdf](https://www.europarl.europa.eu/charter/pdf/text_en.pdf) (Retrieved on 3 of February 2025), Student Göteborg Declaration, <https://uluslararasi.yok.gov.tr/Documents/avrupa-yuksekokretim-alani-ile-uyumlasma-projesi/bologna-sureci-diger-bildirgeler/goteborg-2001.pdf> (Retrieved on 3 of February 2025)

<sup>337</sup> Report of the Special Rapporteur on the Right to Education on Normative Action for Quality Education, <https://www.right-to-education.org/fr/resource/report-special-rapporteur-right-education-normative-action-quality-education> (Retrieved on 3 of February 2025), Report of the UN Special Rapporteur on Protecting the right to education against commercialization, <https://www.right-to-education.org/resource/protecting-right-education-against-commercialization-report-un-special-rapporteur> (Retrieved on 3 of February 2025)

<sup>338</sup> Baxi U. *The Future of Human Rights*. Oxford University Press. 2002.

<sup>339</sup> Doronina N.G. *Garmonizaciya prava kak al'ternativa nadnacional'nosti v pravovom regulirovanii ekonomicheskikh otnoshenij / Zhurnal rossijskogo prava*. 2013. №10. pp. 137.



national legislation, to follow a certain direction (principle) of legal regulation formulated in an international agreement<sup>340</sup>.

Yu.S. Bezborodov considers unification, harmonization and integration as methods of legal convergence<sup>341</sup>, the main difference between which lies in the characteristics of the new norms: during harmonization similar norms are created, during unification – uniform norms are created, during integration – unified norms are created. Comparing harmonization and unification, Yu.S. Bezborodov agrees with I. V. Getman-Pavlova, "harmonization is a broader concept, since the convergence of national legal systems can be carried out beyond the unification of law". Legal unification is considered a narrower concept and the next level of universalization of international legal regulation: "a law-making process aimed at creating uniform legal norms not only to eliminate contradictions and differences between international legal norms, but also to develop new norms that fill the gaps in the regulation of special issues". And the highest level of international cooperation is integration, which is "a method of convergence of legal systems, which involves the use of special international legal means in order to achieve unity of legal regulation".

S. Yu. Kashkin, analyzing the definitions of harmonization and unification, notes that their meanings are close, but not identical, and the difference between these categories is determined by the degree of uniformity achieved as a result<sup>342</sup>. Unification implies complete uniformity; harmonization allows for variability within limited limits. According to the definition given by S.Yu. Kashkin, harmonization and unification are "activities of integrating states to develop a common policy in a certain area of public life, a common policy that is in the process of formation". In our opinion, this approach to defining the links between harmonization, unification and integration is the most logical. If we rely on the dictionary definitions of the concepts, "harmonization is mutual agreement, reduction to a system"<sup>343</sup>, "unification is bringing to uniformity, to a single norm, a single form"<sup>344</sup>, "integration is unification into a single whole"<sup>345</sup>, we can conclude that harmonization and unification are

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<sup>340</sup> Doronina N.G. *Garmonizaciya prava kak al'ternativa nadnacional'nosti v pravovom regulirovanii ekonomicheskikh otnoshenij* / Zhurnal rossijskogo prava. 2013. №10. pp. 135.

<sup>341</sup> Bezborodov Yu.S. *Metody mezhdunarodno-pravovoj konvergencii* // Rossijskij juridicheskij zhurnal. 2015. № 4. pp. 30 - 37.

<sup>342</sup> Kashkin S.Yu., Chetverikov A.O. *Osnovy integracionnogo prava: uchebnoe posobie*. Moscow: Prospekt. 2015. pp. 176.

<sup>343</sup> Zaharenko E.N., Komarova L.N., Nechaeva I.V. *Novyj slovar' inostrannyh slov: svyshe 25 000 slov i slovosochetaniy*. 3-e izd., ispr. i dop. Moscow: OOO «Izdatel'skij centr «Azbukovnik». 2008. pp. 185.

<sup>344</sup> Ushakov D.N. *Bol'shoj tolkovyj slovar' russkogo yazyka. Sovremennaya redakciya*. Moscow: OOO «Hit-kniga». 2017. pp. 869.

<sup>345</sup> Ushakov D.N. *Bol'shoj tolkovyj slovar' russkogo yazyka. Sovremennaya redakciya*. Moscow: OOO «Hit-kniga». 2017. pp. 244.

successive stages of integration. At the harmonization stage, “systemization” occurs, i.e. the development of similar standards, and at the unification stage, the transition to uniform regulation occurs.

### **3.2.3. Institutional and normative features of integration**

Integration processes involve not only linear, direct and feedback connections that form the interweaving of international and national legal systems, but also other connections – vertical and diagonal, the nature of which is flexible and plastic due to the use of such regulators as various forms of "soft" law, including model legislation, alternative methods of convergence of national legislations. Such connections are especially pronounced in educational integration relations, since among the sources regulating the right to education, in addition to traditional international treaties, the norms of which are mandatory for all participants, there are many acts that are not international treaties, containing the norms of the so-called "soft law". The latter include most of the documents adopted within the framework of the Bologna Process, for example, the University Charter - Magna Charta Universitatum, the Sorbonne Declaration and the Bologna Declaration itself, as well as all subsequent communiqués of the meetings of ministers of higher education of the countries participating in the Bologna Process. Another example of a recommendatory international act on education issues is the Model Educational Code for the CIS Member States.

The processes of educational integration throughout the world are at the stage of harmonization; similar, but not uniform, norms are being created in different regions. This is due to both the special significance of education for the internal interests of states and the different levels of quality of educational systems in different states.

One of the pressing issues in implementing the integration of higher education regulation is the opposition of these processes to the autonomy of universities and academic freedoms traditionally enjoyed by higher education institutions. In the first paragraph of this chapter, we drew attention to the fact that higher education institutions and student associations are non-powerful but influential entities, and this is due to the history of the development of education. According to the UNESCO Recommendation on the Status of Scientific Researchers<sup>346</sup>, academic freedom is the free dissemination of information about the results, hypotheses and critical statements. The Model Educational Code for the Member States of the

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<sup>346</sup> Recommendation on the Status of Scientific Researchers, adopted by the General Conference of UNESCO at its 18th session, Paris, 20 November 1974, <https://unesdoc.unesco.org/ark:/48223/pf0000023891> (Retrieved on 3 of February 2025)

Commonwealth of Independent States also provides a definition of academic freedom and autonomy of educational institutions: "Academic freedom is the right of teaching staff to freely choose the means and methods of teaching and upbringing, directions and methods of conducting scientific and pedagogical research, publishing the results of their professional achievements, participating in public and professional associations, etc.; the right of a student to choose the level and direction (profile) of professional education, the form of its receipt and the method of participation in the educational process in accordance with their abilities and needs. The academic freedoms provided entail academic responsibility for creating optimal conditions for the free search for truth, its free presentation and dissemination", "the autonomy of educational institutions is the right to independently, without outside interference, decide on the selection and placement of personnel, carry out educational, scientific, financial, economic and other activities in accordance with the legislation and the charter of the educational institution"<sup>347</sup>. If integration is considered as the highest form of cooperation in the field of universalization of norms, the result of which will be the creation of uniform norms, preserving the autonomy of universities and academic freedoms seems to be a difficult task. However, the Bologna Declaration emphasizes that "the independence and autonomy of universities provide confidence that the systems of higher education and scientific research will continuously adapt to changing needs, demands of society and the need to develop scientific knowledge"<sup>348</sup>.

Perhaps the problem of preserving academic freedoms will be solved at the level of institutional integration, since educational integration occurs not only at the level of states, but also at the level of universities and student communities. Universities and students actively participate, in particular, in the construction of a single European educational space. Examples of their active participation and, most importantly, influence, are the Salamanca Convention of Institutions of Higher Education and the Gothenburg Declaration of Students, discussed in detail in the first chapter.

This model of university interaction cannot be called new, because European universities were initially formed as corporations. The first university appeared in Italy, where the word "universitas" meant any professional corporation. And other European universities were also such corporations - student-teacher corporations. In fact, they still remain such. There

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<sup>347</sup> Fedorov A., Bogdanova N., Fayzulina E., Khapalazheva E., Yakovleva E. Education as a Resource for Development of the Commonwealth of Independent States. SHS Web Conf. International Scientific Conference "Eurasian Educational Space: Traditions, Reality and Perspectives". Vol. 121. 2021.

<sup>348</sup> The Bologna Declaration of 19 June 1999, [https://ehea.info/Upload/document/ministerial\\_declarations/1999\\_Bologna\\_Declaration\\_English\\_553028.pdf](https://ehea.info/Upload/document/ministerial_declarations/1999_Bologna_Declaration_English_553028.pdf) (Retrieved on 3 of February 2025)

are a huge number of organizational associations of higher education institutions, the purpose of which is to promote educational and scientific cooperation. These associations can have different names: association, consortium, network. Most educational associations were formed by traditional universities. Cooperation in such associations is carried out at different levels: administrative region, individual country and up to geographic macro regions and even the world as a whole. There are more than twenty-five educational networks in the world (among them the Asian Association of Open Universities, the European association of university lifelong learning, the Network of Cooperation of Universities of Latin America - Universia and others)<sup>349</sup>.

Researchers distinguish various forms of cooperation and separately consider a specific form of distributed educational networks - global. It is implied that integration, and not just cooperation, occurs precisely within the framework of the so-called global distributed educational systems in the field of higher education. The main feature of a global network is the presence of participants who cannot independently carry out educational activities.

The view that integration processes only occur within the framework of global distributed educational systems seems too narrow. In our opinion, any associations of educational institutions, no matter whether they involve organizations that are not engaged in educational activities or do not involve them, are full-fledged participants in educational integration. We are close to the position that any “modern university assumes the active inclusion of internationalization of education in all spheres of activity - from educational and research to administrative and organizational”<sup>350</sup>.

Institutions that are part of international educational associations remain self-sufficient organizations capable of independently carrying out educational activities. Cooperation allows them to further deepen and expand these activities, carry them out on a different scale and improve them. The rector of the University at the Interparliamentary Assembly of the Eurasian Economic Community sees the future of educational integration in the Eurasian space in the creation of a Eurasian consortium operating based on a network approach<sup>351</sup>.

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<sup>349</sup> Chmyhova E.V. Innovacionnye formy kooperacii na global'nyh rynkah vysshego obrazovaniya / Kooperaciya v obrazovanii, nauche i innovaciyah: Sbornik dokladov mezhdunarodnoj konferencii. Moscow: Izd-vo SGU. 2015. pp. 114 - 116.

<sup>350</sup> Akulshina A.V., Galushko D.V. Internacionalizaciya vysshego obrazovaniya i nacional'nyj interesy: puti garmonizacii. Vestnik Nizhegorodskogo universiteta im. N.I. Lobachevskogo. Seriya: Social'nye nauki. 2015. № 3 (39). pp. 165.

<sup>351</sup> Iskakov I.Zh. Nauka i obrazovanie v processe formirovaniya evrazijskogo politicheskogo landshafta///Integraciya nauki i obrazovaniya kak osnova evolyucii Evrazijskogo ekonomicheskogo soyuza: sb. st. iz materialov Evrazijskogo nauchnogo foruma 08 dekabrya 2017 g. / Obshch. nauchn. red. M.Yu. Spirinoy. Chast' II. Saint Petersburg.: Universitet pri MPA EvrAzES. 2018. pp. 10 - 19.

In conclusion of this paragraph, we would like to highlight some features of this phenomenon and give a definition of the phenomenon. Educational integration is a phenomenon that manifests itself to one degree or another throughout the globe; all currently existing attempts to integrate various education systems are based to one degree or another on the European experience of the Bologna process.

The dangers of excessive privatization in education have been forcefully highlighted by the Global Campaign for Education, which argues that profit-driven models undermine equity, transparency, and quality. The report documents how international pressure to privatize schooling in low-income countries has resulted in deepened inequalities, exclusion of marginalized children, and reduced state accountability. It stresses that education must be treated as a public good, and that states, not private actors, bear the primary legal obligation to guarantee universal, quality education for all<sup>352</sup>.

In the processes of educational integration, horizontal and diagonal connections are particularly strong, since they involve not only states, but also universities, as well as their associations and communities of students and teachers, and regulation is characterized by many acts of “soft” law.

Unification as the highest form of integration does not go well with the autonomy of universities and academic freedoms, therefore the main method of educational integration is harmonization. And finally, based on the above-described features, educational integration is a process of legal and organizational interpenetration of national educational systems based on international legal acts of a normative and non-normative nature, which occurs both through mutual coordination of the legislation of various countries in order to form a single educational space, mechanisms for recognition and identification of educational documents, professional qualifications in various countries, taking into account cooperation between universities and other educational institutions.

### **3.3. The role of integration in the mechanism for ensuring the realization of the right to education**

#### **3.3.1. Correlation of integration and implementation as legal processes**

The implementation of the right to education and educational integration are closely related. The implementation of the right is the embodiment of the right in the practical activities

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<sup>352</sup> Global Campaign for Education. Private Profit, Public Loss: Why the Push for Privatisation is Deepening Inequality and Undermining Quality Education. 2016.

of states and other entities. Implementation includes two types of activity - direct actual activity to achieve a socially significant result and legal and organizational support for actual activity<sup>353</sup>.

Educational integration is a process of interpenetration of national educational systems<sup>354</sup>.

In order to compare these concepts in one coordinate system, it is worth referring to the dictionary definitions of the concepts of "process" and "activity". In this case, the process is understood as "the course, development of any phenomenon, a successive change of states in the development of something"<sup>355</sup>, and activity, in turn, is "a specific human form of attitude to the surrounding world, the content of which is its expedient change in the interests of people, a condition for the existence of society. Activity includes the goal, means, result and the process itself"<sup>356</sup>. Consequently, the concepts of activity and process are closely related. In particular, activity implies a certain development, dynamics, that is, a process.

Thus, based on the above, we can conclude that the implementation of the right to education (as an activity) and educational integration (as a process) are also interrelated. These phenomena can be compared according to certain criteria, in particular, according to legal regulation, by goals and by subjects.

### **3.3.2. Overlapping legal goals and instruments**

Legal acts that are aimed at ensuring the implementation of the right to education and the integration of the educational sphere partially coincide. For example, Article 1 of the UNESCO Constitution<sup>357</sup>, "Purposes and functions," contains a provision that UNESCO aims to "contribute to peace and security by promoting collaboration among the nations through education, science and culture", and to this end encourages "collaboration among the nations to advance the ideal of equality of educational opportunity without regard to race, sex or any distinctions, economic or social", and also offers "educational methods best suited to prepare

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<sup>353</sup> Suvorova V.Ya. *Realizaciya norm mezhdunarodnogo prava*// Yekaterinburg: Izdatel'stvo Sverdlovskogo yuridicheskogo instituta. 1992. pp. 9.

<sup>354</sup> Amanbayeva Zh. The role of integration in the mechanism for ensuring the realization of the right to education. "Science: theory and practice" International Scientific Conference. Bilim Innovation Group. 2023.

<sup>355</sup> Ushakov D.N. *Bol'shoj tolkovyj slovar' russkogo yazyka. Sovremennaya redakciya*. Moscow: OOO «Hit-kniga». 2017. pp. 642.

<sup>356</sup> Ushakov D.N. *Bol'shoj tolkovyj slovar' russkogo yazyka. Sovremennaya redakciya*. Moscow: OOO «Hit-kniga». 2017. pp. 145.

<sup>357</sup> Constitution of the United Nations Educational, Scientific and Cultural Organization, adopted in London on 16 November 1945, <https://www.unesco.org/en/legal-affairs/constitution> (Retrieved on 3 of February 2025)

the children of the world for the responsibilities of freedom”. That is, law-implementation and integration goals are set simultaneously.

In the Convention on Technical and Vocational Education, Article 6 is devoted entirely to the facilitation of international co-operation in education and contains provisions designed to ensure integration, in particular to promote approaches to achieving the recognition of equivalencies of qualifications acquired through technical and vocational education; to encourage international exchanges of teachers, administrators and other specialists in technical and vocational education; to promote co-operation in technical and vocational education between all countries, but in particular between industrialized and developing countries, in order to encourage the development of the technologies of the countries<sup>358</sup>. In the same Convention, Article 7 provides for a monitoring mechanism to ensure the implementation of the right to education in the form of periodic reports.

The preamble to the Convention on the Recognition of Qualifications concerning Higher Education in European Region states that “the fair recognition of qualifications is a key element of the right to education and a responsibility of society”<sup>359</sup>, i.e. the recognition of qualifications is necessary for the implementation of this right. At the same time, the recognition of qualifications is an event that promotes integration in the educational sphere. All documents of the Bologna Process are simultaneous elements of the international legal mechanism for ensuring the implementation of the right to education, and elements of the integration process in education in the European area.

The next aspect in which implementation and integration have similarities is the goals of both processes.

One of the goals of integration is to ensure uniform legal regulation in the field of education. This uniformity is not an end in itself, its main purpose is to ensure the possibility of comparability of degrees and the demand for graduates not only in the domestic labor market, but also in other countries.

The mechanism for ensuring the implementation of the right to education consists of two parts - conventional and institutional<sup>360</sup>. Integration is present in both the conventional and

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<sup>358</sup> Convention on Technical and Vocational Education Adopted by the General Conference of UNESCO at its twenty-fifth session Paris, 10 November 1989, [https://unevoc.unesco.org/fileadmin/user\\_upload/pubs/conv-e.pdf](https://unevoc.unesco.org/fileadmin/user_upload/pubs/conv-e.pdf) (Retrieved on 3 of February 2025)

<sup>359</sup> Convention on the Recognition of Qualifications concerning Higher Education in the European Region, <https://rm.coe.int/168007f2c7> (Retrieved on 3 of February 2025)

<sup>360</sup> Amanbayeva Zh. Integration in the mechanism for ensuring the implementation of the right to education at the domestic level. "New Kazakhstan: current trends in the development of the legal, economic and social systems of the state" International Scientific and Practical Conference. Toraighyrov University. 2023.

institutional mechanisms for implementing the right to education. We can say that integration is a kind of bridge, a buffer between the two mechanisms.

As Tikly argues, integration in global education policy can sometimes reflect a new form of imperialism, particularly when externally imposed standards and frameworks disregard local histories, cultures, and needs. His critique is especially relevant to African contexts, where international reforms have often undermined indigenous educational priorities. Tikly cautions that without participatory and context-sensitive approaches, educational integration may replicate global hierarchies rather than dismantle them. This perspective challenges the assumption that integration is inherently beneficial and calls for a more equitable and dialogic model of international cooperation<sup>361</sup>.

The Convention implementation mechanism, which includes preliminary and concretizing rulemaking in the field of education, the results of the activities of the UN Special Rapporteur on the right to education and the law enforcement practice of the European Court of Human Rights, has the general goal of harmonizing the field of education. Achieving this goal is directly related to the elements of the institutional mechanism for ensuring the implementation of the right to education.

In particular, the activities of the UN Special Rapporteur on the right to education are of a harmonizing nature and are aimed at finding ways to improve the quality of education throughout the world. However, at the universal level, the integration goals are not expressed so clearly, since in different countries the very understanding of the right to education may differ strikingly, not to mention striving to harmonize its regulation. In some countries, it is necessary to ensure at least the implementation of the right to elementary and primary education, in more developed countries, questions arise about the scope of the right to secondary and higher education, the need for free higher education, etc. States, of course, try to compile ratings of schools and universities, develop common evaluation criteria, but this "rating game" is obviously unfair and biased. As noted by the former UN Special Rapporteur on the right to education, all currently existing ratings and scales for evaluating educational institutions are oriented towards English-speaking, primarily American higher education institutions, and largely evaluate the financial support of these institutions and their ability to make a profit. While education should be focused primarily on raising worthy citizens, responsible and socially active. These parameters cannot be assessed by any existing rating. The world community is not yet ready to develop universal approaches to the right to education

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<sup>361</sup> Tikly L. Education and the New Imperialism. *Comparative Education*, vol. 40, no. 2. 2004. pp. 173–198.



and global harmonization of educational systems. Therefore, at the universal level, the implementation of the right to education and educational integration are not so closely connected.

A fundamentally different picture is observed at the regional level. The first chapter examines the integration trends observed in the regulation of the right to education in various regions of the world. Not only in the European space, where integration trends are expressed most clearly, but also in the countries of Africa, South America, and the Eurasian region, attempts are being made to implement educational integration as a support for economic integration. And here the processes of implementation and integration begin to intertwine very closely.

Using the example of international legal and institutional mechanisms for implementing the right to education in the European region, we can see that all elements of the mechanism are “glued together” by the integration goal. All international legal acts that are commonly considered sources of the Bologna Process systematically fill in the gaps in understanding the right to education itself, and also introduce general terms in the educational sphere, reveal the concepts of “education”, “higher educational institution”, “qualification” and others. In the law enforcement activities of the European Court of Human Rights, uniform criteria for interpreting the right to education in the European region are developed for all member states of the Council of Europe. And the institutional mechanism is “saturated” with the integration goal even more: all ministerial meetings within the Bologna Process perform an integration function, one can say that their only and main goal is the practical implementation of educational integration, and not just the right to education.

### **3.3.3. Integration as a component of implementation**

But we can look at it from another angle. The integration process also has its own goal, and integration in the educational sphere defines these main, largest goals quite clearly: ensuring and improving the quality of education and ensuring that graduates are in demand in the labor market. Thus, integration can be considered as part of the implementation mechanism, a kind of “superstructure” aimed at implementing the right to education. It is not without reason that the European Court of Human Rights has established the opportunity to benefit from the

education received as one of the criteria for the right to education<sup>362</sup>. And ensuring that graduates are in demand is one of the most obvious ways to benefit.

Consequently, the goals of the processes of implementation and integration may coincide, since the main goal of the implementation of the right to education is to ensure the practical implementation of the right to education, and one of the goals of educational integration may also be to implement the right to education of a person both in his or her own state and abroad.

When conducting a comparative analysis of integration and implementation, one can pay attention to another point that brings these processes closer together: the activities of implementation and integration in the field of education have common subjects.

At the universal level, such entities include UNESCO and the UN Special Rapporteur on the right to education. That is, the organization's activities influence both the overall implementation of the right to education and encourage states to pursue educational integration.

The activities of the UN Special Rapporteur on the right to education are subordinated to the goal of the most complete realization of the right to education, and at the same time, his reports continuously search for ways of interaction between states, search for common values and approaches to the organization of the educational process, and therefore, certain steps are taken to integrate the educational systems of states.

At the regional level, the European Court of Human Rights is the most active in both integration and implementation processes. The law enforcement activities of the European Court of Human Rights are part of the conventional mechanism for ensuring the implementation of the right to education, and it is the European Court of Human Rights that contributes to the development of a unified understanding of the right to education, its scope and elements for the states of the European region.

In addition, we cannot ignore the ministers of education of the European states, whose meetings are aimed, in general, at improving the quality of education and its full implementation, and at the same time, it is in the process of their activities that the main events are carried out to find ways to bring national educational systems closer together, and tasks and areas of cooperation are developed.

The implementation of the right to education and international educational integration are processes by their nature. These processes operate at different speeds, but they are

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<sup>362</sup> Case "Relating to certain aspects of the laws on the use of languages in education in Belgium" V. Belgium (merits), <https://hudoc.echr.coe.int/fre#%22itemid%22:%22001-57525%22> (Retrieved on 3 of February 2025)

inextricably linked and at certain points in time they are conjugated and merge into each other. Educational integration is impossible without the implementation of the right to education. Figuratively speaking, we can imagine a two-lane highway of the mechanism for implementing legal norms, one lane is the conventional mechanism for implementing, the other is the institutional one. And across this highway there is a “pedestrian crossing” - integration (in our case, educational, but this scheme is universal and can be considered in relation to other spheres of public relations). In an ideal case, the highway is one-way, and traffic first goes through the harmonization stage, and then through the unification stage. This “pedestrian crossing” allows states located on different sides of the highway to interact more effectively regarding the implementation of the law. Thus, the implementation of the law constitutes, as it were, the foundation of integration, its sources and basis. And integration, in turn, can be one of the goals and one of the effective means of implementation.

## CONCLUSION

The conducted dissertation research allowed for the conclusion that the right to education is currently of considerable interest to most countries of the world. The growing recognition of education as a fundamental human right and a key driver of sustainable development has led to increased cooperation among states to establish legal frameworks aimed at ensuring universal access to quality education. Joint efforts of states contribute to the formation of an international legal mechanism for ensuring the implementation of the right to education, which consists of conventional and institutional mechanisms. These mechanisms serve as essential tools for shaping educational policies, fostering cooperation between nations, and addressing inequalities in educational opportunities.

The analysis of international legal acts concluded at various levels demonstrates that international treaties related to education remain relatively limited in number. These treaties can be classified into two main categories: the first group consists of treaties that incorporate separate provisions related to the right to education within broader human rights or development agreements, while the second group includes treaties that are exclusively dedicated to education-related issues. This categorization applies not only to treaties concluded at the universal level but also extends to regional multilateral treaties and bilateral agreements.

At the universal level, fundamental human rights instruments such as the Universal Declaration of Human Rights (Article 26), the International Covenant on Economic, Social and Cultural Rights (Article 13), and the Convention on the Rights of the Child (Article 28) contain specific provisions that establish the legal foundation for the right to education. However, comprehensive treaties that solely focus on education, such as the UNESCO Convention against Discrimination in Education (1960), remain relatively scarce.

Regional multilateral treaties follow a similar pattern, with most agreements incorporating education as one of several policy areas rather than addressing it as an independent subject. The European Convention on Human Rights (Protocol 1, Article 2), the African Charter on Human and Peoples' Rights (Article 17), and the Additional Protocol to the American Convention on Human Rights in the Area of Economic, Social and Cultural Rights (Article 13) are examples of regional human rights instruments that include provisions on education. Meanwhile, region-specific educational cooperation frameworks, such as the Bologna Process in Europe, provide a more structured approach to integration in the field of higher education, albeit through non-binding agreements rather than legally enforceable treaties.

At the bilateral level, treaties and agreements on education tend to focus on specific areas such as student and academic exchange programs, mutual recognition of qualifications, and joint research initiatives. These agreements often provide opportunities for enhanced cooperation but lack the comprehensive scope necessary to establish a universal and enforceable legal framework for the right to education.

The limited number of legally binding international treaties dedicated to education highlights the challenges associated with achieving global consensus on educational standards and policies. Many states are hesitant to commit to rigid legal obligations in the field of education due to the diversity of national education systems, cultural differences, and varying levels of economic development. As a result, states rely heavily on non-binding recommendations, declarations, and resolutions issued by international organizations to guide educational policies.

Despite the scarcity of legally binding treaties, the international legal framework for education is reinforced by an extensive array of “soft law” instruments that play a crucial role in shaping state practices and influencing policy development. These include UNESCO’s Education 2030 Framework for Action, the UN Sustainable Development Goal 4 (Ensure inclusive and equitable quality education and promote lifelong learning opportunities for all), and various regional education strategies.

While soft law instruments do not impose legal obligations in the same manner as treaties, they serve as important policy tools that encourage states to adopt best practices and align their educational systems with internationally recognized standards. Moreover, in some cases, repeated adherence to soft law principles can contribute to the gradual emergence of customary international law, thereby strengthening the normative foundation of the right to education.

While significant progress has been made in the development of international legal mechanisms for ensuring the right to education, challenges remain in achieving universal enforcement and harmonization of education policies. The existing framework is characterized by a mix of binding and non-binding instruments, with an increasing reliance on soft law to promote educational cooperation and integration. Moving forward, the strengthening of legal commitments, enhanced regional cooperation, and improved implementation mechanisms will be essential to ensuring that the right to education is effectively realized on a global scale.

There is a much larger array of recommendatory acts devoted to education issues, reflecting the increasing reliance on “soft law” as a regulatory tool in the field of education. Many of these non-binding instruments serve as essential policy frameworks, providing

guidance for national governments, educational institutions, and international organizations in shaping their educational policies and ensuring the gradual convergence of education systems. The flexibility of such instruments makes them particularly effective in fostering cooperation while respecting national sovereignty.

At the international level, UNESCO plays a pivotal role in developing recommendations, declarations, and frameworks that address various aspects of education policy. These instruments help fill gaps in legal regulation, covering issues that are either insufficiently detailed or completely absent in binding international treaties. Reports from the UN Special Rapporteur on the right to education further contribute to the normative development of international education law, identifying key challenges, proposing best practices, and advocating for policy changes. However, since these documents are non-binding, their effectiveness largely depends on the willingness of states to voluntarily comply and integrate these recommendations into their national legal frameworks.

At the regional level, almost all legal acts related to the construction of a common educational space fall under the category of “soft law”. Regional organizations such as the European Union, the African Union, and the Eurasian Economic Union have increasingly relied on non-binding agreements, joint declarations, and action plans to coordinate educational policies and promote mutual recognition of qualifications. The Bologna Process, for instance, has facilitated the harmonization of higher education systems in Europe through a series of non-binding commitments rather than legally enforceable treaties. This process has proven that voluntary adherence to common standards, coupled with peer review mechanisms and incentives for participation, can drive meaningful educational reforms without requiring states to relinquish control over their education systems.

This pattern is further confirmed in African jurisprudence. As Dina notes, “the interpretation of the right to education under the African Children’s Charter often hinges on four pillars: non-discrimination; best interests; child participation; and survival and development”<sup>363</sup>.

At the bilateral level, education-related agreements are often formulated in broad terms, outlining principles of cooperation without imposing detailed legal obligations. Specific implementation details are typically elaborated in accompanying memoranda of understanding and action programs, which, while not legally binding, serve as important instruments for

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<sup>363</sup> Dina Y. Right to Education in Africa: Challenges and Opportunities. *African Human Rights Law Journal*, 2014.

structuring collaboration between states, universities, and academic institutions. Such agreements often facilitate student exchanges, joint research initiatives, and the recognition of academic qualifications, contributing to international academic mobility and the globalization of education.

Thus, the international conventional mechanism for ensuring the implementation of the right to education is characterized by a predominance of “soft law” acts. These instruments are not only adopted by states and intergovernmental organizations but also by influential non-state actors such as universities, academic networks, and associations of students and teachers. The involvement of these entities highlights the decentralized nature of educational governance, where various stakeholders contribute to shaping global and regional education policies.

Given the reluctance of many states to enter legally binding commitments regarding education, the adoption of “soft law” documents currently appears to be the most pragmatic and effective approach to international cooperation in this field. States remain cautious about assuming rigid legal obligations that could limit their autonomy in shaping national education policies. However, they recognize the benefits of cooperation and voluntary alignment with international best practices.

An important characteristic of “soft law” is that its status as a legal norm can only be determined post factum, based on how states respond to it. If states actively implement certain guidelines, then these guidelines can be considered as having a binding effect in practice, even in the absence of formal legal obligations. The degree to which soft law influences state behavior is contingent on political will, institutional capacity, and the perceived benefits of compliance. In cases where states do not take concrete actions to implement soft law provisions, these documents remain aspirational statements without any legal weight, amounting to nothing more than diplomatic gestures or expressions of goodwill.

Despite these challenges, the growing reliance on “soft law” in education suggests that international cooperation in this field will continue to evolve through flexible, adaptive mechanisms. Future developments may include the creation of stronger monitoring and peer review systems to ensure that non-binding commitments translate into concrete policy actions. Additionally, there may be increasing efforts to link compliance with soft law principles to access funding, technical assistance, and other incentives, thereby reinforcing their influence on state behavior.

While the predominance of “soft law” in the international legal framework for education presents challenges in terms of enforceability, it also offers advantages in terms of

adaptability and inclusiveness. By allowing states to engage in international cooperation without the constraints of rigid legal obligations, “soft law” facilitates the gradual harmonization of education systems while respecting national differences. However, for soft law instruments to be truly effective, states must demonstrate genuine commitment to their implementation, ensuring that these frameworks are not merely symbolic but actively contribute to the realization of the right to education.

The international institutional mechanism for ensuring the implementation of the right to education is characterized by the significant influence of meetings and conferences of various officials of cooperating states, especially with regard to the element of integration at the regional level, which is part of the implementation mechanism and directly affects the realization of the right to education. These institutional interactions serve as platforms for dialogue, negotiation, and cooperation, allowing states to share best practices, assess progress, and collectively address challenges in education policy and implementation.

International organizations play a central role in this mechanism by facilitating and coordinating these meetings and ensuring that the discussions lead to concrete actions. UNESCO, for example, regularly convenes global and regional education summits, fostering commitments among member states to improve access to quality education and promote inclusive educational policies. The annual UNESCO Global Education Monitoring Report further contributes to these efforts by evaluating the state of education worldwide, highlighting gaps, and proposing evidence-based recommendations for policy improvements.

At the regional level, integration initiatives such as the Bologna Process in Europe, the African Union’s Continental Education Strategy for Africa (CESA), and the Eurasian Economic Union’s (EAEU) educational cooperation programs provide structured forums for states to align their education systems. These initiatives involve periodic ministerial meetings, expert panels, and working groups that oversee the harmonization of educational standards, facilitate student and faculty mobility, and promote mutual recognition of academic qualifications.

The African Union’s CESA 16-25 strategy aims “to transform African education systems through equity, relevance, harmonization, and regional integration”<sup>364</sup> - underlining the importance of legal instruments supporting continental cooperation in education.

Judicial and quasi-judicial bodies also form a critical component of the institutional mechanism, ensuring accountability for states' educational commitments. Courts such as the

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<sup>364</sup> African Union. Continental Education Strategy for Africa (CESA 16–25). African Union Commission. 2016.



European Court of Human Rights (ECHR) and the Inter-American Court of Human Rights (IACHR) have issued landmark rulings reinforcing the right to education, compelling states to address systemic deficiencies and uphold their obligations under international law. Similarly, human rights treaty bodies, including the Committee on Economic, Social and Cultural Rights (CESCR) and the Committee on the Rights of the Child (CRC), provide oversight by reviewing state reports, issuing recommendations, and addressing individual complaints related to violations of the right to education.

Additionally, international funding institutions and development organizations such as the World Bank, the Global Partnership for Education (GPE), and UNICEF contribute to the institutional framework by mobilizing resources, providing technical assistance, and implementing educational projects in collaboration with national governments. These organizations help bridge financial gaps, support educational reforms, and ensure that marginalized populations receive equitable access to education.

Moreover, civil society organizations (CSOs), non-governmental organizations (NGOs), and academic institutions play an increasingly significant role in shaping international education policies. Through advocacy campaigns, independent research, and capacity-building programs, these actors influence decision-making at both national and international levels, holding governments accountable for their commitments and promoting innovative approaches to education.

Despite the extensive involvement of various stakeholders, challenges remain in ensuring the effective implementation of educational commitments. The voluntary nature of many international agreements, the uneven distribution of resources among states, and geopolitical tensions often hinder progress. Strengthening the international institutional mechanism requires improved monitoring mechanisms, more effective enforcement of international norms, and enhanced cooperation between governmental and non-governmental entities.

Wakene highlights that, despite regional frameworks, “educational inclusion for children with disabilities remains more aspirational than real in many African countries, due to persistent stigma and inadequate policy implementation”<sup>365</sup>.

Thus, the international institutional mechanism for ensuring the right to education is a complex and multifaceted system involving governments, international organizations, judicial bodies, financial institutions, and civil society. While significant progress has been made in

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<sup>365</sup> Wakene D. Education and Disability Rights in Africa. Disability & Society, 2018.

promoting educational rights through regional and global cooperation, continuous efforts are needed to enhance the effectiveness of institutional frameworks, ensure accountability, and foster greater inclusivity in international education policies. Through sustained collaboration and stronger commitments, this mechanism can further advance the global realization of the right to education.

The topic of the research necessitated the formulation of the author's definition of the right to education as one of the rights in the system of international human rights standards, highlighting its types and elements. The right to education is a multidimensional legal concept that evolves in response to societal changes, economic transformations, and advancements in educational theory and practice. A characteristic feature of the right to education is the change in its content depending on the level of education; therefore, separate definitions were formulated for the right to primary, secondary, and higher education, reflecting the different elements inherent in each stage.

At the primary education level, the right to education is recognized as a fundamental and compulsory entitlement, ensuring universal access to free and quality basic education for all children. This aspect of the right to education is enshrined in various international treaties, such as the Convention on the Rights of the Child, which obliges states to guarantee free and accessible primary education as a prerequisite for human development and social inclusion.

At the secondary education level, the right to education expands beyond basic literacy and numeracy to include broader academic, technical, and vocational training that prepares individuals for employment, higher education, and active participation in society. While international law encourages states to provide free secondary education, the obligation is often subject to the principle of progressive realization, meaning that states must take concrete steps to improve access and affordability over time.

Higher education, as the most advanced stage, is characterized by a strong emphasis on academic freedom, institutional autonomy, and the pursuit of knowledge. The right to higher education is increasingly understood as a vehicle for social mobility, economic development, and innovation. International treaties emphasize that higher education should be accessible to all based on merit, and states are encouraged to adopt policies that expand scholarships, financial assistance, and alternative pathways to ensure inclusivity.

At the same time, the study of the evolution of the right to education has made it possible to identify how the scope of this right has expanded over time. No longer limited to formal schooling, the right to education is now primarily understood as the right to education throughout life, aligning with the concept of Lifelong Learning promoted by UNESCO. This

shift acknowledges the necessity of continuous education in a rapidly changing world where skills and knowledge require constant updating. Lifelong learning includes not only traditional education but also adult education, professional training, digital learning opportunities, and informal education, all of which contribute to an individual's personal and professional growth.

A fundamental step in the development of the regulation of the right to education is the shift in focus from its functionality viewing it as a supporting right necessary for the realization of other rights - to its recognition as a foundational human right in itself. Education is now regarded as a primary enabler of economic, social, and political empowerment. It serves as the basis for the realization of many other human rights, including the right to work, the right to political participation, and the right to an adequate standard of living. Without education, individuals are deprived of the tools necessary to exercise their rights fully and to contribute meaningfully to society.

Furthermore, the boundaries of the right to education now align with the entire lifespan of an individual. This transformation reflects a growing recognition that education is not limited to childhood or early adulthood but is an ongoing process that should be accessible at all stages of life. The inclusion of digital education, open-access knowledge platforms, and global education networks has further reinforced the idea that learning should not be restricted by age, geography, or economic status.

The research findings indicate that the right to education must continue to evolve to meet contemporary challenges, such as digital inequality, the growing need for technological skills, and disparities in educational access for marginalized populations. The legal frameworks governing education must also adapt to these changes by incorporating more inclusive, flexible, and responsive mechanisms that support educational access across diverse social and economic contexts.

Thus, the right to education has undergone a conceptual and practical transformation, shifting from a traditional understanding of education as a structured, time-bound process to a dynamic, lifelong entitlement. This evolution underscores the necessity of strengthening international cooperation, policy frameworks, and institutional mechanisms to ensure that education remains a universal, accessible, and adaptable right for all individuals, regardless of their circumstances.

When considering the implementation of the right to education, it was impossible to ignore the issues of educational integration, since the realization of the right to education in many regions is closely intertwined with the integration processes in this area. The increasing interdependence of states in the fields of economics, technology, and mobility has necessitated

greater coordination of educational policies and standards. As a result, international and regional initiatives aimed at harmonizing education systems have become an essential component of ensuring access to quality education for all.

Since the implementation of the right to education and educational integration are processes that take place within the same sphere of social relations, they cannot function in isolation from one another. At various points in time, these processes merge, influencing one another and leading to the adoption of common goals, the involvement of shared actors, and the development of unified legal frameworks. The alignment of educational policies across borders has proven to be particularly beneficial in facilitating student and academic mobility, improving the mutual recognition of qualifications, and fostering collaborative research and knowledge exchange.

Educational integration has played a fundamental role in strengthening the right to education in regions where states seek to create a common educational space. The Bologna Process in Europe is one of the most well-established examples of how educational integration can enhance the quality and accessibility of education by aligning degree structures, establishing credit transfer systems, and promoting academic cooperation. Similar initiatives in the African Union, ASEAN, and the Eurasian Economic Union (EAEU) demonstrate that states recognize the value of educational integration in promoting economic development, labor market compatibility, and intercultural dialogue.

However, the extent and effectiveness of educational integration vary across regions due to differences in political will, economic capacity, historical ties, and legal traditions. In some regions, integration efforts have been hindered by national concerns over educational sovereignty, resistance to external influence on domestic education policies, and disparities in the level of development among participating states. These challenges underscore the importance of balancing integration efforts with the need to respect the diversity of national education systems and cultural identities.

Moreover, the legal regulation of educational integration has primarily relied on non-binding agreements, soft law instruments, and voluntary cooperation frameworks. While this approach has allowed for flexibility, it has also led to inconsistencies in implementation and limited accountability mechanisms. Strengthening legal commitments through binding treaties, clearer enforcement mechanisms, and enhanced monitoring processes could further advance the role of educational integration in supporting the right to education.

However, as Tepe, Verchier, and Kokou observe, the rapid massification of higher education in many African countries exerts pressure on both quality and equity, highlighting

the urgent need for standardized regulatory frameworks and quality assurance systems at the continental level<sup>366</sup>.

In addition, the growing role of technology and digital education has introduced new dimensions to educational integration, allowing institutions and learners to connect across geographical boundaries. The development of online education platforms, digital credentialing systems, and transnational partnerships between universities has significantly expanded access to education. As these digital solutions continue to evolve, international legal frameworks will need to adapt to ensure that quality, accreditation, and data protection standards are upheld across integrated educational systems.

Therefore, educational integration is not merely a complementary factor in the realization of the right to education - it is a fundamental driver of progress in this field. By fostering cooperation, harmonization, and the sharing of best practices, educational integration helps ensure that education systems are more inclusive, responsive, and aligned with the evolving needs of societies. Moving forward, stronger legal frameworks, increased investment in cross-border educational initiatives, and a commitment to maintaining educational diversity within integration efforts will be essential in maximizing the benefits of this process.

Integration processes in the educational sphere are developing unevenly due to opposing trends that exist in parallel in this sphere: on the one hand, states view educational integration as a means to support economic integration, recognizing that a harmonized education system contributes to a more mobile and skilled workforce, cross-border employment opportunities, and enhanced research and innovation collaboration. On the other hand, education remains a strategically important area of national interest, deeply tied to cultural identity, political ideology, and state sovereignty. As a result, many states are hesitant to delegate regulatory authority over education to supranational institutions, fearing the potential loss of control over curriculum design, language policies, and ideological influences in education.

This inherent tension is particularly evident in the Eurasian region, where efforts toward educational integration have faced significant obstacles. Despite the initial vision of creating a unified educational space within the Eurasian Economic Union (EAEU), progress has been slow and inconsistent. Unlike the European Union's Bologna Process, which successfully aligned higher education systems across its member states, the Eurasian region has struggled

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<sup>366</sup> Tepe K., Verchier Y., Kokou Y. The Challenges of Massification in Higher Education in Africa. *Journal of African Higher Education Studies*, vol. 8, no. 1. 2024. pp. 45–66.

with divergent national priorities, inconsistent legal frameworks, and a lack of strong institutional coordination. The absence of a binding agreement on mutual recognition of diplomas and educational standards, along with disparities in funding and infrastructure development, has further hindered the realization of a unified educational system.

One of the main reasons for the stagnation of educational integration in the Eurasian region is the geopolitical and economic instability affecting member states. Political tensions, economic disparities, and shifting diplomatic priorities have led to an uneven commitment to educational cooperation. While some states express interest in aligning their higher education systems to facilitate student and labor mobility, others prioritize national education strategies, focusing on domestic needs rather than regional collaboration.

Additionally, the lack of an institutionalized framework specifically dedicated to managing educational integration within the EAEU has resulted in fragmented and ad hoc initiatives rather than a structured, long-term strategy. Unlike the European Higher Education Area (EHEA), which has established monitoring mechanisms, working groups, and compliance assessments, the Eurasian region lacks a unified body that systematically oversees and facilitates the integration of education policies. This absence of a central coordinating institution weakens the effectiveness of agreements and limits the enforcement of educational commitments.

Moreover, linguistic and cultural diversity presents another challenge to educational integration in the region. While Russian remains a common language for academic exchange, linguistic policies in national education systems vary widely, with some states prioritizing their native languages over Russian-medium instruction. This divergence creates additional barriers to harmonization, particularly in higher education, where student mobility is a key objective.

Despite these challenges, the potential benefits of educational integration in the Eurasian region remain significant. A well-structured and effectively implemented integration strategy could enhance the competitiveness of the region's higher education institutions, increase student and faculty mobility, and create new research and innovation opportunities. Mutual recognition of degrees, standardized accreditation processes, and the development of joint educational programs could strengthen economic cooperation by producing a highly skilled labor force capable of meeting the demands of an evolving job market. In this regard, further research into the processes of educational integration in the Eurasian region is necessary to identify viable models that balance national interests with regional cooperation. The development of a comprehensive strategy for creating a single educational space within the

framework of Eurasian economic cooperation could provide a roadmap for overcoming existing barriers. In our opinion key steps toward achieving this goal may include:

1. Establishing a Central Eurasian higher education coordination body – A dedicated institution to oversee and regulate educational integration efforts, ensuring consistency, accountability, and long-term commitment from all member states.
2. Creating a common framework for degree recognition – Developing a standardized system for recognizing academic qualifications to facilitate student and professional mobility.
3. Investing in digital and cross-border education initiatives – Expanding online education platforms, joint degree programs, and virtual exchange programs to enhance access to higher education across the region.
4. Encouraging bilateral and multilateral agreements – Strengthening intergovernmental collaboration through formal agreements that outline specific commitments in curriculum development, research partnerships, and academic mobility.
5. Harmonizing accreditation and quality assurance standards – Establishing region-wide accreditation mechanisms that ensure consistent educational quality across institutions.
6. Leveraging international best practices – Drawing lessons from the Bologna Process and other regional integration initiatives to create a flexible yet effective model tailored to the unique needs of the Eurasian region.
7. Addressing linguistic and cultural challenges – Promoting multilingual education policies that respect national identities while enhancing regional cooperation.

Thus, while educational integration in the Eurasian region faces significant political, economic, and institutional challenges, it remains a critical component of regional economic development and cooperation. By developing a well-defined strategy and strengthening institutional commitments, the region can move toward a more cohesive, competitive, and internationally recognized education system that benefits both students and economies. Future research and policy efforts should focus on bridging the gaps between national and regional interests, ensuring that educational integration becomes a driving force for progress rather than a stalled ambition.

The implementation of the right to education concerns everyone, especially considering the latest trends in the development of the “Lifelong Learning” system proposed by UNESCO. The concept of lifelong learning extends beyond traditional schooling and higher education, emphasizing the need for continuous skill development, adult education, vocational training, and digital learning opportunities that adapt to evolving labor market demands and technological advancements. As societies undergo rapid transformations due to globalization, digitalization, and demographic shifts, the importance of ensuring inclusive, flexible, and accessible education throughout an individual’s lifetime has become more crucial than ever.

This dissertation does not claim to fully cover all issues related to the right to education. In examining the processes of educational integration within the mechanism for implementing the right to education, the research primarily focused on higher education, as this area has broader international legal regulation, well-established institutional frameworks, and greater engagement in cross-border cooperation. Higher education institutions, international organizations, and regional educational policies provide numerous points of contact between the interests of various states, making this sector an essential driver for educational integration.

However, in light of the modern understanding of the right to education as a lifelong process, it is clear that further research is required in several key areas to address emerging challenges and opportunities:

1. Ensuring continuous education throughout life

The expansion of lifelong learning frameworks requires in-depth analysis of how legal, institutional, and policy frameworks can support education beyond formal schooling. Research should focus on adult education, professional retraining, and digital learning, particularly in the context of increasing automation and job market changes that necessitate reskilling and upskilling workers throughout their careers.

2. Educational integration beyond higher education

While much of the focus on educational integration has centered on higher education harmonization (e.g., the Bologna Process), there is a growing need to explore how primary and secondary education systems can benefit from regional cooperation. Issues such as standardized curricula, teacher training exchanges, multilingual education policies, and inclusive education for marginalized populations should be further studied in an integrative framework.

3. The role of technology and digital learning

The increasing digitization of education raises questions about digital equity, access to online resources, and international recognition of online credentials. Future research should



examine how digital education platforms - including open online courses, AI-driven personalized learning, and cross-border virtual classrooms - can be effectively integrated into national and regional education policies while maintaining quality assurance and accreditation standards.

#### 4. Legal and institutional frameworks for lifelong learning

While traditional international treaties and national education policies are structured around fixed stages of formal education, there is a need to explore how legal frameworks can evolve to recognize lifelong learning as an enforceable right. Future research should investigate how states can integrate non-formal and informal learning into their education systems, ensuring that individuals who acquire skills outside conventional institutions can still receive certification and career mobility<sup>367</sup>.

#### 5. Educational integration in the context of economic and social development

The link between education and economic integration is becoming increasingly important in the globalized world. Research should assess how educational policies can be synchronized with labor market needs, ensuring that educational integration leads to greater employment opportunities, innovation, and economic resilience in different regions.

#### 6. Bridging gaps in education equity and accessibility

Lifelong learning should not be limited to privileged groups with access to advanced educational infrastructure. Future research must explore how educational policies can be made more inclusive - ensuring that refugees, individuals with disabilities, rural populations, and economically disadvantaged groups are fully integrated into the education system at all stages of life. As Hage and Boadu note, inclusive education methodologies require not only legal frameworks but also practical shifts in pedagogy, teacher training, and school-level adaptations to create meaningful learning environments for all students, including those with disabilities<sup>368</sup>. Complementing this view, Masuku et al. emphasize that using participatory and inclusive research methods - particularly involving people with disabilities and their families - fundamentally reshapes educational paradigms and enhances the responsiveness of education systems to real-world needs<sup>369</sup>.

#### 7. The future of international educational cooperation

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<sup>367</sup> European Commission: European Education and Culture Executive Agency, Validation of non-formal and informal learning in higher education in Europe – Eurydice report, Publications Office of the European Union, 2024, <https://data.europa.eu/doi/10.2797/296107> (Retrieved on 3 of February 2025)

<sup>368</sup> Hage, P., Boadu, A. Inclusive education in Sub-Saharan Africa: Key policy and practice considerations. *African Educational Review*, vol. 15, no. 2. 2018. pp. 134–150.

<sup>369</sup> Masuku, K., et al. Using participatory, inclusive research methodologies in Nigeria and Kenya. *African Journal of Disability*, vol. 7, no. 1. 2018. pp. 1–10.

Given the shifting geopolitical landscape and the emergence of new economic blocs, research should explore how global and regional educational integration can adapt to changing diplomatic and economic relations. Investigating the feasibility of new education agreements, cross-border research collaborations, and global mobility programs will be essential in ensuring the continued advancement of educational rights.

The concept of education as a lifelong right requires a paradigm shift in both national and international education policies. As global challenges evolve, education systems must become more adaptable, inclusive, and integrated into broader social and economic frameworks. Future research should prioritize the expansion of educational integration beyond higher education, exploring new models of collaboration, digital learning advancements, and inclusive education strategies that align with the principles of lifelong learning and global educational equity.

### **Summary of Chapter Contributions:**

Each chapter of the dissertation contributed uniquely to the overall understanding of the right to education and its implementation through international legal mechanisms:

Chapter 1 provided a comprehensive legal analysis of how the right to education is consolidated at universal, regional, and bilateral levels through international legal instruments. It revealed gaps, overlaps, and the varying legal force of these instruments, while also setting the foundation for comparative analysis.

Chapter 2 explored the conceptual and structural dimensions of the right to education, offering a detailed examination of conventional and institutional legal mechanisms. It demonstrated how a combination of binding and non-binding instruments - supported by international monitoring bodies - enables enforcement and accountability.

Chapter 3 substantiated the hypothesis that international educational integration is not merely a contextual factor but a central legal mechanism. Through theoretical analysis and comparative case studies, it illustrated how integration efforts can enhance the effectiveness, coherence, and adaptability of international commitments to educational rights.

These findings confirm the central hypothesis of the dissertation: although numerous international legal instruments address the right to education, their effectiveness remains limited in the absence of legal and institutional integration. The analysis conducted across various legal frameworks and regions shows that educational integration plays a pivotal role in bridging the gap between normative commitments and real-life implementation.

The dissertation's main contribution lies in establishing international educational integration as not merely an auxiliary theme, but a central legal mechanism for the

implementation of the right to education. This conceptual shift offers a novel legal perspective that enhances the coherence, adaptability, and enforceability of international educational commitments.

Another original contribution of this dissertation is the identification of a major legal gap: the absence of a unified and precise definition of the right to education in international legal instruments. While international treaties and declarations reference the right to education, they often do so without clarifying its legal content, scope, or enforceable elements. This lack of definitional clarity undermines the coherence of legal interpretation across jurisdictions and hampers implementation at the national level. By critically examining this normative deficiency, the research highlights a fundamental area in need of legal development and proposes framing this definitional issue as a central challenge for future treaty-making and legal harmonization efforts.

This research set out to identify and analyze the international legal mechanisms that facilitate the realization of the right to education. In doing so, it revealed that legal integration processes - often underappreciated - constitute the very fabric that binds national educational reforms to international obligations. The convergence of legal standards, policy frameworks, and institutional practices across borders is not merely a technical process; it is a reflection of a deeper normative shift toward solidarity, accountability, and global public goods in education.

While much of the literature focuses on individual rights or institutional reforms, this dissertation highlights the integrative legal mechanisms as essential to bridging the persistent gap between commitment and implementation. Legal harmonization, mutual recognition of qualifications, and coordinated policy instruments emerge not only as tools of convenience but as cornerstones of equity and justice in global education.

By contextualizing the right to education within broader international transformations - digitalization, migration, pandemics - the study underscores the urgent need for adaptive and integrative legal responses. The future of educational rights will depend not only on robust national legislation but also on international legal cooperation that is inclusive, flexible, and responsive to emerging global challenges.

Ensuring the realization of the right to education at all stages of life is not just a legal or policy challenge but a fundamental requirement for sustainable development, social justice, and global economic progress. The next step in educational research, as we have identified, should focus on identifying practical solutions, legal innovations, and cooperative mechanisms

that guarantee education remains an accessible, lifelong opportunity for all individuals, regardless of geographic, economic, or social barriers.

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