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# Legal regulation of student mobility in German universities

Nadiia Opushko, Dmytro Kyrychenko

Vinnitsia Mykhailo Kotsiubynskyi State Pedagogical University

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## Abstract

This study analyses the legal framework for regulating student mobility at German universities. The authors of the article examine the legal framework for the implementation of student mobility in Germany from the perspective of international, federal and institutional levels. Using the methods of analysis, generalisation, and systematisation, the author describes international treaties (Bologna Declaration, Magna Carta of Universities, Lisbon Declaration, Sorbonne Declaration; Mobility Strategy 2020 for the European Higher Education Area (2011), Incheon Declaration (2015), Yerevan Communiqué (2015); federal laws (Federal Framework Law on Higher Education, Federal Law on the Promotion of Education, etc.) The functions of a number of organisations (Federal Ministries, DAAD, Alexander Humboldt Organisation, Conference of German Rectors, German Students' Organisation) responsible for promoting student mobility are described. It is established that their powers include: financing student mobility programmes, establishing cooperation with foreign universities, etc. The authors state that the regulatory framework for academic mobility in German universities is formed at the appropriate level and is in line with global and regional trends. Being at the origins of the Bologna process, Germany has gradually and systematically reformed the regulatory framework in accordance with the main provisions of the Bologna agreements. It has its own Internationalisation Strategy, which guarantees the involvement of universities in this process and thus the basis for the development of academic mobility of students of these universities. This can explain the high level and balance of student mobility in Germany.

**Keywords:** student mobility, academic mobility, regulatory framework, students, Bologna Declaration, communiqué, strategy, universities, Germany

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# Нормативно-правове регулювання студентської мобільності в університетах Німеччини

Надія Опушко, Дмитро Кириченко

Вінницький державний педагогічний університет імені Михайла Коцюбинського

## Анотація

У пропонуваному дослідженні здійснено аналіз нормативно-правової бази регулювання студентської мобільності в університетах Німеччини. Авторами статті розглянуто правове забезпечення реалізації студентської мобільності в Німеччині з позиції міжнародного, федерального й інституційного рівнів. Використовуючи методи аналізу, узагальнення, систематизації, охарактеризовано міжнародні договори (Болонська Декларація, Велика Хартія університетів, Лісабонська Декларація, Сорбонська Декларація; «Стратегія мобільності 2020 для Європейського Простору Вищої Освіти» (2011), Інчхонська Декларація (2015), Єреванське Ком'юніке (2015); федеральні закони (Федеральний Рамковий Закон про вищу освіту, Федеральний закон про сприяння освіті та ін.). Описано функції низки організацій (Федеральні Міністерства, Служба Німецьких Обмінів DAAD, Організація Александра Гумбольдта, Конференція німецьких ректорів, Організація німецьких студентів), які відповідають за поширення студентської мобільності. Встановлено, що до їх повноважень належить: фінансування студентських програм мобільності, налагодження співпраці з закордонними ВНЗ тощо. Авторами констатовано, що нормативна база з питань академічної мобільності в університетах Німеччини сформована на належному рівні та відповідає світовим і регіональним тенденціям. Перебуваючи біля витоків Болонського процесу, Німеччина поступово і планомірно реформувала нормативну базу відповідно до основних положень болонських угод. Має власну Стратегію інтернаціоналізації, що є гарантом залученості ВНЗ до цього процесу, а відтак і базою для розвитку академічної мобільності студентів цих університетів. Цим можна пояснити високий рівень і збалансованість мобільності студентів у Німеччині.

**Ключові слова:** студентська мобільність, академічна мобільність, нормативно-законодавча база, здобувачі освіти, Болонська декларація, ком'юніке, стратегія, університети, Німеччина

**Statement of the problem.** Mobility is one of the important trends in modern society, which is actively spreading to all its sectors, including the higher education system. Academic mobility is carried out for the purpose of educational and scientific practices, and is one of the mechanisms of self-regulation of the learning process of current students. A new stage in the development of academic mobility in Ukraine began after it joined the Bologna Declaration. The European integration processes and Ukraine's prospects of joining the European Higher Education Area have intensified the development of academic mobility and significantly expanded it.

For today's students, studying abroad is not only a useful experience, but also, in some cases, an

important point on their future CV. For some companies, the availability of foreign study experience for future employees is already an important condition for their employment. Given the social significance of the problem presented, we believe that regulatory support is an important element of the effective implementation of student mobility.

The study of the German legal framework governing academic mobility in German higher education institutions (HEIs) is a relevant research for Ukraine. This is due to the fact that, firstly, Germany is a leading educational and scientific hub in Europe; secondly, it ranks first in the ranking of incoming and outgoing mobility; thirdly, it has considerable

experience in academic mobility and cooperation with domestic higher education institutions.

**The Analysis of Sources and Recent Research.**

The problem of training specialists in the higher education system of Ukraine is addressed by a number of domestic scholars: V. Andrushchenko, T. Boholib, H. Bordovskyi, V. Viktorov, L. Haievska, N. Ostroverkhova, L. Redko. Particular attention in their research is paid to the quality of higher education. The study of academic mobility, its types and periodisation, trends and prospects for the development of academic mobility in different regions of the world has been carried out in scientific works: F. Altbach, M. van der Wende, L. Verbeek, B. Waechter, H. de Wit, G. Laurais, S. Marginson, J. Knight, B. Reeves, H. Ridder-Simoens, J. Sadlak, U. Teichler. Among domestic scholars, it is worth noting the works of A. Antonov, S. Verbytska, A. Hladyr, I. Shpektorenko, and others.

**The Purpose of the article** is to investigate the regulatory and legal framework for student mobility at German universities.

**The Results of the Research.** The legal framework for the implementation of student mobility in German universities is considered in the international, regional and institutional aspects. The first one is represented by the Bologna Declaration and other international legal acts regulating academic mobility, the second one is the legal framework of Germany, and the institutional level is the level of educational institutions that use their own regulations to organise and develop academic mobility of students.

Academic mobility is one of the means of achieving the goals underlying the Bologna Declaration (Spilna Deklaratsiia Ministriv Osvity Yevropy "Ievropeyskyi Prostir U Sferi Vyshchoi Osvity," n.d.). The key tasks underlying the declaration are: building a single European Education Area (EEA), strengthening the cultural and intellectual potential of Europe, creating maximum compatibility of the education systems of the countries participating in the Declaration.

It should be noted that the ideas proclaimed in the Bologna Declaration were not new. They were first mentioned in the Magna Carta of European Universities (Bologna, 1988) (Sorbonska Deklaratsiia, 1988) and the Sorbonne Declaration (Paris, 1998) (Velyka Khartiia Yevropeyskykh Universytetiv, 1988). The content of the Magna Carta of Universities includes the principle of overcoming political and geographical boundaries, as well as the need for mutual

knowledge and interaction of different cultures, which can be achieved only through mutual exchange of information and joint work. Therefore, academic mobility, mutual recognition of diplomas and qualifications are integral elements for achieving these goals. Recognition of educational documents and periods of study are at the heart of academic mobility.

The Joint Declaration on the Harmonisation of the Architecture of the European Higher Education System by four ministers (UK, Germany, France and Italy) was signed in Sorborno on 25 May 1998. This document addresses in detail the issue of creating a single educational space. The signatory countries propose to introduce a European system of credit transfer, transition to two-level education, and encouragement of student and teacher mobility (Sorbonska Deklaratsiia, 1988).

It is worth noting that the problem of recognition of diplomas and qualifications at the international level is still considered to be a controversial issue related to the creation of a single educational space, despite the fact that the relevant document was signed in 1997 in Lisbon. However, before that, a number of documents regulating the recognition of qualifications were already in force. Among them:

- The European Convention on the Equivalence of Diplomas (1953) and its Protocol (1964);
- European Convention on the Equivalence of Periods of University Education (1956);
- European Convention on the Academic Recognition of University Qualifications (1959);
- International Convention on the Recognition of Studies, Diplomas and Degrees in Higher Education in the Arab and European Countries of the Mediterranean Basin (1976);
- Convention on the Recognition of Studies, Diplomas and Degrees in Higher Education in the European Countries (1979);
- European Convention on the General Equivalence of Periods of University Education (1990).

The factors that contributed to the adoption of the Convention on the Recognition of Qualifications relating to Higher Education in the European Region are primarily to facilitate academic mobility through the mutual recognition of qualifications and degrees in the signatory countries. All signatories to this convention are obliged to recognise each other's education documents and periods of study, regardless of race, religion, nationality, social status or beliefs.

Formally, the construction of the European Higher Education Area (EHEA) was completed in

2010, as reflected in the Leuven Communiqué (Lovenske Komiunike, n.d.). This document emphasises the importance of academic mobility in the process of internationalisation of higher education and calls on member states to increase the level of mobility (§18). The document outlines additional mobility mechanisms such as mobility windows and flexible study pathways (§19). It also calls on signatory ministers of education to encourage mobility in third countries in order to balance the flow of mobile students (§19). The ministers of education of the signatory countries also call for encouraging mobility in third countries in order to balance the flow of mobile students (§19).

In 2011, the Mobility Strategy 2020 for the European Higher Education Area ('Mobility for better learning') was adopted. This Strategy makes several references to the Leuven Communiqué in terms of the number of students who have received part of their education abroad (20% by 2020), ensuring balanced mobility within the EHEA and beyond through joint educational programmes, summer schools and international forms of cooperation between universities (Mobility for Better Learning. Mobility Strategy 2020 for the European Higher Education Area (EHEA), 2012). Special emphasis is placed on the problem of the so-called 'brain drain' that occurs within the framework of academic mobility. However, this can be addressed by creating attractive working conditions and other incentives, such as grants (§3).

In our opinion, the content of §7 is important, which states that the regulatory framework of a country should not be an obstacle to mobility and cooperation between universities. The issue of recognition is a basic condition for mobility, so the recognition procedures, according to the Strategy, should have a certain scheme acceptable to both parties. First of all, this refers to physical mobility (§2, p.1a). Virtual mobility is seen as an additional mechanism that promotes mobility, along with the 'international experience at home', which provides 'non-mobile' students with the opportunity to communicate with foreign colleagues at their educational institution (§10).

The UNESCO Incheon Declaration was adopted at the World Education Forum (2015). Its content is structured as a roadmap for achieving the objectives of the Declaration. In the field of education, the 'Framework for Action in Education until 2030' (November 2015) is a key document. In the context of the proposed study, paragraph 4.7 deserves special

attention, which states that 'by 2030, it is necessary to ensure that students have the opportunity to acquire the knowledge and skills necessary to promote sustainable development, including through education on sustainable development and sustainable lifestyles, human rights, gender equality, promotion of a culture of peace and non-violence, global citizenship and awareness of the value of cultural diversity and the contribution of culture to sustainable development' (Vsesvitnii Osvitnii Forum-2015: Inchkhonska Deklaratsiia «Osvita-2030», n.d.).

The leitmotif of the document is that education should promote intercultural dialogue and understanding. The Declaration reflects the current trend of focusing on developing countries - Africa and Asia - in the form of financial support for students to obtain education (scholarships). One of the mechanisms for implementing the main provisions of the Declaration is the development of joint programmes between universities in different countries to motivate students to return to their home university to prevent the 'brain drain' (Vsesvitnii Osvitnii Forum-2015: Inchkhonska Deklaratsiia «Osvita-2030», n.d.). Thus, the completion of the Bologna process did not lead to a complete solution to the issues of recognition of mobility. The Bologna Declaration and other documents that preceded it set basic goals and outcomes for mobility.

As Germany is a federal state, the responsibility for implementing the Bologna provisions lies directly with the HEIs, federal and state governments. The main functions and responsibilities are divided between the state and the Länder - this is a basic federal principle that can be found in the German Basic Law (Grundgesetz, Article 20, § 1) (GG - Grundgesetz Für Die Bundesrepublik Deutschland, n.d.), which was last amended in 2014.

The first level of regulation of the higher education system is federal, represented by the Federal Framework Act on Higher Education (1999) (Hochschulrahmengesetz, HRG) and the Federal Ministry of Education and Research (Bundesministerium für Bildung und Forschung - BMBF). In 2017, this law was amended (Hochschulrahmengesetz, 1999). The Federal Ministry of Education and Research (BMBF) together with the Federal Ministry of Foreign Affairs (Auswärtiges Amt) and the Federal Ministry for Economic Cooperation and Development (Bundesministerium für wirtschaftliche Zusammenarbeit und Entwicklung) is responsible for international

cooperation in higher education and for the implementation of the main Bologna provisions (Teichler, 2007). The German Ministry of Education is working on the development of the concept of the country's educational policy, defines the legal framework for the activities of educational institutions, and provides funding for higher education institutions.

International cooperation in the field of education also falls within the competence of the Federation (Article 73, § 1, Article 32, § 1 of the Basic Law). According to Articles 30 and 70 of the Basic Law, the Länder have the right of general competence in the field of culture, which implies their legislative right in matters of education, including higher education. This is the second level of regulation of higher education - the land level.

Based on the above arguments, we believe that Germany is characterised by decentralised education management. The Länder governments develop and implement regional laws on higher education, which mainly deal with personnel and financial issues, based on the Federal Framework Law. The activities of the Länder in higher education are controlled by the Conference of Ministers of Education and Culture of the Länder (Kultusministerkonferenz, KMK), the Conference of Rectors of Germany (HRK), the Federal Land Commission for Education Planning and Research Development (BLK), and the Science Council.

Although the KMK does not have law-making power, it reflects the current state of affairs in the 16 Länder of Germany (Witte, 2006). Another coordinating committee in matters of international relations, including European cooperation, is the Committee for European and International Cooperation (Kommission für europäische und internationale Angelegenheiten). It deals with issues of cooperation with the European Union in the field of education, culture and science. Committee members deal with issues of cultural exchange and mutual cultural policy.

The committee also regulates the participation of the Länder in UNESCO conferences and committees. Issues of international cooperation of the Land are considered annually by the CMC.

It is a kind of consortium of ministers responsible for education, universities, science and culture, and represents the interests of all the Länder. The conference started its work in 1948. The objectives of the conference were: jointly addressing issues related

to education, science and culture; maintaining a high level of mobility of students, teachers and researchers; representing the interests of the Länder in the field of education, science and culture (Standing Conference of the Ministers of Education and Cultural Affairs (KMK), 2015). Universities organise and plan the educational process. However, in recent years, there has been a tendency to transfer a number of powers (financial and administrative) from the state to the university level, thus giving them greater freedom of action and responsibility.

The university level is the third level of regulation of higher education in Germany. In 1994. The Conference of Ministers of Education and Culture of Germany adopted the '11 Theses on the Financial Autonomy of Higher Education Institutions'.

This document granted greater autonomy to universities in solving financial issues. The Federal Act on the Promotion of Education (Bundesausbildungsförderungsgesetz, BAföG) provides financial support for students. For more than 40 years, this law has provided an opportunity for German youth and foreigners (who plan to stay or live in Germany for a long time) to obtain higher education by financing their studies.

50% of the tuition fee is provided free of charge, the other half is in the form of a loan not exceeding EUR 10,000, which must be repaid upon graduation. The federal government has been fully funding this project since 1 January 2015, which is a significant support to the regions (German Federal Training Assistance Act (BAföG), 2020).

Since Germany is one of the initiators of the Bologna Process, it was one of the first countries to reform its higher education system in accordance with the basic requirements of the Declaration. In 1998, the framework law on higher education was amended. They introduced the bachelor's and master's degrees and a new system for assessing the quality of education. In 2013, 87% of German educational programmes led to a bachelor's or master's degree, and in 2015 this number exceeded 93% (Highereducationinfigures, 2015). A working group of the European Commission, the Council of Europe, UNESCO, and the Conference of German Rectors developed the German Diploma Supplement. At the same time, the European Supplement is also valid.

One of the basic federal regulations governing the academic mobility of students in Germany is the Strategy for the Internationalisation of German Science and Research, an updated version of which



was adopted in 2013 (Internationalization Strategy (Germany), 2018).

The Strategy declared the main goal to strengthen the role of Germany on the global stage.

The objectives of the Strategy are:

- improving quality through global cooperation;
- development of Germany's potential in the field of innovation;
- internationalisation of vocational training and qualifications;
- work with developing countries to create a global knowledge-based society;
- increase inbound academic mobility (Mobility for Better Learning. Mobility Strategy 2020 for the European Higher Education Area (EHEA), 2012).

A number of organisations are responsible for implementing the basic provisions of the Strategy. Among them: Federal Ministries, the German Student Exchange Service DAAD, the Alexander Humboldt Organisation, the Conference of German Rectors, and the German Students' Organisation (Ausländische Studierende in Deutschland 2012., 2014).

The main funding for university internationalisation programmes and DAAD programmes is provided by the Federal Ministry of Education and Research. The DAAD funds the Double-degrees integrated international study programmes programme, covering the costs of planning and implementing educational programmes and scholarships for German students and students from developing countries, in particular Eastern European countries that do not participate in EU programmes (Mobility for Better Learning. Mobility Strategy 2020 for the European Higher Education Area (EHEA), 2012). Germany's successful international cooperation in education and science is based on several successful projects that represent agreements between the Federal Government and the regions:

- The Pact for Research and Innovation, which promotes the development of non-university research organisations (such as the Max Planck Society, the Leibniz Association, etc.);
- Excellence Initiative, which supports promising research and young scientists at universities;
- The Higher Education Pact, which creates additional study places, promotes research and improves the learning environment and teaching quality at universities.

In 2013 the governments of the Federation and the Länder adopted a joint 'Strategy of the Ministers of

Science for the Internationalisation of Higher Education in Germany' (Teichler, 2007). This strategy defines 9 areas of action, including the strategic internationalisation of universities, national mobility, the establishment of a 'culture of welcome', the creation of an international campus, the expansion of international scientific cooperation and transnational educational programmes. The main condition for successful international academic mobility is the recognition of academic credits and qualifications. The basic document for Germany, as well as for the entire EHEA, is the Lisbon Convention (1997). In addition to this document, there are governmental 'Equivalency agreements' between Germany and European countries. For countries from other continents, there are Framework Agreements for Cooperation in Higher Education (Conference, n.d.).

Such agreements contain recommendations for joint research projects, academic mobility programmes, as well as cooperation and policy in higher education. In 2012, the Academic Freedom Act (Wissenschaftsfreiheitsgesetz) and the Act on the Assessment and Recognition of Foreign Professional Qualifications (Gesetz zur Verbesserung der Feststellung und Anerkennung im Ausländerworbener Berufsqualifikationen) were adopted. In the same year, in Bucharest, within the framework of the Bologna Ministerial Conference, Germany and 46 other countries participating in the Bologna Process signed a mobility strategy called 'Mobility for better learning' (Mobility for Better Learning. Mobility Strategy 2020 for the European Higher Education Area (EHEA), 2012). The document calls on countries to join the process of internationalisation, encourage mobility of students, teachers, researchers and university administrators and remove obstacles to its implementation. An example of German cooperation in the internationalisation of higher education institutions is the programme of the German Academic Exchange Service (DAAD) called 'Strategic Partnerships and Thematic Networks', which came into force in March 2012. The DAAD programme provides universities with an opportunity to join this process. Partner universities from 29 countries, together with German universities, participate in 21 programmes. The most represented are the universities of the USA and China (Action Plan (Germany), n.d.).

The German Ministry of Education and Science plans to further promote mobility. It is believed that half of university graduates should have experience of

studying abroad, and one third should have at least 3 months or 15 credits (ECTS) of studying in a foreign partner university.

**Conclusions.** The analysis of the German legal framework for the implementation of academic mobility of students allowed us to draw the following conclusions: in connection with the global integration processes in the field of higher education and the growth of international student flows, the imperfection of the regulatory framework for academic mobility threatens higher education institutions with a loss of competitiveness and a decrease in the image of the country and the education system. Ukraine can use the experience of Germany in terms of the levels of regulatory support for the development of academic mobility of students: state, regional, institutional.

Having described in detail the main laws of Germany on the higher education system, as well as a number of strategies and pacts in force throughout the

country, in which academic mobility plays a key role, we concluded that the regulatory framework for academic mobility is formed at the appropriate level and is in line with global and regional trends. Being at the origins of the Bologna process, Germany has gradually and systematically reformed its regulatory framework in accordance with the main provisions of the Bologna agreements. It has its own Internationalisation Strategy, which guarantees the involvement of universities in this process and thus the basis for the development of academic mobility of students of these universities. This can explain the high level and balance of student mobility in Germany.

Prospects for further research include a comparative analysis of the legal systems in the field of academic mobility in Germany and Ukraine; identification of common and distinctive features of legal support for this issue, as well as outlining the possibilities of implementing the best foreign experience in the domestic legislative framework.

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### Про авторів

**Надія Опушко**, кандидат педагогічних наук, доцент,  
e-mail: hmarka52@gmail.com, <https://orcid.org/0000-0002-3013-2675>

**Дмитро Кириченко**, аспірант, e-mail:  
texnomag99@gmail.com, <https://orcid.org/0000-0001-6532-5912>

### About the Authors

**Nadiia Opushko**, Candidate of Pedagogical Sciences,  
Associate Professor, e-mail: hmarka52@gmail.com,  
<https://orcid.org/0000-0002-3013-2675>

**Dmytro Kyrychenko**, PhD student, e-mail:  
texnomag99@gmail.com, <https://orcid.org/0000-0001-6532-5912>