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Abstract: *In this article, the author conducted a scientific analysis of the constituent documents of private higher education institutions from a theoretical and practical point of view. It is also substantiated that the charter of a higher educational institution is a legally significant document and proposals and recommendations are put forward on the need to make additions and amendments to the Law of the Republic of Uzbekistan "On Limited and Additional Liability Companies" clarifying the legal status of private higher educational institutions.*

Key words: *Private higher education institution, founder, constituent documents, charter, authorized capital, general meeting of founders, rector, director, supervisory board, audit commission.*

УЧРЕДИТЕЛЬНЫЕ ДОКУМЕНТЫ ВЫСШИХ ЧАСТНЫХ УЧЕБНЫХ ЗАВЕДЕНИЙ

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Аннотация: *В данной статье автор провел научный анализ учредительных документов частных высших учебных заведений с теоретической и практической точки зрения. Также обосновано, что устав высшего образовательного учреждения является юридически значимым документом и выдвинуты предложения и рекомендации о необходимости внесения дополнений и изменений в Закон Республики Узбекистан «Об обществах с ограниченной и дополнительной ответственностью», уточняющих правовое положение частных высших образовательных учреждений.*

Ключевые слова: *Частное высшее учебное заведение, учредитель, учредительные документы, устав, уставный фонд, общее собрание учредителей, ректор, директор, наблюдательный совет, ревизионная комиссия.*

The founding documents of a private higher educational institution, including its charter, are the primary means of determining the institution's legal status. This document is drafted in accordance with the legislation of the Republic of Uzbekistan and defines the management structure, financial activities, educational programs, procedures for organizing the educational process, and other important aspects of the institution. The

founding documents, especially the charter, serve as the legal foundation for all the institution's activities in the field of education, regulating its rights and obligations, internal regulations, and relations with state bodies. Proper formalization of the founding documents of private higher educational institutions is of crucial importance in ensuring the legality and continuity of their operations.

The development of the higher education system in the Republic of Uzbekistan is considered one of the priority directions of state policy. To enhance the country's intellectual and scientific potential, ensure international competitiveness, and form an innovative economy, the Uzbek government is implementing a series of significant reforms in the field of higher education. These reforms encompass crucial issues such as establishing a high-quality and accessible higher education system that meets modern requirements, advancing scientific research activities, strengthening the material and technical base of educational institutions, and enhancing the capabilities of professors and teaching staff.

The Decree of the President of the Republic of Uzbekistan No. UP-5847 "On Approving the Concept for the Development of the Higher Education System of the Republic of Uzbekistan until 2030," dated October 8, 2019 [1], serves as a strategic document in this field. This document outlines the main directions for the systematic development of the higher education system. Among the objectives set forth in the Concept are: including at least 10 higher education institutions in the list of the world's top 1000 educational institutions within prestigious international rankings, achieving an increase in higher education coverage to over 50 percent, implementing educational programs that meet international standards, and enhancing the scientific potential of professors and teachers. These crucial tasks are highlighted as key priorities.

In order to enhance the quality of education in higher education institutions and align it with international standards, joint educational programs are being widely implemented in collaboration with leading foreign universities. This cooperation is taking various forms, including the establishment of foreign branches, joint faculties, and collaborative research centers in the republic. Specifically, partnerships have been forged with leading higher education institutions from countries such as Russia, Great Britain, Germany, South Korea, the USA, and Italy. As a result of these collaborative efforts, students are gaining opportunities to obtain internationally recognized diplomas, learn from advanced foreign experiences, and become competitive in the international labor market.

The digitalization of the educational process and the implementation of modern information and communication technologies have become one of the key priorities for higher education institutions in Uzbekistan. The increased need for distance learning during the COVID-19 pandemic has further accelerated efforts in this direction. Universities are undertaking extensive work to enhance Learning Management System (LMS) platforms, develop electronic libraries, establish infrastructure for video conferencing and online classes, improve the digital competencies of faculty members, and integrate

innovative pedagogical technologies into the educational process. This, in turn, makes education more flexible and inclusive, enabling it to overcome geographical limitations. [4,5,6,7].

One of the key aspects of the strategy for developing the higher education system in the Republic of Uzbekistan is strengthening the integration of science and education, and intensifying research work. In this regard, tasks have been set to implement the "University 3.0" concept, introduce activities of scientific centers, technoparks, and innovation clusters, encourage students' research activities, increase the number of students in master's and doctoral programs, and raise the number of articles published in international scientific journals. Now, higher education institutions are functioning not only as centers for training specialists but also as research and innovation hubs, which contributes to the innovative development of the country's economy.

The charter, internal regulations, and other founding documents of a private higher education institution serve as legal instruments regulating the relationships among participants in the educational process - students, faculty, administration, and founders. These documents define the terms of educational services, rights and obligations of students, authority of teachers, institutional governance, and rules of financial operations. Clear and comprehensive stipulation of these matters in the founding documents helps prevent conflicts, maintain the institution's reputation, and ensure stability in its operations. Furthermore, the founding documents should encompass the institution's research activities, international collaborations, innovative developments, and participation in grant projects. This plays a crucial role in determining the contribution of private higher education institutions to enhancing the country's scientific and educational potential.

The charter of a higher education institution is considered a legally significant document and is approved by the founding body. However, unlike commercial organizations, the charter of a higher education institution and any amendments to it are first adopted by a general assembly (conference) of representatives from academic and teaching staff, other categories of employees, and students, and then approved by the founding body. Here we encounter a joint decision-making process between two entities - the founding body and a special organ of the higher education institution. In other words, the initiative lies with the higher education institution, while the founding body plays a more passive role.

Today, many higher education institutions are being registered as limited liability companies. They carry out their activities based on a license issued by the Ministry of Higher Education, Science and Innovation of the Republic of Uzbekistan. As a non-state higher education institution in the form of a limited liability company, it possesses a unique legal status. In accordance with the current legislation of the Republic of Uzbekistan, it has all the rights of a legal entity and is authorized to operate independently from the state.

The University has the right to possess property under its operational management, to be liable for its obligations related to this property, to acquire property in its own name and exercise property and non-property rights, to assume obligations, and to act as a plaintiff and defendant in court. Additionally, the university has an independent balance sheet, accounts including foreign currency accounts in banking institutions, a seal bearing its name, stamps, and other requisites. This ensures its full independence as a legal entity. In this context, the possession of treasury accounts is an unclear and controversial issue. Typically, treasury accounts apply to organizations financed from the budget. [8,9,10,11,12,13].

There are instances when the charter capital of an LLC is formed by the founder, but its exact amount is not specified in the charter. Indeed, the legislation does not strictly define a fixed amount requirement for the charter capital itself when no license is required. The charter fund (charter capital) of the company is determined by the company's charter and consists of the nominal value of its participants' shares. The minimum amount of the company's charter fund (charter capital) may be established by licensing requirements [2].

The authorized capital may consist of shares in the form of money, securities, items, property rights, or other transferable rights that have monetary value. Additionally, the charter provides for the possibility of increasing or decreasing the authorized capital based on the decision of the general meeting of the company's founders.

From a legislative perspective, it is defined as a non-state educational institution in the form of a limited liability company (LLC). This means that the university's property is considered the private property of its founder or founders. According to the Law of the Republic of Uzbekistan "On Limited and Additional Liability Companies," the founders of LLCs are liable only to the extent of their contributions. Furthermore, organizations in the form of an LLC have an independent balance sheet, bank accounts, and other rights necessary for conducting their activities.

One of the distinctive features of a non-state higher education institution, as defined in its charter, is the diversity of its financial sources. It is advisable to specify in the charter that the sources of funding for the university's activities may include income from economic activities and contracted services, charitable donations from individuals and legal entities, commercialization of scientific, educational, and other innovative developments carried out within the university's operations, as well as funds received from leasing university property. This indicates that, unlike state higher education institutions, non-state higher education institutions have a greater variety of funding sources and a higher degree of financial autonomy in their economic activities.

One of the crucial aspects of the university charter is the organization of the educational process. The charter stipulates the provision of training for highly qualified personnel in bachelor's degree programs and master's degree specialties. Additionally, the university can arrange second and subsequent higher education on a contractual basis.

Forms of education may include full-time study (with a break from employment) and part-time study (without a break from employment, including special part-time and evening programs). This demonstrates that the university possesses a flexible education system.

According to the charter, university governance is carried out by the rector, and the rector's powers can be quite extensive. Specifically, the rector has the authority to issue orders and directives related to university activities, hire and dismiss employees, as well as resolve other matters within their jurisdiction. The charter stipulates that the rector is appointed by the founders,[3] which is a characteristic feature of non-state educational institutions, while in state higher education institutions, rectors are appointed based on a different procedure established by law.

Unlike commercial organizations, higher education institutions have distinctive features in their management systems. In commercial organizations, the founder establishes the organization, approves the charter, and unilaterally sets the rules of engagement. The founder's powers not specified in the charter are exercised through decisions of the highest governing body or through direct decisions of the founder. While this system grants broad authority to the founder, it limits their accountability to the organization for their decisions. This situation may negatively impact the stable operation of the organization in cases where owners of commercial organizations lack competence.

The management of higher education institutions differs from that of commercial organizations. A higher education institution possesses autonomy and is accountable for its activities to students, society, and the state. The concept of autonomy is emphasized in the legislation on higher and post-graduate professional education, and is defined as the independence of a higher education institution in selecting personnel and conducting educational, scientific, and financial-economic activities in accordance with the law and its charter approved through established procedures.

The charter of a higher education institution, as the principal document of its management system, defines the following crucial aspects: the structure and authority of governing bodies, the procedure for electing the rector, the composition and powers of the academic council, the structure of the general assembly (conference), and the degree of autonomy. The charter should clearly articulate the institution's status, types of activities, organization of the educational process, and the distinctive features of its management system.

The legislation defines the system of governing bodies for higher education institutions in a complex and interconnected manner. The governing bodies include the founder, the general assembly (conference), the academic council, the rector and vice-rectors (rectorate), the board of trustees, and the president. Each of these bodies has its own authority, but the hierarchical relationships between them are not sufficiently clear. For example, while the academic council carries out general governance, the rector is responsible for direct management. However, the rector also chairs the academic council, which impacts the transparency of the management system.

Commercial organizations have a clear system for accounting for the rights of members of their highest governing bodies (for example, maintaining a register in joint-stock companies). In higher education institutions, however, the groups of individuals entitled to participate in management are not clearly defined. This difference can be explained as follows: in a joint-stock company, a shareholder's right to participate in management is directly linked to their property rights. In higher education institutions, the right to participate in management is significantly separated from property rights. Therefore, a formal approach to an employee's right to participate in management does not infringe upon their personal rights.

The charter of the higher educational institution should also clearly define the powers of the rector, as well as the procedure for their election and appointment. According to legislation, the rector is considered an official who directly carries out management. The procedure for appointing (electing) rectors of state or municipal higher educational institutions is complex, encompassing stages such as nominating candidates, review by attestation commissions, election through secret ballot at a general meeting (conference), and concluding an employment contract.

The management system of a higher education institution is based on its charter and regulates the interaction between various bodies. In this system, not only does the higher element in the hierarchy determine the characteristics of the lower element, but a reciprocal influence is also exercised. For example, the founder establishes the higher education institution, but only approves the charter upon the proposal of a general meeting or conference. It appears that the founder has delegated some of their authority to the key stakeholders - employees and students - in the form of the right to participate in management.

Such a system may appear well-balanced to some, but from a corporate governance perspective, it is not sufficiently transparent and comprehensible. Therefore, the issue of improving the management system of higher education institutions and adapting their charters to international practices remains relevant.

The charter may contain information about admitting students on a grant basis, but this matter requires clarification. The charter stipulates that university admission is conducted on the basis of equal rights for all applicants (whether through grants or paid contracts), uniform admission rules, and a single selection process. However, it should be noted that according to Uzbekistan's legislation, non-state higher education institutions typically admit relatively few students on state grant basis. In this context, the term "grant" might refer to the university's own internal grants or grants from private sponsors. This is because the opportunity to study on a state grant basis is primarily available at state higher education institutions.

It is crucial that the charter addresses international cooperation matters and stipulates the university's right to establish mutually beneficial collaborative relationships with educational and scientific centers of foreign countries, international foundations, and

other organizations. The university possesses the rights to send its professors, teachers, staff, and doctoral students to foreign countries for professional development and internships, as well as to ensure their education in Doctor of Philosophy (PhD) and Master's degree programs. This, in turn, enables the university to operate on an international scale.

Another crucial aspect of the charter is the utilization of modern pedagogical and information technologies in the educational process. According to the charter, the university will implement scientific and methodological work aimed at enhancing the quality of specialist training through the application of advanced pedagogical and information technologies, individualization of education and independent learning tools, a modular system, and distance learning methods. This approach enables the creation of an educational system that aligns with contemporary educational standards.

According to the charter, the governing bodies of the University LLC consist of the general meeting of founders (the highest governing body) and the director (the executive body of the company). Additionally, a supervisory board and an audit commission may be established within the company in accordance with the prescribed procedure. This management system complies with the Law of the Republic of Uzbekistan "On Limited and Additional Liability Companies." Simultaneously, the charter requires clarity regarding the management by the rector or the powers of the vice-rector. It may be envisioned that the rector manages the educational activities of the university, while the director oversees the economic activities of the LLC.

In conclusion, according to its legal status as an LLC, the university is considered a non-state higher educational institution and differs from state higher educational institutions in terms of independent economic management, diversity of financial sources, unique governance system, organization of the educational process, and opportunities for international cooperation. The founder of the university is an individual, and the amount of its charter fund is not explicitly specified in the charter. As a non-state higher educational institution, the university LLC enjoys greater autonomy compared to state educational institutions, which creates opportunities for it to effectively organize and develop its activities.

Private higher education institutions (HEIs) in the Republic of Uzbekistan are registered as limited liability companies (LLCs) and operate based on licenses issued by the Ministry of Higher Education, Science and Innovation of the Republic of Uzbekistan. Their distinctive feature is the diversity of their financial sources, which include funds from economic activities, contractual services, charitable sponsorships, commercialization of scientific developments, and income from property leasing. This demonstrates a greater variety of funding sources and a higher degree of financial autonomy compared to state higher education institutions, allowing for more independent economic management.

The founding documents of private higher education institutions, particularly their charters, serve as the primary means of determining their legal status. The charter

provides detailed information on the institution's management structure, financial operations, educational programs, organization of the learning process, student admission criteria, international cooperation guidelines, and other crucial aspects. Furthermore, it clearly defines the rector's authority, the procedure for appointing the rector, the composition of the academic council, the powers of the general assembly, and the degree of institutional autonomy. All these legal provisions are designed to ensure the stable and effective functioning of the institution.

The governance structure of private higher education institutions (HEIs) differs significantly from that of commercial organizations. In non-state HEIs established as limited liability companies, the general assembly of founders serves as the highest governing body, while the rector functions as the executive organ. Concurrently, higher education institutions possess a certain degree of autonomy and are accountable for their activities to students, society, and the state. However, the current legislation does not sufficiently delineate the hierarchy of relationships between governing bodies and the distribution of authority, which impacts the transparency of the management system.

It is necessary to introduce amendments to the Law of the Republic of Uzbekistan "On Limited Liability and Additional Liability Companies" to clarify the legal status of private higher education institutions. Specifically, a separate chapter of the law should detail the distinctive features of LLCs engaged in educational activities, minimum requirements for their authorized capital, sources of funding, and the powers of their governing bodies. When establishing the authorized capital of an institution, it is crucial to create mechanisms for directing it towards the development of educational infrastructure and to introduce a requirement for clearly defining the amount of authorized capital. Furthermore, it is essential to establish procedures for applying tax incentives in the formation of authorized capital for non-governmental educational institutions.

The law should clearly define the procedure for appointing the rector, forming the academic council, the powers of the general assembly (conference), and the hierarchy of relations between the founder and the institution. Clarifying the distribution of powers among governing bodies and regulating their interaction will contribute to the effective organization of non-state higher education institutions' activities. Furthermore, it is necessary to clearly delineate the powers of rectors and directors in non-state universities, specifying the academic responsibilities of rectors and defining the tasks of directors related to economic activities.

In the Law of the Republic of Uzbekistan "On Education," it is crucial to expand opportunities for international cooperation of non-state higher education institutions, attract foreign investments, and improve the legal framework for implementing joint educational programs. It is necessary to introduce new legal norms to stimulate research activities of educational institutions, create mechanisms for commercializing innovative developments, and enhance the system of intellectual property protection. These

amendments will serve to support the development of non-state higher education institutions and improve the quality of education.

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