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Foundation documents of higher education organizations and their types

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Abstract: This article provides information on the constituent documents of higher education institutions that determine their legal capacity and activities. In addition, the article provides analytical information and legal bases on the charters and regulations that determine the direction of activities of non-governmental and state educational organizations.

Keywords: Special legal capacity, accreditation, organizational and legal form, educational program, representative office, branch, legal entity, management structure, academic management.

Introduction: The legislative framework governing higher education institutions plays a crucial role in ensuring academic quality, institutional independence and accountability. In Uzbekistan, where serious reforms are being implemented in the field of higher education, a solid legislative framework is necessary to establish the functioning and management of higher education institutions.

We know from our legislation that legal entities operate mainly on the basis of the Civil Code, other legislative acts, as well as the charter and other constituent documents. As we noted above, the special legal capacity of legal entities is determined by its charter, regulations or legislation. Within the framework of higher education institutions, we will consider their constituent documents.

The special legal capacity of higher education institutions is also set out in its charter or regulations. For example, the new charter of the National University of Uzbekistan, adopted in 2018, states that the university is a state higher education institution and is engaged in educational activities in the implementation of basic and additional educational programs of higher

education, as well as carrying out educational and pedagogical, scientific, scientific-methodical and other educational activities and providing services in accordance with the legislation of the Republic of Uzbekistan, which indicates that the institution has special legal capacity.

The current legislative framework for higher education institutions in Uzbekistan was formed by the Law "On Education" adopted in 2020. This law serves as the regulatory framework for the activities of higher education institutions in our country. It establishes the rights and obligations of students and professors, as well as the management structure of these institutions. In addition, the law establishes guidelines for the accreditation and quality assurance of higher education programs in order to ensure compliance with international standards. While this legislative framework provides a comprehensive framework, it still needs to be further developed to address emerging challenges in higher education. By continuously updating and improving the existing legislative framework, Uzbekistan can improve the overall quality and global competitiveness of its higher education system.

We can see the views of the researcher A. Kramenko that in order for legal entities to have property and personal non-property rights, the legislation requires them to undergo state registration [1].

The founding documents of higher education institutions in Uzbekistan play a crucial role in creating the foundations for academic governance and activities in the national education system. These documents, which include the charter, regulations, and other regulatory documents, serve as the main principles that determine the mission, vision, and strategic direction of higher education institutions. By defining the obligations and rights of key stakeholders such as faculty, staff, students, and administration, these documents ensure transparency, accountability, and adherence to academic standards and ethical principles. In addition, they determine the organizational structure, management processes, and decision-making mechanisms that govern the daily activities of these institutions. A comprehensive analysis of these founding documents allows us to gain an understanding of the historical conditions, socio-political influences, and institutional values that have shaped the development of higher education institutions in Uzbekistan.

Based on Yu. Tikhimorov's opinion that the legal institution of state registration of legal entities serves to ensure public interests and strengthen legislation in the economic sphere, it is regulated by both civil law

and administrative law [2], we should mainly cover our research work in this area.

When studying the existence of constituent documents in higher education institutions, it becomes clear that these documents play a decisive role in shaping the legal basis for the activities of a higher education institution. Constituent documents, such as charters and regulations, set out the main principles, goals and management structures of educational institutions. These documents often embody the values and views of the institution, which influence decision-making processes and guide strategic initiatives. In addition, they serve as criteria for assessing institutional effectiveness and compliance with legislative requirements.

Since higher education institutions in our country are organized as legal entities, we will directly turn to the Civil Code of the Republic of Uzbekistan when analyzing their constituent documents. According to Article 43 of the Civil Code, "A legal entity shall operate on the basis of a charter or on the basis of a founding agreement and a charter, or only on the basis of a founding agreement. In cases stipulated by law, a legal entity that is not a commercial organization may operate on the basis of regulations on organizations of this type. The founding agreement of a legal entity shall be concluded by its founders, and its charter shall be approved. In accordance with this Code, a legal entity established by one founder shall operate on the basis of the charter approved by this founder [3]."

A legal entity carrying out educational activities must have a charter as its constituent document, which contains rules established by it, which are developed and adopted by the founder (or founders). According to Article 32 of the Law "On Education", the charter of an educational organization must reflect the following information:

- type and form of education;
- goals and tasks of the educational organization;
- organization and content of educational and scientific-methodical works;
- procedure for admission to an educational institution;
- the structure of the educational organization, management bodies and public structures;
- the status, rights and obligations of students, pedagogic staff, educational staff, administrative and management staff;
- property and tools of the educational organization;
- procedure for establishment, reorganization and termination of educational organization.

In our opinion, this is not an exhaustive list, but the

following information should be included in the charter:

- 1) the type of educational organization, taking into account its organizational and legal form;
- 2) the name of the educational organization (full and abbreviated);
- 3) the founder (or founders and their composition);
- 4) the types of educational programs implemented, taking into account the level and (or) direction of education;
- 5) the legal address (location of the educational organization);
- 6) the composition of the governing bodies, their powers and their terms of formation;
- 7) the language in which education and upbringing are conducted;
- 8) the procedure for providing paid educational services;
- 9) the procedure for disposing of the property of the educational organization;
- 10) the implementation of entrepreneurial activities;
- 11) the rights and obligations of students (parents, legal representatives);
- 12) the procedure for reorganization and liquidation of the educational organization.

The educational organization as an independent legal entity forms its internal structure - structural divisions that ensure the implementation of educational activities, taking into account the type and type of the educational organization, as well as the implemented educational programs. Such structural divisions include:

- branches and representative offices;
- sections;
- faculties;
- institutions;
- centers;
- departments;
- preparatory departments and courses;
- scientific research, methodological and educational departments;
- laboratories;
- clinics;
- training grounds;
- educational theaters;
- exhibition halls;
- educational dance and opera studios;

- artistic and creative workshops;
- libraries; museums;
- sports clubs;
- bedrooms;
- boarding schools and other units stipulated in the charter of the educational organization and local regulatory documents.

Branches and representative offices are also structural divisions of the higher education organization.

According to Article 47 of the Civil Code, "A representative office is a separate division of a legal entity located outside its location, representing and protecting the interests of the legal entity. A branch is a separate division of a legal entity located outside its location and performing all or part of its functions, including the functions of a representative office. Unless otherwise established by law, representative offices and branches are not considered legal entities. They are provided with property by the legal entity that created them and operate on the basis of the regulations approved by it. The heads of representative offices and branches are appointed by the legal entity and operate on the basis of its power of attorney [4]."

Branches can be established in the territory of the Republic of Uzbekistan, they must have a name, location (postal address), current account (where all funds from their activities are collected) and an independent balance sheet. The heads of branches are appointed by the executive bodies of the educational organization and operate on the basis of a power of attorney. The decision to establish branches and representative offices is approved by the founder of the educational organization and is enshrined in the charter of this organization.

According to Article 47 of the current Civil Code, representative offices and branches are not considered legal entities, unless otherwise established by law [5].

However, according to Article 29 of the "Law on Education" [6], we can see that educational organizations of the Republic of Uzbekistan and their branches, as well as branches of educational organizations of foreign countries, are established with the status of legal entities.

The heads of higher educational organizations are usually elected by the general meeting of employees, the scientific council, the teaching staff, etc., on the basis of the charter and legislation, appointed by the founder, appointed by the President of the Republic of Uzbekistan, the Government of the Republic of Uzbekistan, and in some cases hired by the founder.

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