

Features of the competence-based approach in legal education (on the example of the master's program «Corporate law»)

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Abstract. The presented material characterizes one of new approaches in formation of relationship of higher education institution and the employers, suitable for the Russian reality. The concept and value of competence of student's training is considered in work. Possibility of designing by the existing Russian legislation of special competences is analyzed. The mechanism on formation of competences for students according to the master program «corporate law» is offered: the demand in students is defined; classification of competences necessary for the employee providing corporate document flow is developed. On the example of the specified master program for the bases of formation of the educational standard in the preparation direction «Law», qualification «Master» at the North Caucasian federal university are presented. The contents valuable and professional is considered; the social and personal; the communicative; the social and personal; right realizable and consulting; the law-enforcement; norm designed and expert; the organizational and administrative; the human rights; mediational; the pedagogical; research competence.

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Introduction

The adoption of the Federal Law “On Education” (hereinafter the Law) [1] had initiated a new stage of reform of the educational system. This document reflects the advanced experience of effective educational practice. In particular, there were introduced new levels of education, expanding the variety of educational programs; opportunities for students to choose, and for employers to determine the courses of disciplines within the general educational programs; distance educational technologies, e-learning, network interaction of educational organizations, etc. The main purpose of introduced innovations consists in formation of the person possessing a complex of theoretical knowledge and practical skills, acting as a self-sufficient personality, able to apply his knowledge in practice, in independent life and practical activities. Criteria for the evaluation of educational activity is the assessment of the quality of education.

As it is said in Paragraph 29 of Art. 2 of the Law, the quality of education is determined by degree of compliance of educational activity and preparation of the student with the federal state educational standards, the federal state requirements and (or) the needs of the individual or legal entity in whose interests educational activity is carried out. The

specified approach in an assessment of quality of education is used and in foreign practice [2. Pp 36;]

It is relatively clear to evaluate the quality of education in the aspect of compliance with the standards and requirements. However, we could not say the same about the needs of the individual or legal entity in whose interests educational activity is carried out. Due to the fact that each subject of the federation has its own priorities for economic development, it is the latter aspect that is important in the subsequent demand for university graduates.

The new law has provided an opportunity for the employers' associations to participate not only in the procedures of quality control of education, but also in the process of formation of educational programs, which is consistent with the appeal of European Ministers responsible for higher education, “to develop cooperation with employers within the update process of educational programs and their re-orientation towards learning outcomes” [3. Pp.123].

Many researchers carry out the analysis of labor market requirements to the system of vocational education. Relying on their works, one can see that the modern employer expects from the employee the ability to think independently and solve various questions of professional activity, critical and creative thinking, the use of rich business and professional vocabulary [4. Pp. 310;]. There are

certain requirements to the quality of the individual, such as the ability:

- to interpret processes and phenomena independently and critically, to reveal arising difficulties and to look for the ways of their rational overcoming using modern technologies;
- to realize and use the acquired knowledge in surrounding reality;
- to think creatively, to generate new ideas;
- to work competently with different information;
- to work in a team, to be sociable, contact, to overcome conflict situations;
- to self-study, to raise the level of cultural development.

The specified requirements could not be found in job advertisements placed by the employer in mass media and on the Internet; however, employers mention them in interviewing candidates for a vacant position. These factors confirm the necessity of a certain set of personal qualities for each profession, which later, under the influence of specific of professional activity are acquiring a professional character.

Thus, special education is a necessary but not always sufficient condition for building a successful career. In this regard, there is a need of workers' training that will meet the requirements of the employer. Relying on the Law, the exit from this situation can be found in implementation of the professional competence-based approach, the realization of which is possible while studying the questions of "competences" and "the result of training". Competence represent the personal ability of a specialist (employee) to solve a certain class of professional tasks. Acquisition of competence is defined in the description of the result of training, i.e., the one of what the learner must possess, and be able to know. The result of such approach is the ability of graduates to act in different life situations. Thus, it is impossible to train the employee in the system of higher professional education meeting the requirements of the employer without determining the competences list of bachelor, specialist and master.

It is believed that the term "competence" was introduced by White in 1959 in the United States to describe the graduate abilities which are most closely tied with his/her high-quality work on the basis of the training and high motivation to its implementation formed in the process of training [5. P. 14]. Subsequently the school of competence-based approach in education was developed. Moreover, there are three main types of the definition of a competence interpretation of the quality of education:

behavioral approach (USA), functional approach (UK), as well as multi-dimensional and holistic approach (France and Germany) [5. Pp. 14-20]. Each of these countries has its own particular implementation of the competence-based approach, but the objective of education representatives reduces ultimately to ensure the quality of training of a specialist demanded in practice. In particular, the German competence model is based on the theory of F. Weinert, the essence of which is the ratio between knowledge and competence. The performance of professional activities is connected with what the graduate is going to do and the reason for doing that. Common knowledge and skills is insufficient in this case [6. Pp. 111]. The competences formed in the process of learning refer to a person's ability to act, and they begin to work as coherent phenomena and general abilities [7. Pp. 27].

During the formation of competences, the significant role should be given to employers whose active position in the organization of educational process is defined by the Law. The solution of this problem lies in the employers' participation in working out of curricula, in compiling a list of competences the consumers of which they will be later, etc. Defined competences will be a guiding line in teachers' work, building the basis for instructional and educational work.

The complexity of the competence approach realization in Russia is connected with the fact that the position of the universities is not active in designing competencies of employers' opinion. The reason lies in the passivity of the faculty, unwilling to reorganize its activity, to study new and innovative technologies of training related to the modular organization of the educational process, a unified system of credits, a qualitatively new approach to the assessment of educational outcomes. Another problem is the absence of a comprehensive normative and methodical support in definition and assessment of competencies. The main task of higher education is to define the requirements to the quality of training according to the needs of the state, society and employers. To ensure the high-quality training of graduates it is necessary to create a system of formation and assessment of competencies, taking into account the consumers' demands and targets of education, subordinating results of education to the latter.

Thus, in modern conditions the definition of competences is nothing but a description of the results of education. Orientation of standards and educational programs to a defined competence makes the results of education transparent that allows comparing them only between the countries, universities even in training on one specialty.

According to Professor Baydenko V.I., a better methodological tool for the “Bologna” update of curricula and programs in European universities has not been found yet. The Western experts consider that the results of education, expressed in language of competences is the way to expansion of academic and professional recognition and mobility, comparability and compatibility of diplomas and qualifications. In Russian reality, the implementation of the competence-based approach may be an additional factor in maintaining a unified educational, vocational and qualification space [8. P. 36].

In this connection, there is a need in development of a technique of competences formation based on the employers’ opinion. The author’s technique includes the following stages:

1) the analysis of a local labor market, classification of the enterprises (employers) by parameters which are significant for professional activity;

2) the development of the questionnaire for the survey of employers on necessary competences of students and recommendations on its completion;

3) questioning and processing of results by means of INTERNET, network technologies;

4) development of a classification of competences, clarifying the ones specified in the Federal state educational standards in addition with the “regional” competences;

5) the adjustment of the general educational program in federal and regional disciplines, distribution of hours or credit units in each discipline taking into account the defined competencies.

We will consider the application of the given technique to create a list of competencies for the masters training on specialty 030900 «Jurisprudence», on the example of the Caucasian Mineral Waters region (hereinafter CMW).

The first stage includes analysis of employers, representing the local labor market. Contacting the employment centers of CMW allowed classifying the organizations requiring employees with legal education. And that showed the following:

- 1) state and municipal authorities,
- 2) organizations that represent big business,
- 3) organizations that represent the medium business,
- 4) organizations that represent small business.

Analysis of the employers’ requirements led to the conclusion about the need to train employees for corporate document flow, which determined the name of the master’s program as the «Corporate

Law». The study of the peculiarities of legal regulation in this sphere of activity has allowed identifying the following features:

1) all processes associated with the sphere of corporate document flow are clearly defined and based on certain normative legal acts. The significance of the issues involved is determined by commercial risk and consequences related to the violation of the current legislation;

2) the majority of enterprises, organizations and institutions working in the same sphere of activity carry out the same business processes and use the same documents for the basic procedures of the activity;

3) enterprises, organizations, institutions having the same organizational and legal forms use identical documents in their activity;

4) the form of ownership defines common requirements for constituent, registration, primary accounting and reporting documents.

At the second stage the classification of competences necessary for an employee providing corporate document flow is developed. Competences proposed for inclusion a magistracy on specialty 030900 “Jurisprudence” in general educational program are divided into two groups (according to the Federal state educational standards of higher professional education) [9. Pp. 36]:

1) General cultural competence. This group consists of competences that form a “portrait” of any modern person. They describe social and linguistic skills, cognitive abilities, and interpersonal competences.

2) Professional competence distributed by types of activities.

In accordance with the Federal state educational standards of higher professional education, professional competences are divided into the following groups: lawmaking; law enforcement, expert and consulting, organizational and administrative, research, pedagogical. The portfolio formation of the corresponding competences should be based on a survey of employers. Types of professional activities to which the master will be preparing, are defined by a higher educational institution on the basis of the survey, together with other students, scientific and pedagogical workers and the employers’ association.

At the third stage according to the developed classification, it is necessary to make the general list of competences that the master has to possess. Besides, the list of these competences should be agreed with the duties of those posts which graduate-master can take, and which are presented in the “Qualification directory of positions of heads, experts and other employees” [10].

Currently the North-Caucasus Federal University in accordance with paragraph 10 of Art. 11 of the Federal Law "On education" develops its own educational standard in the professional training on the specialty 030900 "Jurisprudence" (Master's program), the basis of which is in the following:

- European qualifications of professional activities based on the competence approach;

- development of the university providing integration of its educational and research activity, modernization and improvement of material and technical base and socio-cultural infrastructure, integration into the world educational space;

- effective global and domestic practice of Master of Law training, taking into account new methods of teaching, evaluation and monitoring of outgoing trends of the national legal doctrine;

- consolidation of the state, society, strengthening the positions of civic consciousness and patriotism; [11]

- importance of formation of the all-Russian civil identity, creation of conditions for harmonious development of the personality capable to ethnocultural and interfaith dialogue;

- respect for the universally recognized human rights, actual and perspective needs of the individual, genesis of the state and law, education, science, culture.

It is planned to put the following competences as cultural ones of the master who is training at the North-Caucasus Federal University (hereinafter NCFU).

Value-professional competence:

- ✓ A Master student should have the civil Russian identity; realize the requirements of professional ethics; be ready to work for the benefit of society (CC-1).

Socio-personal competence.

A Master student

- ✓ contributes to the consolidation of the state, society, strengthening the positions of civic consciousness and patriotism on the basis of respect for the universally recognized human rights, ethnocultural and polyconfessional diversity (CC-2);

- ✓ self-improves and expands the range of his scientific and professional knowledge; is able to leadership, to make informed decisions, to motivate the validity of made decisions and their implementation (CC-3).

Communicative competence.

- ✓ A Master student is able to make public speech, knows written professional language, and ready to communicate professionally in a foreign language (CC-4).

Professional competences of the educational standard of the North Caucasus Federal University in specialty 030900 "Jurisprudence", "Master" qualification are formed taking into account the opinion of 45 leading employers of the North Caucasus Federal district, among which are public authorities and local self-government, law enforcement bodies, courts, lawyers, notaries, public organizations, economic entities. The most demanded are the following:

Law realization and consulting competence:

- ✓ A Master student has skills of interpretation, observance, execution and application of rules of law in professional activity, including qualification of the legal significant facts; has skills of legal consultation (PC-1);

Law-enforcement competence:

- ✓ A Master student is ready to perform duties to ensure law and order, security of the individual, society and state, detection, suppression, investigation and solving of crimes and other offenses; is able to make procedural documents, to reveal and eliminate the reasons and the conditions promoting commitment of offenses, to give an assessment of corrupt behavior and to promote its suppression (PC-2);

Procedural and expert competence:

- ✓ A Master student is able to develop projects of normative legal acts, to carry out legal examination of normative legal acts, including anti-corruption; has the skills of legal methods (PC-3);

Organizational and managerial competence:

- ✓ A Master student is able to apply modern methods of legal management; to carry out verification and structuring of administrative information and to realize innovations in professional activity (PC-4);

Human rights competence:

- ✓ A Master student is ready to give qualified legal assistance to individuals and legal entities in order to protect their rights, freedom and interests, to provide access to justice (PC- 5);

Mediation competence:

- ✓ A Master student knows specialized system of measures of extrajudicial conciliatory, including mediation procedures; able to participate in conciliation (PC-6);

Pedagogical competence:

- ✓ A Master student is ready to teach legal discipline, able to apply modern educational technologies; capable to the organization of educational process; contributes to legal culture formation of students (PC-7);

Research competence:

- ✓ A Master student is able to create new knowledge, to relate this knowledge with the

existing national and foreign studies; possesses relevant methods of scientific cognition and formulates conclusions and recommendations of the application of research results (PC-8).

Unfortunately, we should notice that complexity of realization of competence-based approach in modern Russia is in lack of the legal mechanisms defining the relationship “teacher – student – employer” at the stage of formation of the general educational programs. Execution of training standards does not presuppose a mechanism of verification the achievement results in mastering competences when studying academic disciplines. Creation of algorithm of actions in this case, confirming the quality of education, is a priority of Russian education. Relying on the Western European experience, we believe that the competence-based approach in education can be fully realized only in close relationship of participants of educational process with employers. [12]The presented material characterizes one of the new approaches in formation of relationships of the university and employers, suitable for Russian reality.

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