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IMPACT OF THE CONSORTIUM MODEL REGULATION ON THE DEVELOPMENT OF HIGHER EDUCATION

IMPACTO DE LA NORMATIVA MODELO CONSORCIO EN EL DESARROLLO DE LA EDUCACIÓN SUPERIOR

Galina Belyaeva¹

E-mail: belyaeva_g@bsu.edu.ru

ORCID: <https://orcid.org/0000-0003-2494-6928>

Marina Nagoeva²

E-mail: gala.belyaeva2014@yandex.ru

ORCID: <https://orcid.org/0009-0008-1849-8931>

Kseniya Belousova³

E-mail: belousova1982@rambler.ru

ORCID: <https://orcid.org/0000-0001-7597-0843>

Dmitry Polonsky⁴

E-mail: polonskiy_d@bsu.edu.ru

ORCID: <https://orcid.org/0000-0003-4089-7644>

Irina Kapustina⁵

E-mail: i-kapustina@mail.ru

ORCID: <https://orcid.org/0000-0003-2944-3369>

¹ Belgorod State University, Russia.

² North Caucasian Institute for Advanced Studies (branch) of the Krasnodar University of the Ministry of Internal Affairs of Russia, Russia.

³ Polzunov Altai State Technical University, Russia.

⁴ Belgorod State University, Russia.

⁵ Belgorod State Technological University named after V.G. Shukhov, Russia.

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ABSTRACT

Considering the international and Russian experience of legal regulation, the article addresses some debatable issues regarding the legal nature and the concept of consortia in the field of higher education. The authors examine international and national legal acts to identify the concept and nature of consortia in different legal systems. In addition, they analyze the functioning of educational consortia in different legal systems and their role in promoting innovation, sharing resources, and improving the quality of education. The authors highlight the advantages of creating consortia in higher education through contractual agreements: no need for formal registration or liquidation procedures, no need to make amendments to the internal structures of the parties, and flexibility in distributing rights depending on the profile of participants, as well as risks in case of adverse consequences, etc.

Keywords:

Consortia, Partnership, International legal regulation, Higher education, General partnership agreement.

RESUMEN

Considerando la experiencia internacional y rusa de regulación legal, el artículo aborda algunas cuestiones discutibles sobre la naturaleza jurídica y el concepto de consorcio en el campo de la educación superior. Los autores examinan los actos jurídicos internacionales y nacionales para identificar el concepto y la naturaleza de los consorcios en diferentes sistemas jurídicos. Además, analizan el funcionamiento de los consorcios educativos en diferentes sistemas legales y su papel en la promoción de la innovación, el intercambio de recursos y la mejora de la calidad de la educación. Los autores destacan las ventajas de crear consorcios en educación superior a través de acuerdos contractuales: no hay necesidad de registros formales o procedimientos de liquidación, no hay necesidad de hacer modificaciones en las estructuras internas de las partes y flexibilidad en la distribución de derechos dependiendo del perfil de los participantes, como así como riesgos en caso de consecuencias adversas, etc.

Palabras clave:

Consortios, Sociedad, Regulación jurídica internacional, Educación superior, Acuerdo general de sociedad.

INTRODUCTION

Modern globalization processes, which are manifested in socio-cultural relations, have also influenced science and education. This is due to the fact that modern institutions of higher education face educational and research tasks that can be solved through the development of various forms of cooperation and partnership. One of the effective forms of interuniversity cooperation is the creation of consortia: associations of universities, scientific organizations, and other partnerships to achieve common goals provided by the state programs of the Russian Federation in the field of science and education development of the last decade (the creation of world-class scientific, educational, and research centers, the Priority-2030 program of strategic academic leadership).

Global trends in the creation of consortia in all spheres of education emphasize their key role in developing innovations, attracting grant support from the state, and implementing strategic development programs (Machovec, 2017). In the field of medicine, the American Medical Association's (AMA's) Accelerating Change in Medical Education (ACE) initiative launched to foster advancements in undergraduate medical education in 2013 has developed and scaled innovations influencing medical training at all its stages. In the first five years, the consortium schools delivered innovative educational experiences to approximately 19,000 medical students, who would provide about 33 million patient care visits annually (Lomis et al., 2021). It is also worth mentioning the experience of other medical consortia (aimed at combining the achievements of the humanities and medical sciences in the field of health care) – the University of Missouri-Kansas City's Health Care Quality and Patient Safety Consortium (Hillman et al., 2020). In addition, the Health Humanities Consortium (HHC) (Klugman & Jones, 2021) should bridge the growing gap between the health system and the education system that produce the health workforce (Murray et al., 2019; Lewis et al., 2021; Ridinger et al., 2021; Skochelak et al., 2021).

For example, doctoral consortia (DC) sponsored by universities and academic organizations in the United States are effective for applicants for doctoral degrees (Christensen & Rhoades-Catanach, 2019). Consortia assist the technical and pedagogical transition from face-to-face education to virtual/online learning due to the COVID-19 pandemic (Martín-Cuadrado et al., 2021) and provide Master's Degree programs within the framework of international consortia (Van Oost et al., 2021).

In Russian national legislation, there are a sufficient number of regulatory, organizational, and legal problems

caused by legal gaps, other legal uncertainties, and insufficient, in comparison with other countries, law enforcement practice.

Thus, this article considers topical issues regarding the concept and legal nature of consortia in relation to the educational sphere in both Russian and international law.

MATERIALS AND METHODS

This analytical review systematizes and considers international, interstate, and national legal acts, as well as the functioning of consortia in various legal systems. Through a deductive transition from the general international foundations of the legal regulation of consortium activities to regional international and national laws, we reveal the problems of formalizing contract terms (both essential and common) for the creation of a consortium. These include the type of an agreement, its subject matter, goals, objectives, main activities, and duration (for example, a fixed-term contract for achieving a specific result or an open-end contract, etc.). In addition, we consider provisions that determine the powers of representatives to interact with third parties, as well as provisions to identify each party's share in joint assets, if such assets are created to realize the purpose of the consortium.

In the context of education, consortia have emerged as invaluable structures for fostering collaboration and synergy among academic institutions. The systematization and analysis of the legal underpinnings governing consortia presented in the analytical review reveal valuable insights into the multifaceted nature of these educational alliances.

RESULTS AND DISCUSSION

A topical issue of establishing consortia in Russia is the concept and legal nature (organizational and legal form) of this type of collaboration (Reijonen et al., 2022). In this case, one should not underestimate the importance of legal definitions that create uniformity in the legal practice of applying certain norms and regulations. In the future, it will help avoid the violation of the rights, freedoms, and legitimate interests of parties and entities involved with legal institutions (Nadezhin 2019; Turanin et al., 2019; Rumyantsev et al., 2020; Turanin et al., 2020).

According to the Guidelines for Drafting Contracts developed by the United Nations Economic Commission for Europe in 1973 and 1979 (advisory), a consortium is a temporary contractual association of entities (partners) with the status of entrepreneurs (both sole and with the formation of a legal entity), retaining their legal independence, uniting to implement any financial or industrial project under a contract with a third party. Based on this

definition, the essential features of a consortium at the international level are as follows: an association based on a contract while maintaining legal independence; temporary nature; having a common goal.

At the beginning of the 21st century, supranational organizational and legal forms of research infrastructures specializing in the implementation of integrated scientific and infrastructure projects began to be formed in European Union. At the regulatory level, these organizations are referred to as the European Research Infrastructure Consortium (2009).

It is necessary to share regional experience in the legal regulation of the consortium's activities. Within the framework of the Commonwealth of Independent States and according to Article 9 of the Model Law "On Innovation Activities" (adopted in Saint Petersburg on November 16, 2006 by Decree 27-16 at the 27th plenary meeting of the Inter-Parliamentary Assembly of the CIS Member States (2006), a consortium is a public-private partnership, which is an intersectoral innovative and technological complex that unites on a contractual basis the activities of state organizations and private companies associated with the development and implementation of a targeted program or the most important national innovation project (Inter-Parliamentary Assembly of the CIS Member States, 2006). Clause 2 of Article 38 of this law serves as the basis for the development of special legal acts of the CIS Member States that regulate relations in the field of innovation.

In this case, consortia are defined as public-private partnerships, and there are obvious conflicts with the Russian legal system, in which public-private partnerships are not identified with consortia but are a prerequisite for their formation. Otherwise, this definition does not expand the legal nature of consortia.

At the interstate level, this law can be used solely as a guideline for the development of national legislation. However, it is not sufficient to regulate the activities of consortia and specify legal norms (combined into a special law or formalized as additions and amendments to the current legislation) at the national level, which has not been implemented in the previous 15 years.

Another guideline in choosing the direction of law-making activities to formalize the legal regime of consortia in the Russian Federation can be the Model Educational Code for the CIS Member States (General Part) (adopted by Resolution of the Inter-Parliamentary Assembly of the CIS Member States (2013). Unfortunately, it does not define the concept of consortium but indicates its main tasks. These are to develop high-quality educational programs, new educational technologies, and electronic textbooks

for students using distance learning technologies and external studies; to support and harmonize the conditions for using online technologies, scientific programs in priority development areas of science, engineering, and technology, as well as other educational and methodological materials (Inter-Parliamentary Assembly of the CIS Member States, 2013).

There is currently no legal definition of a consortium at the legislative level in the Russian Federation. Due to a large number of strategic documents (concepts, programs, strategies, etc.) aimed at the innovative development of Russia and viewing consortia as the driving force for these innovations, organizational and administrative by-laws should define this form of interaction in their glossaries.

The analytical review of these legal acts demonstrates that educational consortia in the national legislation are understood as a set of educational institutions of higher education, as well as scientific, engineering, industrial, and other organizations, including foreign ones, participating in the creation and development of collaboration; the association of universities and scientific centers in partnership with industrial organizations.

This refers to the same group of attributive features of the consortium, i.e. the association of organizations to achieve certain (research) goals.

Given the foregoing, we have concluded that the consortium combines the features of both a legal entity and a contractual form of interaction. The contractual form is indicated by the complete economic (including production) independence of its members (for example, consortia are recognized as a general partnership agreement in Germany) and their temporary creation. In addition, the contractual form of consortia (without establishing a legal entity) is most often selected by educational and scientific institutions (for instance, the Innovative Jurisprudence consortium based on Kutafin Moscow State Law University).

In relation to higher education, it is advisable to qualify the consortium as a general partnership agreement (a joint activities agreement) since there is no other legal structure for this type of activity in the national legislation of the Russian Federation. Based on the dispositive method, civil law provides for the possibility of concluding contracts that are not directly backed by law but are not prohibited by it. Therefore, the mixed nature of this agreement combines elements of civil law contracts that are different.

For this reason, there is an obvious need to single out the agreement on the creation of a consortium as a type of general partnership agreement. Such reform can be exemplified by an investment partnership agreement

when, through the adoption of a special federal law and the introduction of minimal amendments to the Civil Code of the Russian Federation, the necessary legal institution was created and regulated.

The activities of consortia in the field of legal education within the scientific and educational collaboration of the Russian Federation were based on Kutafin Moscow State Law University in the status of the Supporting Scientific and Educational Center for Law "Innovative Jurisprudence". This embraces more than 30 universities, scientific and other organizations. In general, the goals and objectives of the consortium are similar to the activities of institutions in other countries of the world: the joint study of the current needs of the labor market in competencies and their comparison with the educational results of higher and secondary vocational education programs; filling the gap in the quality levels of regional education in constituent entities of Russia; increasing the global competitiveness of Russian law schools and faculties based on a single information and educational basis; assessing the quality of higher legal education in Russian educational institutions of higher education; the examination of educational programs, etc. (Moscow State Law University named after O.E. Kutafin, 2023).

Indeed, the activities of such organizations are useful for the interregional scientific and educational cooperation of universities. Given the significant difference in the cost of education in Moscow, Saint Petersburg, and provincial universities, joint educational programs offered by the consortium are not in demand by students in the constituent entities of the Russian Federation due to their high costs.

CONCLUSIONS

The functioning of consortia at the interstate and international levels of legal systems demonstrates that they are mostly formed based on contractual interaction. This is the simplest and most flexible form of scientific and educational cooperation due to the following reasons: There is no need to register a consortium (as well as terminate it through a liquidation procedure) or make changes to the internal structure of consortium participants; it is possible to establish the procedure for distributing rights and obligations within the consortium, depending on the profile of participants and possible adverse consequences of the consortium's activities.

The contractual form allows educational organizations to resolve issues related to the consortium's activities in a conciliatory manner by making appropriate amendments and additions to the agreement on the creation of the

consortium with due regard to changes and emerging risks in the implementation of the network project. On the one hand, institutions of higher education (participants of the consortium) get the opportunity to exchange experience in the process of joint activities and use common innovative resources that are not available within individual activities, etc. On the other hand, they retain their individuality and distinctiveness by remaining independent in the activities they carry out without cooperation.

REFERENCES

- Christensen, A. L., & Rhoades-Catanach, S. C. (2019). Enhancing the benefits of accounting doctoral consortia. In, T. G. Calderon (Ed.) *Advances in accounting education: Teaching and curriculum innovations*. (pp. 3-28). Emerald Publishing Limited.
- European Research Infrastructure Consortium. (2009). Council Regulation (EC) No. 723/2009 of 25 June 2009 on the Community legal framework for a European Research Infrastructure Consortium. *Official Journal of the European Union L 206*. <https://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2009:206:0001:0008:EN:PDF>
- Hillman, E., Paul, J., Neustadt, M., Reddy, M., Wooldridge, D., Dall, L., & Drees, B. (2020). Establishing a multi-institutional quality and patient safety consortium: Collaboration across affiliates in a community-based medical school. *Academic Medicine*, 95(12), 1864-1873.
- Inter-Parliamentary Assembly of the CIS Member States. (2006). Modelnyi zakon ob innovatsionnoi deyatel'nosti (Prinyat v g. Sankt-Peterburge 16.11.2006 Postanovleniem 27-16 na 27-om plenarnom zasedanii Mezhparlamentskoi Assamblei gosudarstv-uchastnikov SNG. *Information Bulletin of the Interparliamentary Assembly of the CIS Member States*, 2007, 39, 371-427.
- Inter-Parliamentary Assembly of the CIS Member States. (2013). Modelnyi obrazovatelnyi kodeks dlya gosudarstv – uchastnikov SNG (obshchaya chast) (prinyat postanovleniem Mezhparlamentskoi Assamblei gosudarstv-uchastnikov SNG ot 29 noyabrya 2013 g. *No. 39-6) Information Bulletin of the Interparliamentary Assembly of the CIS Member States*, 60.
- Klugman, C. M., & Jones, T. (2021). To be or not: A brief history of the health humanities consortium. *Journal of Medical Humanities*, 42, 515-522.

- Lewis, J. H., Lage, O. G., Grant, B. K., Rajasekaran, S. K., Gameda, M., Like, R. C., Santen, S., & Dekhtyar, M. (2020). Addressing the social determinants of health in undergraduate medical education curricula: A survey report. *Advances in Medical Education and Practice*, *11*, 369-377.
- Lomis, K. D., Santen, S. A., Dekhtyar, M., Elliott, V. S., Richardson, J., Hammoud, M. M., Hawkins, R., & Skochelak, S. E. (2021). The accelerating change in medical education consortium: Key drivers of transformative change. *Academic Medicine*, *96*(7), 979-988.
- Machovec, G. (2017). Trends in higher education and library consortia. *Journal of Library Administration*, *57*(5), 577-584.
- Martín-Cuadrado, A. M., Lavandera-Ponce, S., Mora-Jaureguialde, B., Sánchez-Romero, C., & Pérez-Sánchez, L. (2021). Working methodology with public universities in Peru during the pandemic – Continuity of virtual/online teaching and learning. *Education Sciences*, *11*(7), 351. <https://doi.org/10.3390/educsci11070351>
- Moscow State Law University named after O.E. Kutafin. (2023). On the consortium. <https://msal.ru/content/ob-universitete/innovatsionnaya-yurisprudentsiya>
- Murray, K. E., Lane, J. L., Carraccio, C., Glasgow, T., Long, M., West, D. C., O'Connor, M., Hobday, P., Schwartz, A., & Englander, R. (2019). For the education in pediatrics across the continuum (EPAC) study group crossing the gap: Using competency-based assessment to determine whether learners are ready for the undergraduate-to-graduate transition. *Academic Medicine*, *94*(3), 338-345.
- Nadezhin, N. N. (2019). To a question on the basic concepts of the enterprise law. (Paper). *Proceedings of the 33rd International Business Information Management Association Conference*. Granada, Spain.
- Reijonen, H., Saastamoinen, J., & Tammi, T. (2022). The importance of SMEs' network partners in consortium bidding for public sector tenders. *International Journal of Public Sector Management*, *35*(1), 1-15.
- Ridinger, H. A., Bonnet, K., Schlundt, D. G., Tekian, A., Riddle, J., & Lomis, K. D. (2021). Defining successful practice within health systems science among entering residents: A single-institution qualitative study of graduate medical education faculty observations. *Academic Medicine*, *96*(11S), 126-135.
- Rumyantsev, M. B., Turanin, V. Yu., Romashov, R. A., Sumenkova, M. V., & Batova, O. V. (2020). Forming and development of law-making principles system and its meaning for legal enforcement of suitable legal regulation model. *Revista Turismo Estudios & Prácticas*, *S2*, 50.
- Skochelak, S. E., Lomis, K. D., Andrews, J. S., Hammoud, M. M., Mejicano, G. C., & Byerley, J. (2021). Realizing the vision of the Lancet commission on education of health professionals for the 21st century: Transforming medical education through the accelerating change in medical education consortium. *Medical Teacher*, *43*(sup2), 1-6.
- Turanin, V. Y., Tonkov, E. E., Pozharova, L. A., Kuprieva, I. A., & Turanina, N. A. (2019). Legal terminology phenomenon in the context of modern legal system evolution. *Humanities and Social Sciences Reviews*, *7*(4), 1291-1295.
- Turanin, V. Yu., Yarychev, N. U., Senyakin, I. N., Sumenkov, S. Yu., Vasekina, E. M. (2020). Means of legal terms systematization in lawmaking. *Revista Turismo Estudios & Prácticas*, *S2*, 36.
- Van Oost, G., Beyer, P., Devitre, A., Guirlet, R., Noterdaeme, J.-M., & Thienpondt, H. (2021). The European master of science in nuclear fusion and engineering physics (FUSION-EP): 15 years of experience. *European Journal of Physics*, *42*(2). DOI 10.1088/1361-6404/abc6e5