

<https://doi.org/10.26565/2074-8167-2025-56-11>
УДК 378.014.3:34(477)

Oleksii Nalyvaiko

Ph.D. in Pedagogy, Associate Professor of Pedagogy Department, V. N. Karazin Kharkiv National University, Svobody Square 4, Kharkiv, Ukraine,

nalyvaiko@karazin.ua <https://orcid.org/0000-0002-7094-1047>

LEGAL CHALLENGES AND DEVELOPMENT PERSPECTIVES OF THE AUTONOMY OF UNIVERSITIES IN THE CHANGED CONTEXT OF HIGHER EDUCATION

This article explores the legal challenges and development prospects of university autonomy in Ukraine within the rapidly changing context of higher education shaped by globalization, digitalization, war, and policy reform. University autonomy comprising academic, organizational, financial, and staffing dimensions is a fundamental principle for ensuring the quality, responsiveness, and resilience of higher education systems. While Ukraine's 2014 Law on Higher Education formally guarantees wide-ranging institutional autonomy, its practical implementation remains inconsistent due to contradictory legal norms, excessive bureaucratic regulation, and the absence of effective safeguards against political interference.

The article offers a multi-theoretical framework grounded in public policy (principal-agent theory), legal constitutionalism, and educational governance (Clark's triangle of coordination) to analyze the discrepancy between de jure and de facto autonomy. It also draws on Humboldtian philosophical perspectives to reinforce the ethical imperative of institutional independence. A comparative review of international practices particularly from Germany, the United States, Finland, and Austria reveals actionable strategies that Ukraine can adapt to wartime realities.

The article proposes comprehensive legal and institutional reforms, including the harmonization of normative acts, codification of procedural autonomy, establishment of independent oversight mechanisms, and flexible financial governance through performance-based contracts. Emphasis is placed on the need for adaptive legal frameworks responsive to crisis conditions and regional disparities. The conclusions argue for a multilayered autonomy model that balances institutional freedom with accountability and sustainability. Such a model is essential not only for advancing academic quality and innovation but also for safeguarding democratic values and rebuilding Ukraine's intellectual infrastructure in the post-war recovery phase.

Keywords: *university autonomy, legal framework, academic freedom, governance reform, higher education law, Ukraine, institutional capacity.*

In cites: Nalyvaiko, O. (2025). Legal challenges and development perspectives of the autonomy of universities in the changed context of higher education. *Scientific notes of the pedagogical department*, (56), 105-116. <https://doi.org/10.26565/2074-8167-2025-56-11> [in English].

Introduction. University autonomy, broadly defined as the capacity of higher education institutions to independently determine their academic, financial, organizational, and staffing policies, is a cornerstone of effective higher education systems worldwide [10]. This principle enables universities to innovate, adapt to societal demands, and uphold academic freedom, thereby fostering intel-

lectual advancement, economic development, and cultural enrichment. However, the contemporary landscape of higher education marked by globalization, technological disruption, evolving funding paradigms, and increasing regulatory oversight presents significant legal challenges that threaten to erode this autonomy. These challenges manifest in diverse ways, from restrictive legislative frame-

works to bureaucratic interventions, which limit institutions' ability to exercise self-governance and respond agilely to emerging needs.

In Ukraine, the adoption of the Law on Higher Education in 2014 marked a significant step toward enhancing university autonomy, granting institutions the authority to design curricula, manage budgets, and appoint academic staff [29]. Despite these progressive provisions, scholars such as Butenko [4], Shevchenko [24] highlight that practical implementation is often undermined by bureaucratic inertia, inconsistent regulatory enforcement, and political influences, which curtail the intended scope of institutional independence. Internationally, similar dynamics are evident. In the United States, the decentralized governance model affords universities substantial autonomy, yet recent trends, including state funding reductions and political pressures, have introduced new constraints on institutional decision-making [17; 30]. In Germany, the federal system balances institutional autonomy with state oversight, creating tensions, particularly in staffing and resource allocation decisions [22]. These examples underscore the global relevance of legal challenges to university autonomy, necessitating a critical examination of the interplay between legal frameworks and institutional governance.

The challenges to autonomy are further complicated by transformative trends in higher education. The rise of market-driven models, where universities compete for students and funding, introduces pressures to align with external priorities, often at the expense of academic independence [15]. Similarly, the integration of digital technologies, such as online learning platforms, raises complex legal questions regarding intellectual property, data privacy, and jurisdictional oversight [13]. Concurrently, demands for greater accountability to stakeholders governments, industry, and the public require universities to navigate a delicate balance between autonomy and compliance with external regulations. These dynamics highlight the need for robust legal frameworks that not only protect but also enhance university autonomy to ensure institutions can fulfill their societal roles effectively.

Literature Review. University autonomy refers to the ability of higher education institutions to independently manage their academic programs, organizational structures, finances, and staffing decisions [10]. This concept is widely regarded as vital for effective higher education systems, as it encourages innovation, protects academic freedom, and allows universities to swiftly adapt to the

needs of society. However, the laws governing university autonomy differ significantly across countries. In Ukraine, achieving true independence is especially difficult due to bureaucratic hurdles, political pressures, and historical influences.

This literature review compiles existing studies on university autonomy, focusing particularly on its legal aspects in Ukraine, while also incorporating international comparisons for broader context. It explores the legal systems in place, the obstacles to implementing autonomy, the advantages it provides, and recent changes in this field. The review also identifies areas where further research is needed to support future policy development.

University autonomy is a multifaceted concept encompassing four key dimensions: academic, organizational, financial, and staffing autonomy [10]. Academic autonomy refers to the ability to design curricula and conduct research independently, while organizational autonomy involves governance structures and decision-making processes. Financial autonomy pertains to the management of budgets and resources, and staffing autonomy includes the authority to appoint and manage personnel. Berdahl [2] further distinguishes between substantive autonomy (control over academic content) and procedural autonomy (management of operational processes), noting that legal restrictions often target the latter. Marginson [15; 16] emphasizes that autonomy is essential for universities to serve the public good, fostering innovation and societal engagement, but requires a balance with accountability to ensure quality and equity.

In Ukraine, the legal foundation for university autonomy is primarily established by the Law on Higher Education, which represents a significant step toward aligning Ukrainian higher education with European standards, particularly through the Bologna Process [29]. Article 1 of the Law on Education defines autonomy as the right to self-governance, encompassing independence and responsibility in academic, organizational, financial, and staffing decisions within the limits set by Ukrainian law. Article 23 guarantees these autonomies, with their scope determined by specific laws and institutional statutes. Article 2 further protects autonomy by prohibiting subordinate legislation from narrowing its scope, allowing universities to make independent decisions on unregulated matters. For higher education specifically, Article 27 (Paragraph 1) of the Law on Higher Education permits institutions to operate as state-funded, non-commercial, or

commercial entities, while Article 33 (Paragraph 1) allows non-state-funded institutions to define their governance structures, enhancing their autonomy [29].

The implementation of university autonomy in Ukraine faces multifaceted legal, political, and economic challenges. Osipian [20] note that the centralized governance structure, characterized by Soviet-style bureaucracy, remains rigid and slow to adapt to market forces and external pressures, such as those triggered by the Euromaidan protests and the subsequent conflict in Ukraine. Corruption within higher education institutions, including issues of financial integrity and administrative malfeasance, further erodes autonomy, as universities struggle to exercise independent decision-making in the face of state interference [20]. Historical factors also play a role, as illustrated by the struggle for a Ukrainian university in Lviv in the late 19th and early 20th centuries, where autonomy was intertwined with issues of national identity and language rights [5]. Ukrainian demands for a university that reflected their cultural and linguistic needs were framed as a matter of “national justice,” highlighting the socio-political complexities of autonomy.

The ongoing conflict in Ukraine, beginning in 2014 and escalating in 2022, has introduced additional challenges. The displacement of academics and students, coupled with disruptions to institutional operations, has strained the ability of universities to exercise autonomy [26]. These external pressures necessitate adaptive legal frameworks to address new realities, such as the need for international collaboration and support for displaced scholars [11].

Comparative analyses of university autonomy in other countries provide valuable insights for Ukraine. In the United States, a decentralized governance model grants universities significant autonomy, particularly in academic and financial matters, but state funding cuts and political pressures have increasingly challenged this independence [17; 30]. For example, public universities in states like California face constraints due to reduced budgets, which limit their financial autonomy [17; 30]. In Germany, the federal system balances institutional autonomy with state oversight, leading to tensions over staffing decisions and resource allocation [22]. The European University Association’s University Autonomy in Europe scorecard provides a framework for assessing autonomy across European countries, highlighting areas such as governance structures and financial management

where Ukraine could adopt best practices [10]. These international examples underscore that effective autonomy requires not only robust legal frameworks but also a supportive political and cultural environment.

Research consistently highlights the benefits of university autonomy. Autonomy enables institutions to innovate, adapt curricula to meet labor market needs, and foster academic freedom, which is critical for advancing research and societal engagement [15]. In Ukraine, where autonomy is still developing, studies suggest that greater independence could enhance educational quality and research output, provided it is accompanied by governance reforms and reduced bureaucratic interference [4; 24]. However, autonomy must be balanced with accountability to ensure equitable access to education and maintain quality standards [16]. The tension between autonomy and accountability is a recurring theme in the literature, particularly in contexts where state oversight remains strong.

Recent developments in Ukraine, particularly the ongoing conflict, have significantly impacted higher education. Reports indicate that the war has led to a decline in research time among Ukrainian academics, with 17% leaving the field entirely, posing challenges to institutional autonomy and academic output [26]. The European University Association has documented international support for Ukrainian universities, including initiatives to enhance management capacities and transparency, which are critical for sustaining autonomy [11]. Additionally, efforts to promote academic integrity, such as the methodological recommendations approved by the Ministry of Education and Science of Ukraine in 2025, aim to foster a culture of integrity in higher education institutions, which is essential for supporting autonomous governance [28].

Despite the growing body of literature on university autonomy, several gaps remain. First, there is a lack of empirical studies examining the practical implementation of the Law on Higher Education in Ukraine and its impact on institutional governance. Second, comparative research exploring how Ukraine can adapt international best practices to its unique socio-political context is limited. Third, the long-term effects of the ongoing conflict on university autonomy, particularly regarding legal adaptations and international support, require further investigation. Addressing these gaps could provide actionable insights for policymakers and institutional leaders seeking to strengthen university autonomy.

The literature reveals that while Ukraine has established a legal framework for university autonomy through the Law on Higher Education (and its further modifications, its implementation) is hindered by bureaucratic inertia, political interference, corruption, and external pressures such as the ongoing conflict. International perspectives highlight the importance of balancing autonomy with accountability and offer potential models for reform. Recent developments underscore the need for adaptive legal frameworks to address emerging challenges. Future research should focus on closing identified gaps to inform policies that enhance university autonomy in Ukraine and beyond.

This article aims to address these pressing issues by pursuing the following objectives: (1) to undertake a systematic review of the scholarly literature on university autonomy, with a focus on its legal dimensions; (2) to develop a comprehensive theoretical framework that elucidates the relationship between legal systems and institutional autonomy; (3) to propose evidence-based recommendations for overcoming legal barriers and fostering sustainable autonomy in higher education; and (4) to discuss the broader implications of these findings for policy development, institutional practice, and future research. I was inspired by a speech at the International Scientific Conference “University Autonomy in Democratic Value in Higher Education: The Experience of EU countries for Ukraine” at the University of Boris Grinchenko at the University of Kyiv. The opinions set out in the report at this conference formed the basis of this work.

By drawing on specific examples from Ukraine, such as the implementation of the 2014 Law on Higher Education, and international cases, including governance models in the United States and EU, this study seeks to contribute to the global discourse on university autonomy. Ultimately, it aims to provide actionable insights for policymakers, institutional leaders, and scholars to strengthen the legal foundations of university autonomy in an increasingly complex and dynamic higher education landscape.

Theoretical Foundations. Understanding the legal challenges and development perspectives of university autonomy requires a comprehensive theoretical framework that draws on multiple disciplines. We tried to synthesize insights from public policy, legal theory, education governance, and philosophy to analyze the complex relationship between legal frameworks and institutional autonomy. By integrating these perspectives, it provides a foundation for examining how legal systems shape

university autonomy, with examples from Ukraine and international contexts.

Principal-agent theory from public policy offers a lens to examine the relationship between the state (principal) and universities (agents). The state delegates authority to universities to fulfill educational and research mandates, with legal frameworks defining the scope of autonomy [14]. This delegation, however, introduces tensions: autonomy enables innovation, but the state requires oversight for accountability. In Ukraine, the Law on Higher Education grants universities autonomy in academic and financial decisions, yet retains state control over accreditation [29]. This reflects a broader public policy challenge of balancing independence with public interest, particularly in post-Soviet systems [4; 24].

Legal theory emphasizes the role of constitutional and statutory protections in safeguarding university autonomy. In Ukraine, Article 53 of the Constitution supports academic freedom and institutional self-governance [7]. Internationally, the European Court of Human Rights has reinforced these rights, as in *Mustafa Erdoğan and Others v. Turkey* [9], where state interference in academia was deemed a violation of educational freedom (ECHR, 2018). While such legal safeguards exist, their enforcement varies. In Ukraine, political and bureaucratic obstacles often limit their impact, highlighting a gap between legal provisions and practice [20].

Education governance theories, such as Clark's [6] “triangle of coordination,” analyze how legal systems mediate the interplay between state authority, market forces, and academic oligarchy. In centralized systems like Ukraine's, legal reforms aim to shift power toward academic and market influences. The Law on Higher Education (2014) allows universities to establish independent governance structures, yet bureaucratic resistance persists [4; 24]. In contrast, decentralized systems like the United States rely on legal frameworks that empower institutional boards, illustrating diverse approaches to autonomy [17; 30].

Philosophically, university autonomy aligns with Humboldtian ideals, which view universities as independent hubs of knowledge creation [21]. This perspective frames autonomy as an ethical necessity for intellectual progress. In Ukraine, historical efforts to establish a Ukrainian university in Lviv during the late 19th and early 20th centuries reflect this ideal, linking autonomy to cultural preservation [5]. This philosophical stance reinforces autonomy's societal value beyond legal definitions.

These perspectives collectively illuminate university autonomy. Principal-agent theory highlights legal delegation and accountability tensions, legal theory underscores protective frameworks, governance models reveal power dynamics, and Humboldtian ideals emphasize ethical foundations. In Ukraine, this framework reveals that while the Law on Higher Education advances autonomy, state oversight and enforcement gaps limit its effectiveness [4; 24]. Internationally, legal and governance variations offer comparative insights for reform.

The pursuit of university autonomy in Ukraine reflects a broader aspiration to transform higher education into a dynamic force for innovation, intellectual freedom, and societal progress. Envisioned as the ability of institutions to govern themselves across academic, organizational, financial, and personnel domains, autonomy is both a legal promise and a practical challenge in Ukraine's evolving educational landscape. The Law on Higher Education marked a pivotal moment, aligning Ukraine with European standards and granting universities unprecedented independence [29]. Yet, the journey toward true autonomy is fraught with bureaucratic legacies, political pressures, and economic constraints, compounded by the ongoing conflict since 2014. This analysis explores how Ukrainian universities navigate these challenges through the four dimensions of autonomy, weaving together legal frameworks, practical realities, and opportunities for reform, with insights drawn from both Ukrainian and international contexts.

Academic autonomy the freedom to shape curricula, teaching methods, and research priorities lies at the heart of a university's mission to generate and disseminate knowledge. In Ukraine, the Law on Higher Education empowers institutions to design their own educational programs and set research agendas, a significant departure from the rigid, state-controlled Soviet model [29]. Article 32 of the law envisions universities as agile entities, tailoring their offerings to meet the demands of a rapidly changing labor market and fostering innovation in teaching and research.

However, the reality tells a more complex story. The Ministry of Education and Science of Ukraine (MESU) retains significant oversight through accreditation processes, which often require strict adherence to national standards [4; 24]. This regulatory framework, while intended to ensure quality, can stifle creativity, as institutions hesitate to deviate from prescribed curricula. Research priorities face similar constraints,

particularly in the context of Ukraine's ongoing conflict. State funding increasingly prioritizes strategically important fields, such as defense and security studies, leaving less room for institution-driven agendas [26]. For instance, universities like Taras Shevchenko National University of Kyiv have had to redirect resources to support war-related research, limiting their ability to pursue diverse scholarly inquiries.

Despite these challenges, glimmers of progress emerge. The establishment of the National Agency for Higher Education Quality Assurance (NAQA) in recent years signals a shift toward decentralized accreditation, offering hope for greater academic freedom [4]. By drawing inspiration from European models, such as the European University Association's emphasis on flexible quality assurance [10], Ukraine could further unlock the potential of its universities to innovate and lead in knowledge creation.

Organizational autonomy, the right to elect governing bodies and define internal structures, is a cornerstone of institutional self-governance. The Law on Higher Education, through Article 33, grants Ukrainian universities the authority to appoint rectors, form academic councils, and establish governance frameworks, marking a democratic shift from centralized control [29]. This legal empowerment reflects a vision of universities as self-sustaining entities, capable of managing their affairs with accountability to their communities.

Yet, the path to organizational autonomy is obstructed by historical and political realities. The Soviet-era legacy of centralized governance lingers, with the MESU maintaining influence over rector appointments in state-funded institutions [4; 24]. Political pressures further complicate the process, as seen in high-profile disputes at institutions like the National University of Kyiv-Mohyla Academy, where leadership elections have faced external interference [20]. These challenges echo historical struggles, such as the late 19th-century efforts to establish a Ukrainian university in Lviv, where demands for autonomy were intertwined with issues of national identity and self-determination [5].

The University of California's Board of Regents, which balances faculty, student, and external stakeholder representation, offers a compelling example (UC Regents, 2021). By fostering transparent and participatory governance, Ukrainian universities could strengthen their organizational autonomy, ensuring leadership reflects institutional priorities rather than external agendas.

Financial autonomy the ability to manage budgets and attract diverse funding sources is critical for universities to sustain their missions in an era of economic uncertainty. In Ukraine, the Law on Higher Education, particularly Article 27, grants institutions the right to control their budgets, set tuition fees, and generate income from research and commercial activities [29]. This legal framework positions universities to diversify their revenue streams, reducing dependence on state funding.

However, financial autonomy remains elusive. State budgets account for approximately 80% of university funding, and economic challenges, intensified by the conflict since 2014, have led to reduced allocations [4; 24]. The underdeveloped legal infrastructure for private investment and research commercialization further limits alternative revenue sources. For example, unlike U.S. universities, which benefit from robust endowment funds and industry partnerships [17; 30], Ukrainian institutions struggle to attract private capital due to regulatory ambiguities and economic instability [11].

Despite these constraints, international practices offer pathways forward. Germany's public-private partnerships, which support research and innovation, provide a model for Ukraine to emulate [22]. Legal reforms to streamline research commercialization and incentivize private investment could empower universities to achieve greater financial independence, ensuring sustainability in a challenging economic landscape.

Personnel autonomy, the independence to hire, dismiss, and manage academic staff, is essential for building a dynamic and responsive academic community. Article 34 of the Law on Higher Education grants Ukrainian universities the authority to appoint faculty, determine employment conditions, and shape staffing structures, a significant step toward decentralizing human resource management [29].

In practice, however, personnel autonomy faces significant hurdles. Senior appointments, such as deans or department heads, are also subject to external influences, with political or bureaucratic pressures occasionally shaping decisions. This dynamic recalls historical struggles, such as the Lviv university debates, where personnel decisions were tied to broader cultural and political conflicts.

Reform opportunities lie in balancing flexibility with fairness. The U.S. tenure system, which combines job security with performance-based evaluations, offers a potential model [17; 30]. By revising

labor laws to provide greater hiring and dismissal flexibility while safeguarding academic freedom, Ukraine could empower its universities to build a workforce aligned with their strategic goals.

The story of university autonomy in Ukraine is one of ambition tempered by adversity. The Law on Higher Education lays a strong legal foundation, envisioning universities as autonomous hubs of innovation and societal progress. Yet, bureaucratic legacies, political interference, and economic constraints exacerbated by the ongoing conflict create a challenging landscape. Across academic, organizational, financial, and personnel dimensions, Ukrainian universities navigate a delicate balance between legal empowerment and practical limitations. International examples, from the decentralized governance of U.S. institutions to Germany's funding models, offer inspiration, while domestic initiatives like NAQA signal progress. By addressing these challenges through targeted legal and governance reforms, Ukraine can transform its universities into truly autonomous institutions, capable of shaping a brighter future for higher education and society.

The autonomy of higher education institutions (HEIs) in Ukraine, though constitutionally and legislatively guaranteed, faces significant legal and administrative constraints that hinder its practical realization. In this section, we examine four inter-related legal challenges that obstruct the implementation of full institutional autonomy, drawing on current Ukrainian legislation, regulatory practices, and comparative European perspectives.

1. Normative Conflicts and Legal Ambiguity of University Status

A key legal obstacle stems from inconsistencies and contradictions in the legislative framework governing Ukrainian universities. While the Law of Ukraine "On Higher Education" explicitly guarantees academic, organizational, and financial autonomy [29], this autonomy is frequently undermined by overlapping and often contradictory provisions in other normative acts. In particular, public finance regulations and ministerial by-laws especially those issued by the Ministry of Education and Science (MES) and the Ministry of Finance retain significant control over university budgeting, staffing decisions, and resource allocation. This legal conflict of norms generates ambiguity in the status of HEIs, forcing administrators to navigate a fragmented regulatory environment that often delays or restricts institutional decision-making [18; 25; 27].

2. Bureaucratic Limitation of Organizational Autonomy

Despite formal commitments to self-governance, organizational autonomy is severely restricted by bureaucratic dependencies on state authorities. Universities must often obtain approval from the MES, the Ministry of Internal Affairs, or other executive bodies for internal decisions such as the adoption of statutes, structural reforms, or asset management. These requirements result in prolonged approval cycles and excessive administrative oversight, effectively diminishing the self-regulating potential of HEIs. This phenomenon is not unique to Ukraine; however, the procedural complexity and discretionary power of central agencies in post-Soviet legal systems often exacerbate the challenge [1].

3. Absence of Legal Safeguards Against Political Interference

One of the most critical vulnerabilities in the Ukrainian context is the lack of institutional safeguards to protect universities from political influence, especially during strategic governance processes. While university statutes formally recognize the principle of academic freedom, national legislation provides no effective remedies or independent oversight mechanisms to prevent undue state or partisan interference particularly in rector elections or in policy choices related to curriculum, international partnerships, or financial strategy. This legal vacuum leaves universities exposed to shifting political agendas and undermines the continuity and integrity of academic governance [8; 23]. The absence of defined accountability mechanisms for state misconduct in relation to academic freedom further erodes institutional trust and public legitimacy.

4. Weak Legal Framework for Financial Autonomy

Finally, the practical scope of financial autonomy remains highly constrained by rigid public finance regulations and outdated control mechanisms. Although universities possess the formal right to manage their own income through tuition, grants, and entrepreneurial activity their autonomy is curtailed by detailed budget codes, wage caps, and procurement laws. The centralization of financial authority, particularly through the Treasury system and procurement platforms like ProZorro, limits the universities' ability to respond flexibly to market or societal demands. This leads to a mismatch between the *de jure* autonomy provided in law and the *de facto* dependence experienced in daily operations [15]. Without structural reform of budgetary governance, financial autonomy risks remaining largely symbolic.

In the context of the study, we would like to give an example of direct interference from government agencies in the work of universities by regulating the number of budget places and reporting of students and postgraduates and the number of licensed places. This position requires an explanation and we will give it. For example, with the beginning of the war in Ukraine, cases of admission to universities of men who are subject to conscription into the army have become more frequent and the legislative power and the executive power represented by the Ministry of Education and Science of Ukraine adopt contradictory and conflicting norms on the possibility of studying at universities for this category of applicants (additional exams, bureaucratic barriers, etc.), which significantly undermines their autonomy and directs a significant part of the efforts of the administration and teachers to justify themselves for inspections (which are carried out in the Ministry of Education and other supervisory bodies), and not to concentrate on training. The creation of such barriers for students and postgraduates significantly affects the possibility of obtaining an education and the number of students in universities. This is where another problem comes from, which is being made by the Ministry of Education of Ukraine, namely the merger and reduction of universities in the context of reducing the contingent of students. That is, universities are put in such conditions where their recruitment and financing opportunities are reduced, and then this is appealed to for the closure or reduction of the university due to the small number of students. And finally, it is necessary to point out the constant transformation of the requirements for universities regarding the workload and involvement of teachers in accreditation and educational and scientific activities. For example, according to the new law "On Amendments to Certain Laws of Ukraine on Support of Scientific Work in Higher Education Institutions" (registration 3791-IX 06.06.2024) [19], the number of hours of a scientific and pedagogical worker in Ukraine is reduced from 600 academic hours to 480-460, which on the one hand is good, but immediately raises a lot of questions and problems for university administrations regarding the division of their employees into scientific and pedagogical workers and pedagogical workers (whose teaching load should be up to 900 hours per position). That is, on the one hand, the legislator gives relief in terms of the workload, but on the other hand, it puts universities in a dilemma: simply transfer everyone to the positions of scientific and peda-

gological workers and reduce the workload, but at the same time retaining teachers, but at the same time receiving a significant increase in the salary fund (it is necessary to pay the same salary for fewer hours of teaching load), which greatly affects universities in the conditions of saving money in wartime, this problem is significant for universities in the south-east of Ukraine, which suffered the most from the war and in some cases lose the competition to universities that were not affected by the war and can conduct classes offline and be more flexible both with the teaching staff and with their finances.

Recommendations: Strengthening the Legal Framework for University Autonomy in Ukraine

Addressing the systemic challenges to university autonomy in Ukraine requires not only formal legislative adjustments but also the institutionalization of best practices from successful autonomy models in Europe and beyond. The following recommendations offer a multi-tiered roadmap to reform, with emphasis on legal clarity, institutional resilience, and accountable decentralization.

1. Harmonisation and Codification of Legal Norms

To reduce conflicts of norms and ambiguity in institutional governance, it is essential to systematically harmonise the regulatory framework. This entails:

- ✓ Revising the Law of Ukraine “On Higher Education” and aligning it with the Budget Code, Labour Code, and procurement regulations to eliminate contradictions in institutional competences.
- ✓ Developing a unified legal act on university autonomy, similar to Austria’s Universities Act 2002, that explicitly delineates the rights and responsibilities of higher education institutions (HEIs) across academic, financial, organizational, and staffing domains [1].
- ✓ Establishing a jurisprudential doctrine or legal commentary corpus that provides authoritative interpretation of autonomy-related provisions, reducing discretionary enforcement by ministries.

2. Procedural Autonomy through Simplified Administrative Protocols

To address excessive bureaucratic oversight, the Ministry of Education and Science (MES) should implement simplified procedures and default approvals for internal institutional decisions such as:

- ✓ Approval of internal statutes and organizational units, which should be

governed by institutional charters rather than requiring external endorsement.

- ✓ Introduction of regulatory sandboxes or experimental legal regimes that grant selected universities greater procedural flexibility, subject to post-hoc auditing a model tested in Germany[3].
- ✓ Creating a one-stop digital interface for university-government communication to streamline formal correspondence and reduce administrative delays.

3. Legal Safeguards against Political Interference

To insulate academic governance from political intrusion, it is vital to enshrine structural and legal protections at both national and institutional levels:

- ✓ Codify transparent, merit-based election procedures for rectors and senior leaders, monitored by an independent supervisory council involving academic, student, and civil society representatives.
- ✓ Introduce legal accountability mechanisms for state interference in academic decision-making, including administrative review procedures and recourse to independent ombuds services, drawing on Scandinavian models [8].
- ✓ Develop a national Academic Freedom Index, updated annually and linked to policy triggers (e.g., additional safeguards in low-scoring institutions).

4. Financial Autonomy with Regulatory Flexibility

To operationalize financial autonomy, the government should transition from input-based to outcome-based financial controls, including:

- ✓ Allowing HEIs to form internal financial strategies, including reserve funds, reinvestment in R&D, and diversified income sources (e.g., third-party grants, consulting, lifelong learning programmes).
- ✓ Piloting “autonomy contracts”, similar to those used in the German Exzellenzinitiative, where universities commit to performance benchmarks in exchange for relaxed ex-ante control over procurement and payroll (Salmi, 2021).
- ✓ Revising procurement regulations for public universities to include sector-specific exceptions and thresholds aligned with institutional capacity and risk profile.

Discussion. The recommendations outlined above are normatively desirable and legally necessary; however, their implementation is fraught

with structural and political complexities. In this section, we analyze the broader implications of these reforms and draw comparative insights from European and global contexts to assess the feasibility of Ukraine's transition toward a robust autonomy model.

One of the key obstacles to autonomy reform in Ukraine is the instability of political support for systemic change. While the Law of Ukraine "On Higher Education" marked a landmark shift toward decentralization, subsequent administrative practices by central agencies have largely maintained a logic of control rather than coordination [18]. Political cycles, frequent ministerial turnover, and competing fiscal priorities create a fragile policy environment in which long-term structural reforms are difficult to sustain.

Successful international examples suggest that sustainable autonomy models require broad-based political consensus and institutional continuity. In Finland and the Netherlands, for instance, the transformation toward outcome-based funding and academic self-governance was accompanied by stable cross-party support and phased legislative adaptation. Without similar commitment in Ukraine, reform efforts risk stagnating at the level of symbolic declarations.

Another risk lies in uneven implementation across institutional types and regions. While flagship universities such as Taras Shevchenko National University or Lviv Polytechnic may have the managerial capacity to navigate greater autonomy, smaller or regionally marginalized institutions may struggle with compliance, accountability, or financial sustainability. This could exacerbate existing inequalities in the higher education system.

To mitigate such disparities, differentiated autonomy regimes such as tiered autonomy frameworks or pilot programs may be necessary. Germany's Exzellenzinitiative and Austria's dual-track regulatory models show that autonomy need not be uniform to be effective [3]. Instead, reform should be tailored to institutional readiness and supported by targeted capacity-building and legal literacy programs.

A central tension in autonomy reform lies in balancing institutional freedom with public accountability. Critics of deregulation argue that relaxing central oversight could open space for inefficiencies, nepotism, or politicized internal governance, particularly in environments with weak internal audit mechanisms. Therefore, legal reform must be paired with robust internal governance structures, such as independent superviso-

ry boards, performance monitoring systems, and mechanisms for stakeholder engagement.

This dilemma is visible in both EU and non-EU countries. In Hungary, the shift toward "foundation universities" led to greater formal autonomy but reduced academic freedom due to centralized control over governance bodies [12]. Conversely, Scandinavian systems have demonstrated that autonomy and accountability can co-exist, provided there is legal clarity, professionalised management, and civil oversight [8].

Finally, the Ukrainian context is shaped by the ongoing effects of war, which present both risks and opportunities. On one hand, martial law and crisis budgeting constrain traditional forms of autonomy. On the other, the urgency of rebuilding offers a critical juncture for legal innovation. Temporary emergency governance models could evolve into adaptive legal frameworks that incorporate sunset clauses, exceptional provisions, and decentralised crisis response protocols.

Moreover, Ukraine's engagement with European University Alliances, Erasmus+ partnerships, and digital education reforms creates leverage for external policy alignment. These partnerships not only offer financial and academic resources but also serve as channels for legal harmonisation, quality assurance, and peer learning further reinforcing autonomy-building efforts.

Conclusion. The ongoing transformation of higher education in Ukraine unfolds against the backdrop of significant legal, political, and geopolitical disruptions. This study has examined the multidimensional nature of university autonomy through legal, theoretical, and comparative lenses, with a particular emphasis on the systemic impediments that hinder its full realization in practice. As demonstrated, autonomy in higher education is not merely a declarative legal principle it is a dynamic institutional condition that depends on the effective interplay of law, governance, and academic culture. The findings of this article underscore that while Ukraine has made normative strides toward aligning with European standards especially following the adoption of the 2014 Law on Higher Education its autonomy regime remains structurally fragile and unevenly implemented.

First, the study confirms that legal ambiguity and normative conflicts continue to undermine the operational clarity of autonomy provisions. The coexistence of progressive legal statutes with outdated or contradictory sub-legislation especially in financial, staffing, and procurement matters produces a fragmented governance landscape. As a result, higher education institutions (HEIs) are

often trapped between the rights conferred by law and the restrictions imposed by bureaucratic enforcement mechanisms. The legal framework, while conceptually aligned with the European University Association's standards, remains vulnerable to misinterpretation and selective application, thereby reducing its normative efficacy.

Second, the persistence of bureaucratic intervention and politicization of institutional processes, particularly in leadership appointments and strategic governance decisions, poses a substantial threat to both organizational and personnel autonomy. The centralization of decision-making authority often under the guise of accountability or national interest prevents universities from evolving into fully self-regulated entities. As evidenced in Ukrainian and comparative contexts, autonomy without robust legal safeguards against political interference may easily devolve into a façade, rather than a functioning governance model.

Third, financial autonomy in Ukraine is more formal than substantive. Despite nominal rights to generate and manage resources, universities remain structurally dependent on state funding and subject to restrictive fiscal regulation. The rigid allocation of budget lines, capped salaries, and inflexible procurement rules prevent universities from engaging in strategic financial planning or innovation. Moreover, recent legislative changes, such as adjustments to academic workload and employment classifications, have introduced further tensions between autonomy and compliance particularly under the fiscal constraints of martial law.

Fourth, the war has accentuated regional and institutional inequalities, revealing how autonomy is differentially experienced depending on geographic, political, and security factors. Institutions in frontline regions face not only diminished capacity and infrastructure but also disproportionate regulatory burdens that exacerbate their vulnerability. Inconsistent policies regarding military-age

student enrollment, combined with forced mergers and reductions based on declining enrollment figures, point to a reactive rather than anticipatory mode of governance. This reinforces the need for a context-sensitive and crisis-responsive model of university autonomy.

Fifth, while legal reform is indispensable, the study highlights that institutional capacity, administrative professionalism, and political will are equally critical to the effective realization of autonomy. Without robust internal quality assurance systems, transparent electoral procedures, and participatory governance cultures, the risks of institutional capture and managerial inefficiency remain high. The international cases reviewed in this article especially from Germany, Finland, Austria, and the United States reveal that autonomy thrives in environments where legal stability is matched by organizational competence and societal trust.

In light of the above, the study argues for a multilevel and adaptive autonomy framework tailored to the Ukrainian context. This would involve: a) constitutional entrenchment of academic freedom, b) harmonization of legal norms across governance domains, c) simplification of regulatory procedures, d) protections against political interference, e) and the introduction of flexible funding instruments such as performance-based autonomy contracts.

In conclusion, university autonomy in Ukraine remains a normative aspiration that requires further institutionalization, legal recalibration, and cultural internalization. By addressing the outlined structural deficiencies and adopting internationally tested, yet locally adapted governance innovations, Ukraine can advance toward a higher education system that is not only autonomous in name but empowered in function. Such transformation is crucial not only for the academic sector but for the broader democratic and developmental trajectory of the country in the post-war era.

REFERENCES

1. Bennetot Pruvot, E., Estermann, T., & Popkhadze, N. (2023). University autonomy in Europe IV: The scorecard 2023. European University Association. <https://www.eua.eu/publications/reports/university-autonomy-in-europe-iv-the-scorecard-2023.html>
2. Berdahl, R. (1990). Academic freedom, autonomy and accountability in British universities. *Studies in Higher Education*, 15(2), 169-180. <https://doi.org/10.1080/03075079012331377491>
3. Buenstorf, G., & Koenig, J. (2020). Interrelated funding streams in a multi-funder university system: Evidence from the German Exzellenzinitiative. *Research Policy*, 49(3), 103924.
4. Butenko, A., Yeremenko, O., & Stukalo, N. (Eds.). (2023). *Report on higher education quality in Ukraine and its compliance with the tasks of sustainable innovative development of society in 2022* [PDF]. National Agency for Higher Education Quality Assurance. Retrieved from <https://en.naq.gov.ua/wp-content/uploads/2024/03/REPORT-ON-HIGHER-EDUCATION-QUALITY-IN-UKRAINE-IN-2022.pdf>

5. City as a Stage. (2025). The issue of a Ukrainian university in Lviv. <https://city-as-stage.lvivcenter.org/en/articles/the-issue-of-a-ukrainian-university-in-lviv/>
6. Clark, B. R. (1983). The higher education system: Academic organization in cross-national perspective. University of California Press.
7. Constitution of Ukraine. (1996). Constitution of Ukraine. Kyiv: Verkhovna Rada.
8. Craciun, D., Elken, M., Maassen, P., Jungblut, J., & van der Meulen, B. (2024). EP Academic Freedom Monitor 2023. European Parliament Think Tank. [https://www.europarl.europa.eu/RegData/etudes/STUD/2024/757798/EPRS_STU\(2024\)757798_EN.pdf](https://www.europarl.europa.eu/RegData/etudes/STUD/2024/757798/EPRS_STU(2024)757798_EN.pdf)
9. European Court of Human Rights. (2018). Case of Mustafa Erdoğan and Others v. Turkey. ECHR.
10. European University Association. (2022). University autonomy in Europe IV: The scorecard. EUA. <https://www.eua.eu/downloads/publications/eua%20autonomy%20scorecard.pdf>
11. European University Association. (2023). Supporting the Ukrainian university sector. <https://www.eua.eu/publications/reports/supporting-the-ukrainian-university-sector.html>
12. Ignatieff, M. (2025, June 2). An authoritarian came for my university. The Washington Post <https://www.washingtonpost.com/opinions/2025/06/02/trump-harvard-attack-viktor-orban-ceu-hungary/>
13. Kharchenko, A., Nalyvaiko, O., Kreydun, N., Sheiko, A., Ptushka, A., Khatuntseva, S., & Zotova, L. (2024). Digital Technologies as a Factor of Transformation of Learning in the University Education. *Revista Romaneasca Pentru Educatie Multidimensionala*, 16(4), 97-126. <https://doi.org/10.18662/rrem/16.4/909>
14. Lane, J. E. (2007). The principal-agent framework and the study of higher education governance. *Higher Education Management and Policy*, 19(2), 1-14.
15. Marginson, S. (2018). Higher education and the common good. UCL Press.
16. Marginson, S. (2018). The dream is over: The crisis of Clark Kerr's California idea of higher education. University of California Press.
17. McLendon, M. K., & Hearn, J. C. (2013). The resurgent state in U.S. higher education: Recent trends in state policy and their implications for institutional autonomy. *The Journal of Higher Education*, 84(6), 769-800. <https://doi.org/10.1353/jhe.2013.0039>
18. Mierau, J. O., Rabinovych, M., & Iashchenko, I. (Eds.). (2024). Academia in Ukraine in times of war: Understanding the status quo, challenges, and support needs. Science-at-Risk Monitoring Report. https://science-at-risk.org/wp-content/uploads/2025/04/report_ukraine_2024-1.pdf
19. Ministry of Education and Science of Ukraine. (2025, April 08). The Law "On Support of Scientific Work in Higher Education Institutions" has been signed. Ministry of Education and Science of Ukraine. <https://mon.gov.ua/news/pidpysano-zakon-pro-pidtrymku-naukovoi-roboty-roboty-v-zakladakh-vyshchoi-osvity>
20. Osipian, A. L. (2017). University autonomy in Ukraine: Higher education corruption and the state. *Communist and Post-Communist Studies*, 50(3), 233-243. <https://doi.org/10.1016/j.postcomstud.2017.06.004>
21. Östling, J. (2018). Humboldt and the modern university. *History of Universities*, 31(1), 89-110.
22. Pritchard, R. (2006). Trends in German higher education: Autonomy and accountability. *European Education*, 38(3), 7-22.
23. Scholars at Risk. (2024). Free to think 2024. Scholars at Risk Network. <https://www.scholarsatrisk.org/resources/free-to-think-reports/>
24. Shevchenko, V. V. (2019). The reform of the higher education of Ukraine in the conditions of the military-political crisis. *International Journal of Educational Development*, 65, 237-253. <https://doi.org/10.1016/j.ijedudev.2018.08.009>
25. Shofolova, N. (2022). Financial Policies of Higher Educational Institutions. *International Scientific Journal of Universities and Leadership*, (13), 70-80. <https://doi.org/10.31874/2520-6702-2022-13-70-80>
26. Times Higher Education. (2022). Ukraine crisis. <https://www.timeshighereducation.com/policy/ukraine-crisis>
27. Tymchak, V. V., & Tymchak, M. V. (2025). Financial autonomy of higher education institutions: Administrative and legal limits and possibilities. *Analytical and comparative law*, (2), 721-725. <https://doi.org/10.24144/2788-6018.2025.02.108>
28. United Nations Development Programme. (2025). Ukraine boosts academic integrity with new guidelines for higher education. Retrieved from <https://www.undp.org/ukraine/press-releases/ukraine-boosts-academic-integrity-new-guidelines-higher-education>
29. Verkhovna Rada of Ukraine. (2014). Law of Ukraine "On Higher Education" No. 1556-VII, adopted July 1, 2014. <https://zakon.rada.gov.ua/laws/show/1556-18#Text>
30. Zumeta, W. (1992). State Policies and Private Higher Education: Policies, Correlates, and Linkages. *The Journal of Higher Education*, 63(4), 363-417. <https://doi.org/10.1080/00221546.1992.11778376>

The article was received by the editors 11.03.2025

The article is recommended for printing 22. 04.2025

Олексій Наливайко

кандидат педагогічних наук, доцент кафедри педагогіки, Харківський національний університет імені В. Н. Каразіна,
nalyvaiko@karazin.ua <https://orcid.org/0000-0002-7094-1047>

**ПРАВОВІ ВИКЛИКИ ТА ПЕРСПЕКТИВИ РОЗВИТКУ АВТОНОМІЇ УНІВЕРСИТЕТІВ
У МІНЛИВОМУ КОНТЕКСТІ ВИЩОЇ ОСВІТИ**

У цій статті досліджуються правові виклики та перспективи розвитку університетської автономії в Україні в умовах швидкозмінного контексту вищої освіти, сформованого глобалізацією, цифровізацією, війною та реформою політики. Університетська автономія, що охоплює академічний, організаційний, фінансовий та кадровий аспекти, є фундаментальним принципом забезпечення якості, адаптивності та стійкості систем вищої освіти. Хоча Закон України «Про вищу освіту» 2014 року формально гарантує широку інституційну автономію, її практична реалізація залишається непослідовною через суперечливі правові норми, надмірне бюрократичне регулювання та відсутність ефективних гарантій від політичного втручання.

У статті пропонується багатотеоретична основа, що ґрунтується на державній політиці (теорія принципала-агента), правовому конституціоналізмі та управлінні освітою (трикутник координації Кларка), для аналізу розбіжності між де-юре та де-факто автономією. Вона також спирається на філософські перспективи Гумбольдта для посилення етичного імперативу інституційної незалежності. Порівняльний огляд міжнародної практики, зокрема Німеччини, Сполучених Штатів, Фінляндії та Австрії, розкриває практичні стратегії, які Україна може адаптувати до реалій воєнного часу.

У статті пропонуються комплексні правові та інституційні реформи, включаючи гармонізацію нормативних актів, кодифікацію процедурної автономії, створення незалежних механізмів нагляду та гнучке фінансове управління через контракти, що базуються на результатах діяльності. Акцент робиться на необхідності адаптивних правових рамок, що реагують на кризові умови та регіональні відмінності. У висновках обґрунтовується необхідність багаторівневої моделі автономії, яка поєднує інституційну свободу з підзвітністю та стійкістю. Така модель є важливою не лише для підвищення якості академічної діяльності та інновацій, але й для захисту демократичних цінностей та відновлення інтелектуальної інфраструктури України на етапі післявоєнного відновлення.

Ключові слова: університетська автономія, правова база, академічна свобода, реформа управління, законодавство про вищу освіту, Україна, інституційний потенціал.

Стаття надійшла до редакції 11.03. 2025

Стаття рекомендована до друку 22.04. 2025