



## DYNAMICS OF LEGAL REGULATION OF EDUCATIONAL RIGHTS

### DINÁMICA DE LA REGULACIÓN JURÍDICA DE LOS DERECHOS EDUCATIVOS

Ph. D. Dmitry V. Griбанov<sup>1</sup>

E-mail: [dvgribanov@yandex.ru](mailto:dvgribanov@yandex.ru)

Ph. D. Kseniya Kovalenko<sup>2</sup>

E-mail: [kovalenko1288@mail.ru](mailto:kovalenko1288@mail.ru)

<sup>1</sup> Ural State Law University. Yekaterinburg. Russian Federation.

<sup>2</sup> Altai State University. Barnaul. Russian Federation.

#### Suggested citation (APA, sixth edition)

Griбанov, D. V., & Kovalenko, K. (2017). Dynamics of legal regulation of educational rights. *Revista Conrado*, 13(59), 58-61. Recuperado de <http://conrado.ucf.edu.cu/index.php/conrado>

#### ABSTRACT

The article analyzes the regulatory legal regulation of educational legal relations of Russia from the late XX to the beginning of the 21st century. The authors analyzed the history of the national legislation on education and the dynamics of its development. Three stages of development of the educational legislation are defined and the features of each stage are grounded. Educational legal relations are a special kind of social relations that arise on the basis of the norms of the educational law of the students (or their legal representatives), educational institution and teachers in connection with the organization, management and implementation of educational activities (educational process). Other educational legal relations - conditioned by the educational law and serving educational legal relations, developing on the basis of norms of administrative, civil, labor, financial and other branches of law. Other educational relations provide the process and result of educational activities, the functioning of the entire education system, according to its goals and objectives.

#### Keywords:

Educational legal relations, vocational education, higher education, law, legal regulation.

#### RESUMEN

El artículo analiza la regulación legal de regulación de las relaciones jurídicas educativos de la Rusia de finales del XX a principios del siglo 21. Los autores analizaron la historia de la legislación nacional sobre la educación y la dinámica de su desarrollo. Tres etapas de desarrollo de la legislación educativa se definen y se ponen a tierra las características de cada etapa. Las relaciones jurídicas educativas son un tipo especial de relaciones sociales que surgen sobre la base de las normas de la ley educativa de los estudiantes (o de sus representantes legales), de la institución educativa y de los docentes en relación con la organización, gestión y ejecución de actividades educativas (Proceso). Otras relaciones jurídicas educativas - condicionadas por la ley educativa y que sirven a las relaciones jurídicas educativas, desarrollándose sobre la base de normas de derecho administrativo, civil, laboral, financiero y otras ramas del derecho. Otras relaciones educativas proporcionan el proceso y resultado de las actividades educativas, el funcionamiento de todo el sistema educativo, de acuerdo con sus objetivos y metas.

#### Palabras clave:

Las relaciones jurídicas de educación, formación profesional, educación superior, el derecho, la regulación legal.

## INTRODUCTION

The legal relations that arise between subjects of the education system have a certain specificity. In the field of education, there are two main types of social relations: educational relations and other relations directly related to the implementation of educational activities (educational process).

Accordingly, all legal relations in the sphere of education can be differentiated into two groups: educational legal relations and legal relations that develop in connection with and in connection with the organization and implementation of educational activities (educational process).

Educational legal relations are a special kind of social relations that arise on the basis of the norms of educational law between students (or their legal representatives), educational institution and teachers in connection with the organization, management and implementation of educational activities (educational process).

Other educational legal relations-conditioned by the educational law and serving educational legal relations, developing on the basis of norms of administrative, civil, labor, financial and other branches of law. Other educational relations provide the process and result of educational activities, the functioning of the entire education system, according to its goals and objectives.

Analyzing the dynamics of the development of the educational sphere, we can distinguish three stages in the development of educational legislation.

The first stage of the development of the educational legislation (1993-2000) is connected with the adoption of the Constitution of the Russian Federation in 1993 and the Law of the Russian Federation ("The Russian Federation") "On Education" of July 10, 1992. A little later the main principles of state policy in the field of higher and post-graduate professional education. Were formulated in the Federal Law of the Russian Federation "On Higher and Post-Graduate Professional Education", adopted on July 19, 1996.

One of the drawbacks of public administration in the field of higher education was the lack of the functions of strategic planning and forecasting, which was unacceptable in a market economy. The imbalance in a number of the norms of the legislation on education was associated, in particular, with frequent changes in this legislation.

The structure of the two main laws was so imperfect that when making changes regarding higher and postgraduate education it was necessary to make identical changes to the Law on Education, which gave rise to duplication.

The projects that appeared in the late 1990s were characterized by low legal techniques and the lack of an independent subject of regulation, which did not allow them to undergo transformation into the form of law.

The second stage of the development of the educational legislation (2000-2009) is connected with the adoption of the fundamental state document establishing the priority of education in public policy, the strategy and the main directions of its development - the National Doctrine of Education in the Russian Federation, approved by the Decree of the Government of the Russian Federation of January 4, 2000 751. The organizational basis of the state policy in the field of education was fixed in the Federal Program for the Development of Education, adopted by the Federal Law on T on April 10, 2000 for No. 51-F3. In the concept paper "Main Directions of the Social and Economic Policy of the Government of the Russian Federation for the Long-Term Perspective", one of the main sections is devoted to the issues of education reform. As one of the priority directions of the development of education in Russia, it is pointed out the need to introduce information technologies, including distance learning. The specific procedure for the implementation of training using remote forms was established by subordinate regulatory legal acts.

The modernization of education revealed mistakes in the implementation of state policy in the 1990s. In the field of education. Since 2000, Russia has actively begun to adopt various long-term targeted programs, with the goal of modernizing the education sector. By the Order of the Government of the Russian Federation No. 1756-r of December 29, 2001, the Concept of Modernizing Russian Education for the Period Until 2010 was approved.

The second stage of modernization of education in Russia is connected not only with the adoption of targeted programs for the development of education, but also integration into the international educational process. The beginning of the second stage is due to the signing of the Bologna Declaration and Russia's entry into the Bologna Process in 2003. The main principles of which were the creation of a unified educational space, the unification of the legal status of educational organizations, the focus on the development of market relations and elements in the education system. All this also required the unification of the legal regimes of the Russian education system.

The Order of the Ministry of Education and Science of the Russian Federation of February 15, 2005 No. 40 approved the Action Plan for the implementation of the Bologna Declaration in the system of higher education

## DEVELOPMENT

The Order of the Ministry of Education and Science of the Russian Federation of February 15, 2005, No. 40 approved the Plan of Measures for the Implementation of the Bologna Declaration in the System of Higher Professional Education of the Russian Federation for 2005-2010, and on April 25, 2005 the Order of the Ministry of Education and Science of the Russian Federation No. 126 approved a list of institutions of higher education to implement the main objectives of the development of higher education in connection with the accession of Russia to the Bologna Declaration.

In January 2005, Federal Law No. 122-FZ of August 22, 2004 "On Amending the Legislative Acts of the Russian Federation and Recognizing the Invalidity of Certain Legislative Acts of the Russian Federation in Connection with the Adoption of Federal Laws" On Amendments and Additions In the Federal Law "On General Principles for the Organization of Legislative (Representative) and Executive Bodies of State Power of the Subjects of the Russian Federation" and "On General Principles for the Organization of Local Self-Government in the Russian Federation". This Federal Law introduced significant changes in the legislation on education.

1. From federal acts in the sphere of education, all norms that are not provided, in the opinion of legislators, with financial and other resources, are excluded.
2. A number of legal conflicts between sectoral laws on education and legislative acts of general legislation have been resolved in favor of the latter. For example, changes made to the Law on Education by Federal Law No. 122-FZ of August 22, 2004 paved the way for the use in the education system of new organizational and legal forms of state (municipal) non-profit organizations.
3. An attempt was made to clearly delineate the competence of the three levels of public authority in the sphere of education. Public higher professional and post-graduate professional education actually became the prerogative of the federal level of power.

Decree of the Government of the Russian Federation of December 23, 2005 No. 803 approved the Federal Target Program for the Development of Education for 2006-2010. By the Order of the Ministry of Education and Science of the Russian Federation of August 3, 2006, No. 201, the Concept of the National Educational Policy of the Russian Federation was approved. According to these acts, the priority areas of the national educational policy were recognized: ensuring state guarantees for quality education; Creation of conditions for improving the quality of

education; Creation of conditions for improving the quality of vocational training of educators; Management of the development of the system of educational institutions that implement general education programs with an ethno-cultural regional (national-regional) component and with instruction in native (non-Russian) and Russian (non-native) languages.

### *Main part*

Further in 2007, Federal Law No. 232-FZ "On Amendments to Certain Legislative Acts of the Russian Federation" was adopted, two levels were established: bachelor's and preparation of masters or specialists. And at the end of 2007, the Federal Law "On Amending Certain Legislative Acts of the Russian Federation Regarding Changes in the Concept and Structure of the State Educational Standard" came into force. In accordance with the legislation, the concept of "federal state standard" appeared.

Thus, the second period of the development of the educational legislation, from 2003 to 2007, highlighted by us, showed that reforming and modernizing vocational education is becoming an element of state policy.

The third stage of modernization of education in Russia (2010-2016) is devoted to the implementation of the liberal-market program for the development of education. The basis for the new realities created a new law in the field of education.

Since April 2010 public discussions were held on the draft of the new Federal Law "On Education in the Russian Federation". In general, there are three main areas of implementation of the law: first, the development of new regulatory acts that ensure the implementation of the federal law; Secondly, the modification of existing regulatory and legal acts in connection with the entry into force of this law; Third, the recognition of legally null and void certain regulatory and legal acts.

In November 2012, the Government of the Russian Federation approved the state program of the Russian Federation "Development of Education" for 2013-2020. "

The program, developed on the basis of the program-target method, is a set of various activities aimed at achieving specific goals and solving the challenges facing Russian education until 2020. The goal of the State Program is to ensure that the quality of Russian education meets the changing needs of the population and the long-term objectives of the development of Russian society and the economy.

## CONCLUSIONS

In November 2012, the Government of the Russian Federation approved the state program of the Russian Federation "Development of Education" for 2013-2020. The program, developed on the basis of the program-target method, is a set of various activities aimed at achieving specific goals and solving the challenges facing Russian education until 2020. The goal of the State Program is to ensure that the quality of Russian education meets the changing needs of the population and the long-term objectives of the development of Russian society and the economy.

At the same time, Russia's modern educational legislation is far from perfect and has a number of shortcomings. It seems that among the most significant of the shortcomings are the following: 1) frequent volatility and the resulting instability of the main Federal Law "On Education in the Russian Federation" and other federal laws governing educational relations; 2) unjustifiably high dynamics of subordinate legal regulation of educational relations; 3) conflicts of normative legal acts of the federal, regional and local levels in the ratio between themselves and within the appropriate level of legal regulation; 4) the imbalance in the scope of the legal regulation of educational relations, that is, the legality of the legislation when regulating one type of educational relations with excessively detailed regulation of another type of relationship; 5) the widespread practice of duplicating the norms of federal educational legislation at the regional level with a few independent standards on issues within the purview of the subjects of the Russian Federation; 6) the uncertainty of the content, the vagueness and declarativeness of certain norms and legal concepts; 7) toughening the legal regulation of educational relations, strengthening its imperative and directive, imposing excessive prohibitions and restrictions on subjects of educational activity.

Thus, the development and improvement of legislation in the field of education in the post-Soviet period was the result of two main reasons: social needs of society and legal requirements. This, accordingly, required the solution of two interrelated tasks: the regulatory and legal support for the modernization of the Russian education system in accordance with the requirements of a market economy and the creation of a socially-oriented, democratic state.

## BIBLIOGRAPHIC REFERENCES

Arstanov M. Z., Pidkasisty, P.I., & Khaydarov, Z.S. (1980). Problem-model training: questions of theory and technology. Alma-Ata.

Gribanov D.V., Kovalenko K.E. (2016). The realization of resoblessness. State and Law, 4.

Kovalenko K. E. (2014). The teaching of I.A. Il'in about advocacy. Barnaul.

Verbitsky, A. A. (1990). Active methods of teaching in higher education: Contextual approach. Moscow: Higher school.