
The Legislative Innovations in Educational Funding

D.A. Smirnov¹, V.P. Pavlov², M.S. Trofimov³

Abstract:

The relevance of the issue stems from the necessity to study the legal mechanisms for educational funding within the ongoing reforms, because their effectiveness would depend on the level of funding.

The newest Federal Law on Education is the completion of a 20-year practice of the educational reform practice in Russia and the beginning of a new stage of entering the world educational space. The new law on Education has also created a new system of educational funding based on a combination of state and contractual regulation of financial relations.

It is dealt with separate issues of educational funding at the present stage, including its effectiveness, and the possibilities and disadvantages of state funding. Attention is drawn to institute of self-sufficiency with financial resources of educational institutions.

Based on the results of this study, the authors made conclusions about the prospects for a diversified regulation in the educational funding.

Keywords: *Funding, education, reform, budget, municipal funds, right, law, subsidies, subventions.*

JEL Classification: *K40, P46.*

¹Federal State Educational Institution of Higher Professional Education “North-Caucasian Federal University”, dmitry.a.smirnov@mail.ru

²Financial University under the Government of the Russian Federation

³Federal State Educational Institution of Higher Professional Education “North-Caucasian Federal University”

1. Introduction

The current educational legislation of the Russian Federation demonstrates the transition to new level of quality. Nowadays the most important task of the educational reform is to contribute to the civil society development. The renewal of the education system was made to create conditions for the implementation of international education standards that will help to adapt to the new conditions of the world labor market. The matrix of ongoing educational reforms is the legislative and regulatory framework. Effective, timely and adequately modernized legislation ensures a successful course of reforms and allows obtaining positive results of introducing social and legal innovations (Chebotnyagin, 2013).

The level of educational funding is an important indicator of the education's development in the state. Funding is the act of providing funds to cover current costs and capital investments by the company, the state, or by loans, liabilities and other funds (Borisov, 2008). This definition is used in financial science. Unfortunately, the definition of educational activities' funding terms, as well as funding of educational organizations and educational funding are not represented in the legally nullified education legislation, nor in the current Education Law. Moreover, if earlier this term was used in normative acts, now the legislator operates with the concept of "financial security". At the same time, the theory of financial law used and uses terminology, in which funding takes a fundamental place as a financial and legal category.

New mechanisms for educational funding were created based on accumulated negative experience, as well as a new vector of educational process reform. The experience of the 1990s has shown that underfunding education can lead to significant negative consequences, such as: a low level of education quality, a decline in the level of professional workers in the labor market, and the emergence of educational organizations (mostly private) unable to provide quality educational services.

2. Methodology

The completeness and reliability of the presented scientific research is confirmed by the wide use of various methods. The authors used the following methods considering the interdisciplinary character of the designated research topic.

Dialectical method: Dialectical method of cognition of social, economic and legal phenomena in the development of mechanisms for educational funding in its interconnection and interdependence was used as a general scientific approach in the ongoing study.

Dogmatic method: The dogmatic method of research was used to understand the mechanisms for establishing educational funding. This method assumes an exact

definition of the categorical apparatus and conceptual basis of the presented work to highlight the logical, linguistic, terminological, conceptual peculiarities of the terminology used on the issue under study.

Synergetic method: This method of research made it possible to determine the special place of the institution of educational funding in the system of self-organization of the modern state and society, to consider the patterns in the formation of forms and mechanisms of financing, and also to draw attention to the occasional positive (negative) factors of social reality that affect the educational funding system.

Historical method: The historical method of cognition helped to identify the patterns in the formation of mechanisms for educational funding, to generalize the historical experience of financial and legal regulation of the education system in the Russian Federation.

Instrumental method: The use of the instrumental method of research made it possible to show the importance of using a diversified regulation of the educational funding in ensuring the effective development of a modern education system. This method helps to identify the existing link between the indicated goal in the mechanism of legal regulation and the means of achieving it, shows possible difficulties and obstacles in the implementation of such activities.

Lawmaking experiment method: Using the method of lawmaking experiment helps to see realized by the competent authorities of the State, public entities and bodies of municipalities test the legal innovations in the specific area (field) application, conducted for the purpose of verification of legal establishments including the implementation of the program, consisting of the preparation, conduct and debriefing implementation of legal provisions related to the establishment of the legal statutes of educational funding.

The universal principles of scientific cognition (objectivity, comprehensiveness, historicism, the unity of theory and practice), general scientific and specific (specifically sociological, psychological) methods were also used in the work. Application of these methods has allowed to generalize knowledge about modern mechanisms of financing of education.

3. Literature review

It is possible to single out the works of the following authors among Russian scientists exploring the mechanisms for regulating entrepreneurial and innovative activity. Sitdikova (2012) considered the contractual regulation of the relations of paid provision of educational services, without paying attention to the issues of budget financing. Subareva (2013) studied the legal regulation of education financing but did not conduct a comprehensive analysis of the issue. Degtyarova

(2014) investigated the projection of modernization of the institutional base of the Russian education system within the systemic transformation processes of Russia's recent history, and paid attention to financial regulators. Moshkova (2013) presented the mechanisms of state, budget and autonomous institutions, carried out an analysis of the provision of interbudgetary transfers (subsidies) for education. Karandayev I.Y. considered the distinctive features of modern financing of the activities of budget institutions, namely, funding through the allocated subsidies for the performance of the state (municipal) task.

Certain aspects of the educational funding were studied in the works of foreign authors Arestoff and Jacques (2009), who conducted a scientific analysis of the causal relationship of paying taxes and evading tax obligations as one of the mechanisms for funding education in France. Ozkok (2017) analyzed the issues related to the role of globalization in relation to public expenditure on education in Europe. Dissou, Didic, Yakautsava (2016) conducted a comparative analysis of the application of mechanisms of public and private funding methods of education in the open economy of Canada.

The scientific development of the authors Haussen and Uebelmesser investigating the organization of higher education funding for OECD countries and the impact of migration of foreign students on the amount of public funding is very interesting. The study of funding for higher education in sub-Saharan Africa is presented by the author Oketch (2014). The article discusses three areas of educational funding for low-income countries, a state-funded "model of free" university education is marked predominantly. The idea of the author that the investment of education forms human capital, contributing to economic development seems to be justified.

Msigwa (2016) in the study "Widening participation in higher education: a social justice analysis of student loans in Tanzania" reflects the experience of financing higher education in Tanzania by providing state student loans as the most popular form of funding for bachelor's degrees. The financial assistance of the Government of Tanzania is aimed at supporting students from countries with low socioeconomic status. The analysis of the works by foreign authors and Russian scientists shows the absence of a uniform approach in the solution of issues of educational funding. The problems of financial and economic support for the education system are being addressed differently in all countries. The educational reforms in the Russian Federation must be accompanied by a reasonable policy of its funding, considering the full provision of the constitutional rights of citizens and the positive experience of some foreign countries.

4. Results

The combination of state and contractual regulation of relations in the sphere of education is characteristic for the new Federal Law "On Education in the Russian Federation" (hereinafter the Law on Education). (Article 3). Public-law and private

law norms are interrelated and interdependent, but, nevertheless, they are sufficiently isolated, which allows them to be delimited and considered consistently. Interaction of legal relations at the interbranch level is reflected in the creation of multi-channel financing of educational organizations through the expansion of the property rights of educational organizations.

Financial and legal institutions unite norms regulating state (budgetary) financing, taxation, crediting, financial control, providing material support, granting, etc. Civil law rules regulate the property sphere in which public entities of educational law participate along with private ones. As legal entities, they are subjects of civil law and are subject to the civil law (Syubareva, 2013). In the scientific literature, it is noted as a positive new trend in the legislation to ensure the balance of public and private interests in improving the educational funding (Degtyaryova, 2014; Egorova *et al.*, 2015).

The principle of federalism is realized in the distribution of powers for the funding provision of educational activities. Funding is carried out at the expense of the budgetary system of the Russian Federation, constituent entities of the Russian Federation, municipalities in accordance with expenditure obligations in the sphere of education, as well as at the expense of individuals and legal entities. The ratio of expenditures by types of education for each of the levels of the Russian Federation budget system depends on the powers established in the legislation in the field of education.

The new law has an article with a special construction. In Article 7 the legislator establishes the powers of the Russian Federation in the sphere of education, transferred for the implementation of the state authorities of the Russian Federation's subjects. The peculiarity of its powers is related to funding and responsibility. The financial security for the execution of the transferred powers is exercised at the expense of subventions from the federal budget, as well as within budgetary allocations provided for in the budget of the subject of the Russian Federation for the specified purposes in the amount of planned revenues to the budget of the constituent entity of the Russian Federation from payment of a state fee related to the implementation of transferred powers and credited to the budget Subject of the Russian Federation in accordance with the Budget Code of the Russian Federation (Shugrina, 2013; Sultanova and Chechina 2016; Gorina 2016).

The funds for the implementation of the delegated powers are exclusively targeted. The law does not provide for other cases of funds' use. The control is carried out by the federal body of executive power performing functions on control and supervision in the financial and budgetary sphere; A federal executive body that exercises functions of control and supervision in the field of education, as well as the Accounts Chamber of the Russian Federation. Thus, the educational funding is provided at the expense of the budgets of all levels of the Russian Federation's budget system. The level of funding depends on the degree of budget participation

at a certain level of the budget system. It is necessary to accept the scientists' opinion on the creation of a new legal base that provides for a fundamentally new structure and legal mechanisms for financing state and municipal educational organizations, in particular, in increasing the independence of the executive authorities of the constituent entities of the Russian Federation, and also reducing the dependence of the consolidated budgets of the subjects of the Russian Federation on financial assistance coming from the federal budget (Moshkova, 2013; Klimov 2007; Avdeeva *et al.*, 2017).

Currently, there are three types of state (municipal) organizations: autonomous, budgetary and state ones. Financial support for the activities of budgetary and autonomous organizations in providing state (municipal) services, performing work within the implementation of the state (municipal) task is carried out in the form of subsidies from the corresponding budget of the budgetary system of the Russian Federation (Article 78.1 of the Budget Code of the Russian Federation). Based on paragraph 2 of Article 161 of the Russian Federation Budget Code, financial support for the activities of public institutions is carried out at the expense of the corresponding budget of the budgetary system of the Russian Federation on the basis of budget estimates. The Budget Code based on paragraph 10, Article 161 does not provide subsidies to state institutions (The Budgetary Code of the Russian Federation dated 31.07.1998 No. 145-FZ)

Grants are provided for reimbursement of expenses to private organizations that carry out educational activities for the implementation of basic general education programs, the financial provision of which is conducted at the expense of budgetary allocations of the Russian Federation's subjects. In this case, we should talk about the development of the institution of private finance, along with public finance. Private finance received its consolidation due to paragraph 5 of the Law on Education. The possibility of developing this direction is quite attractive and important for competition in the provision of quality education services (Drozdova *et al.*, 2016).

There are considerable difficulties in the effective use of private organizations in the market of educational services. For example, it is an unsatisfactory legislative framework regulating the conditions for the participation of private organizations in the educational process; Complexity in the implementation of financial control, because in this case the state can not monitor the effectiveness of the use of financial resources; Possible manifestations of corruption associated with creating the appearance of the educational process, which is based only on the formality of the approach.

However, even in the presence of negative situations, the use of private instruments, including educational funding, is a prerequisite for the development of the Russian education system in the framework of the implementation of the Bologna Agreement.

Financial support of activities for budgetary and autonomous organizations is associated with the fulfillment of the state (municipal) task, which is formed and approved by the founder. In the case of public institutions, this task is not provided (Article 6 BC). There is a regime for allocating funds from the relevant budget based on the budget estimates for state institutions. A private organization is fully or partially financed by the owner of the property. The organization is obliged to direct the allocated funds in the form of a subsidy for the achievement of the goals and tasks indicated in the state (municipal) task.

Nowadays the subsidized procedure for financing educational institutions is a priority and effective replacement of the old order. Previously, budget organizations, distributing funds allocated from the budget at the appropriate level by estimate, were interested in a simple waste of money and justification for expanding the estimate for the next year. According to a new order on the allocated subsidies, budgetary organizations are forced to focus on the effective use of budget funds and improving the quality of services provided (Karandaev, 2013).

5. Discussion

There are conflicting opinions on the new funding mechanism through the allocation of subsidies. Some point out that such security is not always justified, and not always economically viable, as budgetary funds should be used at a certain time, and organizational problems associated with this also will occur (Syubareva, 2013). Other authors think that the new principle of financing budgetary organizations regard is a positive factor. For example, Karandayev believes that new principle is more progressive and creates economic incentives to improve the quality of services provided (Karandaev, 2013). Another form of budgetary organizations' funding is financial support at the expense of budgetary investments (Karandaev, 2013).

The property rights of educational organizations have been expanded to maintain financial stability. Educational organizations are entitled to raise additional funds through income-generating activities, the provision of additional educational services, the possibility of equity participation in the activities of organizations and tax preferences. The law expanded the powers to dispose of its property and income by budgetary and autonomous organizations, as well as the possibility of expanded participation in property turnover, in civil and business legal relations. At the same time, educational organizations have the right to provide paid services, attract investments, and establish business associations or economic partnerships independently or jointly with other persons without the consent of the owner of their property, with notification to the federal executive body that exercises functions to develop state policy in the sphere of scientific and technical activities. The activities of organizations should be aimed at the practical application or implementation of the results of intellectual activity.

From January 1, 2012, budgetary and autonomous educational organizations do not pay value-added tax when performing work and rendering services within the framework of a state (municipal) assignment, the source of financial security of which is a subsidy. The state institution is not recognized as the object of taxation the performance of work or the provision of services, including services for the provision of property for rent.

There are also special benefits for educational organizations on income tax. The specifics of applying the 0% tax rate to organizations engaged in educational activities are defined in art. 284.1 and art. 251 of the Tax Code. Educational organizations also pay tax on property of organizations. According to the laws of the constituent entities of the Russian Federation, educational organizations may provide tax incentives and grounds for their use by taxpayers (paragraph 2, Article 372 of the Tax Code).

Thus, the current legislation is intended to strengthen the role of a dispositive start in the form of increasing the autonomy of educational organizations in the formation of sources of its funding. The legal mechanism for financial provision of educational organizations is an important element of studying the legal framework for educational funding. Based on the current Education Law, the financing of educational organizations is carried out on the basis of state and local funding standards per student, pupil for each type and type of educational organization, taking into account educational programs, forms of training, federal state requirements, a network form for the implementation of educational programs, Educational technologies, as well as other features. In this mechanism, the legislator applies to the educational organizations the term "financial support for the performance of the state (municipal) task", public entities assume the necessary costs for their implementation, assigning them tasks.

The actual innovation of the legislation is the principle of normative per capita financing. Some authors call it simply normative funding (Kazachkova and Kaziev, 2013). The financial legislation does not contain a definition of normative per capita financing. The essence of it is that the amount of money spent is determined by one student and the number of students in the educational organization. At the same time, or the government administratively approves the appropriate standards for the cost of training, or the cost of training is determined based on competition. The standard costs should also include the costs of remuneration for pedagogical workers, considering the correlation of the teaching (teaching) and other work, as well as ensuring the level of the average salary of pedagogical workers. The standard costs will not depend on the number of students for low-standard and rural educational organizations.

The state authorities implement the principle of normative per capita financing in stages. In normative legal acts, the compulsory financing of educational organizations is not established in accordance with the principles of normative per

capita financing. It is implemented at three levels: at the level of intergovernmental fiscal relations; At the level of intrabudgetary relations; At the level of the educational organization (Troshkina, 2012). The normative costs of rendering public services in the field of education at the expense of budgetary allocations of the budgets of the constituent entities of the Russian Federation are established by the state authorities of the subjects of the Russian Federation. The standard costs of the provision of public services in the field of education at the expense of budgetary allocations of local budgets of municipal districts and city okrugs are established in the manner determined by local government bodies of municipal districts and city districts.

6. Conclusions

The level of educational funding is an important indicator of the development of the level of education in the state. The main goal of introducing a new approach is to encourage educational organizations to use budget funds efficiently and to choose the most effective management models. The new approach assumes that the costs of providing public services in the field of education are made at the expense of budgetary allocations of local budgets. It is important to note that at the same time, the effectiveness of the use of budgetary funds is increasing, because budgetary funds fall into higher education organizations that are able to provide education more effectively.

Thus, the current trend in the development of educational funding is the effectiveness of using budgetary funds. All subsequent development of the legislation should be aimed at improving the quality of education and equal access to free education guaranteed by the Constitution of Russian Federation. The effectiveness of educational funding can be achieved only in the case of systematic development of both the educational and budgetary components of the education process.

References:

- Avdeeva, T.I., Kulik, A.D., Kosareva, L.A., Zhilkina, T.A. and Belogurov, A.Yu. 2017. Problems and Prospects of Higher Education System Development in Modern Society. *European Research Studies Journal*, 20(4B), 112-124.
- Arestoff F., Jacques J-F. 2009. Education obligatoire en présence d'évasion fiscale, Premier Colloque bi-annuel du GDRI DREEM, "Inégalités et développement dans les pays méditerranéens", Istanbul, Turkey.
- Borisov, A.B. 2008. *The Great Economic Encyclopedia*. Moscow, The Books World, 895.
- Chebotnyagin, I.V. 2013. The Effectiveness of Legal Reform Ensuring Labour Protection: Theoretical and Legal and Applied-research Aspects. *The Law*, 1, 141-145.
- Degtyaryova, L.R. 2014. Financial and Legal Regulation of the Institutions of the Russian Education as the Basis of Its Modernisation. *The Legal World*, 6, 59-68.
- Dissou Y., Didic S., Yakautsava T. 2016. Government spending on education, human capital accumulation, and growth. *Economic Modelling*, 58(C), 9-21.

- Drozdova, A.M., Gulakova, Yu., Ivanchenko, E.A., Lesnichenko, I. P. and Tereshchenko, E.A. 2016. The current state of the system of mechanisms of realization and protection of the rights of the child: Conceptual and legal aspects. *International Journal of Environmental and Science Education*, 11(18), 10713-10728.
- Egorova, E.N., Kozhevnikova, N.V., Faizova, G.R., Kashipova, G., Kashipova, G. and Zinurova, G. 2015. Factors of Functioning and Development of Tourist Clusters at Regional Level. *European Research Studies Journal*, 18(5), 87-98.
- Gorina, A.P. 2016. Issues and Prospectives of the Educational Service Market Modernization. *European Research Studies Journal*, 19(3) Part B, 227-238.
- Haussen, T. and Uebelmesser, S., 2018. Job changes and interregional migration of graduates. *Regional Studies*, 52 (10), 1346-1359.
- Karandaev I.Y. 2013. The Features of budgetary financing the activities of the Russian Federation's public institutions in modern conditions. *The Actual Problems of Russian Law*, 1, 25-31.
- Kazachkova, Z.M. and Kaziev, S.V. 2013. Economic and Legal Basis of the Principles of Reforming the Funding of Public Educational Institutions: on Statement of the Problem. *The Materials of the Methodological Postgraduate Seminars of the Department of Administrative and Financial Law*, Issue IV, pp. 24.
- Klimov, A.A. 2007. Normative per capita funding of higher education institutions. VII International Scientific Conference. 'Modernisation of Economy and the State'. Moscow, State University Higher School of Economics.
- Moshkova, D.M. 2013. On the issue of education funding in the Russian Federation. *The Actual Problems of Russian Law*, 3, 265.
- Msigwa, F.M. 2016. Widening participation in higher education: a social justice analysis of student loans in Tanzania. Bristol, University of Bristol, 381.
- Oketch, M. 2014. Education policy, vocational training, and the youth in SubSaharan Africa, WIDER Working Paper, No. 2014/069.
- Ozkok, Z. 2017. Financing Education in Europe: The Globalization Perspective. *Economics and Politics*, 29(1), 69-90.
- Sitdikova, L.B. 2012. The Role of Self-Regulatory Organizations in the Consultancy Services Quality Provision. *Legal World*, 2, 71-73.
- Shugrina, E.S. 2013. Distribution of Powers in the Different Levels of Public Authority in the Field of Education. *The Administrative and Municipal Laws*, 10, 98-106.
- Sultanova, V.A. and Chechina, S.O. 2016. Human Capital as a Key Factor of Economic Growth in Crisis. *European Research Studies Journal*, 19(2), 72-79.
- Subareva, I.F. 2013. Legal Regulation of the Financial and Economic Mechanism of Education: Correlation of Public and Private. *The Journal of Russian Law*, 10, 28-34.
- The Budgetary Code of the Russian Federation dated 31.07.1998 № 145-FZ (version 22.10.2014). *The Russian Newspaper*. No.153-154. 12.08.1998
- Troshkina, T.N. 2012. *The Lectures on Educational Law: A Tutorial*. Moscow, The Federal Centre for Educational Legislation, 198-199.