

УГОЛОВНОЕ ПРАВО И КРИМИНОЛОГИЯ; УГОЛОВНО-ИСПОЛНИТЕЛЬНОЕ ПРАВО

THE NEED TO FORM CENTRALIZED ORGANS OF SOCIAL CONTROL IN THE PROCEDURES OF THE FEDERAL STATE CONTROL (SUPERVISION) OF EDUCATIONAL ORGANIZATIONS

L.A. Bukalerova

The Department of Criminal Law, Criminal Procedure and Criminology
Law Institute of the Peoples' Friendship University of Russia
6, Miklukho-Maklaya st., Moscow, Russia, 117198

R.V. Shagieva

The Department of Theory and History of State and Law
Financial University under the Government of the Russian Federation
49, Leningrad ave., Moscow, Russia, 125993

This paper is devoted to one of the directions of the relationship of civil society and the state - public control over the executive authorities in the management of the entity. Effectiveness of the agencies of social control depends on a clear centralized structure, proposals for the creation of which is formulated by the authors of this article.

Key words: civil society, the state, social control, a subject of public scrutiny in the area of education, public council for the development of education.

The state power is irresponsible when it is free from the constant control by the citizens. The effective functioning of the authority requires active public control over it.

In modern conditions the role and importance of public control multiplied because of the needs of modernization of public administration, fighting corruption, improving the quality of implementation of the state functions and the provision of public services.

Today it is understood that it is impossible to solve the main state problems by simple legislative regulation or by using a resource of only government institutions. You can count on more effective solutions to our current state issues only through developing public control, the non-profit sector, civil society institutions. As noted in the legal literature social control ensures the effective participation of citizens in the interests of civil society and guarantees the legal limit of power the conditions for the development of a legal state and a democratic political system through verification of legality in the activities of state bodies and officials; observations on the process of implementation of laws or administrative decisions and quality of work of all organs of the state. Accordingly, public control over activities of the state is understood as a

process of observation and inspection by citizens of the activities of state bodies and officials which is carried out on behalf of the society for the purpose of realization of the principle of legality, human rights and national interests. The essential characteristics of social control in the modern state are implementing it on the basis of the ideology and values of the legal state; the regulation of the normative acts; it is optional in that case unless otherwise provided by law; subjects may be representatives of public associations and citizens who are non-governmental and municipal employees; the implementation of activities on the public basis [2].

Today the potential of social control in Russia is not fully implemented. Despite the fact that in recent years a number of Federal laws and regulatory legal acts were accepted in the sphere of public control: the Federal laws «On fundamentals of social control in the Russian Federation», «On the Public chamber of the Russian Federation» of the 21.07.2014 № 212-FZ, «On the procedure of consideration of applications of citizens of the Russian Federation» as well as decrees of the President of the Russian Federation «On the procedure for the formation of public councils under the Federal ministries, Federal services and Federal agencies, guidance activities which are made by the President of the Russian Federation, the Federal services and Federal agencies subordinate to these Federal ministries». The provision of the public Council of the Federal service for supervision in education and science approved by Order «from 03.02.2014 № 83 «On Public Council of the Federal service for supervision in education and science» expanding the opportunities for participation of citizens and public associations in the management of the Affairs of the state. The law on public control must be improved. It is positively that currently there is an intensive process of harmonization of the provisions of internal regulations with the requirements of the relevant rules of international law including in the study area [1].

Federal law of 21.07.2014 № 212-FZ «On fundamentals of social control in the Russian Federation» under public control understands the activities of the subjects of social control aimed at monitoring the activities of bodies of state power, bodies of local self-government, state and municipal organizations, other agencies and organizations in accordance with Federal laws separate public authority and for public inspection, analysis and public evaluations published by their acts and decisions.

Based on the above legal definition it is possible to formulate the concept of «public control in the sphere of education» is a legal activity of subjects of public control in order to monitor the activity of bodies of state power, bodies of local self-government, state and municipal organizations, other agencies and organizations in the field of education operating in accordance with the Federal law of an individual public authority and for public inspection, analysis and public evaluations published by their acts and accept solutions needed to prevent crime and abuse of power in this area.

In the context of defined concepts believe that the bodies of control and supervision in the sphere of education should have a clear centralized structure. Otherwise, you receive divergence in understandings of the goals in the action and ultimately in results.

The Federal law of 21.07.2014 № 212-FZ «On fundamentals of social control in the Russian Federation» evidences about the necessity of the vertical structure of the

bodies of control and supervision in the sphere of education. It is important that the Provision of the public Council of the Federal service for supervision in education and science» which was approved by the Order from 03.02.2014 № 83 «On Public Council of the Federal service for supervision in education and science» indicated on the interaction of the Federal service for supervision in education and science (Rosobrnadzor) with the Public chamber of the Russian Federation in the formation of the Public Council: «this Regulation defines the competence, the order of forming staff and activities of the Public Council under the Federal service for supervision in education and science, the order of interaction of the Federal service for supervision in education and science (Rosobrnadzor) with the public chamber of the Russian Federation in the formation of the Public Council as well as the procedure and conditions for inclusion in the composition of the Public Council members of the Public chamber independent from the state authorities of the Russian Federation experts, representatives of public interest organizations and other persons».

While the subjects of public control in the sphere of education can be: citizens as public officers or public experts; public associations and other non-profit organizations.

In our view, the subjects of public control in the sphere of education should be: the Public chamber of the Russian Federation; a Public Council under the Ministry of education and science of the Russian Federation; Public Council under the Federal service for supervision in education and science; public councils attached to the bodies of state power of subjects of the Russian Federation in the sphere of education; public councils at the local government bodies of municipal areas and urban districts in the sphere of education; community councils in educational organizations.

Regarding the characteristics of such a subject as the Public chamber of the Russian Federation we should use the Federal law dated 04.04.2005 №. 32-FZ (as amended on 20.04.2014) «On the Public chamber of the Russian Federation» and «Regulation of the Public chamber of the Russian Federation» accepted at the plenary meeting of the Public chamber of the Russian Federation 22.01.2006 G. (edited on 26.06.2014).

Concerning the second subject «the Public Council under the Ministry of education and science of the Russian Federation» we may use the Order of the Ministry of education and science dated 13.11.2012 № 913 (edited on 24.05.2013) «On approval of the Provision of the Public Council under the Ministry of education and science of the Russian Federation».

On the third subject «Public Council of the Federal service for supervision in education and science» we should use the Order of Rosobrnadzor from 03.02.2014 № 83 «On Public Council of the Federal service for supervision in education and science».

In the analysis of the fourth subject «public councils in the bodies of state power of subjects of the Russian Federation in the sphere of education» unfortunately, it should be stated that there is no official document model. Such a model legal act, in our opinion, should be formulated. Moreover, some experiences of legal regulation of the activities of such subjects have already been accumulated in regions. As an example, we may indicate the Appendix № 1 to the order of the Ministry of education of Saratov region from 09.04.2014 № 1063 «Appendix № 1 to the order of the Ministry

of education on December 18, 2013 № 3689 which approved «The regulations of the Public Council under the Ministry of education of Saratov region».

Also developed «Approximate the provision of the Public Council under the local authority of the municipal district (urban district) of the Republic of Bashkortostan which manages in the sphere of education» approved by the Order of local government of the municipal district (urban district) of the Republic of Bashkortostan managing in the field of education of 2013 (date not clear).

Advantageously that each subject of the Federation should issue a similar model (approximate) the provisions and regulations for inferior authorities in the sphere of education.

On the fifth subject carrying out public control over education at the lowest level «the public Council under the local government bodies of municipal areas and urban districts in education» it may also be noted that there is no model provision in this case. This leads to the fact that there is not a legal basis in specific municipalities for their activities.

As such a negative example, it is possible to specify that for example there is no Provision regulating the work of the Public Council on education under the control of South-Eastern education district of education Department of the Kirov region. On the website we only found «A plan of work of the Public Council on education in management of UVOO 2013», «Meeting of the Public Council on education for 2014» from 17.01.2014 and «Reception of the Public Council in Malmyzhsky area» from 18.04.2014.

It is a similar state of Affairs and at the community education Council of Orenburg. On the website posted only «Composition of the Board of public education». Nowhere is the guidance on the regulations of the Board or of any other normative documents.

Sometimes the agencies of social control at this level have a slightly different name, for example, as in «The Regulation on Municipal public Council for the development of education under the Department of education of the city district Kolomna». In our opinion this terminological inconsistency and discrepancy are not valid.

And it is absolutely not legally correct is the fact that when the provision of the public Council will be approved by the Council itself. So, the provision of the Public Council for the development of education in the city of Ryazan was approved by the decision of the Public Council for the development of education in the city of Ryazan from February 14, 2014 Protocol № 120.

However, there are positive experiences in the implementation of public control in the sphere of education in this municipality which should be spread widely. So, it is necessary to note the presence on the website of the Department of education and youth policy of the administration of the city of Ryazan collection «The Public Council for the development of education in the city of Ryazan» (Ryazan: Education Ryazan, 2014. — 24 p.). The collection contains information about the representatives of the local community which became part of the Public Council for the development of education of the city of Ryazan as well as the Position of the Council's activities and an indicative work plan for 2014 and the publication is intended for teachers and parents, the media and a wide range of readers.

It is important that the authors are actively involved in the preparation for implementation of public control procedures and training of community inspectors to participate in the procedures of the Federal state control (supervision) of universities. On the 17th of March in 2015 a round table was held in the Public chamber of the Russian Federation on public control, public examination and interaction with public councils on the topic «Organization of public control in the sphere of education and the order of interaction of subjects of social control by public authorities» which discussed the mechanisms of attraction non-profit organizations and citizens to public control in the sphere of education and learning of the subjects of social control and their methodological support. We believe that this work needs to be continued.

REFERENCES

- [1] *Bukaleroва L.A., Shagieva R.V. Mezhdunarodnoe sotrudnichestvo v sfere obrazovanija: problemy pravovogo regulirovanija v uslovijah globalizacii // Vestnik Kazanskogo tehnologicheskogo universiteta. — 2013. — Т. 16. — № 16.*
- [2] *Starchikova V.V. Obshhestvennyj kontrol' v pravovom gosudarstve (teoretiko-pravovoe issledovanie): avtoref. diss. ... kand. jurid. nauk. — M., 2014.*

О НЕОБХОДИМОСТИ ФОРМИРОВАНИЯ ЦЕНТРАЛИЗОВАННЫХ ОРГАНОВ ОБЩЕСТВЕННОГО КОНТРОЛЯ В ПРОЦЕДУРАХ ФЕДЕРАЛЬНОГО ГОСУДАРСТВЕННОГО КОНТРОЛЯ (НАДЗОРА) ЗА ОБРАЗОВАТЕЛЬНЫМИ ОРГАНИЗАЦИЯМИ

Л.А. Букалорова

Кафедра уголовного права, уголовного процесса и криминалистики
Юридический институт Российского университета дружбы народов
ул. Миклухо-Маклая, 6, Москва, Россия, 117198

Р.В. Шагиева

Кафедра теории и истории государства и права
Финансовый университет при Правительстве Российской Федерации
Ленинградский просп., 49, Москва, Россия, 125993

Статья посвящена одному из направлений взаимоотношений гражданского общества и государства — общественному контролю за органами исполнительной власти в области управления за образованием. Эффективность деятельности органов общественного контроля во многом зависит от четкой централизованной структуры, предложения по созданию которой формулируются авторами данной статьи.

Ключевые слова: гражданское общество, государство, общественный контроль, субъект общественного контроля в сфере образования, Общественный совет по развитию образования.