

Features of the Legal Regulation of Relations in the Provision of Educational Services via Distance Learning Technologies

Svetlana V. Pivneva^{1,2}, Olga A. Korotkikh³, Alexander G. Fedorov⁴, Gyulnaz E. Adygezalova⁵, Nataliya I. Rets⁶ and Vladimir D. Sekerin²

¹Russian State Social University, Moscow, Russian Federation

²Moscow Polytechnic University, Moscow, Russian Federation

³Southwest State University, Kursk, Russian Federation

⁴Kaluga State University named after K.E. Tsiolkovski, Kaluga, Russian Federation

⁵Kuban State University, Krasnodar, Russian Federation

⁶K.G.Razumovsky Moscow State University of Technologies and Management, Moscow, Russian Federation

Summary

The paper explores some peculiarities of the legal regulation of relations in the provision of educational services concerning the implementation of contracts for the provision of educational services in a distance form. Today, distance education is gaining in popularity, but there remain some unresolved issues regarding the legal guarantees of its quality for learners-consumers. The goal of the study is to analyze the legal regulatory framework of relations in the provision and consumption of distance education services. The key conceptions of educational technologies used in training are identified and the general patterns of supply and demand in this type of service are outlined. The article also considers legislative decisions on the regulation of e-learning and presents a comparative study of the peculiarities of implementation of this form of education in different countries. The expediency of the effective use of this form of training in current social realities is demonstrated. Particular patterns and problems in the implementation of distance learning are detected and solutions for the issues are proposed. The authors argue for the need to introduce special legislation establishing codes and standards for the providers of distance learning services and enabling proper control of the quality of consumed distance education services.

Keywords:

distance learning, legal regulation, supply and demand, quality, standardization.

1. Introduction

In today's economy of the information society, which demands highly professional personnel, the market for educational services is of major importance (especially in the sphere of higher professional education). The use of capabilities of the Internet and electronic environments offer tremendous prospects for this sphere, which undoubtedly deserve research attention [1,2]. Due to the possibilities of the Internet and electronic means of communication, a special type of educational process called "distance learning" appeared and began to develop rapidly.

Such training takes place at a distance, without personal, direct contact between the teacher and the learner, provided by an electronic environment that primarily assumes access to the Internet [3].

In the very recent past, the expansion of distance learning technologies received a strong impetus in the form of an urgent transition to a distance learning format under the threat of the spread of coronavirus infection. According to the Ministry of Education and Science of the Russian Federation, about 80% of Russian universities fully switched to a remote format of work with students, and of those subordinate to the Ministry – all 100% (based on the Minister of Science and Higher Education Valery Falkov briefing of March 25, 2020) [4].

However, the emergency transition to a distance learning format in a pandemic has substantial differences from properly planned and organized online training based on mass open online courses (MOOCs) [5]. The return to the usual conditions of learning brings to the forefront the question of the quality of educational services, the answer to which depends on the appropriate regulation of civil-law relations in the market of educational services [6]. Contractual relations of providing and receiving services, regulated by Chapter 39 of the Civil Code of the Russian Federation, currently do not fully cover relations in the sphere of distance education.

Despite the seeming simplicity of organizing the educational process and creating the necessary conditions for learning with the use of distance technologies, these relations often make it possible to create a semblance of learning. This, in turn, goes against the interests of the modern economy, which is in dire need of highly qualified specialists. Standard contracts for educational services used by educational institutions, despite offering a sound model for regulating relations in traditional forms of education, may not account for the peculiarities of the use of distance technologies [7], which may lead to the incomplete realization of the rights and legitimate interests of the

parties to the contract. In this relation, there arises the need for the special legal regulation of relations in the relevant sphere that would address the peculiarities of interaction between the provider and the consumer of services in the market of distance education.

Various aspects of the problem of distance education are widely explored in recent multidisciplinary Russian and foreign studies in the field of pedagogy, informatization, jurisprudence, and management. An assessment of the current state of the digital education space is given in the Global Education Futures report “Education for a Complex Society,” chapter “Educational Ecosystems for Social Transformation,” and in a report on the Global Education Leaders’ Partnership Moscow Forum “Education for a Complex World: Why, What, and How to Teach” (October 31 – November 3, 2017, Moscow). These sources offer a broad overview of the problem and consider the issues of distance education from different angles [8]. The theory and methodology of distance learning technologies are considered in the works of E.V. Lobanova [9] and S.L. Lovachev [10], and the conceptual apparatus of distance education is the subject of research by M.E. Vaindorf-Sysoeva and M.L. Subocheva [11] and A.A. Skvortsov [12]. What can be considered a separate area of research is an analysis of the impact of distance learning technologies on the implementation of citizens’ right to education guaranteed by the Basic Law of the country – the Constitution of the Russian Federation (N.V. Bobrakova [13], S.V. Barabanova [14]). The key directions of research on distance learning can be summarized in the form of a table (Table 1).

Table 1. Key directions of research into distance learning

Direction of research	Authors
Theory and methodology of distance learning technologies	E.V. Lobanova [9], I.V. Robert [10]
Conceptual apparatus of distance education	M.E. Vaindorf-Sysoeva, M.L. Subocheva [11], A.A. Skvortsov [12]
Constitutional right to education in view of the mass introduction of distance learning	N.V. Bobrakova [13], S.V. Barabanova [14]

However, the aforementioned works give undeservedly little attention to the issues of regulation of the civil-legal relationship between the provider and the consumer of distance learning services (educational institution and the learner), which actualizes the outlined problem. The goal of the present study is to detect opportunities for improvement of the legal regulation of relations in the provision and consumption of educational services using distance learning technologies. The research hypothesis is that a solution to the problem of regulation of

civil-legal relations between the provider and the consumer of distance learning services can be the introduction of special legal regulation. To prove the hypothesis, the following tasks should be addressed: to identify legal problems in the sphere of distance learning services, study its current normative regulation, study international experience, and propose ways to improve the relevant legal regulation in Russia.

2. Methods

The conducted study utilizes a complex approach combining a set of theoretical and empirical methods. The theoretical methods employed include analysis of legislation and scientific literature, comparative analysis of international approaches to the problem, and generalization of scientific opinions on the problem under study. The main empirical methods were the statistical method, which emphasizes the importance of the issue under study on the scale of Russian society, and the method of expert interviews, which uses mathematical methods (counting answers and ranking them). To prove the hypothesis, different sources of information were used: normative legal acts, statistical information posted on government websites of the Russian Federation, monographs and articles, including those published in journals indexed by Scopus and Web of Science, containing the conceptual provisions regarding the use of distance learning technologies, and conference presentations on the studied topic by researchers from different countries.

The online expert survey was conducted among 30 teachers and representatives of administration (rectors and deans of faculties of three major universities (more than 10 thousand students)) from the Central region of the Russian Federation. Expert selection criteria included the experts having no less than three articles on the subject area in question published in journals indexed by Scopus or Web of Science or work experience of not less than 10 years. All survey participants were informed of the purpose of the survey and of the future intent to publish the expert survey results without the personal data of its participants.

An email sent to each of the respondents asked them to respond in writing to the question about the need for the special legal regulation of educational services using distance learning technologies in general and with regard to its individual areas, such as additional vocational education, advanced training, etc.

3. Results

The results of the conducted survey are presented in the table below (Table 2).

Table 2. Results of the study on the need for special regulation of the provision of educational services using distance learning technologies

Answer options	Response distribution, %
Necessary in all cases	47
Necessary only for additional professional education (retraining, advanced training)	43
No need for special regulation	10

Data in the table demonstrates that the majority of the experts see no need for special regulation of relations between the provider of distance education services and their consumer.

Prospects for the development and promotion of distance technologies in the market of educational services in Russia are largely determined by state regulation of the relevant relations in the educational sphere. In particular, according to the norms of Federal Law No. 273-FZ "On Education in the Russian Federation" [15], one of the independent types of education is distance education, which presupposes the use of distance learning technologies implemented "with the use of information and telecommunications networks in the remote interaction of students and teachers. The law also states that the implementation of educational programs, regardless of the form of education, can utilize e-learning and distance learning technologies in accordance with the procedure established by the federal executive authorities". The specific procedure for the implementation of training using distance forms is established by subordinate regulatory legal acts adopted in accordance with this Federal Law. These include the Order of the Ministry of Education and Science of the Russian Federation of January 9, 2014, No. 2 "On approval of the use of electronic learning, distance learning technologies in the implementation of educational programs by organizations engaged in educational activities" [16] and Order of the Ministry of Education and Science of the Russian Federation of January 20, 2014 No. 22 (as amended on December 10, 2014) "On approval of the lists of professions and specialties of secondary vocational education, the implementation of educational programs in which is not allowed to use only electronic learning, distance learning technologies" [17]. As per these regulations, the order and scope of the use of distance learning technologies are defined by the educational institution itself and can be implemented for each form of education independently. Furthermore, these rules also allow for the total absence of classroom training in the learning process, which in turn calls into question the distinction between self-study and education with the use of

distance learning technologies [7]. In addition, the Order of the Ministry of Education and Science of the Russian Federation of January 20, 2014 No. 22, which specifies the list of professions and specialties in secondary vocational education, in which training exclusively with distance learning technologies is not permitted, does not limit the use of these technologies in particular portions of the learning process. Thus, at present, any educational organization that provides educational services in accordance with Russian legislation has the right not only to supplement the learning process with distance learning technologies, but, in fact, to replace the habitual forms of education with distance learning technologies. Some researchers express concern that such freedom in the provision of distance education services may contribute to an overall decrease in the quality of education since proper control over the activity of the learner is not always provided due to their physical distance from the educational organization and the teacher [7,18].

By now, the distance form of learning has long been recognized around the world as an independent and promising direction, as it offers an opportunity to combine professional work with the process of obtaining vocational education [19,20]. By means of various technical instruments, the very process of learning is customized to the needs of the student. With this form of training, it becomes possible to offer classes on an individual, flexible schedule and, due to the lower cost of organizing the process, the training programs are more profitable at their affordable price. The matter of economic efficiency has become one of the drivers for the active development of this direction in a number of economically developed countries [21]. Today, there are a multitude of world institutions providing education with the help of distance learning. The most famous of them are London Open University, Boston Institute of Distance Learning, Indira Gandhi University, etc. The development of this field tends to be driven by various social problems of the state, often such a stimulus being overpopulation or the inability of the state to fulfill its obligations as a social regulator due to historical, geographic, and economic factors [19]. One exception to this pattern is the USA, where the need for the development of distance learning stemmed from high demand for vocational and additional education services [19]. Research conducted in the USA and involving the evaluation of the quality of education reveals no correlation between distance learning and deterioration of the quality of education. However, an opinion was voiced that some learning outcomes could be higher in traditional forms of education compared to distance learning. The data obtained from the factors that may hinder the correct assessment of student knowledge [22].

Addressing the issues relating to the quality of distance learning courses and assessment of the knowledge obtained through this form of training appears to be the main

objective of legal regulation of the provision of distance learning services.

World experience shows that effective quality management systems for distance learning can be successfully implemented on the basis of educational institutions. As an example, let us consider models of standardization of management and quality assessment of distance education at the Canadian University of Alberta. Evaluation of the effectiveness of distance practices and blended courses is carried out using the same quality standards as for courses without new technology and is integrated into the general regulatory framework. Continuous improvement of the quality of education is achieved not only through external accreditation but also as a result of internal revisions of e-courses for compliance with standards. The university has issued a collection of checklists used by its teachers and administration during the development and implementation of e-courses, as well as in the process of online training [23]. The currently operating Technology Training Centre and AICT E-Learning Services provide quality technical support for the development, implementation, and standardization of e-learning courses [24,25]. Thus, the characteristic features of the standardization and regulation of the quality of e-learning and distance learning in Canada are the presence of an extensive methodological framework (standards and user manuals); openness of the results of the assessment of training programs revision; lack of state regulation with a high role of regional and university structures; significant involvement of experts and the professional community in governing the regulatory framework of distance learning and learning outcomes assessment.

A comparison of approaches to the implementation of quality requirements for distance learning services in Russia and the USA, Canada, and several other Western countries reveals their significant differences, as presented in the table below (Table 3).

Table 3. Comparison of approaches to the implementation of quality requirements for distance learning services

Educational service quality provision	Russia	Western countries (USA, Canada)
Type of regulation	State regulation	Self-regulation
Quality regulation	Uniform state standards	At the level of university associations, individual universities
Quality assessment models	General regulation is lacking, regulation at the level of individual universities	Developed and in effect at the national level

4. Discussion

Researchers highlight a number of problems inherent in the organizational part of the implementation of distance learning. As rightly noted by S.V. Izaak, most distance learning technologies require special playback equipment: the more cutting-edge or exotic is the technology, the fewer students are able to obtain all the equipment needed for studies. For instance, there is a standard selection of materials posted on information sites, but there also exist technologies that use programs for training on smartphones or special additional equipment [19]. These conditions may raise the choice between the “rich” and “poor” learning technologies. This problem is supposed to be solved by analysis of the needs of trainees in the optimization and adaptation of technology for the majority of the population. O.A. Aleinikova, citing the limitations of distance learning, proposes to conduct large-scale testing of the distance learning process in educational organizations, in order to identify possible problems and ways to promptly address them should there arise some unforeseen circumstances, such as a pandemic [26].

D.Iu. Grishin argues [7] that the freedom of the parties to the contract for educational services to form the conditions for the provision of distance learning in fact makes it possible to create a semblance of learning. This owes to the fact that educational services presuppose certain efforts on the part of not only their supplier but also the consumer. It is thus critical to implement the forms of control of students’ knowledge prescribed by Federal State Educational Standards (FSES), to exercise direct supervision of the learning process. Otherwise, Grishin notes, the terms of the contract quite apt to create a viable model of relations in the provision of educational services in traditional forms may prove inadequate for education utilizing distance technologies. Accordingly, in order to address the shortcomings of contractual regulation of relations on the provision of distance education services, special legal regulation of the organization and conditions of provision of distance learning needs to be developed. This regulation should, on the one hand, enable the use of its provisions in the educational process and, on the other hand, guarantee the quality of the educational services provided and protect the rights of the student to quality competitive education [7].

The mentioned special legal regulation, according to Grishin, should provide:

- conditions and procedures for the use of distance learning technologies in full-time, part-time, and extramural forms of education;
- forms and types of classes that can be conducted remotely;
- requirements for the quality and educational level of the personnel of the educational institution that provides education using distance learning technologies;

- minimum requirements for the physical facilities and telecommunication networks of the educational organization that provides distance learning services [7]. Another urgent issue in the sphere of application of distance education relating to its quality is pointed out by E.Kh. Urchukova [27]. In order to objectively control the level of knowledge obtained, it is crucial to accurately identify (verify) the person training in the distance format. Establishing a person's authorship of a particular type of work is challenging. At times, the identifier password alone does not suffice to accurately verify a student's training via distance learning technologies. It appears necessary to develop and implement not only new means of identification but also their legal support, which will provide better control over students' knowledge and bring their training in alignment with the new generation of FSES. Thus, to ensure prompt elimination of the outlined problems, it appears necessary to reconsider many established views on distance education and identify the conditions that allow for their effective use in educational organizations. Education is oriented on the future as a determinant affecting the formation and stable development of civil society and the political system of the state. Thus, the legal framework for the provision of educational services in Russia, including in a distance format, is in urgent need of further improvement.

5. Conclusion

The paper demonstrates that the application of contractual regulation of traditional forms of education to relations in the provision of distance learning services may be inadequate to satisfy the interests of the consumer of these services in obtaining a quality education, as well as the interests of the national economy in the provision of high-quality personnel. Such a situation necessitates special normative regulation that establishes uniform minimum requirements for the quality of educational services provided in a distance format and its control. Such normative regulation, with consideration of all the features of distance education, should ensure the proper quality of distance learning services for all stakeholders in the sphere of education. Thus, the hypothesis of the study can be considered confirmed. A logical continuation of the present study could be an analysis of the specifics of organizing distance learning in additional professional education.

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