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**FEATURES OF LEGAL REGULATION IN THE FIELD OF  
EDUCATION IN RUSSIA**

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**Abstract**

The scientific and practical problem addressed by the study is relevant for the system of modern Russian education (especially after the entry of the Russian Federation into the World Trade Organization) and can be considered as interdisciplinary (for example, jurisprudence, pedagogy, economics and public management). The study features the concepts of "service" and "educational service", as well as substantiates the need to preserve and legislate the status of "national treasure" for educational services in the Russian Federation. The analysis performed by the author presents the category "service" as an activity, as a method or algorithm of actions, and as a relationship. The category of "educational service" is considered by the author in terms of its outcomes (that is, acquired knowledge, skills) and activities for knowledge and skill transfer. The author proposes to differentiate services according to the provided branches of law. Delimiting constitutional law and civil law, the author introduces the concept of "constitutional (national) service", clarifying the definition "educational service" as a service guaranteed by the Constitution of the Russian Federation. In the study, the author proposes to expand the federal legislative framework governing the field of education, and to make structural changes in the Government of the Russian Federation. This paper is intended for undergraduates, graduate students, state management structures and other individuals interested in the field of educational activities on the territory of the Russian Federation.

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*Keywords:* Constitutional law, educational service, field of education, national interests, service, World Trade Organization (WTO)

## 1. Introduction

Globalization has a significant effect on world politics in the 21st century. The penetration of globalism leads to the transformation of main spheres of human life, such as the national economy, authentic legal regulation, education, etc. At the same time, states need to maintain their strategic interests and national sovereignty for sustainable development,

Russia is no exception in this process. The membership in the World Trade Organization (WTO) and obligations to implement the principles of a market economy have changed value orientations of Russia (Demina & Mikhailova, 2016) in the field of education. From a legal point of view, depreciation of the public education system as a national treasure and classification it as a service sector (Dzhaparova, 2005) were due to the fact that WTO member countries are obliged to comply with the rules and regulations specified in the General Agreement on Trade in Services (GATS). As a result, in 01.01.2013, the Classifier of Services in Foreign Economic Activity (CSFEA) approved by the Order of Rosstat of 02.07.2012 No. 373) came into action, which declared activities for the provision of educational services (Order of Rosstat of 29.12.2021 No. 677).

I. Kant, a German philosopher, wrote (Dzhabya, 2018, p. 41) that "only through educational means an individual can become an individual." The author considers that "activity" but not "service" can form an individual.

Conceptually, the WTO has identified educational services as one of the 12 most important sectors – 12 areas of its interest, and has designated them as a "trade item" (Kolesov, 2006, p. 3). Thus, countries that have become members of the WTO on a voluntary basis are deprived of the state monopoly in the field of education.

## 2. Problem Statement

Based on the priority of the "agreement" on the WTO membership over the national law on education, in the legal field of Russia, the "sector of education" is defined as the "sector of services" (Pygach, 2013). This is dissonant with the Article 2 of the Federal Law *On education in the Russian Federation* of December 29, 2012 No. 273-FZ which states that education is the "process of training", "value settings", and "spiritual and moral interests". In this context, these are contradictory categories, since the "service" has a reimbursable beginning based on contractual relations. Based on this, spiritual and other values are sold and bought for material goods (purchase and sale of services).

According to the author, the modern modification of the law on education caused the following problems:

- i. imbalance between the market and cultural-historical development of the education system;
- ii. depreciation of national standards and rules in the field of education;
- iii. eradication of authentic spiritual, moral and social functions in the educational system;
- iv. refusal of the state from sovereignty in the educational environment.

However, the Law of the Russian Federation on the amendment to the Constitution of the Russian Federation of March 14, 2020 No. 1-FKZ *On improving the regulation of certain issues of the organization*

and functioning of public authorities (Art. 79 and Art. 79.1) allow the Russian legislator to consider national interests in the field of education as a priority.

### 3. Research Questions

Consider the interpretation of the categories "service" and "educational service" by the community of lawyers and economists (Zamriy, 2015).

The essence of the service was established in Roman law. Even then, the service was a special type of contractual relationship, the main criterion of which was the presence or absence of a material result. At the stage of modern social development, lawyers and economists have not been able to develop a unified concept of "service" (Korol & Khlynov, 2014), which optimally satisfies all spheres of human life (Table 01).

**Table 1.** Interpretation of the concept of "services" (Korol & Khlynov, 2014; Zamriy, 2015)

SERVICE		
AS "ACTIVITY":	AS "METHOD":	AS "RELATIONS":
<ul style="list-style-type: none"> <li>– K. Marx: there is nothing else but a useful activity of one or another value of labor;</li> <li>– L.V. Sannikova: activities of the service provider to preserve or change the state of intangible benefits performed in favor of the service recipient;</li> <li>– V.V. Pilyaeva: entrepreneurial activity aimed at meeting the needs of other individuals (except for activities based on labor relations);</li> <li>– M.N. Maleina: a certain activity, the result of which has no material embodiment and is inseparable from the personality of the performer;</li> <li>– L. Berry: is an activity, performance or effort.</li> </ul>	<ul style="list-style-type: none"> <li>– E.G. Shablova: the method to satisfy the individual needs that is not associated with creation (improvement) of a thing or object of intellectual property and is achieved through activities permitted by the current legal law on a reimbursable basis;</li> <li>– Yu.Kh. Kalmykov: provision of some benefits or the creation of certain amenities.</li> </ul>	<ul style="list-style-type: none"> <li>– N.A. Barinov: economic relations arising due to the results of labor that creates values in the form of activity to meet specific, reasonable human needs;</li> <li>– M.B. Rossinsky: a specific form of economic relations that implies the presence of a producer and a consumer of services;</li> <li>– E.P. Grushevaya: economic relations arising not due to the results of labor, but due to labor as an activity;</li> <li>– F. Kotler: any activity or benefit that one party can offer to another that is basically intangible and does not result in ownership of anything.</li> </ul>

In general, researchers associate the category "service" with the following:

- i. service is an activity within "subject-subject" and "subject-object" relations aimed at the implementation (achievement) of something;
- ii. service is a method or algorithm of actions within "subject-subject" and "subject-object" relations used to implement (achieve) something;
- iii. service is the relations or characteristics of "subject-subject" and "subject-object" economic relations focused on the implementation (achievement) of something.
- iv. According to the author, "services" exhibit the main features of "labor", such as:
- v. service is a conscious activity aimed at meeting not individual needs, but needs of society as a whole or individual members of society (individuals and legal entities);
- vi. service is a paid activity, that is, each service has its own cost for provision;
- vii. service is an activity carried out within the framework and on the basis of contractual relations;

- viii. service is an activity that creates benefits, the final cost of which is involved in the calculation of the gross domestic product.

Thus, the author argues that the universal interpretation of the concept of "service" should have an interdisciplinary aspect, be supplemented by interpretation of the concept of "labor activity", which is focused on formation of benefits intended to meet the needs of individuals and legal entities, as well as general civil and national needs.

At present, from a legal and regulatory point of view, the essence of "service" is reduced to the following understanding: service is an activity carried out by market institutions and authorities to satisfy the needs of individuals and legal entities, the result of which is burdened or not burdened by material implementation (for example, the Civil Code of the Russian Federation, Clause 1, Article 779, defines it as certain actions or certain activities; the Tax Code of the Russian Federation, Clause 5, Article 38, defines it as an activity that does not result in material implementation, and it is realized and consumed during this activity; the Budget Code of the Russian Federation, Article 6, states that service is provided (performed) by public authorities (local governments), state (municipal) institutions, and other legal entities, etc.).

The problem of defining the term "services" (Makarichev, 2006) remains relevant, as well as the problem of differentiating "services", which will be established in Russian legal documents.

For example, in the European Union, all services provided are considered and declared in legal documents and fall into three groups:

- i. services that are targeted at end consumers;
- ii. services that are provided to the business community;
- iii. services that are provided simultaneously to end consumers and the business community.

According to the Civil Law (Clause 2, Article 779 of the Civil Code of the Russian Federation), services are considered in terms of the field in which they are provided (Kolenkov, 2016): medical, tourism, auditing, etc.

Russian scientists consider the problem (Mihalev, 2012) of service differentiation (Kyvshinov & Tsybulevskaya, 2009) in terms of:

- i. the functional criterion (functional attribute): for example, G.A. Avanesova points out industrial, commercial, social, cultural and life support services;
- ii. the object of service: for example, V.K. Karnaukhova and T.A. Krakovskaya classify services in terms of production, society, household and personal (individual) aspects; other authors, such as N. A. Voskolovich and V. K. Romanovich, propose to classify all services depending on the specifics of the object to which they are directed (an individual, individual's consciousness, a physical object of an individual (owned by him), intangible assets (formed on the basis of information processing)).

#### **4. Purpose of the Study**

To clarify the definition of "educational service" in terms of constitutional law, and to propose an option for expanding the federal legislative framework governing the education sector in Russia.

## 5. Research Methods

The research problems were solved on the basis of general scientific and specialized forms of knowledge of the dialectical, logical, historical, rationalistic, structural-functional, fractal, statistical, etc., as well as systemic, evolutionary and synergetic approaches.

## 6. Findings

The author proposes to connect the process of differentiation of services with the corresponding branch of law. Thus, all services will be considered in terms of branches of substantive law, procedural branches of law, and complex branches of law.

This approach will enable to:

- i. update the concept of service for each branch of law;
- ii. emphasize the uniqueness of services provided within the framework of different branches of law;
- iii. minimize the ambiguity in the interpretation and practice of providing services in all spheres of life.

The priority for Russian legislation is specification of the category "service" (Ziryanova, 2009) within the framework of constitutional law (branch of substantive law). Thus, it requires introduction of the concept of "constitutional (national) service" while delimiting constitutional and civil law. The author proposes to define the "constitutional (national) service" as an activity carried out by market institutions and authorities to satisfy the needs of individuals and legal entities, the results of which are burdened or not burdened by material implementation, and are guaranteed by the Constitution to observe human rights and freedoms. It is the state that defines the status of a "service" as constitutional (national) or not.

This concept is proposed to be specified in the Passport of the national project Education in section 6 Additional Information approved by the Presidium of the Council under the President of the Russian Federation for Strategic Development and National Projects (Minutes No. 16 of December 24, 2018). Thus, "educational service" should be defined as a constitutional (national) service guaranteed by Article 43 of the Constitution of the Russian Federation.

At present, Russian scientists (Polovova & Batalova, 2009), lawyers and economists analyze the "educational service" (Lipkina, 2006) based on the following results of the "educational service" (Terescenko, 2005) presented in Table 02:

- i. the result of the "educational service" is knowledge, skills and abilities (KSA) that should be formed in the consumer;
- ii. the result of the "educational service" is the activity itself (process or retransmission) for transfer of knowledge, skills and abilities to the consumer.

**Table 2.** Interpretation of the concept of "educational service" (Lipkina, 2006; Polovova & Batalova, 2009; Terescenko, 2005; Ziryanova, 2009)

<b>EDUCATIONAL SERVICE</b>	
<b>AS "KSA":</b>	<b>AS "ACTIVITY":</b>

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<ul style="list-style-type: none"><li>– E.D. Lipkina: a set of knowledge, skills, abilities, and a certain amount of information that are used to meet the needs of the individual and society;</li><li>– S.A. Zaichikova: a system of knowledge, skills and abilities that are used to meet the needs of the individual, society and the state;</li><li>– V.N. Zotov: the amount of information and practical skills transferred to the individual in the form of general and special knowledge;</li><li>– N.N. Tereshchenko: a whole range of activities to meet the needs of the individual to improve the existing and acquired skills;</li><li>– V.P. Shchetinin: a system of knowledge, information, skills, and abilities that are used to meet the needs of the individual, society and the state.</li></ul>	<ul style="list-style-type: none"><li>– R. Dzharparova: transfer of systemic knowledge and inculcation of practical skills tested by experience for a certain type of occupation;</li><li>– A.O. Chentsov: formed in the scientific and pedagogical work, which is a kind of scientific work;</li><li>– A.M. Strizhov: purposeful activity characterized by the interaction of participants in the educational process and aimed at meeting the educational needs of the individual;</li><li>– I.B. Romanova: labor activity of an economic unit to meet the needs of a certain subject in education;</li><li>– T.A. Son: the result of educational, managerial, financial and economic activities of an educational institution to meet the production needs for training, retraining and advanced training of the staff, and the needs of individuals for obtaining a profession (qualification, retraining).</li></ul>
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Unlike the traditional content, the author defines the essential content of "educational service" as support in the learning process in accordance with national interests and the educational program. Based on this, to specify the categorical apparatus in the field of higher education, it is proposed to introduce the following concept into Article 2 of the Federal Law *On education in the Russian Federation* of December 29, 2012 No. 273-FZ: An educational service in the field of higher education is a service that accompanies the learning process, which aims to develop competencies of a certain level in accordance with national interests and the chosen educational program, which is guaranteed by the Constitution of the Russian Federation to observe human rights and freedoms.

The expediency of the proposed specification of the Federal Law *On education in the Russian Federation* of December 29, 2012 No. 273-FZ provides the following advantages:

- i. logically, within the legal framework, the education sector acts as an area of priority national interests, which allows the legislator to expand the possibilities of regulation and increase the potential of the national education system;
- ii. the status of services in the field of education will be equated with national interests, which will increase the level of control on the part of society and increase the potential of non-material values.

As part of this study, it is necessary to consider another problem of the modern education in Russia, which includes discrepancies in the legal and institutional management of the education process that hinder the formation of the unity of its system. For example, the Federal Law *On education in the Russian Federation* of December 29, 2012 No. 273-FZ reveals the following discrepancies:

- i. according to par. 5 of Art. 10, one of the levels of "professional education" is "higher education"; however, according to par. 1 of Art. 108, "professional" was withdrawn from the statutes of all universities a few years ago;
- ii. in accordance with par. 5 of Art. 10, similar to "higher education", "secondary vocational education" is referred to "professional education", and at the same time, according to par. 4 of Art. 10, it is not the level of "general education"; however, it is coordinated by the Ministry of Education of the Russian Federation, and not by the Ministry of Science and Higher Education of the Russian Federation.

Based on Clause 2 of Article 10 of the Federal Law *On education in the Russian Federation* of December 29, 2012 No. 273-FZ, the author proposes the structure of legal regulation in the field of education that consists of 3 Federal Laws: Federal Law *On preschool and general education in the Russian Federation*; Federal Law *On additional education of children in the Russian Federation*; Federal Law *On vocational education and additional professional training in the Russian Federation*".

The proposed option of additional legal clarification of each of the declared types of education will not duplicate the Federal Law *On education in the Russian Federation*. The author's option of the legal specification has an analogue in Russian practice, namely the Federal Law *On the system of civil service of the Russian Federation* of May 27, 2003 No. 58-FZ, which declares: the state civil service (FZ *On the state civil service of the Russian Federation* of July 27, 2004 No. 79-FZ); military service (FZ *On military duty and military service* of March 28, 1998 No. 53-FZ); other public services.

This structure of the legal regulation in the education sector will enclose the level of "professional education" into a single educational process within the framework of the formed infrastructure (according to Chapter 8 of the Federal Law *On education in the Russian Federation* of December 29, 2012 No. 273-FZ): secondary vocational education will not be "torn off" from higher education (in addition, structural changes are proposed in the Government of the Russian Federation with the transfer of relevant competencies: the Ministry of Preschool and General Education of the Russian Federation; the Ministry of Vocational Education of the Russian Federation; the Ministry of Science of the Russian Federation – requires amendments to the Decree of the President of the Russian Federation *On the structure of federal executive bodies* of 01.21.2020 No. 21; additional vocational training will be "monopolized" by universities that have all the necessary resources for the quality provision of services in the education sector.

## 7. Conclusion

The current situation in the management of the education sector in Russia requires moral and legal consideration of the value orientations of "educational services", and formation of an optimal regulatory system based on rational legislation. According to the author, the economic status of "educational services" should be depreciated through reclassification it into "educational support (service) of national interests", the importance of the intangible resource should be increased, and appropriate amendments should be introduced to Rosstat Order No. 373 of 02.07.2012. Thus, the field of education should be defined as "activity in the field of educational policy implemented in order to ensure national security."

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