
Prosecutorial Oversight of the Right to Education as a Social Human Right

Rezeda Gazinurovna Khayrullina¹, Vyacheslav Nikolaevich Ageev², Darya Evgenyevna Gapeenok³, Georgy Valerievich Matveev⁴, Marat Minefaytovich Shamsutdinov⁵,

¹Kazan Federal University, Candidate of Law, Associate Professor of the Department of Constitutional, Administrative and International Law of the Naberezhnye Chelny Institute, E-mail: rezeda-x@mail.ru,

²Candidate of Legal Sciences, Associate Professor, Researcher, Research Institute for Combating Corruption, Kazan Innovative University named after V.G. Timiryasova, E-mail: ageev_fksu@mail.ru,

³The senior lecturer, Law Faculty, Russian State Social University, E-mail: de.gapeenok@gmail.com,

⁴Candidate of Historical Sciences, Associate Professor of the Department of Constitutional and International Law Institution of Higher Education "University of Management" Tatar Institute for Business Assistance", Kazan, Republic of Tatarstan, and E-mail: georg70kaz@mail.ru,

⁵Candidate of Law, Associate Professor of the Department of Customs at the Kazan Cooperative Institute (branch) of the Russian University of Cooperation, Kazan, Republic of Tatarstan, E-mail: mshamsutdinov@mail.ru,

Abstract

In the contemporary period of society development, prosecutor's office has a planned mission in implementation and guaranteed protection of freedoms and rights of a citizen and man. One of the actual directions of the specified activity according to the classics is supervision of observance of social freedoms and rights of the person and the citizen among which the right to education is fixed. A large number of citizens defend their violated rights, as practice shows, in the supervisory bodies - the prosecutor's office. In some cases they manage to avoid protracted and in some cases expensive legal proceedings to protect their rights. The actions conducted by prosecution bodies in the form of a comprehensive oversight mechanism primarily contributes to the restoration of violated freedoms and rights, as well as counteracting illegal activities of public authorities and local self-government. The office of prosecutor in the exercise of its direct functions protects the violated rights, freedoms, interests not only of an individual, but timely eliminates violations relating to the rights, freedoms, and interests of a large number of citizens. Important and rather serious investigations into the conformity of the implemented right to education as a social right with the norms of law were performed in the 1990s, which is explained by the establishment of a large volume of specific human and civil freedoms and rights in the provisions of the Constitution of the Russian Federation. Difficulties in the implementation of supervisory activities by the office of prosecutor in matters of compliance with the right to education, provided for in the basic law of the state, are evident now as well.

Keywords: prosecutor's office, prosecutorial supervision, education, right to education, social freedoms and rights, civil and human freedoms and rights.

Introduction

The basic law of our state contains the following guiding thesis: Public Prosecutor's Office of the Russia is a united federal centralized bodies system, which on behalf of the Russia supervise the observance of the Constitution of our state and the implementation of the laws that apply to the territory of the state. Based on these provisions of the fundamental law of the Russian state, it is enshrined that the status and activities of the prosecution bodies, as well as their legal regulation refers only to the powers of the state itself [1].

The doctrine of constitutional law traditionally distinguishes three groups of human, civil freedoms and rights. The first group includes personal freedoms and rights: the right to life, protection of personal dignity by the state, family and personal secrets, security and liberty of person, protection of one's honor and good name, privacy, inviolability of the home, and so forth. The personal rights of citizens enshrined in the Constitution of Russia belong to the group of rights that contributes to the normal functioning and development of civil society through legal administration and regulation.

The next group of civil and human freedoms and rights consists of political freedoms and rights of citizens. This category of freedoms and rights is characterized by the impact of citizens on solving particular issues in the development of state institutions, the participation of any citizen in the life of society and the state on political issues. These freedoms and rights include: the right to freely express their thoughts and express their words, the right to association, including the right to develop trade unions to preserve their interests, the right to gather in a peaceful manner, with no weapons, demonstrations and rallies, electoral rights, hold meetings, pickets and marches, the right to get involved in the management of state affairs both directly and through their representatives, conscience freedom and others.

The third group consists of socio-economic human and civil freedoms and rights. This category of freedoms and rights is aimed at the protection of human freedoms and rights in the implementation of economic processes and solution of social issues, active participation of particular classifications of citizens in the development and organization of society.

The study of the theory of constitutional law has identified the problem of differentiating between economic and social rights of citizens. This problem creates certain difficulties by its multidimensionality and great diversity in the implementation by prosecution authorities of their activities [2].

In this connection, the need arises to single out into a separate category of human, civil freedoms and rights, the list of social freedoms and rights. An attempt to differentiate the above category of freedoms and rights has resulted in the following: the right to work and labor protection, provide employment for citizens, housing, health protection, medical care and drug supply, education, social, association, the right state bodies and local governments, personal data protection, a healthy environment, and finally the right to obtain free legal assistances.

Methods

The content of the prosecutor's supervision over the observance and protection of the entitlement to gain an education by a citizen includes the following structural elements: identification of violations of the provisions of the Constitution of Russia, other regulatory legal acts of the state regulating public relations in this legal sphere, identification of conditions that contributed to these violations, as well as their violators; elimination by identification of violations of the law and circumstances contributing to these violations; prevention of violations of legislation in the field of social human rights; bringing to responsibility the perpetrators established by the law [3].

These provisions consolidate the essence and content of prosecutorial supervision in matters of realizing the right of a particular person to receive an education that relates to the social rights of a person and a citizen.

In this study, a set of methods was used, including a review of legislation, literature, formal-logical, structural-system methods, the method of technical and legal analysis and other methods widely used in jurisprudence.

Results and Discussion

The Constitution declares Russia a social state (article 7), one of the main signs of which is the concern of all state institutions for the constant boosting of citizens' living standards. Meanwhile, real compliance with all signs of the social state in practice is not reflected adequately. In this regard, the priority in the activity of state bodies is to ensure stability in implementing the population's social protection.

At present, the supreme bodies of the state in the performance of their functions carry out a wide range of measures intended to improve certain spheres of social policy of the state. It should be remembered that the political mission in this case would be the formation of a national example of democracy and development, which is possible based on existing state-forming traditions and institutions, where a significant place has always belonged and belongs to the prosecutorial authorities.

In the normative-legal acts of the last two years the President of Russia outlined a whole set of measures, fixing the guarantees for the implementation of protection of citizens in the social sphere, among the fixed measures an important place is given to the improvement of the modern education system [4].

Now there is a need to pay attention to the difficulties of each individual, a separate unit of society, in this connection it seems quite vital to improve some institutions in the system of education by the example of international experience and the past experience of our state. This activity is actively carried out to date. Evidence of the implementation of this practice is the information that a large part of the state budget is allocated to resolve issues in the social arena, to resolve issues in the system of contemporary education. Thus, according to the Federal Law of December 2, 2019. "On the federal budget for 2020 and for the planning period of 2021 and 2022" for the social sectors of the state, such as health care, social policy of the state, and of course, education are planned consumption of 212 billion rubles[5]. Proceeding from a difficult life situation which has developed not only in territory of our state, but also all over the world in connection with distribution of a strain of a virus SARS-CoV-2 there was a necessity for social support of unprotected categories of citizens. All this led to changes in the state budget of our state in terms of expenditures in the social environment. Russian citizens in 2020 received a total of 26.5 million children benefits worth 617 billion rubles [6].

According to the classics, the well-being of the implementation of state strategies, among which stand out the programs in the field of education, implemented at the state level, in no small measure depends on the quality of human rights activities of the prosecutor's office and its anticipatory response.

In accordance with the provisions of the Federal Law "On the Prosecutor's Office of Russia", oversight over the observance of human and civil freedoms and rights has long been one of the exclusive functions of the prosecutor's offices of Russia(Art. 1). This activity is based on the principle of openness to civil society. The results of the human rights work of all branches of the agencies of the procuracy are constantly covered in the media and on Internet sites.

Since 2007, an Agreement on forms of interaction has been in force between the Prosecutor General of Russia and the Commissioner for Human Rights in Russia in order to ensure guarantees of state protection of the freedoms and rights of citizens. Every year the Ombudsman submits a report on his activities to the Prosecutor General of Russia. The General Prosecutor's Office of Russia annually informs the Ombudsman for Human Rights in the Russian Federation about the measures taken by the prosecutor's office concerning the sphere of observance of the freedoms and rights of citizens [7].

The result of effective cooperation of the Prosecutor General's Office of Russia with the Federation of Independent Trade Unions of Russia was the expansion of the powers of prosecutors in civil proceedings in order to protect the social rights of citizens [8].

In a social state, the bodies of prosecutor's office perform the most important human rights function, ensuring the full realization of the right to a decent life and the free development of man, including the realization of the right to education.

Summary

Practice shows that many socially unprotected citizens restore their rights precisely at the pretrial stage, since court procedures today are very lengthy and associated with significant material and time expenditures. Being specific and multifaceted in nature, prosecutorial oversight over the observance of citizens' social rights covers a wide range of issues of vital importance to society and the individual, so the tactics and methods of its implementation depend on the overall socio-economic situation in the state and the tasks set by the country's leadership.

In Russia, additional organizational and practical measures have been taken aimed at strengthening the rule of law in the social sphere in the implementation of the right to education. The implementation of these measures is the responsibility of the procurers. By means of prosecutor's supervision, in the majority of cases it is possible to restore the violated social rights of citizens, including violations in the sphere of education and training.

Conclusions

Prosecutor's supervision over the observance of social freedoms and rights of man and citizen is an independent subfunction of the function of the prosecutor's office to supervise the observance of civil and human freedoms and rights.

The relevance and significance of the supervision of the observance of laws by prosecutors in this particular area is determined by the exceptional importance of:

- for a citizen in the possibility not of a one-time, but constant realization of his social rights, in conditionalities precisely on the observance of these rights of the constant vital needs of a person, the well-being of citizens;
- For the state - in preventing citizens' dissatisfaction with the activities of state power, social conflicts, crises.

It is important to remember that the strategic goal of the work of prosecution bodies is the real elimination of violations in the implementation and observance of the right to education, measured by a significant improvement of the state of lawfulness in this area of legal relations [7].

Supervision over the protection of social rights of citizens is and remains a popular direction in the implementation of supervisory activity of prosecutor's office bodies. This direction is a proof that the provision enshrined in the basic law that the protection of human, civil rights, and freedoms in the Russian society and the state belong to the basic ones. Largely this is realized through the mass integration of the guiding provision on publicity and openness of the activities carried out and improvement of the organizational orientation.

The recommendations for the present period are as follows: to increase the preventive effect of prosecutor's supervision of observance of social rights of citizens based on a wide experience in law enforcement, using stable forms of business cooperation and interaction with controlling and law enforcement bodies, public and human rights institutes.

Acknowledgements

This paper has been supported by the Kazan Federal University Strategic Academic Leadership Program.

Bibliography

- [1] Constitution of the Russian Federation: passed by popular vote on December 12, 1993. [ed. from March 2020] // Rossiyskaya Gazeta from December 25, 1993 - № 237.
- [2] 14, 2020] // Rossiyskaya Gazeta from December 25, 1993 - № 237.
- [3] Turkina N.D., Sukhanova A.A. Actual problems of prosecutorial supervision over the observance of rights and freedoms of man and citizen // Law and order: history, theory. Practice. - 2019. - № 3 (22). - C. 76.
- [4] Borodina S.D. Actual issues of prosecutorial supervision over the observance of the rights and freedoms of man and citizen // Problems of formation of civil society. Collection of articles of the VI International scientific-practical conference. - 2018. - C. 153.
- [5] Sosnovsky S.A. The nature and differences of measures of state support in the pandemic period // Taxman. - 2020. - № 7. - C. 28.
- [6] On the federal budget for 2020 and for the planning period of 2021 and 2022: federal law of 02 December 2019 № 380-FZ [ed. from 18 March 2020] // Sobranie zakonodateniya Russian Federation. - December 09, 2019 - № 49. - Part I, II, III. IV. - Art. 6939.
- [7] Measures of state support for business and citizens during the COVID-19 pandemic (prepared by experts of Garant Company, 2020) // <http://ivo.garant.ru/#/document/77398919/paragraph/138:0> (date of reference: 30.06.2021).
- [8] Kozin A.V., Morozova T.I. Legitimacy - a measure of law in the social sphere // New paradigm of socio-humanitarian knowledge. Collection of scientific works on materials of the International scientific-practical conference. In 6 parts. Under the general editorship of E.P. Tkacheva. - 2018. - C. 64.
- [9] Khayrullina Rezeda Gazinurovna – PhD in Law, Associate Professor of the Department of Constitutional, Administrative and International Law of the Department of Legal and Social Sciences of the Higher School of Economics and Law of the Naberezhnye Chelny Institute (Branch) of Kazan (Volga Region) Federal University. I have two higher educations in the specialty “Jurisprudence”

- [10] (2001), in the specialty "Management of Organization" (2014). She began teaching in 2001. Until 2013, she worked with students studying in the specialty "Law". Since 2013, she began to engage in teaching activities with students studying in the specialty "Customs".
- [11] Ageev Vyacheslav Nikolaevich - He has an academic degree of candidate of legal sciences, as well as the scientific title of associate professor at the Department of Constitutional Law and Human Rights. Research interests: constitutional law of Russia, municipal law of Russia, electoral law in Russia, human and civil freedoms and rights, constitutional and legal foundations of anti-corruption policy. He is an independent expert accredited by the Russian Ministry of Justice to conduct an independent anticorruption expertise. He is a researcher at the Scientific Research Institute for Combating Corruption at the Kazan Innovative University named after V.G. Timiryasova.
- [12] Gapeenok Darya Evgenyevna - the Senior lecturer of the Law Faculty of the Russian State Social University. She has a higher education in the specialty «Jurisprudence» (2009) with the additional qualification «Professor of Law» (2009). She graduated from the Department of Criminal Law of the Moscow State Regional University with a degree in 12.00.08 (Criminal Law, Criminology and Penal Enforcement Law). In 2017 she underwent professional retraining under the program «Strategic Management». Darya studied the students by specialty «Jurisprudence» in Moscow State Regional University from 2009 to 2020, from 2021 she continued to engage in the pedagogical activity at the Law Faculty of Russian State Social University.
- [14] Matveev Georgy Valerievich - Candidate of Historical Sciences, Associate Professor of the Department of Constitutional and International Law Institution of Higher Education "University of Management" Tatar Institute for Business Assistance ". Research interests - prosecutor's supervision.
- [15] Shamsutdinov Marat Minefaytovich - Candidate of Law, Head of the Department of Customs at the Kazan Cooperative Institute (branch) of the Russian University of Cooperation. Has the academic title of Associate Professor. In 2005 he defended his dissertation on the topic: "Production of a preliminary investigation by an investigative group (procedural, managerial and tactical and psychological aspects)". Research interests - criminal procedure.