

DRAFT MODULE – COMPARATIVE REVIEW OF GOVERNANCE AND ADMINISTRATION OF SCHOOLS AT CENTRAL AND/OR REGIONAL LEVEL (version September 2017)

© This module is published by the EduLaw project (573540-EPP-1-2016-1-BE-EPPKA2-CBHEJP) funded by the European Commission. It is a module in a series examining the role of education law in the modernization of education systems in Europe. Information for the modules are gathered from the education systems of the Flemish Community of Belgium, Lithuania, Poland, Russia, Belarus, Albania.

Please cite this publication as: Kutafin Moscow State Law University EduLaw team, Module on Law Modules on Teacher Training and Professional Development, EduLaw project output, Russia.

COMPARATIVE REVIEW OF GOVERNANCE AND ADMINISTRATION OF SCHOOLS AT CENTRAL AND/OR REGIONAL LEVEL

Module Structure and Responsibility

Chapter 1. Notions and Definitions (Natalia M. Golovina)

Chapter 2. Centralized and Decentralized Approach in School Governance (Natalia V. Komissarova)

Chapter 3. The Levels of School Governance and Administration
(Anastasia N. Mitruschenkova)

Chapter 4. The Bodies of School Administration and Their Functions (Sergey S. Zenin, Ivan M. Yapryntsev)

Chapter 5. Governance and Administration of School Education in Some EU Member States and Other Countries (Peer Reviewed)

Chapter 6. Case Law (Natalia M. Golovina, Maria V. Smirnova)

Editors: Irina Deryugina, Anastasia Mitrushchenkova

Table of Contents

Chapter 1. Notions and Definitions	3
Chapter 2. Centralized/Decentralized Approach	5
2.1. Centralisation versus Decentralisation in School Governance.....	5
2.2. Degree and Scope of Decentralisation of School Governance in Russia	6
Chapter 3. Levels of Governance and Administration of School Education	7
3.1. Federal Bodies for Education Governance and Administration.....	8
3.2. Constituent Entities Bodies of Education Governance and Administration	8
3.3. Municipal Level of Education Governance and Administratration	9
Chapter 4. Bodies and Their Functions	10
4.1. Administration of schools in the Russian Federation.....	10
4.2. Decentralization and Centralization of School Administration in Foreign Countries.....	11
Conclusion.....	12
Chapter 5. Governance and Administration of Schools in Some EU Member States and Other Countries	12
5.1. Governance and Administration of Schools in the Flemish Community of Belgium.....	12
5.1.1. <i>The right to establish schools and organize education</i>	12
5.1.2. <i>The organising Bodies</i>	12
5.1.3. <i>The educational umbrella organisations</i>	12
5.2. Governance and Adminisration of Schools in Albania	13
5.3. Governance and Administration of Schools in Poland.....	13
5.3.1. <i>School education administration at national level</i>	14
5.3.2. <i>Responsibilities and powers of the minister in charge of school education</i>	14
5.3.3. <i>Education administration at regional level</i>	14
5.3.4. <i>Local government bodies at regional level</i>	14
5.4. Governance and Administration of School Education in Lithuania.....	15
5.5. Governance and Administration of School Education in Belarus.....	16
Chapter 6. Case Law	16
6.1. Autonomy of an Educational Organization and its Limits Regarding School Management Matters	16
6.2. Powers of the Head of the Educational Organization to Decide on Redundancy.	17
References	18
Chapter 1	18
Chapter 2	19
Chapter 3	19

Chapter 1. Notions and Definitions

Education system in the RF is a set of interacting successive educational programmes of various levels and focuses, the federal state educational standards and federal state requirements, as well as educational institutions functioning in the State, the connections between them and general principles on the ground of which they function. (Art. 10 of the RF Federal Law “On Education” dated December 29, 2012, № 273-FZ). In general, education system is a system of formalized transmission of knowledge and values operating within a given society. It comprises laws, policies, regulations, public funding, resource allocations, procedures for determining funding levels, human resources, staffing, contracts, compensation, teaching resources, learning materials, etc.

Education Service 1) with regard to a personality, means the process of transferring to the customer the knowledge and skills of educational and professional nature necessary for him or her in order to become a professional, for their self-development and self-affirmation, and carried out in close contact with the customer in accordance with the prescribed form and curriculum; 2) with regard to a business, is a personnel professional training process necessary to secure working capacity and development of the business under permanently changing market conditions; 3) with regard to the State, means expanded reproduction of the total personal and intellectual potential.

Governance in Education is the means in which institutions for education are formally organized and managed through the laws, norms, and rules set forth by governmental bodies and ‘organized society’.[3] Under Eurovoc Thesaurus, 2005, governance must ensure that public resources and problems are managed effectively, efficiently and in response to critical needs of society. Effective governance relies on public participation, accountability, transparency, effectiveness and coherence.

Educational Administration is a dynamic side of education representing a comprehensive effort to achieve specific educational objectives. It deals with the educational practices and involves educational institutions from the schools and colleges to the secretariat and is concerned with both human and material resources

Educational Management means effective and efficient maintenance of current arrangements of an educational institution in accordance with the purpose or aims of education and the agreed policy of the educational institution.

Governance and administration of educational systems is based on a number of principles, the key notions of which form a conceptual framework of the Module.

Democratization and Humanization of governance and administration amount to developing autonomy, independence and initiative of all participants of the educational process (managers, teachers, students and parents), encouraging them to discuss publicly and make managerial decisions collegially. Also, democratization of managerial procedures in the sphere of educational institutions means implementation of democratic values, such as liberty and freedom in education, equality in education, fraternity, justice, cooperation (e.g. electivity of school principals, introduction of the system of selecting leading pedagogical staff on a competitive basis). It is implemented by means of regular reports of the administration and School Councils to the school collective and the public, and the publicity of the decision-making procedure.

Centralization means concentration of power at the top level of an organization or a society. An extreme case of centralization is usually labelled as one-man rule.

Decentralization means the transfer of decision-making authority closer to the consumer or beneficiary. In education, decentralization has different forms: deconcentration, delegation, devolution, and privatization. Under UNESCO's "Decentralization in Education: National Policies and Practices," the main goal of decentralization is eventually to manage, plan, mobilize and use resources, implement plans, monitor and evaluate the education system in order to improve educational service at the local level.

Unity of command principle is the principle ensuring the unity of effort under one responsible person for completing a task.

Principle of collegiality is the principle that means that authority is shared among people working toward the purpose (e.g. colleagues).

Autonomy means the transfer of authority from a central government to provincial, state or regional entities, to municipal, county or district governments, to schools and communities for exercising educational, research, administrative, and financial activities, drafting and enacting local regulatory acts.

School autonomy is a form of school management in which schools are given decision making authority over their operations. In many cases accountability is applied to balance autonomy.

Collegiate (collegial) management body of school management is an educational or organizational unit characterized by equal sharing of authority among its members and mainly consisting of the teaching staff of an educational institution.

State-public education management forms a specific type of interrelation between the State and society that, on the one hand, involves permanent and responsible participation of entities that express and represent the interests of the State in the field of education, and, on the other hand, represents and enforces the interests of the society, business, parents and students themselves based on mutual recognition of certain rights and obligations in this area.

In the Russian Federation there are three levels of education management bodies: *federal education management bodies, regional education management bodies and municipal education management bodies.*

Federal Education Management Body is a body that governs education at the federal level. In the Russian Federation, the Ministry of Education and Science and the Federal Service for Supervision in Education and Science govern education at the federal level and perform the functions of elaborating the state policy and normative and legal regulation in the sphere of education.

Regional Education Management Body is an executive agency (e.g. ministry or department of education) that governs education at the level of a constituent entity of the Federation. Regional education management bodies are authorized to supervise, license and certify educational activities of educational institutions operating within the territory of the constituent entity.

Municipal Education Management Body is a department of education or administration for education of a municipality that is authorized to organize and to provide citizens with free and accessible pre-school, primary general, basic general, secondary general education in accordance with basic general education programmes in the municipal educational entities.

Chapter 2. Centralized/Decentralized Approach

The concepts of centralization and decentralization are important approaches to consider as they ultimately affect the effectiveness of schools in educating the children of a nation.

Centralization refers to the condition whereby the administrative authority for education is vested, not in the local community, but in a central body. This central body has complete power over all resources: money, information, people, technology. It decides the content of curriculum, controls the budget, is responsible for employment, the building of educational facilities, discipline policies, etc.

Decentralization, on the other hand, refers to the extent to which authority has been passed down to the individual school. Site-based management is an example of decentralization in which individual schools can make their own decisions related to finances and curriculum. However, the locus of power remains with the central body. Advocates of decentralization believe it will result in higher student performance; more efficient use of resources; increased skills and satisfaction for school administrators and teachers; and greater community and business involvement in and support for schools.

2.1. Centralisation versus Decentralisation in School Governance

There is currently a global trend of decentralizing education systems. Most countries are experimenting with or contemplating some form of education decentralization. The process transfers decision-making powers from central Ministries of Education to intermediate governments, local governments, communities, and schools. The extent of the transfer varies, however, from administrative deconcentration to much broader transfer of financial control to the regional or local level (Application1).

There are many connotations related to relevance/application of the concept of centralisation-decentralisation in school sector; for instance:

- How far the state accepts responsibility for provision of school facilities vis-à-vis the individuals, families, social groups or private organisations?
- To what extent, the division of power exists between the central, state/provincial and local governments in school matters?
- And finally, to what extent, the decisions are concentrated in the Ministry of Education or in any other educational organisation?

Three Forms of Decentralisation in Education International Encyclopedia of Education identifies three forms of decentralisation in education system

1. Organisational Decentralisation
2. Political Decentralisation
3. Economic Decentralisation.

Organisational Decentralisation refers to an arrangement whereby the professionals in schools make important decisions regarding the educational wellbeing of children. Organisational decentralisation is also compatible with the concept of democracy, where organisational authority is assigned to professionals of various fields to make decisions in their respective areas.

Political Decentralisation refers to an arrangement whereby the parents of children studying in the public schools make policy decisions through a representative Board of Governors. Such boards may exercise some executive powers in appointment of key personnel of the institution, such as, principal/headmaster, heads of different departments, administrative staff, etc. Public school system is a valid example of such decentralisation, whereby the Board of Governors (representing provincial/district government, philanthropists, community leaders, or renowned personalities/professionals) is entrusted with legitimate authority to take decisions in defined areas of the school management.

Economic Decentralisation. A community following the concept of economic decentralisation prefers an arrangement whereby parents choose a particular school (considering it the best) for their children. In such a case, parents sponsor these institutions by paying tuition fees and/or by donating some money. Such educational institutions usually function on the basis of economic principles; school is considered as a service-provider and children/parents as customers.

Decentralization of school management, depending on the context and on the support provided by the central government, can lead either to improving schools and learning, or to increasing inequality, and even to the spread of corruption. When resources are limited, decentralization can simply mean that different regions, different schools will develop at different rates.

Obviously, the state represented by the Ministry of Education, and central planning and supervision should retain some key functions in the management of the process, including financing schools, setting standards, creating guidelines for curricula, monitoring achievements, direct financing and support of backward schools.

The combination of centralization and decentralization in the in-school administration ensures the activities of the heads of administrative and public bodies in the interests of all stakeholders, creates the conditions for discussion and decision-making at the professional level, eliminates duplication and enhances the coordination of actions of all structural units of the system, ensuring transparency of the entire management system. By increasing the participation of parents, community-managed schools show significantly lower rates of student and teacher absenteeism.

2.2. Degree and Scope of Decentralisation of School Governance in Russia

In the Law on Education of the Russian Federation (2012, No.273) sets out the scope for the decentralization of the management of the educational institution, including schools, by declaring it as a local subject. So, in accordance with paragraph 1. 28 (Competence, rights, duties and responsibilities of the educational organization) of the said law, the educational institution is given the right to independently determine the normative legal basis of its activities.

Some administrative matters fall under the jurisdiction of the respective regional governments and schools. However, the role of the central government or the Ministry of Education and Science is to establish the fundamental framework of the system of school administration by creating laws, setting rules and regulations, implementing a system of local education management, textbooks and teaching aids approval, unified requirements for the results of education, school licensing and teacher certification.

Chapter 3. Levels of Governance and Administration of Schools

The current stage in the development of education in the Russian Federation is characterized by the establishment of new types of relationships between municipal, regional and federal education authorities, the continued decentralization of the management of the education system, the practical delineation of powers, competences and responsibilities between these levels, the transition from a state to a public model of education governance.

The system of education can be referred to as the sphere of competence of federal bodies of state power, state authorities of the constituent entities of the Russian Federation and local authorities in the sphere of education [Gavrilova M.V., Danilova N.V., p. 35].

The system of education governance should include a set of such interrelated elements as the main educational programmes and state educational standards of various levels and directions, the network of educational institutions that implement them, regardless of their organizational and legal form and type, municipal educational authorities and their subordinate institutions and organization.

The structure of education governance in the Russian Federation is hierarchical and is characterized by the following features:

- the presence of several levels when each lower level is in the administrative authority of the superior - the decisions of higher authorities are mandatory for the lower ones;
- restriction of administrative subordination of subordinate levels of management to superior individual functions or some of their set - the higher body can take binding decisions for a lower-level decision on a limited number of issues;
- The possibility for the governing body to manage only those organizations that are in its direct administrative jurisdiction.

In general, the basis for the management of school education is a three-level management structure: federal level; regional level; and the municipal level. Nevertheless, in recent years, it has become possible to distinguish the fourth level of governance - the level of the educational institution, i.e. management of an educational institution (school). Thus, in the Russian Federation there are three levels of education management bodies: federal government bodies, educational authorities of the constituent entities of the Russian Federation and municipal authorities.

The education system governance is carried out in accordance with Art. 89, paragraphs 3, 4, 5 of Federal Law No. 273-FZ of December 29, 2012 "On Education in the Russian Federation" [1]:

3. State administration in the sphere of education shall be carried out within the limits of their authority by the federal bodies of state power and bodies of state power of the constituent entities of the Russian Federation. In municipalities and urban districts, governance and administration in the sphere of education is carried out by the relevant local government bodies.

4. The federal executive bodies responsible for public administration in the sphere of education are the federal executive body, which exercises the functions of elaborating state policy and normative and legal regulation in the sphere of education, the federal executive body that exercises control and supervision functions in the sphere of education, as well as federal state bodies that have educational organizations in their hands.

5. The federal executive body, which exercises the functions of elaborating state policy and normative and legal regulation in the sphere of education, coordinates the activities in the sphere of education of federal state bodies, executive authorities of the subjects of the Russian Federation and other subjects of the education system.

3.1. Federal Bodies for Education Governance and Administration

At the federal level, the governance and administration is implemented by the Ministry of Education and Science of the Russian Federation (hereinafter referred to as the Ministry), as well as by the Federal Service for Supervision in Education and Science (hereinafter Rosobrnadzor). The Ministry's activities are regulated by the Regulations on the Ministry of Education and Science of the Russian Federation [3].

In general, the Ministry carries out the functions of elaborating state policy and normative and legal regulation in the sphere of education, and Rosobrnadzor is responsible for control and supervision in the sphere of education.

The Ministry is headed by the Minister of Education and Science, who is appointed and dismissed by the President of the Russian Federation on the proposal of the Chairman of the Government of the Russian Federation [3, Article 8]. The Minister bears personal responsibility for the implementation of the powers assigned to the Ministry and the implementation of state policy in the established field of activity [3, Article 8].

Currently, there are 18 departments at the Ministry, departments also include divisions. The Department of State Policy in the field of general education provides implementation of the policy and regulatory and legal regulation in the field of preschool and general education.

The functions of the federal level in the field of education can be combined into six main groups.

- 1) Formation and implementation of state policy in the field of education (work in the field of law-making process, development of programmes, draft budgets, tax and customs policies, etc.).

- 2) Specification of general conditions for the functioning of the education system and educational institutions, including legal regulation within the limits of their competence (establishment of federal components of state educational standards, development of by-laws (model regulations on educational institutions, explanations on the application of legal acts, regulatory letters, instructions, methodological materials).

- 3) Ascertainment of benefits, economic standards, various norms and rules - tax benefits, standards and procedures for financing, wage rates, social benefits for students and employees, construction, operational, medical and other norms and regulations.

- 4) Creation of educational institutions of federal jurisdiction and their direct governance and administration - the exercise of the functions of a higher body, the founder, direct financing of the activities of these educational institutions.

- 5) Control over the implementation of the legislation of the Russian Federation in the field of education and federal components of state educational standards.

- 6) Implementation of specific functions - the licensing of educational institutions for programmes of higher and postgraduate professional education, the establishment and appropriation of state awards and honorary titles in the field of education, the organization of the federal system of training and retraining of teachers and employees of state educational authorities.

Currently, educational policy is determined at the federal level and the strategy for the development of school education is being developed. Regional educational authorities also participate in the implementation of the educational policy and strategy for the development of school education.

3.2. Constituent Entities Bodies of Education Governance and Administration

The bodies of education management of the constituent entities of the Russian Federation (regional level of education management) are represented by the departments (ministries, committees, main administrations, etc.) of the education of the constituent entities of the Russian Federation. The main difference between them and the federal bodies is that they for the most part do not have educational institutions in their direct control, thus exercising mainly functional management of the education system within the region.

Functions of the regional level in many respects repeat the functions of the federal level, but their implementation is limited to a certain territory of the subject of the federation. They can also be grouped together.

1) Formation and implementation of the state (regional) policy in the sphere of education, which does not contradict the policy of the Russian Federation in the field of education. The main tool for its formation is the regional programmes for the development of education, developed in accordance with the Federal Programme for the Development of Education and aimed at solving primarily regional tasks and problems.

2) Determination of specific conditions for the functioning of the education system and educational institutions in the region, including legal regulation within its competence, the establishment of regional components of state educational standards.

3) Ascertainment of additional regional privileges, economic standards, various norms and rules - tax privileges for the regional budget, regional standards and procedures for financing, additional to the federal social benefits for students and employees, construction, operational, medical and other norms, regulations, and so on.

4) Creation of educational institutions under regional jurisdiction and their direct governance and administration - the implementation of the functions of a higher body, the founder, direct financing of educational activities.

5) Ensuring compliance with the legislation of the Russian Federation in the field of education, monitoring the implementation of state educational standards.

6) Implementation of specific functions - licensing of educational institutions (with the exception of licensing under programmes of higher and postgraduate professional education), the organization of training and retraining of teaching staff.

3.3. Municipal Level of Education Governance and Administration

The municipal level of education management is represented by the established municipal authorities. These bodies bear the main burden of implementing the management of educational institutions of general education, the bulk of which is concentrated at the municipal level.

The municipal authorities in the field of education have the following powers.

1. Organization of the provision of a general and free basic general secondary education for basic general education programmes, with the exception of the authority to provide financial support for the educational process, assigned to the powers of the state authorities of the constituent entities of the Russian Federation.

2. Organization of the provision of additional education for children and public free pre-school education in the territory of the municipal district.

3. Creation, reorganization and liquidation of municipal educational institutions.

4. Maintenance of municipal educational institutions premises, arrangement of territories adjoining to them.

5. The account of children subject to compulsory education in educational institutions that implement educational programmes of basic general education.

6. Guardianship and custodial care.

The implementation of the state policy in the sphere of education at the municipal level largely depends on the quality and efficiency of the work of the relevant municipal bodies. To date, the structure of these bodies is not regulated, and activities are carried out in various forms, depending on the financial capacity of the municipality, the formed management system, the network of educational institutions, the availability of specialists with the necessary qualifications.

Unlike public authorities, whose activities are focused on the development of policies and regulatory frameworks in the field of education, local government bodies should ensure the practical implementation of this policy, monitor compliance with legislative norms on the territory of the municipal formation through targeted organizational activities. At the same time, the nature of management in the sphere of education at the municipal level is fundamentally different. The governance and administration is predominantly administrative at the level of the constituent

entities of the Russian Federation, and it is based on direct subordination and reporting. The level of the municipal formation presupposes relations of interaction, "co-organization" between all objects and subjects of education, and governance and administration plays the role of a necessary means, a mechanism for their regulation.

It should be noted that a whole range of issues related to the regulation of educational activities under the Federal Law "On Education in the Russian Federation" is attributed to the competence of the educational organization (see Article 8 etc.). In particular, according to Part 5-7, Art. 12 of the Federal Law No. 273-FZ, educational programmes are independently developed and approved by the organization that conducts educational activities (in accordance with federal state educational standards and taking into account relevant exemplary basic educational programmes for programmes with a state accreditation).

Chapter 4. Bodies and Their Functions

Administration in educational sphere is an essential element of educational system in any state. The modern tendencies concern different mechanisms of interaction between general educational institutions and other bodies that have an impact on their activity. In general, such tendencies may be divided into two types: centralization and decentralization of administration of schools.

4.1. Administration of schools in the Russian Federation

The Federal law "On Education in the Russian Federation" stipulates legal and organizational basis of school administration. Art. 26 prescribes that administration in this sphere is realized in accordance with the law of the Russian Federation in consideration with specific features provided by this Federal law.

There are two main principles which form the basis of administrative process in the sphere of education:

- principle of one-person management;
- principle of collective leadership.

In addition to these principles we should consider one more – principle of autonomy of educational institution. According to the Federal law "On education" the autonomy of educational institution means the independency in the education, science, administrative, financial and economic activity, development and enactment of local legal acts in accordance with this Federal law and other laws of the Russian Federation.

The system of administrative bodies in schools and their functions are determined exactly in accordance with these principles.

Individual executive body in schools is represented by head-master who provides day-to-day management. The functional responsibilities of head-master are stipulated in the Statute of school in accordance with the Federal law "On education". In general, such responsibilities are the following:

- to represent the interests of school;
- to manage the finance and assets;
- to provide the educational process;
- to be responsible for activity of educational institute etc.

Collective executive body which is also involved in the process of school administration is formed from school teachers.

The most common collective executive bodies are the following: General Meeting and Teachers' Council. In accordance with Federal law the establishing and operation of these administrative bodies at schools is obligatory.

The main function of General Meeting is to enact local legal acts of educational institution and to approve reports on school activity.

Teachers` Council administrates school in two main spheres:

- methodic and organizational support of educational process;
- disciplinary regulation of educational process.

Besides obligatory bodies, there is a possibility to form optional bodies (Council of Overseers, Governing Council, Supervisory Council, etc.) in accordance with the Statute of School and Federal Law.

Federal law prescribes the necessity of taking into account the opinion of students and their parents in the process of school administration and enactment of local legal acts. In order to provide administration parents and students may initiate the forming of Students` Council or Parents` Council and other bodies. It demonstrates the element of decentralization in the process of school administration.

The activity of Students` Council is directed to the development of civil culture, social activism of students, self-organization and self-administration skills and capabilities to take part in the social life.

Decentralization of administrative process in the sphere of education is reflected in the introduction of new mechanism – state and public administration. This mechanism corresponds to mutual rights and obligations of state and public institutions in the process of school administration. It democratizes the process of school administration which makes positive impact on the development of the whole educational system.

4.2. Decentralization and Centralization of School Administration in Foreign Countries

Centralization and decentralization of school administration are two main tendencies. There are some examples of these mechanisms in foreign states.

France was a good example of centralized approach in the sphere of educational administration. The central state bodies were responsible for it until recently. But the initiated process of administrative decentralization influenced educational sphere. The power of state bodies was limited to determination of the general purpose and main directions of development. It turns into increment of educational institutions autonomy. Nevertheless, the Ministry of National Education is still the head body in the administrative process in the educational sphere. The similar type of administration is established in Japan, where all lesson plans and programmes are approved by central state body, but financial and organizational administration is realized by special committees of education on the level of prefectures and local authorities.

Federal states are common examples of decentralized type of school administration.

USA is the greatest example of decentralized system of administration in the sphere of education. All states have its own educational laws that prescribe rights and duties in the sphere of administration of educational institution. Council of Education elected by people or appointed by the governor of the state is responsible for school administration. Council of Education exercises the following powers: distribution of finance between educational institutions, keeping track of educational activity etc.

Nonetheless, even in the United States of America the Department of Education is the highest body responsible for educational administration (approval and realization of federal lesson programme).

The similar type of administration is established in the UK that is determined by political and territorial division. In such conditions the autonomy and independence is transferred to the local administrative bodies and educational institutions. At the same time the central state body (Department for Education) is responsible for common school administration.

Germany represents the decentralized system to the maximum extent. Lands have their own bodies responsible for school administration and schools are provided with broad powers of autonomy. But even in Germany federal state body has superior authority in order to plan and develop educational system.

Conclusion

Taking everything into account we may conclude that there are two main approaches in the sphere of school administration (decentralization and centralization). The administration actively fosters interaction of state and other bodies in the process of solving different issues concerning school and educational activity.

Chapter 5. Governance and Administration of Schools in Some EU Member States and Other Countries

5.1. Governance and Administration of Schools in the Flemish Community of Belgium

5.1.1. *The right to establish schools and organize education*

According to the Constitution, every natural or legal person has the right to establish schools. These persons can be referred to as the 'school boards' in elementary education or 'organising bodies' for other levels of education. These bodies may organise schools in line with the following principles: confessional / non-confessional principle or specific pedagogical / educational ideas. Parents (of school-age pupils) also have the right to choose a school for their children to attend. In accordance with the statutory legislation, the organising bodies can select, recruit and promote teachers and support administrative and management staff to support and represent their schools, they may set up educational umbrella organisations.

Compulsory education is free of charge. School/study allowances are allocated in nursery education, compulsory education and higher education based on the same criteria and a family dossier that covers all children from the same family for all educational levels.

Educational institutions are encouraged to work together administratively in larger partnerships. Elementary and secondary schools are grouped in communities, higher educational institutions in associations, centres for adult and adult basic education in consortia, teacher training colleges in expertise networks, academies for part-time art education in art academies, and institutions for advanced secondary education and for higher vocational education with other institutions, companies, sectors or teacher training colleges.

There are also other forms of partnership, such as LCPs, (local consultation platforms on equal educational opportunities, RTCs (Regional Technology Centres for collaboration with the business sector), Regional Consultation Platforms for the **alternance** training system, ERSVs, (Recognised Regional Collaborations) for adult education and training, etc.

5.1.2. *The organising Bodies*

Under the Law of 29 May 1959, Art. 2, the organising body (government, natural or legal person) initiates school establishment and is responsible for its organisation). It chooses the level of education, branch of education, courses, venues, the maximum capacity and whether the school infrastructure will be purchased or leased. The organising body also prepares the pedagogical project of the school, school development plan, continuing education plan, school regulations, awarding diploma's (degrees and certificates), and choice of pedagogical counselling services.

5.1.3. *The educational umbrella organisations*

Following the communitarisation of education in late eighties, various groups of organising bodies set up a representative umbrella organisation to protect the interests of affiliated schools. These large educational-network organisations emerged from former Belgian organisations. The umbrellas also provide pedagogical support and coordinate continuing professional development for the affiliated institutions.

The educational umbrella organisations receive a budget for continuing professional development programmes from the pupil guidance centres, the pedagogical counselling services and boarding schools. They also implement funded specific further education initiatives within

their own pedagogical projects.

In order to qualify for funding, schools must incorporate the educational structure laid in decree, follow a curriculum that recognisably contains the attainment targets and development goals, submit to the supervision of the educational inspectorate, participate in an LCP (local consultation platform), adhere to the principles of participatory decision-making imposed by decree and apply a complete smoking ban.

Until 1 January 1989, the Minister for Education was the organising body for State Education in each of the three Belgian Communities. Within the context of communautarisation, Flanders transferred its responsibility as organising body to the elected Autonomous Council for Community Education (ARGO) that was established by the Special Decree of 19 December 1988. Since that time, State education has been called Community Education. The agreement of 17 June 1998 on the allocation of responsibility, depoliticisation and decentralisation and the special decree of 14 July 1998 replaced the ARGO by a new public institution 'Community Education' (with capital letter as an organising body) and new management entities were created specifically for Community Education, namely schools groups. Henceforth, the organising bodies of the community education are the 28 schools together with the Board rather than one exclusive central body.

5.2. Governance and Administration of Schools in Albania

Albanian Qualifications Framework was adopted by Law No.10247 on 21.3.2010, "On Albanian Qualifications Framework". It comprises of 8 levels similar to European Qualifications Framework. According to the above-mentioned law, the responsible institutions for AQF are Ministry of Education and Sports, Ministry of Social Welfare and Youth and National Agency for Vocational Education, Training and Qualifications. A National List of Vocational Qualifications is developed for AQF II-IV levels, i.e. qualifications descriptions are developed in terms of learning outcomes. Based on qualifications descriptions, approximately 100 frame curricula are being developed and offered by secondary vocational education institutions. Due to difficulties encountered in AQF implementation process, both responsible ministries have established a task force by a joint Ministers' Order in September 2015. The task force has a two-year mandate to accomplish three main objectives: a) Development of AQF handbook comprising all levels of qualifications; b) Review of current legislative framework; c) Conduct of AQF referencing process in the European Qualifications Framework.¹

5.3. Governance and Administration of School Education in Poland

There are some distinguishing features of the Polish Educational System:

- centralized governance (it is the Minister of Education and the Minister of Science and Higher Education who are responsible for laws and regulations in the sphere);
- decentralized school administration (for which local authorities are responsible);
- lower secondary school students have to take external examinations, but for graduates of upper secondary schools they are optional. Those willing to continue their education at the tertiary level have to take their upper secondary leaving exam called 'egzamin maturalny';
- the teaching profession is regulated by separate legislation (the Teacher's Charter) which defines rules of admission, duties, remuneration and dismissal of teachers and their career path;
- public education sector dominates over private.

¹https://webgate.ec.europa.eu/fpfis/mwikis/eurydice/index.php/Albania:National_Qualifications_Framework

5.3.1. School education administration at national level

The responsibility for the educational policy rests with the Minister of National Education. A few ministers can administer public schools and other educational institutions.

The responsibility for the administration of the school education system rests with the Minister of National Education and his/her deputy ministers. The Director General is responsible for the efficient functioning of the ministry as the institution supporting the minister.

The Ministry of National Education comprises 15 organisational units (departments and bureaus); departments are sub-divided into units/divisions.

5.3.2. Responsibilities and powers of the minister in charge of school education

The Minister co-ordinates and pursues the national education policy, co-operates in this respect with regional authorities/province governors and other organisational units responsible for the school education system.

The Minister responsible for school education establishes and administers schools, clusters of schools and school consultation centres at Polish diplomatic missions, consulates and military missions in order to provide education for children of Polish nationals temporarily based abroad, as well as public in-service teacher training institutions operating at national level. The minister can also establish and administer public experimental schools and educational institutions and public continuing education institutions operating at national level.

The minister responsible for culture and national heritage establishes and administers public art schools and other institutions for pupils of art schools, as well as institutions for in-service training of art school teachers.

The minister responsible for agriculture may establish and administer public schools of agriculture and agricultural institutions operating at regional and supra-regional levels and establish and administer public in-service teacher training institutions for teachers of vocational subjects taught in schools of agriculture.

The minister responsible for environmental protection may establish and administer public forestry schools.

The ministers in charge of internal affairs, of national defence and of justice may establish and administer public schools and educational institutions covering their areas of responsibility.

5.3.3. Education administration at regional level

The regional level in Poland refers to the level of province (województwo). In 1998 there were 49 regions, and their number was reduced to 16 in 1999.

The head of the regional education authorities (kurator oświaty) exercises pedagogical supervision over school education institutions at regional level. The head of the regional education authorities (REA) is appointed and dismissed by the Minister of National Education at the request of the province governor (wojewoda) and, thus, is part of the central government structure. Although the head of the REA is not directly subordinated to the Minister of National Education, the latter has influence on the outcome of a competition for the position of head of the REA by appointing three members of the competition board, and may dismiss the head of the REA also on his/her own initiative. Moreover, the Minister supervises heads of the REAs and coordinates their work in various ways (e.g. by organising meetings, training courses and conferences).

Pursuant to the School Education Act, the head of the REA, acting on behalf of the province governor, performs tasks and exercises powers laid down in the School Education Act and separate regulations within a given province.

5.3.4. Local government bodies at regional level

General powers and responsibilities of local government units, including those at regional level (as there are both local government and central government bodies at this level in Poland), are discussed in greater detail in the next chapter. It should be emphasised, however, that given

the fairly extensive organisational autonomy of schools and educational institutions, the powers of local government units as so-called school/institution managing bodies include supervision over organisational units of the school education system with regard to financial and administrative aspects (appropriate management).

Local government bodies at regional (province) level do not perform typical school-education tasks. However, they are responsible for administering some educational institutions which have a supporting role: initial teacher training institutions (which are currently being phased out, with the process to be completed by 1 October 2016); in-service teacher training institutions; educational resources centres; and schools and educational institutions operating at regional and supra-regional levels.²

5.4. Governance and Administration of School Education in Lithuania

The main law regulating the most important educational issues is the Constitution adopted by a referendum of Lithuanian citizens on 25 October 1992. The Constitution provides that “Education is compulsory for people under 16. Learning at state and municipal general education and vocational schools is free of charge. Higher education is available to everyone according to the capabilities of the individual. Students whose academic achievements in higher education institutions are fairly good are guaranteed education free of charge”. In the Lithuania, education is also regulated by other laws of Lithuania, resolutions of the Government and orders issued by the Minister of Education and Science.

The key document regulating the activities of the education system in Lithuania is the Law on Education adopted by the Seimas on 25 June 1991 and set out in new revised editions on 17 March 2011. The Law on Education defines the goals of education in Lithuania, the key principles of the education system, the basic structure of its organisation, activities and relationships as well as the major commitments of the State in the field of education.

The structure of the vocational education and training (VET) system, the design, management and award of qualifications, organisation and management of VET as well as VET funding are all set out in the Law on Vocational Education and Training adopted by the Seimas of the Republic of Lithuania on 14 October 1997 and set out in the new edition on 3 April 2007.

The main document regulating the course of changes in the education system in Lithuania is the National Education Strategy for 2013–2022. The Strategy sets out the Lithuanian education policy priorities, long term goals and directions for changes in education content and financing.

In Lithuania, the Ministry of Education and Science is an institution of the Lithuanian executive power that formulates and implements the national policy on education and research and higher education studies. The functions of the Ministry of Education and Science are defined in the Law on Education (2011).

The Ministry of Education and Science is headed by the Minister who, under the Constitution, is appointed to and dismissed from office by the President at the Prime Minister’s recommendation. Being in charge of education, research and higher education management, the Minister of Education and Science is accountable to the Seimas and President and directly subordinate to the Prime Minister.

At present, the Ministry of Education and Science has five departments: Department of General Education and Vocational Training, Education Quality and Regional Policy Department, Department of Higher Education, Science and Technology, Department of the European Union Assistance Coordination and Finance Department. There are also other divisions and structural units that do not belong to the departments: International Cooperation Division, Division of Regional Schools, Law Division, Communication Division, Internal Audit Division, Human Resources Division, Division of Information Systems and Document Management,

² <https://webgate.ec.europa.eu/fpfis/mwikis/eurydice/index.php/Poland:Overview>

Accounting Division, Maintenance Division, Foreign Lithuanians Division and Bureau of Strategic Programmes.

5.5. Governance and Administration of School Education in Belarus

To be completed.

Chapter 6. Case Law

The review was prepared based on the materials of the court practice provided by the "Federal Center for Educational Law"

http://www.lexed.ru/obrazovatelnoe-pravo/analitika/obzory/detail.php?ELEMENT_ID=5822

The authors of the Review express sincere gratitude to Maria Smirnova, the Senior Scientific Researcher at the Federal Center for Educational Legislation.

6.1. Autonomy of an Educational Organization and its Limits Regarding School Management Matters

Under art. 3 of the Federal Law "On Education in the Russian Federation" (the Law), the autonomy of the educational organization is one of the basic principles of the State Policy of the Russian Federation in the field of education.

Under art. 28 of the Law, 'an educational organization has autonomy, which means autonomy in the exercise of educational, scientific, administrative, financial and economic activities, in drafting and adopting by-laws and local regulations in compliance with the Law, other normative legal acts of the Russian Federation and the Charter of the educational organization. Educational organizations shall be free to determine the content of education, to choose educational and pedagogical support and educational technologies in their educational programmes.'

Implementation of this principle is associated with decentralization of management in education and means substantial increase in autonomous rights, powers, competences and responsibilities of educational institutions.

Autonomy of educational organizations covers acquisition of the rights of a legal person, elaboration of the Charter of the educational organization, elaboration of general and educational strategies and main directions for development.

Misunderstanding and improper implementation of the principle of educational organization autonomy may result in such extremes as full autonomy and independence of schools from the state and social control, from the 'social order' for education, from territorial educational systems, which amounts to distortion of the principle of autonomy of the educational organization.

Analysis of the practice shows that possibilities for the development of public-social administration of schools are directly related to the degree of autonomy. The higher the level of the school autonomy, the more freedom it has in defining development strategies and tactics, the more powers the bodies of collegial governance have and the greater the likelihood that they will be able to exercise actual managerial powers is.

As a general rule, educational organizations are free to determine the structure of school governance. Art. 26 and 27 of the Law defines the powers of the educational organization in the most general terms. Under art. 25 of the Law, an educational organization consolidates its established structure in the Charter. Thus, the limits of the educational organization autonomy are determined by the powers enshrined in the Charter of the educational organization. In fact, the

limits of autonomy are determined by the will of the founder of the educational organization. The limits of autonomy could be challenged in court.

Under p. 4 and 5 of art. 26 of the Law, the educational organization forms a collegiate body of governance. Collegiate bodies of governance may include the General Assembly (Conference) consisting of the educational organization employees (in a professional educational organization and educational organization of higher education the General Meeting (Conference) of employees and students may be founded), Pedagogical Council (in the educational organization of higher education it is called the Academic Council), the Board of Trustees, Governing Board, Supervisory Board and other collegiate bodies of governance. The structure, formation, terms of office and competences of governing authorities of the educational organization, the manner in which they take decisions and speak on behalf of the educational organization are determined by the Charter of the educational organization in accordance with the legislation of the Russian Federation.

The Judicial Collegium for Civil Cases of the Moscow City Court dealt with an appeal filed against the decision of the Babushkinsky District Court of the City of Moscow dated 14 October 2014 and refused to satisfy the claims against the State Budgetary Educational Organization "Sviblovo" Gymnasium No. 1565. The claimant asked the Court to find the Governing Council illegitimate, and all decisions and Order № 38B "On Forming the List of Elected Members of the Board and Appointing the Date of the First Meeting of the Board" passed after 17 December 2013 illegal. The court of first instance concluded that the provisions of the Gymnasium Charter, when the director of the Gymnasium issued an order establishing a list of elected members of the Board, were not violated since the said paragraph established the director's right to take decisions on matters falling within the competence of the Board in the event that the Board fails to take a decision within the stipulated time limits, and the absence of that decision impedes the normal functioning of the organization. The Judicial Collegium, in turn, held that after several general educational organizations merged, the Department of Education of Moscow approved the new Gymnasium Charter that provided for the formation of a single Governing Board. In order to form a new Governing Board, the election of delegates to the Conference devoted to the formation of a Governing Board was to be held in primary organizations. In the Gymnasium such elections had been never held and delegates to the Conference had not been elected thereby depriving the claimant of the right to represent the interests of the class and his son in the Governing Board of the joint educational organization in violation of art. 44 of the Law. The court found that the formation of the Governing Board was assigned to the discretion of the Gymnasium. Thus, the court was not entitled to decide on the validity of the decision due to the lack of the grounds for satisfying the claims. In addition, the Gymnasium Charter provides for the right of the Director to decide on matters within the competence of the Board in the event when the Board fails to take a decision within the specified time limits and the absence of that decision impedes the normal functioning of the organization.

6.2. Powers of the Head of the Educational Organization to Decide on Redundancy.

Cases Involving **the Powers of the Head of the Educational Organization**.

Under p. 3 art. 26 of the Law, a head of the educational organization (rector, director, head, chief or other supervisor), who carries out current management of activities of the educational organization, is the sole executive body of the educational organization. To this end, the head, within the scope of his or her competence, shall be entrusted with the function of implementing the principle of autonomy in making organizational and personnel decisions.

In the Appellate Determination of the Moscow City Court of 18 May 2015 N. 33-16065/2015, the Court dealt with the claim against unlawful dismissal order because, in the claimant's view, the head of the educational organization had no right to issue such an order. The Court rejected the claim because the established redundancy procedure was met: The plaintiff was promptly notified of redundancy; the defendant had offered the claimant all the vacancies that the claimant refused. *The Court noted that the general education institution was free to form a staff*

schedule in accordance with the teaching hours and to decide on whether there is a necessity for a certain staff position or it can be reduced and eliminated from the staff schedule. Moreover, making personnel and staff decisions, including changes in structure, staff schedule and number of employees forms an exclusive competence of the employer who is entitled to terminate employment contracts with employees provided the established procedure for dismissal and guarantees are complied with.

The decision taken by the Provincial Court of the Primorskiy Kray in case No. 33-7728 was opposite. The Court held that the head of the State Educational Institution did not have any right to make a unilateral decision on staff redundancy. The Court opined that, according to the Charter of the Provincial State Budgetary Special (correctional) Educational Institution for students with disabilities the Council of the Boarding School is a permanent, elected collegiate body of the institution that acts as the highest self-governing body of the institution during the period between the staff meetings. The Council's competence includes deciding on changes in the structure and staffing within the framework of the wage and salaries fund. Thus, it is the responsibility of the School Council, rather than the director, to decide on restructuring and staffing of the institution. The School Council did not make any decision concerning redundancy and changing the structure of the institution. Under such circumstances, the Court had rightly concluded that the Director of the school violated the Law, and the Order "On changing the staff schedule and reducing the number of the staff of the Institution" was unlawful, since the Director unilaterally decided to change the structure and staffing of the Institution and approved the new staff schedule without the decision passed by the School Council. In addition, it was held that, in violation of art. 82 the RF Labour Code and the provisions of the collective bargaining, the trade union had not been informed about the redundancy, which constitutes a gross violation of the labour legislation and invalidates the redundancy order issued by the director.

References

Chapter 1

[1] Банслова В.Б. Особенности образовательных услуг как процесса и анализ мотивации потребителей на рынке образовательных услуг. – СПб.: ИПК СПбГИЭА, 2009. – С. 8.

[2] Государственно-общественное управление как стратегическое направление развития современной школы (Методические материалы) / авт.- сост.: И.М. Гриневич – Ставрополь: СКИРО ПК и ПРО, 2012 – 143 с.

[3] *Bevir, Mark*. Governance: A very short introduction. Oxford, UK: Oxford University Press. 2013.

Chapter 2

1. Brennen, A. (2002). Centralization Versus Decentralization. <<http://www.soencouragement.org/centralizationvsdecentralization.htm>>
2. Law on Education in the RF (2012), No. 273. <<https://drive.google.com/file/d/0B4BEBQKGy94eYUV4WjZoMV9QQTg/edit>>
3. Litvack, J. (2017). Education and Decentralization. <<https://www.ciesin.columbia.edu/decentralization/English/Issues/Education.html>>
4. Mann, D., Briller, V. (2005). School Administration In Russia: Centralization Versus Decentralization. <https://link.springer.com/chapter/10.1007%2F1-4020-4454-2_8>
5. McCrone, T., Southcott, C., George, N. (2011). Governance Models in Schools. <<https://www.nfer.ac.uk/publications/LGMS01>>
6. Rado, P. (2010). Governing Decentralized Education Systems. <https://www.google.ru/url?sa=t&rct=j&q=&esrc=s&source=web&cd=1&ved=0ahUKEwi4xJbasu3VAhUFDZoKHacwCikQFggnMAA&url=http%3A%2F%2Fwww.cep.edu.rs%2Fpublic%2FRado_Decimalizing_Education_final_WEB.pdf&usg=AFQjCNHq41-KSwdiFJXE67KWjbDTp9Ej0g>
7. Slastenin, V.A. at al. (2002), Pedagogy. Academia, Moscow. 575 p.
8. The Basics of Educational Institution Management (2016). <<http://bibl.tikva.ru/base/B352/B352Chapter5-23.php>>

Chapter 3

Legislative Acts

1. Federal Law No. 273-FZ of December 29, 2012 "On Education in the Russian Federation"
2. Regulations on the Ministry of Education and Science of the Russian Federation. Approved by Resolution of the Government of the Russian Federation of June 3, 2013, No. 466 "On Approving the Regulations on the Ministry of Education and Science of the Russian Federation"
3. The State Programme of the Russian Federation "Development of Education" for 2013-2020. Approved by the Order of the Government of the Russian Federation of May 15, 2013 No. 792-r.

Booklist

4. Methodological recommendations on the development of public education governance and administration in the constituent entities of the Russian Federation. For specialists of regional and municipal educational authorities, leaders and teachers of educational organizations, representatives of collegiate educational authorities. The Ministry of Education and Science of the Russian Federation Moscow. 2015. 75 p.
5. Gavrilova M.V., Danilova N.V. Governance and Administration of the education system in the region. Bulletin of the Russian University of Cooperation. 2016. No. 1 (23). P.35-41.
6. Governance and Administration of the education system in the Russian Federation. Methodology Guidelines The Ministry of Education and Science of the Russian Federation Moscow. 2016.

Internet Sources

7. http://obrnadzor.gov.ru/en/about/general_information/index.php [Date of address: 20.07.2017]
8. http://www.gumer.info/bibliotek_Buks/Pedagog/slast/22.php [Date of address: 20.07.2017]

Useful Resources

9. <http://minobarnauk.rf> - the official site of the Ministry of Education and Science of the Russian Federation
10. <http://obrnadzor.gov.ru/en/> - the official website of the Federal Service for Supervision in Education and Science
11. <http://www.instrao.ru/index.php/en/> - Institute for the Strategy of Education Development