

*Omarova A.B. Candidate of Law, Associate Professor of KazNU Al-Farabi (Almaty),
Urisbaeva A.A., Art. Lecturer, KazNU Al Farabi (Almaty), Omarova Sh.B. senior teacher
Department of Foreign Language KazNU al-Farabi (Almaty)*

PROBLEMS OF LEGISLATIVE DETERMINATION OF THE STATUS OF THE TEACHER

The article is devoted to determining the legal status of a teacher in the context of the implementation of the new state program for the development of education in Kazakhstan. The importance of the status of the teacher, the important directions of its legislative definition in the context of the possible further improvement of the legislation determining the status of the teacher in the higher education system are determined.

Key words: teacher, teacher, education system, higher education.

The world community recognizes the decisive role of teachers in the development of education and the importance of the contribution that they make to the development of the human person and modern society. By virtue of this, the teacher must have an appropriate status, and the profession of a teacher should be surrounded by public respect.

One of the tasks of the legislation in the field of education is a clear definition of the rights and obligations of the teacher and teacher, the creation of appropriate conditions for their fruitful activities, legal and social protection. Teachers are those who pass on to each new generation the achievements and concerns of generations of their ancestors and open the doors to the future for everyone. My long-standing conviction is that, without raising the status of a teacher, respect for him and ensuring his difficult and noble work to the proper level, we will not be able to achieve serious goals.

Since 2019, Kazakhstan began to implement a set of systemic measures to develop education and science in accordance with the new State Program for the Development of Education and Science of the Republic of Kazakhstan for 2020 - 2025 [1]. In 2015, the republic committed itself to achieving the United Nations Sustainable Development Goals until 2030.

Taking into account international assessments and practices, commitments made and results achieved, Kazakhstan needs to take drastic measures in the next 6 years to improve the quality of education and science.

In this regard, the Program is focused on solving key identified problems, developing the education and science systems to increase its competitiveness and approaching the best practices of OECD countries. One of the priority tasks in the program is to ensure the high status of the teacher's profession, which involves further solving the problem of providing the educational system with highly qualified personnel, strengthening state support and stimulating the work of teachers, primarily material.

The named state program in itself is one of the types of acts of state administration, therefore it is quite logical that some of its aspects need direct legislative support.

In this regard, the adoption in 2019 of a special law in Kazakhstan on the status of a teacher [2], which provides for the regulation of legal and socio-economic relations that will contribute to a qualitative improvement in the legal status of teachers and guarantees of their social protection, to create conditions ensuring high-quality, is quite logical. improvement of the legal status of teachers, implementation of guarantees of their social protection. High social status and financial independence are necessary conditions for the successful implementation of the functions of a teacher. Measures to improve the legal and financial situation of teachers are an objectively necessary condition for the existence of a modern education system in any state.

However, creating a new one is impossible without understanding the experience of previous generations. In this regard, it seems important and practically significant the task of an analytical study of the regulatory framework of legal regulation of teacher status in previous years, the study of historical law-making experience in the formation and development of the status of

teachers. The history of our state has accumulated sufficient legislative and law enforcement material that allows us to analyze the problem of the formation and development of the legal status of a teacher and use this historical experience in the course of today's reforms in the field of education.

In addition, the study of issues of determining the legal status of a teacher seems important and relevant in connection with the fact that today a new area of the domestic legal system is being formed - educational law, in the framework of which the problem of the legal status of employees of educational institutions is studied and considered.

Taking into account the historical experience and the genesis of the legal status of teachers in the development of civil society and the state makes it possible to formulate proposals for further improving the legal status of educators. Over the past years of market relations, the prestige of the teaching profession has dropped significantly, which, in turn, affects the quality of education in the country. Teaching remains one of the unprotected social groups of the population and the issues of raising the social status and social protection of the teacher are crucial for the development of the Kazakhstani education system. In recent years, this problem in the context of reforming the educational system has acquired a new character and form.

The content of the legal status of a particular category of workers reflects the position of these workers in the state. The branch legal status of a teacher is part of its general legal status and represents a system of interconnected legal requirements that determine its legal status in the field of education in accordance with its social role.

The structural elements of such a system are the totality of rights, freedoms and duties enshrined in the rule of law. The educational and legal status of teachers includes establishments that regulate their professional rights and obligations, as well as their social rights. Complex relations that arise between the state and a separate social group, their relationships are fixed by the state in legal form - in the form of rights, freedoms and duties, which form the legal status of this social group in their unity. Legal status is one of the most important political and legal categories, which is inextricably linked with the social structure of society, the level of democracy, and the rule of law.

With the adoption in Kazakhstan of a special law on the status of a teacher, we believe that several groups of teachers have legally been designated:

1) teachers engaged in professional activities in pre-school educational organizations, organizations of secondary (primary, basic secondary, general secondary), technical and vocational, post-secondary education, specialized, special educational organizations, educational organizations for orphans and children without parental care, organizations of additional education for children, as well as in teaching rooms;

2) teachers of the higher education system (chapter 7 of the Law of the Republic of Kazakhstan on education) [3];

3) teachers of military educational institutions where the Law of the Republic of Kazakhstan on the status of a teacher is applied with the features stipulated by the Law of the Republic of Kazakhstan "On military service and the status of military personnel" (Article of the Law of the Republic of Kazakhstan on the status of a teacher) [4].

In fact, these categories were defined as special in the general category of teachers. The Institute of the teacher has acquired a new sound.

The adoption of a special law that does not apply to teachers of the higher education system does not mean their lack of legal and social guarantees.

As it is known, the Law of the Republic of Kazakhstan "On Education, adopted in 2007, contains an independent Chapter 7 "Status of a teacher", where the idea of classifying teachers of state organizations as civil servants found their real embodiment (Article 50 of the Law). Of course, the designation of the status of a teacher at the legislative level must be regarded as an undoubted achievement in the sphere of regulation of public relations.

At the same time, there is reason to believe that to fully consolidate the status of a teacher in the system of higher and postgraduate education, those general provisions that are reflected in the aforementioned Chapter 7 3 of the Republic of Kazakhstan “On Education” are not enough.

Adoption on the basis of a law in the Republic of Kazakhstan, which actually determines only the status of a teacher, will not be a full-fledged implementation of the goal outlined in the current State program for the development of education for the following reasons. The concepts of “teacher” and “teacher”, being fairly close, do not coincide, and the concept of “teacher” does not come down only to teachers of the system of pre-university education, they diverge in their individual parameters and features of a meaningful nature.

Status initially involves the formulation of a definition of a concept, on the basis of which it is possible to construct a status insofar as status is a set of rights and obligations that are dynamic in nature, and definition is a well-known base that is static and conservative. The concept of a teacher is generic and covers all categories of teachers. Therefore, as we believe, a special law should cover all categories, and in particular in matters of ensuring uniform social, material guarantees for teachers in various fields of education.

Given the fact that pedagogical activity is carried out by a circle of specialists of a very wide scope, and is aimed in its dominant part to provide targeted impact on the processes of the formation of a person as a person from infancy to the age of social maturity, it seems necessary to legislate in a special law the uniform principles of pedagogical activities, as well as restrictions and prohibitions that apply equally to all groups of educators.

To date, the Law on Education, which determines the status of teachers in the higher education system, does not solve the problems that society now faces. Teachers in universities should be highly intellectual in the spiritual and professional terms of the people of our society. Such specialists leave many universities, unfortunately. In order to retain and continue to attract such teachers to universities, it is necessary to ensure their material independence, i.e. First of all, increase wages in universities. To teachers of higher educational institutions also apply only those tasks that correspond to their duties, to explicitly prohibit the imposition of an additional burden.

Currently, in accordance with the Law of the Republic of Kazakhstan on Education, a teacher who carries out professional activities in organizing higher and (or) postgraduate education has the right to:

- 1) engaging in teaching activities with the provision of conditions for professional activities;
- 2) engaging in research, experimental work, the introduction of new techniques and technologies in teaching practice;
- 3) individual pedagogical activity;
- 4) a free choice of methods and forms of organization of pedagogical activity, subject to the requirements of the state generally binding standard of the appropriate level of education;
- 5) participation in the work of collegial management bodies of educational organizations;
- 6) continuing education at least once every five years with a duration of not more than four months;
- 7) moral and material incentives for success in pedagogical activity in the form of state awards, honorary titles, awards and scholarships;
- 8) protection of their professional honor and dignity;
- 9) deferment from conscription;
- 10) creative leave for engaging in scientific activity while preserving teaching experience;
- 12) appeal of orders and instructions of the administration of the educational organization;
- 13) respect for honor and dignity on the part of students, pupils and their parents or other legal representatives.

The system of remuneration for teachers engaged in professional activities in state organizations of higher and (or) postgraduate education is determined in the manner prescribed by the legislation of the Republic of Kazakhstan.

According to Art. 52 of the Law on Education, the remuneration of teachers engaged in professional activities in private organizations of higher and (or) postgraduate education is

determined by their founders or an authorized person in accordance with the legislation of the Republic of Kazakhstan. It seems to us that it is necessary to legislatively determine that in this matter the procedure and the minimum rate for teachers (hourly), depending on qualifications, length of service and other qualification requirements, should be determined by the authorized body.

Currently, the payment system is determined in the normative order only in relation to teachers of state enterprises.

Education Act in Art. 53 social guarantees are indicated, but it is not clear how this issue is resolved in relation to teachers of private universities. In particular, it is not clear to us how the clause 3 of Art. 53 of the Law on Education “for teachers engaged in professional activities in organizations of higher and (or) postgraduate education, annually from the funds of the respective budgets are paid:

1) in state organizations of higher and (or) postgraduate education, an allowance for rehabilitation once a calendar year upon granting them the next labor leave in the amount determined by the labor legislation of the Republic of Kazakhstan.”

Summing up, we note that in the field of legislative regulation of the legal status of teachers, active reform and improvement of legislation on education in general, and with it the issues of the legal status of teachers in higher education, is currently underway. However, there are still many unresolved issues requiring detailed study and resolution at the legislative level.

Thus, the adopted law on the status of a teacher only touched upon school teachers. There is no special law on the status of the remaining groups of educators as civil servants. This approach seems to us incorrect.

By the adoption of such a special law, it was still not possible to ensure full compliance of the existing educational standards with generally recognized principles, international law, and international treaties. It is necessary to ensure that existing standards are implemented locally, in educational organizations. We believe that the special social status of teachers in the country is necessary, in addition to the measures available in the legislation, additionally, regardless of the type of educational institution, educational organization, to provide the following status-emphasizing, special socially oriented (only intended for them) measures:

- teaching staff should have the right to priority provision of housing;
- for free medical care;
- discounts in utility bills regardless of location;
- leave on a contractual basis for up to three months with the preservation of wages for the development of textbooks, methodological works, monographs commissioned by the Ministry of Education;
- the provision of official housing, land, soft loans;
- retirement pension after 25 years of work;
- the provision of interest-free loans for individual housing construction,
- sanatorium-resort treatment, rest in boarding houses and tourist camps on favorable terms
- preferential provision of educational, methodological and scientific literature;
- To teachers with chronic diseases, at least every 10 years of continuous pedagogical work, provide the right to long-term paid leave for up to one year. Moreover, the list of diseases, the procedure and conditions for granting long-term paid leave should be determined by the Government.

Legislation on the legal status of teachers at the beginning of the 20th century is becoming more flexible regarding the possible changes in the status of the teacher category. The determination of the legal status of teachers in the indicated period reflected the content of the state's internal policy regarding the development of public education in general.

As we understand it, among the factors that determine the qualification of an education worker and ensure his high professionalism, the position he occupies in society and the state is important. Not the last role in shaping the position of an education worker belongs to the state,

which establishes its legal status through laws. The legal framework defining the place of an education worker in society and the state is clearly insufficient today.

Education workers, as professionals performing socially necessary tasks, have lost the status of civil servants, although the state has not given up its functions in solving the tasks of socio-cultural development of society. State educational development programs are being adopted, the direct implementation of which also lies with teachers. In Kazakhstan, there is a state system of education and persons employed in this system perform a state function, as is fixed in the law. Then why does the law refuse to consider educators as civil servants?

. It seems appropriate to study in more detail the foreign experience in giving educators the status of civil servants, since in the process of discussions it is repeatedly expressed that it will be possible to avoid the majority of problems, including increasing the prestige of the teaching profession, and increasing the influx of young personnel into the education system teaching staff the status of civil servants.

The concept and content of state service in the EU countries are different. In Norway, a contract with a teacher is recognized as public, but the teacher is not considered a state servant after it is concluded. In Italy, a contract with a teacher is private in nature, but the teacher himself is a state servant. In Germany, France, teachers generally belong to the category of civil servants, but there is a difference between permanent and temporary staff.

The issue of the legal status of an employee of the state education system in Kazakhstan also needs to be resolved. It seems necessary to fix the legislative position:

- an education worker performing an important function of the state can and should be a civil servant with all the rights and obligations inherent in this status.

Currently, in connection with the transformations taking place both in society and in the educational system itself, the requirements for the profession of a teacher have grown very much, which entails serious changes from the teacher himself. Unfortunately, the modern standard of living of the teacher, the attitude of society to the values of education and upbringing of the student's personality leaves much to be desired, and the role of the teacher in this process is noticeably reduced. What other problems get in the way of teachers?

There are a lot of them. In many respects, whether he feels himself a successful, creative person, capable of being an authority among students, depends on the psychological and emotional component of the teacher's life. It is important to outline the requirements for the teacher himself.

First of all, the modern competence of the teacher should be high enough to meet the requirements of the time. This includes the level of education, the possibility of professional growth, the possibility of obtaining versatile additional knowledge, which means attending various continuing education courses, not those imposed by the educational institution, but those chosen by the teacher himself, since they are interesting and useful for him in the process of teaching. This requires that teachers have free time to enhance their qualifications.

Visiting lectures, seminars, various creative meetings, performances and other cultural events contribute not only to obtaining additional versatile information, but also serve as a positive aspect in organizing leisure activities. But, unfortunately, a modern teacher cannot fully afford this for two reasons: lack of time and financial problems.

The work of the teacher is distinguished by high emotional and physical workload, extremely high responsibility - the work of the teacher is not standardized. It is not a secret that excessive pedagogical load, guidance / supervision of students, additional activities of educational organizations, take up a sufficient amount of time and effort. This gives rise to emotional tension, and dissatisfaction, and irritability, and fatigue, and ultimately emotional burnout.

The presence of comfortable working conditions should be created in educational institutions, which involves the removal of various stress-generating factors. Due to the increased modern requirements for the education system and significant workload, the administration of educational organizations is not always able to pay due attention to these aspects.

More often oblige, less often thank for work.

Another of the serious problems of teachers is the lack of time and sometimes funds for conducting their medical examination, medical examination of their children. At the same time, the overload of teachers with reports, compilation of methodological developments takes away a lot of additional time from him, which is not included in the pedagogical load, takes away his time and health.

In addition, the teacher needs to prove his worth as a teacher by the number of points. Everyone should write scientific and methodological articles, teaching aids, be able to perfectly perform public reports. But writing an article alone is not a “pedagogical” professional activity, but a scientific one. Scientific activities involve creative investigation and research, which also take a lot of time.

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