PROBLEMS OF THE CONSUMER RIGHTS PROTECTION IN HIGHER EDUCATION

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Abstract

Several issues are absorbed in practise and research of law applying, concerning the protection of consumers in „traditional" business and services. But issues conserning customer protection in specific fields of individual and legal persons - education, health, science are not investigated and therefore create difficulties in pratice.

Aim of this article is to study theoretical and practical issues concerning customer protection in education.

Overall it should be noted, that protection of consumer rights in education in Latvia is difficult under the present circumstances, this is followed by quality what is not controleld and is not transperant, stimulates violation of consumer rights.

Therefore it must be separate between administrative regulation and civil regulation, concerning protection of consumer rights in education, is required. It will be the base for partition of both law enforcement and the courts, encouraging the customer, society and its member's confidence in the education system. It also will guarantee the quality of education and justice.

It also describes the nature of consumer protection in Latvia. In addition, modernization is required of Consumer Rights Protection Law with specific regulations concerning protection of consumer rights in education.

Key words: *Consumer rights in education, education quality, education safety, education service guarantee, education consumer*

1. INTRODUCTION

There is a small number of studies carried out on consumer rights in Latvia and worldwide – individual authors have studied a few of the issues of consumer rights, mainly devoting their attention to separate problems of the consumer rights protection, for instance, in relation to crediting agreements and transactions with real estate, however there are no studies on the consumer rights protection in education. Protection of consumer rights in education is deficient everywhere in the world, since both in practice and on a theoretical level the issues concerned with the safety of the education service, its quality and guarantee have not been solved, and such important terms as rights to education and free-of-charge education are also unclear.

The contemporary education has doubtlessly changed and become an essential component of each person's life and a basis for the development of one's further personal work / career. With an increasing number of the education service consumers the number of the suppliers has also increased, which is a general trend at the market economy conditions when an increase in demand increases also the supply. The main tasks of the education service consumer, on his / her turn, are requesting qualitative education services complying with standards, on the one hand, and, on the other hand, i.e., on the par of the education service provider - to satisfy this need, ensuring its compliance with predefined targets and tasks.

Education quality plays a very essential role in all stages of education because the majority of socially and economically active population, clearly representing a very large share of the society, are currently involved in the learning process.

An increasing number of the education service consumers (students, persons covering the study expenses) are paying more attention to the quality and guarantee of the educational service because a contemporary education consumer must know how to apply his / her skills in the labour market, and be ready for changes in his / her field of activity or even change the occupation, in order to adapt more successfully to various contemporary crisis situations. Consequently, the issue of the quality and guarantee in education plays an essential role for the education consumer.

One of the priorities for the development of the European joint area is the formation of a knowledge - based society, creating an even tighter link between the science, education and production. The process of formation of knowledge - based society urges the necessity for each person to develop a lifelong personal and professional capacity, as the knowledge acquired previously changes rapidly, becomes outdated, and should be constantly supplemented and improved.

At the current life situation a consumer is regarded as a special subject of legal relations profits special protection. Consumer rights represent a new legal sub - discipline, both in the Baltic States and worldwide. This is also indicated by the fact that the first consumer protection law, the mail fraud law was adopted in the United States of America in 1872, by which the committing of a mail order fraud was made a punishable offence (false advertising). (History of consumer Protection) When the desirable result was not achieved, the first Antitrust Act (The Sherman Antitrust Act) in the United States of America was adopted in 1890, aimed at limiting the formation of cartels and monopolies thus protecting the competition in the market.(Sherman Anti-Trust Act)

On 15 March 1962, John Fitzgerald Kennedy defined four basic consumer rights (the right to choose, the right to safety, the right to be informed, and the right to be heard), outlining that *"Consumers by definition, include us all. They are the largest economic group, affecting and affected by almost every public and private economic decision. Yet they are the only important group... whose views are often not heard.(Consumer rights)*

From the above it follows that any person learning in an educational establishment is deemed to be considered as a consumer, because according to the definition a consumer is any natural person using a service for a purpose not directly related to its business (Consumer Protection Act. Collection of laws and regulations, 2011) or a person using or consuming purchased goods or using services (without reselling). In tourism a tourist is the consumer. (Academic term data base) It should be noted that in most cases entering into a special agreement on the education service – a study contract – is obligatory only in the higher education. This contract regulates relations between the higher education establishment and the student, stipulates the study fee, study programme, degree or qualification to be obtained, as well as the rights and obligations of the student.

The second case is when a party does not fulfil what is stipulated in the contract. Under the civil law relationships, violation of rights (offence) is denoted by 'illicit activity'. Pursuant to the civil law, an illicit activity may be demonstrated both as a non - compliance with a contract or other transaction terms, and as a non-compliance with one's obligations, and as an infringement of other person outside the contractual boundaries. Non - fulfilment of a contract is unlawful in general, as well as delays in the contract fulfilment and non - fulfilment of other contractual provisions, e.g., on quality or payment. (Torgans, K 2006)

Thus it should be established that there are several basis for the provision of the educational service and only one of them is contractual.

Considering the above referred, as well as the specific nature of the education relations, the following options for the consumer rights protection and dispute settlement can be established in education, by addressing the competent institutions:

1. Using the internal regulations of the educational establishments.
2. Addressing the founder of the educational establishment.
3. Addressing the education monitoring institutions.
4. Addressing the consumer protection establishments.

5. Claim statement in a court.

The most important tool for the education consumer is consecutive application of all the applicable laws and regulations (initially using the internal regulations of the educational establishment), thus ensuring full - fledged provision of one's rights.

A topical issue in the consumer rights protection in education is also the education service quality and education recognition by the state. As demonstrated by Harvey and Green, quality apprehension options may be grouped in several categories, the most essential of which being the following:

- Quality as excellence. This quality definition is traditionally used by the higher education representatives and policymakers when debating about the higher education quality.
- Quality as "zero errors"(..).
- Quality as "fitness for purpose"(..).
- Quality as transformation (..).
- Quality as threshold (..).
- Quality as enhancement or improvement (..). (Quality manual procedures and practices 1998)

One of the most essential preconditions for ensuring a realistic development of a higher educational establishment is achieving the comprehension of the defined goals and tasks at all levels: by administration, academic staff, students and employees. Preconditions for the university quality development will be made only if these targets and tasks are discussed and accepted at all levels. (Dobelis, K. (2002)

Today, more often, students has been promised other education than the one obtained upon completing one's studies. Thus, a set of norms regulating the consumer rights which would also facilitate / protect the education service quality must be in place in order to render a qualitative service and ensure the respective previously expected result, service guarantee and assurance for receiving the service.

One should also agree with a view that the basis of quality (as compliance with the set target) is a customer – a person buying or consuming products (goods) services offered by an organisation. Identifying a customer in education is complicated, though. According to the approach of the European Foundation for Quality Management stating that *"Good results mean: satisfied clients, satisfied employees and satisfied society,"* (Āriņa, A. (2009) one should note that the consumers of the education service are not only the learners but also their parents and persons covering their study expenses, and in a wider scale – the whole society.

A service should have generally accepted features set, comply with certain standards, certification requirements, approved and known examples, intended designation and contractual provisions.

The provisions set in the consumer rights protection are general, thus a service quality in education cannot be identified adequately using these provisions. Also the identification of the education service guarantee is challenging, because according to the definition a guarantee is a promise given to the buyer of goods that the goods are of good quality, and in case any damages or faults are found they will be eliminated or replaced by new ones during the guarantee period. (Academic term data base)

Moreover, there are often such cases found in the practice of education when the education being acquired becomes out - dated, non - compliant with the laws and regulations and the current life situation even before it is acquired.

These issues make the consumer rights protection in education difficult by creating unregulated, immense quality and disassociating from providing the service guarantee. This creates the environment of unfair competition in education, consequently increasing the consumer rights violations.

In addition, the competence of both the law enforcement bodies and courts should be distinguished, as well as the rights and obligations of the educational establishment itself by ensuring respect for the

education consumer rights. Modernisation of the consumer rights protection regulations would also be required by stipulating a specific regulation regarding the consumer rights protection in education (this requirement is justified by at least 456,888 people currently being involved in education in Latvia and its meaning can be viewed in the financial resources and the total number of students Graph 1., Graph 2.) (Education – key indicators, Source: Latvian Central Statistical Bureau)

Statistical data In Latvian higher education

Year	Students / thousands
2002/3	40 993
2003/4	43 037
2004/5	42 157
2005/6	43 826
2006/7	45 047
2007/08	43 860
2008/09	41 577
2009/10	31 529
2010/11	31 012
2011/12	31 945
2012/13	33 319
2013/14	31 219

Graph 1. High school and college enrolments. Source: Latvian Central Statistical Bureau

Expenditure on education in Latvia (million.eur)

	2007	2008	2009	2010
Valsts izdevumi State expenses	1051,9	1316,3	1049,4	911,5
Privātie izdevumi Privet expenses	208,0	209,5	222,7	185,3
ārvalstu finanšu avoti Foreign sources of finance	48,8	47,7	50,9	42,0
Izdevumi izglītībai, pavisam Total expenses on education	1 308,9	1 573,4	1 323,0	1 138,7

Graph 2. Expenditure on education Source: Latvian Central Statistical Bureau

Simultaneously the consumer rights protection in education is directly linked with such issues (affecting the quality and safety of the service) as implementation of educational programme (curriculum, form), awarding documents certifying the respective education, recognition of the obtained education, mutual settlements of the parties, etc. For this reason the consumer rights protection in education is a topical theme which requires research by developing solutions for modernisation of the consumer rights protection in education, duly facilitating the development of both the theory and practice of the consumer rights. *"In other words, the coming decade should be the years of demanding and obtaining high class education and actual enforcement of the rule of law"*. (Ziemele, I. (2005)

Certainly, for the purpose of achieving the respect of the education consumer rights, the necessity of monitoring must be highlighted in order to ensure a continuous quality improvement throughout all the levels of education, whereas the education monitoring involves the rule of law of education and quality assurance.

It is highly important that education quality assessment is actually carried out by members of the public – which is mainly ensured by trained experts – heads of educational establishments and specialists of education management institutions, representatives of education professional unions, trade unions and employers.

Thus public monitoring (in its wider sense) exceeds the state institutional boundaries, fostering the involvement of the society in providing qualitative education services, guaranteeing the quality and rule of law in education. This also determines the special features of the education monitoring in the Republic of Latvia. (Zīvarts J., (2013)

2. METHODS

Analysis of the scientific literature and laws and regulations, a case study, interviews with the experts,

At the interviews with the students,for example, asked following questions:

- How much did you spend for your education?
- Did you get what you expect from education;
- Did you have any problems in study process;
- What would you improve in education?
- Were your professors and lecturers qualified for the job?
- Did you study and understand your contract with your higher education institution?
- What was the attitude of lecturers toward you?

3. RESULTS

Any person acquiring education at an educational establishment, receiving an education service is considered a consumer, as a consumer is any individual person using the service for the purpose not directly concerned with their business.

Taking into consideration the abovementioned, as well as the specific characteristics of the education relationship, the following opportunities for the consumer rights protection and argument solving in education can be observed: approaching the head of the educational establishment, approaching the founder, submitting an application to the State Service of the Education Quality, submitting an application to the Consumer Rights Protection Centre, filing a petition to a court.

One of the deficiencies is that in accordance with the definition included in the part one of the Section 16 of the Consumer Rights Protection Law the guarantee applies to the promise by the manufacturer or

trader in regard to the goods or articles, whereof it can be concluded that the guarantee does not apply to the service provided by the service provider, thus also not indicating that the service of education can be given the guarantee.

The other essential deficiency is the unclear definition of the terminology, e.g., free-of-charge education – what it includes, and rights to education.

Taking into consideration the abovementioned, the author has indicated a few issues existing between the consumer of the service of education and provider of the service of education – the educational establishment.

4. CONCLUSION

The aim of the monitoring education is to facilitate the development of the education quality, thus also achieving the main priorities of the education. At same time, the issue of understanding the education quality becomes topical within the context. The education quality can be defined in various ways. Pursuant the understanding of quality according to Harvey and Green, several categories can be distinguished, the most important of which are quality as excellence, quality as "zero errors", quality as fitness for purpose, quality as transformation, quality as threshold, and quality as enhancement or improvement. (Dobelis D. 2002)

The Explanatory Dictionary of Pedagogical Terms, on its turn, assigns the word 'quality' the meaning of a feature, property or entirety characterising the compliance of an object, phenomenon or process with certain predefined (preset) requirements. The quality of successively linked processes and outcomes (learning process – knowledge – education – work) plays an essential role in the pedagogical process. (Skujiņa V. (2000).

Now, we might be on our way towards the education quality excellence, and the current commitment for the education quality will be measurable in several years when the persons will be entering the labour market and form the part of the society providing for qualitative education service.

Any receiver of the education service should also be informed about their rights as a consumer of education. Reviewing the laws and regulations, currently there are many different deficiencies and lack of clear definitions.

Moreover, the public and the mass media are more frequently stressing the flaws in the laws and regulations, including the rights to the free-of-charge education and lack of the protection of interests of the consumers of education.

These issues make the consumer rights protection in education difficult, creating an immense quality and confusion in the public. It promotes unfair competition in the field of education, which, in its turn, increases the number of consumer rights violations at the same time creating tension between the receiver of the service – the consumer of education and the service provider – the educational establishment.

Overall, protection of education consumer rights is difficult in current situation. Leaving aside the provision of service guarantees directly promotes violations of consumer's rights.

The main problems are following, lack of education consumer awareness of their rights and clear normative regulation. That would regulate legal relationship between, consumers of education and education service providers, that is, the higher education institutions, as well as consumers of education service low activity in protecting their rights.

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