

LAW AND JURISPRUDENCE

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INTERNATIONAL LEGAL AND NATIONAL LEGAL ASPECTS OF TOURISM ACTIVITY IN THE REPUBLIC OF KAZAKHSTAN

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Abstract

Tourism has become of the engines of the world economy nowadays. Development of tourism is a priority direction in Kazakhstan's policy. Intergovernmental cooperation in the tourist sphere is carried out by means of states' participation in regional and universal international organizations, by concluding bilateral and multilateral treaties, interaction with organizations within international conferences, as well as on a contractual basis.

This paper examines international legal and national legal regulation of tourism sector in the Republic of Kazakhstan, analyses bases of cooperation of states in the sphere of international tourism.

Keywords: law on tourism, World Tourist Organization, international treaty, national legislation of Kazakhstan.

Introduction

Tourism is one of the most dynamically developing sectors of economy in our country. Tourism according to United Nations World Tourism Organization (UNWTO) in the world export of services and goods takes the fourth place (7,4%), conceding only to export of fuel and chemistry products, automobiles. This branch by the level of income is on the third place in the world after automotive and the oil-extracting industries. The Republic of Kazakhstan possesses extensive tourist and recreational potential. However the level of development of tourism is insufficient. About 0,3% are made by its share in gross domestic product. External tourism in the

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structure of tourist activity prevails over internal tourism. Analyzing internal tourist arrivals in Kazakhstan, it becomes clear that the country is insufficiently attractive for foreign tourists [1]. The tourist industry needs to develop on the basis of the consecutive and elaborated measures directed to the population's high tourist culture formation. In order to regulate the complex of public relations which arise in the process of realization of the human right for rest and the human right for freedom of movement it is required to develop legal bases in the sphere of tourism activity. Thus, improvement in the legal sphere needs to be carried out in a complex, considering economic development of this industry. Creation of new various tourist products, as well as development of the operating tourist infrastructure in internal tourism needs legal maintenance which is required for the regulation of public relations in this field taking into account the juvenile and sports features of this branch. Therefore, competent legal regulation of the tourism sphere, in general, should make positive regulatory impact on the public relations formed in the process of tourism product consumption. Improvement of legal procedures and precepts of law in the sphere of tourism activity is required in order to carry out the rights and duties of various legal entities (subjects of law) realizing own legal personality in the sphere of tourism activity.

International-legal aspects of tourism

Development of tourism industry in the Republic of Kazakhstan at this stage cannot exist without definition of the main vectors in the legal bases of tourism activity. According to Article 2 of the Law of the Republic of Kazakhstan from June, 13, 2001 № 211-III "On tourist activity in the Republic of Kazakhstan" the legislation on tourism activity of the country is based on the Constitution of the Republic of Kazakhstan, as well as the Civil code, this Law, and other legal acts of the state. If the international treaty ratified in the Republic of Kazakhstan establishes other rules, rather than in the national legislation on tourism activity, the rules and standards of the international treaty are applied, unless the publication of new law is required.

As part of enterprise activity the international tourism is specific for its wide range of relations and internationality which arise while forming demand and organization of tourist trips. Such variety brings to certain difficulties the in process of tourism management and legal regulation. For example, transporters take part in tourist services. Features of regulation of legal relations are differentiated depending on the type of transportation (air, sea, railway and others). Hotel and adjacent services are regulated by

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other definite ways. Application of norms provided by the legislation is caused by a definite purpose of a trip. For example, we can mention cases when it is necessary to resolve an issue, whether a served person is a consumer. Therefore, it is necessary to understand which legislative norms protecting his interests are applicable.

The relation with any foreign elements is another characteristic feature of international tourism specifics. For example, it is one of the parties which signed the contract, or some certain legal fact which happened abroad. Here we can mention an event or an action related to the harm of a tourist. Infliction of harm to foreigners in the Republic of Kazakhstan, as well as to citizens of Kazakhstan outside the country, forms the delict, not the contractual obligation. Separate and quite extensive question is about the definition of the right which acts at delictual obligations. The complex structure of contractual communications in the tourism sphere, namely material-legal regulation of civil-legal treaties is the peculiar feature of this area.

The World Tourism Organization (UNWTO) is an international organization in the sphere of the international legal regulation of tourism branch. It is a specialized organization within the structure of the UN which appeared in 1975. Nowadays it is of great importance for development of steady, responsible and available tourism which has to stimulate economic development of countries of the world, improvement of international interaction, providing peace living conditions, growth of welfare of the population, and guaranteeing human rights and freedoms.

The international organizations took part in creation of important documents concerning tourism development:

- the Hague Declaration on Tourism of 1989;
- the Manila Declaration on World Tourism of 1980;
- the Global Code of Ethics for Tourism of 1999;
- the Acapulco document of 1982;
- the Charter of Tourism and the Code of the Tourist 1985;
- the Montreal Declaration of 1996
- Osaka Millennium Declaration of 2001.

Regulation of tourism activity in national legislation of the Republic of Kazakhstan

The Concept of development of tourism branch of the Republic of Kazakhstan till 2020 is one of the main national-legal acts in the sphere of tourism development. This political-legal act contains the general approaches to development of tourism branch, the basic principles for the republic by 2020, strategic vision of tourism development, defines tasks, purposes, stages of state policy

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realization in this field. The document is developed on the basis of international experience and complex analysis of a current state of tourism branch of Kazakhstan. Analysis defined the main tourist clusters, long-term tendencies of the tourist market development, the main objects and products with their division according to the level of readiness for tourist reception, types of tourism. At the national level the list of the projects offered to realization within the Concept according to the system development plans of tourism of the Republic of Kazakhstan, the alpine skiing zone of Almaty region (South Kazakhstan region), the Borovoye resort zone (North region), Kenderli recreation areas, the master -plan of the cluster program of tourism development is created (East region). The Concept of development of tourism branch of the Republic of Kazakhstan till 2020 is necessary for realization of various political and legal actions. For instance, the State program on the forced innovative industrial development of the Republic of Kazakhstan for 2010-2014 [2], the annual Message of the President of Kazakhstan Nursultan Nazarbayev to the people of Kazakhstan [3], the Strategic development plan of RK till 2020 in the sphere of development of tourism, as one of the important social and economic directions [4].

The program for development of the perspective directions of the tourism industry of the Republic of Kazakhstan for 2010-2014 is also an important political and legal document which defines development of tourism branch [5]. In tourism development, from the conceptual point of view, the Government of RK will keep the leading role in development of tourism policy. It will further play the same role of the chief coordinator of execution of the state activity and policy of the government bodies focused on tourism branch development.

Support and development of tourism in Kazakhstan is a necessary and important component of development of all country in general. First of all, normative-legal regulation of this sphere needs development. For this purpose in the Republic of Kazakhstan further improvement of normative-legal regulation of tourism activity is planned in such spheres as:

- land relations;
- especially protected natural territories and forestry;
- social tourism;
- taxation;
- border control;
- aviation space;
- tourism services;
- special tourist zones;
- rights for real estate [1].

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To some extent in all specified directions the sphere of normative-legal regulation which is the subject to further improvement is affected. Development of the legislation of Kazakhstan in the sphere of tourism is defined as rather versatile and detailed. All above-mentioned directions of improvement of the Kazakhstan legislation should be characterized as normative-legal structure of the interindustry developing legal institute under the name of "tourism". Thus, it is necessary to consider this phenomenon from the legal point of view not only as cultural or economic concept, but also as a set of precepts of law which govern a uniform circle of the public relations.

In providing legal norms in the sphere of tourism the Insurance ombudsman of the Republic of Kazakhstan plays a significant role. The Insurance ombudsman is an independent physical person who realizes settlement of relations between insurers concerning questions of obligatory insurance of responsibility of vehicles owners [6]. However this institute can act as a pre-judicial stage on dispute settlement, capable to resolve disputes between subjects of legal relations in the tourism sphere. It is necessary to join offers which are specified in the bill of the Republic of Kazakhstan "On modification and additions to some acts of the Republic of Kazakhstan concerning the institute of insurance ombudsman development". It is offered to add item 12 of Article 1 of the Law of RK "On Obligatory Insurance of Civil Responsibility of Tour Operator and the Travel Agent" as follows: "Insurance ombudsman is an independent physical person in his activity authorized to settle relations between participants of the insurance market". Such concept needs to be entered in order to extend powers of insurance ombudsman concerning disputes between insurers and insured on obligatory insurance on all products.

The development of international tourism in Kazakhstan is impossible without its appropriate legal regulation. The Constitution of the Republic of Kazakhstan does not mention the citizen right for tourism. However, Article 21 determines that everyone who has a legal right to stay on the territory of the Republic of Kazakhstan shall have the right to freely move about its territory and freely choose a place of residence except in cases stipulated by law. Everyone shall have the right to leave the territory of the Republic. Citizens of the Republic shall have the right to freely return to the Republic. Article 24 (4) establishes the right to rest. Working labor agreements stipulating the length of working time, days-off and holidays, and paid annual leave shall be guaranteed by law [7]. These and other provisions of the Constitution in totality form the so-called "right on tourism". Absence of the direct consolidation of right on tourism in

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the Constitution is filled in by the Law of the Republic of Kazakhstan from June, 13, 2001 № 211-11 "On tourist activity in the Republic of Kazakhstan" (hereinafter – the Law). According to its preamble, the Law determines legal, economic, social, organizational frameworks of tourist activity as one of industry of economy of the Republic of Kazakhstan [8]. Chapter II of the Law is, in essence, the core of this legal act. Here the most important legal issues are announced: the place of tourism in the economy of Kazakhstan, the principles of State regulation of tourist activities, the objectives, priorities and methods of State regulation of tourism. Thus, Article 9 Paragraph 1 states that the State recognizes the tourism activity as a priority and a highly profitable branch of the economy of the Republic of Kazakhstan. For the first time in the norm of the law it is stated that tourism is an industry of Kazakhstan's economy and that this industry is one of the valuable ones. The principles of state regulation of tourism activity are formulated, too. The Law assigns a duty of the state to promote tourist activity and to create favorable conditions for its development, to define and support the directions of the tourist activity, to form an idea of Kazakhstan as the country favorable for tourism, to carry out support and protection of the Kazakhstan tourists, tour operators, travel agents and their associations.

Having considered and having analyzed the big list of innovations in the legislation of the Republic of Kazakhstan in the sphere of tourism, it is necessary to recognize that introduction of all specified legislative norms will improve legal regulation of tourism in the state. Thus it is worth paying attention that in Kazakhstani concepts and programs less meaning is given to children, sports and youthful tourism. For the development of specified directions the Model law of the Commonwealth of Independent States "About children's and youthful tourism" should be taken into account. This law establishes bases for realization and development of nation-wide policy in the field of youthful and children's tourism. This law is urged to promote in the State Parties of the CIS to formation of conditions for all-round development of youthful and children's tourism as effective remedy of training, education, vocational guidance, improvement, statement of a healthy lifestyle, social adaptation of pupils, effective system of development of the personality and continuous education [9].

Conclusion

Thus, the leading directions of improvement of legal regulation of tourism in the Republic of Kazakhstan are on their way to implementation. Interindustry character of the developing "tourist

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activity" or "tourism" institute needs improvement in those directions, which in details are considered above. It is necessary to improve legal regulation in this sphere and to create the newest legal base - the complex of actions in the tourist sphere aimed at the tourism development for economic development of tourism branch in the Republic of Kazakhstan.

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