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The legal adjusting and self-regulation of tourism activity in the Republic of Kazakhstan

Tourist activity as a branch of the national economy requires a reliable legal regulation, that is to create favorable conditions for its development. Especially during the rapid development of foreign tourism in Kazakhstan and in the initial stage of development of domestic tourism. Tourism fully accepts regulating influence norms of various branches of law: Customs, insurance, administrative, criminal, environmental, consumer protection, etc. In this article the basic legislative acts regulating tourist activities in the Republic of Kazakhstan, as well as given the structure of the management bodies Tourism industry in Kazakhstan, its goals and objectives. Briefly consider the structure of the management of tourism industry in the Republic of Kazakhstan, the state regulation of tourist activity in Kazakhstan, studied the activities of the Department of Tourism Industry of the Ministry of Investment and Development, reviewed the work of the Kazakhstan Tourist Association, revealed the relationship of tourism associations in Kazakhstan.

Keywords: the legislature, the legislation on tourist activity, regulation of tourist activities, tourist associations, liability for violations of legislation on tourism, tourism activities, tourism, legal acts in the sphere of tourism, the Code of administrative offences, national legislation.

Legislation of the Republic of Kazakhstan in the field of tourist activity based on the Constitution of the Republic of Kazakhstan and consists of the Civil Code of the Republic of Kazakhstan, of the Law of 13 June 2001 «On tourist activity in the Republic of Kazakhstan» and other normative legal acts of the Republic of Kazakhstan. If an international treaty ratified by the Republic of Kazakhstan stipulates other rules than those provided for by national law on tourist activity, the rules of the international agreement, except when it follows from the international treaty that its application requires the promulgation of a law [1].

Consider the management structure of the tourism industry in the Republic of Kazakhstan.

The basis of the industry is regulating this industry regulatory framework, business and direct producers of tourist services.

In accordance with the Law "On tourist activity" defines the main goals of state regulation in this area:

- Ensuring the rights of citizens to rest, the freedom of movement in the field of tourism activities;
- Environmental protection;
- Creation of conditions for the activities aimed at education, training and rehabilitation of tourists;
- The development of the tourist industry, ensuring the needs of citizens in the commission of travel;
- Creation of new jobs, increase state revenues and citizens of the Republic of Kazakhstan due to the development of the tourist industry;
- The development of international tourism contacts.

Also, the Act defined the priority directions of the state regulation in the field of tourism:

- The establishment of tourism as a highly profitable sector of the economy of the Republic of Kazakhstan;
- Consideration of public interest, the protection of natural, historical and cultural heritage of the Republic of Kazakhstan with the use of tourist resources;
- The introduction of favorable conditions for the organization of tourist and excursion activities among children, adolescents, youth, the disabled and low-income segments of the population;
- Creation of favorable conditions for investment of the tourism industry;
- Support and development of tourist organizations involved inbound and outbound tourism in the Republic of Kazakhstan;
- Creation of an effective system of tourist activities to meet the needs of domestic and international tourism.

The Act specified methods of state regulation in the sphere of tourism, which is carried out through the following activities:

- Definition of policies for the development of tourism and investment in tourism;
- Introduction of legal acts in order to improve relations in the field of tourism;

- Carrying out standardization and licensing of tourist activity in the area in accordance with the requirements set out by the legislation of the Republic of Kazakhstan on licensing;
- Provision of budget funds for the development and implementation of state programs for the development of tourist activity in accordance with the budget legislation;
- Support staffing in this area of economic activity;
- Support the participation of domestic subjects of tourist activity in the international tourism activities and programs;
- Assist in the dissemination of the national tourist product in the tourist market (global and domestic);
- Guarantee the rational use, keeping and protection of tourist resources of the state.

The basic regulation of tourist activity is carried out by the Government of the Republic of Kazakhstan, which is:

- Defines and implements the state policy on development of tourism;
- Issue normative legal acts regulating relations in the sphere of tourist activity, within its competence;
- Creating a state system of scientific support in the field of tourism activities;
- Approves personal composition and the position of the Council on tourism on the proposal of the authorized body;
- Provides collaboration and cooperation with foreign countries in the field of tourism;
- Performs other functions assigned to it by the Constitution and laws of the Republic of Kazakhstan and acts of the President of the Republic of Kazakhstan.

In the history of independent Kazakhstan to regulate tourist activities were authorized state body 3. Until January 20, 2012 the regulation of tourist activity in Kazakhstan it was the Committee of Tourism Industry of the Ministry of Tourism and Sports. January 20, 2012, this Department was reorganized into the Republic of Kazakhstan Agency for Sports and Physical Culture. Powers in the field of tourism activities have been transferred to the Ministry of Industry and New Technologies, in which the Committee of the tourism industry has been created. August 6, 2014 during the reorganization of the Government of the Republic of Kazakhstan Ministry of Industry and New Technologies abolished Ministry functions transferred to the new Ministry of Investment and Development of the Republic of Kazakhstan, which created the Department of the tourism industry. Thus, the change of government regulation in the Government of the Republic of Kazakhstan can be represented in Figure.



Figure. State agencies of regulation tourism activity

In Kazakhstan, the frequent changes in the structure of government and regulation of tourist activity is transferred under the responsibility of different ministries and departments. Consider the governance structure of the tour operator activity at the moment.

According to the law of the Republic of Kazakhstan «On tourist activity in the Republic of Kazakhstan» the competence of the Department of the tourism industry is as follows:

- Participates in the formulation and implementation of a common policy to attract investment in the tourism industry;

- Implements the state policy in the field of tourism activities, tourism and the tourist industry;
- Within its competence develop and approve normative legal acts, summarizes the practice of legislation and make proposals for its improvement;
- Implementing cross-sectoral and inter-regional co-ordination in the field of tourism activities, interaction with domestic, foreign and international tourism, public and other organizations and individuals engaged in tourist activities;
- Makes claims to the courts in accordance with the legislation of the Republic of Kazakhstan;
- Carries out the state control over observance of the Republic of Kazakhstan legislation on tourist activities;
- Within its competence, developing, executing and delivering international in the field of tourist activity, and also represents the state's interests in the field of tourism contracts in international organizations and at international events and participates in their work;
- Approve the rules of the classification of tourist accommodation;
- Approve the rules of retraining and advanced training of specialists in the field of tourism activities;
- Approve the rules of formation and maintenance of the state register of tourist routes and trails;
- In cooperation with the authorized body on technical regulation and metrology regulates the activities in the field of standardization in the field of tourist activity;
- Disseminate information about Kazakhstan and its tourism opportunities in the international tourist market, and within the state, including through national and international exhibitions and fairs in the field of tourism activities;
- Says a typical contract for tourist services;
- Defines the general requirements for the training, retraining and advanced training of specialists in the field of tourism;
- Approves qualification requirements for the tour operator activities;
- Approve the rules of tourist services;
- Conducts public electronic registers of travel agents, tour guides (guides-interpreters), tour guides and tourism instructors, filed a notice of commencement of activities in accordance with the Law of the Republic of Kazakhstan «On permissions and notifications»;
- Approves the form of information for the application to the notice of commencement of activities travel agent, tour guide (guide-interpreter), guide and instructor of tourism;
- Exercise other powers stipulated in this Law, other laws of the Republic of Kazakhstan, acts of the President of the Republic of Kazakhstan and the Government of the Republic of Kazakhstan.

In the analysis of the competence of the Department of the tourism industry, we can conclude that about tour operator activities Department performs only one function:

- Approves qualification requirements for the tour operator activities.

Licensing tour operator activities by local executive bodies - akimats.

The main functions of the Department of the tourism industry is the promotion of national tourist product, the creation of the development strategy of the tourism industry, regional development, monitoring and regulation of the tourist market [2; 11].

Department of tourism industry has created the official tourist portal of the Republic of Kazakhstan, providing publicly available information on international events, the concept of development of tourism industry in Kazakhstan till 2020, cooperation with international organizations. The Department provides a free download registry of travel agencies in Kazakhstan, but in the public domain, there are no data on the tour operators in Kazakhstan.

Article 15 of the «Terms and Conditions of the tourist activity», the Law of RK of 13 June 2001 «On tourist activity in the Republic of Kazakhstan» (with alterations and amendments as of 29.12.2014 was) specify the conditions of the activities of tour operators and travel agents:

1. Implementation of tour operator and travel agent activity is allowed with a tour operator and travel agent a valid contract of obligatory insurance of civil liability of a tour operator, travel agent. Details about the tour operator and travel agent are entered into the state register of persons carrying out tourist activity on the basis of their statements.

2. In accordance with the legislation of the Republic of Kazakhstan on licensing of tour operator activity is a licensed activity.

The tour operator providing tour provides all the services included in the tour, directly or through third parties, on which the tour operator is assigned the execution of part or all of its obligations to the tourists.

The tour operator in the field of outbound tourism carries out promotion and sale of tourist products exclusively through travel agents [3; 65]. Suspension of license for tour operator activities entail a ban on the provision of tourist services, with the exception of the obligations arising from previously concluded contracts. Suspension of license for tour operator activities, loss of license for tour operator activities are carried out in accordance with the legislation of the Republic of Kazakhstan on administrative offenses. According to Article 12, the licensing of tour operator activities carried out by the local executive body of oblast, city of republican significance, the capital.

Tourist activity as a branch of the national economy requires a reliable legal regulation, that is to create favorable conditions for its development [4; 47]. Tourism fully accepts the rules governing the impact of the various branches of law: Customs, insurance, administrative, criminal, environmental, consumer protection and other tourist activity in the Republic of Kazakhstan is regulated and carried out monitoring of tourism on the basis of the following documents:

1. International legal instruments:

- Tourism Charter;
- Hague Declaration on Tourism;
- Manila Declaration on World Tourism (recovery);
- Osaka Millennium Declaration;
- Council Directive of the European Economic Community, travel, vacations and trips, including all;
- Frankfurt table;
- International Convention on hotel owners to enter into contracts of hotels and travel agents on June 15, 1979;
- International hotel rules;
- Agreement between the Government of the Republic of Kazakhstan, the Kyrgyz Republic and the Government of the Republic of Uzbekistan on cooperation in tourism (Tashkent, December 8, 1997);
- Solution June 18, 2010 № 311 (St. Petersburg), «On the Instruction on the procedure of customs operations in respect of goods for personal use, conveyed by natural persons across the customs border, and the reflection of the fact of acceptance of such products is not under customs control» [5].

2. Legislation of the Republic of Kazakhstan:

- The Law of RK «On tourist activity in the Republic of Kazakhstan»;
- Law «On Protection of Consumers' Rights»;
- The Law of RK «On Specially Protected Natural Areas»;
- Law «On the State Border of the Republic of Kazakhstan»;
- The Law of RK «On migration of population»;
- Law of the Republic of Kazakhstan «On private entrepreneurship»;
- Law «On Licensing».

3. Normative legal acts of the Republic of Kazakhstan:

- Order of the Minister for Investment and Development of the Republic of Kazakhstan dated January 30, 2015 № 81 «On approval of the model contract for tourist services»;
- Order of the Minister for Investment and Development of the Republic of Kazakhstan dated January 30, 2015 № 80 «On approval of rules for provision of tourism services»;
- Order of the Minister for Investment and Development of the Republic of Kazakhstan dated January 30, 2015 № 79 «On approval of the qualification requirements for tourist operator activity, and a list of the documents confirming compliance with it»;
- Requirements for registration of Umrah visas;
- Order of the Minister of Transport and Communications of the Republic of Kazakhstan «About approval of Rules of issue and the grounds for refusal to issue permits for the international non-scheduled flights», dated August 13, 2010 № 359.

In formulating the principles of state regulation of tourist activity, the law imposes on the State duty to promote tourist activities and create favorable conditions for its development, determine and maintain the direction of the most tourist activity (that is, to make a choice on what areas to develop domestic tourism), to form the idea of another country as a country favorable for tourism, provide support and protection of Kazakh tourists, tour operators, travel agents and their associations [6; 96].

In May 1999 it was created the Kazakhstan Tourist Association (KTA), with the support of the President of the Republic of Kazakhstan.

CTA is a non-profit, non-governmental organization, the Republican Industrial Association. The composition of the KTA includes Kazakhstan Association of Hotels and Restaurants (KAGIR), tourism, insurance, airlines, universities and the media. The Association is there to protect the interests of its members, carries out lobbying and promotion of tourist industry.

KTA is a member of:

- Tourism Council of the Republic of Kazakhstan Department of IRRI's tourism industry;
- The Forum of Entrepreneurs of Kazakhstan (FPC);
- The Russian Union of Travel Industry (PCT);
- National Chamber of Entrepreneurs of Kazakhstan (NPP).

The main objectives of the KTA:

- Association of voluntary organizations and enterprises, entrepreneurs, operating in the hospitality and tourism sector, interested in raising the level of professionalism and quality of services;
- Protection of the rights and legitimate interests of members of Association;
- Representation of the interests of association members in governmental and non-governmental institutions and organizations;
- The promotion of eco-tourism as the main tourism products in Kazakhstan;
- Preparation and publication of information, analytical and expert materials on tourism issues;
- Organization of participation in international tourism exhibitions, including by creating a single regional information stands;
- The creation of a modern system of retraining and advanced training of tourist and hotel business, promotion of services Training Center KTA;
- Promoting the creation of conditions for effective functioning of enterprises of hotel and tourist infrastructure in the territory of the Republic of Kazakhstan;
- Participation in the development of tourism and small business programs;
- Rewarding the best industry experts.

Association functions:

1. The Association cooperates with authorities and represents the interests of its members at all levels.
2. The Association represents the interests of its members at congresses, symposiums, conferences, seminars and various meetings related to the issues of development of hotel and tourism business.
3. Provides information to the public about the activities of the association, promotes the creation of a favorable image of the association in the media.
4. Organize training for members of the Association: Workshops on management, marketing, advanced hotel technology.
5. Conducts services presentations, members of the association implemented.
6. Organizes work with travel agencies and tour operators and hotel services [7; 77].

January 30, 2012 came into force amendments to the Law of Kazakhstan «On amendments and additions to some legislative acts of the Republic of Kazakhstan on improvement of the permit system», according to which cancels the licensing of travel agencies.

After the abolition of state licensing of travel agencies have engaged in this sector enterprises and entrepreneurs lost the ability to identify itself in the market as a tourist product retailers. License to perform not only the function of disciplining, but also testified to the firm belonging to a certain professional services market [8; 82]. With the absence of such identifying characteristics to distinguish the company from the travel agency, enterprise of the other profile has become virtually impossible.

In this regard, CTA decided to establish the Single Registry republican travel agents the Republic of Kazakhstan (ERTRK). In the context of the abolition of licensing of travel agencies appearance of the registry of Kazakhstan was an important travel agents for tour operators and consumers. The first project helped orient when choosing a partner, and the second — when searching for legitimate travel agencies, which you can buy tour [9; 99].

In considering the application filed in the register of experts KTA subjected to verification of documents such as insurance policy civil liability, state registration certificate, letter of appointment, the head of the travel agency ID. Although the basic principle of doing ERTRK - voluntary service, at the moment there are more than 550 companies that have successfully completed the registration.

Travel agencies, registered in ERTRK and received a certificate of registration and a unique number, have several advantages in the market:

1. The psychological factor — the company has passed the legal review of CTA in the eyes of the consumer deserves more trust than the Agency, existing independently.

2. Support for the majority of Kazakhstan's largest tour operators, who conclude contracts with travel agents must indicate the registration number of the item ERTRK.

At the same time the Unified Register of Travel Agents RK benefits for consumers of tourist services: first of all, it is the availability of information. Anyone can be found on the KTA website is not just a list of companies registered in ERTRK in the city, but also a summary. Registry serves as updating reliable information about companies operating in the travel agency market, ensure its transparency. The responsibility for the illegal actions of a market entity are owners and managers of these enterprises.

But at the same time the company has presented all the major constituent documents, not afraid to make themselves known to the whole Kazakhstan is likely to have serious intentions and will not appear one-day companies.

However, many Kazakh tour operators and travel agents are unhappy with the activities of the KTA. In this regard, Kazakhstan had established the Association of tour operators of Kazakhstan (ATK) and the Association of Travel Agencies of Kazakhstan (ATAK). Thus, Kazakhstan has 3 tourism associations with membership of tour operators.

The structure consists of 5 ATK largest tour operators in Kazakhstan: «Kaz Tour», «Kaz Union», «Travel System», «Tez Tour», «Kompas».

The attack was launched in October, 2014. Members ATAK believe KTA bankrupt organization in crisis situations, which was shown in the Bankruptcy tour operator «Gulnar Tour».

Creators ATTACKS associations offer to create a fund «Baytak». The essence of the fund is that it may enter into medium and small travel agents who do not have funds for aircraft orders, and so they are in the case of the collapse will incur heavy losses and risks. Now in Kazakhstan there are about three thousand of these agencies, and for them the entry fee is 180 thousand tenge. As a result, all the travel agencies, which will be part of «Baytak» fund will automatically be considered as its co-founders. The money will lie in storage deposits, and to remove them will be possible only with the consent of at least five members of the board of trustees. The composition may include ATAK and small tour operators. At the moment, members of the attack is 66 travel agencies, including 64 travel agencies, tour operators 2 — «ITTH» and «Meridian Travel & Tourism». ATTACKS organizes tourist fair «Luxury Travel Fair 2015», conducts training of managers of tourism worth 60000 tg.

Thus, it was considered state regulation of tourist activity in Kazakhstan, studied the activities of the Department of Tourism Industry of the Ministry of Investment and Development, reviewed the work of the Kazakhstan Tourist Association, revealed the relationship of tourism associations in Kazakhstan.

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Б.А. Аманжолова, Д.М. Үсенова

Қазақстан Республикасында туристік қызметті құқықтық және өзін-өзі реттеу

Ұлттық экономиканың саласы ретінде туристік қызмет сенімді құқықтық реттеуді, яғни оның дамуына қолайлы жағдай жасауды, талап етеді. Әсіресе Қазақстанда сыртқы туризмнің қарқынды дамуы мен ішкі туризм дамуының бастапқы кезеңінде деп белгіленген. Туризм кеден, сақтандыру, әкімшілік, қылмыстық, экологиялық, тұтынушылардың құқықтарын қорғау және тағы басқа құқық салаларының нормаларының реттеуші ықпалын толық түрде қабылдайды. Мақалада Қазақстан Республикасының туристік қызметті құқықтық реттейтін негізгі заңнамалық актілері қарастырылды, сондай-ақ Қазақстанда туризм саласын басқару органдарының құрылымы, оның мақсаттары мен міндеттеріне шолу жасалды. Қысқаша түрде Қазақстан Республикасында туристік қызметті басқару құрылымы, Қазақстанда туроператорлық қызметті мемлекеттік реттеу мәселелері қарастырылған. Инвестициялар және даму министрлігіне қарасты Туризм индустриясының департаментінің қызметі зерттелген. Қазақстан туристік бірлестігінің жұмысы қарастырылып, туристік бірлестіктердің қарым-қатынастары анықталған.

Кілт сөздер: заң шығарушы органдар, туристік қызмет туралы заңнама, туроператорлық қызметті реттеу, туристік бірлестіктер, туризм бойынша заңнаманы бұзу жөніндегі жауапкершілік, туристік қызмет, туризм, туризм саласындағы нормативтік құқықтық актілер, Әкімшілік бұзушылық туралы кодекс, ұлттық заңнама.

Б.А. Аманжолова, Д.М. Үсенова

Правовое регулирование и саморегулирование туристской деятельности в Республике Казахстан

В статье показана туристская деятельность как отрасль экономики страны, которая требует надежного правового регулирования, т.е. создания благоприятных условий, особенно во время бурного развития внешнего туризма в Казахстане и на начальном этапе развития внутреннего туризма. Отмечено, что туризм в полной мере воспринимает регулирующее воздействие норм различных отраслей права: таможенного, страхового, административного, уголовного, экологического, о защите прав потребителей и др. Рассмотрены основные законодательные акты, регулирующие туристскую деятельность в Республике Казахстан, а также дана структура органов управления туристской отраслью в Казахстане, ее цели и задачи. Показаны структура управления туристской отраслью в Республике Казахстан, государственное регулирование туроператорской деятельности в Казахстане. Изучена деятельность Департамента индустрии туризма при Министерстве по инвестициям и развитию. Рассмотрена работа Казахстанской туристской ассоциации, выявлены отношения туристских ассоциаций в Казахстане.

Ключевые слова: законодательные органы, законодательство о туристской деятельности, регулирование туроператорской деятельности, туристские ассоциации, ответственность за нарушения законодательства о туризме, туристская деятельность, туризм, нормативно-правовые акты в сфере туризма, Кодекс об административных правонарушениях, национальное законодательство.

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Репозиторий КАРГУ