

TOURIST SERVICE AS AN OBJECT OF INTERNATIONAL PRIVATE LAW

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Abstract. *The development of international tourism allows countries to solve various issues. States and organizations around the world require conducting scientific research on the acceleration of international legal regulation of tourism. That is why scientific research is of great importance in the analysis of the legal basis of strengthening the legislation. Therefore, in this article, we will focus on the field of tourism, which is one of the most developed industries today. The main purpose of the article is to study the tourist service as an object of international private law. In addition, the article covers the application of law in the field of tourism, gaps in the law and proposals for their solution, and the experiences of developed countries.*

Keywords: *IUOTO, tourism, international tourism, resolution, UNWTO, ICPT, licensing, tourism network, human rights, tourism ethics.*

ТУРИСТСКАЯ УСЛУГА КАК ОБЪЕКТ МЕЖДУНАРОДНОГО ЧАСТНОГО ПРАВА

Аннотация. *Развитие международного туризма позволяет странам решать различные вопросы. Государства и организации всего мира требуют проведения научных исследований по ускорению международно-правового регулирования туризма. Именно поэтому научные исследования имеют большое значение при анализе правовой основы усиления законодательства. Поэтому в данной статье речь пойдет о сфере туризма, которая на сегодняшний день является одной из самых развитых отраслей. Основной целью статьи является исследование туристской услуги как объекта международного частного права. Кроме того, в статье освещаются вопросы применения права в сфере туризма, пробелы в законодательстве и предложения по их устранению, а также опыт развитых стран.*

Ключевые слова: *IUOTO, туризм, международный туризм, резолюция, ЮНВТО, ICPT, лицензирование, туристическая сеть, права человека, этика туризма.*

The tourism industry is one of the leading sectors of the world economy, and it is one of the promising sectors that bring high income to the national economy. In developed countries, almost 10 percent of the population is employed in tourism. Even during the pandemic, we can take the tourism sector as one of the sectors that suffered the greatest damage. According to UNWTO, that is, the World Tourism Organization, in 2020, international tourism has decreased by 72 percent, to be more precise, to 1.1 trillion dollars, and has fallen to the level of 1990. Tourism, as an important part of the economy of most countries, as part of international relations, requires special legal regulation. The main foundation of the World Tourism Organization is to improve the economic and social conditions of the world's population, especially the population of developing countries. Industries that include tourism provide about 6 percent of the world's jobs. And these jobs will alleviate global poverty. Revenue from tourism

allows the government to reduce debt and invest in social services. In order to ensure the effective development of tourism, it is important to pay attention to legal aspects, which requires systematic and comprehensive programming in this regard. According to the definition of UNWTO: "Tourism is the use of a destination for leisure, business and other purposes not related to the performance of remunerated activities for a period of not more than one consecutive year travel to places outside the usual environment includes the activities of doing and staying in them." Along with other fundamental human rights such as the right to life and freedom of movement, the right to travel is inherent in human nature. Foreign tourists, as foreigners, travel to another country for various purposes, such as visiting, recreation, medical treatment, and bring foreign exchange benefits to the host country. Tourism is related to travel and recreation and requires a structured network of protective services, among which a structured legal system is a prerequisite. The World Tourism Organization (UNWTO) is an authoritative body of the United Nations system, which was founded in 1975. The composition and charter of the organization was adopted on September 27, 1975. The main goal of the World Tourism Organization is that tourism is the basis of economic development, strengthening peace, mutual understanding between peoples, establishing free communication throughout the world regardless of language, religion and race, as well as encouraging developing countries to develop tourism. It consists of issues such as interest in the field. The World Tourism Organization is a special department of the United Nations and is an intergovernmental organization of a universal nature. Its headquarters are located in Madrid, Spain. 156 countries of the world are its members. Uzbekistan has been a member of this organization since 1993. The main purpose of WTO:

- To support tourism as a means of economic development and to ensure peace, mutual understanding between peoples, well-being, observance of human rights regardless of language, race, gender, religious belief;
- Respecting the interests of developing countries in the field of tourism.

It is known that international tourism is regulated by many conventions, international treaties and agreements. An agreement on the provision of basic rights to rest and free time, which is the basis for the development of tourism, will be reached. Universal Declaration of Human Rights adopted by the United Nations (UN) General Assembly in 1948 Article 24 states: "Every person has the right to a reasonable limitation of working hours and to annual paid leave, rest and free time". In 1966, the UN General Assembly approved and expanded this slogan. The countries that have signed the International Covenant on Economic, Social and Cultural Rights (agreement) guarantee that everyone has the right to "reasonable limitation of rest, free time, working hours, periodic paid leave and payment for public holidays" those who have undertaken the obligation to ensure the right. These regulations have given impetus to the development of tourism, especially the development of international tourism. After that, the term tourism was expanded and countries began to pay special attention to this area.

So, what is the definition of the term tourism in the legislation of Uzbekistan? Tourism is defined in our national legislation as the departure (travel) of a natural person from the place of permanent residence without engaging in activities related to earning income from sources in the country (place) of temporary stay. As we all know, on July 27, 1992, the National Company "Uzbekturizm" was established and took over all organizational and management issues in the field of tourism. The company is an authorized state body in the field of tourism and reports to

the Cabinet of Ministers on its activities. The company is the main body that ensures and coordinates the development of a unified state policy in the field of tourism in the territory of Uzbekistan. The main tasks of the company:

- Ensuring a unified state policy in the field of tourism, cooperation in forming the infrastructure of tourist services;
- Development of tourism, protection and safety of tourists, implementation of inter-sectoral and inter-regional state programs of tourist activity;
- Certification of tourist services;
- Implementation of advertising and information policy in the field of tourism;
- Attracting foreign loans and investments in the field of tourism development, cooperation with foreign countries and their companies in the long-term development program;
- Training of personnel for the field of tourism, implementation of measures aimed at their retraining, cooperation in the development of tourism sciences;
- Raising the development of tourism in Uzbekistan to the level of world standards is one of the important tasks of the national company "Uzbekturizm"

By 1993, it became a full member of WTO (World Tourism Organization), which in turn had an impact on the development of international tourism. The implemented changes have rapidly developed the reception of tourists. Laws in our national legislation have also been improved. Today, many laws related to tourism have been adopted in Uzbekistan, and they are as follows:

- ✓ Law of the Republic of Uzbekistan "On Tourism";
- ✓ Decree of the President of the Republic of Uzbekistan dated August 13, 2020 No. PF-5781 "On measures to further develop the tourism sector in the Republic of Uzbekistan";
- ✓ Decision of the President of the Republic of Uzbekistan dated January 5, 2019 PQ-5611 "On additional measures for the rapid development of tourism in the Republic of Uzbekistan";
- ✓ Decision of the President of the Republic of Uzbekistan dated January 5, 2019 PQ-4095 "On measures for the rapid development of the tourism network";
- ✓ Resolution of the Cabinet of Ministers of the Republic of Uzbekistan No. 828 of September 30, 2019 "On effective use of tourism potential of Samarkand region and additional measures for its development";
- ✓ Resolution of the Cabinet of Ministers of the Republic of Uzbekistan No. 904 dated November 5, 2019 "On measures to organize the annual Tashkent International Tourism Fair "Silk Road Tourism"

Laws for tourism organizations registered in the Republic of Uzbekistan

In this section, some types of activities of the Republic of Uzbekistan, in particular, the laws of the Republic of Uzbekistan on the procedure for licensing tourism activities, on the certification of tourism and hotel products and services, the development of tourism adopted by the ministries and agencies of the Republic of Uzbekistan we will be able to get acquainted with the measures.

- ✓ Resolution of the Cabinet of Ministers of the Republic of Uzbekistan dated April 6, 2017 No. 189 "On approval of the regulation on the procedure for licensing tourism

activities";

✓ Resolution of the Cabinet of Ministers No. 355 dated June 5, 2017 "On approval of the regulation on the procedure for certification of tour operator and hotel services";

✓ Decision of the President of the Republic of Uzbekistan dated February 6, 2018 PQ-3509 "On measures to develop inbound tourism".

Laws for tourist organizations registered abroad:

✓ No. 408 of the Cabinet of Ministers of the Republic of Uzbekistan dated November 21, 1996 "On the procedure for the arrival, departure, stay and transit of foreign citizens and stateless persons in the Republic of Uzbekistan" decision;

✓ Decree of the President of the Republic of Uzbekistan dated December 5, 2017 No. PF-5273 "On the establishment of the free tourist zone "Chervoq";

✓ Decree of the President of the Republic of Uzbekistan dated January 17, 2019 No. PF-5635 "On the State Program for the Implementation of the Strategy of Actions in Five Priority Areas of Development of the Republic of Uzbekistan in 2017-2021" Decree;

✓ Resolution of the Cabinet of Ministers dated March 23, 1999 No. 131 "On regulation of issues of export and import of cultural assets in the Republic of Uzbekistan";

✓ Law of the Republic of Uzbekistan "On protection and use of cultural heritage objects";

✓ Law of the Republic of Uzbekistan "On export and import of cultural assets"

On December 22, 2018, the President of the Republic of Uzbekistan, Shavkat Mirziyoyev, in his address to the parliament, expressed the following thoughts about the tourism industry among all other sectors: "Today, tourism is one of the promising sectors that bring high income to the national economy." Uzbekistan is a country with great potential in the field of tourism. There are more than 7,300 objects of cultural heritage in our country, and nearly 200 of them are included in the UNESCO list. In addition, in order to rapidly develop the tourism sector, the Decree of the President of the Republic of Uzbekistan dated January 5, 2019 No. PF-5611 "On additional measures for the rapid development of tourism in the Republic of Uzbekistan" and PQ-4095 "On measures related to the decision No. "On measures related to the development of the tourism network". In this decision, the target parameters for the construction of hotels in the Republic of Uzbekistan in 2019-2021, promising investment projects, cultural objects and institutions where modern information technologies are implemented were determined. So, there is a lot of work to be done in this area, and it is necessary to fully use all opportunities in their development.

Border closures with little or no warning during the COVID-19 crisis have left millions of tourists stranded abroad, in some cases for more than a month. This situation, combined with confusion regarding the allocation of obligations to assist tourists in cases of force majeure, has left international tourists in a state of neglect, aggravated by their vulnerability. International tourists, far from their homes and out of their "comfort zones," dealing with pandemics and incarceration, had little knowledge of the language, culture, or laws of the country in which they found themselves. The unprecedented situation caused by the COVID-19 pandemic, and the lack of an international framework for emergency tourist assistance, is not the only disruptive situation that has created confusion and eroded the confidence needed to travel abroad. These extraordinary circumstances may lead to the impossibility of the performance of the contract by

the supplier of tourism services due to external events that are unforeseeable, unavoidable and beyond the control of the parties, such as those caused by the COVID-19 pandemic. In accordance with the 2020-2021 program priority to ensure safe, secure and uninterrupted travel, the Secretariat has prepared a set of recommendations based on Article 6 of the UNWTO Global Code of Ethics for Tourism and Article 9 of the UNWTO Convention. In "Ethics of Tourism", as well as the draft "UNWTO Convention on the Protection of Tourists and the Rights and Duties of Providers of Tourism Services", especially its Annex I ("Emergency Assistance"). They are aimed at member states and aim to support governments and the private sector in their efforts to recover international tourism in the context of the COVID-19 pandemic, while ensuring adequate protection for international tourists in the event of an emergency. caused by such unavoidable and extraordinary circumstances. However, they are not exhaustive and are not intended to be definitive. They are subject to review and approval by UNWTO governing bodies.

The Framework Convention on Tourism Ethics was adopted by the General Assembly at its 23rd session (2019) in St. Petersburg, Russia, through resolution A/RES/722(XXIII) and has not yet entered into force. It consists of nine principles aimed at stakeholders in tourism development, designed to maximize the benefits of tourism in promoting sustainable development and poverty alleviation, as well as promoting understanding between countries. Under its sixth principle, both the Convention and the GCET set out obligations for states to provide advice on emergency and repatriation mechanisms.

On the other hand, the preliminary draft of the convention on the protection of tourists and the rights and obligations of suppliers of tourism services was approved by the General Assembly in 2022. Session held in Chengdu, China (2017) through resolution A/RES/686(XXII). Its main objectives are, firstly, to provide uniform rules to ensure and promote an adequate level of protection for tourists as consumers by providing them with primary and basic assistance, especially in emergency situations, and by strengthening cooperation between states in these exceptional cases. consists of installation. Second, to clarify the rights and obligations of tourism service providers, ensuring a fair balance between the responsibilities of states, the private sector and tourists. More specifically, the general objective of this draft Convention was to increase the confidence of tourists in tourism service providers, countries and the tourism sector as a whole. These recommendations are based on the work carried out by the UNWTO and its member states in the development of the draft Convention. These recommendations apply to Member States, all tourists and tourism service providers. However, given the different realities and regulatory frameworks for national governments and tourism authorities to take action, these recommendations should not be applied in all cases. They aim to guide policy actions to mitigate the impact of the crisis and accelerate recovery by restoring the confidence of tourism stakeholders in their ability to protect and assist them in emergencies.

Even during the pandemic, we faced many problems in the field of tourism.

The International Code for the Protection of Tourists (ICPT) provides a set of minimum international standards for the protection of tourists in emergency situations and the protection of tourist consumer rights as a basic framework for the recovery of tourism in the post-COVID-19 era. Addressing governments, public and private stakeholders and tourists themselves, ICPT

provides services aimed at restoring consumer confidence and making the travel environment more attractive by creating a sense of security for tourists/travelers and improving contractual relationships between various tourism providers and recipients. consists of UNWTO Secretary General Zurab Pololikashvili said, "We can start tourism again only if we restore confidence in travel. People want to feel safe and secure when they travel." - he said. The COVID-19 crisis has shown the absence of an international legal framework to assist international tourists in emergency situations and the lack of uniformity at the international level to protect the rights of tourism consumers. Border closures with little or no warning during the crisis stranded hundreds of thousands of tourists abroad, canceled millions of flights, and the situation quickly worsened. Many of these travelers are left without support in the foreign environment, including security, health services and consular assistance, and sometimes without sufficient funds to meet their basic needs such as food and shelter. The lack of clarity about the provision of emergency assistance and each other's responsibilities has created a great deal of uncertainty about the rights of tourists and has negatively affected tourists' confidence in international travel. This experience has shown serious shortcomings in the current legal and regulatory framework and existing disparities in the consumer rights of tourists from country to country. In addition, the introduction of measures such as vouchers and the provision of new digital tourism services without clear, transparent and harmonized frameworks, and the sharp increase in travel and tourism dispute litigation, pose additional challenges for restoring consumer confidence causing.

In order to support the recovery of the tourism sector, the ICPT was established to restore tourist confidence by developing and harmonizing minimum international standards and providing adequate safeguards to protect international tourists in a post-COVID-19 world. The ICPT was requested by a decision of the UNWTO Executive Council at its 2020 meeting in Tbilisi, Georgia. In consultation with a group of independent experts and a number of observers from various public and private stakeholders, a draft proposal for the ICPT was developed and submitted to the UNWTO General Assembly. In resolution 732(XXIV), the General Assembly calls upon UNWTO and United Nations Member States to adhere to the Code and invites them to notify the Secretary-General of their intention to adhere to it and of any subsequent provisions. ICPT consists of five chapters:

Chapter One: Definitions and Explanations.

Contains an open and non-exhaustive list of definitions used in the ICPT, as well as a set of explanations for the terms and conditions contained therein.

Chapter Two: Assistance to International Tourists in Emergency Situations.

The development of minimum international standards for the protection of tourists in emergency situations will be considered. It provides guidance to States on emergency prevention, information, assistance and repatriation of international tourists in emergencies, including but not limited to pandemics.

Chapter Three: Protection of Tourists in Contracts.

It is aimed at developing and harmonizing minimum international standards for the protection of tourists as consumers, with a focus on protecting the consumer rights of tourists in both emergency and non-emergency situations. In addition, it includes a number of principles for the protection of tourists in the online tourism environment in relation to new digital tourism

services in order to ensure safe access and use of online tourism platforms and to prevent any abuse of them.

Chapter Four: International Settlement of Travel and Tourism Disputes through Alternative Dispute Resolution.

In order to avoid the mass increase of litigation resulting from the crisis in the tourism sector and to provide tourists with flexible and effective mechanisms to resolve such problems amicably, the alternative means of resolving travel and tourism disputes at the international level, i.e. aims to resolve disputes promptly and fairly and without discrimination.

Chapter Five: Mechanisms for compliance with the recommendations of the International Tourist Protection Code and their application.

Methods for voluntary compliance by States with the ICPT and monitoring of the application of its principles and recommendations in countries are described in detail. Its purpose is to provide clarity to parties on the nature of the ICPT and its relationship to national laws and international treaties, and to consider the role of UNWTO and its proposed technical committee for monitoring the application, evaluation and interpretation of the ICPT.

Although the ICPT is a non-legally binding voluntary instrument, it provides a set of mechanisms for States to comply with the ICPT, monitor and report on its application in their countries, and evaluate and comment on its principles. includes. According to its Chapter Five, States are obliged to comply with the ICPT in whole or in part and to express their readiness to apply its principles and recommendations in their countries by sending a formal notification to the Secretary General of UNWTO.

As for the principles of ICPT;

The Code has seven principles that apply to emergency situations. Some of them are as follows

- Harmonization means having a common approach to helping tourists regardless of their nationality, race, color, etc.
- Cooperation and coordination is one of the main aspects of the code of assistance to the tourist in crisis.
- Responsibility - the tourism organizer and the public authorities of the host country are to provide the correct information to the tourist, as well as to ensure safety and security based on the severity of the crisis.
- Prevention is aimed at creating an effective mechanism to help manage emergency services
 - Emergency plans and precautions for tourists.
 - Designated authorities assist in coordinating protocols and preventive measures for the tourist.
 - Measures to simplify the process and procedure for the tourist.
 - Information - Updates on travel information, restrictions and other practical information.
 - Assistance - Helping the tourist with communication, alternative travel arrangements, accommodation, etc
 - Repatriation-Ensuring that receiving countries take the necessary steps to return the tourist to their country as if they were nationals.

Summary

The recent situation has made us aware of the importance of having a structured legal framework that can be implemented in the field of tourism rights. Travel, cultural ties and job development are part of tourism. To achieve these goals, responsible tourism works to preserve tourism destinations and promote sustainable growth for today's hosts and future generations of tourists and hosts.

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