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THE LEGAL AND INSTITUTIONAL REGULATION OF TOURISM IN THE REPUBLIC OF UZBEKISTAN: EMERGENCE AND DEVELOPMENT

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Abstract. During the period of tourism development in myriad ways in Uzbekistan, it is vital to research the historical aspects of legal and institutional framework of this sphere. After all, analyzing the historical development of this industry in our country, it is expedient to make plans for its prospects. With this regard, the article emphasizes periods of this process by focusing on national legal regulation. In particular, there have been grouped into three periods and analyzed the legal aspects of each of them. The author underlines the peculiarities and problematic issues in these three periods, moreover, gives the comparative-legal analyses of measurements and statistics for three periods. The research also emphasizes the international-legal norms which regulate tourism, and gave the developing tendencies of the internationalization of tourism in Uzbekistan as well. In conclusion, it has been developed proposals regarding the further progress of the legal and organizational mechanism the sphere of tourism in Uzbekistan.

Keywords. Development, independence, norms, period, regulation, tourism, Uzbekistan.

ЎЗБЕКИСТОН RESPUBLIKASIDA TUРИЗМНИНГ ҲУҚУҚИЙ ВА ИНСТИТУЦИОНАЛ ТАРТИБГА СОЛИНИШИ: ВУЖУДГА КЕЛИШИ ВА РИВОЖЛАНИШИ

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Аннотация. Ўзбекистонда туризм жадал ривожланаётган даврда ушбу соҳанинг ҳуқуқий ва институционал асосларининг тарихий жиҳатларини ўрганиш долзарбдир. Зеро, мазкур соҳанинг мамлакатимизда тарихий тараққиётини таҳлил этган ҳолда унинг истиқболлари учун режалар тузиш мақсадга мувофиқдир. Шу боис, тадқиқот ишида мазкур тараққиёт даврийлаштирилган ҳолда келтирилади. Хусусан, мақолада бу тараққиёт уч даврга бўлинган ва уларнинг ҳар бирининг ҳуқуқий жиҳатлари таҳлил қилинган. Муаллиф ушбу уч даврнинг ўзига хос хусусиятлари ва муаммоли масалаларини таъкидлайди, шунингдек, уч давр учун қабул қилинган чоралар ҳамда статистиканинг қиёсий-ҳуқуқий таҳлилин аналга оширади. Тадқиқотда, шунингдек, туризмни тартибга солувчи халқаро-ҳуқуқий меъёрларга урғу берилиб, Ўзбекистонда туризмни халқаролаштириш тенденциялари кўрсатилади. Хулосада, Ўзбекистонда туризм соҳасининг ҳуқуқий ва ташкилий механизмини янада такомиллаштириш бўйича таклифлар илгари сурилади.

Калит сўзлар: давр, мустақиллик, нормалар, ривожланиш, туризм, Ўзбекистон.

ПРАВОВОЕ И ИНСТИТУЦИОНАЛЬНОЕ РЕГУЛИРОВАНИЕ ТУРИЗМА В РЕСПУБЛИКЕ УЗБЕКИСТАН: ВОЗНИКНОВЕНИЕ И РАЗВИТИЕ

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Аннотация. В период ускоренного развития туризма в Узбекистане актуальным является исследование исторических аспектов правовой и институциональной базы этой сферы. Ведь анализируя историческое

развитие этой отрасли в нашей стране, целесообразно строить планы на ее перспективы. В связи с этим в статье подчеркиваются периоды этого процесса с акцентом на национальное правовое регулирование. В частности, были сгруппированы три периода и проанализированы правовые аспекты каждого из них. В этих трех периодах автор подчеркивает особенности и проблемные вопросы, а также дает сравнительно-правовой анализ определенных мер и статистики. В исследовании также затронуты международно-правовые нормы, регулирующие туризм, были выявлены тенденции развития интернационализации туризма в Узбекистане. В заключении разработаны предложения по дальнейшему развитию правового и организационного механизма в сфере туризма в Узбекистане.

Ключевые слова. независимость, нормы, период, развитие, регулирование, туризм, Узбекистан.

The development of tourism depends on the stability in the country and it must be legally promoted. Ideally, the state is interested in the development of tourism as the sectors of the economy effective and efficient means of bringing people closer together. Over one hundred countries have adopted legal instruments of regulations in tourism industry. Legal norms define governmental tasks in the field of tourism development and the means of achieving them, the regulation of relations between producers and consumers of tourism services, as well as other relevant for tourism development goals and objectives, the solution of which is impossible without an appropriate legal framework.

Knowingly Manila declaration on world tourism (1980) which marked the stake of tourism in a national economy and international trade converted it into the important index of the world development. Its permanent role in national economy and at international exchange and its influence on smoothing of balance of foreign trade is converted it into one of the important industries of the world economy.

Uzbekistan is mostly known as a country located on the crossroads of Central Asia, linking north and south, east and west worlds as a bridge, its advantageous geographic location made the country an important center on the caravan route known in history as "the Great Silk Road". Not only did trade develop along this transcontinental route, but there was also an active exchange of ideas, culture, traditions, religious, crafts and technologies. Such pearls of the Silk Road as Samarkand, Bukhara, Khiva, Tashkent are unique cities by themselves.

The history of modern tourism and its legal-institutional development in Uzbekistan could be divided into three periods: the first period – the emergence of tourism sphere after the

independence (1991-1999), the second period, the period of formation institutional-legal and international legal aspects of tourism (1999-2015), and a new period for tourism development (from 2016 till now).

1) The period of emergence after the independence (1991-1999). Sharp passing to the middle-end of 80th in the ex-USSR on politics of regional self-supporting basis and the following on its disintegration of economic connections, inflation, disintegration of the soviet state and sticky political wicket, in the Central Asian region resulted in that from 1990 tourism of Uzbekistan equally with other spheres of Republic's economy entered into the crisis. Amount of foreign tourists to 1992, on some estimations, grew shortly in 4-5 times. Learning the dynamics of tourist flow to Uzbekistan, it should be noticed temporary decline while the first period of market economy. If during 1988-1989y. Uzbekistan visited 130-180 thousand tourists, however in 1991 accepted around 13000 tourists, and received approximately 360 thousand USD [1, P.74].

One of the reasons for the lack of development in tourism industry during the first years of independence in the Republic was that at state level, it was not engaged in purposefully as by industry of economy, it was considered as the part of culture. The lack of attention to complex prognostication, corporate strategic planning, territorial organization of tourism and non-state tourism structures. By a factor, braking development of industry, there was also no recognition of tourism activity priority from the side of local bodies of management, in spite of the fact that, greater part of accosts from tourism enters to local budget.

In the first years of independence, as it was marked above, tourism had certain problems as a result of the following factors:

- with a transition from plan-directed into the market system of relations;
- existence of independence from the allied center industry;
- forming of single structure concentrating on itself of all resources of tourism (placing, transport, organization of turns, politics) [2].

“Tourism is this cognition of the world, and at the same time, it is an exit on the world authority. We need to develop this important sphere, use its wide possibilities, - declared the first President of Uzbekistan Islam Karimov, during the session of the Committee of Peoples’ deputies of the Khorezm area from March, 16, 1996. - Our cities Tashkent, Samarkand, Bukhara, Khiva, have 2500-3000-years history. This is an enormous spiritual statement. With the development of tourism, it is possible to convert it into material resources” [3, P.56].

Meantime, during fifteen years the own model of tourism was formed in Uzbekistan, from one hand, by increasing volumes of tourist visits, in particular, raise of international and national tourism, and from the other hand, by developing infrastructure.

Furthermore, the formation of legal and institutional aspects of tourism in the Republic of Uzbekistan is connected with its establishment and development after the independence (from 1991).

In particular, the institutional-legal basis of the first period after the independence (from 1991 till 1999) is characterized as following tendencies:

A primary period (1991-1992) is an obvious imperfection, or absence of the normative base related to the adjustment of relations on providing tourist services, hotel and another service, the development of the departments which are responsible for the adjustments;

Formulation of conceptual bases of modern legislation on tourism: adoption the Law on tourism, Civil Code of the Republic of Uzbekistan, development of legislation on the certification of services in the field of tourism, considerable change (improvement) of legislation about the protection of rights of consumers;

By the complexity of the normative legal regulation in the field of tourism, including by the presence of considerable norms on tourism in contiguous with a legislation about tourist activity branches of legislation;

Creation of the first governmental and non-governmental bodies in the sphere of tourism.

Legal aspects of tourism in the Republic of Uzbekistan are based on the Constitution of the Republic of Uzbekistan, Codes, Laws and bylaw documents. During the process of analysis, we classify it as followings:

Some aspects of tourism, which were expressed in the Constitution of the Republic of Uzbekistan.

Legal basis in the sphere, providing of rights and freedoms of tourists in the Republic of Uzbekistan is based on corresponding positions of the Constitution. Among them we will distinguish those, which are closely enough related to the sphere of tourism. In the Articles 23, 28 and 38 of the Constitution is determined about several norms, which are connected with tourism issues.

Tourism points in normative-legal acts of the Republic of Uzbekistan.

It is necessary to notice that a national legislation in the beginning of market transformations was not integrated into international legal relations in order to regulate tourism industry. For example, positions of such acts, as Manila declaration on world tourism (1980), Charter of tourism, approved by resolution of VI of session of the General assembly of UNWTO (22.09.1985), were not taken into account, moreover, the Conception of governmental regulation of tourism was absent during the first period of development.

There were particular attempts to formulate legal basis in the field of tourism:

a) Civil code of the Republic of Uzbekistan, is used in the civil legal regulation of different forms of activity, including tourism. Basic principles of civil law, concept and signs of legal entity, different legal forms of legal entities that can be used in it, including in the sphere of tourism [4].

b) bylaws - Presidential Decrees and acts of the Cabinet of Ministers of the Republic of Uzbekistan in the sphere of tourism.

One of the first bylaw documents in the field of tourism was the Presidential Decree on the organization of “Uzbektourism” from 27.07.1992 and Decision of the Cabinet of Ministers from 20.10. of this year on “Issues of organization the functioning of Uzbektourism”.

The main objectives of National Company were:

- carrying out of the general policy in tourism development;

- development of all kinds of tourism in Uzbekistan, as well as tourism infrastructure and its material and technical bases, enhancing the quality of services provided for tourists up to the world standards;

- attracting the foreign credits and investments, creation of joint ventures, development of long-term program of cooperation with foreign companies and firms;

- representing the interests of the Republic of Uzbekistan in international tourism organizations [5, p. 30].

However, this institutional body's status was – national company and was regarded as the biggest competitor of other national private tour operators and agencies. Tour companies of foreign countries preferred to collaborate with “Uzbektourism” directly than other private bodies in this sphere. Therefore, various negative approach was given by national tour operators regarding its functioning in the sphere of tourism business. This attitude was changed after reforming this organization into State Committee, which will be noted below.

The institutional reforms continued by the adoption of another norm, namely Presidential Decrees “On measures to strengthen the participation of the Republic of Uzbekistan in the revival of the Great Silk Road and the development of international tourism in the Republic” from 06.02.1995.

Uzbekistan became a full member of the United Nations World Tourism Organization (UNWTO) from 1993, which will be analyzed in the next chapter. For the purposes of further developing the tourism business in our country, for improving the participation of a small and growing tourism organizations and to attract wider involvement of foreign investments to this sphere. The Cabinet of Ministers of the Republic of Uzbekistan adopted the Decision on “Improvement of functioning of tourism organizations” on 8th of August, 1998. The Decision states that, the Association of Private Tourism Organizations (APTO) is introduced to the “Uzbektourism” NC as the member [6]. The APTO successfully plays a significant role in the life of tourism industry of the country and actively involves the private sector into the work of international tourism organizations by attracting

them into the participation at the international forums, training of qualified personnel, promotion and advertising of tourism potential of the country on the world market. Moreover, the Samarkand Declaration on revival of Tourism on the Silk Road (1994) and the Tashkent Declaration was adopted in 1998 on World Culture and UNESCO activities in Member Countries during this period of emergence.

2) The second period – formation of institutional and international-legal aspects of tourism sphere in Uzbekistan.

The important step towards legal regulation of tourism was the elaboration of special Law for regulating this sphere. “Law on tourism” of the Republic of Uzbekistan from 20.08.1999 [7] built the legal framework for tourism of the Republic. Here, it should be noted that, approximately twenty years past after adoption of this law, and law is not dogma which should stay unchanged.

Also, it should be noted that, for that period Uzbekistan became a venue to the several International events in the domain of tourism, which served for making legal basis in the sphere of cooperation on tourism. Particularly:

The Khiva Declaration on Tourism Development and Preservation of the World legacy was announced in 1999;

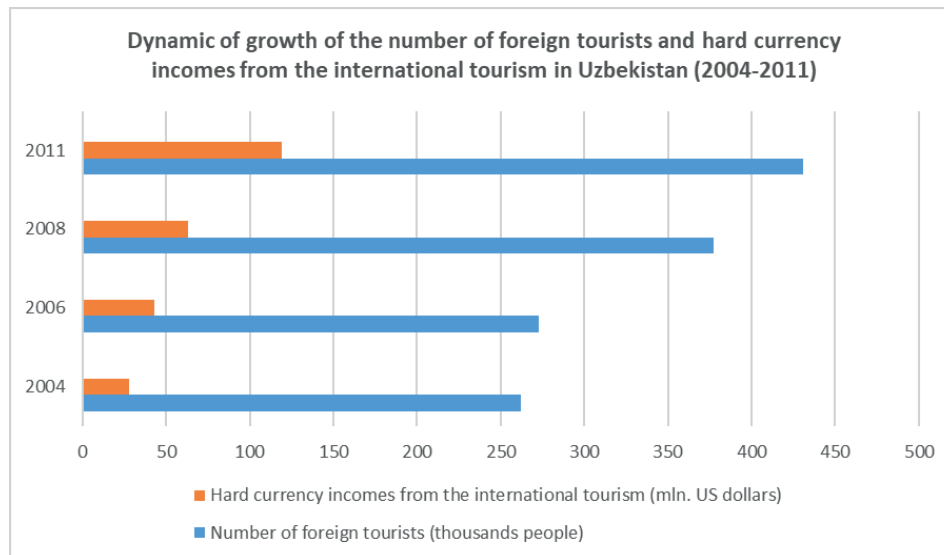
The Bukhara Declaration on further Development of Tourism on the Silk Road (2002).

According to academicians' research, the largest tourist traffic from foreign countries (except Central Asian countries) could be observed traditionally from Germany, France, Belgium, Italy, Japan, USA, Great Britain, Indonesia, Malaysia, India, Turkey etc. They made 65 % of total number of foreign tourists. As the example it was taken the statistics between 2004-2011 of international tourism growth in Uzbekistan [8, p. 25]. (See: “1.1. chart”).

Certainly, it was a positive raise for 7-8 years, however it should be criticized that those barometers are not so high in comparison with World Statistics. Namely, according to the World Travel and Tourism Council, it is projected that the contribution of travel & tourism to GDP globally will raise from 9.2 % (US \$5,751 billion) in 2010 to 9.6 % (US \$11,151 billion) by 2020. The contribution of the travel & tourism economy to employment is also expected to raise from 8.1 %,

or 235,758,000 jobs across the world in 2010, to 9.2 %, or 303,019,000 jobs, by 2020 (World Travel and Tourism Council, 2010). By 2023, the industry’s total economic contribution is forecast to rise to US\$ 10.5 trillion in GDP (2012 prices), almost 340 million in jobs, over US\$ 1.3 trillion

in investment (2012 prices) and almost US\$ 2.0 trillion in exports (2012 prices). The growing importance of the industry in the global economy means that by 2023, the total contribution will account for 10.0% of GDP and 1 in 10 jobs globally [9, p. 78].



1.1-chart

It should also be noted that, opening of regional office of the UNWTO in 2004 in Samarkand, which urged to coordinate the activity of the national tourism organizations of the countries of the Great Silk Road, became the important event [10, p. 26]. The agreement on opening of the Silk Road branch in Samarkand, which was signed in San Marino from 19 May 2004 was a plentiful one on the development of world tourism. It was recognized as an important agreement between the Government of the Republic of Uzbekistan and the World Tourism Organization (UNWTO).

Furthermore, various legal norms were adopted from 1999 – 2015 for further improving this sector of economy in Uzbekistan [11].

Statistics raised after 10 years, in particular according to State Statistics Committee’s information in 2015, the number of visitors came to Uzbekistan were more than 9 mln 17 thousand. While the visits with the aim of tourism, foreign citizens, indicated approximately 1 million 814 [12, p. 6-12]. Within the framework of the unified state policy in the sphere of tourism aimed at creating a modern highly efficient and

competitive tourist complex in the country, a number of normative and legal acts have been adopted aimed at regulating various aspects of the tourism industry.

For that period of time according to the view of foreign scientists, Uzbekistan was evaluated as one of the key countries on the Silk Road, has a very rich cultural and natural resources such as mountains, steppes, lakes and religious attraction. The country has four cultural attractions in the UNESCO World Heritage List which are, Historic Center of Bukhara, Historic Center of Shakhriyabz, Itchan Kala and Samarkand Crossroad of Cultures (UNESCO, 2015). Despite of having a great tourism potential, due to the lack of proper promotion, insufficient funds and perceived negative image, Uzbekistan is not an important tourism destination in the world tourism arena. Lack of a unified tourism policy and strategy are urgent issues that stand in front of tourism development [13, p. 194].

Except this critics, for that period of time following problems were also observed in the sphere of tourism and institutional-legal aspects of this sphere in Uzbekistan:

Instability of public utilities infrastructure, communication and engineering infrastructure;

Concentration on considerable tourism resources in basic tour centers of country, considerably reducing interest in the journeys of foreign tourists to other regions of Uzbekistan, in this connection, a tourism infrastructure in these regions was less developed;

Lack of strong implementation of international standards in law-making process in the sphere of tourism;

Functioning of “Uzbektourism” – as a national company, which allowed to the representatives of tour business of Uzbekistan to expend less efforts on its advancement and realization;

Absence of classified legal basis in the field of tourism, which allow interested subjects’ systematic awareness about reforms in this sphere.

New period for tourism development in Uzbekistan and modern reforms in legal-institutional framework (from 2016).

After December 2016, along with other spheres, the new period for tourism development was began. Critical analysis of this sphere showed that, in the last years, notwithstanding the importance in national economy, there was not paid enough attention to tourism [14, p. 38].

Reforms in normative-legal and institutional regulation of tourism were characterized with following tendencies:

development and implementation of legal norms aimed at enhancing the guarantees and effectiveness of protecting the rights and legitimate interests of consumers of the tourist product, the quality and safety of tourism;

We agree with foreign scientists view that, the legal regulation of tourism - is the effective, normative and organizational impact of the law and the totality of legal tools, and methods on the behavior and activities of participants in this sphere and their relations with a view to establish the legal basis for a single tourism market, the protection of human rights and freedom of citizens in the frame of tourism, including ensuring the rights of citizens to have a rest, freedom of movement, information, health protection, a favorable environment, and participation in cultural life and the use of cultural institutions through tourism [15, p. 16-17].

raise of transparency, stability and investment attractiveness of the tourism business;

reformation of institutional basis of tourism sphere and establishment of regional governing of tourism in Uzbekistan are emphasized in followings:

1. According to Presidential Decree of the Republic of Uzbekistan “On the organization of the activity of the State Committee of the Republic of Uzbekistan for tourism development” from 12.02.2016, which outlined reformation of NC “Uzbektourism” into State Committee which is considered to be functional state body on tourism; Furthermore, it was established the Ministry of Tourism and Sports on the basis of the Ministry of Physical Culture and Sports and the State Committee for Tourism Development [16].

2. There were established regional governmental bodies of the Committee for tourism development in 5 regions (Samarkand, Bukhara, Khorezm, Tashkent and in the Republic of Karakalpakistan) to coordinate the sphere of tourism in these territories. These territories got the right to give the licenses to functioning tourism business from the 1st of June 2018 [17]. Also, the establishment of “National PR- center” under the Committee in order to open and develop touristic potential of Uzbekistan shows the attention to the institutional recreation of current sphere in governmental level.

3. There was established the International Cooperation Department for Tourism Development under the Main Department of Foreign Economic Cooperation of the MFA (the Ministry of Foreign Affairs of the Republic of Uzbekistan) [18].

4. There was created the department for the maintenance of Islamic pilgrimage (Ziyarah) tourism in the Committee for religion issues of the Republic of Uzbekistan [19]. This reform built the foundation to develop the pilgrimage tourism in Uzbekistan and progress bilateral collaboration of the Republic with foreign countries in terms of Islamic tourism;

5. Moreover, establishment of special University – “Silk Road” University in Samarkand, which opens new opportunities for the preparation of professional staff, carry scientific- research and art work in the field of international tourism;

Reformation of Visa issues is observed in several aspects:

Firstly, it was provided to 39 countries of the world, whose citizens can use simplified procedure for the issuing of touristic visas since February 10, 2018. And also, new rules for transit visa was organized from the 1st of May, 2018. Namely, foreigners who move through transit got opportunity to receive entrance Visa to Uzbekistan till 72 hours [20]. And the most important reform, which opens more opportunities in increasing tourist flow and economy development was setting additional visa free regime for 45 countries for 30 days from 01/02/2019.

We should also emphasize that, the difficulties and formalities with time consuming of receiving visas were simplified after recognition of E-Visa system for foreign citizens and tourists, who would like to visit Uzbekistan. Visas, as “Student visa”, “Vatandosh”, “Medical visa”, “Pilgrim visa” and “Academic visa”, which are introduced in the practice of Uzbekistan play an important role to multiple the number of tourists. With this regard, the rules and order of entrance-exit, stay and transit pass of foreign citizens, apatrids and tourists inclusively have been changed [21], which set special simplified rules for temporary stayed tourists (as, temporary stay document if they do not depart in 3 days) and other tourists.

To summarize, at the initial stages of tourism development in Uzbekistan, the main efforts were aimed at attracting foreign tourists to the country, as well as overcoming the negative factors influencing on the development of inbound tourism.

Namely, improvement of the regulatory framework for the development of cultural, educational and pilgrimage tourism, the reformation in the field of tax preferences and the maintenance of security of tourists are also in the process of development now. However,

some aspects of legal promotion of tourism continue to be actual till present. We would like to add the following proposals in the sphere of legal and institutional aspects of tourism, which is advisable to develop:

Formation of legal bases of self-regulation in the tourism industry, including active development of rule-making initiative and process of self-regulation organizations (associations (unions) of tour operators and insurers in the field of tourism);

Establishment of legal acts, which regulate the issues of various types of tourism (as ecotourism and pilgrimage tourism), classical and standardization in various segments of tourism industry and tourism product (accommodation facilities, beaches, ski slopes, etc. (in some sources they are called as main packet and additional packets of tour product);

Creation of a network of representative offices of the Ministry of Tourism and Sport of the Republic of Uzbekistan in foreign countries, where Uzbekistan possesses embassies or consulates for the purpose of promotion of tourism potential and development;

Creation of a tax instrument and legal promotion to support social tourism (children, youth, elderly people, etc.) by introducing into practice tourist activity of social tax deduction for tax on income from individuals when paying for travel expenses within the limits of the territory of the Republic of Uzbekistan;

simplification of registration procedure of tourists in the territory of Uzbekistan by departments of the Ministry of Internal Affairs;

improving the regulatory framework for the development of pilgrimage (Ziyarah) tourism in Uzbekistan;

further simplification of visa procedures to Uzbekistan and develop cooperation on this issue within Central Asian countries.

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YURISPRUDENSIYA

HUQUQIY ILMIIY-AMALIY JURNALI

2021/5

ISSN 2181193



9 772181 193800

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Журнал 15.12.2021 йилда типографияга
топширилди. Қоғоз бичими: А4.
Шартли 23,52 б.т. Адади: 100. Буюртма: № 70.

ТДЮУ типографиясида чоп этилди.