

Legal Support of Consumer Rights Protection in the Tourism Sector

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Abstract

The article deals with the legal support of consumer rights protection in the tourism sector. It is established that the protection of tourism services consumers is becoming increasingly important for society. Consequently, this factor results in strong need for regulations in the tourism sector, aimed at protecting the consumer rights that directly affect their quality of life, play the role of a regulator in the tourism sector, determining the satisfaction of the real needs of tourists in the context of constantly increasing service standards. It is proved that the legislative and institutional system of protection of tourism services consumers is a complex mechanism for promoting and consolidating loyal competition in the market, which is a decisive factor for reducing corruption, having a positive effect on the protection of the legitimate rights and interests of tourism services consumers.

Key-words: Law, Consumer Rights Protection, Tourism Service, Quality, Competition, Service.

1. Introduction

In the current context, tourism is a promising sector of the country's economy, one of the priority areas of its development. At the same time, the indicators of the tourism industry development in the Russian Federation, unfortunately, are not so positive; on the contrary, due to several external and internal reasons, the state of the tourism industry manifests a negative trend.

The decline in the tourism industry development indicators in Russia is primarily due to the harsh economic situation in the country. But these are not all the obstacles that hinder the development of this industry. In this case, the low level of services provided to the tourism services consumers, as well as the imperfection of the Russian legislation on consumer rights protection when providing tourism services, should be attributed to the inhibiting factors. The number of complaints and claims for the protection of consumer rights in the field of providing tourism services increases every year. Dissatisfied tourists demand restoring their violated rights and getting compensation for both material and moral damage.

The study of issues related to the regulation of the tourism sector is reflected in the works of N.V. Belokhvostova (2017), A.S. Kuskov and N.V. Sirik (2017), I.E. Otchesky (2016), Yu.S. Prokhorova (2019), V.V. Chernomorets (2019), and others. At that, currently, there are no clear determinants of the legal provision of consumer protection in the tourism sector.

2. Methods

The theoretical and methodological basis of the research included an abstract-logical method, methods of induction, deduction, analysis, synthesis, and systematization, used to justify approaches to determining the features of legal support for consumer protection in the tourism sector.

The information base of the article included the statistical data of state bodies, legislative and regulatory documents governing the legal provision of consumer protection in the tourism sector, as well as the results of scientific research (Otchesky, 2016; Arifullin, 2009; Ogloblina et al., 2020; Reznikova et al., 2020).

The research aimed to determine responsibility features in the tourism services sector, methods of solving civil disputes, as well as to consider the principal interactions among the main stakeholders in the tourism sector.

3. Results

The practice has shown that the needs of tourists represent a combination of the needs of travelers and tourists related to accommodation and trips, which are provided by the catering enterprises, accommodation facilities, and transport companies. Also, the needs of tourists can be

attributed to the totality of human attitudes towards active recreation, readiness to travel, and trips to different regions or other countries.

Thus, in the most simplified version, the service can be defined as the result of direct interaction between the performer and the consumer, as well as the performer's activities to meet the needs of the consumer. Tourism services are one of the service types, while a tourist is a consumer of tourism services (including international ones).

Tourist consumption has an integrated character and is a specific form of consumption of the tourism industry products by the tourist. It consists of a complex of various products and services, tangible and intangible tourism products that meet the motivational needs of the tourist, as well as the needs associated with the provision of daily living during the trip. This type of consumption results in a comprehensive impression received by the consumer from recreation, recovery, as well as pleasure while generating profit for the producer of tourism products.

At the same time, participants in legal relations arising in the provision of tourism services are tourism services producers, suppliers, and consumers. At that, the current legislation of the Russian Federation regulates the following main areas of tourist activities: the functioning of tourism industry objects (primarily accommodation facilities); professional activity in tourism, i.e. the conditions under which it becomes possible to be engaged in professional tourism activities; rights and obligations of tourist activities participants; measures to protect the tourism products consumer rights; and assistance to the tourism sector from state institutions.

Besides, a tourism services consumer has the same rights as a consumer in other areas, while tourism services aim at providing individual services to meet the needs of the tourist during the trip, being part of the integrated tourism service. Along with the term "tourism service", the term "tourism product" is used as well.

The introduction of the concept of "tourism product" is caused by the fact that the legislator qualifies the relations that arise between the parties as a retail sales agreement, obviously considering the "tourism product" as an object that can be sold. Therefore, a tourism product is a set of tangible (consumer goods) and intangible (services) consumer values necessary to meet the needs of a tourist that arise during the journey. Tourism product also includes a tour, tourism and excursion services, and goods.

At the regulatory level, the concepts of "tourism product" and "tourism service" are enshrined as follows: 1) the service is the activity of the contractor for the provision (transfer) to the consumer

of a tangible or intangible weal specified in the agreement, which is carried out on an individual order of the consumer to meet his personal needs; 2) tourism product is a pre-developed package of tourism services that combines at least two such services, which is sold or offered for sale at a certain price, which includes transportation services, accommodation services, and other tourism services that are not related to transportation and accommodation (services for organizing visits to cultural, recreation, and entertainment facilities, and sales of souvenir products).

It is possible to distinguish two blocks of responsibility in tourism activities which are essentially contractual. One of them has a compensatory nature, while the second is a penalty. When developing the liability standards in the tourism services providing sector, the legislator uses the blanket rules regulating civil, administrative, and criminal liability. Besides, when developing legal norms regulating the provision of tourism services and providing for a real mechanism for protecting consumer rights in this sector, law enforcement practice should be taken into account.

Liability for damage caused to the life, health, and property of a tourist is set forth by law if the agreement for tourism services does not provide for wider responsibility of the tour operator. In this case, there are several ways to protect the tourism services consumer rights (Figure 1).



At the same time, contractual liability in tourism activities occurs in the event of nonperformance or improper performance of the agreement. Nonperformance or improper performance of obligations may occur either through the fault of the services provider or as a result of a certain occurrence. Depending on the specified types of agreements concluded in the tourism sector,

the civil liability of the tourist activity subjects can be divided into three groups: a) the liability of the tour operator (travel agent) to the tourist; b) the liability of the tour operator (travel agent) to the partners; c) the liability of the tourist, the association of tourists to the tour operator (travel agent).

In this case, the property liability is borne by the tourist activity subject, which violated the legislation in the tourist activity sector when providing tourism services, that is, violated the terms of the agreement between the tourist and the subject of tourist activity for providing tourism services, and through whose fault the customer suffered damage.

As concerns the liability of a tour operator and travel agent to tourist for nonperformance or improper performance of obligations under the agreement, the tourist has the right to demand completion of all services from the tour operator and travel agent irrespective of who provides these services. However, in case a tourist refuses services, the issue becomes disputable, because tourism service as such was not rendered.

There is an opinion that under such circumstances, one should proceed from terms "customer" and "performer", defined by the legislator, that is if the individual has signed the agreement for tourism services, he has entered into the legal relationship with the tour operator, which is regulated at the legislative level, and an integral part of these relations is changing the terms of the agreement, its termination (the waiver), nonperformance, or improper performance.

At that, claims and complaints about the protection of violated rights in the tourism sector can be classified as follows: 1) nonperformance or improper performance of services promised by the tour operator; 2) failure to timely inform the tourist about the changes in the tour program, the submission of false or inaccurate information about the tour; 3) limitation of own liability of tour operator for the change in the tour terms; 4) additional fees; 5) low service level; 6) violation of the consumer's right to the safety of the service.

There are two ways to resolve civil disputes when providing tourism services: nonjudicial and judicial. The vast majority of such disputes can be resolved out of court. The nonjudicial procedure for resolving civil law disputes in the field of providing tourism services provides for the following stages: appeal directly to the tour operator; appeal to the insurance company; appeal to the relevant state institution or other agency that can contribute to the resolution of the dispute.

In this case, the courts consider cases on claims for the protection of the tourist rights as consumers of tourism services in civil proceedings and also resolve disputes on claims for the

recovery of funds in the course of economic court proceedings. The problems in this area concern, first of all, violation of the rules of affiliation and jurisdiction. Regulating the judicial practice of resolving disputes concerning consumer protection in general, and, accordingly, in the tourism services sector may be based on the resolution of the Supreme Court of the Russian Federation.

However, according to the Civil Code of the Russian Federation, the property liability is borne by the subject of tourism activity, which has violated the legislation in the tourism activity sector when providing tourism services, breached the terms of the agreement between the tourist and the subject of tourism activity for the provision of tourism services, and through whose fault the customer (tourist) suffered damage.

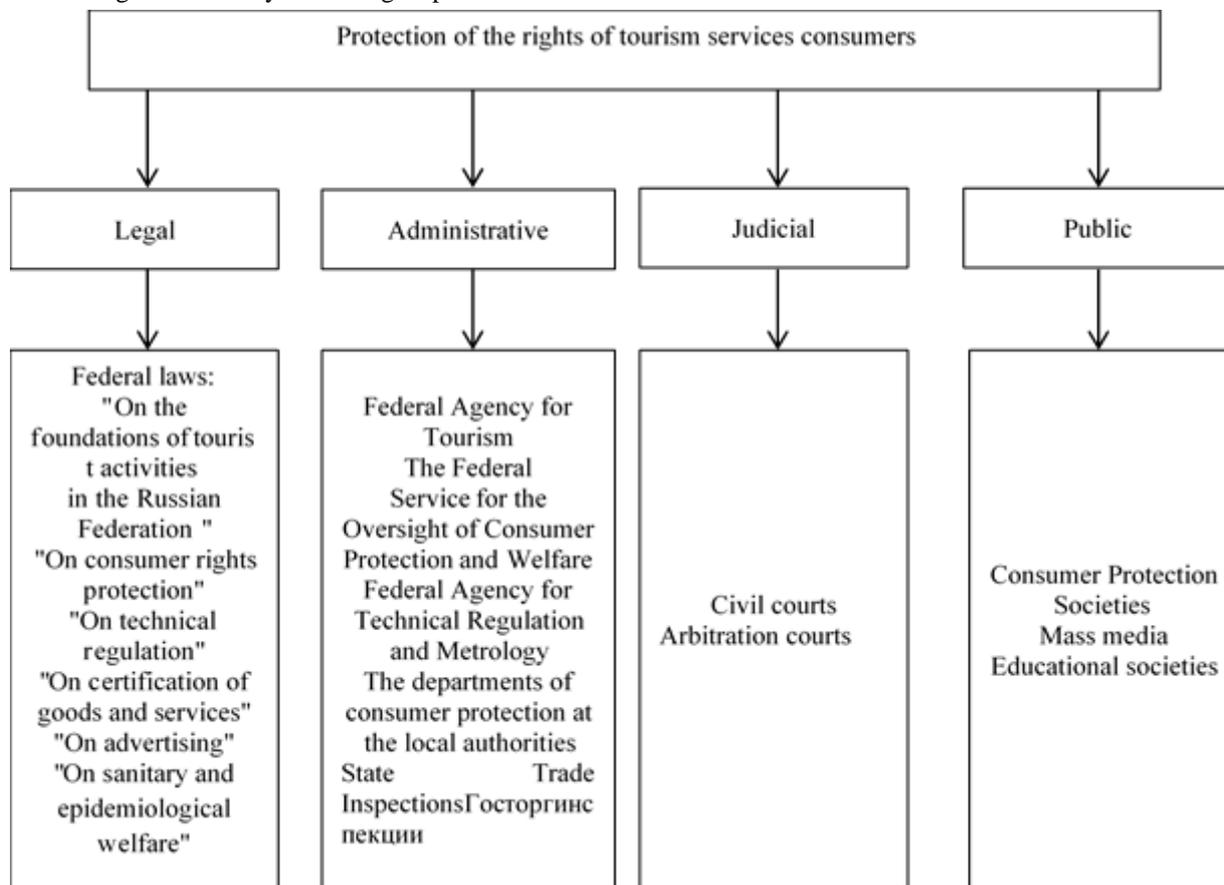
In the case, if the court has revealed the facts of issuance of a voucher by the tour operator, which is the form of a written agreement for tourist services, the responsibility for the breach of an essential term of the agreement by making any unilateral modifications of essential terms of the agreement for tourism services by the tour operator, as well as the failure to take necessary measures on informing tourists concerning made changes, cannot be borne by another subject of tourism activities providing tourist services, or the tour operator.

This conclusion is fully consistent with the provisions of international acts, in particular, Article 15 of the UN International Convention on Travel Contracts, which states that in the event of a breach of the obligations under the agreement, the intermediary is considered as the organizer of the trip, and is responsible for the damage resulting from this violation. In this case, successful activity in the tourism services market requires creating a system of consumer rights protection, which consists of legal, administrative, judicial, and public subsystems (Fig. 2).

Even though legal protection for tourists is provided by a significant number of legal acts, some of them are still imperfect, give rise to disputes, disagreements, and need further refinement and

coordination. At that, determining the legal status of the tour operator and the travel agent, the customer, and the tourist occupies a special place in the legal relations on tourism services.

Figure 2 - The system of rights protection of tourism services consumers in the Russian Federation



4. Discussion

The reliability of the presented approaches is confirmed by the fact that the concept of consumer behavior includes a set of decisions of an individual or a group of people directly related to the purchase of goods and services to meet their current and future needs, including decisions that precede these decisions (Lobanov et al., 2020; Lukiyanchuk et al., 2020; Zavalko et al., 2017). With this basis and major concern, as well as the motivation, according to which humanity's awareness of consumer status is a relatively recent phenomenon, the concept of consumer rights protection is also becoming an important focus area.

Studies concerning this issue may interpret consumer protection as a form of promotion and protection of basic consumer rights, taking into account a group of public and private provisions to ensure, continuously improve, and respect the interests of consumers. At the same time, informing people about their status as a consumer is a phenomenon that has developed during the increase in the supply of tourism products and services, and simultaneously with the competition, which has reached a very high level. In this case, anyone can get the status of tourism services consumer.

Consumer protection can be achieved through individual self-protection and associated protection, as well as directly by federal government agencies. In this case, there is a double link between the state and the individual. The state offers the individual the opportunity to develop their own potential for self-protection, and the latter claims the rules, laws, and standards that provide the legal framework for the manifestation of this ability. Everyone tries to ensure a balanced condition based on compliance with the agreed provisions and ensuring that all citizens have access to tourism products without risk, while properly and fairly promoting the development of the tourism economy.

The most effective method of protecting the rights of tourism services consumers is their awareness of the methods by which the state is obliged to protect them. This is because the protection of rights concerning tourism products and services is carried out in a more complex way, since these products and services are intangible, characterized by difficulty in assessing the level of their quality, perceived by the consumer subjectively, and also because many consumers do not pay attention to or even ignore this aspect when it comes to signing an agreement for the sale of a package of tourism services with travel agencies.

5. Conclusion

Summing up, it can be noted that the protection of tourism services consumers is becoming increasingly important for society. In this regard, there is a very strong need for regulatory acts in the concerned area aimed at protecting the rights of consumers. Such regulatory acts directly affect consumers' quality of life, play a regulatory role in the tourism sector, ensuring the satisfaction of the real needs of tourists in the context of constantly increasing tourism services standards. Besides, the control of economic activities reduces the risk of creating a threat that may be caused by irresponsible use of technologies, methods, and products, harmful to the life, health, and safety of tourists.

In this case, the legislative and institutional system for protecting tourism services consumers represents a complicated mechanism for promoting and consolidating loyal competition in the market. Since this mechanism defines accurate and transparent rules of the game for all participants in the tourism sector, it is a decisive factor to reduce corruption and has positive impact on the protection of the legitimate rights and interests of tourism services consumers.

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