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## **International Legal and National Legal Aspects of Tourism Activity: Legal Support for Tourism in the Republic of Kazakhstan**

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**Abstract.** The formation of a market economy in Kazakhstan has increased interest in forms and methods of tourist services. Tourism industry development at an accelerated pace and the increasing negative consequences of competition and commercialization of tourism activity have led to an understanding of the need for state regulation of tourism activity. The main goals, objectives, principles and directions of the state policy of Kazakhstan in the field of tourism are defined in the Law of the Republic of Kazakhstan “On touristic activity in the Republic of Kazakhstan” dated 13 June, 2001, as well as the Concept of tourism industry development of the Republic of Kazakhstan until 2023. In modern conditions, tourism industry development is impossible without determining the main development directions of the legal framework of tourism activity in the Republic of Kazakhstan. The article discusses a set of measures in the tourism sector aimed at the development of tourism, designed to improve legal regulation in this area and form a strong legal framework for the development of the tourism industry in the Republic of Kazakhstan.

**Keywords:** legal regulation, legal support, tourism activity, United Nations World Tourism Organization (UNWTO), Law of the Republic of Kazakhstan “On touristic activity in the Republic of Kazakhstan” of 2001, Concept of tourism industry development of the Republic of Kazakhstan until 2023.

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**Introduction.** In the 21st century, the role and importance of tourism for individual, society and state has increased. Tourist travel in modern conditions is an integral part of human life associated with the realization of their right to rest and leisure, freedom of movement, the right to access cultural values, as well as other universally recognized human and civil rights and freedoms, which are enshrined in the Universal Declaration of human rights of 1948 [1]. Tourism also performs important socio-economic, cultural, environmental, international and other functions.

Within a single state, the development of tourism determines the creation of additional jobs, developed local infrastructure and various services, and brings huge revenues to both private

and state sectors and in the form of currency from services rendered, and taxes from the tourism industry. This explains the fact that tourism is considered as the most profitable sector of the economy in such countries as the United States, France, Great Britain, Italy, Spain, Austria, as well as in Turkey, Thailand, Egypt, and others.

Meanwhile, we can state not only advantages of this phenomenon for the Kazakhstan economy and citizens, but also the growing problems associated with legislative gaps and “shortcomings” related to the process of crossing the border, performing tourist formalities, protecting the rights of outgoing and incoming tourists from terrorism and natural disasters.

This raises the question of the need for comprehensive international legal regulation

of relations in the field of international tourism through interaction on a multilateral and bilateral basis. The study of opportunities for solving this problem is of practical importance and is relevant in view of the trend towards the development of comprehensive international cooperation [2].

**Methodology.** The present research paper involves an analysis of organizational and legal mechanisms of regulating tourism activity in the Republic of Kazakhstan. It was also necessary to mind international legal regulation of tourism by the United Nations and the World Tourism Organization as well. Analysis of the current organizational measures for implementation of state policy in the sphere of tourism activity and statistical data outlining the effectiveness of such policy, in tourism generally, was also fulfilled. This approach made it possible to conduct comprehensive research not only of the features of tourism regulation in Kazakhstan, but also of the potential effectiveness or inefficiency of the measures applied. There were studied international contracts regulating tourism industry by applying the conceptual method. There have been analyzed norms, and their role in regulating global tourism determined.

In research process there were used various research methods, including analysis and synthesis, historical methods, and methods of generalization and description.

**Discussion.** *The activity of the United Nations World Tourism Organization*

After the World War II, International Union of Official Travel Organizations (IUOTO) was engaged in processing and forming tourism terminology and definitions. After, in 1974 it was transformed into the United Nations World Tourism Organization (UNWTO). Subsequently, the mechanism of international cooperation to regulate the development of international tourism activity was formed primarily on the basis of a system of organs and specialized agencies of the United Nations, where UNWTO had played and currently plays a leading role.

At the initiative of the United Nations, the UNWTO and other specialized agencies, as well as other international intergovernmental organizations, numerous conferences, meetings,

summits, working sessions were held to harmonize the positions of states and coordinate their activities, develop uniform international legal norms and, consequently, adopted “resolutions of international organizations”, which formed the general legal position of the world community in the sphere of tourism development. Among the first was the United Nations Diplomatic Conference held in New York in 1954 under the auspices of ECOSOC for customs formalities, which adopted three international instruments: The Customs Convention on the Temporary Importation of Private Road Vehicles, the Convention Concerning Customs Facilities for Touring and Additional Protocol to the Convention concerning Customs Facilities for Touring, relating to the Importation of Tourist Publicity Documents and Materials. These international treaties allowed to continue systematic development of international tourism, catching the deterrent tendencies: they recommended not to charge “duties and taxes” for imported, transported by foreign tourists for their own transportation vehicles, personal items and advertising information materials.

During the years of the UNWTO activity, significant international regulatory acts on tourism issues have been adopted, among them are:

- Manila Declaration on World Tourism of 1980;
- The Tourism Charter and its section “Tourism Code” of 1985;
- The Hague Declaration on Tourism of 1989;
- Global Code of Ethics for Tourism of 1999;
- Osaka Tourism Declaration of 1994;
- Osaka Millennium Declaration of 2001;
- Istanbul Declaration on Tourism and Culture: for the benefit of all of 2018;
- The Kyoto Declaration on Tourism and Culture: Investments in Future Generations of 2019;
- The Nur-Sultan Declaration: “Smart Cities, Smart Destinations” of 2019; and other international legal acts.

There are several documents devoted to certain aspects of tourism, for example:

- UNWTO statement on the prevention of

organized sex tourism (Madrid (Spain) and Saint Vincent, Balle-d'Aosta (Italy), 1995);

- documents of the International conference on tourism safety and travel risk reduction (Ostersund (Sweden), 1995);

- the Montreal Declaration adopted by the General Assembly of the International Bureau of social tourism (Montreal (Canada), 1996) on social tourism issues;

- Proceedings of the UNWTO Madrid seminar on training for tourism (Madrid (Spain), 2000).

International agreements in the field of tourism can be classified into: multilateral international agreements in the field of tourism and travel (for example, the Schengen agreements of the European Union "on the common visa and tourist space"); bilateral agreements in tourism [3].

*The legislation of the Republic of Kazakhstan in the field of tourism activity*

The legislation of the Republic of Kazakhstan in the field of tourism activity defines the legal, economic, social, organizational bases of tourism activity as one of the branches of the economy of the Republic of Kazakhstan [4].

The legislation of the Republic of Kazakhstan on tourist activity is based on the Constitution of the Republic of Kazakhstan and consists of the Civil Code of the Republic of Kazakhstan, enforced by the Decree of the Supreme Council of the Republic of Kazakhstan dated December 27, 1994, the Law on Touristic Activity in the Republic of Kazakhstan dated 13 June, 2001 and other normative legal acts and state development programs of the Republic of Kazakhstan, including in practice, rules of international agreements, except cases when from the international Treaty follows that its application requires the promulgation of new laws and legal acts.

Chapter II "State regulation of tourist activities" of the Law of June 13, 2001 No. 211-11 "on Touristic Activity in the Republic of Kazakhstan" is, in essence, the core of this regulatory act. It is here that the most important legislative provisions are stated: on the place of tourism in the economy of Kazakhstan, on the principles of state regulation of tourist activities,

on the goals, priorities and methods of state regulation of tourism. Thus, article 9, paragraph 2 states that the state recognizes tourism as one of the priorities and highly profitable sectors of the economy of the Republic of Kazakhstan. For the first time, the norm of the law States that tourism is a branch of the economy of Kazakhstan and that this industry is given one of the leading values.

Among the main goals of state regulation of tourist activities, article 9, paragraph 1 of the Law specifies: ensuring the rights of citizens to rest, freedom of movement and other rights when traveling; protecting the natural environment; creating conditions for activities aimed at educating, educating and improving tourists; development of the tourism industry that meets the needs of citizens when traveling, creating new jobs, increasing the income of the state and citizens of Kazakhstan, developing international contacts, preserving tourist attractions, rational use of natural and cultural heritage [5].

It is necessary to develop the tourism industry based on well-thought-out and consistent measures aimed not only at making a profit, but also at creating a high tourist culture among the population. The development of the legal framework in the field of tourism organization is necessary for the settlement of a whole range of social relations that arise in the process of exercising a citizen's right to freedom of movement and the right to rest. At the same time, it is necessary to improve the legal sphere in a comprehensive manner, considering the economic development of this industry. The development of the existing tourist infrastructure and the creation of new tourist products in domestic tourism needs legal support, which is designed to regulate public relations in this area, considering sports and juvenile characteristics in this area. Accordingly, the legal regulation of tourist activities is designed to have a positive regulatory impact on public relations that arise in the process of consumption of tourist products. Improvement of legal norms and legal procedures in the field of tourism organization is necessary for the effective implementation of the rights and obligations of legal entities that

exercise their legal personality in the field of tourism. In modern conditions, the development of the tourism industry is impossible without determining the main directions of development of the legal framework of tourist activity in the Republic of Kazakhstan. The main political and legal acts in the field of tourism development include the Concept of tourism industry development of the Republic of Kazakhstan until 2023 [6].

Minister of culture and sports of Kazakhstan Arystanbek Mukhamediuly reported that the project was developed as part of the implementation of step 86 of the National Plan "100 concrete steps to implement five institutional reforms" of the Head of state. The Concept is expected to be implemented in two stages: 2018-2020 and 2021-2023. According to the Concept, it is planned to create six regional cultural and tourist clusters: "Astana - the heart of Eurasia", "Almaty-free cultural zone of Kazakhstan", "Pearl of Altai", "Revival of the great silk road", "Caspian gate", "Unity of nature and nomadic culture". Considering the specifics of the regions, new areas of tourism will be developed - sacred, camping, gastronomic, hunting, ethnographic, social and others. To promote an attractive image and doing marketing "Cazadores" organization is planned to be created.

A conceptual model of state regulation and promotion of the national tourism product based on international experience and industry needs is also defined. Measures have been developed to increase the attractiveness of the country for the development of inbound tourism, attract investors and improve the system of national statistics in the field of tourism, as well as to develop infrastructure in the tourist regions of the Republic. The Concept was thoroughly developed and discussed in the Kazakh expert community [6].

Important political-legal document defining the development of the tourism industry, is the development Program promising tourist industry of the Republic of Kazakhstan for 2010-2014 [7], approved by the decree of the Government of the Republic of Kazakhstan dated 11 October 2010, as well as the development

of a Program for development of perspective directions of tourist industry of the Republic of Kazakhstan for 2015 - 2020. From a conceptual point of view in the development of tourism, the Government of the Republic of Kazakhstan will retain its leading role in the development of tourism policy. It will continue to play the role of the main coordinator of the implementation of state policies and activities of state bodies aimed at the development of the tourism industry. Currently, the tourism Council operates as an Advisory body under the Government of the Republic of Kazakhstan. Authorized body in the field of tourism - a state body responsible for the formation and implementation of state policy in the field of tourism activities, attracting investment in the tourism industry, state control over compliance with the legislation of the Republic of Kazakhstan on tourism activities. Regional tourism departments under local Executive bodies of regions and cities of national significance [7].

**Results.** *Describing the necessity of taking measures in tourism sector aimed at strengthening the legal framework for tourism development*

To ensure effective work in the regions and the development of five tourism clusters in the regions, it is necessary to further improve the structure of public administration at the regional, district and city levels, including increasing their number, by making changes to the approved standard structure and optimizing the functions assigned to the management, including:

- design and professional development of the proposed tourist product (in the long term) at the regional level;
- support and promotion of tourism products and projects at the regional level;
- promotion of the destination, including brand creation and image formation;
- coordination and management of tourist destinations;
- continuous support of tourist information centers, as well as ensuring their accessibility for tourists;
- coordination of annual operational and marketing plans for tourism promotion with the authorized body in the field of tourism;



- development, organization and holding of special events for the development and promotion of the destination;

- implementation of classification procedures by issuing a certificate to hotel-type accommodations, ensuring the control of accommodations over the performance of tourist services.

Having considered a wide range of innovations in Kazakhstan legislation in the field of tourism, it should be recognized that the introduction of all these norms will significantly improve the legal regulation of tourism in the Republic of Kazakhstan. However, it should be noted that, in our opinion, Kazakhstan's concepts and programs do not pay enough attention to sports, children's and youth tourism. As a basis for the development of these areas, it is necessary to consider the CIS Model law "on children's and youth tourism" [8]. This law establishes the basis for the development and implementation of national policies in the field of children's and youth tourism. It is intended to contribute to the creation of conditions in the member States of the Commonwealth of Independent States for the comprehensive development of children's and youth tourism as an effective means of education, training, health improvement, professional orientation, social adaptation of students, promotion of a healthy lifestyle, an effective system of continuing education and personal development. The objectives of the law are:

- ensuring and protecting the rights of children and young people to engage in tourism and local history, to rest and organize free time;

- creation of legal guarantees for the functioning and development of children's and youth tourism;

- determination of the rights, duties and responsibilities of individuals and legal entities in the development of children's and youth tourism;

- regulation of public relations between

individuals and legal entities with parents (legal representatives of children);

- creating conditions for the development of the system of children's and youth tourism;

- improving the management of the system of children's and youth tourism based on the principles of differentiation of competence between the management bodies of education, physical culture, sports and tourism, youth and public organizations of tourist orientation, between state authorities in the center and in the field [8].

**Conclusion.** Kazakhstan, having a rich tourist and recreational potential, is characterized by an insufficient level of tourism development. Its share in the gross domestic product is about 0.3 %. In the structure of tourist activity, outbound tourism prevails over domestic tourism, while domestic tourism is significantly inferior to inbound tourism. Analysis of incoming tourist flows in Kazakhstan shows that the Republic remains insufficiently attractive for foreign tourists, and therefore, the number of tourists entering the country is significantly behind pre-crisis indicators [4].

The main directions for improving the legal regulation of tourist activities in the Republic of Kazakhstan are currently being laid. At the same time, the intersectoral nature of the developing inter-sectoral Institute – "tourism" or "tourist activity" - needs to be improved in the areas discussed above. A set of measures in the tourism sector aimed at the development of tourism is designed to improve legal regulation in this area and form a new legal framework for the development of the tourism industry in the Republic of Kazakhstan. Proper legal support for the tourism sector is sufficiently necessary since tourism has become one of the most important sources of economic activity, and it directly generates services, goods, foreign currency, employment and investments [9].

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### **Международно-правовые и национально-правовые аспекты туристской деятельности: правовое обеспечение туризма в Республике Казахстан**

**Аннотация.** Формирование рыночной экономики в Казахстане повысило интерес к формам и методам реализации туристских услуг. Развитие туристской отрасли ускоренными темпами и усиливающие негативные последствия конкуренции и коммерциализации туристской деятельности привели к пониманию необходимости государственного регулирования туристской деятельности. Основные цели, задачи, принципы и направления государственной политики Казахстана в области туризма определены в Законе Республики Казахстан от 13 июня 2001 года «О туристской деятельности в Республике Казахстан» 2001 года, а также в Концепции развития туристской отрасли Республики Казахстан до 2023 года. В современных условиях развитие туристской отрасли невозможно без определения основных направлений развития правовой базы туристской деятельности в Республике Казахстан. В данной статье обсуждается комплекс мер в туристской отрасли, направленный на развитие туризма, на совершенствование правового регулирования и формирование сильной правовой базы в сфере туристской деятельности в Республике Казахстан.

**Ключевые слова:** правовое регулирование, правовое обеспечение, туристская деятельность, Всемирная туристская организация Организации объединенных наций (ЮНВТО), Закон Республики Казахстан 2001 года «О туристской деятельности в Республике Казахстан» 2001 года, Концепция развития туристской отрасли Республики Казахстан до 2023 года.

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**Туристік қызметтің халықаралық-құқықтық және ұлттық-құқықтық аспектілері: Қазақстан Республикасында туризмді құқықтық қамтамасыз ету**

**Аннотация.** Қазақстанда нарықтық экономиканың қалыптасуы туристік қызметтерді жүзеге асырудың нысандары мен әдістеріне қызығушылықты арттырды. Туризм саласының қарқынды дамуы және туристік қызметтің бәсекелестігі мен коммерциализациялауының жағымсыз салдары туристік қызметті мемлекеттік реттеу қажеттілігін түсінуге әкелді. Қазақстанның туризм саласындағы мемлекеттік саясатының негізгі мақсаттары, міндеттері, қағидаттары мен бағыттары «Қазақстан Республикасындағы туристік қызмет туралы» Қазақстан Республикасының 2001 жылғы 13 маусымдағы Заңында, сонымен қатар Қазақстан Республикасының туристік саласын дамытудың 2023 жылға дейінгі тұжырымдамасында айқындалған. Қазіргі таңда туризм саласының дамуы Қазақстан Республикасында туристік қызметтің құқықтық базасының негізгі даму бағыттарын айқындауынсыз мүмкін емес. Бұл мақалада Қазақстан Республикасында туризмді дамытуға, туристік қызмет аясында құқықтық реттеуді жетілдіруге және мықты құқықтық базаны қалыптастыруға бағытталған туризм саласындағы іс-шаралар кешені талқыланады.

**Түйін сөздер:** құқықтық реттеу, құқықтық қамтамасыз ету, туристік қызмет, Біріккен ұлттар ұйымының Дүниежүзілік туристік ұйымы (ЮНВТО), «Қазақстан Республикасындағы туристік қызмет туралы» Қазақстан Республикасының 2001 жылғы Заңы, Қазақстан Республикасының туристік саласын дамытудың 2023 жылға дейінгі тұжырымдамасы.

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