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DIVISION OF AUTHORITY AND POWERS BETWEEN SUBJECTS OF THE RUSSIAN FEDERATION AND MUNICIPAL FORMATIONS IN SPHERE OF DEVELOPMENT OF TOURISM

Abstract. By this article the fundamental scientific task addressed is to develop a unified, logically consistent understanding of the nature of scientific problems related to political and legal aspects of the implementation of the powers of state authorities of the subjects of the Russian Federation and local self-government bodies in sphere of tourism development, as well as studying the current state studies of political and legal aspects of the implementation of the powers of state bodies of the subjects of the Russian Federation and local self-government bodies in sphere of tourism development.

The analysis, synthesis and legal methods were used in the study of the division of authority and powers between subjects of the Russian Federation and municipal formations in the sphere of development of tourism.

The study reveals, in Russian federal laws, division of authority and powers between subjects of the Russian Federation and municipal formations in the sphere of development of tourism development is based on a fragile balance that is based on ambiguously interpreted norms of the Constitution of the Russian Federation.

Keywords: division of authority and powers between of state authorities and local self-government bodies, Constitution of the Russian Federation, federal state, federalism, human rights, the jurisdiction of Federation, joint jurisdiction of federation and subjects of the federation, the jurisdiction of subjects of federation, laws on tourism, Russian federalism, tourism.

Introduction. Accumulated social experience and constantly evolving tourism legislation require rethinking of the general conceptual approaches to the study of political and legal aspects of the implementation of the powers of state authorities of the subjects of the Russian Federation and local self-government bodies.

Russian state pushes domestic business to modernize [15]. The governance of national borders and the growth of (mass) tourism are both linked to the processes of modernisation [14]. As with other open system sectors, tourism and hospitality organizations commonly engage in strategic planning as a means of gaining competitive advantage in the face of an increasingly uncertain, dynamic and complex world [7, 8]. Tourism, in particular indigenous, is considered as a means of facilitating socio-economic benefits to Indigenous individuals, communities and host regions [5]. As Kazakh researchers A.M. Madisheva, A.S. Bikenova and English scientist L.T. Eleusis note, analyzing the policies and activities carried out in sphere of tourism regulation in foreign countries, some of the principal approaches common to all the most developed countries in the tourist sphere the main role in regulating the development of tourism of public authorities, with the creation at the national level of a single governing body, up to giving it the status of a ministry [11]. Legal regulation of tourism, including constitutional, is of great importance for the creation of favorable conditions for tourism. One of the aspects of the legal support of tourism activities is the distinction between the subjects of competence between subjects of federation and municipal formations, which determines the competence of regional and local authorities.

Methods. The analysis, synthesis and legal methods were used in the study of the division of authority and powers between subjects of the Russian Federation and municipal formations in sphere of development of tourism.

Discussion and results. The Constitution of Russia defines the state as federative (Article 1), in accordance with this act the Russian Federation consists of Republics, territories, regions, cities of federal importance, an autonomous region and autonomous areas – equal subjects of the Russian Federation (Article 5).

Articles 71 and 72 of the Constitution of the Russian Federation define the jurisdiction of the Russian Federation and the joint jurisdiction of the Russian Federation and the subjects of the Russian Federation. According to Article 73 of the Basic Law of Russia outside the jurisdiction of the Russian Federation and the powers of the Russian Federation on the subjects of joint jurisdiction of the Russian Federation and the subjects of the Russian Federation, the subjects of the Russian Federation have full state power, that is, everything that is not listed in Articles 71 and 72 relates to the subjects of the Russian Federation, within which they are free and may adopt own laws. Also, regions may adopt laws within the framework of joint jurisdiction, but their freedom is limited by federal law. Tourism and hospitality are not specified in Articles 71 and 72 of the Constitution of Russia, therefore it can be concluded the subjects of the Russian Federation are free to regulate the relevant relations. As noted by A.L. Bredikh in the joint jurisdiction are the most problematic field of federative relations. The joint regulation of the designated areas makes it possible to coordinate the interests of the Federation and regional authorities, allows each region to independently carry out legal regulation in accordance with the national-cultural and other features of a particular region, as well as its socio-economic development. At the same time, the uncertainty of regulatory boundaries leads to the competition of federal and regional regulations, as well as creates tensions in federal relations [4].

However, despite the Constitution of the Russian Federation does not include tourist activities in the jurisdiction of the Russian Federation and the joint jurisdiction of the federation and the subjects, in our country the Federal Law of the Russian Federation "On the general principles of the organization of legislative (representative) and executive bodies of state power of the subjects of the Russian Federation" and the Federal Law of the Russian Federation "On the Basics of Tourist Activities in the Russian Federation" have been approved regulating relations connected with tourism at the federal level. First act refers to the creation of favorable conditions for the development of tourism in the subjects of the Russian Federation to the powers of the state authorities of the subjects of the Russian Federation in joint jurisdiction exercised by these bodies independently at the expense of the budget of the subjects of the Russian Federation (except for subventions from the federal budget) (Article 26.3).

In accordance with Article 3 of the Federal Law of the Russian Federation "On the Basics of Tourist Activities¹ in the Russian Federation", the Russian legislation on tourism activities consists of this act, federal laws and other regulatory legal acts of the Russian Federation adopted in accordance with it, as well as laws and other regulatory legal acts of the subjects of the Russian Federation. These acts of the regions cannot be against the Federal Law "On the Basics of Tourist Activity in the Russian Federation" and the federal laws adopted in accordance with it. Also by this act, the powers of the bodies of state power of the subjects of the Russian Federation to create favorable conditions for the development of tourism in the subjects of the Russian Federation include defining the main tasks in sphere of tourism and the priority directions of tourism development in the subjects of the Russian Federation; development, statement (approval) and implementation of strategic planning documents in sphere of tourism on issues falling under the bodies of state power of the subjects of the Russian Federation; creating favorable conditions for the development of the tourism industry in the subjects of the Russian Federation, organizing and carrying out activities in sphere of tourism at the regional and intermunicipal levels, participating in information support for tourism, creating tourist information centers in the subjects of the Russian Federation and ensuring their functioning and other powers (Article 3.2.). Russian researchers L. Rudenko, N. Ageshkina, A. Belyanskaya and M. Kholkina classify the powers of the bodies of state power of the subjects of the Russian Federation in the sphere of tourism for rule-making, to create favorable conditions for the development of the tourist industry, to implement the law [1].

¹In Russia, under the tour operator activity refers to the activity on the formation, promotion and sale of the tourist product, and under the travel agent – the activity on the promotion and implementation of the tourist product. And under the implementation of the tourist product – the activities of a tour operator or travel agent to conclude an agreement on the sale of a tourist product with a tourist or other customer of a tourist product, as well as the activities of a tour operator and (or) third parties to provide services to the tourist in accordance with this agreement [17].

On the rights of local self-government bodies to create favorable conditions for the development of tourism – the implementation of measures to develop priority areas for the development of tourism in the territories of municipal formations, promoting the creation of favorable conditions for unhindered access of tourists (sightseers) to tourist resources located in the territories of municipal formations, and means of communication as well as receiving medical, legal and other emergency care, organizing and conducting activities in sphere of tourism at the municipal formations. At the regional level, participation in the organization and holding of international events in sphere of tourism, events in this sphere at the All-Russian, interregional, regional and inter-municipal levels, assistance in the creation and operation of tourist information centers in the territories of municipal formations (Article 3.3. of the Federal Law of the Russian Federation “On the Basics of Tourist Activities in the Russian Federation”). As L. Rudenko, N. Ageshkina, A. Belyanskaya and M. Kholkina note, it is advisable to exercise these rights in those municipalities where there are sufficient tourist resources to develop tourism in the territory of the respective municipal formation for the long term. In addition, to carry out not only episodic activities, but also to carry out continuous and effective work on the development of tourism in the municipal formations, financial resources and enough human resources are necessary [1]. Russian researcher I.A. Chebotareva emphasizes that a fairly rigid federal framework of the rights and powers of the bodies of state authorities of the subjects of the Russian Federation and local self-government bodies has been established. However, the declaration of the tourism industry as a priority, until the issue of adequate financial support for public authority is resolved, will remain a declaration [6].

Conclusion. The contradictions between the fact that the Constitution of the Russian Federation does not include the regulation of tourism activities in the federation’s powers, but federal laws regulate these relations, can be explained by the position of the legislator, who in the preamble of the Federal Law of the Russian Federation “On the Basics of Tourist Activities in the Russian Federation” established that this act defines the principles of state policy aimed at establishing the legal basis of uniform tourist market in the Russian Federation, and regulates relations arising in the exercise of the right of citizens of the Russian Federation, foreign citizens and stateless persons to rest and leisure, to free travel and other rights of travel, and the procedure for the rational use of tourist resources of the Russian Federation. In accordance with the Constitution of the Russian Federation, these issues as a whole, not in relation to tourism, may be regulated by federal laws.

However, it should be noted that the federal legislation on tourist activities, for the most part, does not regulate many of the relationships stated in the preamble. Most of this law is devoted to the regulation of the characteristics of civil transactions in the sphere of tourism. Indeed, in accordance with clause “c” [“Б”] of Article 71 of the Constitution of the Russian Federation, the regulation and protection of the rights and freedoms of a person and a citizen are subject to the jurisdiction of the federation. However, if this norm is interpreted literally and broadly, then it will devalue the very idea of a federation, since the federal center will regulate all relations with all individuals and legal entities on the territory of Russia, leaving nothing for legal regulation by the subjects of the federation. This provision should be interpreted systematically, taking into account other norms of the Constitution and should not apply to subjects of the Federation, including tourism. It can be concluded that the federal legislator broadly interprets the Constitution of the Russian Federation, appropriating the powers of the subjects of the Russian Federation.

Moreover, the norms of the law do not regulate the issues of the unity of the tourist services market. The uniform market is the free movement of goods, capital, services and people, the issues raised in the law are not related to the freedom of the tourist market.

The study reveals, in Russian federal laws, division of authority and powers between subjects of the Russian Federation and municipal formations in sphere of development of tourism development is based on a fragile balance that is based on ambiguously interpreted norms of the Constitution of the Russian Federation.

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**ТУРИЗМДІ ДАМУ САЛАСЫНДА РЕСЕЙ ФЕДЕРАЦИЯСЫНЫҢ СУБЪЕКТІЛЕРІ МЕН
МУНИЦИПАЛДЫҚ ҚҰРЫЛЫМДАР АРАСЫНДА ЖҮРГІЗУ
ЗАТТАРЫ МЕН ӨКІЛЕТТІКТЕРІН АЖЫРАТУ**

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**РАЗГРАНИЧЕНИЕ ПРЕДМЕТОВ ВЕДЕНИЯ И ПОЛНОМОЧИЙ
МЕЖДУ СУБЪЕКТАМИ РОССИЙСКОЙ ФЕДЕРАЦИИ И
МУНИЦИПАЛЬНЫМИ ОБРАЗОВАНИЯМИ В СФЕРЕ РАЗВИТИЯ ТУРИЗМА**

Аннотация. В настоящей статье решается фундаментальная научная задача – выработка единого, логически последовательного понимания характера научных проблем, связанных с политико-правовыми аспектами реализации полномочий органов государственной власти субъектов Российской Федерации и органов местного самоуправления в сфере развития туризма, а также изучение современных государственных исследований политико-правовых аспектов реализации полномочий органов государственной власти субъектов Российской Федерации и органов местного самоуправления в сфере развития туризма.

При исследовании правового разделения предметов ведения и полномочий между субъектами Российской Федерации и муниципальными образованиями в сфере развития туризма использовались методы анализа и синтеза.

В исследовании выявлено, что в российских федеральных законах разделение предметов ведения и полномочий между субъектами Российской Федерации и муниципальными образованиями в сфере развития туризма основано на неоднозначно истолкованных нормах Конституции Российской Федерации.

Ключевые слова: разделение предметов ведения и полномочий между органами государственной власти и органами местного самоуправления, Конституция Российской Федерации, федеративное государство, федерализм, права человека, предметы ведения федерации, предметы совместного ведения федерации и субъектов федерации, предметы ведения субъектов федерации, законы о туризме, российский федерализм, туризм.

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REFERENCES

- [1] Ageshkina N.A., Belianskaya A.B., Kholkina M.G. (2016) Commentary to the Federal Law of the Russian Federation of November 24, 1996 No. 132-FZ "On the Basics of Tourism Activities in the Russian Federation", editor L.L. Rudenko. Legal database ConsultantPlus. (In Russian).
- [2] Ayupova Z.K., Kussainov D.U., Nagan W. (2019) Novelties in the Legal System as Motive Force of Legal Integration, News of the National Academy of Sciences of the Republic of Kazakhstan. Series of Social and Human Sciences, 1: 102-106. – <https://doi.org/10.32014/2019.2224-5294.15> (In Eng).
- [3] Ayupova Z.K., Kussainov D.U., Winston N. (2019) On the state mechanisms of ensuring social policy in the Republic of Kazakhstan, Reports of the National Academy of Sciences of the Republic of Kazakhstan, 1: 47-51. – <https://doi.org/10.32014/2019.2518-1483.6> (In Eng).
- [4] Bredikhin A.L. (2012) Federal system of the Russian Federation. Legal database ConsultantPlus. (In Russian).
- [5] Carr A., Ruhanen L., Whitford M. (2016) Indigenous peoples and tourism: the challenges and opportunities for sustainable tourism, Journal of Sustainable Tourism, 24:8-9: 1067-1079. – DOI 10.1080/09669582.2016.1206112 (In Eng).
- [6] Chebotareva I.A. (2019) Tourism and tourist activities as a matter of jurisdiction in the Russian Federation: the legal and technical characteristics of the decision on the issues of the distribution of powers. Paper presented in Sourcebook IX All-Russian scientific-practical conference Law and Legality: Issues of Theory and Practice, April 12-13, in Abakan, Russian Federation. (In Russian).

- [7] Harrison J. (2003) Strategic analysis for the hospitality industry. *Cornell Hotel and Restaurant Administration Quarterly*, 44(2): 139-152. – DOI 10.1177/0010880403442013 (In Eng).
- [8] Jogaratnam G., Law R. (2006) Environmental scanning and information source utilization: Exploring the behavior of Hong Kong hotel and tourism executives. *Journal of Hospitality and Tourism Research*, 30(2): 170-190. – DOI 10.1177/1096348005284488 (In Eng).
- [9] Kalykulov K. (2008) Effective economic and mathematical methods of forecasting tourism development, *High School of Kazakhstan*. 4: 263-264 (In Kazakh).
- [10] Lubennikova S.A. (2015) The concept and content of socio-economic human rights of a citizen, *Bulletin of the Buryat State University [VestnikBuryatskogoGosudarstvennogoUniversiteta]*, 2-2: 217-221. (In Russian).
- [11] Madisheva A.M., Bikenova A.S., Eleusis L.T. (2018) Tourist services in the sphere of education, *News of the National Academy of Sciences of the Republic of Kazakhstan. Series of Social and Human Sciences*, 5: 68-72. – DOI 10.32014/2018.2224-5294.12 (InEng).
- [12] Naumkina V.V. (2018) Constitution of the Republic within the Russian Federation as a source of law, *Constitutional and Municipal Law [Konstitutsionnoyeimunitsipal'noye parvo]*: 6 (34-36). (In Russian).
- [13] Panzabekova A.Zh., Mussayeva D.M., Zhanbozova A.B. (2018) Formation and development of information society in the context of its impact on quality of population life, *Reports of the National Academy of Sciences of the Republic of Kazakhstan*, 5: 94-99. – DOI 10.32014/2018.2518-1483.14 (In Eng).
- [14] Prokkola E.-K. (2010) Borders in tourism: the transformation of the Swedish–Finnish border landscape, *Current Issues in Tourism*, 13:3: 223-238. – DOI 10.1080/13683500902990528 (In Eng).
- [15] Report of the Government of the Russian Federation for 2011, *Parliamentary newspaper*, 04/13/2012.
- [16] Saunders C. (1995) Constitutional Arrangements of Federal Systems, *The Journal of Federalism*, Volume 25, Issue 2: 61-80. – DOI 10.1093/oxfordjournals.pubjof.a038196 (In Eng).
- [17] Volvach Y.V. (2008) Service related to tourist activities and tourist services, *Lawyer [Advokat] (journal)*, 10: 102-110. (InRussian).
- [18] Sklyarov Valery, Skliarova Iouliia, Utepbergenov Irbulat, Akhmediyarova A.T., et al. (2019) // *International journal of innovative computing information and control*. Vol. 15. Issue 1. P. 321-335.
- [19] Pertiwi D., Sudrajat A., Kumalasari D., Retnawati H., Waspada S.P., Dossayeva S.K., Kassymova G.K. (2019). Gender equality in feminism // *Bulletin of National academy of sciences of the Republic of Kazakhstan*. ISSN 1991-3494. Vol. 5(381). P. 112-121. <https://doi.org/10.32014/2019.2518-1467.130>