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TOURISM LAW OF THE REPUBLIC OF TAJIKISTAN

text lectures

Recommended for publication as an educational tool by the decision of the Scientific and Methodological Council of the Faculty of Law of the TNU and the Scientific and Methodological Council of the TNU on April 26, 2021

Dushanbe-2021

УДК: 340.134: 379,85(575.3)
ББК: 67.93: 75.91 (575.3) (англиси)
С-18

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This text of lectures is prepared in a foreign language, covers all aspects of tourism Law in detail and consistently. The textbook is intended for students, graduate students, teachers of faculties and law schools, as well as for all those who use tourism legislation in their work.

Publisher:

(TNU publishing house)

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GENERAL PART

TOPIC №1. CONCEPT, SUBJECT AND SYSTEM OF TOURISM LAW OF THE REPUBLIC OF TAJIKISTAN

1. Tourism law of the Republic of Tajikistan: concept and subject: a) as a subject; b) as a legal science; c) as a branch of law; d) as a branch of legislation.
2. Methods, ideas and system of tourism law of the Republic of Tajikistan.
3. The position of tourism law in the legal system of the Republic of Tajikistan: proportion and interaction.

1. Tourism law of the Republic of Tajikistan: concept and subject:
 - a) as a subject;
 - b) as a legal science;
 - c) as a branch of law;
 - d) as a branch of legislation

Radical changes have taken place in all spheres of society with the transition of the Republic of Tajikistan to a market economy. The development and transformation of public relations has led to the need to study and re-analyze the problems in legal science. It includes the social sphere, as well as tourism as an important area of social activity. The Republic of Tajikistan has a rich historical and cultural heritage, natural resources that promote both the development of domestic tourism and the reception of foreign citizens. Taking this fact into account, tourism has been declared a priority sector of the economy in the country. The legal regulation of tourism was not studied by legal scholars in the Republic of

Tajikistan until 2008. Adoption of the Law of the Republic of Tajikistan "On Tourism" on September 3, 1999 was an attempt by the legislature to regulate tourism. This situation creates need for a comprehensive study of the legal relations of the tourism sector in the Republic of Tajikistan and requires a thorough scientific analysis for the further development of the legislation governing tourism. In this regard, it is important to study the subject of tourism law of the Republic of Tajikistan as an educational subject, jurisprudence, law and legislation.

A. Legal regulation of tourist relations has a complex and complex character, which is carried out based on compliance of normative and legal acts of separate spheres. The complexity of the regulation of this sector makes it necessary to study and master the main categories of tourism, without it, it's impossible to implement properly existing legislation and improve it furtherly.

Tourism law as a subject is a set of knowledge in the field of tourism law, which is necessary for the study of these issues and is taught at faculties and universities. It is aimed at the accumulation of scientific knowledge on the theory of legal tourism, the identification of features of the norms and institutions of tourism law, the practice of its implementation, equipping future professionals with certain knowledge to work independently after graduation of this field. Until recently, the issues of tourism law were not studied in the context of a separate subject. Today the situation is changed, which is a proof of the new educational and scientific policy of the state. Number of educational materials and textbooks on tourism and tourism activities are published abroad, various

curricula are developed, and scientific and practical conferences are held on tourism law.

In the Republic of Tajikistan, the right to tourism is taught since 2007 as one of the sections (section 7) of the subject "Law" for students majoring in "Economics of International Tourism" and "Economics and Tourism Management" at the Faculty of Finance and Economics of the TNU in two parts. The general part covers the legal issues of origin and development of tourism legislation in Tajikistan; concept, subject and system of tourism law; the concept and type of tourism law sources; subjects of tourism law; termination of tourism activity subjects; state regulation of tourism activities; objectives and types of state regulation of tourism, a special part of the institutions of legal regulation of international cooperation in the field of tourism; a contract as a legal form of tourism services; legal regulation of certain types of tourism services; the legal responsibility of the subjects of tourism activity.

Starting in 2011, a separate educational program "Tourism Law of the Republic of Tajikistan" was developed and developed by the teacher of the department. Entrepreneurship and Business Law of the Faculty of Law of the TNU is taught as a special course for the Department of Entrepreneurship and Business for 5th year students, as an elective course for students of 1,2,3 courses of the Faculty of Law and 1,2,3 courses of the Faculties of Economics (credit Faculties of Economics). Starting from the 2013/2014 academic year, the subject "Tourism Law of the Republic of Tajikistan" is taught as a compulsory subject to the third-year students of the General Department of the Faculty of Law of the TNU.

B. Tourism law is a set of actual and complex scientific-theoretical and methodological knowledge is understood as a legal science through the legal reality of tourism. The science of tourism law is aimed at the development of theoretical knowledge through the study of the laws, features and challenges of the formation and development of this field. The study of these aspects of tourism law is closely linked with the development of various legal models, constructions and theories that makes up the doctrine of tourism law. Because of the science of tourism law is emerging, today we can not define clearly the boundaries of its subject. We can identify it only by studying the regulation of private law, general law and international tourism law. At the same time, the main directions of scientific research are being identified, based on which the science of tourism law is gaining independence and specificity. These areas include:

- study of tourism and tourism activities as an object of legal regulation;
- study of legal tourism regimes;
- study of the means of its provision;
- study of types of tourism and types of tourism activity;
- study of the legal system of tourism as a complex field;
- study of the practice of implementing the norms of tourism legislation;
- Study of the relationship between tourism law and other legal areas of the Republic of Tajikistan;
- comparative legal analysis in the field of tourism;

- study of the role of tourism law in the process of globalization;
- Study of global legal issues of tourism;
- investigation of tourism safety issues;
- Study of the problems of state regulation of tourism.

This list is not exhaustive (finished), as the scope of tourism relations is developing, gaining new content and creating new areas of scientific research and analysis.

Analysis of the current state of the science of tourism law shows that it is new and does not have a stable scientific base recognized by the scientific community of law. On the one hand, it is a proof of the interdisciplinary nature of the science of tourism law. At the same time, scholars are facing the problem of tourism law, which is gradually opened new areas of tourism law. At present, number of foreign researchers have tried to understand various aspects of the science of tourism law. For example, E.W. Akhtyamova, E.G. Baragazova, B.M. Lebedev, E.L. Pisarevskiy, H.B. Sirik, D.P. Strigunova, O.B. Tkachenko, Yu.A. Chenenova and others. D.Sh. Sanginov Tajik scholar only has defended his dissertation on the topic of "Legal regulation of tourism in the Republic of Tajikistan" for the degree of candidate of jurisprudence, and published a monograph entitled "Regulation of tourism: the regulation of tourism to solve it" in the Republic of Tajikistan. He has also conducted research on various aspects of tourism law in the Republic of Tajikistan and has written teaching aids and scientific articles.

B. The right of tourism as an integral part of the legal system of the Republic of Tajikistan is actively developing. However, in the published

legal books on tourism, tourism activities, contracts for tourism services, as a rule, one controversial issue - the place of the right to tourism is overlooked in the legal system.

The approach to the study of the legal system, taking into account the analysis of the means of influencing public relations, requires a special scientific substantiation of theories about the system and the legal system in general. From the philosophical point of view, "the system is the various elements of the system that are interrelated in nature, which has certain characteristics." The distinctive features of each system, according to U.A. Urmansev is: 1) a single basis for the integration of objects (elements); 2) the existence of relationships that determine the unity of objects; 3) certain laws regulating objects. Based on this, the legal system can be considered as a set of legal forms that regulate the internal relations with independence and unity, which are expressed in the characteristics and functions of security and concentration. This concept includes specific features of both the legal system and its substructures: sectors, sub-sectors, institutions, etc.

The study of the structure of law as a combination of its elements (sectors, institutions, norms) and as a strong link between the elements allows us to determine both the statics and dynamics of law. Therefore, composition is understood as the arrangement of the object, the legal relationship, the system of stable relations between the elements and the result of the interaction of the elements. The influence of the rule of law on the establishment and application of the law leads to the understanding and application of the law, as well as its further proper development. The study

of the composition becomes especially important for resolving disputes, shortcomings, pluralism, and so on. This view is realistic from the point of view that is in the process of developing public relations, the form of the legal system and the elements can change (for instance, the institution becomes a sub-sector). In our opinion, the use of a single concept of composition leads to the regularity of scientific research in these periods of transition.

The legal system of the Republic of Tajikistan is a partial structure, because as any other existing system, differs in the existence of a well-known structure - the division into norms, institutions and sectors. If the existence of these three (norms, institutes, branches) is always necessary for the structure of law, then there are other additional components of law, such as subsectors, sub-institutes, complex inter-sectoral institutions. S.S. Alikseev distinguishes the main structure in the formation of law: norm, institute, branch in the hierarchy of structure. At the same time, it does not rule out two or three divisions of law that are added to the main structure as complex structures. The existence of a secondary structure is due to the richness and diversity of the legal regulation of certain social relations, which are not located within the same basic structure or structure.

On the objectivity of the constituent elements of the legal system of public relations, it is impossible to agree with C.A. Yampolskaya on refusing to segregate. In her opinion, there are only legal norms as a division of the legislature, and the problems of the legislative system should be built based on functional criteria. The law is considered as a single stable system of interconnected legal norms, which can be classified

within the system depending on the specific scientific and practical tasks. This approach to the notion of law M.V. Molodsov rightly points out that it is impossible, because it is tantamount to refuse and recognize its systemic nature, otherwise the system cannot exist without a certain internal structure. The impact of the system of public relations on the legal system requires diversity and specificity of legal regulation. This quality is characteristic of various social relations, which represents the subject of legal regulation. Correctly noted R.Sh. Satyvoldiev, the legal system is divided into separate elements based on certain criteria: 1) the subject of legal regulation; 2) the method of legal regulation.

As it is mentioned above, there is no opinion on the place of the right of tourism in the legal system until 2012. Only by P.N. Biryukov and U.A. Khamova in her textbook “Legal Regulation of Tourism Activity” states that “Relations in the field of tourism are wide and multifaceted. There is a group of interrelated relations representing one or another activity of the state, individuals and legal entities in the field of tourism (licensing authority, travel regulator, travel agency, carriers, tourists, etc.). Relations in this area are regulated by the rule of law and are integrated into the subject of regulation of "tourism law". However, the law on tourism consists of two special groups of legal norms - national (Russian, foreign) and international. Due to the existence of this formation of norms of different legal systems, we can not call it a subsector, or even a complex area. The name “tourist right” is conditional. It reflects the existence of various legal institutions regulating certain areas of relations in the field of tourism (the institution of contracts for the purchase and sale of tourist

products, transportation of tourists, insurance of tourists, etc.). Standards of tourism law are reflected in various sources.

We agree with P.N. Biryukov and we cannot agree with U.A. Khamova, because in their opinion there is such a contradiction:

1) They state that "Relations in this area are governed by the rule of law and are integrated into the" right of tourism "on the subject of regulation." That is, they have proved by themselves that the right of tourism has a separate subject of legal regulation. It has its own special subject.

2) When expressing their views, they always mentioned the field of tourism, not the sub-sector and the institution of law.

3) In their opinion, "the right to tourism consists of two special groups of legal norms - national (Russian, foreign) and international". They indicate the existence of sources of legal regulation in this area.

In the scientific literature on tourism law as an independent, complex field, legal institute and complex field of legislation, we do not find any other opinion. However, there is controversy over the right to sport, which should be compared to the right to tourism on a comparative basis. Sports law is interpreted by scholars as an independent and complex branch of law, as a legal institution and as a complex branch of legislation.

Depending on the views expressed, the right to tourism can be defined as an independent, complex, legal institution and a complex area of legislation.

In our opinion, at present the law of tourism is not recognized as an independent sphere due to two factors: 1) lack of special methods of legal

regulation, which belongs to this sphere; 2) the lack of a special sectoral regime, the norms that do not apply to the relations regulating the legal field. In the future, the right to tourism will be recognized as an independent branch of law due to the combined acquisition of these features.

In our opinion, the existence of the right to tourism is wrong as a legal institution because the law of tourism reflects both private and public norms, and given the great interest in their placement in one legal institution, we can not include all of them in the sub-institutions of one institution. Organize a comprehensive study of the relationship between the subject of tourism law and prove that it is impossible to include these relations in the subject of one area of law, such as business, administrative, labor, civil or other areas of law.

We are in favor of the fact that the right to tourism includes both the norms of private law (civil, private international) and the rules of general law (administrative, financial, labor, general international) and is a complex area of law. B.K. Reicher states that along with the basic areas of law, which are separated by subject and method, there are complex areas that should be separated only by the subject of legal regulation. According to M.I. Kozir currently, the complex field of law is the existence of two limited complex factors: 1) closely interrelated the public relations as a subject of legal regulation; 2) the method of legal regulation is appropriate for each group of relations. S.S. Alekseev states that the generality of the complex differs not in the specific method and mechanism of regulation, but in the specific ideas, general provisions, specific ways of regulation,

which testify to the existence of a special regime. Argument being of the composite field of tourism law is the combination of the presence of the necessary features as a complex area:

1. Existence of a single subject of legal regulation - public relations in the field of tourism;

2. Availability of a background document - the Law of the Republic of Tajikistan "On Tourism";

3. Existence of common ideas of legal regulation in the field - ensuring the right of citizens to rest, free movement and other rights to travel; environmental protection; determination of the annual list of natural, historical and cultural objects, including specially protected natural areas, the visitation of which is established on the basis of quotas; development of the tourism industry as a supplier of citizens' travel needs; development of international relations in the field of tourism; rational use of natural and cultural achievements;

4. Availability of special government bodies in this area - Committee on Youth, Sport and Tourism under the Government of the Republic of Tajikistan;

5. Active development of institutions of legal tourism, which is not an integral part of the legal system.

The subject of tourism law is public relations, which are regulated by the norms of tourism law.

The subject of tourism law has the following features:

- regularity of relations and its regulatory norms;

- The goals of the participants in this relationship are specific: satisfying the physiological and spiritual needs of tourist, earning income - tourist regulator (travel agency);

- In most cases (60%) there is an external element in these relations.

All public relations which is related to the subject of tourism law can be divided into 3 groups:

1. Attitudes towards the implementation of tourism activities. In turn, this group of relations, is divided into 3 sub - groups: relations on the formation of tourist services; relations on promotion of tourist services and relations on sale of tourist services (rendering of services).

2. Relationships is related to tourism activities. Attitudes towards the tourism industry (infrastructure), tourism resources, etc.

3. Relations on state regulation of tourism should be: such as registration, licensing, certification, taxation, etc.

Therefore, the tourism law of the Republic of Tajikistan is a complex area of law, which consists of a set of legal norms and regulates public relations in the tourism sector.

Г. The right of tourism as a branch of legislation is a set of laws and other normative and legal acts, with the help and means of which the state establishes, changes and terminates the norms of the right of tourism. There is no dispute about the legitimacy of tourism at present. In accordance with the Resolution of the Government of the Republic of Tajikistan of August 1, 2006 №359 "On the Unified General Classification of Laws of the Republic of Tajikistan and the Centralized Source of Legal

Information" code 310, subsection code 050, chapter code 140 (abbreviated - 310050140) are assigned for study.

Tourism legislation is the highest form of strengthening the norms of tourism law and the factor of its formation. The existence of tourism legislation in the system of normative and legal acts of the Republic of Tajikistan is socially important which testifies to increase the role of the state in the regulation of legal relations for tourism and the quality of relations between them. Along with the legislation in other areas of law, tourism legislation is one of the sources of tourism law and its main type.

The system of tourism legislation consists of laws and other by-laws aimed at the direct and indirect regulation of the legal relations of tourism. The Constitution of the Republic of Tajikistan occupies the highest place in this system. According to Article 38 of the Constitution of the Republic of Tajikistan, "Everyone has the right to health. A person should receive free medical care in public health care institutions within the limits established by law. The state should take measures for the improvement of the environment, the development of mass sport, physical culture and tourism. " Also Articles 1, 12, 37 and indirectly Articles 10, 13, 14, 16, 17, 19, 24, 32, 39, 42, 44, 46 and other of the Constitution of the Republic of Tajikistan regulate tourism relations.

Other acts which is including in the system of legislation on tourism law insert laws, decrees of the President of the Republic of Tajikistan, resolutions of the Government of the Republic of Tajikistan, regulations, instructions, rules and other by-laws.

2. Methods, ideas and system of tourism law of the Republic of Tajikistan

Methods of tourist law is a set of ways influencing the law to the public relations that make up the subject of tourism law. The specificity of the method is expressed in the legal status of the subjects, the form and content of legal relations, the legal means of influencing public relations.

Two opposing methods are used in the regulation of law. The first method of balance is the state of the subjects which expresses in relation to subordination. Regulation in this case is based on power, and the main means of influencing relations is restraint and positive commitment. In the law of tourism of the Republic of Tajikistan, there is a group of relations based on subordination and obedience. Firstly, it is the relations on state regulation of tourist activity, ensuring tourist safety, insurance of tourists. For example, if the legislation of the country (place of temporary residence) imposes guarantee of payment for medical care to person temporarily residing in its territory, the tourist regulator (agent) is obliged to provide such guarantees.

The second method of reconciliation is based on the equality and will be the participants in the legal relationship. The legal instrument of this method is the contract and the way of its regulation is permissive. The right of tourism on the basis of equality of the parties and their property independence includes, first of all, the relations which have arisen concerning conclusion of the tourist contract. For instance, a contract is considered signed if the tourist enterprise has given permission and the

client has paid the corresponding fee in accordance with the terms of the contract.

Thus, the tourism right does not have its own special methods, which use both universal methods of legal regulation. The interconnectedness of public and private bases in the regulation of tourism relations is evidence not only of the diversity of legal regulation of these relations, but also of the specific nature of these relations.

Ideas of tourism law are the ideas, principles and laws of tourism law that express the essence of tourism law. General legal ideas (such as legitimacy, humanity, equality, etc.), intersectoral (such as freedom of contract, freedom of labor, protection of property, etc.) and sectoral are used in tourism law. Discovering the ideas of tourism law is the task of the science of tourism law. However, to date, there is no scientific opinion on the idea of tourism law by legal scholars. Depending on the provisions of the legislation, in our opinion, the right of the Republic of Tajikistan in the field of tourism has the following sectoral ideas:

1. The idea of ensuring the right of a person to rest, free movement and other rights to travel.
2. The idea of protecting the rights and interests of the state in the field of tourism.
3. The idea of protecting the rights and interests of tourists and ensuring their safety.
4. The idea of establishing procedures for standardization, certification and licensing in the field of tourism.

5. The idea of stimulating national and foreign funding for the development of tourism.

6. The idea of creating equal opportunities in the market of tourist services for business entities, regardless of the form of ownership.

7. The idea of supporting the development of competition and ensuring compliance with antitrust laws in the field of tourism.

8. The idea of developing international relations in the field of tourism.

9. The idea of developing the tourism industry as a way to meet the needs of citizens in tourism.

10. The idea of rational use of natural and cultural achievements and protection of environment in the course of tourist activity.

The legal system of tourism as a complex branch of the law of Tajikistan consists of a set of interrelated legal norms, which together forms a single stable structure. The tourist law of the Republic of Tajikistan, like other branches of law, consists of a general part and a special part, each of them are devoted to the regulation of a certain range of issues.

The general part of the tourism law includes norms, regulations and institutions that are of a general nature and provide and define uniform legal regulation of tourism relations. The general part of tourist law includes norms and regulations that address issues related to the subject of tourism law, sources regulating the relations of tourist law, subjects of tourism law, state regulation of tourism, legal regulation of certain types of tourism and tourism.

A special part of the law on tourism consists of regulatory norms that apply to the following institutions in the field:

- the contract of tourist services;
- Certain types of tourist services;
- tourist safety;
- tourist procedures;
- insurance in the field of tourism;
- Responsible in the field of tourism.

3. The position of tourism law in the legal system of the Republic of Tajikistan: proportions and interactions.

One of the peculiarities of the legal system of the Republic of Tajikistan is its diversity and its differentiation into separate branches of law, some of them are somewhat similar and at the same time naturally different from each other. For instance, the legal relationship of tourism is related not only to the relations of business law but to some extent in other areas of law, including administrative and civil law.

In determining the position of tourism law in the legal system of the Republic of Tajikistan and its relationship with business, administrative and civil law, it is necessary to rely on the provisions of the theory of law, according to them the branches of law become public and private law.

Unlike tourism law, civil law belongs to a group of private law fields. Civil law, as it is known, regulates property and personal non-property relations. Tourism right is the subject to legal regulation to ensure public relations within the framework not only private but also public law. The

subject of regulation of tourist rights is tourism relations. These relations differ significantly from the property relations related to the subject of civil law in terms of the basis of origin, change, termination, composition and content.

The right to tourism is similar not only to civil law, but also to some extent to administrative law. The relations are regulated by these two branches of law - a managerial nature, and the participants in these relations are interdependent, one having the right to issue an order, the other obligating and responsible for its implementation. However, this does not eliminate the significant differences between the two areas of law. Administrative law regulates the relations arising in the field of public administration. The subject of regulation of tourism law is the relationship that arises in the process of formation, promotion and sale of tourist services. The difference between the right to tourism arises from the administrative law, as well as the difference between the liability provides under the administrative law and the right provides under the tourism law.

Questions for students on the topic of №1.

1. What are the reasons for the emergence of the field of tourism law?
2. What is the law of tourism as a subject?
3. Which authors have written scientific works on the legal regulation of tourism abroad?
4. From what year is the right to tourism taught in Tajikistan as a subject?

5. What educational materials are written in Tajikistan to study the law of tourism?
6. What is tourism law as a legal science?
7. What are the main directions of studying the science of tourism law?
8. Which scholars have written abroad to study the legal regulation of tourism?
9. What scientists are engaged in the analysis of the science of tourism law in Tajikistan?
10. What is tourism law as a field of law?
11. Why is the right of tourism considered a conditional name according to Biryukov PN and Khamova U.A.?
12. Why is the right to tourism not recognized as an independent field or legal institution?
13. What are the signs that prove the complexity of tourism law?
14. What public relations constitute the subject of tourism law as a field of law?
15. What is the right to tourism as a field of legislation?
16. Which articles of the Constitution of the Republic of Tajikistan are the source of the right to tourism?
17. What documents are included in the legal system of tourism law?
18. What is the method of tourism law?
19. What is the method of balancing the right to tourism?
20. What is the method of compliance with tourism law?
21. What are the ideas of tourism law?

22. What are the ideas of the right to tourism?
23. Define the legal system of tourism?
24. What is the general part of the right to tourism?
25. Which institutions make up a special part of the right to tourism?
26. Explain the relationship between the right to tourism and the right to do business?
27. Explain the relationship between tourism law and administrative law?
28. Explain the relationship between the rights of tourists and civil rights?

TOPIC №2. SOURCES OF TOURISM LAW OF THE REPUBLIC OF TAJIKISTAN

1. Formation and development of legislation in the field of tourism in Tajikistan.

2. The concept and classification of sources of tourism law.

3. Acts of international law in the field of tourism as a source of tourism law of the Republic of Tajikistan.

1. Formation and development of legislation in the field of tourism in Tajikistan

Legislation in the tourism sector in Tajikistan covers four stages:

1. The existence of legislation in tourism field in the history of the Tajik state: the pre-revolutionary period (IX-1916).

The emergence and development of legislation in tourism sector of Tajikistan, in contrast to the general activities of the legislation of Tajikistan from a historical and legal point of view, related to the adoption of regulations, in our opinion, dates back to the IX century. Proof of this is the existence of a special system of government in the Samanid state. The peculiarity of the development of statehood under the Samanids is that the Samanids sometimes revived the experience of statehood of the new and ancient Persian kingdoms, using new political and religious institutions, creating clean and independent state that uses the best practices of today. State power at the highest level was divided into two groups: 1) court power and 2) Devonsolar. It should be noted that public administration cannot exist without the regulation of law. Legal sources regulating public

relations, which included relations in tourism field during the Samanid period were divided into three groups: 1) Primary legal sources: Qur'an, Sunnah (collection of hadiths). 2) Secondary sources that originate from the fiqh methods of legal creation: Ijma ', ijtiḥad, fatwas and qiyas. 3) Third-party sources: this group includes the positive rights of those in power and the common rights of different people and nations. Through these legal sources, relations in tourism sector were regulated, and in this regard, the Cabinet of Ministers implemented the state policy in the Samanid state.

The existence of tourist relations in the Samanid state should be proved by concrete examples.

1) One day Nasr ibn Ahmad went on a journey to Herat. Due to the pleasant weather and the beauty of nature, he stayed there and almost forgot about his capital city - Bukhara. His ministers and commanders, longing for their homeland and their wives and children, wanted Bukhara. Since it was a time of peace, the emir would not back down. The commanders could not please the Emir. They asked Ustad Rudaki to help them take action. Rudaki reached out to them. In honor of Bukhara, he wrote the poem "The Scent of the Mulian River" and wrote an eloquent poem with sincerity, metaphor and exaggeration.

2) At the age of 35, Abulqasim Firdavi went on a trip to Bukhara and other places to write the "Shohnoma".

In these examples, there are a form of health-improving and educational tourism. After the collapse of the Samanid state, the legal system remained the same in the Karakhanid, Khorezm, Salchuk, Gurian,

Temurid and other states, with some changes and additions. Prior to the October Revolution of 1917, there was no legislation in the tourism sector in pre-revolutionary Tajikistan. There were irregularities in tourist relations in all directions. All the laws of the Russian Empire, which were widespread in the territory of the Governor-General, including the north of pre-revolutionary Tajikistan, can be divided into three groups: general-imperial, special and local. It was the legal acts (orders) of the Governor-General and the military governor and his territorial provinces. Thus, in pre-revolutionary Tajikistan, the legal relations of tourism were regulated on the basic norms of Muslim law and legal customs.

2. Tourism legislation in 1917-1989.

The beginning of the legal regulation of tourism in Tajikistan and the USSR in general was marked by the Leninist Decree of April 12, 1918 "On the erection of monuments to kings and their servants and the erection of monuments to the Russian Socialist Revolution." In fact, from that moment the division of tourism into domestic and foreign began. The director of outdoor tourism was transferred to the State Committee for Foreign Tourism (Goskominturizm). In 1936, the head of the trade union in the person of MUICS was assigned to lead the domestic tourism, in the structure of which the Central Department of Tourism and Excursions with its departments in the republics and cities of the country was established. In 1969, the department was renamed the Central Council for Tourism and Excursions. At this stage, tourism was recognized as constitutional (Article 41 of the USSR Constitution). However, further development of legislation, including in the Fundamentals of Civil Code of the USSR and

the Union Republics, and in the Civil Codes of the Union Republics, the legal regulation of this area has not reached a certain level. This shortcoming has led to the development of sub-legislation. The main role in the regulation of tourism rights was taken by the normative acts approved by the Central Council for Tourism and Excursions and the books of the State Committee for Tourism.

At this stage, little attention was paid to the legal regulation of tourism. There was no separate law on tourism, a model form of tourism. Tourism at this stage depended on the activities of the trade union and had an ideological orientation. In terms of sales of tourism products, the USSR and Tajikistan ranked 20th among 24 European countries that are members of the International Tourism Organization. Tourism at this stage was considered an integral part of culture and was regulated by the legislation on culture and education.

The second stage of development of the tourism legislation of Tajikistan was characterized by the following factors:

- 1) Development of theoretical bases of ideas on the problem of legal regulation of service relations, which is fundamental importance in the science of Tajikistan today.

- 2) Wide regulatory framework, ie lack of regulation (in a limited sense) was a regulatory and protective function in the tourism sector.

- 3) General legal indicators are in the regulation of tourism law in relation to depository (private legal) indicators.

- 4) Centralization of economic activity in the field of tourism in the hands of state enterprises and trade unions.

5) Legal regulation, mainly is aimed at regulating the public relations of domestic tourism.

In the Republic of Tajikistan until the early 1990s, despite the steady increase in the quality of tourism, there was no transition to a new quality. Early development required standardized service delivery, but the transition did not take place from general to differentiated tourism. This is the basis for recognizing the second stage in the development of Tajikistan's tourism legislation, which was completed in the late 1980s.

3. Tourism legislation for 1990-2010:

The third stage development of the legislation of the Republic of Tajikistan in the field of tourism covers the years 1990-2010, which can be divided into two periods: a) the first stage - 1990-1998; b) the second stage - 1999-2010

a) the first stage - 1990-1998. The substitution of legal regulations began for the legal acts of the supreme power during this period. There has been a sharp decline in the negative situation in the Republic of Tajikistan since 1990. This is reflected the fact that in new conditions, the cost of services increased due to the loss of public funding, economic enterprises ceased to operate or did not make a profit, demand fell, and citizens did not have money for recreation. Along with such shortcomings, during this period there were positive developments in the field of legislation. Beginning in 1996, number of laws were adopted governing tourism. Examples are the Law of the Republic of Tajikistan “On Standardization”, the Law of the Republic of Tajikistan “On Consumer Protection”, the Law of the Republic of Tajikistan “On Certification of Products and Services”

and others. It was during that period that tourism was recognized as a type of business activity, the legal basis of which is the Decree of the President of the Republic of Tajikistan on the establishment of the National Campaign of the Republic of Tajikistan on tourism. During this period, intergovernmental agreements in the field of tourism were concluded with the adoption of domestic regulations. Especially the Agreement on Cooperation in Education, Science and Technology, Health, Culture, Information, Social Protection, Sport and Tourism between the Government of the Republic of Tajikistan and the Government of the Republic of Chuvashia.

All these normative and legal acts created a new normative and legal base regulating tourism and had the following shortcomings:

- the tourism legislation did not take into account the provisions of such documents as the Manila Declaration on International Tourism (1980), the Charter of Tourism (22.09.1985), etc;

- There was no separate law regulating tourism activities due to its specific features. Thus, the years 1990-1998 were characterized by a general factor of “market activism”, which did not yield positive results.

b) the second stage - 1999-2010. The regulatory framework governing tourism was developing actively during this period. It has acquired a complex character, as the legal regulation of entrepreneurial activity is generally private-public. This is due to the introduction of a common ground in the legal regulation of entrepreneurship. It is the unity of private and public interests - a special feature of the legal regulation of tourism, which determines its nature today. However, during this period the main

role of private law was strengthened in the regulation of tourism activities. During this period, Tajikistan has adopted a separate legislation on tourism, which, along with many foreign countries, has domestic legislation on tourism.

The peculiarities of this period are as follows:

- Immediate formation of the regulatory framework, with the adoption of the first part (30.06.1999), second (11.12.1999) and third (01.03.2005) of the Civil Code of the Republic of Tajikistan, as well as the Law of the Republic of Tajikistan "On Tourism", which contains elements of both private law regulation (Articles 1,11,13 and others) and general law (Articles 3,4,5,7, etc.). This law defines the concept of tourism, tourist, tourist products and so on, for the first time. During this period, the legislation has been developed on certification of services in the field of tourism, the existing normative and legal acts on consumer protection have become invalid and new acts have been adopted (09.12.2004). The Government of the Republic of Tajikistan approved the State Program for Tourism Development in Tajikistan for 2004-2009 (December 29, 2003) and adopted a resolution "On issues of state support for the development of ecological tourism, mountaineering, sport and mountaineering in the Republic of Tajikistan" (04.03 .2005) and so on;

- The unparalleled superiority of the Law over other normative and legal acts on tourism and the recognition of the need for compliance of the law with the norms of the Civil Code of the Republic of Tajikistan;

- the existence harmonization factor of the civil legislation of Tajikistan in order to bring it into line with the requirements of international normative and legal acts regulates tourism activity.

To develop the legislation of the Republic of Tajikistan in the field of tourism during this period, the Government of the Republic of Tajikistan adopted the Concept of Tourism Development in the Republic of Tajikistan for 2009-2019 and the State Program of Tourism Development in the Republic of Tajikistan for 2010-2014.

4. Development of tourism legislation in modern times.

The current legislation of the Republic of Tajikistan on tourism does not fully regulate relations in this area. Therefore, the legislation in this area needs to be improved. This is due to the fact that tourism has been recognized as one of the most lucrative sectors of the economy for its high growth rate, a century-old economic phenomenon. In many countries, tourism plays a significant role in the formation of GDP, foreign trade balance, employment and job creation, and plays a key role in key sectors of the economy such as transport and communications, construction, agriculture, culture and the arts, and others have a positive effect. The priority tasks of improving the legislation should be aimed by addressing the following issues:

- Effective mechanism establishment for state regulation and support of tourism;

- Marketing strategy development for the development and further development of national tourism products in domestic and foreign markets;

- formation of attractive tourist image of the country;

- development of international cooperation;
- improvement of statistics:
- Elimination of shortcomings in the legislation in the field of tourism.

2. The concept and classification of tourist law sources

The official meaning of the term “sources of tourist law” is used to explain it. Legal norms regulating tourism relations are reflected in normative legal acts, which include laws, decrees of the President of the Republic of Tajikistan, decrees of the Government of the Republic of Tajikistan, normative acts of ministries, committees and central bodies, local authorities and administration bodies. The sources of the right to tourism are also local (normative) acts. It should be noted that the norms of tourism law can be contained not only in the legislation and other regulations on tourism, but also in other normative legal acts that are not directly related to the right to tourism. Therefore, the sources of tourism law are wider than the tourist legislation, not only the legal acts and other legal acts on tourism, but also the part of the normative legal acts directly related to the right of tourism, which does not regulate other relations of the tourist industry.

Thus, the sources of tourist law are the normative of legal acts which are approved in the course of normative activity of state bodies and internal (local) legislation, which regulate the norms of tourism relations and other related relations.

Classification the right of tourism sources can be made on different bases:

1) Depending on the legal force, the sources of the right to tourism can be divided into laws and regulations. Laws have a high legal force, are adopted based on by-laws. By-laws are in accordance with the law.

2) Depending on the area of activity, the sources of tourism law are divided into national and local. Nationwide sources (Constitution, laws, decrees of the President, decisions of the Government) are distributed throughout the territory of the state, in relation to all citizens. Sources of local significance (decisions of local authorities, acts of ministries and agencies) operate on the territory of territorial and administrative units, enterprises, institutions and organizations.

3) Depending on the object of legal regulation, sources of tourist rights are divided into sources of general action and sources of internal action.

- Sources of action are spread for all participants in tourism relations. For example, the Constitution of the Republic of Tajikistan, the Law of the Republic of Tajikistan “On Tourism”.

- Sources of internal action will be extended to one participant in the legal relations of tourism. For instance, the Resolution of the Government of the Republic of Tajikistan “On the Committee for Youth, Sports and Tourism under the Government of the Republic of Tajikistan”.

4) Depending on the subject of law-making, sources of the right to tourism are allocated to the sources accepted as a result of referendum, by state bodies and officials. In turn, the sources of government agencies

adopted the acts of the Majlisi Namoyandagon and the Majlisi Milli Majlisi Oli, the Government, local authorities, ministries and agencies.

5) Depending on the scope of their application on the territory, sources of tourism law are divided into international and domestic (national) sources.

As a general rule, the classification of sources of law begins in most areas of law with the Constitution, on the basis of which we make the classification. The Constitution of the Republic of Tajikistan is the basic law of the Republic of Tajikistan and determines the basis of the constitutional structure, the rights, freedoms and basic duties of man and citizen, the organization of state power. The Constitution of the Republic of Tajikistan has the highest legal force and its norms are directly applicable. Other normative legal acts, including international legal acts recognized by Tajikistan, should not contradict the Constitution. In case of contradiction of norms of the Constitution of the Republic of Tajikistan shall be applied with normative legal acts or their components, norms of the Constitution of the Republic of Tajikistan.

In order to determine that the Constitution of the Republic of Tajikistan is the main source of the right to tourism, we need to specify articles that are directly related to tourism. Article 1 of the Constitution of the Republic of Tajikistan stipulates that “the Republic of Tajikistan is a sovereign, democratic, law-based, secular and unitary state. Tajikistan is a social state that provides decent living conditions and free development for everyone. ” One of the conditions for ensuring a decent life for the population is the development of leisure, which is an integral part of

tourism. The population of country is forced to adapt to the oppressive conditions of a market economy and needs to regain its physical and mental strength. Tourism provides services for the restoration of spent energy. One type of tourism is social tourism, which provides services to schoolchildren, students, the elderly and the disabled at the expense of the state budget. According to O.N. Dimishina the task of the social state is to promote the development of health for all citizens, as well as the equal distribution of life opportunities. Tourism services, first of all, domestic tourism should be available to all segments of the population. In this case, there will be a strong leverage for the development of the consumer market of tourist services and increase the competitiveness of employment in this sector. Guarantees for the implementation of tourism activities are set out in Article 12 of the Constitution of the Republic of Tajikistan. According to this article, "The state guarantees free economic activity, entrepreneurship, equality and legal protection of all forms of property, including private property." The basis of economic development of the society is a market economy. V.F. Popondopulo believes that for the stable and profitable functioning of a market economy, it is necessary to ensure a) freedom of economic activity b) free movement of goods, services, financial resources, etc., ie the unity of economic territory throughout the country. Tourist activity is a business activity, and it is stipulated in the Article 12 of the Constitution of the Republic of Tajikistan that everyone has the right to use freely their opportunities and property for entrepreneurial and other activities which is not provided by law. These constitutional provisions are the basic provisions of the legal framework

for the implementation of tourism as a business activity. According to Article 37 of the Constitution of the Republic of Tajikistan, “A citizen has the right to rest. This right is ensured by establishing a week and a working day, annual paid leave, weekly days off and provides other conditions which is determined by law.” This is the right of a person to use the opportunities of tourism legislation outside of working hours.

According to Article 38 of the Constitution of the Republic of Tajikistan, everyone has the right to health. A person will receive free medical care in public health care institutions within the limits established by law. The state should take measures to improve the environment, promotes mass sport, physical culture and tourism. Other forms of medical care are determined by law.

Along with the above-mentioned articles of the Constitution of the Republic of Tajikistan, the following articles of the Constitution act as a direct source in the field of tourism law: Articles 10, 13, 14, 16, 17, 19, 24, 32, 39, 42, 44, 46 and others.

Tourism legislation itself is a set of normative legal acts is regulated through tourism relations. The system of normative legal acts regulating tourism activity must be consistent with the Constitution of the Republic of Tajikistan.

The Civil Code of the Republic of Tajikistan, as a document is included in the tourism legislation, which is the main source of a market economy, also covers the tourism sector by its own standards. Particularly it established the definition of entrepreneurial activity (Article 3, paragraph 1), individual entrepreneurship (Article 24), legal entity (Article 48),

commercial and non-commercial organizations and their organizational and legal forms (Article 50), etc. Services in the Civil Code of the Republic of Tajikistan are considered as one of the objects of civil law (art. 140). The Civil Code of the Republic of Tajikistan reflects the general provisions on obligations (Articles 328-451) and contracts (Articles 452-487). A special place in the tourist activity is given to the contract of tourist services, the source of which is the provisions of the Civil Code of the Republic of Tajikistan on the contract of paid services. Article 798 of the Civil Code of the Republic of Tajikistan stipulates that the subject of the contract is communication, medical, veterinary, auditing, consulting, information, educational, cultural, tourist and other services. In general, the Civil Code of the Republic of Tajikistan is reviving and developing lever of the legislation of Tajikistan, first of all, in the field of business as a criterion for market relations and tourism. Legal regulation of tourism activities along with the Civil Code of the Republic of Tajikistan is carried out by a large number of other laws. In this regard, the regulation of tourism as a business is carried out through various legal methods. These legal acts are included not only in the civil legislation, but also in administrative, financial, agricultural and environmental legislation.

It is expedient to name such laws among the large number of laws regulating tourism. Law of the Republic of Tajikistan "On protection and support of the state business in Tajikistan", "On consumer protection", "On licensing of certain activities", "On competition and restriction of monopolistic activity in the commodity market", "On society's shares", "On banking activities" and others.

Taking into account these laws do not fully reflect the specifics of tourism, the Law of the Republic of Tajikistan “On Tourism” was adopted on September 3, 1999. This normative legal act of the state policy ideas on establishing the legal basis of the single market of tourist services in the Republic of Tajikistan expresses the attitude in the implementation of the rights of citizens of the Republic of Tajikistan, foreign citizens and stateless people to travel and other rights is regulated in the The Republic of Tajikistan. This document consists of 19 articles and for the first time regulates tourism relations at the legislative level.

For the implementation of the mentioned laws and by-laws by the order of the President of the Republic of Tajikistan from November 30, 2006, №9 "On completeness" system of central executive bodies of the Republic of Tajikistan ”and on this basis by the Resolution of the Government of the Republic of Tajikistan dated on December 28, 2006, №609“ On Committee of Youth, Sports and Tourism Affairs under the Government of the Republic of Tajikistan ” Tourism was established under the Government of the Republic of Tajikistan, which is currently implementing the state policy in the field of tourism.

3. Acts of international law in the field of tourism as a source of tourism law of the Republic of Tajikistan

The following acts are the normative and international legal acts that are the source of regulation of tourism relations:

1. Universal Declaration of Human Rights from December 10, 1948.
2. International Covenant on Civil and Political Rights from December 16, 1966.

3. International Covenant on Economic, Social and Cultural Rights from December 16, 1966.
4. General Resolution of the United Nations Conference on International Tourism and Travel from September 5, 1963.
5. Final Act of the Session on Security and Co-operation in Europe from August 1, 1975. Section "Tourism Development".
6. Manila Declaration on International Tourism from October 10, 1980.
7. Tourist Charter from September 22, 1985.
8. Tourist Code from September 22, 1985.
9. The Hague Declaration on Tourism from April 14, 1989.
10. Global Code of Ethics for Tourism, from October 1, 1999.
11. Osaka Millennium Declaration from October 1, 2001.
12. Manrials' Declaration "On the Human and Social Promotion of Tourism."
13. Manila Declaration on the Social Impact of Tourism of October 10, 1980.
14. Targeted intergovernmental program "Development of tourism ties between the CIS member states" (concept).
15. Legislative Recommendation "On the main ideas of cooperation between the CIS member states in the field of tourism" from October 29, 1994.
16. International Convention on Travel Agreements from April 23, 1970.

17. Convention on the Unification of Certain Rules Concerning Air Carriage from October 12, 1929.

18. Convention on the Unification of Certain Rules for International Carriage by Air, from May 28, 1999, etc.

The General Resolution of the United Nations Conference on International Tourism and Tourism, adopted in Rome on August 21-September 5, 1963, is one of the most important sources of tourism law. The resolution states that “tourism is one of the most important and desirable aspects of human activity and deserves recognition and encouragement by all peoples and governments. Tourism is a key factor in contributing to the economic stability of developing countries through the expansion of economic activity, the creation of new forms of employment and the promotion of local industries ”(Section A, General Resolution).

The Final Act of the Session on Security and Co-operation in Europe contains a special section entitled 'Tourism Development', signed in Helsinki on August 1, 1975. It provides for the need to support tourism, taking into account “the contribution of international tourism to the development of mutual understanding between people and acquaintance with achievements of other countries in separate spheres, and also economic, social and cultural processes».

The first important document of international tourism law is the Manila Declaration on International Tourism, adopted in Manila from September 27 to October 10, 1980, with the participation of 107 delegations. This document specifically identifies two areas of tourism: 1)

tourism as a consumption of certain tourism services; 2) tourism as an economic activity.

Two years later, the Manila Conference of the International Tourism Council was convened in Acapulco, Mexico, on August 21-27, 1982. The Acapulco Document was adopted by the council. This document also covers some other aspects, along with the role of tourism in the development of international relations, the stability of peace, the expression of obstacles, etc. Such as, paragraph 9 states that “the need for greater access to leisure and travel is a new aspect of modern tourism, culminating in a system of administrative, legislative and financial discipline to ensure social, cultural, educational and political leadership, and the economy is focused better on the movement of people.” Another topic is entrepreneurship in the field of tourism. Specifically, governments should maintain close relations with associations, as these relations will help to “take into account the needs of all segments of the population in tourism” (p. 13). In modern times, this is an important provision for the development of tourism as a type of business.

The result of good tourism development was the adoption of the Tourism Charter and Tourism Code, which was approved by Resolution 1 of the VI session of the General Assembly of the World Tourism Organization, held in Sofia on September 22, 1985. The Tourism Charter enshrines the provisions set out in the tourism forums. A separate article (IX) is also devoted to tourism entrepreneurs. The Tourism Code is a direct appendix to the Tourism Charter and contains a number of articles on

services provided to tourists at the place of travel, as well as the obligations of tourists, including respect for the culture of the host country.

The Hague Declaration on Tourism was adopted at the Inter-Parliamentary Conference on Tourism in The Hague on April 10-14, 1989. This is a broad document defining the development of tourism as a “tourism revolution”. Paragraph 6 of the Annex to the Declaration states are unlimited to "the economic criteria for the development of tourism, but require certain investments and expenditures." Further, in paragraph 7, it is stated that “in addition of generating direct income, the cost of tourism affects in different levels of the economy and creates employment, facilitates the inflow of funds in foreign currency, assists carvers and potters, as well as promotes the development of the region and does not interfere in other trade or industry ”.

Along with the global documents, the problem of tourism development is also considered in regional and international organizations. In this regard, we look at the activities of certain bodies of the Commonwealth of Independent States. It should be noted that at the level of the CIS, tourism occupies a special place. Intergovernmental Assembly of the CIS member states on May 29, 1997 Interstate Target Program "Development of tourism relations between the states - CIS participants ”(concept). One of the main objectives of this program, which was aimed until 2003, it was a creation of modern regulatory framework and the foundations of the interstate system (within the CIS) for the regulation of tourism. These measures include the preparation and adoption of a model legal act for the CIS countries, which regulates the insurance of tourists, standardization

and certification of tourist attractions and services, the adoption of the Rules of tourist services in the CIS countries. Earlier, on October 29, 1994, the Intergovernmental Assembly of the CIS member states adopted a recommendation document "On the basic principles of cooperation between the CIS member states in the field of tourism." On the basis of this document, the Law of the Republic of Tajikistan "On Tourism" was adopted in the Republic of Tajikistan. In our opinion, in the framework of the CIS, it is necessary to improve further legal framework, which will be the basis for the further development of the legislation of individual countries, including the Republic of Tajikistan.

Thus, the considered of international acts in the field of tourism serve as a basis for the legislation of Tajikistan on the one hand, and on the other hand these acts are guarantee to the implementation of tourism activities at the international level.

The World Tourism Organization (WTO) plays an important role in coordinating the activities of the national tourism system, and in particular plays a significant role in the further development of tourism regulation as a business activity.

On November 27, 2008, at the Seventeenth WTO Council of the United Nations was elected a full member in Cartagena de Indias, Colombia, Tajikistan. Membership obliges Tajikistan to bring all regulations in the field of tourism in line with international law in this area.

Questions for students on the topic .2.

1. How many stages does the formation and development of legislation in the tourism sector involve in Tajikistan?

2. On the basis of what evidence the legislation in the tourism sector of Tajikistan dates back to the IX century?

3. How many groups were the legal sources of tourism in the Samanid state?

4. Prove the existence of tourism in the Samanid state with specific examples?

5. How did the laws of the Russian Empire, which regulated tourism classify in the northern part of pre-revolutionary Tajikistan?

6. Based on what criteria were the legal relations of tourism regulated in pre-revolutionary Tajikistan?

7. When was Lenin's decree "On the erection of monuments to kings and their servants and the erection of monuments to the Russian Socialist Revolution" adopted and what relations were regulated?

8. Which body was entrusted with the management of foreign and domestic tourism in 1917-1989?

9. Name the factors that are specific to the legislation of 1917-1989?

10. What period covers the development of the legislation of the Republic of Tajikistan in the field of tourism in 1990-2010?

11. What are the documents adopted in 1990-1998? 12. What were the shortcomings of the legislation of 1990-1998?

13. What are the specifics of the legislation of 1999-2010?

14. When was adopted the Concept for Tourism Development in the Republic of Tajikistan for 2009-2019 and the State Program for Tourism Development in the Republic of Tajikistan for 2010-2014?

15. What are the priorities for improving tourism legislation in modern times?

16. What are the sources of tourism law?

17. Classify sources of tourist rights?

18. Define the Constitution of the Republic of Tajikistan as a source of tourism law?

19. What is the Civil Code of the Republic of Tajikistan as a source of tourism law?

20. What are some of the laws as a source of tourism rights?

21. Why the Law of the Republic of Tajikistan "On Tourism" is considered as a source of tourism law?

22. Acts of international law in the field of tourism as a source of tourism law?

23. Acts of general international law on the tourism sector as a source of tourism law?

24. Acts of special international law in the field of tourism as a source of tourism law?

25. When did Tajikistan become a member of the WTO?

TOPIC №3. SUBJECTS OF TOURISM LAW

1. The concept and types of subjects of the tourist law of the Republic of Tajikistan.

2. The tourist as the consumer of tourist products.

3. Legal status of tourism regulator and travel agency.

4. The state as a party to the legal relationship of tourism.

5. International organizations in the field of tourism.

6. Other participants in relations in the field of tourism law.

1. The concept and types of subjects of the tourist law of the Republic of Tajikistan

The subjects of tourism law of the Republic of Tajikistan are the persons participating in or carrying out tourist activity. In order to determine the legal status of participants in the right to tourism, we need to clarify its essence. A legal participant is a broad category of jurisprudence. This concept includes all people involving in public relations, who have subjective rights and responsibilities. Subjective rights and obligations imply the ability to action.

We divide all subjects of tourism law into five groups: individuals; legal entities; government, international organizations and other participants.

According to the generally accepted classification, the subjects of tourism law are classified as follows:

1. Tourist as a consumer of tourism products;

2. Travel regulator and travel agency.

3. The state as a party to the law on tourism.
4. International tourism organizations.
5. Other participants in relations in the field of tourism law.
2. Tourist as a consumer of tourism products

Tourist (tourist) - a citizen, user of tourist services, who travels from his place of permanent residence to another country (place) for the purpose of health, acquaintance, pilgrimage (except for pilgrimage), trade, sport and other purposes related to travel.

The consumer is the tourist in the field of tourism. Tourist services are provided by the subjects of tourist activity, ie the tourist regulator and the travel agency, and only in the process of consuming the tourist service it is evaluated by the tourist.

In tourist relations the tourist has the following rights in preparation for and during the trip:

- Necessary and factual information on the rules of entry to the state (place) of temporary location and residence there;
- Necessary and factual information on traditions, customs, holy places, religious beliefs, natural, historical, cultural monuments and other tourist sites that are under special state protection;
 - necessary and factual information on the state of the environment;
 - free movement, free access to tourist resources, taking into account the restrictions imposed by the state (local) temporary stay;
- ensuring personal safety, consumer rights and property, receiving emergency medical care;

- Compensation of material and moral damage in case of non-fulfillment of the terms of the contract of tourist services by the tourism regulator or the travel agency in the order established by the legislation;

- Assistance to local authorities in obtaining legal and other assistance.

- unimpeded access to means of communication.

Tourists are obliged to:

- observe the legislation of the Republic of Tajikistan, respect the state political and social system, traditions, customs, religious beliefs and way of life of the local population;

- treat with care the environment, monuments of historical and cultural heritage, sacred places and other monuments that are under special state protection;

- observe the rules of entry into and departure from the Republic of Tajikistan; - comply with the terms of contracts for tourist services;

- to fully compensate the losses and expenses incurred by the tourist during the trip to the tourist organization received or sent;

- indemnify the damage caused to third parties during the tour;

- follow the rules of personal safety during the trip.

At the same time, every person who enters into the relationship of the right of tourism, that becomes a tourist, enjoys the rights enshrined in the Law of the Republic of Tajikistan "On Consumer Protection".

According to Article 3 of the specified law the consumer has the right:

- Awareness in the field of consumer protection;

- information on services, as well as on their executors;

- security of services;

- free choice of services;
- quality of service;
- full compensation for damage (loss) caused by a defect in the service;
- to protect their rights;
- Establishment of public associations of consumers;
- submit proposals and requests to improve the quality of services provided to executors.

Tourists as consumers of tourist services can be divided into separate categories. The German researcher G. Gun named the following types of tourists: S-, F-, W-, A- and B.

Type-S (German. Sonne, Sand, See - sun, sandy beach, river) - a tourist who wants to spend his vacation at the beach and is away from idle talk;

Type-F (German. Ferineund Flirtorientierter Erlebnisur Lauber - a vacationer, a traveler on a long journey) - a tourist, the purpose of which is to treat the mood;

Type-W-1 (German. Waldund Wanderorientiert - a lover of forest and hiking) - a tourist who, is constantly on the move in the fresh air, despite the weather, but is not a professional athlete;

Type-W-2 is an athlete who is athletic and extreme. For example, an old man;

Type-A (German. Abentener - incident, adventure, adventure) - adventurer;

Type-B (German. Bildungund Besichtigung - learning and seeing interesting things) - curious tourists. For instance, specialists, scientists.

The number of foreign citizens who visited our country in 2008 exceeded 500,000, compared to 130,000 in 2003. The number of trips of citizens of the country abroad for tourism purposes (through tourist organizations) shows the statistical indicator of 2008 - 20851 people, in 2003 this number was 11519 people. The volume of domestic tourism in 2008 reached 1 million 53 people, which is twice as much as in 2003. Analysis of the available statistics shows the expansion of the geography of imported tourism: 94 countries in 2008 against 60 countries in 2003. A large number of foreigners visit our country for personal, official and professional purposes, and the rest are invited by acquaintances. commercial and tourist purposes.

3. Legal status of tourism regulator and travel agency

In accordance with paragraph 19 of Article 2 of the Law of the Republic of Tajikistan "On Tourism" the subject of tourist activity - legal entities and individuals, including foreign legal entities or individuals, or stateless persons who provide tourist services in accordance with the law of Tajikistan. The law provides for two participants in tourism activities: tourism regulators and travel agencies. Pursuant to Article 2 of the Law, tourism regulation activity is the activity on formation, promotion and sale of tourist products, carried out on the basis of a license by individuals or legal entities (hereinafter - tourism regulator); activity of a tourism agency - activity on promotion and sale of tourist products, carried out on the basis of a license by individuals or legal entities (hereinafter referred to as a

travel agency). According to the provisions of the Law of the Republic of Tajikistan “On Tourism”, a tourism regulator and a travel agency can be both individual entrepreneurs and legal entities.

Citizens may engage in entrepreneurial activity as an individual entrepreneur from the moment of registration without establishing a legal entity. State registration of individual entrepreneurs is free in nature and is reflected as an individual entrepreneur in the registration. The rules of the Civil Code regulating the activity of a legal entity being a commercial organization should be applied to the entrepreneurial activity of citizens carried out without the establishment of a legal entity, unless otherwise follows from the law or the nature of the legal relationship. An organization is a legal entity that owns, manages or operatively manages property and is responsible for its obligations with this property, and may acquire and exercise property and personal non-property rights and obligations on its own behalf, be a plaintiff and a defendant in court.

In accordance with the Law of the Republic of Tajikistan "On state registration of legal entities and individual entrepreneurs" state registration of legal entities and individual entrepreneurs - the actions of the authorized state body (Tax Committee) in the field of state registration of legal entities and individuals, registration of the legal reality of the establishment, reorganization and liquidation of legal entities, individuals as individual entrepreneurs and termination of their activities (hereinafter - individual entrepreneurs), establishment and closure of branches, as well as the establishment and termination of branches, they are included in the Unified State Register of Legal Entities and Individual Entrepreneurs.

It follows from the provisions of the current legislation that there are no restrictions on the establishment of a travel agency (travel regulator and travel agency) as an individual entrepreneur or legal entity.

According to the Law of the Republic of Tajikistan "On Tourism", there are three types of activities of tourism regulators and travel agencies:

- 1) activity on formation of tourism products;
- 2) activity to promote tourism products;
- 3) activity related to the sale of tourist products.

Formation of tourist products - activity of the tourism regulator on conclusion and performance of the contract with the third person for rendering of the separate services which are included in the trip (hotels, carriers, guides).

Promotion of tourist products - a set of measures is aimed at the sale of tourist products (advertising, participation in specialized exhibitions, fairs, the organization of tourist information centers for the sale of tourist products, the publication of catalogs, booklets, etc.). Sale of tourist products is the activity of a tourism regulator or travel agency to conclude contracts for tourist services with tourists, as well as the activity of a tourism regulator or third parties to provide services to tourists in accordance with a contract.

The travel regulator and travel agency have the right:

- The formation, promotion and sale of tourist products in accordance with the laws of the Republic of Tajikistan;
- submission of proposals for the protection, conservation and revival of tourist resources, the procedure for their use;

- submission of proposals for the improvement of training programs for professional training in the field of tourism, increasing the level of training staff and specialists in the field of tourism;

- identification of categories for the objects of the tourism industry, which are established during the classification of their certification;

- to receive the established procedure in accordance with the necessary information for carrying out its activities from public authorities;

- Participate in the development of tourism development programs in the prescribed manner;

- creation of associations (unions and associations) for the purpose of coordination of entrepreneurial activity, and also representation and protection of common property interests;

- compensation for damage caused as a result of actions or inaction of public authorities, officials, and their illegal decisions.

The subjects of tourist activity locating in the Republic of Tajikistan are obliged:

- have a license for the right to engage in tourism activities on the territory of the Republic of Tajikistan, as well as a certificate of conformity for the products and services provided;

- in accordance with the established procedure to keep documentary reports on tourist services;

- provide the authorized state body in the field of tourism with information and reports in accordance with the established forms, including accurate records of the number of tourists returning to the Republic of Tajikistan;

- provide the tourist with complete and accurate information on the organization and conduct of the tour, and sell the tourist a single sample tourist voucher for services in accordance with the information provided;

- Ensuring the safety of tourists and protection of their property, creating security conditions for tourist activities, training in safety rules, providing emergency care to tourists and being responsible for the damage caused to tourists in accordance with the legislation of the Republic of Tajikistan;

- coordinate with the authorized state body the issues related to the revival of the tourism industry (construction of hotels, tourist bases, campsites, recreation centers, etc.);

- the subject of tourist activity is responsible in the organization and implementation of the tour (tour), to the client, both for their own actions and for the actions of their partners in the organization of travel (provision of accommodation, food, transport and other services included in the itinerary, mentioned in the referral) and for its sale.

4. The state as a participant to the law on tourism relations

Along with the tourist, the tourist regulator and the travel agency, the state is also one of the participants in the legal relations of tourism. The experience of different countries shows that the factor of tourism development depends on the extent which the industry is supported by the state. Every state has a budget for tourism to make large investments and to be an active participant in the legal relations of tourism.

At present, in tourism relations, the state acts as a participant in tourism relations on behalf of the Government of the Republic of

Tajikistan and the Committee on Youth, Sports and Tourism (authorized state body).

The competence of the Government of the Republic of Tajikistan in the field of tourism includes:

- adoption of normative and legal acts regulating tourism activity on the territory of the Republic of Tajikistan in accordance with the legislation of the Republic of Tajikistan;

- Establishment of the procedure for import and export of tourist services;

- conclusion of intergovernmental agreements in the field of tourism and determination of the procedure for their implementation:

- approval of state tourism development programs aimed at improving the tourism industry, participation in the implementation of international programs;

- Establishment and introduction of the procedure for use of tourist resources for the purpose of tourism and compensation of the caused damage;

- creation of conditions for attracting investments in the tourism sector;

- The organization of state methods of training support specialists in the field of tourism and scientific;

- establishment of uniform tariffs for mountaineering, payment of mountain rescue, ecological duties;

- implements the state policy in the field of tourism;

- resolution of other issues within its competence in accordance with the legislation of the Republic of Tajikistan.

The state policy and coordination of tourism activities in the Republic of Tajikistan is carried out by the authorized state body in the field of tourism (Committee on Youth, Sports and Tourism).

Its competencies include:

- Implementation of the state tourism program in Tajikistan and ensuring the implementation of international treaties and agreements in the field of tourism;

- Representation of the interests of the Republic of Tajikistan in international tourism organizations;

- development of norms and determination of state standards of tourist services in the country;

- coordination of activities and normative and methodological guidance to the subjects of tourism activity;

- the head of his representations abroad;

- in accordance with the established procedure to issue permits for tourist activities;

- Establishment of an equitable tourism quota among the subjects of tourist activity for viewing of tourist and excursion objects included in the State cadastre of tourist resources due to the need to protect them from damage;

- control over the quality of tourist services provided and compliance with licensing and certification conditions in the tourism sector;

- implementation, training and placement of personnel (except for non-governmental tourism entities), conducting research in the field of tourism and the establishment of the State Cadastre of Tourism Resources;
- interaction and cooperation with public organizations in the field of tourism;
- resolution of other issues within the competence of the legislation of the Republic of Tajikistan.

Committee on Youth, Sports and Tourism under the Government of the Republic of Tajikistan is the central body of the executive power in the field of youth policy, sports and tourism. It is responsible for the development of a unified state policy and legal regulation in the field of youth, the development of physical culture and tourism.

The main goal of the state policy in the field of tourism is to provide favorable legal conditions for the organization of effective activities of tourism entities and on this basis to create an effective and competitive tourism market in the Republic of Tajikistan. Development of a modern marketing strategy for the development and further promotion of tourism products in domestic and foreign markets on the basis of the national brand is a key task for the development of tourism in the country. It is also necessary to ensure the sustainable development of the tourism industry to achieve these goals and objectives.

5. International organizations in the field of tourism

One of the main tasks of the state policy in the field of tourism is the development of modern and universal legislation in accordance with the

norms of international tourism law. International organizations in the field of tourism play a key role in achieving this goal. Regular tourism turnover has led to the creation of specialized tourism organizations: WTO, IATA, ICAO, PATA and others. There are currently more than 200 international tourism organizations registered in the world. Tourism organizations are focused on the adoption of international legal regulations, the study of tourism problems, the development of important recommendations for the development of tourism. The activities of tourism organizations play a very important role in the development of tourism. International tourism organizations represent the interests of countries around the world and promote the development of international tourism. Relying on their activities, states, regions and oblasts establish their own tourism organizations for the development and formation of tourism.

Consider the activities of some international organizations.

The United Nations (UN) is a leading organization that regulates international tourism. The main task of the United Nations is to maintain and strengthen international peace and security, security and the development of cooperation between nations. The main conventions on the legal regulation of tourism have been developed and adopted by the United Nations. At the United Nations Conference on International Tourism and Tourism in 1963 was emphasized the role of social, educational and cultural tourism, and its place was expressed in the development of sincere will and cooperation, and the maintenance of peace between nations. The conference called on governments to “play a guiding and coordinating role in various aspects of national tourism” and recommended that national

tourism organizations “provide the necessary rights and resources to take measures to promote national tourism to the international community.».

The recommendations of the conference became the basis for the development of a national tourism policy, and the separate concepts of "tourist", "excursionist", "temporary resident" were defined in tourism statistics.

The International Union of Official Travel was established at the first International Congress of Official Travel Associations in The Hague Organizations in 1925. The UN General Assembly was adopted a resolution establishing the World Specialized Tourism Organization on December 5, 1969. The Charter of the World Tourism Organization was adopted on September 27, 1970 in Mexico City. The World Tourism Organization (WTO) is a world-renowned tourism organization was established on January 2, 1975 by the re-election of the Non-Governmental Organization of Official Tourism Organizations (NTOO), an intergovernmental organization operating under the auspices of the United Nations.

Members of the World Tourism Organization are divided into 3 groups:

- 1) Individual members - all independent states;
- 2) Associated members - territories or groups of territories that are not responsible for their external relations;
- 3) Joining members - international, intergovernmental and non-governmental organizations interested in tourism.

The WTO is the largest intergovernmental organization, uniting 143 countries, with 350 affiliated members (travel agencies, airlines, hotels, NGOs, educational institutions). Bodies of this organization are the General Assembly, the Executive Council, the Secretariat. Tajikistan was elected a full member of the organization on November 27, 2008, at the Seventeenth Council of the United Nations in Cartagena de Indias, Colombia. Membership obliges Tajikistan to bring all regulations in the field of tourism in line with international law in this area.

The following international organizations also operate in the field of tourism:

- International Federation of Associations of Travel Agencies - its mission is to unite and strengthen national associations and other associations, unions of regulators and travel agencies through the provision of professional and technical assistance, representation of the interests of these organizations at the international level, support;

- International Hotel Association - the task is to develop cooperation between national hotel associations of all countries, to protect the personal and professional interests of its members, to study the problems of the hotel industry, the publication and exchange of information;

- International Air Transport Association and the International Civil Aviation Organization - their main task is to develop and ensure the security of the international market of specialized and economically viable air transportation in accordance with international standards and norms;

- Asia-Pacific Tourism Association – is tasked with drafting legislation in the Asia-Pacific region;

- International Association of Franchising Organizations (MAFO) - is responsible for coordinating cooperation in franchising, development of recommendations, unification of concepts;

- International Tourism Press Organization (ICTT) - whose task is to develop recommendations, promoting the development of tourism, advertising activities, competitions, awards;

- International Business Association of Hotels and Restaurants - its mission is to conduct annual trainings, organize meetings, set goals and objectives for the future;

- European Union - a union of 25 European countries - whose mission is to unite for future progress and work on the basis of common laws and standards;

- World Association for the Support of Education and Training of Tourism and Hotel Business - its main task is to develop recommendations, standards, classification requirements for employees of the tourism industry, to consider the problems of training professionals in the field of tourism;

- Association of European hotels business - the task is to develop recommendations for the development of the hotel industry;

- European Commission for Tourism - whose mission is to promote Europe in the international tourism market;

- National Tourism Administration (NTA) - a specialized organization of governments (ministries) of developed countries - whose mission is to form and process tourism products, promote tourism products to the tourism market, address domestic issues, develop marketing, and study the

unoccupied tourism market. At present in the Republic of Tajikistan such a specialized tourism administration is the Committee for Youth, Sports and Tourism. Along with these organizations, there are hundreds of international and regional tourism organizations, the main tasks of which are the exchange of tourist information, study of international tourism statistics, forecasting of tourism development, marketing, regular economic support, development of the hospitality industry and other tourism issues. The documents adopted by these organizations are important for the development of international tourism. These documents ensure the harmonization of international and national legislation, the unification of the norms of international law, deep cooperation of all participants in the tourism market and form the basis for the establishment of national tourism law.

6. Other participants in the field of tourism law relations

Tourism regulators, travel agencies, governments, international organizations are involved, as well as associations of tourists, regulators and travel agencies, entertainment centers, insurance companies, except for tourist in the legal relations of tourism.

According to Article 3 of the Law of the Republic of Tajikistan "About protection of the rights of consumers" the consumer has the right to form public associations of consumers (associations and unions). Citizens have the right to voluntarily unite in public associations of consumers (associations, their unions). Public associations of consumers

(associations, their unions) have the right in the cases stipulated by the charter of these associations (associations, their unions):

- Participate in the development of requirements for the safety of goods (works, services), as well as standards that establish mandatory requirements in this area, draft laws and other regulations governing relations in the field of consumer protection;

- Carry out an independent examination of the quality and safety of goods (works, services) on behalf of the relevant organizations or in the case of having their own laboratories, subject to the permission of the relevant authorities for their technical competence;

- To check observance of the rights of consumers and rules of commercial, consumer and other types of services to consumers, to participate in carrying out examinations on the instructions of consumers on infringements of consumers' rights ;

- submit proposals to public administration bodies and organizations on improving the quality of goods (works, services), non-production, withdrawal from circulation of goods (works, services) that pose a threat to life, health, consumer property and the environment. ;

- Participate together with government agencies in monitoring the implementation of managed prices, directly examine the tariffs set by government agencies for the provision of services to the population (consumers);

- Submit materials to the prosecutor's office and public administration bodies to bring to justice those responsible for the production and sale of goods (works, services) that do not meet the established requirements for

safety and quality of goods (works, services), as well as violations of consumer rights. ;

- To ask prosecutors to protest against invalidation of acts of public administration bodies and acts of local government bodies contradicting the laws regulating the relations in the field of protection of the rights of consumers; apply to court for protection of consumers' rights (indefinite circle of consumers).

The Union of Tourists has not yet been established in the Republic of Tajikistan, and its establishment will once again provide a solid legal basis for the protection of tourists' rights.

Another participant in the legal relations of tourism is the association of regulators and travel agencies. Commercial organizations, such as regulators and travel agencies, may establish associations in the form of associations (unions) in order to coordinate their business activities, as well as representation and protection of common property interests, by agreement between them. If by the decision of the participants the entrepreneurial activity is assigned to the association (union), such association (union) must be transformed into a society or business company in the manner prescribed by law. In order to carry out entrepreneurial activity, associations (unions) have the right to establish or participate in business associations. The association is a legal entity. The members of the association shall retain their independence and the rights of a legal entity. The Association is not responsible for the obligations of its members. The name of the association must indicate the main purpose of its activities and the main purpose of its members, with the addition of

the words "association" or "union". The founding documents of an association (union) are the founding agreement signed by its members and the charter approved by them. Members of the association (union) have the right to use its services free of charge, unless otherwise provided by the constituent documents of the association and does not depend on the nature of the service. A member of an association (union) has the right to leave the association at the end of the financial year at his own discretion. In this case, he should bear additional responsibility for the obligations of the association within two years after his withdrawal, in proportion to his membership. A member of the association may be expelled by the decision of the remaining participants in the cases and in accordance with the procedure is established by the founding documents of the association. The rules of withdrawal from the association will apply to the property membership and liability of the expelled member of the association. A new member may join with the consent of a member of the association. Accession of a new participant to an association (union) may take place depending on its additional responsibility for the obligations of the association (union) that arose before its accession.

Currently, there are 4 tourist associations, 1 national and 3 regional tourism associations in Tajikistan, which unite the majority of regulators and travel agencies.

Other participants in the legal relationship of tourism are entertainment centers. Entertainment centers are night clubs, discos, Internet cafes, computer centers, bookmakers and gambling centers,

restaurants and other individuals and legal entities engaged in the organization and conduct of recreational activities.

Museums and parks, which act as institutions, are also involved in tourism. For example, the Government of the Republic of Tajikistan approved the Statute of the National Museum of Antiquities of Tajikistan on April 4, 1996, according to that the National Museum of Antiquities of Tajikistan is a museum of history, archeology and ethnography at the Institute of History, Archeology and Ethnography of the Ahmadi Donishi Academy. The Republic of Tajikistan was established as a state museum of national importance. The National Museum of Antiquities of Tajikistan is a scientific research and cultural institution and is one of the main treasures of the history of civilization and art of Tajikistan. In its activities the Museum of Antiquities of Tajikistan (hereinafter referred to as the National Museum) is guided by the Constitution, laws and other normative acts of the Republic of Tajikistan. The National Museum is a legal entity and has its own seal, letterhead and stamp. The National Museum consists of five sections: history, archeology, ethnography, restoration and exhibition. The Regulation of the National Park of Tajikistan was approved by the Government of the Republic of Tajikistan on July 3, 2002, №277. In accordance with this Regulation, the National Park of Tajikistan is aimed at strengthening nature protection, preservation of valuable landscapes, rare and endangered species of flora and fauna, unique ecosystems, natural, cultural and historical monuments, tourism, research and development, as well as the rational use of natural resources. The National Park of Tajikistan is state-owned and is directly subordinated to

the Committee for Environmental Protection under the Government of the Republic of Tajikistan and is a legal entity, has an account, including a bank account, stamped with the State Emblem of the Republic of Tajikistan and its name in the state and English languages.

An insurance organization also participates in the legal relations of tourism for the purpose of tourist insurance, regulator and travel agency. Insurer (insurance organization) - a legal entity that carries out insurance activities in accordance with the legislation of the Republic of Tajikistan based on an appropriate license issued by the authorized government body. Insurers (insurance companies) assess the insurance risk, receive insurance premiums, create insurance reserves, replenish assets, determine the amount of losses or damages, make insurance payments, make other insurance contracts.

The legal relations of tourism are also attended by individuals and other legal entities that benefit from the development of tourism, profit from tourists and in general, from participation in tourism relations.

Questions for students on the topic №3.

1. Explain the concept of subjects of tourism law?
2. How many groups are the subjects of tourism law?
3. Who is a tourist?
4. What are the rights of a tourist?
5. Describe the responsibilities of tourism?
6. What are the rights of a tourist as a consumer?
7. What are the types of tourists?

8. Describe the statistics of imports and exports of tourists in previous years?
9. Who is the subject of tourist activity?
10. Who is the tourist regulator?
11. Who is a travel agency?
12. What types of activities are carried out by tourism regulators and travel agencies?
13. What is the development of tourism products?
14. What is the promotion of tourism products?
15. What is the sale of tourist products?
16. What are the rights of a travel regulator and a travel agency?
17. What are the responsibilities of a tourism regulator and a travel agency?
18. Explain why is the state as a participant in tourism relations?
19. Define the competence of the Government of the Republic of Tajikistan in the field of tourism?
20. Explain the competence of the Committee on Youth, Sports and Tourism?
21. What are the goals of the state policy in the field of tourism?
22. How many international tourism organizations are there in the world?
23. Explain why is the United Nations as a subject of the right to tourism?
24. World Tourism Organization as a subject of tourism rights?
25. Name some international tourism organizations?

26. Association of tourists as a subject of tourist rights?
27. Association of regulators and travel agencies as a subject of tourism law?
28. Entertainment centers as a subject of tourism law?
29. Insurance organizations as a subject of tourism law?
30. Explain the role of museums and parks in tourism?

TOPIC №4. STATE REGULATION OF TOURISM ACTIVITY IN THE REPUBLIC OF TAJIKISTAN

1. The concept, purpose and types of state regulation of tourism.
2. Description of separate means of state regulation of tourism activity.

1. The concept, purposes and types of state regulation of tourism

State regulation of tourism activity refers to the activity of the state in the form of its bodies, which is aimed at the implementation of state policy using special methods, tools and forms in the field of tourism. Objectives, methods and ways of state regulation of tourism activities in the Republic of Tajikistan are reflected in the Law of the Republic of Tajikistan "On Tourism". According to Article 5 of this Law, the main objectives of state regulation of tourism are:

- ensuring the right of citizens to rest, free movement and other rights to travel;
- environmental protection;
- determination of the annual list of natural, historical and cultural objects, including specially protected natural areas, the visitation of which is established based on quotas;
- development of the tourism industry as a supplier of citizens' travel needs;
- development of international relations in the field of tourism;
- Rational use of natural and cultural achievements.

The main directions of state policy in the field of tourism are support and development of domestic, import, social and amateur tourism.

State regulation of tourism activities is carried out in the following ways:

- Creation of normative and legal acts aimed at the formation of relations in the field of tourism industry;

- protection of the rights and interests of the state in the field of tourism;

- protection of the rights and tourists' interests, ensuring their safety;

- establishment of the procedure for standardization, certification and licensing in the field of tourism;

- Stimulation of national and foreign financing for the development of tourism activities;

- creation of equal opportunities in the market of tourist services for business entities, regardless of the form of ownership, support for the development of competition, ensuring compliance with antitrust laws in this area;

- expansion of cooperation with foreign countries and international organizations, participation in international tourism programs, development and conclusion of bilateral and multilateral international agreements in the field of tourism and determination of the procedure for their implementation.

Representation of the interests of the Republic of Tajikistan in the relevant countries in the representation of the state bodies of tourism management abroad, within the limits of the competence carries out tasks on development of cooperation, as well as exchange of information

between the Republic of Tajikistan and other states in the field of tourism (Article 18).

In its recommendations, the WTO emphasizes that the development of tourism at the present stage is closely linked to the influence of the state and the government. The private business sector will never be able to meet the demand for large investments in the development of resorts, hotels and tourism. The idea that the private sector can perform certain functions of the National Tourism Administration should be abandoned. In all major tourist countries, there are such organizations that are subordinate to government ministries and committees, which are engaged in the development of tourism development programs. These organizations operate in different countries under different names: in the UK - BTA (British Tourist Authority), in Ireland - Irish Board, in Spain - Turespana, in Italy - ENIT, in Norway - NORTRA and others. They are the ones who form the government of tourism in other countries, develop tourist programs that attract tourists and provide tourism information. With their help, number of countries are developing state programs for the development of domestic tourism, which include tax benefits, simplified border and customs regimes, a favorable investment climate, increased budgets for tourism development, advertising in foreign markets, training. An example of this state is Greece. Its government provides investors with assistance in obtaining loans at low interest rates, tax breaks. Every year, the Ministry of National Economy of Greece announces the total amount of assistance to investors in the field of tourism. The Government of Greece determines the preferences for investment in the construction and

tourism industries. If the investment is \$ 21 million, additional benefits will be provided. Interestingly, hotels and other rehabilitating tourist facilities are entitled to state aid (subsidises or tax breaks). This policy has a direct positive effect on tourism. For instance, between 1989 and 1999, the import of tourists from Russia to Greece increased more than 20 times: from 7,800 to 200,000.

Only tax revenues are visible in foreign countries: in the United States the tourism tax is 130 billion dollars, in Japan 70 billion dollars, and in Germany 57 billion dollars a year. World tourism revenue was \$ 1.3 trillion USD in 2010. These figures were announced by TUS Secretary General Tolib Rifai at the 4th Astana Economic Forum. T. Rifai noted that for every 12 jobs is 1 job in the world in the field of tourism. Every year, 32 million people cross international borders. Culture and tourism have become more relevant in the post-crisis period of global economic development. The tourism industry is a source of income, a creator of industry and a facilitator of relations between nations.

The modern tourism industry is considered to be one of the fastest growing and the most lucrative sectors of the global economy. USD, or 7.9% out of 6.738 trillion USD of the total volume), from the machine-building industry (7.8%), chemical production (7.5%), food production (6.6%), computer and office equipment (5.9%) and fuel (5.1%). The number of jobs is about 200 million in the tourism sector or more than 8% of the total employment of the world's population. The average annual growth rate of tourism in 1950-1999 was 7% per year, which is generally higher than the average annual growth rate of the world economy.

According to the WTO, the United Nations will maintain the pace of tourism development in the coming decades. Thus, by 2020, the number of international tourist visits should increase 2.2 times compared to 2000 (from 698 million to 1.561 billion tourist trips). Revenues from tourism worldwide should increase 4.2 times (from 476 billion to 2 trillion US dollars).

In the global tourism market, the Republic of Tajikistan, despite its potential, occupies a less prominent position and, accordingly, the country accounts for a small share of global tourism. According to the statistics of the tourism market, there was a steady increase in the tourist turnover in the country (in 2008 more than 450 thousand foreigners visited the country) in the period from 2000 to 2008, which was primarily due to the stable domestic and social policy, economic development of the country.

Statistics on imported tourism in Central Asia show that the main number of foreign tourists in the region falls on neighboring countries. This indicates a lack of marketing and advocacy measures, as well as organizational, technical and legal work on the development of international tourism in the country (the forecast is for an annual increase in tourist arrivals about 3%). Despite the announcement of tourism as a priority of the state's economic policy, the country has not yet established an effective mechanism for interagency coordination. Currently, the state policy in the field of tourism is implemented by the Committee on Youth, Sports and Tourism under the Government of the Republic of Tajikistan, but the main tourist areas and natural and recreational areas belong to various government agencies and public organizations. Ministries,

agencies, unions and public associations of the country, which have been the owners of tourist facilities since the former Soviet Union do not pay enough attention to the development of tourism in order to protect their departmental interests. It is necessary to agree with the Government of the Republic of Tajikistan on strengthening the material and technical base of tourism and effective use of tourist facilities under the ministries and departments and the Federation of Independent Trade Unions of Tajikistan in order to implement effectively the state goals in this area. .

Analysis of the overall situation in the industry shows that the following factors mainly hinder the further development of tourism in the country: - Lack of state advertising of non-commercial tourism potential of the country and in this regard, insufficient advertising and information activities to promote national tourism products in the global market of tourist services;

- Incompleteness of the current procedure of visa support of the country, registration and visit to the border areas of the country for citizens of foreign countries;

- Incomplete system of organization of imported and domestic tourism in the country, low level of management both in the tourism industry and related industries;

- non-compliance of the national tourism infrastructure with the requirements of the time and the obsolescence of the existing material and technical base, a small number of medium-sized hotels with a modern level of recreation, as well as inconsistency of prices and quality of services in existing hotels and reception facilities;

- limited number of international flights to the country;
- Incomplete system of organization of emergency rescue operations in case of extreme tourism events;
- Weak material and technical base for educational activities in the sector.

The main goal of the state policy in the field of tourism is to provide favorable legal conditions for the organization of effective activities of tourism entities and on this basis to create and provide an effective and competitive tourism market in the Republic of Tajikistan. Development of modern marketing strategy for the development and further promotion of tourism products in domestic and foreign markets on the basis of the national brand is a key task for the development of tourism in the Republic of Tajikistan.

2. Description of separate means of state regulation of tourism activity

At present, separate means of state regulation of tourism are described as follows:

- taxation;
- registration;
- permitting;
- legislation;
- stimulation;
- standardization;
- certification;
- information and so on.

It is necessary to take the following measures to develop the system of state regulation and support tourism:

- Further improvement of the legislation on simplification of visa issuance and registration procedures;

- Adoption of normative and legal acts on investment incentives and improvement of the taxation system for the development of imported and domestic tourism;

- Improving the system of statistical accounting and reporting in the field of tourism, the introduction of auxiliary tourist accounting in the system of national accounts;

- Activation of cooperation in the field of tourism with foreign countries in order to expand the international treaty framework of the sector;

- Improving the quality of tourist services and hotels in accordance with the requirements of the technical regulation system;

- Ensuring the appropriate level of tourism management through training and retraining of specialists in the field;

- providing state support for the development of tourism infrastructure;

- facilitate the development of private initiatives in the field of tourism.

It is necessary to address the following issues to increase the investment attractiveness of the tourism sector:

- Raising awareness of the international business community on tourism opportunities in Tajikistan and the development of cooperation with foreign organizations in this area, including through the authorized

body of the Government of the Republic of Tajikistan to attract investment;

- Facilitate investment in projects for the construction of facilities in the form of tourist and ethnographic complexes by international financial institutions;

- to take measures for the development of the tourism and tourism products industry.

The open door policy of the Government of the Republic of Tajikistan, as well as measures aimed at improving the living standards of the population and strengthening the country's image as a center for international political, scientific and cultural events, have a positive impact on all types of tourism indicators - export and import).

As part of the measures is taken by the Government of the Republic of Tajikistan to simplify the procedure for importing foreign nationals and eliminate artificial administrative barriers to the full stay of tourists in the country, programs are being developed to attract new groups of tourists. Also, advocacy and information activities on the promotion of tourism products of the country to international markets, taking into account the preferences of global travel enthusiasts to see the natural and recreational features (mountainous areas, ecological and prohibited areas).

Since 2008, with the support of the Government of the Republic of Tajikistan and within its capabilities, representatives of the tourism industry have participated in major international exhibitions and fairs and increase their advocacy and information in Berlin (Germany), Tokyo (Japan) and Tashkent (Uzbekistan).

The regulatory framework for international cooperation is expanding in the field of tourism of the Republic of Tajikistan with foreign countries. Currently, there are 12 agreements in the field of tourism. According to WHO experts, Tajikistan's competitive advantage is in its unique culture (cultural and educational tourism), rich natural potential (eco-tourism), business activity (business tourism), as well as opportunities to engage in active forms of leisure, such as sports tourism. A special place in the development of tourism in the country is given to specially protected areas. The experience of foreign countries shows that tourists visiting national parks (for example, Kenya, America and China) spend about one million US dollars a year. National parks and reserves are allowed to earn money directly from the sale of goods and paid services. The financial resources obtaining by national parks are used for their development and implementation of nature protection and restoration measures.

Given the limited import of foreign tourists to the country and the high tax burden on the activities of tourism organizations, these organizations do not have real financial opportunities to promote the industry and implement comprehensive advocacy and information measures to promote the country's tourism products abroad.

Questions for students on the topic №4.

1. What is the state regulation of tourism?
2. What are the main objectives of state regulation of tourism?
3. What are the main directions of state policy in the field of tourism?
4. Is the state regulation of tourism carried out by road?

5. What factors are mentioned in the recommendations of the WTO on state support of tourism?
6. Describe the experience of foreign countries in the state regulation of tourism?
7. What is the role of tourism in foreign countries to enrich the budget?
8. What are the statistical indicators of the tourism market in Tajikistan?
9. What factors hinder to the development of tourism in the country?
10. What are the separate means of state regulation of tourism?
11. What measures need to be taken in the future to develop the system of state regulation and support tourism?
12. What issues need to be addressed to increase the investment attractiveness of the tourism sector?
13. What major international exhibitions and fairs have Tajik representatives participated in so far?
14. What is the competitive advantage of Tajikistan in the field of tourism?
15. What measures need to be taken to attract more tourists to Tajikistan?

TOPIC №5. LEGAL REGULATION OF CERTAIN TYPES OF TOURISM AND TOURISM ACTIVITIES.

1. The concept and types of tourism.
2. Concept, signs and separate types of tourist activity.

1. The concept and types of tourism

According to the Law of the Republic of Tajikistan "On Tourism" **tourism** - an activity that regulates the organization of methods of recreation for health, acquaintance, pilgrimage (except for Hajj), commercial, sports, professional and other purposes (tourism) through tourism, temporary stay outside the place of permanent residence.

There are different views on the concept of tourism in the scientific literature. One group sees tourism as a direct activity of travel companies, others as a process of consuming services and goods when out of production and out of place of residence, and still another as a society's attitude to the use of people's free time outside the place of residence in connection with living conditions, understand all levels of services and goods needed for this.

From these concepts the following main tourist features can be distinguished:

1. The duration of the trip (from 24 hours to 12 months).
2. Leaving the place of permanent residence.
3. Existence of certain tourist purposes (health, acquaintance, religious, commercial, sports, professional and other purposes of travel).
4. Prohibition of tourism for profitable activities in the recreation area.

Article 2 of the Law of the Republic of Tajikistan "On Tourism" defines the following types of tourism:

- domestic tourism - organizing travel (tour) on the territory of the Republic of Tajikistan for people permanently residing in the Republic of Tajikistan;

- mobile tourism - organizational travel (tour) to other countries for the people permanently residing in the Republic of Tajikistan;

- visiting tourism - organizational travel (tour) on the territory of the Republic of Tajikistan for the people not permanently residing in the Republic of Tajikistan;

- social tourism - travel (tour) is paid by the state for social needs;

- amateur tourism - travel (tourism) with the use of active means of transportation, organized by tourists independently;

- sports and mountaineering tourism - a form of active recreation, which is associated with the organization of hiking trails in mountainous terrain;

- mountaineering - an unusual type of tourism associated with the ascent of mountain peaks.

At the same time, the Concept of Tourism Development in the Republic of Tajikistan for 2009-2019 from April 2, 2009, № 202 states that "The following areas of tourism in the Republic of Tajikistan are considered as priorities:

- tourism of sanatorium and resort treatment;

- mountaineering, mountaineering and ecological sports tourism;

- historical, educational and ethnographic tourism;

- professional tourism;
- rafting (rowing on mountain rivers);
- alpine skiing;
- foreign tourist hunting.

Statistics of imported tourism in the country show that depending on the natural and recreational features of the country, foreign tourists prefer eco-tourism, mountain sports and extreme sports. Therefore, it is necessary to establish effective work of special rescue services in the state structure of emergency situations. The further development of eco-tourism in Tajikistan is facilitated by the potential of specially protected natural areas, which cover more than 22% of the territory of Tajikistan. In particular, the "National Park of Tajikistan", which has a unique natural ecosystem and a variety of flora and fauna that attract the attention of foreign tourists.

Sanatorium and resort facilities and a large number of private recreation areas of the country provide a good basis for the organization of recreation and treatment of domestic and foreign tourists. Expansion of the development of domestic tourism, along with its positive impact on social protection (employment), also contributes for attracting domestic and foreign investment in the tourism infrastructure. For the development of imported tourism, the country has four international airports in Dushanbe, Khujand, Kurgan-Tube and Kulyab, on the basis of which the volume of international flights to different countries is expanding every year.

The Law of the Republic of Tajikistan "On Tourism" states that "The main types of activities in the field of tourism are:

- organization of reception and services in the field of education, ecology, sports and mountaineering, mountaineering, international hunting, sending tourists abroad for leisure, study, medical treatment, religious and commercial pilgrimage;

- organization of public tourist and health events, interesting, specialized and other events related to tourism”.

However, this provision does not fully reflect the types of tourist activities, but reflects the types of tourism. That is, in the current law there is not difference between the types of tourism and the types of tourist activities.

As for the types of tourism, it is divided into the following groups: social - children's tourism - youth, family, the elderly, the disabled, pensioners, servicemen, amateurs, medical rehabilitation, etc.; cultural and educational; work; rural.

The scientific literature classifies the types of tourism on different bases:

- Depending on the purpose of tourism (educational, training, work, rehabilitation, medical, religious, ethnic, etc.);

- Depending on the age of the participants in the trip (the elderly, middle-aged, young people, children and adolescents);

- Depending on the number of tourists (group and individual);

- Depending on the way of recreation (organized and amateur);

-In connection with the movement of tourists (water, air, road, rail, animal);

- Depending on the duration of the trip (short, medium and long term);

- Depending on the source of funding (commercial and social).

2. Concept, signs and separate types of tourist activity

In the scientific literature, tourism is defined as "the expression of the social policy of the state, trade unions, enterprises in order to exercise the right of citizens to rest, freedom of movement and other rights in tourism", "coordination of relations with tourism", "private-legal conditions for its implementation as a business activity", "activity of a tourism regulator on sale and formation of tourist products, as well as legal relations between a tourism regulator and an agency tourism for the provision and sale to tourists in the form of integrated tourist services (tours)" and "activities for the formation, promotion and sale of complex economic benefits, which at least has two benefits - the delivery of tourists and their luggage to the required and temporary location in the process of clockwork".

In our opinion, tourism is a business activity for the formation, promotion and provision of tourism services by a tourism regulator and a travel agency on the basis of a license.

Tourist activity differs from other economic and business activities by the following features:

- the purpose of this activity is to make a profit;
- These activities are carried out by individual entities that have a license:
- this activity is always aimed at the individual and satisfies his personal needs;

- Regardless of the fact that the provision and use of tourist services has a specific purpose, the results of the service in most cases are not guaranteed by the executor.

The Law of the Republic of Tajikistan "On Tourism" does not establish norms for business and other economic activities. Economic activities in the field of tourism include the following types of activities:

a) tourist activity (tourist services)

- services of tourism regulators (activities of tourism regulators);

- services of a travel agency (activities of a travel agency);

b) excursion activities (excursion services)

- services of a travel instructor;

c) activity of hotels (hotel services)

- services of collective means of placement;

- services of special accommodation;

- services of individual means of placement;

d) tourism promotion services

- maintenance of tourist information centers;

- advertising services;

- services of organizers of exhibitions, special fairs;

e) transport activities (transportation services)

- transportation and excursion services;

f) catering services;

g) other services in the field of tourism

- sanatorium and resort services;

- services for the engaged industry and sports;

- insurance services;
- cultural services;
- other services.

Another economic activity of the subjects of tourist activity is the activity of individuals and non-profit organizations aimed at exercising the rights of citizens of the Republic of Tajikistan in the field of tourism and tourism activity.

Questions for students on the topic №5.

1. What is tourism?
2. What are the ideas about the concept of tourism in the scientific literature?
3. What are the main tourist attractions?
4. What types of tourism are reflected in the Law of the Republic of Tajikistan "On Tourism"?
5. What is domestic tourism?
6. What is mobile tourism?
7. What is inbound tourism?
8. What is social tourism?
9. What is amateur tourism?
10. What is sports and mountaineering?
11. What is mountaineering?
12. What type of tourism is considered a priority in the country in the Concept of tourism development in the Republic of Tajikistan?

13. What types of tourism are preferred by foreign tourists depending on the natural and recreational characteristics of the country?
14. What are the main types of activities in the field of tourism in the Law of the Republic of Tajikistan "On Tourism"?
15. What types of tourism are described in the scientific literature?
16. What are the concepts of tourism in the scientific literature?
17. What is tourism activity?
18. What are the signs of tourism?
19. What types of activities are included in economic activities in the field of tourism?
20. What are the other economic activities of tourism entities?

TOPIC №6. COMMERCIAL BASIS OF TOURISM

1. Tourism industry.
2. Tourist resources.
3. Tourism products.

1. Tourism industry

At the United Nations Conference on Trade and Development in 1971, the definition of the tourism industry was given: "The tourism industry is a set of productive and non-productive activities aimed at creating goods and services for travelers." The sustainable development of tourism in the world depends on the development of the tourism industry and related sectors of the economy, science and culture, and the education system. The tourism industry is essentially an interdisciplinary complex for the production of goods and services for tourism. Industry and agriculture, construction and trade are involved in meeting the diverse and complex needs of tourism. The International Standard Classification of Activities in the Field of Tourism was developed by the World Tourism Organization in 1993 as a temporary classification by the United Nations Statistical Commission. Tourism industry - a set of hotels and other accommodation, transport, catering, entertainment, service, health, sports and other facilities that organize the activities of tourism regulation and a travel agency. This is the only provision in the Law of the Republic of Tajikistan "On Tourism" for the tourism industry. It should be noted that this concept reflects only the objects of the tourism industry and is far from its specific features.

We define the concept of the tourism industry as flawless: "The tourism industry is a set of relationships that provide services to tourists based on the implementation of tourism and other economic activities by tourism entities." The objects of the tourism industry include hotels, tourist complexes, campsites, motels, resorts, public catering establishments, transport, cultural institutions, sports and others. This is not a limited list. At the same time, facilities in the tourism industry may include other organizations that are directly involved in the provision of tourist services. These organizations may exist without the tourism business, but their income will increase if they are located in health resorts. The group of such organizations includes companies that rent small vehicles, taxi fleets, entertainment companies, and so on.

The modern tourism industry is one of the fastest growing and most lucrative sectors of the global economy. WHO statistics show that the United Nations and some international financial institutions have led the world in exports of goods and services since 1998 (\$ 532 billion, or 7.9 percent of the \$ 6.738 trillion) in the industrial sector, machinery (7.8%), chemical products (7.5%), food products (6.6%), computer and office equipment (5.9%) and fuel (5.1%). The number of jobs in the tourism sector is about 200 million or more than 8% of the world's total employment. The average annual growth rate of tourism in 1950-1999 was 7% per year, which is generally higher than the average annual growth rate of the world economy. According to the United Nations World Tourism Organization, the pace of tourism development will continue in the coming decades. Thus, by 2020, the number of international tourist visits should

increase 2.2 times compared to 2000 (from 698 million to 1.561 billion tourist trips). Revenues from tourism worldwide should increase 4.2 times (from 476 billion to 2 trillion US dollars).

2. Tourist resources

According to Article 2 of the Law of the Republic of Tajikistan "On Tourism", tourist resources are a set of ecological, natural, climatic, cultural, historical and recreational resources and other recreational resources on the territory of the Republic of Tajikistan that meet the various requirements of the Republic of Tajikistan. In the Republic of Tajikistan the legal status of tourist resources is regulated by the Regulation "On the State Cadastre of Tourist Resources of the Republic of Tajikistan" from May 4, 2007, № 199.

This Regulation was adopted in accordance with the Law of the Republic of Tajikistan "On Tourism" in order to regulate the effective use and protection of unique historical, cultural, natural and recreational resources and tourism resources of the Republic of Tajikistan. The State Cadastre of Tourist Resources of the Republic of Tajikistan contains the unique tourist potential of the country, which includes cultural, scientific, historical, natural and recreational facilities, as well as tourism infrastructure, which are the basis of national tourism products of the Republic of Tajikistan. They make up Tajikistan. The State Cadastre of Tourist Resources is used to obtain the necessary information for visits of foreigners and citizens of the Republic of Tajikistan, to conduct scientific research, environmental activities, to organize statistical accounting for

further development of new tourist routes in the Republic of Tajikistan. State cadastre of tourist resources by the state body of tourism management both on the basis of own data and on the basis of materials submitted by local authorities, Committee for Environmental Protection of the Republic of Tajikistan, Ministry of Culture of the Republic of Tajikistan, Academy of Sciences of the Republic of Tajikistan. The order of formation, maintenance and implementation of the State cadastre of tourist resources of the Republic of Tajikistan is based on the Constitution of the Republic of Tajikistan, the legislation of the Republic of Tajikistan. List of tourist resources includes in the State Cadastre of the Republic of Tajikistan by the state body of tourism of the Republic of Tajikistan in coordination with the interested ministries and departments, Federation of Independent Trade Unions of Tajikistan and subjects of tourist activity of the Republic of Tajikistan. The Government of the Republic of Tajikistan is the main custodian of the State Cadastre of Tourism Resources of the Republic of Tajikistan and delegates these rights to the state governing body of the Republic of Tajikistan on tourism. The state cadastre of tourist resources of the Republic of Tajikistan consists of the following information: list of objects; valuation value of historical, cultural and scientific significance of the object, indicating its administrative subordination, determined by the State Committee on State Property Management of the Republic of Tajikistan; the procedure for monitoring the sanitary and environmental condition; description of the location. Tourist resources included in the State Cadastre of the Republic of Tajikistan should be used only for their intended purpose. Industrial,

economic and other activities are strictly prohibited that have a negative impact on the state of tourist resources included in the State Cadastre. The State Agency for Tourism Management of the Republic of Tajikistan, together with relevant ministries and agencies, as well as the Federation of Independent Trade Unions of Tajikistan, determines the amount of visit quotas for facilities included in the State Cadastre of Tourist Resources and their use on a contractual basis. Free or free use of tourist resources included in the State Cadastre is not allowed when organizing inbound tourism to the Republic of Tajikistan. Citizens of the Republic of Tajikistan shall be obliged to observe norms and rules of conduct related to the maintenance and protection of tourist resources when visiting tourist facilities included in the State Cadastre for the purposes of tourism, medical recreation, as well as religious pilgrimage. Tourist resources included in the State Cadastre are considered to be national achievements and are annually published in the mass media of the Republic of Tajikistan on the status of historical and cultural values, established quotas for visitors and conditions of use. Ministries, departments, subjects of tourism activity, Federation of independent trade unions of Tajikistan, owners of objects included in the State cadastre of tourist resources of the Republic of Tajikistan at the request of state management body of the Republic of Tajikistan on tourism, nature of work, condition, conditions of reception and service of tourists develop the corresponding regulations.

The Government of the Republic of Tajikistan on the proposal of the state management body of the Republic of Tajikistan on tourism, in cooperation with the Ministry of Finance, the Ministry of Economic

Development and Trade, the Ministry of Culture and the Committee for Environmental Protection of the Republic of Tajikistan, The Federation of Independent Trade Unions of Tajikistan agrees on the amount and procedure for payment for the use of tourist resources included in the State Cadastre. The state management body of the Republic of Tajikistan on tourism issues a certificate for the objects included in the State cadastre of tourist resources. This certificate confirms the status of this facility as a national achievement. For the purpose of protection and preservation, and also economical use of the tourist resources entered in the State Cadastre of the Republic of Tajikistan, the state body of management of tourism of the Republic of Tajikistan together with the ministries and departments of the Republic of Tajikistan has jurisdiction to determine the relevant investigative standards, they conduct unannounced inspections and investigations, with the exception of facilities under the jurisdiction of the Federation of Independent Unions of Tajikistan. The state body of tourism management of the Republic of Tajikistan, ministries, departments, Federation of independent trade unions of Tajikistan and subjects of tourist activity subordinated to the tourist resources and included in the State cadastre of tourist resources are responsible for use of the Republic of Tajikistan in accordance with the legislation of the Republic of Tajikistan. The use of tourist resources included in the State Cadastre, in accordance with the proposal of the state management body of the Republic of Tajikistan on tourism, for the purpose of protection of tourist resources as a national achievement of the Republic of Tajikistan may be restricted by the Government of the Republic of Tajikistan.

It is the tourist resources that attract tourists and on the basis of which tourist organizations organize leisure and leisure programs for tourists. Proper allocation of different types of resources, which in the future will meet the needs of tourists, will lead to the development of tourism and increase the cost of tourism. In the tourism industry, the use of natural, historical and cultural resources is paramount importance.

Tourist resources can be classified on different bases:

1) In connection with the elements of the natural environment - forest, water and climate.

2) Depending on the functional purpose - cognitive, health, sports.

3) Depending on the level of study - historical, cultural, ethnographic.

Each type of tourist resource, in its turn is divided into subtypes. Such as objects of historical and cultural heritage as tourist resources are monuments related to historical events in the life of the people, development of society and the state, tangible and intangible heritage of historical, scientific, artistic and other values of national importance, according to the Law of Tajikistan, and use of objects of historical and cultural heritage have the following types:

1) Movable monuments include:

- Individual objects - archeological finds, antiques, fragmentary elements of real estate, anthropological and ethnological materials, historical relics, works of art (paintings, pencils, applied arts, museums, photographs), treasures, collections, documents included in the National Archive Fund, manuscripts, typewriters, penmanship, filming and

photography documents, visual and audio works, rare publications, as well as historical languages and geographical names;

- Complex objects - historically formed complexes, funds and collections of these separate objects as a single whole, as well as complexes, funds and collections of scientific and natural value, generally have historical value.

2) Real estate monuments include:

- Historical monuments - buildings, structures, monuments, historical monuments, monuments and memorials dedicated to the most important events in the history of people's lives, the development of society, the state and the lives of people, as well as the lives and activities of prominent socio-political figures;

- Archaeological monuments - caves, camps, embankments, hills, the remains of ancient sites, fortifications, ancient mines, sewers and irrigation networks, roads and bridges, mounds and ditches: separate rocks and mounds;

- Urban planning and architectural monuments - ensembles and architectural complexes, historical centers, neighborhoods, squares, streets, monuments of ancient designs, cities and other settlements, civil, military, industrial, architectural and architectural structures, practical, flower gardens and other related arts and crafts;

- Landscapes - the joint creation of man and nature, as well as places, including ancient sites, which are of great value and importance from the historical, aesthetic, ethnological and anthropological point of view.

Objects of historical and cultural heritage have the following levels:

- objects of historical and cultural heritage of the republican level, having historical, scientific, architectural and artistic value, having special value and significance for the history and culture of the republic;

- Objects of historical and cultural heritage of local level, having historical, scientific, architectural and artistic value, having special value and significance for the history and culture of the region, district and city.

On the basis of the State Program for the Protection of Historical and Cultural Heritage for 2012-2020 from December 3, 2011, № 577 unique historical and historical monuments of the Republic of Tajikistan have long attracted the attention of the world. Every year since the independence of Tajikistan, thousands of foreign tourists visit this land to get acquainted with the historical and cultural heritage and unique nature of the country, enjoy its rich and colorful heritage and get acquainted with the past and present of the Tajik people. Preservation and preservation of this heritage is one of the most important parts of the cultural policy of the Government of the Republic of Tajikistan and serious attention is paid to its practical implementation. During the 20 years of independence of the country, along with the necessary measures for the protection of monuments and the improvement and restoration work, more than 32 ancient and architectural monuments have been covered only at the expense of the state budget. In particular, 7 monuments have been fully restored, 16 monuments have been restored, 4 monuments of conservation, 2 monuments have been repaired and 3 museums have been built, and the condition of dozens other monuments has improved, which is much

higher than in Soviet times. For this purpose 23 million somoni was spent from the state budget.

In this process, in order to improve the legal norms for the protection of historical and cultural monuments of the country were adopted the Law of the Republic of Tajikistan "On protection and use of historical and cultural heritage" and a number of resolutions of the Government of the Republic of Tajikistan found a solution. Also, regular and fruitful cooperation with relevant international organizations has allowed the country to find a stable position in this area in the international arena.

Currently, the Ministry of Culture of the Republic of Tajikistan has a total of 2020 historical and cultural monuments, of which 1278 are ancient monuments, 300 are architectural and 441 are historical-monumental (including 160 sculptures and busts). Of these, 220 are ancient cities and towns, 83 are old mines, 70 are castles, 110 are mausoleums and historical mosques, 43 are stone epigraphs, 15 are stone inscriptions, and 654 are unexplored places and hills. Depending on the regions and districts of the country, the situation with the location of monuments are such as:

- Dushanbe city - 34 monuments
- Khatlon region - 581 monuments
- Sughd region - 724 monuments
- Gorno-Badakhshan Autonomous Oblast - 251 monuments
- Districts of Republican Subordination - 430 monuments.

However, it should be noted this information is incomplete. This is because no comprehensive inspection of the condition of these monuments has been conducted since 1972, and not all monuments discovered or

constructed during this period have been included in the register of monuments. Not all local authorities have a complete inventory of their monuments. In most cities and districts, these monuments and their protected areas are not marked at all on land management maps. Therefore, the complete re-registration of monuments and their classification in order to identify, study and, if necessary, repair, restore or preserve them, to find the right forms and methods of protection, their effective use and presentation to the world through the times should find their practical application. Currently, the program covers 39 historical monuments, which are divided into the following regions and types:

- Districts of Republican Subordination - 6 monuments,
- Khatlon region - 12 monuments,
- Sughd region - 13 monuments,
- Gorno-Badakhshan Autonomous Oblast-4 monument.

From this issue:

- Castles - 15 units.
- madrassas and historical mosques - 9 units.
- Mausoleums - 7 pieces.
- places of worship - 3 items
- mines, ditches, tunnels - 2 units,
- settlements - 2 units,
- Caravanserai - 1 item.

Of these, 7 monuments are currently being restored.

3. Tourism products

Article 2 of the Law of the Republic of Tajikistan "On Tourism" states that "tourist products - a set of tourist services that are available on a contractual basis to meet the needs of tourists, taking into account the situation in the tourist market." Tourist services - the implementation of the activities of a tourist regulator or tourist agent at its discretion or the specific requirements of the applicant, aimed at ensuring and restoring the physical strength of tourists, maintaining a normal life, re-establishing business relations, as well as satisfying spiritual needs. Tourist products are formed taking into account the situation in the tourist market or according to a specific tourist order. Sale of tourist products is carried out on a contractual basis. Promotion of tourist products - a set of measures aimed at the sale of tourist products (advertising, participation in specialized exhibitions, fairs, organization of tourist information centers for the sale of tourist products, publication of catalogs, booklets, etc.). The law defines travel as a tourist trip with certain tracks in a certain period of time, providing a range of services for accommodation, transportation, food, excursion services, as well as the services of guides, interpreters and other services related to the destination to ensure their safety, protection and health protection of tourists.

In the global tourism market, the Republic of Tajikistan, despite its potential, occupies a less prominent position and according to the country accounts for a small share of global tourism. According to the statistics of the tourism market, in the period from 2000 to 2008 there was a steady increase in the tourist turnover in the country (in 2008 more than 450

thousand foreigners visited the country), which was primarily due to the stable domestic and social policy, economic development of the country. The analysis shows that in the conditions of development of national tourist materials on the basis of unique cultural and historical monuments and natural and recreational features of the country and its effective development in the global market of tourist services, more foreign tourists will enter Tajikistan. Therefore, the organization of quality promotional activities to attract foreign tourists and the expansion of hospitality contributes on strengthening the image of the country as a country of international tourism.

Tourism products consist of three elements.

1) Travel (Tour) - is the first unit of tourism products sold to the customer, the product of the work of a tourism regulator on a certain route and in a timely manner. There are two main types of travel: with and without. The trip is accompanied by advance planning, purchase and payment of tickets, hotel, luggage transportation, motor transport and catering, 24 hours with the group and the solution of all problems. As a rule, such a trip is intended for a group of tourists. Unaccompanied travel is an independent travel of a tourist to a predetermined destination, which usually includes the order and payment for this service:

- flight to the destination and return to the place of residence;
- transfer from the airport to the hotel and back;
- Voluntary excursions or trips to the place of rest.

2) Additional tourist and excursion services - services that are not conveniently provided by pedagogical and excursion services and are

provided to tourists in their spare time. These services include rental, telephone, consumer services, post office, public transport, property storage, entertainment, video, ticket purchases, use of mini-bars, and more. Additional services are not included in the basic cost of convenience.

3) Goods - a special part of the tourist product, which includes tourist plans, city maps, booklets, souvenirs, equipment, etc.

Tourism products are sometimes referred to as “tourist packages”, which refer to the basic set of services provided during a trip according to an individual or group plan.

The tourist package includes four elements: a tourist center, transport, accommodation and transfer services.

A. Tourist center - a place of tourist recreation, which includes opportunities for its rehabilitation: natural, cultural and historical, ecological, ethnic, socio-demographic, industrial. This element is key because without these benefits it is impossible to organize a trip. The most important tourist centers for the development of tourism in the country are:

- Sanatorium "Khoja Obi Garm", located in the Varzob district;
- "Varzob" mountaineering base, located in Varzob district;
- Tourist base "Artuch", located in Panjakent district of Sughd region;
- Tourist base "Iskandarkul", located in Aini district of Sughd region;
- Tourist base "Tajik Sea", located in the city of Kayrakkum, Sughd region;
- "Varzob" mountaineering camp, located in Luchob settlement of I. Somoni district of Dushanbe city;
- playground near the Moskvina Glacier, located in the Jirgatal district;

- reception infrastructure near the ball in the village of Pushti Bog, located in Baljuvon district of Khatlon region;

- Recreation area "Chashmai Jushon", located in Muminobod district of Khatlon region, and other state tourist facilities.

B. Transport - means of transportation through which we can reach the tourist center. The main means of transport are automobile, air, rail and water transport. 85% of foreign tourists visiting Tajikistan use air transport and 15% use road transport.

C. Accommodation services - a specific hotel offered to tourists in the tourist center during the trip. Accommodation in a hotel varies depending on the type of service provided to the tourist. It can be a hotel, motel, villa, bottle (botel), camping and so on.

The special subjects of hotel services include:

1) sanatorium - (from the Latin word sano - cure) a medical and health-improving institution for the purposes of treatment and rehabilitation from natural factors (climate, mineral waters, therapeutic mud (soil), swimming in the sea, etc.) in conjunction with physical therapy, physiotherapy and diet in accordance with a certain schedule and rest.

2) prophylaxis - a set of medical and health care institutions - a canteen with medical food, day and night sanatorium, physiotherapy, physical training ground, solarium, which provides services.

3) Holiday homes - tourist and recreation institutions, where accommodation and food services are provided for people in need of treatment for a period of 7 days to a month.

4) tourist shelter and parking lot - a stable building that protects tourists from snow and rain.

5) tourist, sports, and leisure bases - a set of premises that provide accommodation, meals, cultural and leisure activities, and recreation for tourists and excursionists.

6) Houses of hunters (fishermen) - dwelling of hunter-farmer, provided with all conditions for temporary residence of tourists.

7) Congress centers - a large building

8) camping -

9) bottle (botel) -

10) flotilla -

11) rotel -

There are 125 tourist facilities operating in the Republic of Tajikistan, including 51 hotels (18 hotels in Dushanbe and Khujand), 9 sanatoriums and other resorts.

D. Transfer - is the delivery of a tourist from the landing place (airport, railway station or bus station) to the place of residence (hotel) and vice versa (from the hotel to the airport, etc.). Transfers can be made by bus, taxi, limousine or other means of transport. Transfer is the transportation of tourists within the tourist center.

Thus, tourism products as a complex of services are the subject of a contract for tourism services.

Questions for students on the topic №6.

1. What is the tourism industry based on the 1971 United Nations Conference on Trade and Development?

2. What is the tourism industry?

3. What is the tourism industry, according to Sanginov D.Sh.?

4. What is the level of tourism in world exports of goods and services since 1998?

5. What are the forecasts for the number of international tourist visits by 2020?

6. What are tourist resources?

7. What is the Regulation "On the State Cadastre of Tourist Resources of the Republic of Tajikistan"?

8. Classify tourist resources?

9. Which objects of historical and cultural heritage are located according to the Law of the Republic of Tajikistan "On protection and use of objects of historical and cultural heritage"?

10. What are movable monuments?

11. What are real estate monuments?

12. Describe the level of objects of historical and cultural heritage?

13. How many historical and cultural monuments are currently registered with the Ministry of Culture of the Republic of Tajikistan?

14. Describe the situation with the location of historical and cultural monuments in the regions of the country?

15. What is a tourism product?

16. What is a tourist service?

17. What is a tour?
18. What are the elements of a tourism product?
19. What are the elements of a travel package?
20. Tell us about the tourist center?
21. Name the most important tourist centers of the country?
22. Transport as an element of a tourist package?
23. What are accommodation services?
24. What is a transfer?

SPECIAL PART

TOPIC №7. TOURIST SERVICE AGREEMENT

1. Definition and signs of the contract of tourist services.

2. Conclusion, change and termination of the contract of tourist services.

3. Contractual responsibility in the field of tourism.

1. Definition and signs of the contract of tourist services

Pursuant to Article 797 of the Civil Code of the Republic of Tajikistan, under the contract for paid services, the executor is obliged to provide services (perform certain actions or activities) on behalf of the customer, which do not have the form of the thing and the customer is obliged to pay for them. The subject of the contract for paid services is communication, medical, veterinary, auditing, consulting, information, educational, cultural, tourist and other services (Article 798 of the Civil Code of the Republic of Tajikistan). According to the provisions of the Civil Code of the Republic of Tajikistan, the contract for tourist services is a type of contract for paid services.

Subjects of tourist activity when organizing a tourist trip to the tourist are provided with a single sample with the signature of the responsible person, stamped by the enterprise, (subject) is approved, formalized and issued. The contract (agreement) is considered concluded if the tourist enterprise has given way and the client has paid the corresponding fee according to the terms of the contract (agreement). The subject of tourist activity may terminate the contract without indemnification, if the fact of

termination of the tourist's information in the presence of unavoidable circumstances, regardless of the will, which impedes the travel or provision of services, in person no later than 15 days before the journey begins when it is delivered. In this case all the money previously paid by the tourist will be returned to him (Article 13 of the Law of the Republic of Tajikistan "On Tourism").

Tourists receive a standard travel permit, which confirms the conclusion of a contract for travel, signed by the appropriate person and stamped by the seller. Tourist voucher - a separate document, which is a type of contract between the manufacturer and consumer of tourist services and confirms their payment. Convenience tracker remains at the travel vendor. The referral must include the following features: name, address, trademark of the tourist organization, the seller has a license, number and date of issue; last name, first name and patronymic of the tourist who received the permit, number of the foreign passport, if the permit is a name; classification and standards of all services, including accommodation, food, transport and other services included in the cost, as well as the availability of insurance terms; the total cost of the trip and the terms of payment by the client (full, partial, advance payment, based on the fact of the service provided); a description of the conditions and circumstances in which the tourist may refuse to travel (non-compensation of damage, partial compensation of damage to the organizer of the trip); a description of the form and amount of compensation to be given to the tourist for violation of the conditions of travel agreed upon in the tour and through the fault of the subjects of tourist activity that organized travel and

services; other terms as agreed between the client and the tour operator. The leader of the tourist group is given general comfort when traveling in a tourist group. In general, information about the leader and the composition of the group is written. The information of the group members is given in the appendix (list), which is an integral part of the general convenience. The rights, duties and responsibilities of the head of the tourist group are determined by the agreement between them and the subject of tourist activity.

The contract of tourist services is a type of the contract of paid services according to which one party (tourist regulator, travel agency) is obliged to provide tourist services to the other party (tourist) through itself or third parties and the other party (tourist) undertakes to pay the established amount.

The contract of tourist services has the following features:

1. The contract of tourist services is a type of the contract of paid services.
2. It is consensual and involves the sequential execution of various legal and factual actions.
3. Bilateral, i.e., a regulator or travel and tourism agency.
4. It is a paid contract. Each party to this contract has a property interest, ie the right to satisfy certain requirements.
5. The services provided by this contract shall be provided in person by the executor (tourist regulator) or by third parties to whom the contractor has concluded a contract (carriers, hotels, tour guides, etc.).

6. This contract is a public contract, therefore the provisions on the right to refuse and to conclude the contract by the executor (regulator and travel agency) shall not apply to this contract.

7. One of the parties to this agreement is always an individual tourist.

8. The contract of tourist services is made for a definite period (from 24 hours to 12 months).

9. If the performance of the contract is entrusted to a third party, the tourism regulator should be liable for non-performance or improper performance of the contract by a third party.

10. The subject of the contract for tourist services is the tourist service (tourist product). Tourist service (tourist product) - the right to travel, intended for sale to a tourist in accordance with the instructions established by the state. Tourist products are formed taking into account the situation in the tourist market or according to a specific tourist order. Sale of tourist products is carried out on a contractual basis.

Contracts for tourist services can be divided into 3 groups depending on the parties to the contract:

1. Agreements concluded between a travel regulator (travel agency) and a tourist.

2. Contracts concluded between the tourism regulator and its partners - direct executors of services.

3. Contracts concluded between a travel regulator and a travel agency - agency, commission and assignment.

Different terms are used in the legislation of foreign countries and in the field of legal science. The International Convention on Travel

Agreements (1970) uses the phrase “travel agreement”. The EU Directive does not specify the specific name of the contract, but refers to the "contract binding the consumer and the organizer of the tourist product or retailer". The German Civil Code regulates the obligations arising from the contract for tourist services. Other countries use the phrase “travel contract”. In the scientific literature, a transaction between a travel agency and a tourist is called a “tourism contract”. Nevertheless, the various expressions of the name of the contract for tourist services are their essence in the provision of tourist services, which includes elements of transportation, accommodation, meals and other services in the field of tourism.

2. Conclusion, change and termination of the contract of tourist services

Conclusion, amendment and termination of the contract of tourist services will be implemented on the basis of provisions of Chapter 27-28, Articles 464-477 of the first part and taking into account the norms of Chapter 37, Part 2 of the Civil Code of the Republic of Tajikistan, Articles 13-15 of the Law of the Republic of Tajikistan».

A contract should be deemed and concluded if the parties have reached an agreement on all the main terms of the contract in accordance with the form, if necessary. The main conditions are the terms of the contract, the terms listed in the law or other legal act that are important and necessary for this contract, as well as all the terms related to which an agreement must be reached at the request of one of the parties. The

contract is concluded by sending an offer (proposal to conclude a contract) by one party (regulator and travel agency) and its acceptance (acceptance of the proposal) by the other party (tourist). An offer is a proposal sent to one or more specific people, which clearly states the purpose of the person who submitted it, and considers the contract signed in the name of the person accepting the offer. The offer must contain the essential terms of the contract. Acceptance is the response of the person who received the offer sent to him. Acceptance must be complete and unconditional. Contract from the moment by the person who sent the offer shall be deemed and received its acceptance. The contract of tourist service is made in written form. The contract may be concluded in writing by drawing up a document signed by the parties, as well as by exchanging documents by mail, telegraph, teletype, telephone, electronic communication or any other form of communication that reliably confirms the possibility of sending by the contract party if the place of signing of the contract is not specified in the contract, the contract shall be considered concluded at the place of residence of the citizen or at the place of stay of the legal entity that sent the offer. If disputes arising at the time of concluding a contract are referred to court in accordance with the Civil Code or by agreement between the parties, the terms of the contract in respect of which the parties disagree will be determined by a court decision.

Unless otherwise provided by law or the contract, the contract may be amended or rescinded by agreement of the parties. The contract may be amended or rescinded by a court at the request of one of the parties only in the following cases:

a) significant breach of the contract by the other party;

b) in other cases stipulated by the Civil Code, other laws or the contract.

Serious non-compliance with the contract means that the other party suffers the loss and deprives the other party of the hope of obtaining much profit, which was intended at the time of concluding the contract. In case of unilateral refusal to perform the contract in full or in part, the contract shall be considered terminated or amended accordingly, if such refusal is allowed by law or agreement of the parties. Unless otherwise provided by the contract or follows from its essence, a change in the circumstances which the parties took into account when concluding the contract may be the basis for its change or rescission. A change in circumstances is recognized when the parties did not enter into a contract at all or signed it on some other terms, if the parties reasonably anticipated such a change. If the parties have not agreed to adapt the contract to the significantly changed situation or to terminate it, the court may terminate it and change it at the request of the interested party simultaneously with the following conditions:

a) if at the time of concluding the contract the parties have taken into account that such a change does not occur;

b) if the situation has changed due to reasons that the interested party could not eliminate after its occurrence to the extent of care and caution arising from the requirements of the contract and the terms of the transaction;

c) if the performance of the contract without changing the conditions violates the ratio of the contract to the property interests of the parties to the extent and causes the damage to the interested party to the extent that it could lose the great interest it had hoped at the time of concluding the contract;

d) if it does not follow from the traditions of the business transaction or the essence of the contract that the risk of change of the situation is borne by the interested party.

In the event of rescission due to a significant change, the court shall be at the request of either party, determine the consequences of the rescission of the contract, taking into account a fair distribution of the costs of performance of the contract. Termination of the contract due to a significant change in the circumstances only by a court decision, in exceptional cases, when the termination of the contract is contrary to the public interest or causes damage to the parties from the costs incurred by the court after the change of conditions, the required contract is allowed too much.

Unless otherwise provided by law, other legal acts, contracts or traditions of business transactions, the agreement to change or terminate the contract shall apply to the same form which the contract takes place. A party may file a claim for change or rescission of the contract only after receiving the other party's refusal to change or rescind the contract or within a period of thirty days without receiving a response within the period specified in the proposal or in the law or the contract. .

In case of change of the contract, the obligations of the parties shall be retained in the modified form. Upon termination of the contract, the obligations of the parties shall terminate. Unless otherwise follows from the agreement or the essence of the change of the contract, in case of change or rescission of the contract the obligation from the date of conclusion of the agreement of the parties to change or rescind the contract, and in case of change or rescission of the contract the entry into force of a court decision to change or rescind a contract shall be deemed to have been amended or rescinded. Unless otherwise provided by law or the agreement of the parties, the parties shall not have the right to demand the return of what they have done in accordance with their obligations before the date of amendment or termination of the contract. If there is a ground for change or rescission of the contract by one of the parties, the other party shall have the right to demand compensation for damages caused by the change or rescission of the contract.

The contract may be amended or rescinded at the request of one of the parties only in the following cases: a) when performance of the contract is impossible; b) violation by the other party of the terms stipulated by laws or the contract on quality, terms of performance and other conditions; c) if the other party has been declared bankrupt in accordance with the established procedure; d) if the act of the state body on the basis of which the contract was made changed or canceled; e) in other cases provided by law or agreement. In case of unilateral change or termination of the contract, one of the parties must notify the other party not later than one month in advance.

3. Contractual responsibility in the field of tourism

There is a contractual liability for non-fulfillment or improper fulfillment of obligations based on the contract of tourist services in tourist activity. Violation of the obligation means non-performance or improper performance (failure to perform on time, defects in goods and works, violation of other conditions or arising from the nature of the obligation) (improper performance). In case of impossibility of proper performance the debtor must immediately notify the creditor. Liability of the debtor for breach of the obligation shall be made at the request of the creditor. The debtor who has breached the obligation shall be obligated to compensate the creditor for the losses incurred as a result of breach of the obligation. Compensation for damage caused by a penalty for breach of contract is determined in accordance with the rules provided by the Civil Code. An agreement made by the parties prior to the breach of the obligation to release the debtor from compensation for the damage caused by the breach shall be invalid, but the parties may by mutual consent, provide only for the actual damage to the property. Unless otherwise provided by law or the contract, when determining the damage, the prices of the place where the obligation was to be performed shall be taken into account on the day of voluntary satisfaction of the creditor's claim by the debtor, but only if the claim is satisfied voluntarily. Otherwise - the prices in force are taken into account on the day of filing the claim. Depending on the circumstances, the court may satisfy the claim for damages taking into account the prices in force on the day of making the decision or on the day of actual payment. When determining the amount of lost income, take measures taken by the

creditor to receive this income and be prepared for this purpose, he is taken into account. If the creditor is able to prove that any action taken by the debtor with the purpose of evasion of liability for breach of the obligation, he has the right to demand the recognition of these actions as invalid.

If a penalty is established for non-performance or improper performance of an obligation, then the damage shall be recovered in the part not secured by the penalty. Laws or contracts may provide for the following: when only foreclosure is allowed, but not compensation; when damages may be paid in full in addition to the penalty for breach of contract; when, depending on the choice of the creditor or the penalty for breach of contract or compensation for damages. In cases where limited liability is established for non-performance or improper performance of an obligation, the damage that must be compensated in the part not covered by the penalty for breach of the contract, or in addition to it or in return, may be compensated to some extent established by such restriction. Moral harm (physical or mental suffering) caused to a citizen as a result of breach of obligation shall be compensated in addition to the damage provided by the Civil Code.

A person who has not performed or has improperly performed an obligation shall be liable in case of guilt (intentional or due to negligence), except in cases when the law or the contract stipulates other grounds for liability. A person shall be presumed innocent if he has taken all necessary measures for the proper performance of the obligation, in spite of all the care and consideration required of him, depending on the nature of the obligation and the terms of the contract. The person who has violated the

obligation shall prove his innocence. In tourism activity a person who has not fulfilled or improperly fulfilled an obligation in the course of doing business shall be liable, unless he proves that the proper fulfillment of the obligation became impossible as a result of force majeure, ie in the same circumstances. Such cases do not include the breach of obligations by the debtor's counterparties, the absence of goods in the market necessary for performance, and the debtor's lack of funds. The contract or the law can provide other conditions for release of the subjects of entrepreneurial activity from responsibility. A previously concluded agreement on the elimination or limitation of liability for an intentional breach of an obligation shall be invalid. In tourism activities, the regulator or travel agency is also to blame for the actions of its employees. The actions of the debtor's employees in fulfillment of its obligations shall be recognized as actions of the debtor. If this action resulted in non-performance or improper performance of the obligation, the debtor shall be liable for this action.

The debtor shall also be liable to the obligee in cases when the reason for non-compliance with the obligation is the action or inaction of a third party on the obligations to the debtor. If the law does not stipulate that the responsibility falls directly on the executor, the debtor shall also be liable to the creditor for the actions or inactions of the third person to whom the debtor entrusted the performance of his obligations to the obligee. The debtor may be released from liability for breach of the obligation arising from the actions or inactions of a third party, provided he can prove their innocence. In the course of doing business, the debtor may be released

from liability for breach of an obligation arising from the actions or inactions of a third party, provided this is due to force majeure. In case of breach of the obligation connected with complication of the subject of obligation with the rights of the third party, the debtor shall be released from liability only if such problem arose before the conclusion of the contract with the creditor and the creditor was notified at the time of concluding the contract. Laws or the contract may provide other conditions of the debtor's liability for actions of the third party. If the non-performance or improper performance of the obligation was committed through the fault of both parties, the court will reduce the amount of the debtor's liability accordingly. The court also has the right to reduce the amount of the debtor's liability and apply accordingly in cases when the creditor's negligence or negligence as a result of non-performance or improper performance contributed to increase of the amount of damage or did not take reasonable measures to reduce it that the debtor is liable in accordance with the law or the contract, regardless of his fault, for non-performance or improper performance of the obligation. If the obligation provides for the performance of any work ordered by the entrepreneur, the risk of impossibility or inexpediency of using the results of the work shall be borne by the entrepreneur. The person who has done the work properly, has the right to receive compensation for his work, except for cases when the contract does not provide for other division of entrepreneurial risk.

In case of non-performance or improper performance of the contract of paid services the executor shall be obligated to compensate the customer in full damages. In case if the executor did not fulfill or improperly

performed the obligation while performing the entrepreneurial activity, the contract may provide for a higher liability.

Depending on the three types of contracts in the field of tourism, there are three groups of contractual responsibility in the field of tourism:

- a) Responsibility of the tourist regulator (travel agency) to the tourist;
- b) Responsibility of travel regulator (travel agency) to partners;
- c) Responsibility of tourists, tourism organizations to the tourism regulator (travel agency).

Contractual responsibility in tourism activity has special features:

- The subjects of this responsibility are the tourist, the tourist regulator, the travel agency, the partners of the regulator and the travel agency:

- The tourist regulator (travel agency) is also liable to the tourist in cases when the action caused inaction of third parties (their partners);

- This liability also arises in the case of the innocence of the travel regulator and the travel agency, unless it proves that the proper performance of the obligation became impossible as a result of force majeure, ie in the same emergency and unavoidable circumstances.

Questions for students on the topic №7.

1. On the basis of which documents the contract for tourist services is regulated?
2. What is a tourism service contract?
3. What are the features of the contract for tourist services?

4. What are the terms of the contract of tourist services in the legislation of foreign countries and legal science?
5. How to conclude a contract for tourist services?
6. In what cases the contract of tourist services can be changed or canceled by court?
7. In what cases can this contract be amended or terminated at the request of one of the parties?
8. In what cases there is a contractual responsibility in tourism activity?
9. Depending on the parties to the contract are the contracts for tourism services divided into which groups?
10. What are the types of contractual liability?

TOPIC №8. LEGAL REGULATION OF CERTAIN TYPES OF SERVICES IN THE TOURISM SECTOR

1. Services for organizing the transportation of tourists by certain modes of transport.
2. Accommodation services for tourists.
3. Food catering services for tourists.
4. Services for the organization of health, sports, recreation, educational and excursion activities.
5. Other services in tourism activities.

1. Services for organizing the transportation of tourists by certain modes of transport

Transportation services are part of the tourist services complex. This service represents the transfer of tourists from the place of residence to the first point of tourist services and from the last place to the place of residence, transportation to the beginning of the tourist route, transportation during excursions, domestic transportation and transportation of tourists during the trip. Travel means the movement of a group of tourists in the presence of a tourist route by a designated means of transport or by accommodation in means of transport (rail transport, sea vessels) or in tourist organizations, travel services - educational and so on.

Domestic air transportation is regulated by the Aerospace Code of the Republic of Tajikistan of November 13, 1998, 20720. This Code regulates the relations related to the use of the airspace of the Republic of Tajikistan

and aviation activities and establishes the basis for the implementation of state policy in this area.

International air transportation is regulated by the Warsaw Convention of October 12, 1929 and the additional protocols to the Warsaw Convention (The Hague, September 28, 1955, and Guadalajara, Mexico, September 18, 1961). Transportation of tourists on a charter trip along with these documents is regulated by the charter agreement. The Warsaw Convention applies as amended to all international air carriage of persons, cargo or goods, paid or free. The main provisions of the Convention are included in the document on the conditions of carriage (documents for carriage of customers and baggage, administrative procedures, liability of carriers, etc.), approved by the International Air Transport Association.

The main role in the provision of services for the transportation of tourists is assigned to railway transport. Terms and conditions of transportation of customers, luggage by rail has been as well as indicators of the quality of transportation (delivery time, storage of luggage) and customer service, railway liability under the Regulations of Railway Transport of the Republic of Tajikistan, June 5, 2002.

A number of international documents have been adopted in the field of railways. The most important of this is the Convention on the Consideration of the Berne Convention on the Carriage of Goods and Goods by Rail, adopted by the Agreement on International Carriage by Rail (1980). The Agreement sets out the conditions for the carriage of goods and customers, as well as measures for the organization and development of international tourism by rail. The most common means of

transport used in tourism is motor transport, which provides transportation services for groups of tourists, as well as transporting tourists to the beginning of the tourist route, transportation for excursions and so on. The first place in this type of transport is occupied by the general tourist transport - the bus which is privately owned by the tourist organization or the rented transport. Motor vehicles are also used during the trip.

International automobile transportation of the Republic of Tajikistan includes:

- Departure of domestic vehicles from the territory of the Republic of Tajikistan, carrying out the carriage of passengers and luggage on international routes;

- entry of foreign motor vehicles into the territory of the Republic of Tajikistan, carrying out transportation of passengers and luggage on international routes;

- transit traffic of domestic and foreign motor vehicles during transportation of regular, bulky and heavy cargoes to the Republic of Tajikistan through the territory of the Republic of Tajikistan;

- movement and transit of domestic and foreign vehicles through the territory of the Republic of Tajikistan, carrying dangerous goods and other types of goods.

Transportation of tourists by sea means transportation of tourists by sea and river. Sea route is a route of a ship from one coast (port) to another by the open sea (ocean). Maritime routes are divided into regional (arranged within a certain geographical area), international oceanic (moving through the coasts of countries on different continents) and

cabotage (moving from one coast to another). Tourist organizations use seagoing vessels for cruises (cruises) or for the transportation of tourists from one country to another. At the same time, it is possible to use a combination of several modes of transport.

Mutual relations of the shipping agreement with the Brussels Convention on the Unification of Certain Rules of Concession (The Hague Rules of 1925) as amended in 1968, the Hamburg Convention on the Carriage of Goods by Sea (Hamburg Rules of 1978), maritime passengers, their baggage, vehicles and hand luggage (1987).

The general rules of transport services in the Republic of Tajikistan are established by the Law of the Republic of Tajikistan "About transport" from November 29, 2000, №32.

2. Accommodation services for tourists

An important area of activity of a tourist organization is the provision of accommodation services for tourists. The service of tourist accommodation means the activity of the performer on tourist accommodation and hotel services, specialized (medical and health, sanatorium, sports, etc.). Deployment tools are divided into group and individual. Hotels, as the means of collective accommodation, play a dominant role in the opportunities and quality of tourist services. Hospitality or the hotel business and restaurants are called the “most profitable” sectors. This statement proves that the hospitality industry is a leading factor in the tourism base, including international.

Hotels operate on the basis of the Rules for the provision of hotel services from June 6, 2005, №209. These Rules are developed in accordance with Article 36 of the Law of the Republic of Tajikistan "On protection of the rights of consumers" and regulates relations in the field of hotel services.

The following key terms are used in these Rules:

1) hotel - a facility equipped with property (building, part of a building, equipment and other property), intended for the provision of services for a temporary stay;

2) the consumer - the physical person or the legal entity having desire to request or demand and use of services for direct personal, family, housing and other needs, not connected with implementation of entrepreneurial activity;

3) Executor - an organization, regardless of its legal form, as well as an individual entrepreneur, providing services to users in accordance with a paid contract.

The contract about rendering of services is made on the basis of the passport or other document developed according to the established procedure, confirming the identity of the consumer. Upon registration for hotel accommodation, the executor shall issue a receipt or other document confirming the contract for the provision of services, which includes the following items:

- name of the executor (for individual entrepreneurs, information on state registration);

- name of the consumer;

- information about the proposed bedroom (sleeping place in the room);
- the price of a bedroom (a place to sleep in a room);
- other necessary information at the request of the executor.

The executor should provide round-the-clock registration of consumers, hotel entrants and exits. The executor does not have the right to provide additional paid services without the consent of the consumer. The consumer has the right to refuse payment for such service, and if it is paid, the consumer has the right to demand from the executor return of the paid sum. It is prohibited to provide one type of service on a conditional basis instead of another. The price of a dormitory (sleeping place in a room), as well as the form of payment shall be determined by the executor in accordance with the current legislation of the Republic of Tajikistan, taking into account the cost, profitability and mandatory pricing (calculation) for services. The consumer is obliged to pay for the services upon their full acceptance. With the consent of the user, the payment for the services provided under the contract may be made by him in full or in advance. The executor can establish daily or hourly payment for accommodation. The executor determines the list of services included in the price list of a bedroom (a room in a room). The cost of accommodation in the hotel is paid according to the single hourly rate - from 12 o'clock of the current day with local time. In case of accommodation till the settlement time (from 0 to 12 o'clock) the amount of accommodation is not paid. In case of delay in departure of the consumer from the hotel the payment of accommodation is made in the following order: no more than 6

hours after settlement of the hourly payment; from 6 to 12 hours after the payment is made for half a day; from 12 to 24 hours after the payment is calculated for the full day (if hourly payment is not available). During the stay for a period not exceeding one day (24 hours), the payment is made regardless of the calculation of the hour for one day. The executor, taking into account local peculiarities, has the right to change the single hourly charge.

The quality of the services provided must meet the requirements of the contract, but in the absence or incompleteness of the terms of the contract, the requirements that are usually provided for these services. If regulatory legal acts provide for mandatory requirements for services, the quality of services provided must meet these requirements. The material and technical support of the hotel, the list and quality of services provided must meet the requirements of the received level. The executor should provide the consumer with the following types of services free of charge: call an ambulance; use of medical prescription; delivery of correspondence to the bedroom; to wake up at the appointed time; provide boiling water, a needle, a thread, a package of utensils and tools necessary for food consumption. The order of stay in the hotel is established by the executor. The executor is responsible for protection of property of the consumer. In case of discovery of the forgotten property of the consumer the executor is obliged to inform the owner of the goods. If the person who has the right to claim the forgotten property or his place of residence is unknown, the executor shall be obliged to report the discovery of the goods to the police or local self-government body. Residents of the hotel are provided with

catering, communication and consumer services, located inside the hotel, without queues. The consumer is obliged to follow the established procedure of stay in hotel and fire-fighting rules. The consumer has the right to pay the part of the rendered service accordingly before the notice of the termination of the contract and in any case to terminate the contract about rendering of services and for the purpose of performance of the contract of expenses incurred up to this period if it is not a part of the price to pay in full.

Along with the hotel, tourists can stay in apartment buildings, cottages, houses, tents, recreation centers, dormitories, houses of local residents and other residential facilities. Tourists' accommodation should be equipped with suitable tools, inventory, equipment, sleeping items, information and promotional materials. The order of accommodation of family tourists, with children, transfer from one room to another, provision of the best place and other conditions to the tourist is established by the tourist organization with special rules of use.

Tourist organization provides accommodation services to tourists:

- the use of sanitary facilities, including baths, saunas, premises for washing and drying clothes, hygiene rooms, ironing rooms, in the camping to the kitchen for independent cooking;
- Provision of tourist equipment, the use of which is included in the cost of travel, as well as cultural, sports items, books from the library;
- The work of the storage box, the point of rental of tourist equipment, supplies and objects of cultural and consumer purposes;

- the work of the security parking lot for the personal car of tourists-motorists;
- acceptance and delivery of personal correspondence to tourists immediately after its receipt;
- storage of funds, securities and valuables provided on the basis of the list, as well as storage of personal belongings in the hotel room;
- bringing a doctor and medicine to the patient, using a first aid kit;
- demand for other additional paid services in accordance with the established procedure.

3. Food catering services for tourists

Catering in the field of tourism performs a number of key functions: procurement and storage of food, organization of food preparation, processing and storage of tableware, tourist services.

Meals are provided by restaurants, cafes, bars, canteens. These objects of public catering can be independent legal entities or as part of hotels, motels and other means of accommodation. The performance of the functions of procurement and storage of raw materials, organization of food preparation, processing and storage of tableware is regulated by a special document of trade, health, sanitary and epidemiological control.

The operation of catering facilities, including tourists, is regulated by the Rules of catering services of June 6, 2005, №209. These rules are developed according to Article 36 of the Law of the Republic of Tajikistan "About protection of the rights of consumers" and regulate the relations between consumers and executors in the field of public catering services. Under the title of the consumer the physical person or the legal entity

intending to order or buy the goods (performance of work, rendering of services) or to use them only for the personal, family, household, etc., not connected with the performance of business activity. The executor is the organization, irrespective of its organizational and legal form, and also the individual entrepreneur providing services to the public catering. Catering services (hereinafter referred as services) in restaurants, cafes, bars, canteens, shopping malls and other public catering establishments, the type of which meets the requirements set by the Agency for Standardization, Metrology, Certification and Trade Inspection under the Ministry of Trade of Tajikistan and other requirements. The working regime of the executive state organization is determined by the local executive body of the government. The working regime of the executor - the organization having other organizational and legal forms, and also the individual entrepreneur is established by them independently with the consent of local executive bodies of the government. In case of temporary suspension of services (for carrying out of sanitary days according to the plan, repair and other cases) the executor is obliged to inform in time the consumer about date and terms of suspension of the activity.

The consumer has the right to demand, in case of observance of lacks of services, at his choice:

- free elimination of shortcomings in the provision of services, including catering;
- appropriate reduction of prices for services, including catering;
- free re-preparation of quality products for catering.

The tourist organization provides complete information on the list of meals and their time as necessary for tourists. Tourists in the catering establishment are provided with the same food, depending on their age, who took their children with them. Kitchen utensils must meet the intended purpose of the meal. Tourists who take food with them on a mobile trip should take it in items that do not lose their destination within a certain period of time.

Multi-storey hotels and other tourist accommodation offer services for the sale of mineral water, tea, coffee, sweets and other products. In restaurants, cafes, bars and other public catering establishments evenings with creative services, organization of dances, games and melodies and radio, disk, and television broadcasts during the day. The catering tourist organization provides work of laundries, toilets and a place for storage of clothes (garde-rob). They provide catering services and provide a high level of customer service culture. The book of complaints and grievances should be kept in a place accessible to tourists or in the hall of the administration and presented to him at the request of tourists. Complaints about improper service, poor quality of food are considered by the administration. The catering organization is obliged to comply with the requirements of state standards, sanitation, fire regulations, technological standards and other mandatory requirements for the quality of services that threaten the safety of life, human health, the environment and property.

4. Services for the organization of health, sports, recreation, educational and excursion activities.

Classification of tourist services is based on various criteria. Depending on the purpose of tourism it is classified as:

- health-improving - health-improving trip with rest and treatment in a resort;

- sports - travel for non-professional sports: hiking, horseracing, mountaineering, cycling, swimming and other water sports, fishing, and participation in sports competitions;

- educational - travel with excursion programs: a trip to the museum, review of achievements, participation in cultural events.

Health and sports services are provided by tourism organizations using the opportunities of health and sports organizations. Health and sports services include the organization and conduct of hygienic gymnastics in the morning, sports games, useful runs, competitions, training in certain sports, tourist and sports holidays, swimming lessons, the basics of bodybuilding and other sports activities to strengthen the body using modern techniques.

The service is provided taking into account the season, age, fitness, health status and interests of the tourist. One-day and multi-day tourist trips are based on medical requirements. Tourist organizations provide tourists with sports equipment, playgrounds, training facilities, beach, swimming pool and other necessary things. Employment services, acquaintances, evening talks, educational conferences, meetings with masters of arts, concerts, literary and musical evenings, dances, festive events and other educational and recreational activities are provided for tourists. These services are provided taking into account the age, sexual,

professional and other factors and needs of tourists. The tourist organization provides tourists with swimming pools, reading rooms, concert and dance grounds, a building for table games and other convenient places for employment and educational services.

One of the forms of dissemination of information and knowledge, the formation of human interests, the organization of his cultural recreation is the excursion service. A tour guide is a person who travels to another place for no more than 24 hours and uses the services of a tour guide. Excursion service is a type of tourist service, which is provided to meet the educational needs of the tourist. Excursion is a tourist value.

5. Other services in tourism

Other services in tourism activities are provided by a tourism organization or other specialized organizations on the basis of an agreement concluded between them for a separate tourist fee. To other services consumer services, catering, information, banking, communication, etc., which are regulated by the regulations of this type of service.

Questions for students on the topic №8.

1. Describe the organization of services for the transportation of tourists by certain modes of transport?
2. What documents regulate the transportation of goods by air within the country?

3. What international documents regulate international air transportation of tourists?
4. What documents regulate the transportation (transportation) by rail within the country?
5. What international acts regulate the international transportation of tourists by rail?
6. What is involved in international road transport?
7. On the basis of which documents is the contract of maritime transportation of tourists regulated?
8. On the basis of which document regulates the general rules of transport services in the Republic of Tajikistan?
9. Tell us about the hotel?
10. What other infrastructure do tourists stay in addition to the hotel?
11. What accommodation services does a travel agency provide for a tourist?
12. What entities provide food services?
13. What are the rules of public catering?
14. What rights does a consumer of food have?
15. What is the responsibility of the catering organization?
16. What is a health service?
17. What is a sports service?
18. What is a cognitive service?
20. What is an excursion service?
21. What are other services in tourism?

TOPIC №9. LEGAL REGULATION OF TOURIST SAFETY

1. Ensuring domestic security of tourism.
2. Ensuring international tourism safety law.

1. Ensuring domestic security of tourism

In accordance with paragraph 5 - part 2 of Article 11 of the Law of the Republic of Tajikistan "On Tourism", the subjects of tourist activity located in the Republic of Tajikistan are obliged to ensure the safety of tourists and their property, creating security conditions for tourism, training and are liable for the damage caused to tourists in accordance with the laws of the Republic of Tajikistan. According to the paragraph 7 - part 2 of article 16 of the law, tourists are obliged to follow the rules of personal safety when traveling. There is no other provision in this law that defines the safety of tourism. There is no mention of tourism safety, which creates confusion. The issue of tourist safety should have a stable legal basis and not be defined by a single norm because the life and health of tourists come first. Therefore, we propose to dedicate a separate chapter on tourism safety, which consists of five articles - tourism safety, medical insurance of tourist expenses, insurance or other financial support of the tourist regulator, special bodies for tourist safety, protection of interests of tourists of Tajikistan outside of the Republic of Tajikistan in case of emergency situations. Under the concept of tourism safety is understood the state of protection of vital interests of the individual, society and the state in the field of tourism and tourism activities from internal and external threats. Tourism safety includes a set of legal, organizational,

economic and other measures to ensure the personal safety of citizens while engaging in tourism, tourism protection of their property and non-harm to the environment, as well as the prevention of the use of tourism for the purpose of illegal migration, transfer to a third country, sexual exploitation, labor and so on. The safety of tourists is guaranteed on the territory of the Republic of Tajikistan by the state. The Republic of Tajikistan guarantees protection and guardianship to its citizens beyond its borders. To express the safety of tourism, the territory through which the tourist route passes must be equipped with special signs determined by the Government of the Republic of Tajikistan. In order to ensure the safety of tourists, the subjects of tourist activity are obliged:

- to create safe conditions for the arrival of tourists, their routes, walks, and to provide tourists with working equipment in a timely manner;

- train tourists and excursionists on preventive measures, protection against beatings and emergencies, and give instructions for first aid;

- Providing tourists with accurate information on the specifics of tourism, as well as the risks that may arise in the course of tourism, and taking precautionary measures aimed at ensuring the safety of tourists;

- monitoring the readiness of tourists and excursionists.

Government agencies in the field of tourism shall inform tourist participants about the dangers tourists' safety at the place of destination.

Thus, a number of elements of tourist safety can be identified:

- safety of tourists;

- property security of tourists;

- not to cause harm to the environment;

- not to harm the material and spiritual values of the society;
- not to harm the security of the state.

On the territory of the Republic of Tajikistan, general security issues are regulated by the Law of the Republic of Tajikistan on June 28, 2011, № 721 "On Security". This law defines the legal basis for ensuring the security of man and citizen, society and the state, regulates the system of security, its tasks, goals and main directions, and authorizes the President of the Republic of Tajikistan, public authorities and organizations, regardless of their organizational and legal form security. The following main terms are used in this Law:

- national security - the state of protection of vital interests of the country from real and potential threats;

- national interests - a set of political, economic, social and other needs of the Republic of Tajikistan, the implementation of which depends on the ability of the state to protect the constitutional rights of man and citizen, the values of society and the main state institutions;

- objects of security - the person and the citizen, their rights and freedoms, society and its material and spiritual values, the state, the constitutional system, its independence and territorial integrity;

- subjects of security - the state, citizens, organizations, regardless of their organizational and legal form;

- security threats - a set of conditions, processes and factors that impede or endanger the realization of national interests;

- security - the implementation of a unified state policy in the field of security through a system of measures of an economic, political,

organizational and other nature that meet the threat to the vital interests of man and citizen, society and the state;

- economic security - the state of protection of the national economy from the conditions, processes and internal and external factors that threaten sustainable development and economic independence;

- food security - is the state of the state's economy, which ensures food security of the country through domestic production and guarantees real access to healthy and active life and demographic development of the entire population;

- public security - protection of legal, political, moral and social life, health and well-being of citizens of the Republic of Tajikistan, as well as public values from possible dangers and threats that may harm them;

- military security - the state of defense of the Republic of Tajikistan against real and potential threats of a military nature to the sovereignty and territorial integrity of the country;

- ecological security - a state of protection of vital interests of the person and the citizen, the society and the state from the threats arising as a result of anthropogenic and other impacts on environment;

- information security - the state of protection of state information sources, as well as human and civil rights and public interests in the field of information;

- external security - the state of protection of the national interests of the Republic of Tajikistan from threats posed by foreign states, organizations and citizens;

- authorized state security body - national security body of the Republic of Tajikistan.

The security principles are as follows:

- respect and observance of human and civil rights and freedoms;
- legality;
- mutual responsibility of man and citizen, society and the state for security;
- prompt mutual information and coordination of actions of security forces;
- unity, interconnectedness and balance of all types of security;
- priority of political, economic and information measures;
- control over the implementation of the whole set of security measures;
- communication with international security systems.

The national interests of the Republic of Tajikistan are:

- ensuring human and civil rights and freedoms;
- maintenance of social harmony and political stability in the country;
- development and stability of the country's economy;
- cultivating patriotism and strengthening the unity of the people;
- sustainability and development of material and spiritual values of society;
- inviolability of the constitutional structure of the Republic of Tajikistan, including state independence, form of government, territorial integrity, inviolability of the state border and indivisibility of its territory;

- Sustainable functioning of government institutions, strengthening and efficiency of their activities;

- ensuring armament and military training of the Armed Forces, other troops and military units of the Republic of Tajikistan;

- unconditional implementation of normative legal acts of the Republic of Tajikistan, international legal acts recognized by Tajikistan and maintenance of law and order;

- strengthening international cooperation on the basis of partnership.

Security is provided through:

- Gradual implementation of a unified state policy, taking into account the clear division of powers and ensuring the coordinated activities of government bodies, officials, organizations, regardless of their organizational and legal form, as well as citizens participating in security measures in accordance with the laws of the Republic of Tajikistan;

- Adequacy of measures to protect the interests of the state and citizens from real and potential threats;

- Mutual responsibility of man and citizen, society, state and the balance of their interests.

Ensuring security consists of achieving and maintaining the required level of protection of national interests and is implemented in the following ways:

- identification of the main activities of the state in this area;

- anticipation and detection of threats to national security;

- implementation of a set of urgent and long-term measures to prevent and neutralize threats to national security, including the elimination of the causes and conditions of these threats;

- mobilization of security forces and resources in the event of a direct threat to national interests, aggression against them, including in emergencies of internal, transboundary and global nature;

- Immediate adoption of decisions and implementation of actions to protect national interests, prevention of illegal activities that infringe on national security, implementation of other restrictive measures;

- implementation of a set of rehabilitation measures to prevent and mitigate the consequences of aggression against the national interest.

The main threats in the tourism sector are terrorist, natural-climatic, fire, sanitary-epidemiological, environmental, criminogenic, road-transport, terrorist, man-made and others.

Based on Part 3 of Article 5 of the Law of the Republic of Tajikistan "On Tourism", one of the ways of state regulation of tourism is the protection of the rights and interests of tourists, ensuring their safety. In order to implement this task in practice, the state on behalf of the Committee on Youth, Sports and Tourism under the Government of the Republic of Tajikistan will carry out the following work:

- inform the tourism regulator, travel agency and tourists about threats to the safety of tourists;

- together with the Emergency Rescue Service provides the necessary assistance to tourists;

- carries out other actions aimed at ensuring the safety of tourists.

It should be noted that tourism as a whole should not be a source of threat to national security.

2. Ensuring international law on tourist safety

The Hague Intergovernmental Conference on Tourism, in its 1989 Declaration, stated that the safety, protection and respect for tourists are essential to tourism, and it is necessary to:

a) measures to simplify tourist trips in conjunction with measures to ensure the safety and protection of tourists, tourist facilities;

b) to create for this purpose an effective policy to ensure the safety and protection of tourists;

c) identification of tourist goods, objects and equipment used by tourists and their special control and treatment;

d) to prepare the necessary information and relevant documents and to provide access to them in case of threat to tourist facilities;

e) to implement legal provisions in the field of protection of tourists in accordance with the procedures and legislation of a separate state, including registration of legal capacity the right of tourists to judicial protection in the event of acts harmful to them or their property, and especially in the case of terrorist acts;

e) the state should cooperate in the framework of the WTO in the preparation of a program of recommended measures to regulate the safety and protection of tourists.

The Declaration states that the safety of tourists and the protection of tourism as a whole in the country or in a particular tourist area are

governed by a large number of rules and regulations issued by the tourism administration and other ministries and agencies responsible for maintaining public order, health care, environmental protection, employment, etc., and they have to do it. Non-implementation of laws and regulations and the nature of their details lead to many problems in addressing global tourism safety.

One of the main conditions for the development of tourism is to ensure the safety of tourists. Ensuring the safety of tourists in the Charter of Tourism, was approved in 1985 at the VI Session of the General Assembly of the World Tourism Organization in Sofia (Bulgaria) and in the Code of Ethics for Tourism was adopted in 1999 in Sofia (Bulgaria), Santiago (Chile).

Tourist safety is directly dependent on the measures taken by tourism businesses in the organization of routes. To ensure the safety of tourists, it is necessary to:

- to improve the implementation of special training of tourism personnel and control over the observance of standards, rules of safety in the activities of economic entities in the field of tourism to provide services to tourists;

- provide information to tourists on safety issues when organizing tourist routes.

In 1994, a Committee for the Quality of Tourist Services was established under the WTO Executive Council, which is directly responsible for the development of tourism safety, risk reduction and tourism protection.

Questions for students on the topic №9.

1. What is the concept of tourist safety?
2. Ignore the subjects of tourism security?
3. What is the responsibility of the tourism regulator and travel agency to ensure tourism safety?
4. What are the main recommendations of the tourism safety sector developed at the 1989 Hague Conference?
5. What are the conditions for ensuring the safety of tourism, as set out in international legal instruments?

TOPIC №10. TOURIST PROCEDURES IN THE REPUBLIC OF TAJKISTAN

1. The concept and types of tourist procedures.
2. Passport procedure.
3. Visa procedures.
4. Customs procedures.
5. Currency procedures.
6. Medical procedures.
7. Transfer of objects across the customs border.

1. The concept and types of tourist procedures

Crossing the borders of different countries by tourists leads to tourist clearance. In the scientific literature, the concept of tourist procedures is defined differently: one group of authors describes tourist procedures as an action or procedure, others as a condition, norm, rule. In the literature, the tourist procedure means, on the one hand, the norms and rules established by the legislation of individual countries, which must be fully followed by the tourist organizations, their partners and the tourist himself, and on the other hand, these actions and procedures compliance with the rules for crossing the customs border of a state with regard to compliance with its provisions.

In our opinion, tourism procedures are the rules established by the legislation related to the crossing of the state border by tourists, and their observance is obligatory by the participants of tourism relations.

Tourist procedures have the following characteristics:

1. their execution is obligatory;
2. is normative;
3. act only in the field of international tourism;
4. aimed at participants in tourism relations.

Establishment of tourist procedures for the following purposes:

- ensuring state security and safety of tourists;
- fight against illegal migration, international terrorism, prostitution, etc.;
- protection of the environment.

Types of tourist procedures are defined on different bases:

1) Depending on the subject: a) tourist procedures assigned to the tourist (customs control); b) belonging to a tourist organization (providing an invitation to the invited country).

2) Depending on the purpose of registration: a) passport; b) visas; c) customs; d) currency; e) medical: e) related to the transfer of cultural values across the border; f) associated with the release of flora and fauna.

At present, one of the priority tasks of the International Tourism Association is to simplify tourism procedures. WHO has addressed this issue several times, as a result of which a number of recommendations have been developed to achieve this goal.

The Committee on Quality of Tourist Services, established in 1994, operates within the framework of the WHO, the main activity of which is to coordinate issues related to the simplification of tourism procedures.

2. Passport procedure

Passport procedure in the Republic of Tajikistan in accordance with the Constitutional Law of the Republic of Tajikistan from November 4, 1995, №104 "On Citizenship of the Republic of Tajikistan", Decree of the President of the Republic of Tajikistan from February 20, 2009, №624 "On Introduction of the Republic of Tajikistan" of the Government of the Republic of Tajikistan from September 5, 1996, №414 "About introduction of citizen's passport of the Republic of Tajikistan", the order of the Government of the Republic of Tajikistan from April 4, 1997 № 158 "About establishment of the duty Passport", Resolution of the Government of the Republic of Tajikistan from July 15, 1997 № 302" On approval of the Regulation of the passport system in the Republic of Tajikistan ", Resolution of the Government of the Republic of Tajikistan from February 26, 1998 № 69 "On introduction of foreign passports of citizens of Tajikistan" Government of the Republic of Tajikistan from June 6, 2005 № 207 "On measures to provide citizens of the Republic of Tajikistan with all-citizen foreign passports temporarily residing abroad", Resolution of the Government of the Republic of Tajikistan from April 2, 2009 ба 203 "On approval of the rules for issuing foreign passports with electronic data of Tajikistan and return certificate of the Republic of Tajikistan" , Regulations on the procedure for consideration of citizenship of the Republic of Tajikistan from November 21, 1996 аз 611, Regulations on the passport system in the Republic of Tajikistan from July 15, 1997 №302, Rules for issuing foreign passports with electronic data and certificate of return to the Republic of Tajikistan in 2009 №203.

Identity document of a citizen of the Republic of Tajikistan is his passport when leaving the state border of the Republic of Tajikistan or entering the Republic of Tajikistan. There are general-civil, diplomatic, service and foreign passports.

According to the Regulation on the passport system in the Republic of Tajikistan from July 15, 1997, №302 - Passport of a citizen of the Republic of Tajikistan is the main document certifying the identity of a citizen of the Republic of Tajikistan and valid for entry, exit and movement in the CIS. All citizens of the Republic of Tajikistan who have reached the age of 16 shall be obliged to have a passport of a citizen of the Republic of Tajikistan. The passport is the property of the Republic of Tajikistan and its holder is under the protection of the Republic of Tajikistan. Servicemen of the Armed Forces of the Republic of Tajikistan, as well as servicemen of the Commonwealth of Independent States peacekeepers serving in military units locate and live on the territory of the Republic of Tajikistan and being citizens of other states, shall be issued with certificates and military IDs. Citizens of the Republic of Tajikistan permanently residing abroad shall enter the territory of the Republic of Tajikistan with a passport of the Republic of Tajikistan or an act substituting for it. Foreign citizens and stateless persons, except for citizens of the Commonwealth of Independent States, who have signed an agreement with the Republic of Tajikistan on entry and exit without a visa, shall establish on the territory of the Republic of Tajikistan by acts established by the legislation of the Republic of Tajikistan.

A citizen of the Republic of Tajikistan may be temporarily denied the issuance of a foreign passport in the following cases:

- he/she is aware of information that is considered a state secret - until the expiration of the established period from the moment a citizen's leave to this information expires. This period may not exceed 5 years and may be extended by the Commission established by the Government of the Republic of Tajikistan on an individual basis, taking into account the proven fact that a citizen is acquainted with information that is a state secret. Assignment of information to information that is considered a state secret shall be carried out in accordance with the legislation regulating the protection of confidential information;

- he has been arrested as a suspect in a crime or has been prosecuted as a defendant - pending a decision on the case or the entry into force of a court sentence;

- has been convicted of a crime - until serving (execution) of the sentence or until release from punishment;

- he refuses to fulfill the obligations imposed on him by the court - until the fulfillment of his obligations;

- he has given false information about himself;

- a civil suit has been filed against him in court - until the end of the proceedings;

- he has been declared a dangerous recidivist by a court verdict or is under the administrative control of the police - until the conviction is over or the term of supervision expires;

- to be called up for military service in accordance with the legislation of the Republic of Tajikistan - until the end of military service.

The current legislation provides for special provisions for the entry and exit of minors. As a rule, a minor travels to another country with one of the parents, adoptive parents, guardians or custodians. In case a minor travels without a representative, the consent of his parents must be obtained with notarization.

3. Visa procedures

The legal definition of a visa The rules for the procedure for registration and issuance of visas of the Republic of Tajikistan to foreign citizens and stateless persons are established from February 27, 2009, №122. A visa is a permit issued to a foreign citizen for the right to cross the state border for the purpose of entering the Republic of Tajikistan or leaving the Republic of Tajikistan, staying in the Republic of Tajikistan or transit through the territory of the Republic of Tajikistan. Except for cases when a foreign citizen is not allowed to enter the territory of the Republic of Tajikistan in accordance with the legislation of the Republic of Tajikistan, or a decision has been made in respect of a foreign citizen that his stay (residence) in the Republic of Tajikistan is unfavorable. The visa is issued in the prescribed form, approved by the Ministry of Foreign Affairs of the Republic of Tajikistan (hereinafter referred to as the Ministry of Foreign Affairs of the Republic of Tajikistan). Visa forms are strict reporting documents and provide multiple protection against forgery. The order of their calculation and storage is determined by the Ministry of

Foreign Affairs of the Republic of Tajikistan. A visa is issued in violation of the requirements set forth in these Rules shall be considered invalid. Invalid visas shall be equated to canceled visas and destroyed in accordance with the established procedure. The procedure for destruction of visa stickers shall be established by the Ministry of Foreign Affairs of the Republic of Tajikistan.

The authorized state bodies for the issuance, extension, renewal and cancellation of visas are:

a) diplomatic missions and consular posts of the Republic of Tajikistan abroad (hereinafter referred to as consular offices of the Republic of Tajikistan abroad) issue entry and transit visas of all types, as well as visas of foreign citizens, except for the exceptions provided in these exceptions;

b) the Consular Department of the Ministry of Foreign Affairs of the Republic of Tajikistan shall issue all types and types of visas, extend and renew and revoke visas of foreign citizens;

c) representation of the Ministry of Foreign Affairs of the Republic of Tajikistan are implemented in the territory of the Republic of Tajikistan (consular bureaus at airports, representations of the Ministry of Foreign Affairs of the Republic of Tajikistan in GBAO, regions and representations of the Ministry of Foreign Affairs of the Republic of Tajikistan in free economic zones). Regulations on representation of the Ministry of Foreign Affairs of the Republic of Tajikistan are approved by the Ministry of Foreign Affairs of the Republic of Tajikistan.

If an international treaty is recognized by the Republic of Tajikistan provides other rules for these Rules, the rules of the international treaty shall be applied. Permits for entry to the border area to foreign citizens are issued by the authorized state body of the Republic of Tajikistan and consular offices of the Republic of Tajikistan abroad in accordance with the requirements established by the legislation of the Republic of Tajikistan. The procedure for consideration and issuance of a permit for the border area by the consular offices of the Republic of Tajikistan abroad shall be established and approved by the Ministry of Foreign Affairs of the Republic of Tajikistan.

Tourist visa (T) including a group of a foreign citizen visiting the Republic of Tajikistan brings as a tourist or a group of foreign citizens arriving in the Republic of Tajikistan for tourist purposes by forming a group (not less than 5 people). Mandatory conditions for a group tourist visa are as follows: simultaneous arrival of all members of the group at the border checkpoint upon entry (out) of the Republic of Tajikistan, stay in any station and movement in the territory of the Republic of Tajikistan only as a group.

The following documents in original and one copy shall be submitted to the authorized state body for obtaining a visa:

- a valid foreign passport (diplomatic, service, general citizenship, United Nations passport, stateless person's certificate) or other identity document and a special place for affixing visa stickers; a passport or other document submitted by a foreign citizen must not be dubious in its authenticity and affiliation, and the notes, inscriptions, warnings, deletions

and corrections must not have been certified by an authorized body of a foreign state and have not been certified, must have at least 2 blank sheets provided for a visa, the validity of which, as a rule should not have expired earlier than 6 months before the end of the visa validity period;

- a completed visa application form in the form prescribed in Annex 2 to this Resolution with a photo attached to the requirements of Annex 3 to this Resolution (except for heads of foreign states and heads of foreign governments). The visa application form can be obtained in hard copy or by using computer-assisted technical means in Tajik, Russian, English and other languages or the official language of the residence of the consular post of the Republic of Tajikistan shall be filled in and signed by the applicant in person. In case of filling out the application form by another person, the visa application form shall be signed by the person who filled in the application form and his/her attitude shall be noted to the applicant. Questionnaires for minors are filled out and signed by their accompanying legal representatives.

- for obtaining a tourist visa application of a tourist organization to issue a visa to a foreign citizen, indicating the purpose of entry, route and duration of residence in the territory of the Republic of Tajikistan, a license to carry out tourist activity in the Republic of Tajikistan. In case citizens' application of the countries to which the visa is issued in a simplified form, the application of a foreign tourist company registered in the country of residence of the consular office of the Republic of Tajikistan or a tourist company of the Republic of Tajikistan, the route of travel and the period of residence are required in the territory of the

Republic of Tajikistan. The application of the tourist company is not required that of an individual visit of a foreign citizen of the country to which the visa is issued in a simplified form. In this case, the consular officer must be sure of the tourist purpose of the foreign national. Documents confirming the tourist purpose of a foreign citizen, such as a tourist guide, itinerary (copies of round-trip air tickets, etc.) and other documents are recognized at the discretion of the Consul. A foreign citizen holding a tourist visa must leave the Republic of Tajikistan within the period specified in the visa. A tourist visa does not have to be replaced by another type of visa. The authorized state body shall issue a single tourist visa for a period not exceeding 45 days. If the application is valid (submission of the route), a double visa is issued. Tourist visas are extended only in exceptional cases (tourist illness, natural disasters, emergencies, etc.) by the authorized state body for issuing visas. Foreign citizens who have entered with a tourist visa are exempt from registration with the internal affairs bodies as foreign citizens, provided that the period of their stay does not exceed 30 days.

In international relations, there are several options for obtaining a visa:

- a) obtaining a tourist visa at a state airport (for example, Cyprus, Cuba, Tunisia, Israel, etc.);

- b) obtaining a visa through a consulate or embassy of a foreign state in its own country.

Each country has its own requirements for obtaining a visa. In the UK there are strict requirements for photography, there is a certain amount in Sweden, and so on.

An analysis of international tourism practice shows that there are two common grounds for visa denial:

- there is a suspicion that the applicant does not meet the requirements for the purpose of the visa or does not return to his country;
- the existence of the grounds on which the applicant is associated with criminal groups in his own country or abroad.

At the same time, visas are denied for technical reasons (for instance, incorrect completion of documents).

In practice, one of the services of a tourist organization is usually assistance in obtaining a visa, which is reflected in the collection of documents and their timely submission to the appropriate authorities. In case of failure of the tourist organization to fulfill this obligation in a timely or proper manner, the tourist may claim material and moral damage. If the refusal of the visa is made taking into account the identity of the tourist, in this case the compensation is provided only in the presence of insurance of such risk. In order to obtain a visa, a travel agency must be accredited by a consulate or embassy in that country. In order to pass accreditation, it is necessary to provide relevant information to these institutions.

4. Customs procedures

Customs procedures shall mean the rules governing the movement of tourists with goods across the state border. The concept and procedure for customs clearance of tourists are regulated by the provisions of the Customs Code of the Republic of Tajikistan from December 3, 2004 and

other normative legal acts in this area. Customs procedure - a set of provisions determining the status of goods and means of transport transported through the customs territory of the Republic of Tajikistan for customs purposes.

Requirements of customs authorities in case of customs clearance shall be justified and limited in accordance with the requirements established by the Customs Code and the need to ensure compliance with the legislation of the Republic of Tajikistan. The procedure and technology of customs clearance shall be established depending on the type of goods conveyed across the customs border, the type of transport used for such transportation, and the group of persons carrying goods and means of transport. Customs operations shall be applied equally regardless of the country of origin of goods, the country of departure and destination of goods.

Customs clearance of goods shall begin as follows:

1) upon import of goods - at the time of submission of an earlier customs declaration to the customs authority or documents and oral statement or performance of other actions indicating the intention of a person to perform customs clearance;

2) in case of export of goods - at the time of submission of the customs declaration and oral application or performance of other actions indicating the intention of a person to perform customs clearance.

Customs clearance shall be completed by performing customs operations for acceptance of customs procedures with respect to goods, placement of goods under the customs regime or implementation of this

regime if this customs regime is valid for a certain period of time, as well as for calculation and payment of customs duties and taxes. .

In accordance with the customs legislation, goods conveyed across the customs border may be classified into the following groups:

- prohibited goods (weapons, drugs, etc.);
- goods with limited transportation (alcohol, tobacco, perfume, etc.);
- goods for free transportation (goods for personal use).

The release of goods for free circulation is subject to the following conditions:

- 1) payment of customs duties and taxes;
- 2) compliance with restrictions that are not of an economic nature and are established according to normative legal acts of the Republic of Tajikistan;
- 3) fulfillment of other requirements stipulated by the Customs Code and other normative legal acts of the Republic of Tajikistan;
- 4) completion of customs clearance.

Some goods are transported across the border free of charge, while others are subject to customs duties (ie after declaration).

Individuals may export goods purchased on the customs territory of the Republic of Tajikistan on a preferential basis, the value of which does not exceed the amount equal to 3,000 US dollars.

In case the value of exported goods exceeds the amount equal to 3000 USD, the general conditions of application of prohibitions and restrictions established by normative legal acts of the Republic of Tajikistan shall be observed. Individuals permanently residing in the Republic of Tajikistan

may on a preferential basis, purchase goods necessary for their personal use during their trip to the country of temporary residence. In case of temporary export of goods and their re-import to the customs territory of the Republic of Tajikistan, no customs duties and taxes shall be levied. Personal property of individuals migrating outside the Republic of Tajikistan for permanent residence shall be exempt from customs duties and taxes, except for customs duties for storage of goods.

In case of importation into the customs territory of the Republic of Tajikistan of a vehicle permanently residing in the Republic of Tajikistan with an engine capacity of up to 2500 cubic centimeters, regardless of the country of origin, the tax rate is 0.4 USD per cubic centimeter of engine capacity.

5. Currency procedures

In the Republic of Tajikistan observance of foreign exchange procedures when transferring foreign currency across the customs border is obligatory. These issues are regulated by the Law of the Republic of Tajikistan of November 4, 1995 № 112 "On currency regulation and exchange control", Regulation №95 from March 23, 2000 "On import to the Republic of Tajikistan and export from the Republic of Tajikistan" is regulated cash and paper foreign currency.

In accordance with Regulation №95 "On import to the Republic of Tajikistan and export from the Republic of Tajikistan", the import of foreign currency into the Republic of Tajikistan by a resident or non-resident in compliance with the requirements of customs legislation.

Resident and non-resident individuals may export cash foreign currency from the Republic of Tajikistan in the amount of two thousand US dollars without a document confirming the legality of its source. When exporting cash foreign currency from the Republic of Tajikistan in the amount of more than two thousand US dollars, the customs authorities of the Republic of Tajikistan need a document confirming the legality of the source of the excess amount.

The following documents serve as supporting documents:

- a customs declaration confirming the import of cash or foreign currency into the Republic of Tajikistan;
- Certificate of export permit - "Permit" is issued by the authorized banks and the National Bank of Tajikistan.

Amounts worth more than two thousand US dollars must be declared.

Import and export of securities denominated in foreign currency is carried out without restrictions in compliance with the legislation of the republic. The Customs Service under the Government of the Republic of Tajikistan maintains monthly calculations of the amount of foreign currency in cash and securities imported into and exported from the Republic of Tajikistan, prepares this information and submits it to the National Bank of Tajikistan and other interested bodies.

In the Russian Federation the export of foreign currency in the amount of three thousand US dollars is allowed, more than ten thousand US dollars are allowed only after the declaration, and the export of foreign currency is more than ten thousand US dollars, except for the case of their previous import is not given into the Russian Federation.

Before the trip, tourists should be informed about the state currency procedures of the traveler and document their currency values.

6. Medical procedures

Medical procedures are rules aimed at protecting the spread of disease and compliance with the requirements of immunoprophylaxis of infectious diseases by tourists.

The main normative and legal acts regulating these issues are the Law of the Republic of Tajikistan "On Tourism", the Law of the Republic of Tajikistan from December 8, 2003, № 49 "On Sanitary and Epidemiological Safety of the Population", the Law of the Republic of Tajikistan from December 29, 2010; on immunoprophylaxis of infectious diseases ”.

Pursuant to Article 16 of the Law of the Republic of Tajikistan "On Tourism", tourists are obliged to follow the rules of personal safety when traveling. A tourist wishing to travel to another country (place) must undergo prophylactic vaccination against infectious diseases before the trip in accordance with international medical requirements. The tourist regulator and the travel agency are obliged to inform tourists about infectious diseases of the place of destination (state) and to take measures to prevent the tourist from contracting this disease.

At the international level, special attention is paid to the prevention of infectious diseases. The World Health Organization (WHO) has developed a Requirement for Immunization Certificates when traveling abroad, which is a practical guide for travel companies and tourists from all over the

world. The International Sanitary and Epidemiological Regulations have been in force since 1951 for the prevention of infectious diseases.

7. Transfer of objects across the customs border

In the tourism sector, there are three groups of objects that can be moved across the customs border in accordance with special requirements:

1. Cultural values.
2. Objects of flora (flora).
3. Fauna objects (fauna).

Typically, tourists try to obtain an object from the country (place) of temporary residence, which reflects the specifics of the region. At the international level, most species of flora and fauna are protected under the Convention on International Trade in Endangered Species of Flora and Fauna (CITES Convention). This Convention shall extend to the export of certain species of animals and plants, as well as parts thereof and all articles thereof.

Transfer of cultural property in the Republic of Tajikistan is carried out in accordance with the Law of the Republic of Tajikistan from August 6, 2001, №42 "On export and import of cultural property". This law regulates the legal relations for the protection and preservation of cultural heritage, establishes a single procedure for the export and import of cultural property from the Republic of Tajikistan, and also promotes the development of international cultural cooperation.

Export of the following cultural values from the Republic of Tajikistan is prohibited:

- rare treasures created more than fifty years ago or more;
- included in the list and register of custodians by the state;
- preserved in museums, archives, libraries and other state and public funds of the Republic of Tajikistan.

The inclusion of other items in the category of cultural property, aimed at the violation of the constitutional order and state independence, the violation of the country's territorial integrity, the order of war, terrorism, aggression, religious extremism, racism is prohibited, as well as obscene and violent content. Cultural property that has been declared shall be seized by the competent authorities for the purpose of returning it to its rightful owner. In order to prevent the acquisition of cultural property illegally exported, stolen or illegally purchased from other countries, state museums, archives, libraries and other state databases are obliged to have the necessary information about their origin.

The sale of cultural property which cannot be exported should be carried out only after the buyer has been notified of the impossibility of exporting such property from the territory of the Republic of Tajikistan. The offer of cultural property for public sale shall be made with the consent of the Ministry of Culture of the Republic of Tajikistan. Legal entities involving in the sale of cultural property are required to obtain permission from the Ministry of Culture of the Republic of Tajikistan. Customs payments for the export and import of cultural property shall be made following the procedure established by legislation.

Objects of flora are transported in compliance with the provisions of the Law of the Republic of Tajikistan from May 17, 2004, №31 "On

protection and use of flora". This law strengthens the principles of the policy of the Republic of Tajikistan in the field of protection and rational use of flora and defines the legal, economic and social bases of this sphere which is aimed protect and restorate of flora resources.

Certain species of animals are not allowed in some countries. Such as, in Germany it is forbidden to bring war dogs, American bulldogs, mastiffs, bulldozers, etc.

Questions for students on the topic №10.

1. What is the meaning of tourism in the city?
2. Name certain types of procedures in the tourism sector?
3. What are the rules of exit from the Republic of Tajikistan?
4. What are the special requirements for minors when leaving the Republic of Tajikistan?
5. Explain the concept of a visa?
6. What is the procedure for obtaining a visa?
7. What is the role of tourism organizations in obtaining tourist visas?
8. What are the features of customs and foreign exchange procedures?
9. What is the purpose of medical procedures?
10. On the basis of what documents cultural documents, objects of flora and fauna are transferred across the customs border?

TOPIC №11. LEGAL REGULATION OF TOURIST INSURANCE

1. Insurance of tourist activity.
2. The main types of insurance in the tourism sector.
3. Procedure for providing assistance in case of insurance to citizens of the Republic of Tajikistan.

1. Tourism insurance

Insurance is a relationship to protect the interests of individuals and legal entities in the event of an insured event. An insured event is an event which the insurer is obligated by law or the contract of insurance to make insurance payments to the insured, beneficiary or other third parties. Insurance activity is the field of activity of insurers on insurance, reinsurance, co-insurance, as well as the activity of insurance brokers, insurance actuaries related to insurance and reinsurance services. Article 10 of the Law of the Republic of Tajikistan "On Tourism" stipulates that if the legislation of the country (place) of temporary residence imposes a guarantee of payment for medical care to persons temporarily residing in its territory, the regulator (agent) the tourist is obliged to provide such guarantees. Tourist insurance against accidents and accidents is the main form of such guarantees. At the request of the tourist, the tourist regulator (agent) assists in insuring the risks associated with the trip. Insurance of risks in tourism, which poses a significant risk to the life and health of tourists and requires significant rescue costs, is carried out by the tourist

with the consent of the tourist. Risk insurance is voluntary and is carried out by tourists independently or through tourism entities.

At present, insurance relations in the Republic of Tajikistan are regulated by the provisions of Chapter 51 of the Civil Code of the Republic of Tajikistan and the Law of the Republic of Tajikistan “On Insurance Activity”.

The subjects of insurance relations are: the insured, the beneficiaries; insurers (insurance organizations); insurance agents; insurance brokers; insurance actuaries; bodies authorized to supervise and regulate insurance activity. Insurers (insurance companies), insurance brokers and insurance actuaries are the subjects of insurance activity. Insurer (insurance organization) - a legal entity that, acts in accordance with the legislation of the Republic of Tajikistan. Insurer - an individual or legal entity who is a party to the contract of insurance and pays the insurance premium and according to the law or the validity of the contract in the event of an insured event within the limits of the insurer's liability or the sum insured. Beneficiary - a person specified in the contract of insurance, the contract is made in whose favor. Insurance agent - an individual or legal entity that acts as an intermediary in concluding an insurance contract on behalf of an insurance organization and on its behalf in accordance with the authority vested in it. An actuary is an individual who operates in connection with the implementation of mathematical economic calculations of the volume of obligations under insurance and reinsurance contracts in order to ensure the required level of liquidity and financial stability of the insurance organization. Insurance broker - a legal entity that carries out consulting

activities on insurance and reinsurance issues and acts as an intermediary on the conclusion of insurance contracts or reinsurance contracts on its own behalf and on behalf of the insured.

Insurance is provided in voluntary, compulsory and compulsory state forms. Voluntary insurance is carried out on the basis of the contract of insurance and the rules of insurance, which determine the general conditions and the procedure for its carrying out. The rules of insurance shall contain provisions on the subjects and objects of insurance, insured events, insurance risks, the procedure for determining the sum insured, the insurance rate, the insurance premium, the procedure for concluding, terminating, terminating, and concluding insurance contracts, determination of the insurance indemnity, cases of refusal to pay the insurance indemnity and other provisions. The rules of insurance should be developed by the insurer or association of insurers independently in accordance with the Civil Code of the Republic of Tajikistan and the Law of the Republic of Tajikistan “On insurance activity” and agreed with the state insurance supervision bodies. Compulsory insurance is applied in accordance with the legislation of the Republic of Tajikistan with respect to priority objects of insurance protection of property interests of individuals and legal entities. The legislation of the Republic of Tajikistan may also provide for compulsory life, health and property insurance of citizens at the expense of determining the funds provided for in the respective budget. Compulsory state insurance is provided only by state insurance organizations.

2. The main types of insurance in the tourism sector

In accordance with Articles 4 and 5 of the Law of the Republic of Tajikistan "On insurance activities" for the organization and implementation of state regulation and licensing of insurance activities, insurance is divided into forms, sectors, groups and types. The field of "life insurance" in the form of voluntary insurance includes the following groups: life insurance; insurance in the event of an accident in life; annuity insurance.

The field of "general insurance" in the form of voluntary insurance includes the following groups: accident insurance; illness insurance; motor vehicle insurance; railway transport insurance; air transport insurance; water transport insurance; freight insurance; property insurance against damage; civil liability insurance of motor vehicle owners; civil liability insurance of air transport owners; civil and legal liability insurance of water transport owners; civil and legal liability insurance; loan insurance; mortgage insurance; warranty insurance; insurance against other financial losses; court costs insurance.

The type of insurance is an insurance product developed by an insurance organization in the form of a regulatory act and provided to the insured within one or more groups of insurance by concluding an insurance contract. An insurance organization shall have the right to act on concluding an insurance contract in the form of a merger agreement with the issuance of an insurance policy to the insured only after coordination of the insurance rules with the state insurance supervision body and obtaining a license. Each type of compulsory insurance is a separate group

of insurance. The content of each group in the form of compulsory insurance and additional requirements to the conditions of its conduct shall be established by the law regulating compulsory insurance. Correspondence of branches and groups of insurance is regulated by regulatory legal acts of the state bodies of insurance supervision.

Content of insurance groups: life insurance is a set of types of insurance, which provides for the payment of insurance premiums in the event of death of the insured or his life until the end of the insurance period or up to the age determined by the insurance contract; Insurance in the event of an event in life is a set of types of reserve insurance, which provides for the payment of insurance premiums for a fixed amount in the event of a pre-recorded event in the life of the insured (marriage or childbirth); Annuity insurance is a set of types of personal insurance, which at the age of the insured person, loss of ability to work (due to age, disability or illness), death of a sponsor, unemployment or in other cases when the insured's personal income is reduced or provides for the implementation of periodic insurance payments in the form of pensions or rent; Accident insurance is a set of types of insurance, which make insurance payments in the established and (or) in full or in full compensation of insured expenses in case of death, loss (full or partial) of disability or damage to health providing for an accident, an occupational disease, with the exception of annuity risk insurance; insurance in case of illness provides for partial and (or) full compensation of insured expenses due to illness or other deterioration of health; Vehicle insurance is a set of types of insurance that partially or fully compensates for the damage

caused to the property interests of a person in connection with the ownership, use disposal of a vehicle, including theft provides for its delivery; Freight insurance is a set of types of insurance to make partial or full indemnification of the insurance indemnity for the damage caused to property interests of the person connected with ownership, use disposal of freight, including luggage, goods and other kinds of products as a result of their destruction or loss, provides irrespective of the mode of transportation delivered; Property insurance is a set of types of insurance, which provides for partial or full compensation for damage to the property interests of a person in connection with the ownership, use disposal of property as a result of damage or destruction or theft; Civil liability insurance of vehicle owners is a set of types of insurance that provides partial or full compensation for damage to the property interests of a person in connection with his obligation to pay compensation, including the civil liability of the carrier; Civil liability insurance is a set of types of insurance that provides for partial or full indemnification for damage to property interests of a person in connection with his obligation as a result to indemnify third parties; Debt insurance is a set of types of insurance that provides for the payment of insurance in the event of losses of the lender as a result of non-performance by the insured (borrower) of its obligations to the lender; Mortgage insurance (insurance of mortgaged real estate) is a set of types of insurance, which partially or in full compensates the insurance indemnity for the damage caused to the property interests of a person as a result of non-performance of the loan agreement by the borrower received in connection with the reduction of the market price of

housing, the property of which is mortgaged for a mortgage loan; Guarantee insurance is a set of types of insurance that provides for partial or full indemnification of the insurance indemnity for the damage caused to the property interests of the guarantor as a result of the performance of the guarantee or guarantee; Insurance against other financial losses is a set of types of insurance that make insurance payments in case of losses as a result of loss of employment, loss of income, natural disasters, unforeseen expenses, loss of market value and other losses as a result of financial activities that provides for economic management; Judicial cost insurance is a set of types of insurance that provides for the payment of insurance indemnity in the event of loss of the insured (insured) as a result of expenses related to judicial investigation.

Based on the Resolution of the Government of the Republic of Tajikistan dated December 3, 2011, №582 "On the procedure for expenditure of state social insurance funds for sanatorium and resort treatment, recreation of employees and their families, diet and other health and preventive measures in 2012" the rate of expenditure of state social insurance for sanatorium and resort treatment, organization of rest of employees and their family members, diet and other health and preventive measures carried out directly in the organizations at the rate of 1,4% of the assessed amount of taxes. It was established that: as a social tax transferred by organizations to the State Agency of Social Insurance and Pensions of the Ministry of Labor and Social Protection of the Republic of Tajikistan, the amount of expenditures on rehabilitation and preventive measures is taxable and proportionate; Targeted funding of the Federation of

Independent Trade Unions of Tajikistan is provided by the State Agency for Social Insurance and Pensions of the Ministry of Labor and Social Protection. Population of the Republic of Tajikistan in the amount established by the Law of the Republic of Tajikistan "About the state budget of the Republic of Tajikistan for 2012".

3. Procedure for providing insurance assistance to citizens of the Republic of Tajikistan in the event of an insured event.

The procedure for providing insurance claims services to citizens of the Republic of Tajikistan located on the territory of another country shall be regulated by normative legal acts.

Insured events are determined by the content of the insurance contract concluded by a citizen of the Republic of Tajikistan and an insurance organization. At the request of a citizen of the Republic of Tajikistan, a diplomatic mission or consular post of the Republic of Tajikistan shall notify his relatives and the insurance organization of the insured event through the Ministry of Foreign Affairs.

An official of a diplomatic mission or consular post of the Republic of Tajikistan may act as a representative of a citizen of the Republic of Tajikistan or his relatives in relation to an insurance organization upon registration of documents required by an insurance organization.

Based on a written application of the insurance organization, a diplomatic mission or consular post of the Republic of Tajikistan may request medical or other documents in the country of residence in accordance with the legislation of that state in order to protect the interests of its citizens.

Questions for students on the topic №11.

1. What is meant by tourism insurance?
2. Who are the subjects of the insurance activity of tourism?
3. What types of insurance can you name in the field of tourism?
4. What is tourist life insurance?
5. What assistance is provided to a citizen of the Republic of Tajikistan abroad in the event of an insured event?

TOPIC №12. LEGAL LIABILITY OF PARTICIPANTS IN THE RIGHT OF TOURISM

1. Civil liability in the tourism sector.
2. Administrative liability in the tourism sector.
3. Criminal liability in the tourism sector.

1. Civil liability in the tourism sector

Civil liability arises as a form of liability for non-performance or improper performance of the contract for tourist services or for causing damage to non-contractual property. Provisions on non-contractual liability are set out in Chapter 55 (Liability for Damages), Articles 1079-1116, Part 2 of the Civil Code of the Republic of Tajikistan.

Damage caused by illegal actions (inaction) to a person or property of a citizen, as well as to a legal entity, the state, must be compensated in full by the person who caused the damage. The law may impose the obligation to compensate the damage on a person who is not the person who caused the damage. A law or contract may establish a higher liability for the harm caused or a higher amount of compensation for the damage. The person who has caused harm shall be released from compensation for harm if he proves that the harm was not caused by his fault. The law may also provide for compensation for harm if the person who caused the harm is not at fault. Damage caused by a legal action must be compensated in cases provided by law.

A legal entity or a citizen shall compensate the damage caused by its employee in the performance of his/her labor (official, official) duties.

Employees are considered to be citizens who perform work on the basis of an employment contract, as well as based on a civil law contract, if at that time they acted or should have acted or should have performed their duties or under the supervision of the relevant legal entity or responsible citizen. Business companies and production cooperatives shall compensate the damage caused by their participants (members) in the course of the latter's entrepreneurial, production or other activity of the company or cooperative. Thus, it was determined that the contractual and non-contractual liability in the tourism sector arises in relation to both the subject of tourist activity and tourism.

2. Administrative liability in the tourism sector

Foreign citizens, stateless persons and legal entities that commit administrative offenses on the territory of the Republic of Tajikistan shall be subject to administrative liability on general grounds. An administrative offense is an unlawful and culpable act (action or inaction) of an individual, official or legal entity, failure to commit in the manner prescribed by the Code of Administrative Offenses of the Republic of Tajikistan entails administrative liability.

An individual who has reached the age of sixteen at the time of committing an administrative offense shall bear administrative responsibility. If the administrative offense is insignificant, the judge, authorized state body (official) considering the case on administrative offense, may release the person who committed administrative offense from administrative responsibility and limit himself to the appointment of

verbal warning. According to the Code of Administrative Offenses of the Republic of Tajikistan, the same administrative offense is considered insignificant, as a result of which the damage to an individual in the amount of up to ten times the minimum monthly wage and to a legal entity in the amount of up to ten times the minimum monthly wage.

An individual shall be held administratively liable for committing an administrative offense in the order stipulated by the Code of Administrative Offenses of the Republic of Tajikistan, unless otherwise established by this Code and other normative legal acts of the Republic of Tajikistan. An individual is a citizen of the Republic of Tajikistan, a foreign citizen and a stateless person.

Tourists, travel regulators and travel agencies can be the subject of various administrative offenses. The Code of Administrative Offenses of the Republic of Tajikistan provides for the following types of offenses: - administrative offenses related to human and civil rights and freedoms;

- administrative offenses related to health care, sanitary and epidemiological situation of the population and public morality;

- administrative offenses in the field of labor protection and social protection;

- administrative offenses in the field of land use;

- administrative offenses in the field of subsoil use;

- administrative offenses in the use of water resources;

- administrative offenses in the field of forest use;

- administrative offenses in the field of protection of flora and fauna;

- administrative offenses in the field of environment protection and use of natural resources;
- administrative offenses in the field of protection and use of objects of historical and cultural heritage;
- administrative offenses in the field of agriculture;
- administrative offenses related to veterinary and sanitary norms and rules;
- administrative offenses related to chemical rules of plant protection;
- administrative offenses related to the rules of traffic safety and operation of vehicles;
- administrative offenses in the field of communication and use of telecommunication networks;
- administrative offenses in the field of television, radio and other mass media;
- administrative offenses in the field of intellectual property;
- administrative offenses in the field of energy and use of energy resources;
- administrative offenses in the field of industry, architectural, town-planning and construction activities;
- administrative offenses in the field of ensuring the rights of citizens to housing, communal services, improvement;
- administrative offenses related to public order and ethics;
- administrative offenses related to management procedures;
- administrative offenses related to justice;
- administrative offenses in the field of banking legislation;

- administrative offenses in the field of antitrust law;
- administrative offenses in the field of securities transactions;
- administrative offenses in the area of customs legislation;
- administrative offenses in the field of tax legislation;
- administrative offenses in the field of state social insurance;
- administrative offenses in the field of standardization, metrology, certification, accreditation, trade and services;
- administrative offenses in the field of auditing;
- administrative offenses in the maintenance and use of property;
- administrative offenses related to corruption;
- Administrative offenses in the field of space, geodesy, mapping and topography;
- administrative offenses in the military sphere.

Here are a few specific examples to fully clarify the types of offenses.

For example, in accordance with Article 177 of the Code of Administrative Offenses of the Republic of Tajikistan, a tourist is fined from one to five times the minimum monthly wage for polluting springs and other water sources located on the lands of the state water reserve or according to Article 207 of the Code of Administrative Offenses of the Republic of Tajikistan for the destruction of rare animals and plants listed in the Red Book of the Republic of Tajikistan, which are in danger of extinction or destruction of spawning grounds, eggs, nests and other structures cause destruction, death, depletion or disturbance of the flora and fauna or actions committed due to non-compliance with the conditions of hunting and use of such flora and fauna, in the amount of ten to twenty

times the minimum monthly wage for confiscation of property; a fine shall be imposed.

Article 631. Non-observance of the legislation on protection of the rights of consumers

Unreasonable evasion of warranty period for the sale of tools, services, replacement of low-quality non-food goods with goods of similar quality or refund, non-compliance with the terms of work and services, as well as non-compliance with other legal requirements shall be imposed a fine in the amount of five to ten times the minimum monthly wage and on officials from thirty to fifty times the minimum monthly wage.

3. Criminal liability in the tourism sector

According to Article 14 of the Criminal Code of the Republic of Tajikistan, a person who has committed a crime on the territory of the Republic of Tajikistan shall be prosecuted in accordance with this Code, unless otherwise established by international law recognized by Tajikistan.

Such an act committed on the territory of the Republic of Tajikistan shall be recognized as a crime if:

- a) started, continued or completed on the territory of the Republic of Tajikistan;
- b) committed outside the Republic of Tajikistan, but the consequences of the crime occurred on its territory;
- c) committed on the territory of the Republic of Tajikistan, but the consequences of the crime have occurred outside its territory;

d) in partnership with persons who have carried out their criminal activity on the territory of another state.

In tourist activity, both the tourist and the head of the tour company or its employees are subject to criminal penalties in case of committing a crime.

For the sake of completeness, here are some specific articles of the Criminal Code of the Republic of Tajikistan.

Article 237 (1). Vandalism

Vandalism, is the vandalism of buildings and other structures, damage to property on public transport and other public places if such an act was committed during the year following the imposition of an administrative penalty is punishable by compulsory labor for a period of sixty to one hundred and twenty hours, or by a fine of 100 to 200 times the minimum monthly wage.

In case of committing another act recognized as a crime by the Criminal Code of the Republic of Tajikistan, a tourist, the head of a travel agency or its employees shall be held criminally liable.

Questions for students on the topic №12.

1. What cases are a civil liability in the tourism sector in?
2. What types of administrative penalties can be applied to a tourist for committing an administrative offense?
3. What are the specific types of administrative offenses in the tourism sector?

4. What is the definition of crime and punishment in the Criminal Code of the Republic of Tajikistan?
5. In what cases can a tourist, the head of a travel agency, individual entrepreneurship in the tourism sector and employees of a tourism company be prosecuted?

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