

Features of Economic and Legal Regulation of Development of Russian Tourism during Pandemic Period

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Abstract: In the presented paper, the features, directions and problems of economic and legal regulation of the development of Russian tourism in the context of the coronavirus pandemic are identified, measures of state support for the tourism industry are analyzed, directions for reforming the legislation on tourism activities in the coronavirus period are highlighted, and the relevant law enforcement practice is studied. Special attention is paid to the analysis of the existing measures of state support for the tourism industry in the leading foreign countries in terms of tourism, the identification of models of state tourism policy in the new economic reality. On the basis of the studies carried out, conclusions are drawn about the need to improve the efficiency of existing measures of state support for the tourism industry in Russia and to further reform the current tourism legislation

1 INTRODUCTION

The beginning of 2020 was marked by the emergence of a new objective threat – the epidemic of coronavirus infection, which has rapidly spread throughout the world in just a month. As a result, WHO officially recognizes the coronavirus epidemic as a pandemic on March 11, 2020, and, as a result, almost all countries of the world, in order to counteract the further spread of the pandemic, have introduced a quarantine regime, expressed in the closure of state borders and a reduction in domestic movements.


As a result, the global economic impact of COVID-19 has led to a significant decrease in the values of most macroeconomic indicators characterizing the level of development of international tourism (Table 1).


These negative trends have not passed Russia, as a result of which the tourism industry is included in the list of industries approved at the federal level that are most affected by the pandemic, as "the activities


of travel agencies and other organizations providing services in the field of tourism".

Table 1: Impact of COVID-19 on macroeconomic indicators of tourism development.

No.	Indicator	Value in 2020	Reduction (by 2019), in %
1.	World Tourism Industry Revenue (US \$ Billion)	396.0	42.2
2.	Share of tourism in world GDP (in %)	5.50	-4.90
3.	Gross Domestic Product (US \$ Billion)	4.71	49.1
4.	Number of jobs (million people)	272.0	18.6
5.	Number of tourist arrivals (in million people)	490.0	73.0
6.	Travel expenses of tourists (US \$ Million)	630.6	70.1

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2 STUDY METHODS

The study is based on a quantitative and qualitative assessment of tourism development trends in the context of a pandemic and in the context of the implementation of measures of economic and legal regulation of tourism development at the state level. The study is based on the assumption that the new reality has led to the need to move from strategic instruments of state tourism policy to tactical ones that take into account the “weather of the moment”. This, in turn, led to the emergence of new government support measures that stimulated the positive dynamics of domestic markets.

3 STUDY RESULTS

In many foreign countries, various measures of state support for tourism have been offered (Table 2).

Table 2: State support measures for the tourism industry in some foreign countries (compiled by the authors).

No.	Country	State support measures
1.	<i>United Kingdom</i>	Waiver of tourist taxes and fees, grant support, government loans at low interest rates, a moratorium on layoffs, employee compensation
2.	<i>Germany</i>	Subsidies for organizations developing green tourism and tourism related to local culture, deferral of social security contributions, waivers from the collection of tourism-related taxes and fees, subsidies for small and medium-sized enterprises, grant support, credit incentives
3.	<i>Greece</i>	Tax breaks, earmarked subsidies and grants, reduced staffing requirements, vouchers to purchase domestic tours, deferred social security contributions, lower rents, moratorium on layoffs
4.	<i>Spain</i>	Reduction of the tax burden, deferral of mortgage and rental payments, reduction of labor costs, support for workers with discontinuous contracts
5.	<i>Italy</i>	Vouchers for the purchase of domestic tours, reimbursement of the costs of canceled events, government guaranteed loans, deferred loan interest payments, a moratorium on dismissals
6.	<i>China</i>	Programs for subsidizing tourist packages with an open date,

		incentives for paying for electricity services, subsidies for recruiting and training personnel, tax incentives
7.	<i>Scandinavian and Baltic Countries</i>	Subsidiary programs for the restoration of previously laid off workers, investment loans, grants
8.	<i>France</i>	Subsidies for small and medium-sized enterprises, government guaranteed loans, deferred social security contributions, waiver of taxes and fees, reimbursement of utility costs, moratorium on layoffs
9.	<i>Czech Republic</i>	Discount coupons for domestic tourists, deferred social security contributions, interest-free government loans
10.	<i>Japan</i>	Subsidies in the form of rebates and vouchers for consumers, grant support, government guaranteed loans, moratorium on layoffs

The analysis allows us to speak about the existence of four models of tourism policy: a) sectoral, associated with supporting the industry through the development of territories, the creation of infrastructure, and etc.; b) entrepreneurial, focused on supporting business through a system of tax incentives, subsidies, loans; c) consumer, which involves the provision of discounts and benefits to tourists when purchasing domestic tours; d) mixed, including measures aimed at comprehensive support for tourism.

The instruments of economic and legal regulation of russian tourism are in many ways similar to the measures of state support for tourism implemented abroad, and are linked to the following trends:

1. The number of tourists inside the country decreased by 35-40 % (from 68 million in 2019 to 40 million in 2020), tourists entering the country – by 94% (from 5.7 million in 2019. up to 0.52 million in 2020), tourists leaving the country – by 80 % (from 12.2 million in 2019 to 2.8 million in 2020).

2. The lack of transport links with foreign countries led to a drop in demand for international travel and a compensatory rise in domestic tourism with a slight change in the geography of tourist flows.

3. However, the activity of tourist demand remains maximally connected not with domestic tourism, but with open directions of outbound tourism, but with a simultaneous reorientation of 50-60 % of tourists to the russian market.

4. In the industry, there was an increase in demand for premium tours (by 20 %), a change in the ratio between organized and amateur recreation in favor of

the latter (40-45 % of russians refused organized tours), an increase in demand for short and combined (foreign + domestic) tours.

Such "shock therapy", despite the fact that the total losses of the tourism industry amounted to 1.3 trillion rubles, and the number of travel agents decreased by 20 % (4500 travel agencies were closed in 2020, 20 % of travel agencies went online, 50 % of travel agencies diversified their activities), had not only a negative, but also a sobering effect on russian tourism.

Results of 2020-2021 allow us to conclude that the russian tourist market has shown a fairly high level of self-organization due to the support of the industry from the state and consumer loyalty. The reorientation of tourist flows, coupled with measures of state support for the industry, made it possible to keep many tourism organizations "afloat", to stimulate them to sell a tourist product on the domestic market.

In 2020, at the federal level, more than 30 different measures were offered to support the tourism business, of which 11 measures are focused only on small and medium-sized enterprises. As the analysis has shown, the following measures are among the three most effective.

1. Adoption of regulatory legal acts that provided the opportunity to defer the fulfillment of obligations by tour operators and travel agents under those contracts that were concluded before March 31, 2020.

2. The "tourist cashback" program is a special loyalty program, which implies a cash refund (in the amount of 20 % of the cost of the voucher, but not more than 20 thousand rubles) of the part of the funds spent by tourists on the purchase of tourist services with a bank card Mir registered in this program. Currently, four waves of this program have been implemented.

Over the entire period of the program, tours and accommodation services were purchased in the amount of 34 billion rubles, of which tourists received a return in the amount of 6.7 billion rubles, and regional economies received an additional 13 billion rubles in 2020. The implementation of tours under the cashback program in 2021 increased 1.6 times compared to 2020. Over the entire period of its implementation, 1.9 million tourists and 3,500 hotels and tour operators took part in the program, the volume of bookings for which increased by 20 and 40%, respectively.

The qualitative effect of the program was expressed in stimulating the development of domestic tourism, redistributing tourist flows within the country, reducing the interest of tourists in foreign

destinations, popularizing children's recreation (the "children's tourist cashback" program), and etc. Implementation of the cashback program redistributed funds allocated to support the industry, the development of tourism infrastructure, and the development of new territories.

However, the importance of the program shall not be overestimated, since it also carries some threats, including the "shrinking" and fragmentation of the tourist space, that is, deepening regional disparities in the level of development of domestic tourism, "overheating" of popular tourist destinations, which took 1.5 -2 times more tourists, increased discrepancy in price, availability and quality of services, insufficient consideration of the real needs of tourists, discrepancy of 80 % of tourists to the requirements of the program.

3. Provision of state subsidies for the payment of wages to employees of tourist organizations in the amount of one minimum wage (12,130 rubles), which were used by only 3 % of tour operators. Small and medium-sized enterprises could receive such payments in April and May of 2020, provided that at least 90 % of employees were retained in relation to March 2020. In total, 81 billion rubles were allocated for subsidies, and more than 3 million people received payments. Each tourist organization received for an average of 150 thousand rubles in such payments.

4. The system of tax support measures (deferral and installment plan of tax and rent payments, moratoriums on bankruptcy, tax audits and fines, provision of tax incentives) turned out to be insufficiently effective, despite the successful experience of some regions (for example, the abolition of regional taxes in St. Petersburg made it possible to return in tourism 3.6 billion rubles).

The low degree of the regulatory impact of tax support measures is due to the fact that the obligation to pay taxes is not leveled, but only postponed. If the existing trends continue, it will be very difficult for tourism organizations to pay taxes at the end of 2021. Moreover, the freed up funds are used to pay off debt obligations, and not to develop a business in domestic tourism.

Next, we will stop in detail on the purely legal instruments of regulatory impact. As we already wrote above, the most effective tool for supporting the tourism business was the adoption of regulations that provided tour operators and travel agents with a deferral to fulfill their obligations to tourists until December 31, 2021.

On March 25, 2020, at a meeting of the Presidium of the Coordination Council under the Government of the Russian Federation to combat the spread of a new

coronavirus infection in Russia, a decision was made to temporarily suspend air traffic from Russian airports to airports in foreign countries and in the opposite direction, with the exception of flights related to export Russian citizens in connection with the spread of the coronavirus. In connection with the ban on flights with foreign countries, as well as between individual regions of the country, Rostourizm and Rospotrebnadzor recommended tour operators and travel agents to completely stop selling the tourist product and individual services until the epidemiological situation normalizes.

In the context of a pandemic and in order to minimize its negative impact, the following regulatory legal acts have been adopted:

1) Federal Law of November 24, 1996 No. 132-FZ "On the Basics of Tourist Activity in the Russian Federation" (hereinafter – the Law on Tourism) supplemented by Art. 11.8, where cases of restricting the entry of tourists into the country (place) of temporary stay are defined as a special ground for terminating the agreement on the sale of a tourist product (the list of countries that have established such restrictions is posted on the Rostourizm website);

2) Order of the Government of the Russian Federation dated of April 04, 2020 No. 898-r based on Art. 11.8 of the Law on Tourism establishes the possibility of returning funds from the personal liability fund of the tour operator; the period for such a return was extended by the order of the Government of the Russian Federation dated April 15, 2021, No. 977-r;

3) Resolution of the Government of the Russian Federation of April 08, 2020 No. 461 "On Approval of the Rules for the Return to Tourists and (or) other Customers of Money paid by them for a Tourist Product from the Funds of the Tour Operator's Personal Liability Fund" fixed the procedure and conditions for the return of funds from the personal responsibility of the tour operator on the basis of Art. 11.8 of the Law on Tourism;

4) Resolution of the Government of the Russian Federation of July 20, 2020 No. 1073 "On Approval of the Regulations on the Specifics for 2020 and 2021 for the Execution and Termination of the Agreement on the Sale of a Tourist Product, concluded by March 31, 2020 inclusive, by a tour operator operating in the field of domestic tourism, and (or) inbound tourism, and (or) outbound tourism, or by a travel agent selling a tourist product formed by such a tour operator, including the grounds, procedure, terms and conditions for the return to tourists and (or) other customers of the tourist product of the sums paid by

them for the tourist product or provision at other times of an equivalent tourist product, including in the presence of the circumstances specified in part three of Article 14 of the Federal Law "On the Basics of Tourist Activity in the Russian Federation" (hereinafter – Resolution No. 1073).

It is Resolution No. 1073, possessing a high degree of regulatory impact on the development of the tourism industry, at the same time, it maximized the degree of conflict potential in the relationship between consumers and entrepreneurs and led to an obvious violation of the balance of interests of the parties in favor of the latter. So, as of December 2021, the total debt of tour operators is 43 billion rubles, which causes serious concerns among consumers about the fulfillment of obligations by tourism organizations in the future under previously concluded agreements. This also increases the level of expected risk of massive bankruptcies in the tour operator sector.

As the law enforcement practice shows, the application of Resolution No. 1073 faced a number of problems.

Firstly, Resolution No. 1073 did not give Russian consumers, unlike European ones, the right to choose between a refund and the provision of an equivalent tourist product. So, on May 13, 2020, the European Commission adopted Recommendation No. 2020/648 "On Vouchers Offered to Passengers and Travelers as an Alternative to Refunding Canceled Trips and Transport Services in Connection with the COVID-19 Pandemic", according to which tourists at their own choice can claim reimbursement of the cost of travel or the provision of a voucher for services.

Secondly, Resolution No. 1073 was adopted on the basis of Art. 19.4 of the Federal Law of April 01, 2020 No. 98-FZ "On Amendments to Certain Legislative Acts of the Russian Federation on the Prevention and Elimination of Emergencies" , from which it follows that its application is "launched" only in emergency conditions. However, neither an emergency regime nor a high alert regime was introduced in the country and its regions. Moreover, introduction of an emergency regime always entails the application of the rules on force majeure, which excludes any liability of the parties to each other and, accordingly, there is no need to apply the provisions of Resolution No. 1073.

Thirdly, Resolution No. 1073 does not allow to differentiate and qualify the grounds for "Significant Change in Circumstances" (Article 10 of the Law on Tourism), "Emergence of a Threat to the Safety of Life or Health of Tourists" (Article 14 of the Law on Tourism), "Force Majeure" (Art. 401 of the Civil

Code of the Russian Federation), which is of fundamental importance from the point of view of the onset of legal consequences corresponding to these grounds;

Fourthly, the problem of mass refusals of tour operators from providing tourists with an equivalent tourist product at the price that was valid at the time of the conclusion of the contract was actualized. If tourists refuse to receive a tourist product at a higher price and they declare a demand for a refund, tour operators, referring to Resolution No. 1073, indicate that the refund period has not yet come. The circumstances that have arisen have led to the emergence of a new claim structure – a claim for the obligation to provide an equivalent tourism product.

The so-called “coronavirus” reviews of the Supreme Court of the Russian Federation made some clarity in resolving the emerging problems. Thus, the Review on certain issues of judicial practice related to the application of legislation and measures to counter the spread of a new coronavirus infection (COVID-19) No. 1 in the territory of the Russian Federation (approved on April 21, 2020) contains answers to two important questions:

Question No. 7 about the possibility of recognizing the epidemiological situation, restrictive measures or the self-isolation regime as force majeure circumstances (clause 3 of Art. 401 of the Civil Code of the Russian Federation):

1) recognition of a pandemic as force majeure cannot be universal for all debtors, regardless of the type of their activity, the conditions for its implementation, including the region in which the organization operates, due to which the existence of such circumstances shall be established considering the circumstances of a particular case (including the deadline for the performance of the obligation, the nature of the unfulfilled obligation, the reasonableness and good faith of the debtor).

2) to exempt from liability, the party must prove: a) the presence and duration of force majeure circumstances; b) the presence of a causal relationship between the circumstances that have arisen and the impossibility or delay in the performance of obligations; c) non-involvement of the party in the creation of force majeure; d) taking in good faith by the party reasonably expected measures to prevent (minimize) possible risks.

Question No. 8 about the possibility of recognizing the epidemiological situation, restrictive measures or the self-isolation regime as grounds for changing or terminating the contract: if the contractor violates the deadlines for the work, the provision of the service, the consumer shall have the right to refuse

to fulfill the contract and demand the return of the price paid by him/her on the basis of Art. 28 of the Law of the Russian Federation "On Protection of Consumer Rights" minus the costs actually incurred by the contractor related to the fulfillment of obligations.

In the Review on certain issues of judicial practice related to the application of legislation and measures to counter the spread of a new coronavirus infection (COVID-19) in the territory of the Russian Federation No. 3 (approved on February 17, 2021), three questions (No. 7-9) related to with application of Resolution No. 1073, where the Supreme Court of the Russian Federation concluded that Resolution No. 1073 does not establish a special mandatory pre-trial procedure for terminating the contract, and the right to demand termination of the contract and refund is granted to the tourist who is the customer of the tour.

In the Russian legal realities, attempts were also made to appeal against Resolution No. 1073 in the order of administrative proceedings (decisions of the Supreme Court of the Russian Federation of September 30, 2020 in case No. AKPI20-521, dated December 09, 2020 in case No. AKPI20-630, dated February 03, 2021 in case No. AKPI20-837). The Supreme Court of the Russian Federation, disregarding the main issue of giving or not giving retroactive effect to Resolution No. 1073 in cases of termination of an agreement on the sale of a tourist product before its entry into force, nevertheless made two fundamentally important conclusions that:

1) Resolution No. 1073 was adopted in full compliance with the law, does not violate consumer rights and does not allow unlawful withholding of paid services and funds under the contract;

2) if, after conclusion of the agreement, a law has been adopted that establishes other rules binding on the parties than those in force at the conclusion of the agreement, the terms of the concluded agreement remain in force, except for cases when the law establishes that its effect applies to relations arising from previously concluded agreements (cl. 2, Art. 422 of the Civil Code of the Russian Federation).

The Supreme Court of the Russian Federation put an end to the disputes when resolving one of the civil cases, directly indicating that Resolution No. 1073 does not violate the rights of a tourist, has retroactive effect and extends its effect to all agreements on the sale of a tourist product concluded before March 31, 2020, including the agreement concluded between the parties to the dispute (ruling of the Supreme Court dated September 07, 2021 in case No. 78-KG21-40-KZ).

Disagreeing with this position, we note that it is not entirely justified to make Resolution No. 1073 retroactive in relation to tourist contracts terminated before the entry into force of Resolution No. 1073, since this contradicts the norms of cl. 1 of Art. 4 of the Civil Code of the Russian Federation and leads to a paradoxical situation of "reanimation" of an already terminated agreement with the aim of subsequent application of Resolution No. 1073 to it.

4 DISCUSSION OF RESULTS

The results of the analysis of measures to support domestic tourism in their economic aspect are discussed in the papers of O.E. Afanasyev, I. V. Bushueva, D.D. Kuznetsova, M. I. Kuterin, V. V. Lavrov, E. G. Leonidov, V. V. Lysenko, E. I. Makrinova, L. B.-Zh. Maksanova, N.V. Rubtsova, E. A. Rybochkina, O.A. Stepurenko, L. I. Studenikina, I. V. Falimendikov, I. Yu. Shvets, S. Aldao, D. Blasco, D. Chikodzi, K. Dube, M. P. Espallargas, G. Nhamo, C. Pasquinelli, S. P. Rubio, M. Trunfio, et al. Features of the legal impact on the development of tourism are discussed in the papers of D.V. Volodina, N.V. Litarenko, P. E. Morozov, N.A. Nikitashina, I. E. Otcheskiy, N.V. Sirik, V. A. Urmatskikh.

5 CONCLUSIONS

Despite the effectiveness of the existing measures of economic and legal regulation (state support) of the tourism industry, their application has exposed a number of the following problems that need to be resolved.

1. The strategic (evolutionary) vector of regulation of the tourism industry has drastically changed to tactical (revolutionary) one, which requires taking into account the "weather of the moment", operational changes taking place in the economic and legal environment. This, on the one hand, demonstrated the unpreparedness of the state and the tourist business to respond quickly to the changed environmental conditions, and, on the other hand, led to the launch of a set of measures without their proper elaboration and determination of the expected economic effect.

2. At the state level, more than 30 measures have been taken to support the tourism industry, of which, including for the above reasons, only those isolated measures have demonstrated their effectiveness, which made it possible to postpone the fulfillment of

obligations to consumers and receive non-repayable and interest-free subsidies and loans.

3. The improvement of the legal regulation of tourist activity in the last two years has been carried out without taking into account the requirements of its harmonization and unification with international legislation, in the conditions of the emergence of contradictions with previously adopted normative legal acts regulating similar or similar legal relations, and also leads to a violation of the balance of interests of the parties to consumer relations.

4. The current regulatory legal acts adopted in the period from march of 2020 to the present, shall be applied only in accordance with the conditions of emergency and high preparedness, which does not correspond to the existing realities either in the country as a whole or in its individual regions.

5. In law enforcement practice, the problem of distribution of responsibility of tour operators, airlines and hotel organizations often arises in connection with the conflict of certain provisions of resolutions dated of July 06, 2020 no. 991, July 20, 2020 no. 1073, July 20, 2020 no. 1078.

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