

## CONFLICT OF LAWS RELATING TO THE DEVELOPMENT OF INTERNATIONAL TOURISM IN THE RUSSIAN FEDERATION

V.Shaidullina

*It is the declarative and general nature of goals, objectives, policies relating to tourism, the dispersion of regulations in this sector, the lack of clear definitions of essential terms leading to various interpretations of the law, and a huge number of amendments to the basic tourism legislation that prevent the Russian tourism sector from reaching an adequate level and Russia from creating the image of trusted partner in the same sector at the international level.*

The Russian tourism industry can currently be described as crisis-hit. This line of Russia's economic and socio-cultural development can be defined as facing a slump in the previously reached scope of tourism services, including national tourism, inventory decumulation, and being unable to meet the quality standards and the needs for tourism services. It is impossible to develop international tourism in this country, as provided for by the Foreign Economic Development Strategy of Russia until 2020<sup>1</sup>, unless the national tourism is streamlined.

Additionally, the political situation in the world has a mixed impact on the industry. The crisis in Ukraine, which has led to sanctions against Russia from the European Union and the United States, has affected the tourism sector too, except that the impact is both positive and adverse. For instance, speaking of the Russian outbound tourism, the number of Russian outbound tourists reduced in number by 25–30% in 2014 compared to the previous year<sup>2</sup>, according to the statistics of the Federal Tourism Agency (Rostourism). This has been caused first of all by the recent drastic weakening of the ruble exchange rate against the US dollar and Euro, and hence outbound tourism has become more expensive for Russian tourists. However, in terms of inbound (national) tourism, the restrictive policies from the Western countries have helped mobilize the domestic hospitality industry. The Rostourism confirms that the sanctions, on the one hand, do slow down the inbound tourism flow from Europe and the United States, on the other hand, the tourism flow from China has increased 13% as a result of the sanctions. Additionally, the past six months have seen a considerable increase of 9% in the number of inbound tourists from Turkey and Israel, and 42% from South Korea<sup>3</sup>.

However, there is no point to argue that it is exactly the last year when the Russian tourism sector

was hit by a crisis. According to the Rostourism's statistics, the tourism flows saw an average decrease of 10% in the period between 2003 and 2005, then 2% between 2006 and 2008, 8% between 2008 and 2009, and from 2009 till the present day tourism has been stagnating (seeing a timid growth and fall in certain periods)<sup>4</sup>, which also had/has an adverse impact on this industry. Additionally, more than 10,000 social tourism sites accessible to the Russian general public have actually suspended their operations over the past few years<sup>5</sup>.

The causes of poor development of tourism in Russia, both inbound and outbound tourism, derive less from the world community's sanctions than from the systemic, fundamental problems, including legal regulation issues, faced by this industry. Russia has turned out to be ill-prepared to possible sanctions on this industry from the Western countries, and the solution of tourism-related issues will become a top-priority objective of the national economic policy once the economic "blockade" of Russia has been lifted.

The systemic issues in the legal regulation of tourism have their background. For example, the first Federal Program for Development of Tourism in the Russian Federation<sup>6</sup> was adopted on February 26, 1996 with a view to creating a modern, highly efficient and competitive tourism sector. Federal Law on Tourism was

4 [http://www.ratanews.ru/news/news\\_7032012\\_1.stm](http://www.ratanews.ru/news/news_7032012_1.stm)

5 Туристская деятельность в России: понятийный аппарат и организационно-правовые основы: Монография. – Краснодар: академия гуманитарных наук России. – Кубанский государственный университет, 2012 [Туристская деятельность в России: the framework of concepts and organizational and legal framework: Monograph. – Krasnodar: Academy of the Humanitis. – Kuban State University, 2012]

6 Постановление Правительства Российской Федерации от 26 февраля 1996 г. №177 «О федеральной целевой программе «Развитие туризма в Российской Федерации» // Российская газета. №54. 1996. [The Russian Government's Executive Order of February 26, 1996. No. 177 The Federal Target Program for Development of Tourism in the Russian Federation // Rossiyskaya Gazeta. No. 54, 1996]

1 <http://economy.gov.ru/minec/activity/sections/foreignEconomicActivity/vec2020>

2 [http://www.ratanews.ru/news/news\\_7032013\\_1.stm](http://www.ratanews.ru/news/news_7032013_1.stm)

3 [http://www.ratanews.ru/news/news\\_3062009\\_3.stm](http://www.ratanews.ru/news/news_3062009_3.stm)

adopted late in 1996 to create the legal framework for the development of tourism<sup>1</sup>.

The Tourism Development Concept approved by the Russian Government Executive Order of July 11, 2002 No. 954-p<sup>2</sup> was implemented on the basis of the foregoing Law in the period of 2002 to 2005. The Concept was implemented successfully at the initial stage, because the principal objectives set forth in the Concept Action Plan were achieved. However, it's worth noting that the regulations set forth in this act were ill-defined, declarative by nature and lacked efficient policies aimed at promoting the Russian tourism in the global market. This is the key drawback of the Concept.

The adoption in 2008 of the Tourism Development Strategy in the Russian Federation until 2015<sup>3</sup> became a logical continuation of the foregoing policy.

Under the Strategy, the principal objective of actions aimed at developing the tourism sector in Russia is the development of "clear national strategies for development of tourism, rapid and flexible decision-making"<sup>4</sup>. This objective was set, as noted above, in the form of general declarations only and is not specific in terms of its content. Furthermore, much depended on the legal framework in order to make such decisions work.

All of the advantages and weaknesses of the legal act became apparent after it was adopted and came into effect. To cope with them, amendments were developed, various interpretations thereof were introduced, or worse, new legal acts began to develop.

1 Федеральный закон от 24.11.1996 № 132-ФЗ «Об основах туристской деятельности в Российской Федерации» // Собрание законодательства РФ. 1996. №49. ст. 5491. [Federal Law of 24.11.1996, No. 132-FZ On the Basics of Tourism Business in the Russian Federation // Collection of legislative acts of the Russian Federation. 1996. No. 49. p. 5491.]

2 Распоряжение Правительства РФ от 11.07.2002 № 954-р «О Концепции развития туризма в Российской Федерации на период до 2005 года» // Российская газета. №134. 2002. [Russian Government Executive Order of 11.07.2002 No. 954-r The Concept of Development of Tourism in the Russian Federation for the Period until 2005 // Rosyiskaya Gazeta. No. 134, 2002.]

3 Приказ Ростуризма от 06.05.2008 № 51 «Об утверждении Стратегии развития туризма в Российской Федерации на период до 2015 года» [Электронный ресурс] (документ опубликован не был) [The Rostourism Executive Order of 06.05.2008 No. 51 Concerning the Approval of the Strategy of Tourism Development in the Russian Federation until 2015 [Electronic resource] // URL: <http://base.consultant.ru/cons/cgi/online.cgi?req=doc;base=EXP;n=330989>

4 Стратегия развития туризма в Российской Федерации на период до 2015 года и план мероприятий по ее реализации. Официальный сайт Федерального агентства по туризму Минспорттуризма России. М., 2008. [Электронный ресурс] [The Strategy of Tourism Development in the Russian Federation until 2015 and the Action Plan for the Implementation thereof. Official website of the Federal Tourism Agency, The Ministry of Sports and Tourism of Russia. М., 2008. [Electronic resource]]// URL:[http://www.russiatourism.ru/section\\_449/](http://www.russiatourism.ru/section_449/) (date of access 15.04.2014).

As far as the situation is concerned, the general trends typical of the industry were stated with regard to the legal and statutory regulation in the tourism sector, and nothing but positive aspects in the development of the tourism sector in Russia were noted, as well as "the integrated nature of legal and statutory regulation in the tourism sector". At the same time, it's worth noting that there is a great number of "tourism regulations" in the legislation branches related to the tourism law, which is an adverse legal phenomenon<sup>5</sup>.

However, the discussion among many legal experts about contradictions of the Civil Code of Russia<sup>6</sup> in respect of defining the legal nature of a tourism service agreement not always produces a concrete result, because even the definition of *tourism, product of tourism* and others may be interpreted in various ways<sup>7</sup>. The solution to these issues has been farmed to the interpretation of legal acts on a case by case basis. The legislative body adopted a huge number of legal acts relating to various areas of activity, and similar wordings may often differ in meaning and lead to contradicting results because of a wide gap in time and topics. Additionally, it's worth noting that the trends specified in the Strategy were inconsistent with the reality. For example, the developers of the Strategy stated that the national tourism law was completely harmonized with the international tourism law, which in fact still remains to be achieved.

Hence the key issues of legal regulation in the tourism sector are the declarative and general by nature goals, objectives, policies relating to tourism, the dispersion of regulations in this sector, the lack of clear definitions of essential terms (tourism, tourism services etc.) that leads to various interpretations of the law, and a huge number of amendments to the basic tourism legislation.

To enhance the legal regulation in the tourism sector, the Strategy specifies the guidelines tailored for the Strategy to be implemented in the period of 2008 to

5 Стратегия развития туризма в Российской Федерации на период до 2015 года и план мероприятий по ее реализации. Официальный сайт Федерального агентства по туризму Минспорттуризма России. М., 2008. [Электронный ресурс] [The Strategy of Tourism Development in the Russian Federation until 2015 and the Action Plan for the Implementation thereof. Official website of the Federal Tourism Agency, The Ministry of Sports and Tourism of Russia. М., 2008. [Electronic resource]]// URL: [http://www.russiatourism.ru/section\\_449/](http://www.russiatourism.ru/section_449/) (date of access 15.04.2014.)

6 Гражданский кодекс Российской Федерации (часть первая) от 30.11.1994 № 51-ФЗ (ред. От 02.11.2013) // Российская газета. № 238–239. 1994. [The Civil Code of the Russian Federation (Part 1) of 30.11.1994 No. 51-FZ (as in force on 02.11.2013) // Rosyiskaya Gazeta. No. 238–239. 1994.]

7 Брагинский М.И., Витрянский В.В. Договорное право. – М.: Статус, 2007. С. 231. [Braginsky M.I., Vitryansky V.V. Contract Law. – М.: Status, 2007. p. 231.]

2015, relating to the enhancement of legal regulation of the institution of liability and powers vested with federal agencies in the tourism sector; standardization of the laws of constituent entities of the Russian Federation; development of culture and educational tourism, etc.

Some experts<sup>1</sup> believe that this Strategy is an integral part of the *Concept of Long-Term Socio-Economic Development of the Russian Federation*<sup>2</sup> until 2020, because it specifies that tourism is economically beneficial and environmentally safe industry in the national economy, and an essential part of the country's innovative development. It is obvious, however, that the foregoing regulations are "traditionally" general and strictly declarative by nature.

It is thought that the foregoing Strategy correlates with the objectives set forth in *The State Program of the Russian Federation: Culture and Tourism Development, 2013–2020*. However, this doesn't reflect the reality. The objectives set forth in *The State program of the Russian Federation: Culture and Tourism Development, 2013–2020* are formally aimed at preserving the country's national, cultural heritage, which includes the tourism segment, whereas the Strategy of Tourism Development is focused on developing the tourism sector as social institution and an integral part of international relations. This, in our opinion, is an adverse aspect which is apparent from legal and literal comprehension of the international and national tourism and culture. *The State Program of the Russian Federation: Culture and Tourism Development, 2013–2020* is intended to provide citizens, i.e. persons with Russian citizenship, with access to cultural values, that, following the legal logics, should be achieved through the development of inbound, national tourism, whereas this program is focused on the objective of developing international tourism. The lack of a simple logical connection and a single program on tourism development, the declarative nature of norms and regulations, as well as the confusion in defining *international tourism, national tourism, culture* is sufficient to make the implementation of the foregoing programs be doomed inefficient.

It is agreed that such major events as the Sochi 2014 Winter Olympic Games and the Sochi 2014 Winter Paralympics Games provided extra incentives to the

development of tourism in this country. However, the Russian budget paid unreasonably high costs (more than Rb 1,3 trillion on a conservative estimate) to support Russia's tourism image during the Sochi 2014 Winter Olympic Games, not to mention investment misappropriation and corruption. According to *The Economist* international magazine, "This grand enterprise, the largest construction project in Russia's post-Soviet history, is also a microcosm of Russian corruption, inefficiencies, excesses of wealth and disregard for ordinary citizens". Many European mass media estimate the Olympics as loss for Russia, and some experts say that "the Olympics are widely seen as an extravagant caprice of Russia's rulers, ... rather than a common national effort". The same opinion was given in international magazines such as *Bloomberg*<sup>3</sup>, *The New Yorker*<sup>4</sup>, *Le parisien*<sup>5</sup> etc.<sup>6</sup>

*The foregoing statements are supported by the data of international travel & tourism competitiveness ranking published as early as 2011 by specialists from the World Economic Forum. Russia was ranked 59th among 139 states*<sup>7</sup>. *At the same time, the natural resources and world cultural heritage sites of this country are ranked 4th and 13th respectively*<sup>8</sup>. *Based on the World Tourism Organization's estimates, Russia could annually receive no less than 70 million of Russian and foreign tourists, however, just 30% of this potential has been unlocked to date, whereas the rest of it still remains to be achieved*<sup>9</sup>.

3 Олимпиадная Россия: вся правда (перевод с англ. В.С. Кулагин) [Электронный ресурс] [Олимпиадная Россия: вся правда (translated from English by V. S. Kulagin) [Electronic resource]] //URL: «Bloomberg» <http://www.bloomberg.com/> (date of access 10.05.2014).

4 Олимпиада России: проблем нет (перевод с англ. Д.Ф. Злобова) // [Электронный ресурс] [Russia's Olympics: no problems (translated from English by D. F. Zlobov) // [Electronic resource]] //URL: [www.newyorker.com/](http://www.newyorker.com/) (date of access 16.04.2014).

5 Сочи-2014: Россия не способна (перевод А.К. Да Сильва) [Электронный ресурс] [Sochi 2014: Russia is unable (translated by A.C. Da Silva) [Electronic resource]] //URL: [www.laparisien.com/](http://www.laparisien.com/) (date of access 16.04.2014).

6 Полоцкий А. Олимпиада в Сочи глазами зарубежных журналистов [Электронный ресурс] [Polotsky A. The Sochi Olympics as viewed by foreign journalists [Electronic resource]] // URL: <http://rbcdaily.ru/world/562949990472747> (date of access 15.04.2014).

7 The Global Competitiveness Index 2011–2012 [Electronic resource] // URL: [http://www.weforum.org/reportsfilter\[year\]=2011](http://www.weforum.org/reportsfilter[year]=2011) (date of access 15.04.2014).

8 Данные Росстата, опубликованные на официальном сайте Федерального агентства по туризму [Электронный ресурс] [Данные Росстата, опубликованные на официальном сайте Федерального агентства по туризму [Electronic resource]] // URL: <http://www.russiatourism.ru/rubriki/-1124140228/> (date of access 15.04.2014)

9 Россия в состоянии удвоить туристический поток [Электронный ресурс] [Russia is able to double a tourism

1 Экспертное мнение компании UTS Travel [Электронный ресурс] [UTS Travel company's expert commentary [Electronic resource]] // URL: <http://www.atorus.ru/operatorsnews/new/15216.html> (date of access 15.04.2014).

2 The Russian Government Executive Order of 17.11.2008 No. 1662-r (as in force on 08.08.2009) Concerning the Concept of Long-term Socio-Economic Development of the Russian Federation until 2020 (together with the Concept of Long-term Socio-Economic Development of the Russian Federation until 2020).

*Revenues in 2012 from international tourism reached \$1,075bn worldwide compared to \$1,042bn in 2011. The rise in revenues from international tourism was corresponding to the growth in the number of arrivals. China became a leading contributor in the global tourism market in 2012 (\$102bn international tourism costs).*

Hence the foregoing leads to the following conclusions. First of all, for the purpose of enhancing the tourism legislation, the federal and regional regulatory and legal acts should be standardized in effort to eliminate contradictions in the key provisions (terminology, principles etc.). The same is true in respect of state programs on tourism development. The state should move from the declaration of specific goals and objectives towards the development of concrete, special policies aimed at achieving such goals and objectives in compliance with the international standards. Second, the state policy in the tourism sector should meet the international standards adopted

flow [Electronic resource]// URL: <http://ug.ria.ru/economy/20120311/82243856.html> (last accessed date: 15.04.2014).

by developed countries. It is hard to disagree with the OECD recommendations set forth in the OECD Summary called the *OECD Tourism Trends and Policies 2014*<sup>1</sup>. *Tourism-related issues are of systemic nature. In this connection the comprehensive nature of the tourism sector should be taken into account. Such areas as innovations, transport, taxation and services quality do have an impact on the number of tourists and competitiveness of tourism destinations*<sup>2</sup>. *Additionally, the Russian Government should make an assessment of the policy relating to tourism, taking account of the burden on public financial resources. A deeper monitoring, appraisal and analysis of the applicable taxes and incentives will provide tools designed to implement well-substantiated (rather than declarative) programs and concepts aimed at supporting long-term, steady-state growth in the tourism industry.* ●

1 <http://oecd.ru/zip/tour-2014-sum-ru.pdf>

2 Tourism destination is a site (territory) with conveniences of various types, servicing facilities and services to meet tourists' various needs.