Legal Restrictions in Ecotourism

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Abstract—The paper notes that ecotourism as "good" tourism can take place only in the presence of legal restrictions based on proper monitoring and assessment of the impact on the environment. The purpose of restrictions in ecological tourism is: to ensure the harmony of the relationship between man and nature; to establish human responsibility for the preservation of nature; to create conditions for recreation tourists in the natural environment; etc. The state, of course, should contribute to the development of "good" tourism, including through the legal regulation of tourism activities. It is proposed to classify tourism into types on the basis of the scope of legal restrictions. Gradation of tourism from tourism with minimum legal restrictions to tourism with maximum legal restrictions is carried out. It is important that the legal restrictions set in the state would be fair and not excessive. The paper analyzes the existing legal restrictions in the field of ecotourism. It is noted that an important regulator of tourism activity is self-regulation of tourism. According to the authors, the effective restriction of tourism, including environmental one, is the human internal civic duty. It is emphasized that with a rational approach to the organization of tourist routes, it is possible not only to preserve nature in a pristine, but also to provide significant support for its protection.

Keywords: ecotourism, legal restrictions, restrictions in ecotourism, sustainable tourism, “good” tourism

I. INTRODUCTION

The relevance and significance of the work are predetermined by the objective need to study ecological tourism. Ecotourism is one of the most developing types of tourism. Due to the discrepancy between the theoretical model and the actual implementation practice, ecotourism has become a hotly debated topic since its introduction in different countries. Ecotourism is focused not only on the consumption of certain resources of the world around us with maximum thrift, but also on the formation of environmentally competent worldview among citizens, which will help to exist for a long time on the planet. The aim of the work is to analyze the existing legal restrictions in the field of ecotourism, the necessary and sufficient grounds for the restrictions being set, as well as to initiate proposals to improve ecotourism. The hypothesis of the work. Ecological tourism can be "good" only in the presence of certain conditions (high level of ecological citizenship and ecological consciousness of the tourist, fair legal regulation and existence of self-regulation aimed at a harmonious combination of human activity and nature conservation, etc.). The paper analyzes scientific developments on the problems of legal restrictions in ecotourism, the provisions of international treaties and legal acts of some States.

II. MATERIALS AND METHODS (THE MODEL)

The methodology of scientific knowledge used by the authors is based on the method of system analysis. The system analysis reveals the concept and content of restrictions in ecotourism from the point of view of interaction of man and nature. The formal legal method is aimed at determining the regulatory component of legal restrictions. The comparative legal method makes it possible to characterize the regulatory framework of ecotourism in individual States, to make proposals on extrapolation of the experience gained in legal regulation.

III. RESULTS AND DISCUSSION

The development of tourism activities has made it possible to classify tourism, according to the effects it has on nature, into "good" and "bad". "Good" tourism includes sustainable tourism, responsible tourism [1]. The rapid pace
of tourism development around the world causes incalculable damage to some ecological systems [2]. The assumption that ecotourism can be exceptionally "good" has not come true. It is obvious that ecotourism is widely recognized as a sustainable form of natural tourism, often with cultural components, but it is not always able to fulfill its objectives [3].

Ecotourism refers to the types of tourism with quite serious legal restrictions associated with visiting certain natural objects, particularly specially protected areas. At the same time, the restrictions set should not be arbitrary. Equity should be considered as a key principle of good governance and ecotourism policy, including when establishing legal restrictions [4]

Article I of the Charter of tourism (22 September 1985) [5] recognizes the right of everyone to rest and leisure, as well as the right to move freely without restrictions other than those provided for by law. Article XIII of the tourist Code of September 22, 1985 [5], developing the provisions of article I of the Charter of tourism sets, that taking into account existing rules and restrictions, tourists should be given freedom of movement and free access both inside and outside their countries to places and certain areas of tourist interest. From the content of these rules, it can be reasonably concluded that these rights are not absolute and are subject to certain and necessary legal restrictions.

The Charter of sustainable tourism development (27-28 April 1995) [6] stipulated that tourism should be based on sustainability criteria, i.e. be environmentally acceptable in the long term, ethically and socially equitable for local communities. As a requirement of rational management of tourism, the sustainability of resources, their guarantee by the state is determined (article 1). Therefore, state authorities not only can, but also must establish rational (sufficient and necessary) legal restrictions designed to promote sustainable development, to ensure a balance between tourism and nature.

In paragraph 4 of part A of the Manila Declaration on world tourism (September 27-October 10, 1980) [7], the obligation of society to provide its citizens with means of access to tourism is imposed. These means must be real, effective, non-discriminatory and consistent with priorities, legislation and traditions. Paragraph 18 of the Declaration also sets the protection of historical, cultural and religious sites in all circumstances, especially during conflicts as the primary duty of the state. In paragraph 18 of the Declaration it is also established that tourist resources are the property of mankind, consist of both natural resources and material values, and their uncontrolled use can lead to their depletion or even to their complete disappearance; the satisfaction of tourist needs should not harm the social and economic interests of the population, the environment, natural resources, as well as historical and cultural places.

The legal restriction of ecotourism should be based not only on the importance of the guaranteed human right to freedom of movement, but also on the need to preserve natural diversity.

Principle III of the Hague Declaration on tourism (30 March - 14 April 1939) [8] establishes the following: a) the main condition for the development of tourism is the unspoiled natural, cultural and human environment; b) a significant contribution to the protection and development of the environment, cultural heritage, to improving the standard of living can be made through the rational management of tourism.

The establishment of legal restrictions in ecotourism allows us to achieve these goals.

A striking example of detailed state legal regulation of legal restrictions in the field of tourism is the French Republic. The basic rules of law regulating social relations in the field of tourism are grouped together in the Law of the French Republic "Code of tourism" (as amended on October 19, 2019) consisting of more than 780 articles [9]. Article L122-15 of this normative act sets that in tourism development it is necessary to take into account the vulnerability of nature to changes, the natural balance, to promote the balance of economic and recreational activities, including the diversification of tourism activities, as well as the rational use of existing heritage. The rules concerning the opening of forests, parks and natural areas to the public are established by article L. 113-6 of the Urban planning code of France (as amended on 1 September 2019) [10].

Article L121-21 states that when determining the capacity of urbanized spaces in town-planning documents the following things shall be considered: conservation of natural environment; protection of spaces necessary for the maintenance or development of agricultural, pastoral, forest and marine activities; conditions for public visits to natural areas, shores and related facilities. Issues related to ecotourism are regulated in detail by the Environmental code of France (as amended on 23 October 2019) [11], which sets rules concerning the disembarkation of passengers for recreation by aircraft (L. 363-1), visits to national parks, etc. (L. 331-2, L. 331-3, L. 361-1, L. 361-2362-1, etc.).

Detailed legal regulation of various procedures in ecotourism ensures the unity of law enforcement practice, helps to eliminate legal conflicts.

In "Strategy of tourism development in the Russian Federation for the period till 2035" approved by the order of the Government of the Russian Federation of September 20, 2019 N 2129-p [12] such bases for establishment of legal restrictions for tourism as ecological capacity of the tourist territory and ecological burden on the tourist territory are mentioned. The ecological capacity of the tourist territory is understood as the value of the permissible cumulative impact of all sources on the environment and (or) individual components of the natural environment within the tourist territory and (or) the water area. The compliance of this value ensures the stable functioning of natural ecological systems and biodiversity is preserved; environmental burden in the tourist area is understood as the cumulative impact of all sources on the environment and (or) individual components of the natural environment within tourist areas. Clearly, when setting legal restrictions, these categories should be taken into account.

Legal restrictions on tourism are also due to its safety. So, GOST R 50644-2009 "Tourist services. Requirements provided for tourist's security", (put into effect on July 01, 2010) [13] in paragraph 3.1. stated that the safety of tourism is the safety of tourists, the safety of their property, as well...
as non-damage to the environment, material and spiritual values of society, the security of the state when traveling.

In the National standard of the Russian Federation "Tourist services. Security of active types of tourism. General" (put into effect on January 01, 2013) [14] p. 5.4 and 5.5 restrictions are caused by the need to take into account the natural and environmental situation, ensuring environmental safety, minimizing harmful effects on the environment.


The Quebec Declaration on Ecotourism (may 19-22, 2002) [16] establishes that ecotourism plays a leading role in the implementation of sustainable development practices in the tourism sector. Various forms of tourism, especially ecotourism, should be an important basis for the conservation and sustainable use of nature. The Declaration notes that the lack of planning and management of tourism activities contributes to the deterioration of natural landscapes, poses a threat to wildlife and biodiversity. In order to develop nature, in certain cases, the rejection of ecotourism can be used. The Declaration recognizes that visitors are responsible for the sustainability of the environment, including through the choice of a specific travel route.

The positive role of ecotourism is determined by its minimal impact on the environment. Meanwhile, some environmental societies, such as The Russian Green cross, the Russian regional environmental Fund, the all-Russian society for nature protection, are calling for a ban on tourists visiting protected areas, as they are concerned about the increased flow of tourists. If the state, society is not able to provide "good" ecotourism, of course, it is necessary to establish a ban on visiting certain protected areas. However, prohibitions must be justified.

GOST R 56642-2015 Tourism services. Ecological tourism/nature tourism. General requirements (put into effect on July 01, 2010) [17] stipulates that when determining the suitability of the territory for visiting ecotourists, it is necessary to take into account: 1) permissible recreational loads, amount of water, energy and other resources used, dates to visit and forms of contacts with objects of observations, etc.; 2) the absence in the region and in adjacent territories: factors of potential human-induced; landfills, land-buried domestic and industrial waste; agro-industries that use pesticides, mineral and organic fertilizers; livestock farms; industrial plants (chemical, petrochemical, microbiological, mining); TPP, NPP, etc. 3) lack or probability of natural disasters; sudden changes of weather; sudden changes in atmospheric pressure, magnetic storms, hurricanes, tornadoes, volcanic eruptions, earthquakes, floods, avalanches, mudslides, forest fires, etc.; 4) environmental conditions of the territory, sanitary-hygienic condition of atmospheric air, surface waters and groundwaters availability of drinking water sources; 5) information on natural-focal diseases, endemic diseases, dangerous insects, mammals, snakes, poisonous fish, plants, mushrooms; 6) the availability of medical and rescue services the number, condition and proximity of traumatologic points to the ecotourism routes, specialized medical institutions, hospitals; provision of emergency medical care; availability of rescue services; search and rescue, mountain rescue, etc.; 7) availability of accommodation, catering facilities, roads, ecotourism trails, equipped parking areas, tourist navigation, etc.

The most effective restriction of tourism, including environmental, is not a ban on visiting the territory, but the human internal civic duty. Paragraph 4 of part A of the Manila Declaration on world tourism (September 27-October 10, 1980) [7] states that the obligation of society to provide its citizens with means of access to tourism. These means must be real, effective, non-discriminatory and consistent with priorities, legislation and traditions.

Article L121-1 of the Code of tourism of the French Republic [9] states that the state determines and implements the national policy in the field of tourism.

Paragraph 39 of principle III of the Hague Declaration on tourism, adopted at the inter-parliamentary conference on tourism, together with the inter-Parliamentary Union (IPU) and the world Tourism Organization (WTO) from 30 March to 14 April 1939 [8] enshrines the need for simplification of tourist formalities, which should be understood as coordinated policies and actions of States to promote and encourage both individual and collective tourist travel, trips and stays. "Good" tourism, including ecotourism, should be actively promoted in modern society, including the use of digital technologies [18] aimed at environmental education and raising environmental awareness.

Ecotourism is tourism that combines all types of tourism associated with outdoor recreational activities, where the main purpose is to observe and become familiar with nature, the development of spiritual and physical forces of man, as well as respect for nature. Currently, the role of ecotourism in the public life of people is gaining more and more popularity and occupies one of the main niches in the development of the tourism industry. In many countries, ecotourism has become one of the priorities of state and environmental policy. The main resource for the development of ecotourism is specially protected natural areas, attractive and educational for tourists. Every year the number of tourists visiting protected natural areas increases, the number of eco-routes increases.

Certain factors contributed to the start of ecotourism. Globalization and economic growth have led to an increase in megalopolises, whose population, tired of the hustle and bustle, rushed to the corners of quiet natural landscapes. The development of mass uncontrolled tourism began. There was an imbalance between tourists and nature. This led to negative consequences, natural resources were depleted, great harm was done to the environment. There is an urgent need for the establishment of regulated ecotourism with sustainable use of natural resources.

The tasks include: inclusion and encouraging contact with nature in a more organized way to travel, creating itineraries, tours, etc.; respect for nature, the relationship of ecological tourism with natural resources; a combination of rest and entertainment with environmental education and the
formation of the tourist's careful attitude to nature; respect for culture and local life, taking care of their preservation; development of ecological tourism must be economically efficient; ecotourism should take its rightful place in the tourism industry.

Ecotourism should develop not only for the good of society or an individual, but also for the good of nature; promote sustainable development of natural resources; minimize the negative impact on the environment; promote sustainable economic development of regions; be focused on respect for the local cultural and social environment.

In order to achieve these goals, tourism should be carefully planned, properly managed and controlled. It is necessary not to exceed the maximum permissible recreation, properly develop tourist routes to visit natural areas and rules of conduct on the tour route. Tourists should gain knowledge about nature, be responsible for its conservation and have comprehensive information about the upcoming tour or excursion. Acquaintance with the culture, traditions and way of life of the local population adds to our knowledge and contribute to respect for certain nationalities. The involvement of local residents in tourism activities encourages them to preserve nature. They realize that only an environmentally friendly region can develop ecotourism, create jobs, improve social infrastructure, provide the opportunity for regional development. Ultimately all this will improve their well-being. It is clear that by influencing the ecological state of the natural landscapes used, ecotourism is interested in preserving the natural environment.

Specific properties of tourist resources play an important role in attracting tourists and vacationers. They are characterized by such properties as integrity and reliability, uniqueness and attractiveness, fame and exoticism, etc. Specially protected natural areas primarily include nature reserves and national parks. In the development of ecotourism, they are the key components of natural resources.

There are many natural areas of national and regional importance in Russia. All these objects have a special environmental, cultural and recreational value. In comparison with other territories many reserves and national parks play a more significant role in the development of tourism. Ecotourism sets itself specific targets: development of educational forms of tourism, environmental and cultural-historical orientation; development of tourist routes and ecological trails, where tourists and sightseers learn and observe the processes and phenomena of nature; education of environmental culture of human behavior, respect for nature. The use of natural objects is recommended taking into account the following criteria: the permissible number of tourists visiting the territory and the distribution of tourist flows by season; it is necessary to assess the infrastructure to determine the rate of loads; take into account the positive and negative impacts of tourists on the environment; take into account the development of tourist areas. The positive impact of ecotourism is also observed in the development of tourism technologies. Tourists usually prefer to relax in comfortable conditions and in environmentally friendly areas. Therefore, managers and owners of hotels, health resorts, and other tourist facilities pay more attention to environmental protection, using environmentally friendly technologies in the tourism sector.

"Strategy of development of tourism in the Russian Federation for the period till 2020" (dated by May 31, 2014) [19] states that specially protected natural territories are assessed on maximum admissible loadings and finding ways of minimization of the negative impact of development of tourism on natural ecological systems.

Article 7 of the Federal law of the Russian Federation “on specially protected natural territories” No. 33-FL (March 14, 1995) [20] sets that state reserves must realize such objectives as protection of natural territories in order to preserve biological diversity and maintenance of protected natural complexes and objects in a natural state.

Ecotourism should be used as a policy tool for biodiversity conservation [21].

In different States the legal regulation of ecotourism is developing unevenly, as a rule, after the emergence of negative situations. In Australia, there is now a need to pay significant attention to the legal regulation of ecotourism associated with the life of sharks [22]. At the same time, special attention is also paid to minimizing the risks of tourists when watching sharks. It is proposed that regulatory guidelines be established to develop an adequate legal framework that will support any sustainable shark feeding operation [23]. The legal regulation of tourism in Antarctica is actively developing. Legal restrictions are being set in order to resolve environmental problems in the interests of the development of Antarctic tourism [24].

Only a tourist with a high level of environmental and legal consciousness is able to develop “good” ecotourism. Increasing the value perception of ecotourism activities by tourists is the first in a series of steps that will contribute to strengthening environmentally responsible behavior through increasing the level of involvement and satisfaction with ecotourism [25].

An important regulator of tourism activity is self-regulation of tourism through the activities of various public tourism organizations [26]. In the field of ecotourism such societies as International ecotourism society (TIES), 'Dersu Uzala' ecotourism development Fund, International Ecotourism Society, Ecotourism Association (AET) are created. The Declaration of the ecotourism Association notes that today there is a spontaneous development of ecotourism. This is a serious danger. Without proper planning and management, in the absence of knowledge and experience in this specific field of activity, ecotourism can not provide significant economic benefits to protected areas and local residents. Instead, it can cause irreversible damage to unique ecosystems and discredit the very idea of ecotourism [27]. Environmental and educational organizations, citizens, actively using their rights, including the right to appeal to the authorities, can contribute to the establishment of fair legal regulation in the field of ecotourism.

IV. Conclusion

Legal restrictions are necessary in the interests of tourism itself, as they should contribute to the solution of
environmental problems and the preservation of the necessary space for tourism. Normative-legal regulation in the field of ecological tourism must be fair and maintain the delicate balance between nature and human activity.

Therefore, state authorities not only can, but also must establish rational (sufficient and necessary) legal restrictions designed to promote sustainable development, to ensure a balance between tourism and nature. It is important not only to establish legal restrictions, but also to ensure that they are properly enforced. The law should regulate public relations ahead of time, avoiding negative environmental consequences.

Promotion of ecotourism, based on the concept of moral man, at a high level of environmental citizenship and environmental consciousness, with fair legal regulation and self-regulation will promote a harmonious combination between conservation of nature and human activities. A tourist is mainly a person who respects his country and its natural heritage. If the promotion of tourism is aimed at obtaining economic benefits, not bearing in mind preservation of nature, the negative consequences will not be long in coming.

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