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## RESEARCH ARTICLE

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State regulation of hotel services under the laws of the Republic of Uzbekistan.

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### Abstract

The authors examine the legal nature of the contract for the provision of hotel services. The study analyzes the problems that arise in the regulation of the contractual relations, including the rights and obligations under the contract, and features of the contract.

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In the field of hotel services a lot of labor resources attracted to provide services to a large number of customers. This is not a business activity, designed for a limited range, but the entire industry, providing modern society with its diverse preferences the conditions for the rest.

It should be noted that in the current legislation there is no such definition as the hotel services. For this reason, this kind of service is noted in the classifier along with catering services. Functioning nowadays, drafted by the State Committee of Uzbekistan on Statistics approved by the Decree of the Agency "Uzstandard" on May 12<sup>th</sup>, 2006 № 05-15 in the "National Classifier of services for activities of the Republic of Uzbekistan (NCSA)"<sup>1</sup> included in the "hotel and restaurant services "(Section N). Section 55 of this classifier is dedicated to hotel and restaurant services, it is called "hotel services" in the group 55.1, and in paragraph 55.10 "hotel services" are provided as a class. In addition, in this qualifier hotel services are divided into such as "Service of campgrounds and other short stay", "Services of youth tourist's camps and mountain tourist centers", "service of campsites, including the services of parking for trucks and trailers for housing", "services of children's camps in the holidays", "wellness facilities and rest homes", "Services to lease for a short stay furnished apartments," "sleeping car services and services for the provision of beds and other vehicles."

Naturally, this classifier of accommodation with the scientific and practical point of view, may serve to some extent to the definition of hotel services. But the determination of the nature of hotel services must be based on the relationship of subjects and their mutual rights and obligations.

State regulation of hotel services performed by the regulatory in this sphere, as well as through the standardization and classification of hotels and other accommodation facilities, creation of favorable conditions for investment in the hotel industry.

<sup>1</sup> "National Classifier of services for activities of the Republic of Uzbekistan (NCSA)" on May 12<sup>th</sup>, 2006 № 05-15 the State Committee of Uzbekistan on Statistics approved by the Decree of the Agency "Uzstandard"

Legal regulation of services, including hotel, begins with the Uzbek Constitution, which states that "The State shall guarantee freedom of economic activity, entrepreneurship and labor, based on the priority of consumers' rights, equality and legal protection of all forms of property" (Art. 1, Art. 53) "and enshrines the basic rights and freedoms of man and citizen, it is important for this area, including the right to move freely and choose their place of residence" (Art. 1, Art. 28), "the right to rest" (v. 38).<sup>2</sup>

The State Committee of Uzbekistan highlighted services as an independent object of rights (Articles 1, 2, 81, and others.). Regulation of the contractual relationship for the provision of services described in Chapter 38, "Paid services" GK EN significance of which is that it laid the foundation for the civil legal relations, has not yet been mentioned in this Code. These include relationships to provide hotel services. The h. 2 table spoons. GC 703 EN containing a list of services, hotel services are not specified. However, this does not mean that the rules of chapter 38 of the Civil Code of the Republic of Uzbekistan shall not apply to such relations, as the above list of services is not exhaustive.<sup>3</sup>

The next source of legal regulation of delivery of hotel services - the Law of Uzbekistan on 20.08.1999 № 830-1 «On tourism». <sup>4</sup> This law applies to hotel activity only indirectly. From the conceptual apparatus of the Tourism Act, it is clear that the hotel business can not be classified as a tourist, as well as to other activities for the organization of travel.

However, the Law on Tourism refers to the objects of the hotel industry, tourism, and in art. 4 declares the development of the tourism industry, ensuring the needs of citizens when making travel, t. E. In fact, the development of hotels, as one of the main purposes of state regulation of tourist activity.

The law "On Tourism" also specifies that accommodation services are part of the tourism product and building activities, promotion and implementation of the tourism product has a tourist activity. Thus, one can say that state regulation of tourist activity is very much affected by efforts to provide hotel services.

An important role in regulating the delivery of hotel services plays of the Law of 20.04.1996 № 221-1 «On Protection of Consumers' Rights, which regulates relations arising between the consumer and the provider of services, including hotel, establishes the rights of consumers (for the purchase of services of good quality, safe for their lives, health and property, to receive information about the services and their perpetrators; on the state and public protection of consumers' interests), and defines a mechanism for the implementation of their rights.

Since independence, Uzbekistan has developed radically new principles of state policy in the sphere of tourism. July 27, 1992 Presidential Decree established the National Company "Uzbektourism", which were tasked with the implementation of the state policy in this direction, the formation of a national model of tourism development. National Company coordinates the activities of tourist organizations in the country, encourages the development of all types of tourism, promotes investment in the creation of the material-technical base and infrastructure of the sector, coordinates training in the field of tourism.<sup>5</sup> Laws of 30.04.1998 № 609-1 «On foreign investments" and from 24.12.1998 №719-1 Act of 24.12.1998 №719-1 «On investment activity" carried out in the form of capital investment determine the basic guarantees of the rights of investors in the investment and obtain their revenues and profits, the conditions of entrepreneurial activity of investors in the hotel market of Uzbekistan.<sup>6</sup> Law of 23.04.2009 № ZRU-213 "On Technical Regulation" is important for the regulation of the quality of services, as the law regulates relations arising in the development, adoption, application and enforcement of the requirements on a voluntary basis to provide services.<sup>7</sup> Among the sources of legal regulation of relations on rendering hotel services key ones are the Rules of providing hotel services in the Republic of Uzbekistan, registered by the Ministry of Justice from 12.01.1998 № 389. These rules are adopted in accordance with the Law on protection of consumer rights and contain rules governing the procedure for providing information on hotel services, the order of

<sup>2</sup> The Constitution of the Republic of Uzbekistan on 15.12.1992.

<sup>3</sup> Civil Code of the Republic of Uzbekistan has been put into effect from March 1, 1997 by the Resolution of the Oliy Majlis of the Republic of Uzbekistan. №257-I dated 29.08.96.

<sup>4</sup> Law of Uzbekistan "On tourism" on 20.08.1999. №830-I.

<sup>5</sup> Uzbektourism.uz

<sup>6</sup> Laws of 30.04.1998 № 609-1 «On foreign investments" and from 24.12.1998 №719-1 Act of 24.12.1998 №719-1 «On investment activity"

<sup>7</sup> Law of "On Technical Regulation" 23.04.2009 № ZRU-213

registration of hotel accommodation and payment services, order of service, responsibility of the executive and the consumer. Rules of providing hotel services contain definitions of key terms for the provision of hotel services.<sup>8</sup>

The hotel is defined as a property complex (building, part of the building, equipment and other assets) for the provision of services. However, this definition does not seem quite correct and does not reflect the realities of modern relationships in this area. Consumer, according to the Rules providing of hotel services, is a citizen who has an intention to order or order and use the services exclusively for personal, family, household and other needs not related to business activities. Thus, if you follow the Rules of providing hotel services, citizens carrying out any activity aimed at profit during their stay in the hotel, including citizens who perform their duties under civil law contracts (e.g. lawyers, lecturers), are not consumers of hotel services. Controversial is the moment of inclusion the citizens who were sent by their employers on a business trip in accordance with the labor laws and performing their duties during their stay at the hotel into the "consumer category" by the Rules of providing hotel services. The one who provides hotel services in such a situation is the employer, legal entity or individual entrepreneur who sends his employee on a business trip, including for profit, and the consume of services is an employee who is a "tool" for profit. Consequently, the Rules of providing of hotel services, regulating the key moments in a relationship for the provision of hotel services, are only designed for a narrow area of relations, which include relations with the participation of consumer-citizens on the side of the service recipient. Modern domestic regulation of this activity is incomplete. The legal regulation of social relations in this field is carried out mainly in the sub-legal level. The quality of legal regulation of delivery of hotel services is obviously low and insufficient to the successful development of the hotel industry in our country.

In order to improve the legal regulation of relations in providing hotel services, in our opinion, the Rules of providing hotel services should be finalized, it is necessary to establish special rules devoted to the regulation of business relations in this sphere. Resolution of the Oliy Majlis of the Republic of Uzbekistan dated May 12, 2001 № 222-II «On the list of activities, implementation of which requires a license," contains an exhaustive list of activities that are subjects to mandatory licensing. Activities in the sphere of provision of hotel services are the part of the Tourism, so the licensing of this sphere is carried out.<sup>9</sup> According to Art. 3 of the Law "On Tourism" government regulation of the tourism industry, which, as we mentioned earlier, concerns first of all hotels, carried out by the standardization and classification of tourist industry. In our view, this trend of government regulation is extremely important and necessary, since it implements the right of consumers for information about the executives of the placement services and the services themselves in accordance with art. 6 of the Law on Consumer Protection.<sup>10</sup> Standardization of services in our country is governed by the Law "On Technical Regulation". With regard to services in general and hotel services in particular, the Act defines a technical regulation as the legal regulation of relations in the field of the establishment and implementation of voluntary requirements for the provision of services, as well as evaluation and conformity assessment services to these demands. Article 10 of the Law "On Tourism" established that Tourism services are the subject to mandatory certification. Certification of tourism services and issuing certificates, certification of conformity of accommodation services, carried out by accredited certification bodies in accordance with legislation. Accommodation facilities can use in their work the appropriate category of classification of hotels after they have received the certificate of conformity for the classification of a certain category of accommodation. Certification of conformity of certain category of classification of hotels can be on voluntary and paid basis in the order determined by law. The owner of facilities of accommodate on who uses confirmed category for classification of hotels, is obliged to provide services in accordance with the requirements of this category.

Uzbekistan adopts star hotel classification. Under the classification in the system under consideration one can see the process of assigning a specific hotel classification group – category. This process consists of two steps: the conformity assessment of the classification requirements of the hotel; documentary evidence of the established conformity to the category. Then the hotel receives a category certificate and mark of conformity. The classification system contains requirements for hotels and other accommodation facilities, the criteria for scoring and the

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<sup>8</sup> The Rules of providing hotel services in the Republic of Uzbekistan, registered by the Ministry of Justice from 12.01.1998 № 389.

<sup>9</sup> Resolution of the Oliy Majlis of the Republic of Uzbekistan dated May 12, 2001 № 222-II «On the list of activities, implementation of which requires a license".

<sup>10</sup> The Law on Consumer Protection on 26.04.1996 art.6

requirements for rooms of different categories and criteria for scoring, according to which the assessment is carried out and the hotels and other accommodation facilities for compliance with a particular category. The problem of development of uniform requirements for the assessment of accommodation is constantly in the spotlight of experts worldwide. Since tourism has become widespread and complex problem of certification of hotel services rose fairly sharply, different organizations have repeatedly attempted to take a single world standard for the services provided by hotels. However, to date, these attempts have been unsuccessful for many reasons, first of all, the national and historical characteristics of the tourism industry in different countries. In 1989, the Secretariat of the World Tourism Organization (WTO) has issued recommendations on inter-regional harmonization of hotel classification criteria. Precisely this document can now be regarded as the international standard of hotel services. It should be noted that it is purely advisory in nature. In our opinion, the above-mentioned requirements for hotels and other accommodation facilities and the criteria for scoring, as well as the requirements for rooms of different categories and criteria for scoring classification systems comply with the recommendations of the WTO. Likewise a WTO document, classification system includes the requirements for the building of the hotel and the adjacent territory, water, electricity, heating, security, numbers, technical and sanitary equipment, additional areas of the hotel, the services provided, service personnel, and so on. Each type of requirements is divided into two groups. The first one is presented to the hotels of all categories. Implementation of these requirements is a necessary condition to ensure the safety of guests. The second group includes requirements for specific categories of hotels. It appears that a significant flaw of classification systems is the lack of connection between the requirements for hotels and other accommodation, and their scoring criteria and the requirements for rooms of different categories and criteria of scoring. The result of categorization of rooms does not affect the category that is assigned to the hotel.

Comparing the quality of services in hotels, classified in different systems, is difficult. Because in any classification some limited sample is made of the huge variety of parameters that can be evaluated. And the aggrieved party in this situation is the consumer who orders a hotel from another region, focuses on the category specified in the brochure or on the website of the hotel, but does not know on what basis this category is assigned. He has his own views about, for example, the category of "three stars", as he receives services at a level that in his opinion, is "one star". However, in this case the consumer may not bring any claims to the executor, because the latter has a certificate of the hotel conformity to the "three stars" category in the framework of the certification system.

For this purpose we proposed in the Law on technical regulation activities to make the provision of hotel services as not a service, but as process and to adopt an appropriate law on technical regulation of hotel operations, the basis of which can be a revised and amended classification system.

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