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International legal regulation and reflection on the protection of the rights and interests of cross-border tourists between China and Kazakhstan

With the deepening of globalization and the effective control of the epidemic, cross-border tourism has gradually become a common lifestyle. With the implementation of Kazakhstan's visa-free policy for Chinese tourists and the rapid development of China's economy, tourism between China and Kazakhstan is becoming more frequent. However, both countries are emerging countries, and the legal protection mechanism for tourists' rights is still imperfect. The protection of the rights and interests of cross-border tourists has become a focus of attention. However, at the level of international cooperation, the protection of the rights and interests of cross-border tourists is still weak. Due to the local nature of knowledge, differences in legal systems in different countries, obstacles to judicial remedies, and imperfect dispute resolution mechanisms, the protection of the rights and interests of cross-border tourists faces great challenges. In view of this, it is of practical urgency to promote in-depth cooperation between China and Kazakhstan in the field of rule of law from the perspective of international law and establish an effective cross-border tourism dispute resolution mechanism.

Keywords: International law, legislations, dispute, resolution mechanism, cross-border passengers, cross-border tourism, passenger rights, China.

Introduction

In the current international legal system, the international community has paid close attention to the need for international cooperation in the field of cross-border tourist rights protection. In fact, it is difficult to achieve the goal of cross-border tourist rights protection by relying solely on the efforts of a single country. The urgent task is to build an efficient and convenient mechanism to achieve more extensive protection for cross-border tourists, eliminate the differences in rights protection between domestic and international tourists, and ensure that cross-border tourists can obtain equal protection without distinction, regardless of whether they are in the country of habitual residence or the country of travel. As a field of "communication and exchange", tourism can effectively promote the development of countries along the Silk Road, harmonious exchanges between regions, and help the economic belt take off. Tourism in different regions of the world, regional coordinated development exchanges are becoming increasingly close, and the process of cooperation is accelerating. The integration of tourism in the border regions of the European Union has become a prominent example of regional tourism cooperation in countries around the world. Therefore, in the context

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of promoting the “Belt and Road Initiative”, it is of great practical and far-reaching significance to study how to strengthen cooperation between China and Kazakhstan in politics, economy, tourism, culture, and science and technology.

The research on the legal system construction of China-Kazakhstan International Tourism Cooperation Center lacks corresponding pertinence. This article carefully examines the research results of predecessors and ultimately concludes that previous research lacks constructiveness. Therefore, this paper studies the legal system construction of China-Kazakhstan International Tourism Cooperation Center, takes the tourism policy agreement and legal basis signed by China and Kazakhstan as conditions, and studies and explores the innovation of the legal system construction of China-Kazakhstan International Tourism Cooperation Center according to the international cooperation model.

Methods and materials

This article analyzes the current status of cross-border tourism between China and Kazakhstan and the legal status of the two countries on the legal rights of cross-border tourists, and points out that there is a lack of legal rights protection mechanism for cross-border tourists in the two countries. Therefore, this article points out that in order to protect the legal rights of cross-border tourists, it should be improved at both the international and domestic levels.

Results

Current status of rights protection of cross-border tourists between China and Kazakhstan

1. Current Status of Cross-Border Tourism between China and Kazakhstan

Before the outbreak of the COVID-19 pandemic, cross-border tourism between China and Kazakhstan showed a promising development trend. According to relevant data, in 2019, the number of tourists between China and Kazakhstan was quite considerable, among which the number of Chinese tourists traveling to Kazakhstan reached more than 1 million. However, due to the impact of the COVID-19 pandemic, cross-border tourism between China and Kazakhstan fell into a downturn.

With the end of the epidemic, cross-border tourism between China and Kazakhstan has gradually recovered and shown a rapid growth rate. According to data released by the Kazakhstan National Bureau of Statistics, in the first nine months of 2023, the number of tourists visiting Kazakhstan exceeded 750,000, and more than 200,000 were from China. In the first 10 months of 2024, about 122,000 Chinese tourists traveled to Kazakhstan, increasing up to 64% compared with the same period last year. At the same time, the number of tourists from Kazakhstan to China has also been steadily increasing, with more than 400,000 tourists visiting China.

In March 2024, the “Kazakhstan Tourism Year” was successfully launched, and Kazakhstan is gradually becoming a new popular outbound travel destination for Chinese tourists. The heads of state of China and Kazakhstan announced that 2025 will be the “China Tourism Year” in Kazakhstan, and clearly stated that they will work together to organize a series of subsequent activities to promote the tourism cooperation between the two countries to a new level.

2. China-Kazakhstan Cooperation Treaty on Protection of Rights and Interests of Cross-Border Tourists

Based on the geographical advantages of China and Kazakhstan, the two countries have continued to advance in the field of international cooperation, becoming members of a number of international and regional international organizations such as the United Nations, the World Tourism Organization, and the Shanghai Cooperation Organization, and signed a series of multilateral and bilateral treaties and agreements.

The General Agreement on Trade in Services (GATS) occupies a fundamental legal position in the field of trade in services. International tourism service trade is an important part of service trade. The basic principles, classification, and accession commitments of service trade established in the GATS constitute international obligations that all members must abide by. This is also the specific application of the GATS in the field of international tourism service trade [1; 13].

At the World Tourism Organization level, the 1980 World Tourism Conference adopted the Manila Declaration on World Tourism. The declaration not only clarifies the importance of tourism services in the international economic and political fields, but also recognizes that the right to travel has international human rights attributes and should be protected by law. In 1985, the World Tourism Organization adopted the Tourism Bill of Rights and Tourists’ Code (also known as the Tourism Bill of Rights), which further elaborated on important rights concepts in the Manila Declaration on World Tourism, such as the right to travel freely, the right to paid vacation, and the right to a friendly reception, which are derived from the right to rest. In 1989,

the Hague Declaration on Tourism was adopted, which made a comprehensive and systematic analysis of the tourism industry, laying the foundation for clearly defining tourism, tourists and the tourism industry under the WTO legal framework and incorporating them into the scope of international tourism service trade. In 1990, the Global Code of Ethics for Tourism was officially launched, establishing ten basic principles. This document integrates similar ideas in many similar documents, norms and declarations in the past, providing an important reference framework for the development of the global tourism industry [2; 5-6].

Judging from the current practice of cross-border tourism services, many principles and institutional concepts established in the Manila Declaration on World Tourism, the Tourism Bill of Rights, the Hague Declaration on Tourism, and the Global Code of Ethics for Tourism have been widely recognized by countries around the world. Many countries have transplanted or borrowed the principles and systems in the above documents when formulating their domestic tourism-related legislation, and these concepts and systems have been consciously implemented by various countries in practice.

At the SCO level, in 2001, the governments of China, Russia, Kyrgyzstan, Kazakhstan and Tajikistan jointly signed the “Memorandum of Understanding among the Governments of the SCO Member States on the Basic Objectives and Directions of Regional Economic Cooperation and the Process of Trade and Investment Facilitation”, aiming to strengthen cooperation among countries in various fields such as politics, economy and trade. The 2003 “Framework for Multilateral Economic and Trade Cooperation among the Member States of the Shanghai Cooperation Organization” further strengthened the relevant provisions of the “Memorandum” on the development of tourism service trade cooperation, and promoted the competent authorities of member states to plan and issue cooperation lists covering 13 areas including transportation infrastructure, trade, finance, humanities, digital, energy, and tourism. In 2024, the SCO adopted the “Joint Action Plan for the Implementation of the Outline for Tourism Cooperation Development among the Shanghai Cooperation Organization Member States in 2024-2025”, which covers cooperation between national tourism departments, promotion of cooperation in the field of tourism products, cooperation in improving the quality of tourism services, protection of tourists’ legitimate rights and interests and tourism safety assurance.

At the same time, China and Kazakhstan have signed a series of bilateral treaties and agreements. In 2015, China and Kazakhstan jointly issued the “Joint Declaration of the People’s Republic of China and the Republic of Kazakhstan on the New Stage of Comprehensive Strategic Partnership”. In the same year, the Tourism Bureau of Altay Prefecture, Xinjiang, China and the Foreign Affairs and Tourism Bureau of East Kazakhstan State, Kazakhstan signed a “Framework Agreement on Tourism Cooperation”. In 2016, the tourism departments of China and Kazakhstan signed the Memorandum on the Convenience of Group Tourism for Chinese Citizens to Kazakhstan. The signing of these cooperation treaties has effectively promoted exchanges and cooperation between the two countries in various fields and comprehensively improved the overall level of the strategic partnership between China and Kazakhstan.

Discussion

Dilemmas of protecting the rights and interests of cross-border tourists between China and Kazakhstan are listed below.

At present, although China and Kazakhstan have jointly participated in many international organizations and signed a series of multilateral and bilateral agreements, the multilateral and bilateral international legal systems specifically for the protection of cross-border tourists’ rights and interests are not complete. As the international cooperation mechanism for the protection of cross-border tourists’ rights and interests has not been fully established, and the historical and cultural factors of the domestic laws of the two countries are different and imperfect, the legal obstacles encountered in the protection of tourists’ rights and interests are increasing.

1. International cooperation mechanism is not sound

Both China and Kazakhstan are members of the World Tourism Organization and the United Nations. However, the Manila Declaration on World Tourism, the Tourism Bill of Rights, and the Global Code of Ethics for Tourism issued by the World Tourism Organization, which are related to protecting the rights and interests of tourists, can only be regarded as an initiative system and do not have legal binding force. It is difficult for them to play a substantive legal regulatory role in the cross-border tourism industry. Although the United Nations Guidelines for Consumer Protection, revised in 2013, added a multilateral international cooperation mechanism, it did not distinguish tourism services as a unique service area from other types of service consumption. Therefore, in cross-border tourism, the protection of tourists’ rights and interests can only be implemented in accordance with the provisions of general consumer rights protection [3; 153].

Although China and Kazakhstan have signed a series of policies, agreements and treaties, such as the Treaty of Good-Neighborliness and Friendly Cooperation between China and Kazakhstan, the Joint Statement on the Establishment and Development of a Strategic Partnership between China and Kazakhstan, the 21st Century Cooperation Strategy between the People's Republic of China and the Republic of Kazakhstan, and the Memorandum on the Facilitation of Group Travel by Chinese Citizens to Kazakhstan, these documents are aimed at promoting economic cooperation and foreign trade, and also involve tourism-related content, which provides certain institutional arrangements and legal guarantees for China-Kazakhstan cooperation in protecting the rights and interests of cross-border tourists. However, these documents have problems such as narrow coverage, low effectiveness, insufficient details and poor operability. In practice, when the two countries face disputes and difficulties in protecting the rights and interests of cross-border tourists, they often have to rely on political and diplomatic channels to resolve them.

2. Differences in legal systems

One of the important reasons why the protection of the rights and interests of cross-border tourists between China and Kazakhstan needs to be strengthened at the level of international law is that there are objective and realistic differences between the legal culture and legal system of China and Kazakhstan. This difference makes legal disputes complex and uncertain, and makes cross-border tourism consumers face different levels of protection. For example, there are differences in the remedies and scope of protection between China's Consumer Rights Protection Law and Kazakhstan's consumer protection law, which may lead to cross-border tourism consumers not being able to obtain the full protection when encountering problems.

China's legal system is deeply rooted in the country's history and culture. After thousands of years of development and evolution, Confucian culture has had an extremely significant role in shaping Chinese legal concepts and practices, especially in its emphasis on social order and moral norms [4; 47]. Since the late Qing Dynasty, the introduction of Western legal concepts has promoted the Chinese legal system to go through multiple stages in modern times, from constitutional exploration to legal modernization during the Republic of China period, and then to the construction and continuous development of the socialist legal system after the founding of the People's Republic of China. Since the reform and opening up, while continuously improving the legal framework and focusing on strengthening legal construction and human rights protection, the Chinese legal system has actively learned from and absorbed international legal norms to further promote the maturity and perfection of the modern legal system.

In this context, China's legal system takes "Rule of Law" as its core essence and highly emphasizes the authority of the law and the strictness of its enforcement. The protection of tourists' rights and interests is mainly reflected in the Tourism Law of the People's Republic of China, which systematically stipulates the rights and obligations of tourists and aims to provide them with security and rights relief. This legal protection is influenced by the Confucian culture of collective harmony and social responsibility, and also reflects the respect and protection of individual rights in the modern legal system.

In contrast, Kazakhstan's legal system clearly reflects the unique imprint of its national history and culture. Before the Soviet era, legal affairs in Kazakh society were mainly mediated according to tribal traditions and Islamic law. During the Soviet era, Kazakhstan fully adopted the socialist legal system and uniformly implemented Soviet legal norms. After the disintegration of the Soviet Union, Kazakhstan began the process of building a legal framework to facilitate its transition to a market economy and democratic system. This move marked an important historical node in Kazakhstan's transition from traditional customary law to a modern legal system. This process covered the promulgation of a new constitution, the gradual establishment of a legal system, and the reform and improvement of the judicial system, ultimately forming a legal system that integrates elements of the continental legal system and gradually aligns with international legal norms [5; 33].

In the Tourism Law of the Republic of Kazakhstan, tourists are not only regarded as ordinary consumers, but also given the important role of "cultural ambassadors". The relevant content of the law on the protection of tourists' rights and interests often incorporates the emphasis on the national cultural image and social morality. The construction of this legal framework fully reflects the strategic intention of the Kazakhstan government to enhance the national cultural identity through tourism activities.

Therefore, although the laws of China and Kazakhstan both aim to protect the rights and interests of tourists, significant cultural differences often lead to misunderstandings and conflicts in the application of specific laws, thereby undermining the effective protection of tourists' rights and interests and resulting in adverse effects.

3. Obstacles to judicial protection

In the specific context of cross-border travel, cross-border travelers usually expect to obtain legal protection at the same level as in their own country based on their understanding and expectations of their own country's laws. However, there are differences in language, cultural identity, customs, and legal systems between China and Kazakhstan, which often make it difficult for tourists' rights to be fully and effectively protected. For example, if tourists encounter consumer rights disputes while traveling in Kazakhstan, they often subconsciously seek assistance based on China's Consumer Rights Protection Law, but Kazakhstan law may not have set up specific response mechanisms for such specific situations. This actual gap in the application of law not only greatly affects the tourists' travel experience, but also to a certain damage in the cooperative relationship between China and Kazakhstan.

In addition, cross-border tourists face significant information asymmetry problems in the process of safeguarding their legitimate rights and interests. Due to the lack of understanding of the laws of the tourist destination country, language communication barriers, and the lack of an authoritative and comprehensive information platform, it is difficult for tourists to obtain effective administrative and judicial remedies [6; 110-111]. The reality is that most tourism service centers fail to fully fulfill their responsibilities of providing relevant legal and protection information, which makes it difficult for tourists to successfully file complaints or initiate legal proceedings when their rights and interests are infringed. Even if tourists return to their habitual residence, they will still face difficulties in protecting their rights due to numerous complex issues such as jurisdiction disputes and difficulties in collecting evidence. This series of phenomena fully highlights the serious deficiencies in cross-border tourists' access to information on rights protection and the actual implementation of judicial remedies.

Cross-border tourists face many difficulties in safeguarding their rights abroad. The complexity of administrative and judicial relief procedures, language barriers, visa validity restrictions, high litigation costs, and unfamiliarity with the laws and litigation procedures of the destination country are intertwined and work together, making it difficult for tourists to effectively safeguard their rights and interests through local administrative or judicial channels. The difficulties faced by tourists are particularly prominent when faced with requirements such as filing complaints in the official language, strictly following specific procedural norms, long processing waiting periods, cross-border legal differences and high litigation costs. In addition, alternative dispute resolution methods such as mediation and arbitration are difficult to effectively promote in practice because the parties find it difficult to reach an agreement. Information asymmetry and the lack of specialized consulting and guidance service agencies for cross-border tourists have further exacerbated the difficulty of cross-border tourists in protecting their rights.

With the widespread popularity of the Internet, the travel and transaction patterns of cross-border tourists have undergone profound changes. While this change has brought convenience, it has also made cross-border tourists face severe challenges in protecting their rights after returning home. When tourists' rights are infringed, since the relevant legal relations are mostly formed in the destination country, after tourists return to their habitual residence, they will find it challenging to effectively protect their rights due to multiple factors such as difficulty in providing evidence, obstacles to execution, legislative differences, and jurisdictional disputes. Cross-border litigation is not only inefficient but also costly, and lacks practical feasibility for ordinary tourists.

Therefore, there is an urgent need to expand the information acquisition channels for cross-border tourists, strengthen cooperation between China and Kazakhstan at the administrative level, and establish and improve a cross-border consumer dispute mediation mechanism to avoid the many difficulties brought about by cross-border litigation, thereby better protecting the legitimate rights and interests of cross-border tourists. However, complaints or lawsuits initiated by cross-border tourists in their habitual residence become increasingly complicated due to foreign-related factors, which requires close and effective cooperation between China and Kazakhstan at the administrative and judicial levels. However, in actual operations, such cooperation is often scarce, which undoubtedly puts cross-border tourists in a double dilemma in the process of safeguarding their rights.

4. Inadequate dispute resolution mechanism

At present, the world has yet to establish an independent and unified litigation procedure for international tourism disputes. Most tourism dispute litigation has to follow ordinary transnational civil litigation rules, which has caused a series of problems.

a) Difficulties in litigation regarding cross-border tourism disputes

First, in terms of jurisdiction, international tourism civil disputes mainly cover two types: contractual disputes and tort disputes. The jurisdiction is usually determined based on the principles of territoriality, per-

sonal jurisdiction, agreement and exclusive jurisdiction. However, given the particularity of international tourism activities, the habitual residence of the parties is often inconsistent with the place where the tourism activities take place. In the absence of a jurisdiction agreement, conflicts between personal jurisdiction and territorial jurisdiction are very likely to arise. For example, when a tourist encounters a dispute while traveling abroad, both the court of their habitual residence and the court of the destination country may claim jurisdiction over the case based on their respective jurisdictional grounds, leading to a jurisdictional conflict.

Secondly, in cross-border tourism dispute litigation, the applicable law must be determined based on the conflict rules of the jurisdiction court. Due to differences in identification systems among countries, there is considerable uncertainty regarding whether tourism disputes should be governed by the standard conflict of laws rules for contracts or torts, or by specialized consumer protection conflict rules. For example, some tourism consumption disputes may be classified as different types of disputes under the legal systems of different countries, and thus be subject to different legal provisions. This uncertainty in the application of law puts the realization of tourists' rights and interests at risk, and may result in different judgments in courts of different countries for the same or similar disputes, undermining the fairness and consistency of the law.

b) Issues in cross-border tourism dispute arbitration

First, there are obstacles to reaching an arbitration agreement. In the arbitration settlement mechanism for international tourism disputes, arbitration agreements are often reached by the parties themselves before or after the dispute occurs, and the dispute is submitted to arbitration. However, tourism contracts are often drafted unilaterally by tourism operators, who tend to choose the jurisdiction of the courts in their own location, which makes it difficult to reach an arbitration agreement. For example, the contract contents of travel itineraries and service terms are all formulated by the operators. Consumers are in a subordinate position when signing the contract, making it difficult for them to fully negotiate the conclusion of an arbitration agreement.

Secondly, the characteristics of arbitration procedures are unfavorable. Arbitration procedures are essentially a kind of adjudication procedure. Compared with coordination dispute mechanisms such as mediation, they are less consultative, equal, flexible and participatory, and more confrontational. In cross-border tourism disputes, the power comparison between consumers and operators is already unbalanced, and this procedural characteristic is not conducive to the protection of consumer rights. For example, in the arbitration process involving tourism service quality disputes, consumers may find it difficult to fully express their demands and safeguard their rights in the highly confrontational arbitration procedure due to lack of professional legal knowledge and arbitration experience, which puts them at a disadvantage in the arbitration.

Furthermore, tourists have a weak awareness of arbitration. Traditional international arbitration introduces itself mostly as an international commercial arbitration, and parties involved in international tourism disputes usually lack sufficient knowledge and understanding of arbitration remedies. Both tourism industry practitioners and ordinary consumers do not have a sufficient understanding of the arbitration mechanism for tourism disputes. This lack of awareness has prevented the arbitration mechanism from fully playing its role in resolving cross-border tourism disputes.

c) The Dilemma of Civil Mediation of Cross-Border Tourism Disputes

First, the legal nature of the agreement reached through mediation by consumer associations or industry associations is unclear and lacks enforcement power. The parties may change their positions at will, which can render the time and effort spent on earlier mediation ineffective, leaving the dispute to be resolved through litigation. For example, after mediation of a tourism dispute, the tourism operator may refuse to perform its obligations because the mediation agreement has no enforcement power, and consumers can only restart the litigation process to protect their legitimate rights and interests.

Secondly, there is no international consumer association or industry association that can effectively mediate global tourism disputes at the international level. In the early days, some ADR (ODR) institutions specialized in consumer dispute mediation emerged, but they were unable to continue due to insufficient funds and government support. When dealing with international tourism disputes, there is a lack of an international mediation institution with strong influence and overall coordination capabilities, which seriously restricts the actual effect of mediation work and makes it impossible for many cross-border tourism disputes to be properly resolved through mediation.

d) Shortcomings of Negotiation and Settlement of Cross-Border Tourism Disputes

First, negotiation and reconciliation as a dispute resolution method is highly dependent on the personal will of the parties. The reconciliation process may be interrupted, delayed or terminated due to the non-cooperation of one party. Compared with professional dispute resolution institutions, negotiation and recon-

ciliation lacks complete supporting measures, such as translators and standardized documents, and the parties need to solve related problems on their own. For example, in the negotiation of cross-border tourism disputes, language barriers and the lack of standardized documents may lead to poor communication between the two parties, increasing the difficulty of dispute resolution.

Secondly, some parties have a weak sense of evidence and often only reach a verbal settlement agreement. Even if there is a written agreement, if the obligor refuses to perform, other dispute resolution channels are still needed. For example, if, after negotiating a tourism dispute, the operator fails to fulfill the compensation obligation in the written settlement agreement, the consumer can only seek protection through litigation or arbitration.

Furthermore, negotiation and settlement are essentially a bargaining process, and the final result is closely related to the negotiating power of the parties. In tourism disputes, consumers are often at a disadvantage compared to tourism operators. When the negotiating power is unbalanced, unfair results are likely to occur, such as consumers being suppressed by operators using their information and resource advantages and forced to accept unreasonable conditions.

Finally, negotiation belongs to the category of private remedies. As the “weak party” in international private law, international tourists are subject to limited legal protection for their private remedies. It is difficult to fully protect the rights and interests of tourism consumers by relying solely on negotiation. It needs to be institutionalized and supplemented with other dispute resolution methods.

To sum up, all kinds of solutions to international tourism disputes have defects and challenges to varying degrees. These solutions need to be continuously improved and optimized in the construction of international tourism legal systems and practical explorations, so as to better safeguard the legitimate rights and interests of participants in international tourism activities and promote the healthy and stable development of the international tourism industry.

Conclusions

International legal regulations on the protection of the rights and interests of cross-border passengers between China and Kazakhstan

1. Promoting China-Kazakhstan international rule of law cooperation

a) Innovation based on existing mechanisms: flexible construction of China-Kazakhstan international cooperation. The development of the China-Kazakhstan international cooperation mechanism should build upon the flexible advantages of the existing bilateral agreement and drive innovation. The bilateral agreement has unique operability and adaptability in dealing with the issue of protecting the rights and interests of cross-border tourists between the two countries. It can formulate rules and measures in a targeted manner based on the actual situation and special needs of the two countries. For example, the two sides can make detailed provisions in the agreement on the simplification of entry and exit procedures for tourists, sharing of tourism information, emergency rescue assistance, etc. Through innovative application of existing mechanisms and rules, such as expanding the scope of rights protection covered by the agreement and optimizing the cooperation process, it can effectively improve the convenience and safety of cross-border tourists traveling between the two countries and lay a solid foundation for the protection of tourists' rights and interests [7; 30].

b) Strengthening international rule of law through domestic legal systems: Overcoming legal and cultural differences. From the perspective of legal culture, China-Kazakhstan relations should respect each other's legal and cultural traditions, which is an important prerequisite for building a mechanism to protect the rights and interests of cross-border tourists. Although there are differences in the legal systems and cultures of the two countries, there are also commonalities and complementarities. In the process of promoting the protection of the rights and interests of cross-border tourists, we build upon the achievements of domestic rule of law construction and actively promote the integration of the rule of law principles between China and Kazakhstan. For example, my country's rich legal experience in consumer rights protection, tourism market supervision and other fields can serve as a reference for Kazakhstan's construction in related fields; and Kazakhstan's legal practices in certain specific fields can also provide useful reference for my country. Through in-depth exchanges and discussions between the two countries, we seek common ground and sign a cross-border tourist rights protection agreement, so that both sides can reach a consensus on the personal safety of tourists, tourism service quality standards, and dispute resolution mechanism construction, so as to give full play to the advantages of their respective legal systems and realize the all-round protection of cross-border tourists' rights.

c) Co-governance of soft law and hard law: Building a diversified protection system. The current legal governance between China and Kazakhstan is mainly based on soft law, but the role of hard law cannot be ignored. With its flexibility, diversity and openness, soft law has unique advantages in breaking through legal conflicts and barriers. For example, many forms of soft mechanism cooperation under the framework of the “Belt and Road” initiative, although they do not constitute strictly binding international treaties, can effectively express the willingness to cooperate and play a positive role in tourism information exchange and tourism industry self-discipline. However, soft law alone is not enough to provide adequate protection of rights and interests. The binding, mandatory and punitive nature of hard law can provide a bottom-line guarantee for the protection of cross-border tourists’ rights and interests. Through the pilot signing of a legally binding cross-border tourist rights protection agreement, the rights, obligations, responsibilities, remedies and dispute resolution rules of both parties in the protection of tourists’ rights and interests are clarified. For example, when tourists encounter infringements, hard law can stipulate clear compensation standards and accountability mechanisms, so that the protection of tourists’ rights and interests has a legal basis, and it also provides a model for resolving legal issues in other similar international cooperation.

Building a foreign-related legal system for the protection of cross-border tourists’ rights and interests and strengthening international cooperation are inevitable requirements for the sustainable development of cross-border tourism. In China-Kazakhstan international cooperation, effective protection of cross-border tourists’ rights and interests is expected to be achieved through the exploration and practice of paths such as innovation based on existing mechanisms, strengthening international rule of law through domestic legal systems, and co-governance of soft and hard laws. My country should actively engage in the development of relevant international conventions and fully leverage its influence in international cooperation, not only to provide solid protection for the rights and interests of my country’s cross-border tourists, but also to contribute to the prosperity and rule of law of cross-border tourism in countries along the “Belt and Road”. In the future, with the further development and changes of the international tourism market, the China-Kazakhstan international cooperation mechanism also needs to be continuously improved and adjusted to continuously improve the level and effectiveness of cross-border tourist rights protection.

2. Establishing a cross-border tourism dispute resolution mechanism

“Traveling abroad, returning home to sue” is a common phenomenon in international tourism disputes. Even if tourists win the case after returning to their country of habitual residence, the road to rights protection is still long and challenging, and the goal of rights protection has not yet been truly achieved. To resolve international tourism disputes through cross-border civil litigation, tourists need to invest a lot of time and energy to successfully protect their rights.

In order to effectively deal with this problem, we can learn from the experience of the European Union, strengthen regional integration cooperation, sign multilateral agreements, and establish the Belt and Road Consumer Center Network (B&RCC-Net), which can be used to provide cross-border travelers with information about their rights when shopping in countries along the Belt and Road. At the same time, when travelers have disputes with cross-border sellers, they can assist in resolving cross-border complaints, such as encouraging and helping travelers to contact traders and assisting in handling complaints when tourists make requests.

Accelerating the construction of the “Belt and Road” ADR system has important practical significance. As early as 1998, the United States passed the “ADR Act” and has established a standardized ADR system. Singapore has a relatively mature community mediation and private mediation mechanism. As one of the countries with the fastest development of ADR, the United Kingdom’s Center for Dispute Resolution (CEDR) has become one of the world’s famous ADR institutions [8; 123].

With the help of the important platform of the Belt and Road Forum for International Cooperation, under the guidance of the Silk Road spirit of peaceful cooperation, openness and inclusiveness, mutual learning, mutual benefit and win-win cooperation, and referring to the Directive on Alternative Dispute Resolution Mechanisms for Consumers (the ADR Directive for short) issued by the European Parliament and the European Commission, we put forward the idea of building a Belt and Road ADR system and launching negotiations on an ADR agreement. The agreement must comply with the relevant provisions of treaty law and be signed, ratified and acceded to on a voluntary basis by the participating countries. If necessary, certain clauses can be set as clauses that allow reservations in order to attract as many countries as possible to participate in the system and expand the scope of application of this agreement.

In accordance with the “Belt and Road” ADR Agreement, and drawing on the experience of the Asia-Pacific Arbitration and Mediation Center and the Dubai International Arbitration Center, a “Belt and Road”

ADR committee or center will be established to be responsible for the routine work of the “Belt and Road” ADR system, and to cooperate and connect with existing dispute resolution mechanisms. It will also be responsible for collecting various data on “Belt and Road” ADR dispute resolution and conducting timely statistical analysis, laying the foundation for establishing a higher-level “Belt and Road” dispute resolution mechanism in the future [9; 132].

In accordance with the “Belt and Road” ADR agreement and system, the “Consumer ODR Regulations” of countries along the Belt and Road were issued, and a multilingual ODR platform was established to connect operators, consumers and ADR institutions in countries along the route, so that disputes and claims submitted by consumers or operators can be transferred to ADR institutions in a country along the route around the clock, thereby efficiently resolving cross-border tourism disputes.

Concluding Remarks

As the process of globalization continues to deepen, cross-border tourism is booming. As an important part of cross-border tourism, the importance of protecting the rights and interests of tourists in China-Kazakhstan cross-border tourism is becoming increasingly prominent.

Through the analysis of the current status of cross-border tourist rights protection between China and Kazakhstan, it can be seen that although the two countries are geographically close and have in-depth international cooperation in many aspects and have signed a series of multilateral and bilateral treaties and agreements, they still face many challenges in the actual protection of cross-border tourist rights. From the perspective of international cooperation, the relevant documents of the World Tourism Organization serve primarily as recommendations, the relevant United Nations guidelines do not treat tourism services specially, and the bilateral agreements also have shortcomings in terms of coverage, effectiveness level, content refinement and operability. At the national level, there are significant differences between the legal systems of China and Kazakhstan due to factors such as history and culture, which easily leads to misunderstandings and conflicts in the application of laws, which in turn affects the protection of tourists’ rights and interests. In terms of judicial relief, tourists face problems ranging from information asymmetry to Jurisdictional disputes, difficulties in collecting evidence, and other obstacles make it difficult to defend rights abroad or after returning home; In terms of dispute resolution mechanisms, international tourism dispute litigation, arbitration, private mediation, and negotiation and reconciliation all have defects and are unable to effectively meet the needs of protecting the rights and interests of cross-border tourists.

To solve the above problems, it is necessary to promote China-Kazakhstan international rule of law cooperation. Innovation based on the existing mechanism can maximize the flexibility of the bilateral agreement. Leading the international rule of law with domestic rule of law can promote the exchange and integration of the two countries’ legal cultures and reach a consensus on protecting the rights and interests of tourists. The co-governance of soft law and hard law will build a diversified protection system to provide comprehensive support for the protection of tourists’ rights and interests.

Establishing a cross-border tourism dispute resolution mechanism, drawing on the EU experience to build a Belt and Road consumer center network, accelerating the construction of the Belt and Road ADR system, setting up relevant committees or centers and issuing “Consumer ODR Regulations” in countries along the route and establishing a multilingual platform will help integrate resources, improve efficiency, and provide cross-border tourists with more convenient and effective dispute resolution channels.

In summary, the protection of the rights and interests of cross-border tourists between China and Kazakhstan is a complex and systematic project, which requires continuous exploration and cooperation between the two countries under the framework of international law. This study hopes to provide a theoretical discussion on the protection of the rights and interests of cross-border tourists between China and Kazakhstan, and also hopes to provide a useful reference for the construction of cross-border tourism rule of law in countries along the “Belt and Road”, so as to promote the development of global cross-border tourism in a healthier, more orderly and fairer direction, so that cross-border tourists in different countries can enjoy full and equal rights protection, and promote the prosperity of international tourism exchanges and cooperation.

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Қытай мен Қазақстан арасындағы трансшекаралық туристердің құқықтары мен мүдделерін қорғау жөніндегі халықаралық құқықтық нормалар мен ойлар

Жаһандандудың тереңдей түсуі және індетпен тиімді күресудің арқасында трансшекаралық туризм бірте-бірте жалпы өмір салтына айналды. Қазақстанның қытайлық туристер үшін визасыз саясатын жүзеге асыруы және Қытай экономикасының қарқынды дамуымен және екі елдің арасындағы туризм жиілей түсуде. Дегенмен, екі ел де дамып келе жатқан елдер және туристердің құқықтарын қорғаудың құқықтық механизмі әлі де жетілмеген. Трансшекаралық туристердің құқықтары мен мүдделерін қорғау басты назарға алынды. Халықаралық ынтымақтастық деңгейінде шекаралық туристердің құқықтары мен мүдделерін қорғау әлі де әлсіз. Мағлұматтардың жергілікті сипатына, әртүрлі елдердегі құқықтық жүйелердің айырмашылығына, сотта қорғау құралдарына кедергі және дауларды шешу механизмдерінің жетілмегендігіне байланысты трансшекаралық туристердің құқықтары мен мүдделерін қорғауда үлкен міндеттерге тап болады. Осыны ескере отырып, Қытай мен Қазақстан арасындағы құқық үстемдігі саласындағы терең ынтымақтастықты халықаралық құқық тұрғысынан ілгерілету және трансшекаралық туристік дауларды шешудің тиімді тетігін құру іс жүзінде өзекті.

Кілт сөздер: халықаралық құқық, заңнама, даулар, шешу механизмі, трансшекаралық жолаушылар, трансшекаралық туризм, жолаушылар құқығы, Қытай.

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Международно-правовые нормы и размышления о защите прав и интересов трансграничных туристов между Китаем и Казахстаном

С углублением процессов глобализации и эффективным контролем эпидемии трансграничный туризм постепенно становится обычным образом жизни. С реализацией Казахстаном политики безвизового режима для китайских туристов и быстрым развитием экономики Китая туризм между Китаем и Казахстаном становится все более активным. Однако обе страны являются развивающимися, и механизм защиты прав туристов все еще несовершенен. Защита прав и интересов трансграничных туристов становится актуальной проблемой. Однако на международном уровне сотрудничество в сфере защиты прав и интересов трансграничных туристов остается недостаточно развитым. Из-за локального характера знаний, различий в правовых системах разных стран, ограничение возможностей судебной правовой защиты и несовершенства механизмов разрешения споров обеспечение прав и интересов трансграничных туристов сталкивается с серьезными трудностями. В связи с этим практической необходимостью становится углубление сотрудничества между Китаем и Казахстаном в области верховенства права с точки зрения международного права, а также создание эффективного механизма разрешения споров в сфере трансграничного туризма.

Ключевые слова: международное право, законодательство, спор, механизм разрешения, трансграничные пассажиры, трансграничный туризм, права пассажиров, Китай.

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