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Administrative and legal regulation of space tourism

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Abstract

From a documentary methodology, the objective of the article was to analyze the administrative and legal regulation of space tourism and the characteristics of this form of tourism as a type of space activity. In legal perspective, space tourism as any type of relationship must be regulated, including in the administrative and legal sense, because the role of the State in the regulation of these relationships is of particular importance and, in our opinion, requires special attention and legal analysis. A characteristic

feature of the administrative and legal regulation of space tourism is that one of the participants in these relations are corporations that develop the space industry, including space tourism, and the state creates a legal basis for the development of these relations and if it applies to the developed space industry, invests in this activity and promotes development in all possible directions. Therefore, we believe that special attention should be paid to the administrative and legal regulation of space tourism. It is concluded that the administrative and legal regulation of space tourism is a deliberate influence of the norms of administrative law on the regulation of social relations arising in the field of space tourism.

Keywords: space and tourism; state regulation; legal relations; norms; spatial activities.

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Regulación administrativa y legal del turismo espacial

Resumen

Desde una metodología documental, el objetivo del artículo fue analizar la regulación administrativa y legal del turismo espacial y las características de esta forma de turismo como tipo de actividad espacial. En perspectiva legal, el turismo espacial como cualquier tipo de relación debe ser regulado, incluso en el sentido administrativo y legal, porque el papel del Estado en la regulación de estas relaciones es de particular importancia y, en nuestra opinión, requiere especial atención y análisis legal detallado. Un rasgo característico de la regulación administrativa y legal del turismo espacial es que uno de los participantes en estas relaciones son las corporaciones que desarrollan la industria espacial, incluido el turismo espacial, y el Estado crea una base legal para el desarrollo de estas relaciones y si aplica a la industria espacial desarrollada, invierte en esta actividad y promueve el desarrollo en todas las direcciones posibles. Por ello, creemos que se debe prestar especial atención a la regulación administrativa y legal del turismo espacial. Se concluye que la regulación administrativa y jurídica del turismo espacial es una influencia intencionada de las normas del derecho administrativo en la regulación de las relaciones sociales que surgen en el ámbito del turismo espacial.

Palabras clave: espacio y turismo; regulación estatal; relaciones jurídicas; normas; actividades espaciales.

Introduction

In today's world, international tourism has become one of the fastest growing industries. Every year, reports from the World Tourism Organization show that despite the youth of the international tourism industry, it occupies an important place in the world market. In this regard, the issue of administrative and legal regulation of space tourism is of particular importance. According to the definition given by the World Tourism Organization, tourism covers all forms of temporary departure from a place of permanent residence for the purpose of recovery and arrival at a place of temporary residence, where he engages in unpaid activities, as well as to meet intellectual needs in leisure or business activities Report of World Tourism Organization (2021).

For the development of space tourism as one of the types of space activities, first of all, it is necessary to regulate this industry within the framework of uniform rules. That is, the study of the prospects of administrative and legal regulation of space tourism in the framework of international space law is a

very important and relevant topic of our time. In this regard, this article is devoted to topical issues of administrative and legal regulation of the use of outer space for tourism purposes.

Legal regulation in the legal literature is considered as one of the central and comprehensive legal phenomena. It pursues the goal of ordering and improving social relations, without which law and order, the normal rhythm of life and peace of citizens are impossible in society (Babanina *et al.*, 2021).

Legal regulation is a purposeful effective impact of law on specific social relations in order to streamline and improve them through purely legal means. This definition contains all the most important characteristics of legal regulation: 1) is a kind of social regulation; 2) is carried out by civil society or the state; 3) has a normative-effective nature - is carried out with the help of a holistic system of legal means that ensure the implementation of legal norms to achieve the desired goal (result); 4) has an organizational nature - with the help of legal regulation of relations between the subjects acquire a certain legal form (the rules of law enshrine the degree of possible or appropriate behavior); 5) has a purposeful nature - aimed at satisfying the rights, freedoms, legitimate interests of legal entities; 6) has a specific character - always associated with real (specific) relationships (Gusarev, 2017).

Regarding administrative and legal regulation, it should be noted that V.Y. Razvadsky defines administrative-legal regulation as a combination of methods of legal regulation in which obligations and prohibitions predominate. This combination is formed by giving the participants of legal relations subjective legal rights and imposing obligations on them by defining and enshrining in legal acts certain rules of conduct as a result of law-making activities of authorized bodies (officials) (Razvodovsky, 2003).

Petrova and Semenov (2015) define this type of legal regulation as executive-administrative activity of the state organizations endowed with the state-power powers directed on stabilization of public relations by acceptance of regulatory legal acts and maintenance of their execution. Kozlov (1999) defines administrative-legal regulation as a process of consistent use of administrative-legal means to achieve the goals of regulating the behavior of participants in public relations.

Thus, the administrative and legal regulation of space tourism is a purposeful influence of the rules of administrative law on the regulation of social relations arising in the field of space tourism. Administrative and legal regulation includes the use of various means and methods and their use in the implementation of such regulation, especially in such a specific area as space tourism. This is the main purpose of the article.

1. History of space tourism development

The idea of space tourism was first reflected in a series of works by Barron Hilton and Craft Eric, published in 1967. They first tried to push the idea of commercializing space. However, at that time it was not successful. Space tourism began to develop actively in the late twentieth century. In 1986, the International Astronautical Congress presented a report on "Potential Economic Implications of the Development of Space Tourism", which provoked a lot of discussion not only in scientific, but also in business circles.

The first space tourist was to be the American teacher Sharon Christa McAuliffe, who died during the launch of the shuttle "Challenger" on January 28, 1986. Following the incident, the US government passed a law banning non-professionals from flying into space. Currently, 3 companies are organizing space flights: the American Virgin Galactic and the Russian-American Space Adventures, which has been actively cooperating with Roscosmos since 2001, and SpaceX. With the help of these companies, more than 10 tourists have already visited space, and one of them (Charles Simony) - twice. In addition, there are 4 unsuccessful attempts to make a space tour (Lance Bass, Daisuke Enomoto, Sarah Brightman, Vladimir Gruzdev).

2. The concept of space tourism and its legal regulation

In international legal theory, issues of legal regulation of space tourism are considered at the junction of international space law and international tourism law. From this point of view, Kuliev (2014) believes that it is necessary to consider the legal sphere of international space law and international tourism law, their sources, existing domestic legislation in this area (the Law "On Space Activities" and the Law "On Tourism") and the legal regulation of space tourism.

Thus, according to Huseynov (2012), international space law is a set of norms that determine the legal regime of outer space, including celestial bodies, and the regulatory rights and responsibilities of participants in space activities. Y.M. Kolosov believes that international space law is a set of international principles and norms that determine the legal regime of outer space and celestial bodies and regulate the rights and obligations of international legal entities in the use of outer space and space techniques (Valeev and Kurdyukov, 2010).

International tourism law is a sub-branch of international public law, which is a set of legal principles and norms governing interstate cooperation in the field of tourism (Yurchenko, 2016).

According to the theory of international space law, the concept of space tourism can include:

- participation of citizens as passengers of the spacecraft controlled by the pilot (as a member of the crew);
- observation of phenomena and objects in outer space during space flight, controlled by the pilot and simultaneously from the ground from the appropriate equipped places;
- use of space infrastructure and its activities (stay in the flight control center, use of the center and equipment for training astronauts, monitoring the launch of space objects at the spaceport, visits to the observatory, etc.);
- the use of space technology decommissioned, as well as the use of space activities for tourism purposes (Malkov, 2007).

Space tourism is a type of tourism and one of the links in the global tourism industry, which provides services to people for access to space, enriches the experience of adventure and recreation. The European Space Agency defines space tourism as a private-funded and / or privately operated suborbital flight with the help of vehicles and the development of technologies based on the space tourism market. Space tourism can be considered as one of the branches of the tourism industry, which is mainly based on technological development, progress and its activities related to satellite orbital flights (Movchan *et al.*, 2022).

Mironov defines that space tourism is one of the areas of commercialization of space activities, which is gradually developing and is relevant today. Space travel, orbiting for entertainment purposes, unlike other space travel (for example, for research purposes funded by governments), is paid for privately. Unlike other types of tourism, participation in space tours requires tourists to be in perfect health and appropriate special training (Mironov, 2019).

Space tourism is the flight or series of flights of one or more people into space (space is usually understood as an altitude exceeding 100 km above sea level - the so-called Pocket Line, the conditional upper limit of the Earth's atmosphere) or Earth orbit, paid on a commercial basis with entertainment or research purpose. People who go into space at their own expense for entertainment purposes are usually called space tourists, but their official name is space flight participants, because in orbit they become participants in scientific experiments, learn what the risk of space flight is, and work alongside the crew. Therefore, space tourism is often called a visiting expedition, because the preparation for the flight of tourists and crew is the same (Vyshnevsky, 2018).

Space tourism, of course, can be considered as a sphere of entrepreneurial activity, i.e., it is a business that can be both profitable and unprofitable. The organization of space travel on a commercial basis is a full-fledged and, most importantly, profitable business. The same laws apply here as in other markets for goods and services, there are consumers who are willing to pay a lot of money for a bright and extreme trip. To earn your money, you need to attract a potential customer. Today, "Space Adventures" offers several programs for wealthy tourists: - tour to launch a spacecraft (Baikonur Cosmodrome, Kazakhstan); - preparation for space flight (Star City near Moscow); - space travel to the International Space Station (ISS); - access to outer space; - flight over the other side of the moon (Space Adventures, 2022).

Confirmation of this is the opinion of Mironov as for promising projects and plans for the development of space tourism business, it all depends on the ingenuity of entrepreneurs. The main principle is to make an idea, even an unrealistic one, work and make a profit in the future (Mironov, 2019).

Regarding the legal regulation of space tourism, it should be noted that the sources that regulate space activities, including tourism, are international treaties, domestic regulations of countries engaged in space activities in the field of tourism.

International agreements include:

- 1. Space Treaty of 1967;
- 2. Agreement on the Rescue of Astronauts, Return of Astronauts and Return of Objects Released into Outer Space, 1968;
- 3. Convention on International Liability for Damage Caused by Space Objects, 1972;
- 4. Convention on the Registration of Objects Released into Outer Space of 1975;
- 5. Agreement on the Activities of States on the Moon and Other Celestial Bodies of 1979 (Agreement on the Moon) (Blatova and Melkov, 2011).

The internal normative acts should include the Laws of Ukraine "On Space Activities", "On Insurance", as well as bylaws of the Cabinet of Ministers of Ukraine and central executive bodies.

Regarding the Law of Ukraine "On Space Activities", it does not provide for the concept of space tourism, which in our opinion is a negative aspect. Therefore, we believe that the issue of space tourism must be regulated in the Law of Ukraine "On Space Activities".

If we talk about administrative and legal regulation, the leading place in the system of sources of regulation is occupied by bylaws of ministries and other central executive bodies, among which are the acts of the State Space Agency of Ukraine, which directly implements space programs of Ukraine (Chernuavskyi *et al.*, 2021).

Speaking of space tourism, it should be noted that the main problem of space tourism, in our opinion, is the relative unavailability of such travel (extremely high health requirements, special and physical training of space tourists) and the high cost of services. The cost of the program at present from 30 million US dollars. It includes a medical examination, training and education in Star City, the flight itself, a stay on the ISS. Going into outer space will cost tourists about 15 million US dollars. This high cost is due to the fact that sending a person into space requires much more expensive media than, for example, to launch a satellite.

An important factor influencing the price of the flight is the risks of both the company and the participants in the flight. One way to solve this problem is to use manned suborbital aircraft. This aircraft is a high-speed aircraft that rises to a height of about one hundred and fifty kilometers. From its board a person will be able to see the Earth from space, as well as feel weightless. One of the developers of such devices is the company "Virgin Galactic". The company has created the spacecraft "SpaceShipTwo". The aircraft will be overclocked with the help of the White Knight Two aircraft, the maximum number of passengers will be 6 people, and the flight duration will be from 2.5 hours.

The cost of the flight to the borders of space will be approximately 200 thousand US dollars, which is much cheaper than the price of orbital flight. In addition, the flight conditions are much "softer" and more comfortable. Despite the fact that the aircraft is under development and testing, tickets for the first flight have already been sold out. The starting point for the suborbital flight is the world's first private spaceport "America", which was built as a result of cooperation between "Virgin Galactic" and the government of New Mexico (USA) (Chiornyi, 2011).

Today, outer space is becoming more accessible. In the coming years, space tourism should be differentiated by cost - suborbital travel is promising, which can be organized at much lower prices than orbital tours and expeditions. Currently, space tourists can stay on the ISS, in addition, technological developments are already underway for the construction of space hotels. Scientists predict the appearance of the first such hotels in a decade. The next two celestial bodies of commercial interest are the Moon and Mars (Ignatova and Gracheva, 2016). Mironov suggests that with the development of science and technology will be available to travel to other planets, with which we can agree (Mironov, 2019).

It is possible that Ukrainians will be able to afford a space tourist ticket.

Analyzing the financial basis for the development of space tourism, it should be emphasized that the most important part of the costs is the use of space and information technology in sightseeing and tourism (Vyshnevsky, 2018).

Space activities are constantly accompanied with different types of risks, therefore there arises quite an appropriate problem faced by a number of space countries, i.e. to continue exercising the space activities and deliberately risk or confine themselves to the existing situation and make use of existing treasures. Therefore, the question of ensuring civil security arises. This concern of the state manifests itself by granting permission to commercial organizations to get engaged in the applied types of space activities. The state must ensure effective and efficient control over the activities of entities that launch rockets and satellites into space, that are a priori the sources of elevated danger (Muraviov *et al.*, 2019).

That is, I would like to emphasize that with the development of space tourism, the issue of responsibility in international space law is growing. No matter how financially secure space tourists are, they enter into various insurance contracts or sign a series of documents agreeing that their actions are associated with risk. Therefore, the issue of space tourism insurance deserves special attention.

3. Space tourism insurance and liability in space tourism relations

The mechanism of civil law regulation of insurance relations in space activity in Ukraine is in an unsatisfactory state, that negatively affects provision of reliable insurance protection of property interests of primarily the subjects of space activities in the process of their implementation of space projects and programs. This circumstance requires filling the existing gaps in the legal regulation of the relevant civil law relationships (Babanina *et al.*, 2021).

Insurance of space activities should be understood as a comprehensive insurance industry covering personal insurance, property insurance and civil liability insurance. It is the complex nature of insurance in the field of space activities that provides reliable and universal insurance protection of property interests of subjects of space activities in the process of exploration and use of outer space (Movchan *et al.*, 2021). An important role in insurance is played by the norms of civil legislation, which are provided for in the contract relations when implementating insurance in the domain of space activities.

Space activity insurance is an independent branch of insurance that includes personal, property, liability insurance, etc. Case of causing damage to the third persons in the process of these activities. Complexity of this special insurance is conditioned by the necessity of insurance protection of property interests of the subjects of space activities in connection with production and exploitation of space technology for the purpose of research of the use of outer space. Underwriters can not be individual citizens, since they are not recognized as subjects of space activities.

That is, underwriters when conducting mandatory insurance in the field of space activities can be presented by any enterprises, institutions and organizations (incl. international and foreign), which perform space activities and want to have a financial guarantee of insurance protection from possible losses. After all, concluding an insurance contract is important for determining all the conditions for the occurrence of an insured event. First of all, it is necessary to list the risks in the process of implementation of space activities, with regard to which the degree of risks probability as compared to other insurance contracts is unknown. First of all, this is due to the insufficiency of the relevant statistical data, in particular for insurance cases. To properly develop the effective insurance market in Ukraine in the process of implementation of space activities, it is necessary to resolve a number of legal problems associated with insurance of life from misfortunes. Today, the Law of Ukraine "On Insurance" indicates that it is prohibited to carry out insurance activities on the territory of Ukraine to be performed by underwriters who are nonresidents, except for the following cases of types of insuring activities:

- risk insurance is necessary if the object of insurance is property interests in goods transported by vehicles, if such risks are related to aviation, sea transport, etc.;
- insurance mediation such as brokerage and agent operations in relation to: reinsurance, exclusively with the insurance of the riskc connected with martine transportation, commercial aviation, launches of rockets and satellites, if they belong to property interests in the goods being transported. In addition, the following types of insurance are defined, if space objects:
- insurance of objects of space activities (Earth's infrastructure), the
 list of which is approved by the Cabinet of Ministers of Ukraine after
 submission of the central body of executive power, which ensures
 formation of the state policy in the domain of space activities;
- insurance of civil liability of subjects of space activities;
- insurance of objects of space activities (space infrastructure) which is a property of Ukraine as for the risks connected with the preparation of space technology for launching on a launching site,

its launch and operation in outer space; - insurance of liability as for the risks related to preparation to launching of space technology on a launching site, its launch and exploitation in outer space.

It may be expedient to introduce changes and amendments to the Law of Ukraine "On Insurance" in the part of introducing mandatory personal insurance of life for spacecraft crew (tourists) on the territory of Ukraine. For the civil law regulation of insurance activities in the field of space, it is necessary to adopt the Law of Ukraine «On mandatory insurance for the implementation of space activities in Ukraine». This law defines the order and rules of compulsory insurance, the size of the insured amount, the subjects of insurance activity, the terms of the contract, etc.

Main international treaty, which regulates the issue of liability in the international space law, is the Convention on Liability 1972. According to Article VII, a state party to the Treaty assumes responsibility for damage caused by space objects that it launched or arranged for launch. Such a state is also responsible for such objects in case of damage in space, on Earth, or on the Moon. Damages are compensated to other states or legal entities and individuals.

In connection with the constant expansion of the boundaries and forms of space activities, there appears a need to update the Convention on Liability or conclude an appropriate agreement for each individual type of liability. It is especially true that the Convention accepted 40 years ago does not fully meet the present conditions and achievements in the space industry.

While solving the issue of liability in international space law, it should be judged who has caused damage: a subject of international public law or international private law. In accordance with international legislation, in the event of damage caused by space activity, it is compensated in the manner and within the limits stipulated by international treaties.

And in the second case, everything depends on the type of factor which specifically regulates the relations of international private law. It is due to the fact that the space research is sometimes carried out not by the governments of the countries, but separate individuals and legal persons, that leads to the change of legal relations type and in case of solving the issues of liability the subjects are not states, but separate individuals and legal entities.

That is, when causing damage during a tourist trip there is a question of who and how will compensate for the damage and here again follows the special role of the state and its administrative and legal methods of regulating relations in this area (Babanina *et al.*, 2021).

Summarizing the above, it can be concluded that in order to improve the regulation of space activity, it is necessary to change the grounds and procedure for prosecution of member states of various space programs, which is inextricably linked to changes in their national legislation.

Conclusions

Thus, the administrative and legal regulation of space tourism is a purposeful influence of the rules of administrative law on the regulation of social relations arising in the field of space tourism. Administrative and legal regulation includes the use of various means and methods and their use in the implementation of such regulation, especially in such a specific area as space tourism.

Administrative and legal regulation of space tourism has the following characteristics:

- has a purposeful nature (aimed at regulating relations in the field of space tourism), as it acts as a kind of regulator of public relations, regulating them through law at the societal level;
- has an organizational and orderly nature, ie is carried out by certain means;
- aimed at achieving certain goals, and therefore has a regulatory nature;
- has a certain subject and sphere of legal influence, which are perceived by people and society and have a certain meaning for them;
- is provided with certain methods that coordinate the activities of subjects of international space law;
- has certain stages that involve the legal regulation of public relations, the emergence of subjective rights and legal obligations and their implementation. Space tourism is space or suborbital flights for entertainment or research purposes, usually carried out at private expense.

The issue of liability in the event of damage to the protected rights and interests of individuals is important in tourism-related space activities. In order to anticipate risks, the institute of insurance in space activities related to tourism should be improved.

Finally, we must agree with Bogdan *et al.*, (2019) that despite the economic instability in the world, the space industry remains one of the promising investment sectors, so it's time to dispel the myth that has

misled both the government and the public that outer space is a barrier, not an area of opportunity development. After all, in the future there will be a prospect for the beginning of passenger suborbital space flights with the help of newly developed commercial spacecraft. Space tourism includes aspects of space transport, manned space flight and the commercialization of outer space.

Given the loopholes of existing laws, there is an urgent need to regulate space activities. In addition, the approach to international space law needs to be properly revised and reshaped so that private enterprises can directly engage in commercial activities in this area. The growth of the "space tourism movement", which can be called such, will have a huge beneficial cultural effect, which will expand human horizons and opportunities. Under its influence, space tourism may in the future become the main direction of space activities, which will provide many people with jobs and bring significant profits to the participating states.

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