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Scientific article

Issues of determining the legal status and liability of online tourism platforms in the Republic of Kazakhstan

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Abstract. This article is devoted to the issues of determining the legal status of online tourism platforms and establishing the civil liability of platform operators in the context of the development of digital tourism in the Republic of Kazakhstan. The widespread introduction of digital technologies into the tourism sector has fundamentally transformed the methods of providing tourism services and has led to the formation of new models of relations among tourists, tourism service providers, and online platforms. Despite the rapid expansion of online tourism services, the existing national legislation does not yet provide a clear and consistent regulatory framework for the legal relations arising from the operation of online tourism platforms.

This study examines the legal status of online tourism platforms within the digital tourism environment, clarifies their role in tourism-related legal relations, and evaluates how effectively the legislation of the Republic of Kazakhstan in the fields of tourism regulation, civil law, and consumer protection responds to the practical issues associated with their functioning. The research employs formal-legal, comparative-legal, and doctrinal methods of analysis, and examines national and foreign scholarly approaches as well as international experience.

The article substantiates that a unilateral classification of online tourism platforms solely as information intermediaries or as tourism service providers is insufficient. The research findings demonstrate that such platforms exert a significant influence on the conclusion of tourism transactions, tourists' freedom of choice, and the formation of service terms and conditions. Moreover, the absence of a clearly defined legal status of online tourism platforms, as well as the uncertainty regarding the scope of their liability towards tourists, directly affects the level of protection of tourists' rights and complicates the resolution of disputes in practice.

The conclusions of the study justify the need to improve the legal regulation of digital tourism and offer scientifically and practically significant propositions aimed at defining the independent legal status of online tourism platforms and clarifying the scope of their liability.

Keywords: online tourism platforms; digital tourism; platform operator; legal regulation of tourism activities; civil liability; consumer rights protection; tourism transactions.

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Introduction

At the present stage, the development of the tourism sector is closely linked to the rapid introduction of digital technologies and the widespread use of online platforms. The active integration of information and communication technologies into the process of providing tourism services has fundamentally transformed the methods of creating, offering, and consuming tourism products, leading to the emergence of new economic and legal relations within the tourism industry. In this regard, the concept of “digital tourism” has been formed in academic discourse and is considered a modern model for organizing tourism activities in electronic and platform-based formats.

In the Republic of Kazakhstan, digital tourism is being developed within the broader framework of the state’s digital transformation initiatives and reflects the government’s efforts to modernize the tourism sector. This approach aims to improve the accessibility and quality of tourism services through the use of digital tools. The Head of State, Kassym-Jomart Tokayev, has identified tourism as a strategic sector of the national economy and has emphasized the need to consider its development in close interconnection with the extensive use of digital technologies. For instance, at a tourism development meeting held on June 13, 2024, the need to expand the use of digital solutions was discussed, particularly in relation to strengthening the tourism sector and improving its international attractiveness [1]. This not only indicates state-level support for digital processes in the tourism sector but also underscores the need for systematic improvement of legal regulation mechanisms governing these processes.

The institutional foundation for the digitalization of the tourism sector was laid within the framework of the “Digital Kazakhstan” state program implemented in 2018–2022 [2]. The program aimed to establish a digital ecosystem through the development of digital infrastructure, the introduction of electronic services, and the technological modernization of priority sectors of the economy. During this period, the provision of tourism services in electronic formats expanded significantly, and online platforms became an integral part of the tourism market. However, despite the rapid development of digital tourism, comprehensive legal regulation defining the legal status of online tourism platforms, their place within the system of tourism relations, and the scope of their liability toward tourists and tourism service providers has not yet been sufficiently developed.

The legal implications of digital transformation have been placed firmly on the national agenda, as evidenced by the Address of the President of the Republic of Kazakhstan, Kassym-Jomart Tokayev, to the people on 8 September 2025. In this Address, particular attention was given to the challenges posed by artificial intelligence and to the necessity of large-scale digital transformation as a response to them [3]. The Head of State underscored that the rapid expansion of the platform economy, coupled with the increasing significance of digital data, makes it imperative to construct clear, internally consistent legal frameworks, including the possible development of a unified Digital Code. This position reflects a wider reorientation toward acknowledging law as a key instrument in shaping emerging digital relations. The relevance of this approach is most apparent in sectors experiencing accelerated digitalization, among them tourism, where interactions between market actors are now predominantly mediated by online platforms.

Within this context, the present study focuses on the legal status of online tourism platforms in the Republic of Kazakhstan. Its purpose is to clarify the boundaries of their civil liability

toward tourists and providers of tourism services, as well as to identify prospective avenues for refining the legal regulation of tourism relations under conditions of continuing digital transformation.

Research methods

The study is devoted to elucidating the legal position of online tourism platforms within the legal system of the Republic of Kazakhstan, with particular attention to issues of civil liability that arise in their relations with tourists and providers of tourism services. Methodologically, the research relies on classical instruments of doctrinal legal analysis, foremost among them the formal legal and comparative legal methods.

The formal legal method is applied to the examination of current Kazakhstani legislation in the fields of tourism, civil law, and consumer protection, enabling an assessment of how effectively existing legal norms govern the practical activities of online tourism platforms. This approach makes it possible to identify both the internal logic of the regulatory framework and assess how effectively legal norms operate in practice. Alongside this, the comparative legal method is used to explore both domestic and foreign regulatory models, making it possible to trace general tendencies in this field and to reveal regulatory lacunae that remain unresolved in the national legal framework.

The regulatory framework of the study is based on the Constitution of the Republic of Kazakhstan, the Law of the Republic of Kazakhstan “On Tourism Activities,” the Civil Code of the Republic of Kazakhstan, as well as legislative acts regulating consumer rights protection. This methodological approach makes it possible to identify practical gaps in the existing regulation of online tourism platforms and to assess how these gaps affect the protection of tourists’ rights.

Results and discussion

The rapid integration of digital technologies into the tourism sector has fundamentally transformed both the provision of tourism services and the nature of related social relations. The increasing use of digital platforms for the promotion and delivery of tourism services has intensified the complexity of interactions among tourists, service providers, and intermediaries, thereby requiring enhanced legal regulation. Consequently, traditional legal frameworks governing tourism are no longer sufficient to adequately address digitally mediated relationships.

At the same time, the absence of a unified legal concept defining digital tourism within the current legislation of the Republic of Kazakhstan complicates its legal interpretation. Existing tourism laws do not regulate key aspects of digital tourism, including online service provision, platform-based activities, and the rights and obligations of participants. This regulatory gap contributes to inconsistent law enforcement practices and highlights the need for a coherent legal framework for digital tourism. The rapid development of digital tourism has exposed the absence of a clear legal definition of online tourism platforms, creating significant uncertainty in determining their legal status and scope of liability. In practice, such platforms are inconsistently classified either as intermediaries or service providers, leading to fragmented legal treatment. In order to eliminate the identified legal uncertainty and ensure consistency in law enforcement practice, it becomes necessary to introduce a precise legal definition of an “online tourism platform” into national legislation. Such a definition should not be merely descriptive but should

be based on functional legal criteria. An online tourism platform may be defined as a digital entity that, through information and communication technologies, facilitates the provision of tourism services by third parties and performs at least one of the following functions:

- 1) enabling systematic search and comparison of tourism services;
- 2) organizing or facilitating booking processes;
- 3) processing or receiving payments;
- 4) influencing the selection of services or the presentation of offers through algorithmic or other means.

The presence of these criteria indicates that the platform is not merely a technical tool but an active participant influencing the structure of transactions, distinguishing it from traditional intermediaries.

The introduction of such a definition would provide a basis for determining the applicable legal regime, including the allocation of liability, the scope of consumer protection obligations, and the implementation of regulatory oversight.

This legal gap not only generates doctrinal uncertainty but also directly affects the allocation of liability and the effectiveness of consumer protection, thereby necessitating its formal recognition at the legislative level.

In scholarly literature, the concept of digital tourism is viewed as the result of the evolutionary development of e-tourism and the “smart tourism” concept. However, while this approach makes it possible to reveal the technological and economic content of digital tourism, it remains insufficient for fully determining its legal nature. This is due to the fact that, in the context of digital tourism, the provision of tourism services is characterized by the intersection of social relations belonging to the spheres of civil law, consumer law, and information law [4].

These developments necessitate recognizing digital tourism as an independent legal category. From a legal standpoint, digital tourism can be defined as a system of social and legal relations arising from the provision of tourism services via digital platforms and electronic technologies. These relations involve tourists, service providers, and platform operators and are characterized by electronic contract formation, the transformation of traditional rights and obligations, and the emergence of new mechanisms for protecting tourists’ interests.

The absence of a unified legislative definition of digital tourism complicates the protection of tourists’ rights, the allocation of liability between service providers and online platforms, and the determination of applicable legal norms in digital transactions. Therefore, conceptualizing digital tourism as an autonomous legal category is essential for developing a coherent regulatory framework.

Moreover, the growing reliance on online platforms in tourism highlights the need to clarify their legal status within tourism relations. As most processes related to searching, booking, and purchasing tourism products are now conducted through digital platforms, their role has significantly expanded. However, current civil legislation does not provide a clear or consistent definition of their legal position in tourism activities. From a civil law perspective, the classification of online platforms within traditional legal frameworks presents significant challenges. While platforms primarily act as intermediaries facilitating interaction between tourists and service providers, they also exert considerable influence over pricing, service conditions, and transaction procedures, thereby exceeding the role of purely technical or informational intermediaries.

At the same time, equating online platforms with direct providers of tourism services remains controversial. Platform operators typically do not supply tourism services themselves nor act as

parties to tourism contracts. Nevertheless, their activities substantially affect contract formation, access to information, and the availability of services, complicating the clear delineation of their legal status and liability within tourism relations.

In legal doctrine, digital platforms are described as a special legal construct that organizes interaction among several independent participants while not being a direct party to the transaction. In such circumstances, the platform operator acts as an organizing entity in the relationship between the tourism service provider and the tourist, performing the functions of ensuring digital infrastructure and coordinating the interaction among participants [5].

In the tourism sector, the activities of online platforms are closely associated with consumer protection issues. The digital provision of tourism services introduces additional legal risks related to information transparency, the clarity of contractual terms, and the protection of tourists' rights. Accordingly, clarifying the role and legal classification of online platforms is essential not only for theoretical analysis but also for the effective regulation of tourism relations. The digital transformation of the tourism sector in Kazakhstan has led to fundamental changes in models of tourism service consumption. Research indicates that the processes of searching for, comparing, and booking tourism products are increasingly carried out through online platforms, while the share of offline channels is steadily declining. This situation reinforces the structural role of online tourism platforms in the tourism market and demonstrates that they have become the primary point of interaction for tourists [6].

The digital transformation of the tourism sector has led to the emergence of new models and combinations of organizing tourism activities, thereby revealing the limitations of traditional legal regulatory instruments. Systematic scholarly research indicates that digital transformation generally has a positive impact on the tourism sector; however, its complex and multidimensional nature necessitates a reconsideration of existing legal mechanisms [7].

From this perspective, determining the legal nature of digital tourism and online platforms requires a comprehensive analysis of existing regulatory frameworks. Despite the widespread use of digital technologies in tourism services, the legislation of the Republic of Kazakhstan remains largely oriented toward traditional models. Accordingly, assessing the extent to which platform-mediated tourism relations are covered by current legal norms, as well as identifying regulatory gaps, is of both scientific and practical significance.

The primary legal act governing tourism in Kazakhstan is the Law of the Republic of Kazakhstan "On Tourism Activities," which establishes the general legal framework for tourism services, including the rights and obligations of participants and the legal status of tourists. However, its provisions are predominantly based on conventional models of service delivery.

In particular, the law regulates tourism services through the traditional roles of tour operators and travel agents, focusing mainly on offline interactions. As a result, the specific features of digital service provision, including platform-based models and online distribution of tourism products, remain insufficiently addressed. Furthermore, the Law of the Republic of Kazakhstan "On Tourism Activities" does not incorporate key concepts widely used in the modern tourism market, such as "digital tourism," "online tourism platform," "marketplace," or "aggregator." This omission complicates the determination of the legal regime governing digitally mediated tourism relations. In particular, the legislation does not clearly resolve whether online platforms should be recognized as subjects of tourism activities when services are provided through them.

Although the current legislation defines tour operators and travel agents as subjects of tourism activities, the place and role of online platforms within these relations are not

specifically regulated. Such legal uncertainty complicates the determination of the scope of liability of online platforms toward tourists and tourism service providers. Scholarly literature notes that the insufficient clarification of the independent legal status of online platforms hinders the identification of their actual role in the tourism service provision process and the determination of an appropriate liability regime [8].

Although the Law of the Republic of Kazakhstan “On Tourism Activities” provides for the protection of tourists’ rights, its provisions are primarily designed for traditional contractual models. The specific features of transactions concluded via online platforms, including liability for the accuracy and completeness of digital information, remain insufficiently regulated. This demonstrates the inadequacy of existing mechanisms for protecting tourists’ rights in the context of digital tourism.

Consequently, the law does not fully encompass relations arising from digitally mediated tourism services. It lacks clear criteria for determining the legal status of online platforms and regulating their interaction with service providers and tourists. This gap indicates the need to further develop the legal regulation of digital tourism, including the introduction of specific provisions into tourism legislation that take into account the digital format of tourism activities [9].

Since the activities of online tourism platforms are carried out within the framework of civil-law relations, the Civil Code of the Republic of Kazakhstan serves as the primary regulatory basis for determining their legal nature [10]. Tourism services delivered in a digital format are generally structured through contractual relations and governed by the general principles of civil law. However, applying traditional contractual models under the Civil Code to platform-mediated relations creates significant legal challenges.

Under the Civil Code of the Republic of Kazakhstan, tourism services are typically regulated as contracts for compensated services (Article 683), whereby one party provides services and the other pays for them. Although online platforms may formally fit this model, they do not provide tourism services themselves and are usually not involved in shaping the content of the tourism product. Consequently, their classification as service providers remains legally debatable.

At the same time, interpreting platform activities through agency or intermediary agreements is also limited. Unlike agents, platform operators generally do not act on behalf of service providers or assume corresponding obligations, but rather provide digital infrastructure that facilitates interaction between tourists and service providers. The specific features of electronic contracts also play an important role in determining the civil-law status of online platforms. When tourism services are booked online, contracts are concluded in electronic form, and the rights and obligations of the parties are defined through user agreements, offer terms, and the platform’s internal rules. Although the Civil Code recognizes the general legal validity of electronic contracts, the specific features of multilateral tourism transactions concluded through online platforms are not specifically regulated.

Thus, contracts for services, agency agreements, or intermediary agreements provided for in the Civil Code cannot fully and comprehensively characterize the activities of online tourism platforms [11]. While not being a direct party to the tourism contract, the platform operator exerts a significant influence on the conclusion of the tourism transaction and the conditions of its performance. This demonstrates the insufficiency of traditional contractual models in determining the position of online tourism platforms within civil-law relations.

These circumstances indicate the mixed nature of the legal status of online tourism platforms and substantiate the need to develop special legal approaches for their regulation within civil legislation.

In the context of digital tourism, the provision of tourism services in an online format requires consideration of the legal status of tourists through the institution of consumer rights protection. Persons receiving tourism services are recognized as consumers in the civil-law sense, and the general provisions of the legislation of the Republic of Kazakhstan on consumer rights protection apply to them [12]. However, services provided with the participation of online tourism platforms give rise to a number of specific features in the application of consumer rights protection mechanisms.

Consumer protection legislation imposes an obligation on service providers to supply consumers with complete, accurate, and timely information. Acting as the primary channel for disseminating information about tourism products, online tourism platforms directly influence tourists' decision-making. Nevertheless, platforms often seek to characterize their activities as purely informational or technical intermediation, which may allow them to evade responsibility for the content and quality of tourism services [13].

This issue necessitates the development of a specific legal framework ensuring the accuracy and reliability of information provided by online tourism platforms. As a key element of consumer protection in digital markets, information transparency directly influences users' decision-making.

Unlike traditional intermediaries, online platforms not only transmit but also shape the informational environment. Therefore, their activities should be regulated through clear pre-contractual disclosure obligations supported by well-defined legal consequences for non-compliance.

At the legislative level, pre-contractual information obligations for platforms should be explicitly established. In particular, platforms must provide consumers with complete, accurate, and comprehensible information regarding the essential elements of the transaction, including price, availability, key service characteristics, the identity of the service provider, and applicable cancellation conditions.

This requirement is directly enshrined in Articles 5 and 6 of the EU Consumer Rights Directive (2011/83/EU), which mandate that consumers must receive clear and comprehensible information prior to the conclusion of a contract. Failure to comply with these requirements may affect the validity of consumer consent and, in certain cases, result in the non-enforceability of contractual terms.

In addition to disclosure obligations, the legal consequences of misleading or incomplete information must be clearly defined. Where a platform provides inaccurate information or omits material facts that influence consumer decision-making, such information should not be enforceable against the consumer. Furthermore, the consumer should be entitled to remedies, including contract termination, price reduction, or compensation for damages.

This approach is also supported by the UK Consumer Rights Act 2015. Under Section 62 of the Act, contractual terms must be fair, while Section 68 requires that they be transparent and expressed in plain and intelligible language. Failure to meet these requirements may render contractual terms unenforceable. In addition, the Digital Markets, Competition and Consumers Act 2024 establishes that misleading actions and omissions of material information constitute violations that may trigger legal liability.

To ensure the reliability of digital transactions, platforms should also be subject to obligations concerning the retention and accessibility of information. In particular, platforms must store the content of the information presented to the consumer, including its source and the time of its last update, in a manner that allows for subsequent verification.

This requirement is supported by Singapore's Electronic Transactions Act, which recognizes the legal validity and evidentiary value of electronic records and ensures their retention and reproducibility for the purposes of dispute resolution.

In disputes, the burden of proof should rest with the platform. Where the platform is unable to demonstrate what information was provided to the consumer, when, and in what form, any ambiguity should be interpreted in favor of the consumer. This approach reflects the principle of protecting the weaker party and aims to address evidentiary asymmetry in platform-based transactions.

Importantly, this model does not rely on the abstract distinction between "passive" and "active" platforms. Instead, it establishes a clear and functional regulatory framework based on specific legal obligations and their corresponding legal consequences.

Accordingly, clarifying liability for the accuracy of information requires the introduction of a comprehensive legal model incorporating pre-contractual disclosure obligations, enforceable consequences for misleading information, record-keeping requirements, and a reallocation of the burden of proof. Such an approach enhances legal certainty, strengthens consumer protection, and provides a coherent foundation for judicial practice in digital tourism.

In platform-based tourism services, a key consumer risk concerns the accuracy and completeness of information about tourism products. Discrepancies between actual service conditions and the terms presented on digital platforms significantly hinder effective consumer protection.

Furthermore, the scope of liability of online tourism platforms remains highly contentious. Although services are directly provided by tour operators or other suppliers, platforms actively facilitate contract formation, payment processing, and information dissemination. This involvement challenges the complete exclusion of their legal liability toward consumers. Accordingly, when assessing civil liability, it is important to consider the specific functions performed by an online platform in the provision of tourism services, as well as the degree to which it influences the conclusion of tourism transactions [14].

Existing consumer protection mechanisms are not fully adapted to platform-based tourism services, highlighting the need to clearly define the liability of online platforms.

An analysis of Kazakhstan's legislation reveals key gaps, including the absence of a defined legal status for platforms, uncertainty in liability allocation, and the lack of legal mechanisms addressing the specific features of digital tourism. These shortcomings contribute to inconsistencies in law enforcement practice. This situation indicates the necessity of regulating the activities of digital platforms through a special legal regime, despite the fact that they establish mandatory rules for users and exercise quasi-public powers [15].

The rapid growth of digital tourism has made online platforms a core element of the tourism sector, enhancing accessibility and shaping consumer behavior. However, the lack of a clearly defined legal status creates challenges in law enforcement.

Current legislation does not recognize online platforms as subjects of tourism activities or define their rights and obligations, creating legal uncertainty in liability allocation and leaving such relations only partially regulated.

Moreover, applying traditional bilateral contractual models is insufficient, as platform-based relations are multi-subject in nature. Although platforms are not direct parties to tourism contracts, they significantly influence consumer choice by shaping and presenting information about tourism products. In this regard, viewing platforms merely as technical or informational

intermediaries leads to the neglect of their actual functions in the tourism service provision process [16].

In civil law, determining the legal status of online tourism platforms should rely on a functional approach based on their actual impact on tourism transactions rather than formal contractual roles. This allows for clearer identification of their obligations, particularly regarding the accuracy of information, and more precise allocation of liability.

Accordingly, recognizing online platforms as an independent legal category—distinct from traditional service providers—is essential for improving digital tourism regulation. This approach requires legislative implementation through a differentiated legal regime.

The determination of the legal status of online tourism platforms is complicated by their hybrid nature. Existing legislation typically classifies market participants as tour operators, travel agents, or intermediaries; however, this approach fails to adequately reflect the functional complexity of digital platforms.

In practice, online platforms simultaneously perform multiple roles: they act as information intermediaries, facilitate booking processes, and, in certain cases, participate in payment processing. This functional diversity places them outside traditional intermediary models and necessitates a distinct legal approach.

Online tourism platforms should be recognized as a distinct legal category, accompanied by a clearly defined legal regime rather than a purely declarative classification.

Legislation should adopt a functional approach, whereby the legal status and liability of platforms depend on their role. Platforms acting solely as information intermediaries should bear limited liability, while those involved in booking or payment processes should be subject to enhanced obligations.

Such an approach links legal consequences to actual platform functions, improving legal certainty and ensuring a more consistent allocation of liability between platforms and service providers. Defining the legal status of online tourism platforms enables the legislative establishment of their core rights and obligations, particularly regarding the accuracy of information, the content of user agreements, and conditions for listing service providers. This would enhance consumer protection and transparency in the tourism market.

Clarifying the functions performed by platforms also allows for a more precise determination of their legal liability. Given their role in information dissemination, booking, payment processing, and shaping consumer choice, their liability should be based not on direct service provision but on the degree of their influence on tourism transactions.

This principle requires further concretization at the legislative level. The determination of liability of online tourism platforms is complicated by the varying degrees of their involvement in transactions. Existing legal approaches tend to treat platforms as a uniform category, which fails to reflect the functional diversity of their activities in digital environments.

Therefore, platform liability should be determined through a functional approach based on the level of influence exerted over the transaction. This approach links legal consequences not to formal classification, but to the actual role performed by the platform.

At the legislative level, the following criteria should be established:

- 1) involvement in defining contractual terms (price, booking conditions, service description);
- 2) processing or receiving payments;
- 3) influencing the selection of service providers or offers through algorithmic means;
- 4) the ability to control or influence service performance.

Based on these criteria, liability should be differentiated as follows:

- where the platform acts solely as an information intermediary and does not influence contractual terms, a limited liability regime should apply;
- where the platform participates in the conclusion of the contract (booking, payment), it should bear contractual liability for improper performance of obligations toward the consumer;
- where the platform determines essential terms or exercises control over service delivery, it may be subject to joint and several liability together with the service provider.

This approach is consistent with European judicial practice, where liability depends on whether the platform plays a “passive” or “active” role. Active involvement leads to an expansion of liability beyond that of a mere intermediary. To further substantiate the proposed functional approach, reference should be made to relevant judicial practice. In particular, in the case of *Airbnb Ireland UC v. AHTOP (C-390/18)*, the Court of Justice of the European Union examined the legal nature of an online platform providing short-term accommodation services. The Court concluded that Airbnb should be classified as a provider of information society services rather than a traditional real estate agent, as it did not exercise decisive control over the essential conditions of the service. At the same time, the Court emphasized that where a platform exerts a determining influence over the conditions of transactions, its legal qualification and the scope of its liability may differ. This case clearly demonstrates that the allocation of liability depends on the actual role and level of control exercised by the platform, thereby reinforcing the functional approach proposed in this study.

Accordingly, embedding a functional approach in legislation would ensure a clear allocation of liability between platforms and service providers and enhance the effectiveness of consumer protection in digital tourism.

The absence of clear legal provisions on platform liability weakens consumer protection and leads to inconsistent law enforcement. Although platforms present themselves as technical intermediaries, they serve as the primary point of interaction for tourists, making their legal role significant.

Accordingly, liability should be determined based on their actual influence in service provision. Legislation should establish specific obligations for platforms, including requirements on information accuracy, transaction security, and transparency of service providers. Additionally, user agreements must comply with consumer protection standards and should not unjustifiably limit platform liability, requiring the introduction of legislative constraints on unfair contractual terms. This issue requires a more comprehensive reconsideration of the legal nature and regulation of platform user agreements.

User agreements on digital platforms are inadequately regulated within the traditional framework of contract law. As standardized, non-negotiable instruments, they reinforce structural imbalance between platforms and consumers and often result in merely formal, rather than effective, protection of consumer rights.

Accordingly, user agreements should not be treated solely as contracts but as a legal institution subject to substantive control. A particularly relevant model in this regard is the Australian consumer law framework.

The Australian Consumer Law establishes an operational, rather than declarative, system for regulating standard form contracts. Unfair terms are not only rendered unenforceable, but the act of proposing or relying on such terms constitutes a legal violation. Importantly, the burden of proving that a term is reasonably necessary is placed on the platform, thereby addressing structural information asymmetry in digital markets.

Taking this approach into account, the regulation of platform user agreements in Kazakhstan should be based on the following principles: first, user agreements should be presumed to be standard form contracts, with the burden of proof placed on the platform to demonstrate otherwise; second, the fairness of contractual terms should be assessed based on their actual impact on the consumer, rather than their formal acceptance; third, terms that restrict consumer rights or exclude platform liability should be deemed non-binding; fourth, platforms should bear the burden of proving that contractual terms were properly disclosed to consumers, and in the absence of such proof, the relevant terms should be considered unenforceable; fifth, the use or proposal of unfair contractual terms should constitute a separate legal violation subject to administrative sanctions.

At the institutional level, the competent consumer protection authority should be empowered to review platform user agreements, issue binding orders requiring amendment of unfair terms, and impose sanctions for systemic violations.

The practical advantage of this model lies in its enforceability. It provides courts with clear legal criteria and shifts the evidentiary burden to platforms, enabling judges to assess not merely the existence of consent, but the substantive impact of contractual terms.

Thus, the regulation of user agreements should move beyond declarative norms. For Kazakhstan, the most effective approach is to adopt a comprehensive model combining substantive control, reverse burden of proof, and enforceable sanctions, as demonstrated in Australian practice.

Beyond the regulation of user agreements, it is necessary to reconsider the legal nature of contracts concluded in the field of electronic tourism. Contracts concluded in the field of electronic tourism fundamentally differ from traditional contractual models, as they are formed within a digital environment through automated interfaces and without direct negotiation between the parties. In such settings, the process of contract formation becomes closely intertwined with algorithmic and technical elements, thereby challenging the classical understanding of consent in civil law. Existing legal frameworks do not fully capture these specific features.

This necessitates the recognition of electronic tourism contracts as a distinct regulatory category governed by specific legal rules defining contract formation, validity of consent, disclosure obligations, and legal consequences.

The determination of the moment of contract formation is of particular importance in digital environments. Under Singapore's Electronic Transactions Act, the time of receipt of an electronic communication is treated as a legally relevant fact for establishing when contractual obligations arise. Building on this approach, an electronic tourism contract should be deemed concluded at the moment when the consumer confirms acceptance and the platform acknowledges the booking. Such a model enhances legal certainty and reduces evidentiary uncertainty in disputes.

Requirements relating to contractual content must also be explicitly regulated. The European Union's Consumer Rights Directive (2011/83/EU) imposes strict pre-contractual information obligations, requiring traders to provide clear and comprehensible information prior to contract conclusion. Non-compliance may lead to the non-enforceability or limitation of contractual terms. Incorporating similar standards would prevent platforms from presenting essential terms in a hidden or dynamically altered manner.

With regard to the validity of electronic consent, formal acceptance should not be considered sufficient. Clicking an "I agree" button indicates acceptance but does not, in itself, demonstrate that the consumer has understood the contractual terms. Legal regulation should therefore

place the burden of proof on the platform to demonstrate that the terms were properly disclosed. In the absence of such proof, contractual ambiguities should be interpreted in favor of the consumer, and disputed terms should not be enforced.

To ensure the stability of electronic contracts, legal rules should also address their storage and accessibility. Platforms should be required to provide consumers with the ability to access and retain the contract after its conclusion. Failure to comply with this obligation may result in the unenforceability of certain terms or liability on the part of the platform.

Accordingly, the regulation of electronic tourism contracts should be grounded not in general principles, but in a system of specific legal rules accompanied by clear legal consequences in case of non-compliance. The proposed approach conceptualizes electronic contracts as a distinct legal institution, thereby enhancing legal certainty and strengthening consumer protection in digital environments.

The legal regulation of the liability of online tourism platforms is closely connected with the improvement of mechanisms for resolving tourism-related disputes. In disputes arising in the course of providing tourism services, determining the legal and procedural status of platforms, establishing their obligation to participate in pre-trial dispute resolution, and offering tourists effective mechanisms for handling complaints constitute important elements of platform liability. This makes it possible to form an accessible and effective system for the protection of tourists' rights in the context of digital tourism.

However, ensuring the effectiveness of such mechanisms requires a shift toward enforceable consumer protection models in platform-based transactions. The effectiveness of consumer protection in digital tourism depends not on the formal recognition of rights, but on their practical enforceability. Under the current legal framework, consumers are typically required to pursue claims directly against service providers, which significantly weakens the enforceability of rights in platform-based transactions.

Accordingly, consumer protection mechanisms must be restructured to reflect the economic and organizational role of platforms. Particular emphasis should be placed on direct claims, guaranteed refund mechanisms, and enforceable sanctions.

In comparative legal practice, such an approach is supported by concrete legislative frameworks. Notably, under the Australian Competition and Consumer Act 2010 (Schedule 2 – Australian Consumer Law), consumers are entitled to bring direct claims against suppliers in cases of breach of consumer guarantees (ss 259–267). Section 269 further provides for remedies, including refunds and damages. Following the 2022 amendments, the use of unfair contractual terms constitutes a legal violation subject to significant financial penalties (ss 23, 224).

A similar enforcement-oriented model is reflected in Singapore's Consumer Protection (Fair Trading) Act, which provides consumers with direct remedies against misleading practices and grants regulatory authorities powers to impose corrective measures and sanctions.

Taking these approaches into account, the following legal framework is proposed for Kazakhstan:

1. Direct claim against platform: Consumers should be entitled to bring claims directly against platforms where the platform participates in the transaction, including payment processing or booking.

2. Refund-first obligation: Where payments are made through the platform, the platform must ensure reimbursement in cases of non-performance or improper performance, irrespective of the service provider's fault, with subsequent recourse available.

3. Joint and several liability: Where platforms influence essential elements of the transaction (price, payment, booking), they should bear joint liability with service providers.

4. Administrative sanctions: Failure to process refunds, comply with consumer claims, or adhere to complaint-handling obligations should constitute independent violations subject to turnover-based fines and regulatory measures.

5. Burden of proof: The platform should bear the burden of proving proper performance and compliance with contractual obligations. Any ambiguity should be interpreted in favor of the consumer. From a judicial perspective, this model provides clear and enforceable tools. Courts are able to allocate liability directly to platforms based on their functional role, while refund obligations significantly reduce evidentiary and enforcement barriers for consumers.

Thus, effective consumer protection in digital tourism requires a shift from declarative rights to enforceable legal mechanisms, including direct claims, refund guarantees, and robust sanction regimes.

Taking international experience into account is essential for modernizing the legal regulation of digital tourism. Comparative practice shows that traditional legal categories are insufficient for platform-based tourism relations, requiring new regulatory approaches.

In the European Union, regulation focuses on consumer protection and transparency, imposing obligations on platforms for the reliability of information and fairness of contractual terms. In countries such as Estonia, Singapore, and Saudi Arabia, digital tourism is regulated within broader digital transformation strategies, emphasizing flexible legal frameworks that balance consumer protection and innovation.

At the international level, organizations such as the UNWTO promote a risk-based regulatory model, recognizing online platforms as key market actors and linking legal obligations to their actual impact.

Thus, incorporating international experience is a necessary step for improving digital tourism regulation in Kazakhstan, enhancing legal certainty, strengthening consumer protection, and supporting sustainable sector development.

Conclusion

The study comprehensively examined the issues of legal regulation of digital tourism and online tourism platforms in the Republic of Kazakhstan. The pervasive incorporation of digital technologies into the sphere of tourism services has exposed the conceptual and practical constraints of conventional legal constructions, making evident the inadequacy of existing regulatory paradigms. This transformation necessitates the elaboration of qualitatively new legal approaches capable of capturing the dynamics of digitally mediated tourism relations. At the same time, the steadily increasing influence of online tourism platforms within the market structure underscores the objective need to articulate their legal nature with greater precision, including a clear determination of their status and the contours of their liability.

The results obtained in this study demonstrate that the current regulatory framework remains misaligned with the factual conditions under which digital tourism is developing. Legislative modernization is therefore unavoidable if a fair and coherent allocation of rights and obligations among all participants in digital tourism relations is to be achieved. The doctrinal analysis further reveals the methodological insufficiency of reducing online tourism platforms either to the category of mere information intermediaries or to that of traditional

tourism service providers. Although such platforms do not directly render tourism services, they exercise a substantial influence over the formation of contractual relations, the freedom of choice available to tourists, and the configuration of service conditions. This indicates that they occupy an independent and distinctive legal position within the system of tourism relations.

An examination of the current legislation of the Republic of Kazakhstan in the areas of tourism regulation, civil law, and consumer rights protection shows that the regulation of relations involving online tourism platforms within the framework of digital tourism remains fragmented and incomplete. This is reflected in the absence of a clearly defined legal status for online platforms, the lack of established limits of their liability toward tourists, and the insufficient consideration of the specific characteristics of tourism services provided in a digital format, which together create inconsistencies in law enforcement practice and weaken the protection of tourists' rights. Addressing these shortcomings requires a more systematic approach to the legal regulation of digital tourism activities. An analysis of international experience demonstrates the effectiveness of flexible and differentiated approaches to the legal regulation of digital tourism that are based on taking into account the actual impact of online tourism platforms on the tourism service provision process.

Building upon the above analysis, it is necessary to conceptualize an integrated model of legal regulation of digital tourism. The effectiveness of legal regulation in digital tourism depends on the accessibility of dispute resolution mechanisms, alignment with international legal standards, and the adaptability of regulatory frameworks to technological change. Accordingly, regulation in this field should be structured as an integrated model combining these interrelated elements.

First, pre-dispute resolution mechanisms should be introduced, while ensuring that consumers retain their constitutional right to direct judicial protection. In this context, pre-dispute procedures should be treated as a preferred, rather than mandatory, mechanism.

Legislation should establish clear obligations for platforms, including:

- the ability to receive complaints electronically;
- mechanisms for registering and tracking complaints;
- the obligation to provide a reasoned response within a reasonable timeframe (e.g., 10–15 working days).

Failure by a platform to properly consider a complaint or the provision of a purely formal response should be taken into account by courts when assessing evidence, potentially operating to the benefit of the consumer. This approach preserves access to justice while incentivizing platforms to resolve disputes effectively.

Second, national regulation should be aligned with international legal practice, without mechanically replicating foreign models. The European Union's ADR Directive (2013/11/EU), Consumer Rights Directive (2011/83/EU), and Unfair Contract Terms Directive (93/13/EEC) provide a coherent framework for consumer protection.

A key feature of this framework is that consumer protection is ensured not merely through the recognition of rights, but through enforceable legal consequences. Insufficient disclosure may render contractual terms unenforceable, while unfair terms may be declared invalid.

In the context of Kazakhstan, this experience should be adapted by strengthening disclosure requirements and expanding the role of courts in assessing the substantive fairness of contractual terms.

Third, legal regulation in digital tourism must remain flexible. Traditional legislative approaches risk becoming obsolete in rapidly evolving digital environments. A combination of binding rules and adaptive regulatory tools is therefore required.

International practice demonstrates the effectiveness of principle-based regulation and regulatory sandbox mechanisms in addressing this challenge. These tools allow for innovation while maintaining regulatory oversight.

In Kazakhstan, such an approach can be implemented within the framework of the Digital Code of Kazakhstan by introducing specific provisions governing electronic tourism platforms.

Accordingly, the introduction of pre-dispute resolution mechanisms, the adaptation of international legal standards, and the development of flexible regulatory frameworks should be understood as interconnected elements of a coherent regulatory model. This approach enhances both the effectiveness and the practical applicability of consumer protection in digital tourism.

These regulatory models are not built on the premise that online platforms should be treated as tour operators or travel agents in the classical sense. Their underlying logic is different: they are aimed at formally acknowledging the distinct role of platforms as intermediaries that organize, structure, and technologically support the provision of tourism services. In this capacity, platforms shape the environment in which tourism transactions occur, while not directly replacing traditional market participants.

From this perspective, the modernization of tourism legislation in the Republic of Kazakhstan presupposes a more precise articulation of the legal nature of online tourism platforms and a clearer delineation of their obligations toward tourists. Equally important is the creation of legal instruments capable of ensuring effective consumer protection in the digital environment. Without such changes, the existing regulatory framework remains poorly adapted to the conditions of the digital economy. Updating the law in this direction would enhance legal predictability in the tourism market, reinforce safeguards for tourists, and provide a stable normative basis for the long-term development of digital tourism.

In practical terms, improving the regulatory framework requires the adoption of targeted legislative measures. A foundational step would be the formal inclusion of the notion of an “online tourism platform” in the Law of the Republic of Kazakhstan “On Tourism Activities,” accompanied by a detailed definition of its place within the system of tourism relations.

At the same time, the scope of civil liability of such platforms must be specified at the statutory level, particularly with respect to the reliability and completeness of information made available to users. Legislative attention should also be directed to electronic contracts and standard user agreements employed in digital tourism services. This includes the introduction of legal constraints preventing platforms from unjustifiably narrowing their responsibility through contractual clauses. Together, these measures would contribute to the formation of a more coherent, transparent, and balanced legal regime governing the operation of online tourism platforms. These measures would help create a more balanced and transparent legal framework for the functioning of online tourism platforms.

The contribution of the authors:

Turysbek A. – as the corresponding author, was responsible for developing the main content of the article and summarizing prior research related to the subject matter.

Beisov Ye. – contributed to the analysis of legal practice and participated in drafting the concluding section of the study.

Issayeva Zh. – prepared the introduction and methodology sections of the article, as well as translated the references, abstract, and author information.

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Қазақстан Республикасындағы онлайн-туристік платформалардың құқықтық мәртебесі мен жауапкершілігін айқындау мәселелері

Аңдатпа. Мақала Қазақстан Республикасында цифрлық туризмнің дамуы жағдайында онлайн-туристік платформалардың құқықтық мәртебесін айқындау және платформа операторларының азаматтық-құқықтық жауапкершілігін белгілеу мәселелеріне арналған. Цифрлық технологиялардың туризм саласына кеңінен енуі туристік қызмет көрсету тәсілдерін түбегейлі өзгертіп, туристер, туристік қызмет көрсетушілер және онлайн платформалар арасындағы қатынастардың жаңа үлгілерін қалыптастырды. Алайда қолданыстағы ұлттық заңнама бұл қатынастарды толық әрі жүйелі түрде реттеуге жеткілікті деңгейде бейімделмеген.

Зерттеудің мақсаты – цифрлық туризм жағдайында онлайн-туристік платформалардың құқықтық табиғатын анықтау, олардың туристік қатынастар жүйесіндегі орнын айқындау және Қазақстан Республикасының туристік, азаматтық және тұтынушылардың құқықтарын қорғау саласындағы заңнамасының оларды реттеу тиімділігін талдау болып табылады. Зерттеу барысында формальды-құқықтық, салыстырмалы-құқықтық және доктриналық талдау әдістері қолданылды, сондай-ақ ұлттық және шетелдік ғылыми көзқарастар мен халықаралық тәжірибе зерделенді.

Мақалада онлайн туристік платформаларды тек ақпараттық делдал немесе туристік қызмет көрсетуші ретінде біржақты жіктеудің жеткіліксіз екені негізделеді. Зерттеу нәтижелері платформалардың туристік мәмілелердің жасалуына, туристердің таңдау еркіндігіне және қызмет көрсету шарттарының қалыптасуына елеулі ықпал ететінін көрсетеді. Сонымен қатар онлайн-туристік платформалардың құқықтық мәртебесінің нақты айқындалмауы және олардың туристер алдындағы жауапкершілік шегінің белгіленбеуі туристердің құқықтарын қорғау деңгейін төмендететіні анықталады.

Зерттеу қорытындылары цифрлық туризмді құқықтық реттеуді жетілдіру қажеттігін негіздеп, онлайн-туристік платформалардың дербес құқықтық мәртебесін айқындауға және олардың жауапкершілігін нақтылауға бағытталған ғылыми және практикалық маңызы бар тұжырымдар ұсынады.

Түйін сөздер: онлайн-туристік платформалар; цифрлық туризм; платформа операторы; туристік қызметті құқықтық реттеу; азаматтық-құқықтық жауапкершілік; тұтынушылардың құқықтарын қорғау; туристік мәмілелер.

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Проблемы определения правового статуса и ответственности онлайн-туристических платформ в Республике Казахстан

Аннотация. Статья посвящена вопросам определения правового статуса онлайн-туристических платформ и установления гражданско-правовой ответственности операторов платформ в

условиях развития цифрового туризма в Республике Казахстан. Широкое внедрение цифровых технологий в сферу туризма коренным образом изменило способы оказания туристских услуг и сформировало новые модели взаимоотношений между туристами, субъектами туристской деятельности и онлайн-платформами. Однако действующее национальное законодательство в недостаточной степени адаптировано к полноценному и системному регулированию данных отношений.

Целью исследования является определение правовой природы онлайн-туристических платформ в условиях цифрового туризма, выявление их места в системе туристских правоотношений, а также анализ эффективности законодательства Республики Казахстан в сфере туризма, гражданского права и защиты прав потребителей в части регулирования деятельности таких платформ. В ходе исследования использовались формально-правовой, сравнительно-правовой и доктринальный методы анализа, а также изучались национальные и зарубежные научные подходы и международный опыт.

В статье обосновывается недостаточность односторонней классификации онлайн-туристических платформ исключительно как информационных посредников либо как туристских услугодателей. Результаты исследования показывают, что платформы оказывают существенное влияние на процесс заключения туристских сделок, свободу выбора туристов и формирование условий оказания услуг. Кроме того, установлено, что отсутствие четкого определения правового статуса онлайн-туристических платформ и границ их ответственности перед туристами снижает уровень защиты прав потребителей туристских услуг.

Выводы исследования обосновывают необходимость совершенствования правового регулирования цифрового туризма и предлагают научно и практически значимые положения, направленные на определение самостоятельного правового статуса онлайн-туристических платформ и конкретизацию их ответственности.

Ключевые слова: онлайн-туристические платформы, цифровой туризм, оператор платформы, правовое регулирование туристской деятельности, гражданско-правовая ответственность, защита прав потребителей, туристские сделки.

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