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CHARACTERISTICS OF CRIMINAL ACTIONS AT THE STAGE OF THE OPENING OF THE TOURIST BUSINESS

It should be noted that criminal activities in the sphere of tourism activity can be committed both from the side of the real subjects of tourism activity and from the side of fictitious enterprises. A. F. Volobyyev in this section adds that in many cases the preparation of documents required for state registration of a fictitious enterprise, as well as a number of legally significant actions related to the creation of a legal entity, are performed by lawyers (or other specialists) - employees of economic entities, heads which are part of organized criminal groups, in the interests of which are created networks of fictitious enterprises. The notarization of the founding documents is carried out by notaries on the basis of lost (stolen) passports, without establishing the capacity of their bearers [1, p. 55].

Regarding legislative consolidation, in September 2019 the President of Ukraine signed into law the Law No. 1080 «On Amendments to the Criminal Code of Ukraine and the Criminal Procedure Code of Ukraine on Reducing Business Pressure». This Law excludes Art. 205 on fictitious entrepreneurship [2]. Although, as practice shows, "fictitious firms" have always been and remain an important tool in various criminal schemes. At the same time, it should be noted that for entering in the documents, which according to the law are submitted for the state registration of a legal entity or a natural person - entrepreneur, deliberately false information, as well as intentional submission for such registration of documents containing deliberately false

information, the legislator provided criminal liability for Art. 205-1 of the Criminal Code of Ukraine.

Since tourist activity is entrepreneurial, state registration is a mandatory legal action as a condition for carrying out any business activity, in particular tourism. In fact, since the state registration the tourist enterprise is considered created and acquires the rights of a legal entity and is included in the Unified State Register of Enterprises and Organizations of Ukraine [3]. In addition, according to the Laws of Ukraine «On Tourism» and «On Licensing of Certain Types of Business Activities», tourism activities cannot be carried out without a license.

As evidenced by the practice, the licensee to obtain it does not always comply with the license conditions developed by the licensing authorities. Therefore, documents are often forged in order to start a "business"; documents that must certify the "personnel potential" of the future enterprise (number, availability of certain employees of appropriate education, qualifications and (or) work experience, etc.); documents confirming the presence of a certain material and technical base; information about the places of tour operator activity; documents confirming relations with the insurance company; documents proving the financial security of civil liability to tourists (guarantee of a bank or other credit institution) and the like.

Realizing that the relevant registration and licensing authorities will not issue the appropriate documents for the pursuit of tourism activities, entities that intend to carry out such activities may take the following preparatory actions:- make false information in the documents submitted in accordance with the law for state registration of a legal entity or a natural person - entrepreneur;- deliberately submit for the purpose of such registration documents containing deliberately false information;- abduct, misappropriate, demand official documents, stamps or seals or seize them by fraud or abuse of office;- forge certificates or other official documents issued or certified by an enterprise, institution, organization, citizen-entrepreneur, notary public, state registrar, subject of state registration of rights, a person authorized to perform the functions of the state in respect of registration of legal entities, natural persons - entrepreneurs, etc., and produce counterfeit stamps, stamps, or letterheads from businesses, institutions, or organizations.

Often, tourism businesses are assisted in opening tourist businesses by officials who, through abuse of power or office, for reasons of unlawful gain, avail themselves of employment opportunities, or persons providing public services (state registrars, state appraisers, other persons, which provide administrative services).

It should be noted that the key to the success of the tourist industry is a well-established infrastructure and comfort in the recreation area, especially if the place is close to water bodies or a protected area. In this regard, a number of entrepreneurs in the tourism industry disregard the rules of legal development and occupation of land and, contrary to legal rules and regulations, carry out construction without the design documentation and permits of the relevant authorities, or, using corruption ties, obtain such permits through the bodies that are empowered to provide them. While for the unauthorized occupation of land and unauthorized construction provided criminal liability for Art. 197-1 of the Criminal Code of Ukraine. Often the objects of tourism activity (structures) are illegally located on the coastal zones, on the lands of the nature reserve fund, etc., which are preparatory actions for the further functioning of the tourist activity.

Therefore, in order to create the conditions necessary for the smooth opening of the tourist business, tourist operators often go against the law, violating a number of criminal laws, involving in this chain the lawlessness of officials and persons providing public services that are capable of remuneration make unlawful decisions and promote unlawful acts.

References

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