LEGAL REGULATION AND PRACTICAL FEATURES OF TRAVEL RISK INSURANCE

INTRODUCTION
At present, the socio-economic value of tourism is increasing in society as one of the most important and dynamically developing sectors of the world economy. The development of tourism is of great importance not only for the entire state but also for individual subjects of the country. The development of the tourism sector affects the formation of the gross domestic product and is aimed at improving the quality of life of the population (BORZOV, 2021).

Although the development of domestic tourism is more preferable for the country’s economy, many Russian tourists are focused on outbound tourism. This is since Russian tourists believe that recreation abroad is better organized, and a satisfactory ratio of price and quality of service are also very important. In recent years (excluding, for all known reasons, the years 2020 and 2021), the number of tourists who travel abroad has been constantly growing, and the number of risks to which they are exposed when carrying out tourist trips has also been increasing. Accordingly, there is a noticeable increase in the variety and number of insurance claims, especially heavy and expensive ones, including loss of health and even death. The political situation in several traditional Russian tourist countries is also deteriorating. The COVID-19 pandemic, which continues to this day, has led to the fact that many sectors of the world economy, including tourism and related industries, have suffered serious losses (REVENUE LOSS OF THE AVIATION INDUSTRY, 2021). The epidemic, which hit all businesses in the tourist area, disrupted the rest of many tourists who intended to go on trips in 2020, showed how various circumstances that suddenly arose (the ban on air traffic, and the evacuation of tourists blocked in foreign resorts) can become a massive serious problem for both suppliers and consumers of tourist services, and forced all interested parties to urgently look for possible ways out of them. It is now known that sufficient measures have been taken, both at the international and domestic levels, which have helped to reduce losses, as well as help the tourism industry in the future. However, it seems that it would be more effective to overcome many problematic issues, including those noted above, with the widespread use of travel risk insurance mechanisms, which, in comparison with many countries, are still insufficiently developed in Russia.

Insurance is inextricably linked with its universal significance as a means that can eliminate or, in any case, make less tangible the adverse result of the impact of individual circumstances affecting a particular sphere of property relations. This can be fully attributed to insurance in the field of tourism. Tourist insurance has spread largely due to the need to support and protect travelers in certain circumstances from diseases, accidents, loss of luggage, etc. Insurance in this area is a fairly new and therefore poorly studied institution of civil law.

In addition, tourist insurance is also a very dynamically developing industry, so its study is most relevant and of great interest. Various aspects of insurance in the field of tourism are reflected in many studies available in the public domain. Researchers are attracted by the problems of insurance of liability of tour operators for non-fulfillment of obligations to tourists, widespread types of tourist insurance, such as medical (ALIMOVA, KUSAINOVA, 2020), and specific, such as insurance against bad weather (SIRIK, 2006), problems of development of insurance culture of tourism of citizens of Russia (MILINCHUK, 2018) and others. However, with the emergence of new types of tourist risks, there is a growing need for new research on ways to minimize threats to tourists and prevent them, including, of course, travel insurance, so such research does not lose its relevance. The purpose of this research is to study the main features of travel...
insurance and determine the main prospects and directions for improving its legal regulation. Research hypothesis. To date, the most problematic area of legal regulation of tourism insurance is the insurance of civil liability of suppliers of tourist services to tourists.

METHODS
The dialectical method of cognition of reality was taken as the main research method, as well as the statistical method, the comparative-legal method, modeling and analytical analysis methods were also used. The normative base of the study was the normative legal acts of Russian and foreign legislation regulating the procedure for insurance of tourist risks, statistical data, and various Internet resources on the subject of the article. The theoretical basis of the research was scientific articles by various authors on the topic of travel insurance.

RESULTS
Tourism development is carried out in a certain natural and social environment that influences its results. This influence is not always favorable. Physical and social hazards should be considered by the tourism industry entities, which should minimize and prevent various threats to the safety of tourist activities (Klishina; Uglitskikh; Mastepanova, 2019). Objectively, the functioning of the tourism business is due to the presence of several risks. All of them can be divided into two groups, namely tourism risks and economic business risks in the field of tourism. The first is directly related to the risk situations that tourists face when planning and implementing a tour, in particular, adverse events related to material and financial losses (loss, damage to property, theft, fines, etc.), as well as threats to the life and health of tourists. The second group of risks is related to the business activities of travel companies and includes mainly financial risks caused by the process of formation, promotion, and implementation of tourist services. The presence of various types of risks in the tourism sector requires the search for tools to level them, the most effective of which is, in our opinion, insurance. It should be noted that insurance in tourism is a risky type of insurance and is characterized by several features, primarily the short duration of the insurance contract, the unpredictability of insurance events, and the amount of damage.

Tourist insurance is a special type of insurance that provides insurance protection of the property interests of citizens during their tourist trips and travel. It refers to risky types of insurance. The essence of tourist insurance is to transfer the risk partially or completely from the tour operator to the insurance company based on the concluded insurance contract (Arkhipova, 2016). The main features of insurance for tourists traveling abroad are: - short-term (in most cases, the insurance policy is concluded for no more than 6 months); - a large degree of uncertainty of the time of occurrence of the insured event; - riskiness (a high degree of uncertainty of the amount of possible loss) (Malakhova, 2017). The insurance of tourists traveling abroad most often refers to voluntary medical insurance in the event of a sudden illness or bodily injury received by a tourist as a result of an accident that occurred during their stay abroad. However, in addition to medical assistance, tourists sometimes have to apply for other types of assistance: legal, technical, administrative, etc.

As a result, Russian companies selling foreign insurance policies are now increasingly entering into contracts with foreign insurance assistance company, specializing in providing tourists with a range of services: from the exchange of travel tickets and the extension of exit visas to transportation, repair of vehicles, repatriation of the remains of the deceased tourist. By agreement with the partner, the Russian insurer determines the scope of insurance services, and their provision is provided by the assistance company (Alimova, Kusainova, 2020). Settlements between the partners are made as between the cedent and the reinsurer (Aliev, 2012). The legal relations of tourists with insurance organizations (insurers) are stipulated in the terms of insurance for a specific type of insurance event, which are developed by each organization individually in coordination with the federal executive authority for the supervision of insurance activities (the Department of Insurance Supervision) within the framework of the general insurance rules and current legislation. The main types of insurance in tourism:

- medical - tourist life and health insurance.
• property insurance - insurance of luggage, photo and video equipment, personal vehicles, and other personal property of the tourist, as well as the property of travel agencies;
• civil liability
• liability insurance for tourists, owners of transport, hotels, travel agencies, and other tourism entities.

Insurance can be voluntary and mandatory, individual and group-wide (ALIMOVA, KUSAINOVA, 2020). Compulsory insurance is carried out by the law of the host country. For example, medical insurance when traveling to some countries is a prerequisite for obtaining a visa. Currently, such a requirement is established by Austria, Belgium, Greece, Denmark, Iceland, Spain, Italy, Luxembourg, the Netherlands, Norway, Portugal, France, Germany, Finland, Sweden, Israel, Lithuania, Czech Republic, and Estonia. When applying for visas from these countries, Russian citizens shall present a health insurance policy valid for the entire duration of their stay abroad (ALIMOVA, KUSAINOVA, 2020).

There is a special group of risks that threaten travelers who purchase tours from travel service providers, arising from possible problems of their business activities, from late payment for the services of the host party to the bankruptcy of the travel organization. Insurance of civil liability of tourist organizations to their clients is provided by the provisions of the Federal Law "On the Basics of Tourist Activity in the Russian Federation" (FEDERAL LAW OF THE RUSSIAN FEDERATION, 1996). The need to introduce financial guarantees was due to a series of "disappearances" of tourist firms, high competition in the tourist services market, and the peculiarity of entrepreneurial risks in the tourism sector associated, among other things, with natural disasters, political and economic crises, civil unrest, and terrorist actions. This necessity determined the establishment of financial barriers that limited the entry of insolvent and unscrupulous entrepreneurs into the market (KLISHINA; UGLITSKIKH; MASTEPANOVA, 2019).

The conclusion of an insurance contract, as the practice has shown, is a more preferable form of a financial guarantee than a bank guarantee, and this is due to several reasons. Firstly, the cost of the insurance service and the bank guarantee differs: the bank guarantee is issued on average at 5-6 % per annum, the annual insurance premium under the insurance contract is 2-3 % of the established limit of liability under the contract. Secondly, only tourist companies that are serviced by the bank can count on receiving a bank guarantee, provided that the account balances for previous periods were three times higher than the required amount of financial security. Thirdly, the procedure for compensation of damage differs: in the case of insurance, the damage, as in most liability insurance contracts, is compensated by the insurance company, in the case of a bank guarantee, the tour operator chooses the method of compensation - either it independently compensates for the damage or shifts this responsibility to the bank (KLISHINA; UGLITSKIKH; MASTEPANOVA, 2019).

Customer claims are considered in all cases, usually within 30 days. Within a month from the moment of making payments, the tour operator shall restore the limit of financial security and submit the relevant supporting documents to the federal executive authority in the field of tourism (PINKIN, 2016). The tour operator's liability insurance contract shall ensure that the tour operator properly fulfills its obligations under all contracts for the sale of a tourist product concluded with tourists and (or) other customers directly by the tour operator or on its behalf by travel agents. The amount of financial security for the liability of the tour operator is determined by the insurance contract and is established following the law in the following amounts: - not less than 500 thousand rubles - for tour operators operating in the field of domestic tourism or inbound tourism; - five percent of the total price of a tourist product in the field of outbound tourism, but not less than 50 million rubles - for tour operators operating in the field of outbound tourism, an indicator of the number of tourists of which in the field of outbound tourism per year is more than 100 thousand tourists; - 10 million rubles - for tour operators operating in the field of outbound tourism, for which the number of tourists in the field of outbound tourism per year is no more than 100 thousand tourists inclusive. The basis for the payment of insurance compensation under the tour operator's liability insurance contract is the fact of causing real damage to the tourist and (or) another customer due to the
tour operator’s failure to fulfill its obligations under the contract on the sale of a tourist product in connection with the termination of the tour operator’s activities due to the inability of the tour operator to fulfill all obligations under the contracts on the sale of a tourist product (ARKHIPOVA, 2016; WAGNER et al., 2020).

The main reasons for non-payment of compensation by insurers are: tour operators’ liability insurance contracts are concluded, as a rule, for the minimum amounts of financial security established by the legislation of the limits of liability for outbound tourism; the amounts of compensation claims exceed the limit of liability under the tour operator’s liability insurance contract; tour operators apply for insurance to insurance companies that do not have sufficient financial stability (PINKIN, 2016; LUTOVINNOVA et al., 2021; PODDUBNAYA et al., 2020). In the course of the analysis of the law enforcement practice on the payment of compensation for the liability insurance of a tourist organization, the problems associated with the definition of an insured event used in the law were identified (REPORT OF THE CENTRAL BANK OF THE RUSSIAN FEDERATION, 2021).

When fixing a public statement on the termination of tour operator activity due to the inability of the tour operator to fulfill all obligations under contracts for the sale of a tourist product as a basis for insurance payments, the legislator did not establish formalized criteria for the implementation of such a statement. This circumstance may lead to situations where the tour operator announces the termination of its activities for no apparent reason, thereby involving the counterparties in the process of reimbursing the funds paid to such a tour operator. The analysis of law enforcement practice indicates the need to review the current system of meeting the requirements of tourists and (or) other customers. According to paragraph 9 of Article 17.5 of the Law on the Basics of Tourist Activity, when several insured persons apply to the insurer as a result of an insured event, when the amount of their claims exceeds the amount of financial security of the operator's liability, the insurance indemnity is paid in proportion to the amount of money specified in the claims to the amount of financial security of the tour operator’s liability.

However, the deadline for the payment of insurance compensation for the first claim is not more than 30 calendar days. This circumstance does not allow determining the full scope of the asserted claims, considering the claims of persons who applied to the insurer later, to then carry out a proportional satisfaction of the claims. In judicial practice, the category of disputes concerning the payment of insurance compensation to the tour operator’s counterparties if the latter has ceased its activities for some reason is also significant. The plot for these cases is general: the buyer purchases a tourist product, then for some reason cannot use it due to the termination of the tour operator. The buyer applies to the insurance company for payment of compensation but is refused since the insurer has already made all payments within the limit (DETERMINATION OF THE SEVENTH GENERAL JURISDICTION COURT, 2020).

The buyer applies to the court, where the subject of the proceedings is to check whether the contract was concluded before the termination of the tour operator’s activities, whether the relevant claim was filed in time, and whether the amount of the proportion according to which the insurance compensation is paid in cases where the total amount of claims exceeds the specified amount was correctly determined. Accordingly, the establishment of deadlines for submitting claims for compensation for property damage to tourists and the establishment of compensation limits does not fully satisfy the interests of consumers of tourist products (services). The above makes it advisable to refer to international experience, in which there are positive examples of legislative regulation of tourist risks, confirmed by many years of practice.

**DISCUSSION**

One example of recent reforms in this area is the legislation of Germany, where there was a major reform of the legislation on tourist contract law in 2018. Since July 1, 2018, the German tourist contract law has been radically reformed: the third law (DRITTES GESETZ, 2017) on amendments to the current legislation was aimed at implementing the European Union Directive (hereinafter referred to as the Directive) (DIRECTIVE OF THE EUROPEAN PARLIAMENT, 2015). The directive was aimed primarily at establishing a single level of protection for consumers of tourist services throughout the European Union, including for equal protection when booking these services via the Internet. Such changes affected three
blocks: provisions for extensive information responsibilities of tour operators and travel agents, protection against bankruptcy of tour operators and travel agents, as well as the separation of claims for the provision of improper services concerning individual providers of such services. The obligation of the tour operator or travel agent to ensure against bankruptcy when concluding a travel contract with all prepaid expenses. According to paragraph 1 of Section 651r Bürgerliches Gesetzbuch (German Civil Code, hereinafter - BGB - CIVIL CODE OF GERMANY, 1896), the tour operator guarantees that the paid travel cost will be reimbursed if: a) such a tour operator becomes insolvent and b) travel services cannot be provided or the tourist is forced to pay for the services of others since the tour operator has not fulfilled its obligations. In addition, if the subject of the contract between the tour operator and the tourist is also transportation services, the tour operator shall ensure the return journey of the tourist and his/her accommodation.

The tour operator can fulfill these obligations, according to paragraph 2 of Section 651r BGB, only through the so-called inclusion in the contract with the tourist of the guarantee of the client’s funds (Kundengeldabsicherer) by an insurance organization or a credit institution. Thus, the tour operator shall be able to present an insurance policy (Sicherungsschein) to an insurance company authorized by the BGB to perform such operations or a payment obligation to a credit institution authorized by the BGB to perform such operations. This obligation of the tour operator exists regardless of the place of residence of the tourist, the place of rest, or the place of conclusion of the contract. The tour operator shall provide the tourist with an immediate right of claims to the insurer, confirmed by the insurance policy.

Such an insurance policy shall be drawn up in exact accordance with the standard form contained in Annex 18 to paragraph 1 of Section 252 of the Introductory Law to the BGB. The insurance policy shall be attached to the contract between the tour operator and the tourist or printed on the back of such a contract. In the case of an electronic method of concluding a contract, this equivalence shall be observed in electronic form. If the tour operator or its branch is located not only in Germany but also in another state party to the agreement on the Single European Economic Area, at the time of the conclusion of the contract, they are not exempt from the obligation to ensure against bankruptcy following the legislation of another state to implement Article 17 of the Directive (DIRECTIVE OF THE EUROPEAN PARLIAMENT, 2015).

The obligation of the intermediary of related travel services (travel agent) for bankruptcy insurance is provided for in paragraph 3 of Section 651w BGB, according to which the travel agent shall guarantee that the payments made by the tourist to his/her address will be refunded if, according to the contract, the travel services shall be provided by the intermediary himself/herself or the services of other organizations whose representative he/she is, have not yet been provided, and the travel agent becomes insolvent (CIVIL CODE OF GERMANY, 1896).

The legislation of the United Kingdom states that the organizer, which is established on the territory of the country, is obliged to provide comprehensive security in the event of bankruptcy (THE PACKAGE TRAVEL AND LINKED TRAVEL ARRANGEMENTS, 2018; SARANCHA, 2021; NAZARENKO; SITNIKOVA; BAYBARIN, 2021). Such security should cover the reasonably foreseeable cost of recovering all payments made by travelers for any travel services that were not performed as a result of the occurrence of insolvency, considering the length of time between the initial and final payments, as well as the expiration of the products. In addition, the security shall cover the costs of the traveler’s repatriation (and, if necessary, the financing of the traveler’s stay before repatriation) if passenger transportation is included in such a product.

The security shall be provided regardless of the place of residence, place of the offer, or place of sale of the tourist product, as well as regardless of the Member State in which the person providing the bankruptcy insurance coverage is located (THE PACKAGE TRAVEL AND LINKED TRAVEL ARRANGEMENTS, 2018). Possible security options include insurance, a "bond", or the transfer of funds to a trust. Insurance can be carried out through the conclusion of one or more insurance contracts that are sufficient to compensate travelers for losses in the event of the insolvency of the tour operator. Therewith, the tour operator shall ensure that any traveler who uses its products can use such insurance as a means of protection in the event of possible insolvency of the tour operator (THE PACKAGE TRAVEL AND LINKED TRAVEL...
ARRANGEMENTS, 2018). As can be seen from the information provided above, the rights of tourists from the countries listed in the examples to receive insurance compensation in the event of liability of a tourist organization are more fully guaranteed than in Russia. This circumstance requires the revision of several existing regulations and the addition of new regulations to the legislation on the insurance of tourist risks.

CONCLUSION
The research carried out in the presented work clearly shows that despite its importance and necessity when traveling abroad, insurance in the structure of the tourist product remains an accompanying or additional service. This is one of the main sources of insurance problems in tourism. Civil liability insurance of tour operators as a form of financial guarantee of the interests of travel service providers and tourists is still the preferred direction of improving the legal regulation of the mechanism of insurance of tourist risks. Thus, the research hypothesis has been proven. It is necessary to consider the international experience of liability insurance of tourist organizations discussed above for more effective protection of tourists from unscrupulous or incompetent actions of entrepreneurs in the field of tourism.

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Legal regulation and practical features of travel risk insurance

Regulação legal e características práticas do seguro de risco de viagem

Resumo
O objetivo deste artigo é encontrar formas mais eficazes de proteger os interesses dos cidadãos que viajam em viagens turísticas. Os principais problemas do seguro turístico foram identificados, os aspectos atuais da cobertura de seguros, os limites de pagamento e as exclusões da cobertura foram refletidos. A situação atual com diversos tipos de seguros utilizados no setor turístico tem sido considerada, os problemas atuais do seguro de responsabilidade civil das organizações turísticas têm sido estudados, uma comparação da eficácia do mecanismo de seguro e da garantia bancária nessa área foi feita. Foram formuladas propostas para melhorar a regulamentação jurídica da responsabilidade dos prestadores de serviços turísticos. Conclui-se que é necessário utilizar a experiência internacional estudada na regulação da responsabilidade civil dos prestadores de serviços turísticos.

Keywords: Tourist services. Insured event. Tourist insurance. The responsibility of tourism industry organizations.

Palavras-chave: Serviços turísticos. Evento segurado. Seguro turístico. Responsabilidade das organizações da indústria do turismo.

Abstract
The purpose of this article is to find the most effective ways to protect the interests of citizens traveling on tourist trips. The main problems of tourist insurance have been identified, current aspects of insurance coverage, payment limits, and exclusions from coverage have been reflected. The current situation with various types of insurance used in the tourism industry has been considered, the current problems of civil liability insurance of tourist organizations have been studied, a comparison of the effectiveness of the insurance mechanism and the bank guarantee in this area has been made. Proposals for improving the legal regulation of the responsibility of tourism service providers have been formulated. It has been concluded that it is necessary to use the studied international experience in regulating the civil liability of tourism service providers.

Keywords: Tourist services. Insured event. Tourist insurance. The responsibility of tourism industry organizations.

Palabras-clave: Servicios turísticos. Evento asegurado. Seguro turístico. La responsabilidad de las organizaciones de la industria turística.

Resumen
El propósito de este artículo es encontrar las formas más efectivas de proteger los intereses de los ciudadanos que viajan en viajes turísticos. Se han identificado los principales problemas del seguro de turismo, se han reflejado los aspectos actuales de la cobertura del seguro, los límites de pago y las exclusiones de la cobertura. Se ha considerado la situación actual con los diversos tipos de seguros utilizados en la industria del turismo, se han estudiado los problemas actuales de los seguros de responsabilidad civil de las organizaciones turísticas, se ha realizado una comparación de la eficacia del mecanismo de seguros y la garantía bancaria en este ámbito. Se han formulado propuestas para mejorar la regulación jurídica de la responsabilidad de los proveedores de servicios turísticos. Se ha llegado a la conclusión de que es necesario utilizar la experiencia internacional estudiada en la regulación de la responsabilidad civil de los proveedores de servicios turísticos.

Keywords: Servicios turísticos. Evento asegurado. Seguro turístico. La responsabilidad de las organizaciones de la industria turística.

Palabras-clave: Servicios turísticos. Evento asegurado. Seguro turístico. La responsabilidad de las organizaciones de la industria turística.