

The Bankruptcy Problem of Tourist Enterprises in Russia and Abroad



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Abstract: *The article considers the issue of bankruptcy of tourism enterprises in the world tourism centers and Russia. The topic of the article in modern conditions is relevant. It is important for the development of the tourism product and choosing tour operators on the market. It is particularly relevant in connection with the fact that, with a certain regularity, tour operators are shutting down. The authors see the purpose of the study in the formation of proposals to minimize negative consequences. They analyzed the theoretical foundations of bankruptcy and the existing bankruptcy process in Russia. The experience of Great Britain, USA, France, Germany and other countries was analyzed and, special emphasis is placed on solving this problem in Russia.*

The analysis, devoted to the study of the theoretical foundations of the tourism enterprises bankruptcy, allowed us to conclude that this is an economically justified phenomenon, the onset of which will happen sooner or later.

The formulated conclusions will allow a new look at the bankruptcy problem of tour operators.

Keywords: *bankruptcy, liquidation, tourism, Russia, analysis, tourist operator.*

I. INTRODUCTION

The relevance of the study is due to the fact that the bankruptcy of companies in the tourism industry over the past 10 years in Russia and foreign countries is of considerable interest to researchers in various countries. However, until now, attempts to conduct a comparative analysis of the causes in companies, taking into account the legal specifics, are exclusively fragmentary. Bankruptcy problem of tourism enterprises in Russia is conditionally divided into two periods:

- Transition phase from 1991 to 1998;
- Modern stage from 1998 to 2018.

Such graduation helps the researcher to consider, on the one hand, the bankruptcy of Russian companies,

taking into account the formation of a new tourism market before the crisis of 1998, on the other hand, the problem of bankruptcy at of the present stage. Bankruptcy of tour operators and agencies in foreign countries is considered in the period from 2008 to 2018. This approach is connected primarily with the fact that the bankruptcy of tourism enterprises in foreign countries occurs not as often as in Russia in recent years [4,6].

The purpose of the study is to analyze the insolvency of tour operators and agencies of Russia and foreign countries.

The study set several important objectives:

- 1) on the basis of the generalized theoretical information, study the conceptual apparatus, goals, and objectives of the institute of the bankruptcy of tourism enterprises in Russia and foreign countries;
- 2) consider the classification of the causes of bankruptcy;
- 3) analyze a comparative analysis of the system and sources of legal regulation of insolvency (bankruptcy) of tourism industry enterprises in Russia and foreign countries.

II. THEORETICAL AND METHODOLOGICAL APPROACHES

At the moment, there is no fundamental research in which the bankruptcy of Russian tour operators and agencies was considered in comparison with European countries and the USA [5,7].

In the domestic economic thought, the problem of bankruptcy at the present stage is connected primarily with the general issues of functioning of enterprises. It is worth highlighting several leading economists specializing in specific insolvency issues: V.F. Popondopulo, E.A. Vasiliev, E.V. Naumova, I.V. Ershova, K.K. Lebedev, M.V. Telyukina, V.S. Belykh, M.L. Skuratovsky, A.B. Ageev, S.E. Zhilinsky, V.N. Tkachev, T.P. Shishmareva, E.S. Yulova, Guryev A.V. and others [4,10,12].

However, there are no special analytical studies on the bankruptcy of Russian tour operators and agencies in comparison with the experience of foreign countries.

Institution of bankruptcy is an interconnected system of legal norms, acting as a regulator of public relations related to insolvency (bankruptcy) of legal entities and individuals, as well as its prevention [3,9]. In the legal system of European countries, the United States and Russia, we can confidently say that there are some differences here, primarily related to the balance of interests between the company and creditors, with the corresponding application practice which follows from here.

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Bankruptcy refers to the failure of a company to fully meet its obligations to creditors admitted in the arbitration court. There are no differences between the European tourism market and the Russian in this context.

On the territory of the Russian Federation, bankruptcy is considered, in the framework of the current legislation - the Federal Law of October 26, 2002. N 127-FL "On insolvency (bankruptcy)" [15].

In Europe and the USA, the term "bankruptcy institution" is most often referred to as competition law; therefore, when

working with different sources of information, attention should be paid to the discrepancy of interpretations, despite the same semantic meanings [19, p.18].

As you know, the bankruptcy of the company is primarily connected with the failure to comply with the requirements of creditors. In tourism, large tour operators resort to lending at once to several banking institutions, therefore, bankruptcy proceedings involve only strictly defined obligations in court [19, p. 27]. (see Figure 1).

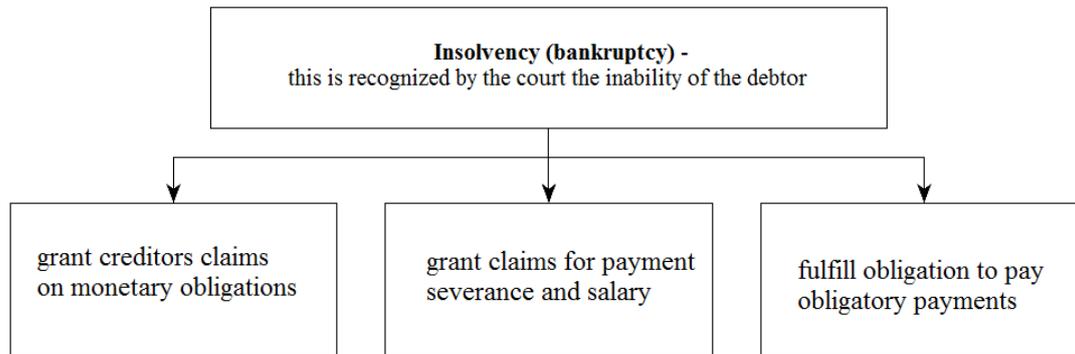


Figure 1 — Grounds for bankruptcy proceedings

Comparing the main causes of bankruptcy in the Russian and foreign tourism market. It is necessary to take into account the fact that bankruptcy institutions in different countries have their own specifics, first of all because of the legal framework that was shaped by various factors (tab.1)

Countries such as the United States, the United Kingdom, France, Germany and Russia have different priorities in the field of bankruptcy, from satisfying creditors' claims to preserving the business of a conditional debtor.

Tab 1 - Comparative characteristics of bankruptcy procedures in Russia and foreign countries

Signs	Type of procedure	Debtor Management	Manager availability	Banking system priority
USA	Reorganization	Retentive	Appointed by the court	Debtor bankruptcy system
Great Britain		Retracted	Appointed by the creditor	Procreditor bankruptcy system
France	Elimination		Appointed by the court	Debtor bankruptcy system
Germany				Neutral
Japan	Reorganization	Retentive / Retracted	Appointed by the court	Neutral
Russia	Elimination			

The reasons for bankruptcy of companies in tourism can be quite different, so in the world practice there is no unified standard. However, there are some differences between Russia and European countries. The fact is that in our country the classification of the causes of bankruptcy is directly associated with the life cycle of the enterprise [4], and abroad there is a gradation of the authoritative economist M.D. Ames [16].

M.D. Ames identified the following reasons for the bankruptcy of companies:

- lack of management;
- lack of capital;
- an unsuccessful location;
- poor working capital efficiency;
- excessive investment;
- lack of a restrained credit policy;
- unintended expenditure of the company's funds;
- problems associated with business growth.

There are also external and internal causes. External include those that do not depend on the activities of the company itself. They are market factors, political instability, changes in legislation and others. Internal factors are related directly to operational activities, including incompetence of management, errors in strategic planning, various knowingly risky activities ("dumping"). Thus, the reasons for bankruptcy of companies can combine both a certain set of factors related exclusively to the specificity of the activity, and common to all.

III. RESULTS OF THE STUDY

Bankruptcy procedures of tourism enterprises in different countries have several key differences.

On the one hand, it is necessary to take into account the balance of interests of the insolvent company and creditors, on the other hand, the degree of involvement of the judiciary in the proceedings. In addition, there are procedures aimed at reaching an agreement between company and creditors, as well as activities of a purely administrative nature.

It is known that the Federal legislation of the United States does not regulate the activities of tour operators and travel agencies, including their liability to consumers in case of bankruptcy [Error! Reference source not found., p. 65]. In this sense, there are many nuances related to legal regulation. This circumstance is a serious difference from European countries and Russia.

The tourism market in the United States has other distinctive features. So, for example, the legislation on the activities of tour operators contains regulatory legal acts in power in several states: Iowa, Washington, Hawaii, California, Nevada, Florida [Error! Reference source not found., p. 65]. In California, for example, the liability of tour operators and agencies is governed by a "professional code". In addition, there is a mandatory registration in "Travel Consumer Restitution Corporation" — "TCRC". There is also a system of contributions to the fund "TCRC" from 75 to 489 dollars, as well as the procedure for making 100% of the funds received from consumers for air transportation and land communication through the trust account [Error! Reference source not found., p. 66].

There is another important option for tour operators. Exemption from mandatory contributions is possible, but only if the company is a member of the program of assistance to tourists under the "Association of Tour Operators of the USA" ("USTOA"). The amount of assistance should be 1 million dollars [21].

The bankruptcy procedure in the United States is aimed primarily at maintaining an organized business structure headed by the previous management, including at the expense of creditors. Management thus retains control of the company until the moment of reorganization.

In the United Kingdom, unlike the United States, in bankruptcy proceedings, priority is assigned to creditors, thus establishing the procedure for payment of the debtor's obligations. In this case, the business goes into the hands of an external manager who essentially represents the interests of creditors. In the USA bankruptcy procedure is regulated by law, and in the UK there is a practice based on a contractual approach [20, p. 63].

The main reorganization procedure in the UK legislation is considered to be the establishment of "administrative receivership", such method is the management of the company's assets. "Administrative receivership" is a process initiated by a "secured creditor" (usually a large bank) that doubts the company's ability to repay the debt [20, p. 63].

Thus, the bankruptcy procedure in the UK takes place almost without the participation of courts, and the influence of large banking institutions makes the process of debt restructuring more transient than in the United States. This is the advantage of the institution of bankruptcy of Great Britain.

In the UK, the vast majority of tour operators and agencies are members of various associations. Among them, the most respected is the Association of British Travel Agents - ABTA. Now it consists of more than 1200 tourism enterprises, with a balance of about 5000 sales offices, and a total turnover of 25

billion pounds sterling [Error! Reference source not found., p. 13]. In addition to ABTA, there are several other major associations: «Travel Trust Association» и «Global Travel Group» [17].

In the UK, tour operators who specialize in the sale of complex tours must have a license "Air Travel Organiser's Licence" ("ATOL"). Issuance of licenses is carried out in this country since 1970 by "Civil Aviation Authority" — "CAA" [Error! Reference source not found., p. 14].

In France, the main goal of bankruptcy of companies is primarily the preservation of an organized business structure and jobs [20, p. 64]. Bankruptcy is a serious administrative procedure. Courts appoint an external manager to ensure control over the organization's management.

Regulation of tourist activity in this country, is carried out at the expense of compliance with the norms "Code du tourisme" [Error! Reference source not found., p. 72]. Individuals and legal entities in the sphere of tourism are obliged to have financial and insurance guarantees in order to protect the interests of clients.

In Germany, the bankruptcy procedure of tourism enterprises is possible only with the sanction of the court. The insolvency entity is an individual or legal entity engaged in economic activity in this area. In addition, legal entities undergo a thorough examination of the existence of grounds for bankruptcy.

In the Russian Federation, unlike Europe and the United States, the culture of crisis management has emerged relatively recently. The tourism sector has also passed several stages of formation, lack of experience combined with gaps in the legislative base, so when considering the problems of bankruptcy, it is necessary to rely on relevant to date, legal documents and general rules of bankruptcy procedure in business.

Bankruptcy procedure is regulated in the framework of civil and arbitration legislation, according to which it is provided: participation in the process of a number of subjects with change of their legal status, with a fixed period of not more than 3 years [19, p. 34].

However, despite the fact that insolvency procedures aim to solve the issues of the company's continued existence, practice suggests that the experience of Russia, Europe and the United States is different. First of all, the outcome of the process is important. For example, in our country, the above-mentioned events have been repeatedly held with regard to tour operators, and each time, major market players could not be saved, and the debt to creditors represented a significant amount. Another important detail is the publication of information. In the UK, various technical issues related to the bankruptcy of "XL Leisure Group" are publicly available, almost immediately it becomes clear who is an external administrator companies, organizational structure, and media coverage.

In the early years of the transition period in Russia from 1991 to 1998. the tourism sector was in deep decline, despite the emergence of market relations. Union tourism ceased to exist, and state institutions practically did not deal with problems in this sector of the economy.

The tourism market in Russia acquired a civilized form only in the late 1990s [14].

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Gradually, mass tourism was emerging. We list the main leaders of that period: “Hippo”, “Svetal”, “Ultramar”, as well as large Turkish companies, among which is “Casio Tourism” [4].

As a result of the effects of the 1998 crisis, all tour operators and agencies were affected equally in the Russian market. The collapse of the banking system and the depreciation of the national currency in just a month destroyed small and medium-sized businesses, that is, we are talking about the social group that spends money on tourism.

Thus, in 1998, companies that were accustomed to earning superprofits left the Russian tourism market [14].

Since 1998, the modern stage of the development of tour operator and travel agent activities in Russia begins. The structuring of the tour operator market begins. Since 2000, the following companies began to take the lead: Tez tour, Coral Travel, Pegas Touristik, VKO Travel (part of the TUI concern), Time Tour.

During this period, the practice of licensing tour operator and travel agent activities began to be actively used, but the preparation of legislation proceeded at a slow pace, while in Europe there was a long-established support system. From 2002 to 2007 10062 licenses were issued, and the functions of control since 2005 have been carried out by the Federal Tourism Agency [15].

On January 1, 2007, the licensing of tour operator and travel agent activities at the legislative level was canceled [17, p. 27]. In addition, other amendments were made that aimed at providing financial guarantees and liability insurance. Simultaneously with the abolition of licensing, the Federal Register of Tour Operators Registered in the Russian Federation was established [17, p. 28].

From 2002 to 2007 the tourist flow increased by 13.4% [13], the number of tour operators also increased, but soon everything will begin to change. In 2008, at the height of the global financial crisis, the first bankruptcy of a large company in the tourism market in Russia occurred.

At the end of June 2008, the Turkish-Austrian company Vasco went bankrupt in Turkey, and a subsidiary in the person of the tour operator Detur existed in Russia. This precedent did not go unnoticed by Russian officials who promptly developed new amendments to the legislation on financial and insurance guarantees for tour operators [18, p. 98]. The increase in insurance coverage caused a mixed reaction among tour operators. In August 2008, due to problems with finances, the Air Union Aviation Alliance completely suspended its flights.

In the summer of 2012, new amendments to the Law on Tourism were adopted. The changes affected financial support for tour operators, as well as other issues related to the regulation of tourism [10]. The threshold of annual turnover for tour operators in Russia was increased to 250 million rubles and higher [17, p. 29].

Next, we present the statistics of Russian tour operators that went bankrupt from 2014-2018 (see Figure 2)

The main causes of bankruptcy: unstable ruble exchange rate; drop in demand for tourism products; negative economic situation in the tourism market; bankruptcy of operators and other.

Figure 3 shows that the situation in the Russian tourism market has changed. Over the past 5 years, the number of insolvent operators has decreased. This is due to a change in demand. Namely, its transfer to the domestic market. The

domestic tourism market does not depend on changes in the economic and political components

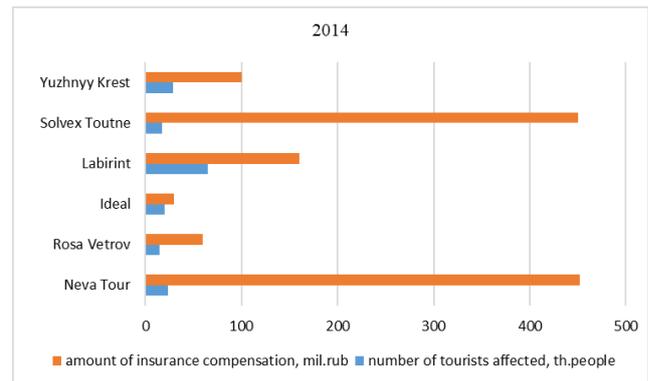


Figure 2 — Tour operators that ceased operations in 2014

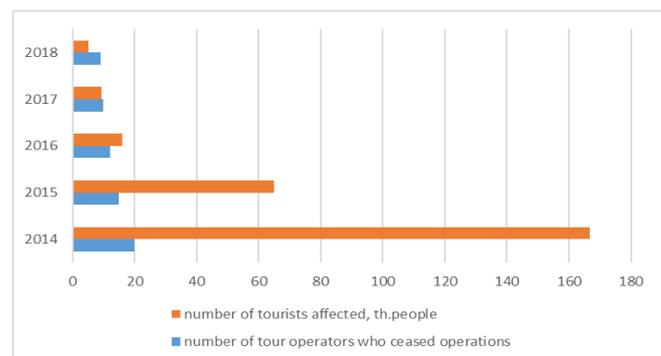


Figure 3 — Dynamics of insolvent tour operators from 2014-2018

Over the past 10 years from 2008 to 2018, in the European tourism market, there have been several major bankruptcies of tour operators and agencies.

In September 2008, the third-largest UK tour operator, XL Leisure, declared bankruptcy. The company's debts at that time amounted to more than £ 200 million [16]. As a result of the bankruptcy of the company, 285 thousand customers suffered [4], of which 85 thousand were at that time abroad [9].

Immediately after the bankruptcy, “XL Leisure Group PLC” declared insolvency another tour operator in the UK - “K&S Travel” [7]. About 500 clients were affected [18, p. 97].

In the first half of 2008, according to the International Air Transport Association - IATA, over 20 companies in Europe were declared bankrupt due to the sharp rise in the price of jet fuel [18, p. 97], and about 30 were in a crisis.

In 2010, in the UK, external administration was established in relation to the major travel operator Travel club of Upminster with all the company's foreign assets [21]. In Austria, all operations were also frozen by Austria Travel.

Over the next few years, 12 tour operators went bankrupt in France, and about 10 in Poland [7].

In September 2013, the Dutch tour operator, OAD Reizen, went bankrupt. According to the specialists of “Algemene Nederlandse Vereniging van Reisbureaus” - “ANVR”,

the situation with the company “OAD Reizen” is evidence of a belated reaction to changes in the travel services market, and the consumer, in turn, with the development of information technologies, got the opportunity to choose independently when planning a trip.

In June 2014, in the United Kingdom, Villa Parade went bankrupt. At the time of bankruptcy, the company's total debt exceeded 3 million pounds. The organization of the payment of compensation payments was undertaken by the “Association of British Travel Agents” - “ABTA” and “Civil Aviation Authority” - “CAA” [16].

In 2015, Germany hosted the bankruptcy of a major host tour operator, Alpha Travel. At the same time, Russian companies that worked with this company had problems.

The court decided to introduce crisis management in relation to Alpha Travel, as a result, the company's assets were put up for sale. The funds received went to employees' salaries, payments on obligations to creditors from among the countries of the European Union [12].

Thus, the study of the problems of bankruptcy of foreign tourism enterprises shows the national specificity and the level of influence of the administrative resource in the regulation of problems of crisis enterprises. Bankruptcy in Europe is not of the same mass character as in Russia, and the crisis management culture speaks of a well-functioning mechanism for paying compensation to clients through the insurance system.

IV. CONCLUSION

Thus, the study of the problems of bankruptcy of foreign tourism enterprises shows the national specificity and the level of influence of the administrative resource in the regulation of problems of crisis enterprises. Bankruptcy in Europe is not of the same mass character as in Russia, the crisis management culture speaks of a well-functioning mechanism for paying compensation to clients through the insurance system.

In view of the above with the aim of improving the protection of rights and legitimate interests of creditors and participants, it is clear that bankruptcy of tour operators under consideration must have its own peculiar properties.

Firstly, it is necessary to change the order of meeting requirements of creditors in comparison with the general approach. Citizen consumers requirements to be satisfied prior to the repayment of other creditors' claims.

Secondly, it is necessary to define an exhaustive limited list of possible bankruptcy procedures of tour operators (for example, bankruptcy proceedings as liquidation proceedings).

Bankruptcy of tour operators may have other features, due to the specifics of the tourism industry. For example, if all tour operators without exception sooner or later still oblige to be members of the relevant self-regulatory organizations, it would seem logical to give self-regulatory organizations tour operators the right to participate in bankruptcy proceedings.

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