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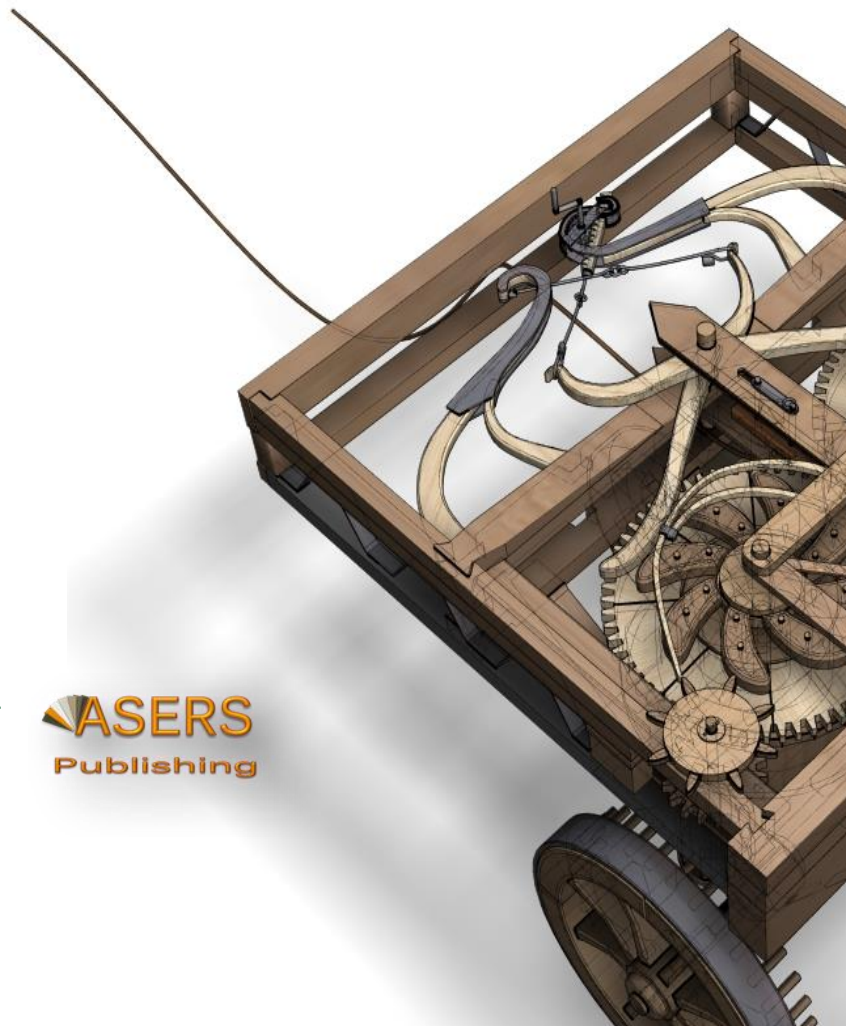
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The Complexity of the Legal Framework for Regulating the Activity of Tourist Guides in Kosovo

Armand KRASNIQI
University "Haxhi Zeka", Kosovo
armand.krasniqi@unhz.eu

Diamanta SOJEVA
University of Prishtina "Hasan Prishtina", Kosovo
diamanta.sojeva@uni-pr.edu

Bekë KUQI
University "Haxhi Zeka", Kosovo
beke.kuqi@unhz.eu

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Abstract:

In Kosovo, tourism and legislation, despite positive developments for this economic activity, are not at the level of the standards required in the European Union. More specifically, in contrast to other countries, in Kosovo the activity of tourist guides is regulated only within the Law on Tourism and until now no by-laws have been issued to operationalize this specific activity. In the modern conditions of tourism developments, this fact can be one of the obstacles that in reality increases the safety of tourists to visit the tourist resources of our country and produces other negative financial, social, etc. implications. The paper starts from the definition of the term tourist guide, which has also been accepted at the EU level. This model should be the basis of providing a short narrative for the development of the country's tourist guide by analyzing and urgently completing the current legal basis for tourism. The work in a limited way highlights some problematic issues in the beginning and operation of this activity, especially in the sphere of professional certifications and adequate training, including in this direction, the advocacy for the application of the new European standard EN 15565 in Kosovo as well.

Keywords: legislation; tourism; cicerone; guide; certification.

JEL Classification: Z32; R11; Z38.

Introduction

The goal of new legal solutions is always to be focused on regulating and improving the protection of the rights of tourists regardless of where they come from. We are convinced that transparent and fair business, regulated and clearly defined, contributes to the quality and reliability of the service (European Commission 2020). However, despite the advancement of thought and scientific contribution to the field of tourism, especially in the last ten years, we still encounter problems in defining some basic concepts related to this phenomenon (Kock, Assaf and Tsionas 2020). In reality, this is also the case with the term tourist guide, which, in academic literature and in practice, is not treated consistently, thus causing misunderstandings and perhaps even misinterpretations (Pedersen 2002). It is evident that depending on the specific countries, we also have differences regarding the definition of a tourist guide (Scheyvensa, Movonob and Auckramc 2023). These differences, in addition to the character of economic and social development, go even further, varying from area to area, from state to state, between the public and private sectors, and even within tourism. There is no doubt that there are difficulties to specify or clearly describe which subject is a tourist guide. These circumstances are the result of the division of labor and specialization within which several professions are profiled that mutually seem similar in terms of

service contact with tourists and can usually be called tourist guide, tourist companion, agency representative, animator, conductor, etc. (Ianeva & Gaydarov 2022). In practice, these professions not only touch, but also overlap, which is especially noticeable in the work performed by a guide and tour guide. Despite the fact that in most European countries the issue of tourist guides is at a very advanced stage, unfortunately in Kosovo we have general primary legislation without secondary legislation through which tourist guides are certified or graduated. What makes the situation worrying is the fact that politicians are not clear about the dynamics and changes that are happening in the tourist market in the world. There is not even talk about forms of virtual tourism and digital communication in the context of the post-pandemic scenario (Sousa, Martins, Ferreira & Pereira, 2022) artificial intelligence which is currently present in almost every field of travel and tourism, appearing in different types of applications such as personalization and recommender systems, bots, chat systems, smart travel agents, prediction and prediction systems, language and voice translation applications, etc. (Bulchand-Gidumal, 2022). Regardless of this situation, there are a series of commercial touristic or intermediary companies, non-governmental organizations, individuals, all unlicensed by anyone, that offer tourists narrative services through themed guides (<https://kosovajob.com>) What is really disturbing is that now many subjects are publicly announced that offer short-term training for tourist guides. Such cases are more and more present. Kosovo, bearing in mind that the number of tourists has begun to grow more rapidly, must urgently issue relevant legislation and regulate this important tourist segment (INSTAT, 2020). The European Committee for Standardization (CEN) has harmonized the definitions, areas of competence and other aspects of the tourist guide and tourist companion profession (EN 13809). According to this definition, a tourist guide is a person "who guides visitors (tourists) in the language of their choice, explains to them the cultural, historical and natural heritage of a certain area and, as a rule, has qualifications recognized by the authorities competent of that area". The main role of a tourist guide is to lead a tourist group or individual visitors from the country and abroad, show a landmark, locality, city or region, as well as interpret (interpret) the monumental and natural heritage in an inspiring and entertaining way in the manner and language of the visitor's choice (FEG, 2023).

1. Development Trends of Tourism in Kosovo

The territory of today's Kosovo has an ancient history of civilization that is evidenced by the archaeological sites, fortifications, cities, sacral and profane monuments, monuments and natural landscapes that enable the development of cultural tourism. Among the most important potentials for the development of cultural tourism in Kosovo today are: fortified settlements, archaeological sites, old civic bazaars, monuments and profane, caves, waterfalls, mountains, natural landscapes, etc. Although Kosovo includes a small territory, there are monuments with rich treasures that have special cultural and historical heritage values (<https://visitkosovo.rks-gov.net/>). Also, this territory is rich in spiritual, material and natural heritage values that reflect traces of ancient civilization from tradition, culture and way of life from the early Neolithic period to today's creativity (Drançolli 2023). The lack of infrastructure, the politicization of cultural heritage, weak promotion and insufficient awareness of the population about the role of cultural monuments in the economic development of the country, has influenced that cultural tourism in Kosovo lags behind other countries in the region. Kosovo has great tourist potential, but unfortunately it is not promoted well and enough in front of local and foreign visitors, and all this is done only by not paying attention to this great wealth that it has (Namani 2019).

Kosovo is also an area with a rich tradition and a valuable cultural heritage of the various ethnic groups living here. For centuries, Albanians, Serbs, Turks, Bosniaks, Gorans, Roma, Egyptians, etc., have lived in the territory of Kosovo together creating a specific cultural and historical heritage which as such represents an important source for the development of cultural tourism. This heritage consists of architectural monuments of the Middle Ages, with churches and monasteries from the 14th century that are of international importance, mosques and hammams of the 16th and 17th centuries, to industrial heritage that is in the process of identification. Cohabitation contributed to the penetration of cultural influences, but also manifested the desire to be different and to insist on one's own cultural identity (Ministry of Culture, Youth and Sports, 2015). For the general public, this great wealth unfortunately still remains unknown and not well disclosed by the relevant institutions. The cultural and historical heritage of Kosovo, with a gradual and well-planned development, can lead to a change in the role of tourism in the country's economy. The use of cultural monuments enables the attraction of visitors and the increase of their expenses in tourist regions, and this would directly affect the support of small cultural and local businesses for local residents who provide tourist services. Until now, there is no strategy to develop this tourism sector to generate economic development and employment opportunities in the size of the opportunities that this sector offers. In recent years, there has been interest in the development of rural tourism in some areas

in the municipality of Peja and Prizren, but in other areas there are no projects to utilize the potential capacities offered by the cultural and natural heritage.

The territory of Kosovo has significant opportunities for the development of tourism, but it is necessary to create suitable preconditions for sustainable development. One of the modern trends in the development of tourism, especially tourism based on heritage resources, is related to the design and presentation of "packaged" tourist products, such as specialized thematic tourist routes, *i.e.* a journey aimed at visiting different entities related to heritage but also with the same or similar themes and contexts that give meaning to the whole journey (Liao & Chuang 2019). In this way, tourism contributes to the connection of heritage subjects and their destinations and their advancement, which also contributes to the development of inter-culture, the spread of knowledge and popularization, as well as the protection of the heritage network. Despite all these trends, the development of these potentials is not at the right level. Among the problems that really require urgent solutions is the preparation, training, certification or even graduation of tourist guides. The lack of this profile has long been raised and debated, but until now the state institutions have not made any moves to fix and fill these gaps (Kosovo without a tourist guide, 2014).

2. Tourist Guides in Kosovo

The activity of tourist guides is mainly related to the business of tourist agencies that comes as a result of the fact that Kosovo was a developing tourist region. According to such a perception, the problems of local tourist orientation are still not being seen from the perspective of Kosovo as a destination. The only ministry responsible for tourism, which is the Ministry of Industry, Enterprise and Trade, through the Department of Tourism, is not yet included in the plan of tourist guides, which has the exclusive right to draft legal regulations, grant licenses and maintain of specified notes. Even within its competences, such as the announcement of the competition for giving the professional exam, the ministry has not dealt with the state of the services market. This situation automatically results in the fact that the policies of this ministry/department are not in line with the needs of the tourism business for guides.

Despite this situation, mediators, including tourist agencies within their programs, have established the services of local guides and tour guides, who perform these activities by certain individuals who are not licensed, certified and not graduated in this field and not ready to deal in more detail with the problems of tourist orientation.

The characteristics of Kosovar tourism are listed in the sphere of host tourism and the tourist circulation has the characteristics of foreign tourists. Therefore, even these guides are still modestly developed, which limits the scope of business engagement of resident guides. The fact that many of them work in parallel as companions in the group, results that the dominant participation of those is based only on the fact that they speak English or even in another language, which reflects the fact that at certain moments there is a lack of guides who can provide a true picture of the real needs for their services.

3 Legal Framework for Tourist Guides

Tourism in Kosovo is regulated by the Law on Tourism (<https://mint.rks-gov.net/desk/inc/media/B05A1835-CEBA-44CF-82AA-0E701F0B9530.pdf>). Although in article 2 of this law, where the scope is regulated, it is emphasized, quote "This law is mandatory for all public institutions and economic operators that carry out tourism activities in accordance with the standards defined by the legislation in force", in article 3, that defines the definition results that only in point 25 the term Guide is explained which includes, quote "the person who guides the visitors in the language of their choice and interprets the cultural and natural heritage of an area, a person who possesses a specific qualification for the area, usually issued or recognized by the relevant authority" (<https://gzk.rks-gov.net/ActDocumentDetail.aspx?ActID=8668>). According to our conviction, during the drafting of the law, the importance and role played by tourist guides for Kosovar tourism was not sufficiently taken into account.

Chapter V, from article 28 to article 34, regulates the services of the guide, tour guide and travel agency representative. In article 32 point 3, it is emphasized that, quote ... "The Minister, by a by-law, determines the criteria and procedure for the inclusion of the honorary tourist guide in the Tourism Register" since May 19, 2022, this has not happened. With the elections foreseen in the above-mentioned Tourism Law, it results that the field of qualification of tourist guides has not been clarified in detail. The current form of the hybrid election presents nothing more than a tourist guide for the level of the local tourist. When we add to this the fact that we lack a guide for the categories of tourist guides and other categories included in the law, then it is established that this important tourist activity is not regulated even though it is provided for by law.

Taking into account the size of the territory of Kosovo as well as its general attractive potential (natural, cultural - historical, tourist attractions, etc.), the local institute of guides provided for in the Law on Tourism does not have the appropriate suitability because it is not based on reality and need. We believe that tour guides in Kosovo should obtain a license valid for the entire territory of the country and eventually a license for specialization for certain tourist destinations, locations or attractions that should be a matter of personal preference of tourists.

Therefore, the legal solutions proposed by the line ministry are problematic from several aspects. Initially, in the drafting of the law, the importance and role played by tour guides for Kosovar tourism for the correct interpretation of our history and cultural heritage was not sufficient. Taking into account that the competences and motivation of the tourist guides then to a large extent depended on the way tourists will experience the tourist attractions that come to Kosovo and in certain localities. The qualification and employment of guides has important advantages here because they contribute to the sense of authenticity of a particular tourist destination (Tursunovich 2022). When we talk about tourist guides and if we want our country to become a destination that is known for the excellence of its tourist workers, then the profession and originality must be the basic starting point on the basis of the appropriate legal framework.

Convinced of the "profession" of the local tourist guide, his competences and role, we consider that the differences highlighted above can negatively affect the perception of tourists and the professional environment about his competence.

4.The Need to Regulate Tourist Guides with a Special Law

Based on the dynamics of the increase in the number of tourists in Kosovo, the coming years may be difficult for the tourism sector as the competition is increasing and this may also apply to the guides who represent part of the image of this industry. Kosovo is attracting more and more foreign tourists from different countries (World Bank, 2022). However, it is necessary for this profession to be clearly regulated and in accordance with the directives of the European Union. This is for the purpose of professional treatment of human resources capable of dealing with the ever-increasing and standardized tourist market. In reality, for the most part there are no more tourists who come to visit a country who do not know in advance what they want to visit. The situation will be more complex, as tourist's demand maximum quality, professional guides (Habimana, Saaverdra & Sinining 2023) that highlight the most unique aspects of Kosovo.

Kosovo, namely its institutions with exclusive competence, should urgently draft and issue the law for tourist guides and provide a qualitative legislative basis based on two components; firstly, that this act, together with other by-laws, regulate in detail all the elements that this profession must contain, and secondly, that the law be in full harmony with the directives of the European Union for tourist guides (European tourism legislation 2023).

The new law on tourism and other accompanying legislation should clarify and define that the tourist guide is a complex figure that combines elements such as leadership, interpretation, mediation, culture, etc. All of them play an important role in improving the country's image as a tourist destination. As such, the position of tour guide should be established as an important link of the tourism industry, which requires constant attention, professionalism and training. Bearing in mind that the number of visitors to Kosovo has increased and the country is consolidating every day more and more as a tourist destination, then the new legislation should standardize the duty and professionalization of the tourist guide to improve and promote the image of local tourism. A person who wants to become a tourist guide and work professionally in this profession must acquire certain conditions for providing services in tourism, which includes the provision of tourist guide services (El Kafy 2020).

The Ministry of Industry, Entrepreneurship and Trade with the Department of Tourism should urgently draft and approve in Parliament the Law on tourist guides. With this act, it must be determined that the tourist guide is a complex figure that combines elements such as leadership, interpretation, mediation, culture, etc. All of them play an important role in improving the image of the tourist destination (Pu, Sang, Yang, Ji & Tang 2022). Legislation should be carefully treated the figure of the tourist guide, providing quality, services, through the process of education, certification and continuous training. Further, a profile should be defined as a person over 18 years of age, certified by the Ministry or the responsible department which then provides assistance, information of cultural heritage, ancient and contemporary history to an organized group of tourists or individuals special in a city, village, neighborhood with special, interests, educational, values, etc. (Tour Guide 2022).

What should be special in this law has to do with the psychological testing of candidates who apply for the professional exam, which is justified by the need to protect the constitutional rights of the individual. Statutory regulation of a basic health examination, which is normally required of candidates applying for any job related to

this profession, is a must. This is due to the fact that tourist management as a profession requires certain predispositions, first of all good health and mental stability (Sartori, Costantini & Cesch 2020). A tourist guide is, due to the nature of the work, he is constantly on the move, talks a lot and often, contacts with different people, gets into different social situations and his work involves moral, business and sometimes financial responsibility. It happens that people with impaired health, who have psychological problems, speech impediment, etc. pass the exam. Unfortunately, in practice, they do not have the opportunity to work, which causes them much greater frustration than would have happened if their attention had been timely and openly drawn to the demands of the profession. Legislation should clearly provide for the categories of tourist guides, whether they are local, national, special specialties and others. In fact, these categories can also be defined by by-laws. Certification will usually have to be done by the responsible Ministry or more precisely by the Standards Agency that will be set up, but after the testing and training process. The validity of this certification will usually be two years and then re-certification will be required, based on practical hours, but also on credits received or participation in various conferences (Tătar, Herman & Gozner 2018).

The law on tourist guides should also address the problem of foreign tourists operating illegally in the country. According to the law, any foreigner who wants to exercise activity in Kosovo must meet two basic conditions, be a resident for no less than one year and have basic knowledge of the Albanian language, certified by documents, and then must subject to the certification process, as in the case of Kosovar guides. Based on the law on tourist guides, by-laws must also be issued that deal with: the ethical code of the activity of tourist guides, the regulations for the certification, licensing and operation of tourist guides in the field of tourism, the competent agency for issuing licenses, etc.

Conclusions

In this paper, the research problem was the concept of legislative complexity for the regulation of the legal status of tourist guides in Kosovo, including in a limited way the need to harmonize local legislation with the regulations that are in force in the European Union. All with the aim of reaching certain conclusions that can lead to the improvement of the legislation of tourist guides and consequently the improvement and modernization of the quality of the general tourist service in Kosovo and in the Balkan countries.

A tourist guide is generally defined as a person who guides visitors in the language of their choice and interprets the cultural and natural heritage in the area for which he holds a qualification in the form of a card recognized by the relevant authorities. In Kosovo, even though the Law on tourism has defined this function with several provisions, until now the by-laws have not been issued and consequently no trainings have been organized for tourist guides for their certification.

Numerous tourist destinations in the country plan their tourist offer throughout the year, which they improve and harmonize every day in accordance with new trends. In order for the tourist offer of a destination to be complete then it is equally important to have tourist guides who will transmit to tourist's interpretation services of localities, cultural assets, works of art, monuments and historical figures, rarities and beauties natural and the entire culture of the visited destination. The culture of the destination can best be conveyed to tour groups by a local guide as he has the closest relationship with tourists compared to all other tourism workers. The guide spends the most time with the group, on average the duration of the city tour, especially if he works as a tour guide, because in that case he is available to the group throughout the day. In Kosovo, tourism is regulated by the Tourism Law. This law, in addition to not regulating services for the tourism sector at the appropriate level, especially regarding the status of tourist guides, on the other hand, is very limited, deficient and so far not applicable. The post-pandemic situation from Covid-19 has really changed tourist services by increasing digitalization and robotics components. With these changes, the work of a tourist guide has become much more dynamic, professional and demanding. Under these circumstances guides need a broad education in order to interpret the culture of a destination to visitors in the best possible way. To become a tour guide, a person must attend a tour guide course at the competent institutions and pass the general and special part of the exam to obtain a license. These conditions vary in countries around the world. Therefore, improving the legislative framework and issuing the Law on tourist guides in harmony with the standards of the European Union is an urgent obligation. Improving knowledge and especially competence is a key link in the development of society and the acquisition of a competitive advantage. Diversity characterizes the development of many professions, therefore education and training are constantly being improved, in line with the new requests. It is important for a tour guide to be an expert in the destination where he offers his services, speak a foreign language perfectly, have good communication skills and cultivate a positive attitude towards customers. However, if the licensing method of our tourist guides is compared to that applied in other countries, it is easy to see that the approach

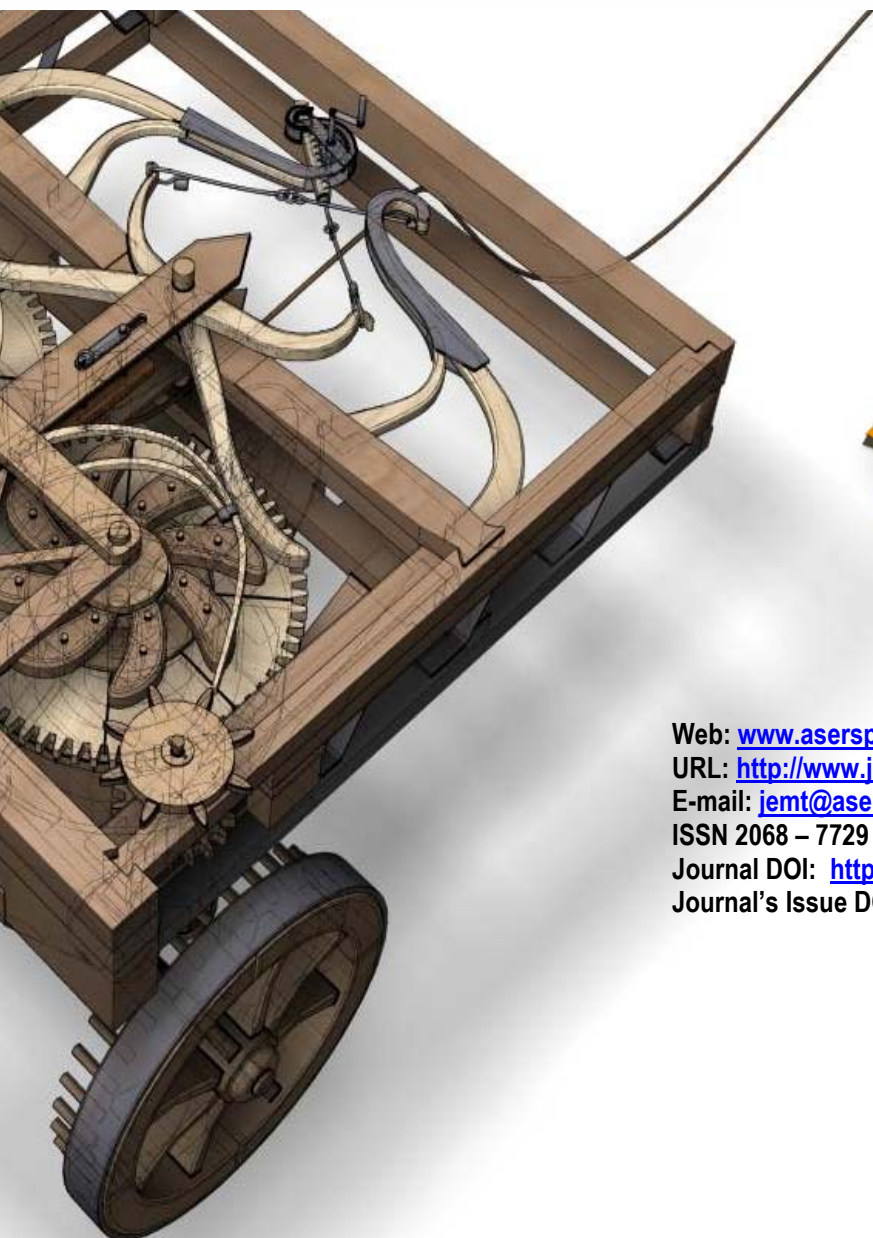
here is no longer functional nor adapted to the needs and expectations of today's tourist consumers. In addition, tour guides obtain a license by passing a professional exam.

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