



## The Law of Travel and Tourism Agencies in the Jordanian and Algerian Legislations - Comparative Study

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### ABSTRACT

A Comparative study of the framework of travel agencies' legislation between Jordan and Algeria

In order to learn about the legal system of tourism agencies and their role in tourism activity, the researcher examined both the legal provisions of these agencies on the one hand and the legal implications of the work of tourism agencies on the other. The problem is the inadequacy of the legal regulation provided by Jordanian and Algerian law to control the activity and exploitation of tourism and travel agencies and their contribution to increasing the activity of tourism in both countries. Hence, the significance of this study is to shed light on the legal regulation of tourism agencies. The aim of this study is to identify deficiencies in legislation and attempt to address them. Through the analytical and comparative approach between the legislation, the study found a number of findings, the most important of which was that tourism companies and offices and travel be responsible for damage caused to tourists as a result of the non-performance of the contract or its implementation. The study also found several recommendations, as follows: to recommend the Jordanian legislature establish legal texts dealing with the rights and obligations arising from the tourism contract and not to refer them to the general rules of the Civil Code, in

### المخلص

من اجل الوقوف على النظام القانوني لوكالات السياحة ودورها في النشاط السياحي سنتطرق في بحثنا هذا الى كل من الاحكام القانونية لهذه الوكالات من جهة والى الاثار القانونية المترتبة على عمل وكالات السياحة من جهة ثانية، فالاشكالية التي تطرح هنا قصور التنظيم القانوني الذي جاء به كل من القانون الأردني والجزائري في ضبط نشاط وكالات السياحة والسفر واستغلالها ومساهمتها في رفع نشاط القطاع السياحي في كلا الدولتين، ومن هنا فإن اهمية هذا البحث جاء تسليط الضوء على التنظيم القانوني لوكالات السياحة، فالغاية من هه الدراسة بيان اوجه القصور في التشريعات ومحاولة معالجتها، ومن خلال اتباع المنهج التحليلي والمقارن بين التشريعات محل الدراسة فقد توصلت الدراسة الى عدد من النتائج كان اهمها قيام مسؤولية شركات ومكاتب السياحة والسفر عن الاضرار التي تصيب السائح نتيجة لعدم تنفيذ العقد او بمناسبة تنفيذه، كما توصلت الدراسة الى عدد من التوصيات كان نصي المشرع الاردني ان يفرد نصوص قانونية تعالج الحقوق والالتزامات الناتجة عن العقد السياحي وعدم احالتها الى القواعد العامة في القانون المدني وبالاخص الالتزام بالتبصير والاعلام في العقود السياحية.

particular the obligation to impart insight and information in tourism contracts.

## KEYWORDS

Travel agencies, legislation, rights and duties, Jordan, Algeria.

## الكلمات الدالة

وكالات السفر ، التشريعات ، الحقوق والواجبات ، الأردن ، الجزائر

## 1. INTRODUCTION:

The tourism sector, or the so-called “tourism economy”, is considered one of the most important sectors in countries for the significant role it plays in the economy of the country; the excellent utilization of this sector contributes to promoting the economic development of countries. Tourism is viewed as a state-affiliated sector, but it has delegated to private entities to carry out certain sector activities by utilizing tourism agencies whose work is considered a commercial business. To control the activity of the aforementioned agencies, the countries have developed laws and regulations that control the utilization of the those agencies in order to contribute to promoting the performance of the tourism sector.

The significance of this research is to highlight the legal regulation of tourism agencies. Jordan is considered one of the most important tourist-attracting countries in the Middle East due to the religious and historical importance this country enjoys and the medical tourism services it provides. Accordingly, the tourism sector in Jordan is considered one of the most important economic sectors in the country due to the significant income it generates annually. On the other hand, we find that Algeria has great potential for tourism, but its tourism services are not well utilized. The tourism sector in Algeria is not activated and regulated except through the services provided by the tourism offices and agencies. Hence, the aim of this study is to explain the role of legislation in the construction of a tourism contract and to address any deficiencies as much as possible. Such regulation will not be attained except by developing clear and explicit legal provisions that govern the utilization and employment of those agencies, which is the purpose of the study. As stated by Al-Melhem (1998) ,it is important to organize this profession in some detail to access the legal status of these offices. Ben-Sager (2019) also supports addressing the nature and legal basis of the obligation of tourism agencies to inform tourists. So, the problem is a lack of legal regulation of the Jordanian and Algerian legislations to ensure they are sufficient to regulate the activity of tourism agencies for them to be contributors and enablers in promoting the tourism sector in both countries.

## 2. Previous studies

Al-Omari (2004) investigated the civil liability of tourism offices in Jordanian legislation in a comparative study. The study showed how important it is to adapt the legal relationships resulting from the tourist contract. One of the study's most important findings is that the Jordanian legislator left the regulation of the relationship between the tourism offices and the tourists to the general rule of law and did not indicate the nature of the contract. However, the current study relies on a more precise explanation of the tourist’s rights and the obligations of the travel agencies .

Basheena (2019) aimed to demonstrate the legal regime governs the tourism contract. One of the study's most important findings is that the tourism contract is composite and indefinite, and it could be governed by more than one of the so-called contracts. This

current study differs from former studies that highlighted only the legislative vacuum in regulating the tourism contract.

Ali and Al-Kudiri (2019) examined the obligation to ensure safety in the tourism contract - with a comparative analysis of Qatari law and French law. The study aims to show the extent to which national and foreign tourism agencies in the State of Qatar are responsible for ensuring tourist safety. The researcher concluded that the obligation is evident with the fact that the tourist was not harmed. Whereas the current study includes all the rights and obligations of both the company and the tourist, not just the responsibility for the safety of the tourist.

To address this problem, we have adopted an analytical and comparative approaches. The approach is based on analyzing the legal articles, which is the most suitable approach for this kind of study, and the comparative approach is ideal for the comparing the content of both laws. This study is divided into two topics: the first addresses the legal provisions governing the work of tourism agencies, and the second addresses the legal consequences arising out of the business of tourism agencies.

### **3. FIRST TOPIC: LEGAL PROVISIONS GOVERNING THE WORK OF TOURISM AND TRAVEL AGENCIES**

The touristic activity and tourism economy have gained paramount legal importance; the Jordanian legislator has addressed the touristic activity in the Jordanian Tourism Law (Law No. 20 of 1988 as amended). By this, the legislator excluded the tourism activity from the circle of Civil Law being the general framework; this indicates that tourism activity is one of the most important activities that must be governed by accurate and sound laws. This requires the tourism offices and agencies to work and comply with a regulation that governs this activity. In the first requirement, we will address the tourism agencies and offices (agencies and offices are equivalent in meaning in this context). In contrast, the second requirement will be dedicated for addressing the legal control over the utilization of tourism agencies.

#### **First Requirement: Concept of Travel and Tourism Agencies**

The first emergence of the producers of tourist trips in the world dates back to “Thomas Cook” who was born in 1808. He was the first to establish a real travel agency; the notion of travel was not that popular due to the financial cost and bodily suffering associated with the lack of modern transportation means. Some offices appeared after that trying to organize programs and trips for individuals. These small offices then developed their work and began with a comprehensive study of the desires of individuals and the purpose of their travel. The offices then expanded their activities and businesses and continued to develop and expand. So, tourism agencies and companies emerged (Bashina, P. 103). Therefore, in section one, we will study the concept of tourism agencies and then in section two, we will address the legalization of the tourism activity of these agencies.

#### Section One: Definition of Travel and Tourism Agencies

Defining the term “Travel and Tourism Agencies” will enable us to determine the features and characteristics of the profession of a travel agent. Whether a person, company or partnership, the individual works as a retail agent, wholesale agent or travel consultant, he/she is a contractor in the tourism economy. The profession of a travel agent is complex because it includes intellectual and technical services and commercial activities (Thérèse, 1978, p. 355). A travel and tourism agency is defined as a profitable retail

business that aims, in essence, to organize trips, as well as to make reservations and rentals with customers (Thérèse , 1978, p. 355 - 366). By exploring the Jordanian legislation, we find that it did not provide a legal definition of tourism offices or agencies in the Tourism Law, but rather stipulated in paragraph (B) of Article (2) of the same Law that travel and tourism offices and companies are considered as liberal professions; however, Article (2) of the Regulation of Jordanian Tourism and Travel Agencies (i.e. the Regulation No. 114 of 2016 and its amendment No. 6 of 2020) sets out a definition for the tourism and travel agencies as being “a travel and tourism entity or company licensed under the provisions of this Regulation.”

In fact, the definition provided by the Jordanian legislator is brief and totally ambiguous; the legislator did not specify the nature of the offices and the mechanism of the work of such offices but only defined the form of an explanation stating that a tourism office is an entity licensed by the state. In our opinion, this is not a satisfactory definition, as it is a requirement for an office to carry out the tourist activity or perform business in the tourism sector. This is what urged the researchers to provide several definitions for travel and tourism offices. Some of the researchers indicated that a travel and tourism office is a commercial business that is operated by an individual who offers clients tourist services or individual or group accommodation, whether associated or disassociated with tourist services (Saad, 1999, P.86).

In contrast, we find that the Algerian legislator, with respect to the law related to travel and tourism agencies and the rules governing the activities of these agencies (Law No. 99/06), has managed to avoid the defect found in the Jordanian legislation in terms of the definition of travel and tourism agencies. Paragraph (1) of Article (3) of the said Algerian Law stipulates that: “within the meaning of this Law, a tourism agency is each commercial establishment that permanently engages in a tourism activity consisting of direct and indirect sale of individual or group trips and accommodation as well as the services related therewith ...”;

Therefore, we find that the Algerian legislator has avoided the defect contained in the Jordanian legislation, which defined a tourism office as being an office licensed by the state to practice a tourism business.. Therefore, this definition counts in favor of the Algerian legislator, especially if we want to address the legal nature of tourism; the Jordanian legislator is still ambiguous in terms of identifying the legal nature of tourism offices, which is a criticism of the Jordanian legislator.

### Section Two: Terms of Establishment and Utilization of Travel and Tourism Agencies

Jordanian Law requires that a license be obtained from the Ministry of Tourism and Antiquities for practicing the profession of tourism, which includes the activity of running tourism agencies. This requirement is contained in Article 9 of the Law No. 20 of 1988. This is the same matter dealt with by the Algerian legislator in Article 6 of the Law no. 99/06 relative to the rules governing the activity of travel and tourism agencies, which requires obtaining a utilization license to be issued by the Ministry responsible for the tourism sector.

In order to obtain such a license, several requirements must be met by the applicant. The Jordanian legislator determined the criteria that must be satisfied by the license applicant in order for him/her to obtain a license for operation of a travel and tourism office. Article 6 of the Law No. (114) of 2020 requires that:

- Applicant must be of the Jordanian nationality;

- The registered capital of the applicant must be no less than five thousand Jordanian dinars;
- The capital of each office in which the owner or partner is non-Jordanian shall be no less than two hundred and fifty thousand Jordanian dinars;
- Each office must have a full-time manager who has Jordanian citizenship, and he/she must be its owner, one of its partners, or one of those authorized to dispose of administrative and financial matters in the commercial registry;
- The applicant must have a high school diploma and have experience of no less than five years in the field of tourism and travel;
- The applicant must have joined the tourism courses that must be obtained according to instructions issued by the Minister of Tourism upon the recommendation of the Association of Jordanian Tourism and Travel Offices;
- The applicant must be proficient in at least a foreign language;
- The applicant or his/her partner must be of good conduct and not have been convicted of a felony or misdemeanor involving morals, public morals and honor or fraudulent bankruptcy;
- The applicant must submit a bank guarantee in the name of the Minister in addition to his position. The amount of this guarantee is determined according to the category of each office in accordance with the provisions of Article 7 of this Law;
- Neither the license of the applicant nor one of his/her partners has been revoked.

However, the Algerian legislator, in Article 7 of Law No. 99/6 and Article 3 of the Implementing Decree, which provides for the requirements of establishing and utilizing travel and tourism agencies (Implementing Decree No. 17/161), has identified the criteria to be satisfied by the license applicant, which are as follows:

- The applicant must have attained the age of 21 years old. It is noted here that the Algerian legislator has overlooked the general rules which set the age of majority to be 19 years as per Article (40) of the Civil Law (Order No. 57/85, 1975), and this is ascribed to the particularity and sensitivity of the activity and its nature;
- The applicant must have a professional qualification that is related to the tourism industry. However, if the applicant does not have such a qualification, he/she can entrust another person of his/her choice who meets this requirement to serve as his/her agent. Such qualification can be evidenced through the submission of a Bachelor Degree in Tourism issued by the Ministry of Higher Education, the submission of a Bachelor Degree in Higher Education with one year experience in the field of tourism, or a technical diploma in Tourism and Hospitality with one year experience in the field of tourism.
- The applicant must be fully qualified and enjoy civil and national rights; he/she must have good ethics and must instruct his/her clients to respect the values and public morals, even if he/she has not previously obtained a license as a tourism agent.

### **Second Requirement: Procedures of Obtaining a License to Operate Travel and Tourism Agency**

The person who believes that he/she meets the requirements required for the operation of a travel and tourism agency and who wishes to obtain a license to operate such an agency must follow a set of procedures for this purpose. He/she must first submit an application to receive the initial approval for the license to be issued thereafter by the authority responsible for this issue.

Therefore, we will address in this requirement the procedure for obtaining the initial approval to operate a travel and tourism agency (the first section) and then will address the issuance of a license for the operation of a travel and tourism agency (the second section).

#### First Section: Obtaining Initial Approval for the Operation of a Travel and Tourism Agency

An applicant who believes that he/she meets the requirements must submit an application to obtain a license. He/she must submit all the documents proving that he/she meets the conditions contained in the second section of the First Requirement. Article Three of Jordanian Law No. (114) of 2016 obliged an applicant to attach to the application a statement indicating the office name and feasibility study for the intended office project. If the application is approved, the Minister of Tourism, based on a recommendation by the Jordanian Travel and Tourism Offices Association, will issue an initial approval for 30-days (renewable for similar period) to complete the terms and requirements necessary for the license in accordance with the provisions of Article 9/A of the said Law.

As for the Algerian Law, Article (5) of the Implementing Decree No. 17/161, an applicant is required to apply for the Competent Ministerial Authority assigned to the tourism sector to obtain a license to operate a travel and tourism agency. This application must be made by the actual owner or his/her legal representative to the specific authority for the issuing of such an initial approval if it is deemed that all of the requirements are satisfied.

#### Second Section: Issuance of a License for the Operation of Travel and Tourism Agency

An initial approval is not considered a license to operate a travel and tourism agency; it is instead an approval that the license applicant meets the necessary requirements to practice this profession. Therefore, we find that the Jordanian Law has obliged the license applicant to complete the necessary requirements for obtaining a license, such as satisfying all of the criteria to be met by the office, determined under Article (8) of the Law. If the applicant completed those requirements within 30 or 60 days, in case of renewal, the approval will be deemed valid from the date of its issuance. However, if the applicant fails to meet the conditions within the prescribed period, the initial approval shall be deemed cancelled by force of law upon expiry of the said period, as per the provisions of Article 9/B of the Law No. (114) of 2016.

As per the provisions of Article 10 of the Law No. (20) of 1988, an application for the operation of a tourism agency must be submitted to the Minister by using the form prepared for this purpose, following presentation to the tourism committee and following the committee's recommendations with respect to such application to the Minister. The Minister may accept or reject the application if it does not meet the prescribed requirements, including that it is approved by the municipal and official authorities.

The Algerian Law, on the other hand, requires that after issuance of the initial approval, the National Committee for Approval of Tourism Agencies will consider the license applications presented to it by the Minister responsible for the tourism sector. The Committee will then express its opinion with respect to those applications according to Article 2 of the Implementing Decree No. 2000-47 (the Implementing Decree No. 2000-47, 2000). If the said Committee approves the application, the applicant will complete his/her file by submitting the documents set forth in Article 6/3 of the Implementing Decree No. 17/161. Then, the license application, as per Article 7 of the aforementioned Decree, will be subject to a prior investigation by the General Directorate of National

Security or the National Gendarmerie. Following an investigation by the competent authorities and the Committee's expressing of opinions regarding the application, the Minister responsible for the tourism sector will issue a license for the operation of a travel and tourism agency as per Article 6 of the aforementioned Decree.

#### **4. SECOND TOPIC: THE LEGAL CONSEQUENCES ARISING OUT OF THE WORK OF TRAVEL AND TOURISM AGENCIES**

Several services are provided by a travel and tourism agency to its customers; this reflects on the rights enjoyed by and obligations imposed on such an agency. Also, if the provision of various services by these agencies to their customers is accompanied by events and damages due to their default, which would lead to the arising of a liability on the travel and tourism agency, we will also address in this topic: Rights and obligations of travel and tourism agencies (first requirement);

- Liability of the travel and tourism agencies (second requirement).

##### **First requirement: rights and obligations of tourism agencies**

The rights and obligations of a travel and tourism agency arise out of the tourism contract concluded with the tourist or client. Such a contract is considered a legal agreement containing reciprocal obligations between its two parties. What concerns us here is the travel agency as a party to the said contract, so we will address this requirement in regard to the rights of the travel agency in the first section and then to the obligations of the travel agency in the second section.

##### First Section: Rights of a Travel and Tourism Agency

Tourism and travel agencies enjoy a set of rights when providing their services to customers and tourists. The rights of travel and tourism agencies are:

- Charging a service fee: a tourist is obliged to pay the costs of his/her tourist trip to the agency. The service fee means "the consideration for transportation, accommodation and services agreed upon in the tourism contract, such as visiting tourist and archaeological sites, accommodation and food costs, and all transportation, assistance, advice and guidance" (Belazouz, 2004 – 2005, P. 101). The agency will receive the wages or service fees either before the trip starts, in instalments or after the trip ends. However, if there is no agreement on a payment method, the usual procedure followed in this kind of transaction must be adopted (Bushina, 2018 – 2019, P. 262).
- The tourist must respect the trip program determined in advance by the tourism and travel agency, and if the tourist breaches his requirement, the travel agency will not refund any trip fees to him/her. The Algerian legislator failed to address this right, either in Commercial Law or Law No. 99/6, despite being an obligation imposed on the tourist. However, by referring to the Algerian Maritime Law, we find that a tourist must attend at the time scheduled for the trip before travelling. In case he/she fails to attend, he/she shall pay the whole fee for the travel trip according to the Article 830 of the Algerian Maritime Law. By applying this requirement to the tourism agencies, we find that a tourist's failure to attend on time will render him/her liable for the trip fees;
- The tourism and travel agency will have the right to be informed by the tourist of the necessary information that would affect the tourist trip.

## Second Section: Obligations of the Tourism and Travel Agencies

There are multiple obligations imposed on a tourism and travel agency due to the services provided by it. These obligations are imposed in order for the agency to be able to offer a serious and quality service to the tourist. The obligations include:

- Obligation to inform the tourist: the tourism and travel agencies are obliged to inform the tourist of the various services which they will provide to him/her concerning transportation, travel and requirements of border crossing (Saeed Noman, 2014, P.124) to allow the tourist trip to pass through good circumstances and ensure the safety of the tourist.
- The obligation to ensure the safety of the service recipient. This obligation can be inferred from the Jordanian Law, Article 12/C of Law No. 114 of 2016, provided that a travel and tourism agency must use a tourist guide to accompany incoming groups of five people or more in the Kingdom. Moreover, a travel and tourism agency must provide the purchaser and recipient of the service with travel insurance that fits the terms of the Program. As for the Algerian legislator, we can infer this obligation through Article 18 and 21 of the Law no. 99/6 related to the rules governing the activity of travel and tourism agencies, which stipulate that “a travel agency shall, within the context of exercising its activities, take all the procedures and precautions that would provide safety and security for the customer and his/her properties under the custody of such agency”. Moreover, the travel agency will be liable for any damage that is caused to the customer arising out of partial or total failure by the agency to perform its obligations, as well as any other damage that would be caused by any service provider recruited by the travel agency for the provision of the agreed upon services. Therefore, an obligation to ensure safety means that the travel and tourism agency must provide the service to the customer, and such service must not prejudice his/her safety.
- Obligation to select the good service providers: a travel and tourism agency shall be keen, informed and always seeks to appoint the good service providers, including a transporter, accommodation provider, tourism guide and others who deal with a tourist during his/her trip. There is no doubt that this obligation goes in line with the role being undertaken by the travel and tourism agency in its capacity as an organizer and implementer. At the same time, whether in terms of a comprehensive tourism trip organizer or as an agent of the tourist who permitted the agency to select those who will implement the tourism program, this means that a travel and tourism agency will be responsible for any mistake in choosing these service providers even if it is a mere agent (Bushina, 2018 – 2019, P. 243).
- Obligation to be accurate and organized in the implementation of tourism services: a travel and tourism agency must prepare a tourism program that is suitable for the nature of the trip and must be followed during the tourism trip to be implemented, considering the implementation of such program according to the content of the statement of the trip. Violation of such obligation will result in damage to the reputation and customers’ distrust in the agency, let alone the compensation that the agency will pay for the material and moral damages suffered by the customers.

## 5. SECOND REQUIREMENT: RESPONSIBILITY OF THE TRAVEL AND TOURISM AGENCIES

The functions and duties of the travel and tourism agencies are considered at times to be complex; and are liable to certain legal problems. The breach by a travel and tourism agency of its obligations arising out of a tourism contract leads to a civil liability which is considered a mutual contractual liability. On one hand, the travel and tourism agency is personally liable in case it violates the obligations imposed by the contract and results in damage to the tourist. On the other hand the agency is contractually liable for the mistakes committed by those to whom the agency has assigned its contractual obligations; in which case its liability is a contractual liability for an act committed by others (Bader, P. 20);

Therefore, the consequence resulting from the tourist's suffering from damages, whether bodily, financial or morally, is the right to file a compensation lawsuit against the tourism offices. The basis of this claim is attributed to the personal act of these offices or the mistakes committed by other tourist service providers to whom these offices assigned their contractual obligations. It must be indicated here that the Jordanian and Algerian laws went in the same direction in providing for this liability; therefore, a special paragraph will be dedicated to this civil liability.

### First Section: the personal civil liability of tourism offices

Liability means that a person must be accountable for the consequences and default committed by him/her or for the matters or persons he/she is responsible for. In its civil sense, liability means accountability for mistakes which cause harm to others and obligating the offender to return the situation to its previous condition or to make reparation for the damage through compensation as specified by law.

For a contractual liability to exist, the three elements of liability must be available simultaneously, namely: breach of a contractual obligation, damage, and the causal relationship between them. If an aggrieved tourist proves these three elements, he/she shall be entitled to compensation upon claim. Therefore, we find that the elements of contractual liability consist of breach of contractual obligation; such breach means the behavior by the person under this obligation is not commensurate with that of a usual person if he/she is in the same circumstances of that liable person, so long as the original rule is the implementation of obligations. For such breach in order to be deemed valid, it is required that there is a valid contract, and the liable person fails to implement his/her obligation partially or totally, delays the implementation of such obligation, or implements it in a defective manner, and ultimately, such breach must be attributed to the person liable for the corresponding obligation. Moreover, there must be damage. The damage which constitutes part of the elements of contractual liability is that damage arising out of a contractual obligation; where such damage causes harm to the creditor due to breach by the debtor of its obligations; such damage may be material, moral or bodily. Also, the most important element of the contractual liability (i.e. the causal relationship) must also exist between such breach and damage. The causal relationship means that the damage is caused to the creditor due to the debtor's breach of their obligation; if the Plaintiff (i.e. the tourist) failed to prove such damage (such as when the damage is caused by an irrelevant reason), the contractual liability shall not be deemed to have existed, and the compensation shall not be payable by the relevant tourism office.

When all the aforementioned elements are existing, the aggrieved tourist shall be entitled to file a lawsuit claiming compensation before the competent courts. Usually such

compensation is financial, and the cash compensation is considered the best means in order for the creditor to refund his/her dues. A compensation amount might not be paid as one installment; it rather may be divided into weekly or monthly installments, according to the court's decision. Also, compensation may be in-kind, such as when the debtor rectifies the breached matters required under the contract. The competent judge may assess the amount of compensation based on the facts presented to him/her and the circumstances of the lawsuit. A compensation might include subsequent loss and profit loss.

Here, a question arises about the extent of the travel and tourism agency's right to terminate a tourism contract or amend its terms or circumstances such as shortening the trip duration, change the accommodation prepared for the tourists, or cancel some of the scheduled tourist destinations.

This is addressed by Article 87 of the Jordanian Civil Law (Law No. 43 of 1976) which stated that a contract is an offer by one contracting party the corresponds to an acceptance by the other contracting party with their agreement in a manner that has an effect over the matter contracted upon where an obligation on either of them arises towards the other. Likewise, article 106 of the Algerian Civil Law also stipulated that the *pacta sunt servanda* and a contract may not be revoked or amended except by agreement of the two parties and for the grounds prescribed by the law. This means that a travel and tourism agency shall refrain from solely amending the trip program; it has to take the advance approval of the relevant tourist. A tourist shall be entitled to refund the amounts he/she paid, in addition to his/her right to claim compensation for the damages they suffered due to such cancellation or amendment (Barhoum 2017, P. 201).

It is worth noting here that the travel and tourism agencies usually include in their contracts a clause that entitles them to terminate a contract without the tourist being entitled to a refund, whether for a force majeure or other reason. This condition is clearly in favor of the travel and tourism agency. The researcher believes that these conditions must not be enforced. However, suppose the reason preventing the renewal of obligation is attributed to extraordinary events. In that case, the judge may amend the parties' obligations, and every agreement to the contrary must be deemed invalid.

#### Second section: Civil liability of the Tourism office for the acts of others

First of all, there is a need to explain a matter of paramount importance. It is related to the prohibition of holding a person liable for another's acts. This is the very issue addressed by Article 288 of the Jordanian Civil Law. This means that each person shall be liable for his/her own acts; however, Clause (B) of the same article provided for an obligation on a genuine contractor if he/she has real control, supervision or guidance over the offender who caused the damage, even if he/she is not free of will whenever the damage is caused by subordinate in the event that he/she performs his/her duty or because of it.

However, when we talk about the civil liability of the tourism and travel offices for the acts of others, it is intended to address the liability of the contractor for the other's actions whom he/she has recruited to perform the tourism contract, despite that such contractor (the tourism office) did not commit a direct mistake; however, it is liable and therefore shall be here the primary party to be held accountable for the original debtor in the contractual obligation and the aggravated person is the creditor, and the third parties are those whom the debtor assigned to perform its obligations. This means that a debtor in the contractual obligation is not necessarily the committer of the mistake, but it is rather liable for the mistakes of the third parties whom he recruited to perform the tourism

contract. The civil liability for third parties' acts means "the debtor's liability under a contractual obligation for the actions of other persons whom he appoints to serve as its agent or representative for the execution of such obligation, or those who assist the debtor in executing such obligation, or the act of persons who exercise with the debtor a right which the latter acquired by virtue to contract (Capitant, Terre, & Lequette, 2013, pp. 353-354).

There is usually a civil liability for third parties' acts in the field of executing a tourism contract as the circumstances usually allow such liability to arise in cases where the debtor utilizes third parties to perform its obligations; therefore, it is contractually liable towards another contractor, so that such debtor believes that recruiting of third parties to execute various contracts has become necessary and indispensable, especially in light of the intertwining and multiplicity of obligations, which makes it impossible to fully implement such obligations (Karkouri, 2020, p. 221).

Here, it is imperative to determine those third parties for whom the original debtor of obligation must be liable. If we know that there are several individuals to be dealt with and employed by the travel and tourism agency in several manners, including transportation of the travelers, accommodation in hotel facilities, and up to the stage of tourism guidance at the tourist places. It is not reasonable that a travel and tourism agency be liable for the third parties irrespective of their capacity in implementing the various phases of the contracts of tourism and travel, such as the case when third parties intervene against the debtor's will (the will of the travel and tourism agency) which renders the debtor unable to perform its obligation, such intervention may be in the form of force majeure or sudden accident (Badrawi, 1992, P. 419).

Consequently, the third parties meant here are not the persons irrelevant to the contract; they are rather the persons contracted to contribute to the execution of the tourism contract. Therefore, these persons work under guidance and control by the tourism offices contracting with them. Therefore, those third parties will be liable before the travel and tourism office based on the mere fact that the tourism office itself is the primary party liable for the execution of the contract. Therefore, if any default or infringement is committed by those third parties, they will be held accountable by the tourism office. As for the aggravated tourist, he/she may claim the tourism office to pay a compensation for the damages suffered by such tourist due to the act committed by the third parties with whom the office contracted.

Therefore, we can assume that the tourism office is liable for the damage caused by the third parties with whom such office deals in order to contribute to the execution of the contract. This accountability is evidenced in the cases where foreign tourism offices and some local tourism offices arrange with other persons to assist in the execution of the contract, such as the transporter, hotels, tourist guide and the like. However, the tourism office will be entitled to recourse to these persons and claim them to pay the damages caused by their default in implementing the obligation.

### **Discussion, Results, Conclusion and Recommendations**

From this Study, we found out that both the Jordanian and Algerian laws tried to establish a regulation for the travel and tourism agencies in order to promote the tourist activity and tourism sector which contributes to enhancing the national economy of both countries. We have reached a set of conclusions in this research as summarized below:

- Tourist activity cannot be practiced by people without obtaining legal approvals from the government.

- Tourism and travel companies and offices are liable for the damages that affect the tourist as a result of non-performance or defective performance of the contract concluded with the tourist.
- Travel and tourism companies are liable for the acts committed by third parties if a tourist suffered from damage due to these companies' assignment of their obligations to such third parties, and a separate contract concluded between the tourism company and such third party will be disregarded if it aims to release the company's liability towards the tourist.
- The liability of the travel and tourism companies cannot be released except if it is proven that the damage to the tourist has occurred as a result of force majeure, a foreign circumstance, or an unexpected incident.

Based on that, we provide some recommendations which may contribute to developing the business of travel and tourism agencies which would positively reflect on the tourism sector. These recommendations include:

1. We recommend the Jordanian legislator dedicate legal provisions that address the rights and obligations arising out of a tourism contract, and not to refer to the general rules of the Civil Law. Particularly, the legislator has to provide for the obligation that a tourist must be informed in tourism contracts;
2. We recommend the Jordanian and Algerian legislators explicitly provide for the matter of ensuring the protection and safety of a tourist under clear legal provisions; and
3. The Jordanian and Algerian legislations have to provide for prohibition of releasing from the contractual liability in the tourism contracts regardless of the reasons.

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