https://doi.org/10.31489/2026L1/50-61

UDC 341.1/8 Received: 27.12.2025 | Accepted: 14.01.2026 | Published online: 30.03.2026

Wang Hong-wei[1], Ye. Omirzhanov[2], Su Ming-zhe[3*]

[1]*Harbin Institute of Technology, Harbin, China;*
[2,3]*Al-Farabi Kazakh National University*
(e-mail:[1]whwkzc@126.com;[1]omyrzhanov.esbol@kaznu.kz;[*]su_minchzhe1@live.kaznu.kz)
[1]*ORCID ID:0000-0003-3044-1774*
[2]*ORCID ID:0000-0003-2530-6658*
[3]*ORCID ID:0009-0000-8131-7461*

Study on the reconstruction of rules and regional coordination for cross-border tourism disputes from the perspective of China–Central Asia cooperation

The systemic difficulties in governing cross-border tourism disputes stem from three interrelated factors: the inherently transnational nature of tourism activities, structural inequalities between the parties, and significant differences in regional legal cultures. These factors collectively reveal structural deficiencies in traditional private international law when applied to China–Central Asia tourism disputes, particularly the fragmentation of jurisdictional connecting factors and imbalance in choice-of-law determinations. To address these challenges, this study adopts the protection of the weaker party as its core normative principle and seeks pathways for reform along two dimensions—rule reconstruction and regional coordination. First, it proposes a protective connecting-factor framework centered on the consumer's habitual residence, supplemented by a market-targeting criterion, alongside a choice-of-law principle that prevents any reduction in consumer protection levels. Second, it advocates the creation of dispute-resolution infrastructure combining a China–Central Asia cross-border tourism ODR platform with specialized collegiate benches, and the enhancement of a dual-track regional cooperation mechanism, driven jointly by judicial assistance and administrative regulation. By balancing state judicial sovereignty with the protection of consumer rights and interests, this approach seeks to transform cross-border tourism dispute resolution from fragmented rule application to systemic institutional coordination. Ultimately, it aims to foster a cross-border tourism rule-of-law community that ensures procedural accessibility, substantive justice, and strengthened regional mutual trust in the rule of law.

Keywords: Cross-border Tourism Disputes, Jurisdictional Rules, Choice-of-law Rules, Consumer Protection, the Belt and Road Initiative.

Introduction

Under the framework of the Belt and Road Initiative and the construction of the China-Central Asia community with a shared future, the implementation of visa exemption policies and the increased density of cross-border flight routes have jointly driven a rapid surge in two-way tourist flows. In recent years, the number of Chinese tourists traveling to Central Asian countries such as Kazakhstan and Uzbekistan has multiplied [1]. Concurrently, there has been a continuous increase in cross-border tourism disputes involving itinerary cancellations, traffic accidents, personal injuries at tourist sites, and shopping fraud. These disputes typically exhibit a basic pattern characterized by generally low individual claim amounts but a large overall volume. The relief of rights in such disputes heavily relies on rules concerning jurisdiction allocation and choice of law in private international law. However, the current legal regime faces a significant adaptability crisis in the context of China-Central Asia cross-border tourism. The inherent tension between the logic underlying the establishment of connecting factors and the concept of protecting the rights of the weaker party is becoming increasingly pronounced.

First, the stable concurrence of contractual and tortious obligations. Cross-border tourism activities typically revolve around outbound tourism contracts, while simultaneously encompassing multiple contractual relationships such as flight bookings, accommodation services, and local tour arrangements. Furthermore, these activities are accompanied throughout by tort risks, including traffic accidents and deficiencies in safety and security obligations at tourist sites. This creates a liability structure where a single factual basis corresponds to multiple claims for rights. In China-Central Asia tourism circuits, emerging formats such as tours in border cooperation zones, cross-border self-drive tours, and cross-border shopping tours further extend the travel chain. This results in the places of contractual performance and the places of tortious acts being dis-

[*] Corresponding author's e-mail: *su_minchzhe1@live.kaznu.kz*

persed across multiple countries, leading to difficulties in legal characterization and directly affecting the determination of jurisdiction and the applicable law [2].

Second, the "weaker party" vs. "stronger party" structure among the subjects. Cross-border tourists are inherently disadvantaged in areas such as information access, language communication, evidence preservation, and cost control for rights protection. Their unfamiliarity with local legal systems and social rules in foreign environments further accentuates their characteristics as typically ultra-vulnerable consumers. Domestic and foreign travel agencies, online travel platforms, airlines, and overseas ground service agencies, leveraging standard terms, collectively hold the initiative in bargaining. They bundle exemption/limitation of liability clauses with jurisdiction and choice-of-law clauses. The extension of the liability chain and the blurring of liability boundaries directly lead to the continuous spillover of risks within multi-layered contractual networks.

Third, the unique cultural and legal differences in the Central Asian region. The legal systems of Central Asian countries are often influenced by a mix of Soviet legal traditions and Islamic legal culture. Marked divergences exist between China and these jurisdictions in the systemic architecture and regulatory sophistication governing domains like consumer protection, tort law, and tourism oversight. Furthermore, certain states enforce comparatively rigorous administrative controls pertaining to border governance and security protocols. These differences in institutional models and operational logic not only make it difficult for Chinese tourists to form reasonable expectations regarding dispute resolution pathways and adjudication outcomes but also increase the operational costs and outcome uncertainties for Chinese courts when applying foreign law or recognizing and enforcing foreign judgments. This objectively amplifies the risk spillover effects of cross-border tourism disputes [3].

First, the "fragmentation" of territorial connecting factors in multi-segment performance. The Civil Procedure Law and relevant judicial interpretations generally determine jurisdiction for contractual disputes based on the defendant's domicile or the place of contractual performance, and for tort disputes based on the place of tortious conduct or the place where the injury result occurred. However, in typical China-Central Asia cross-border tourism disputes, the act of signing up and concluding the contract occurs within China, parts of the contractual performance take place overseas, and the place of registration for transportation vehicles or the location of information service platforms may involve a third country. The coexistence of multiple places of performance and tortious acts constitutes a common scenario. Mechanically applying traditional territorial connecting factor rules often results in a situation where multiple courts formally possess jurisdiction, yet none provides realistically accessible relief for consumers. This leads to an increase in parallel litigation and jurisdictional challenges, wasting judicial resources and potentially generating conflicting judgments [4]. The behavior-guiding and risk-allocation functions that jurisdictional rules are supposed to possess are significantly weakened, rendering the dispute resolution process highly contingent and characterized by externalized costs.

Second, the "substantive unfairness" of party autonomy in the context of standard-form contracts. In the judicial practice of tourism disputes, there exists a tendency for the over-application of Article 41 (general rules for contracts) and the systematic weakening of Article 42 (special protection for consumer contracts) of the Law on the Application of Law in Foreign-related Civil Relations. A large number of outbound tourism contracts and online booking agreements preemptively stipulate, through standard terms, the application of the law of the operator's country or a third country, and submit disputes to foreign courts or arbitration institutions. This directly excludes the application of the law of the consumer's domicile and its mandatory protective norms. In the absence of effective procedural and substantive review mechanisms, such unilateral choice-of-law clauses are often recognized outright. Consequently, conflict-of-law rules designed for consumer protection fall into the dilemma of having normative form but lacking functional effect. For Chinese tourists traveling to Central Asia, if forced to initiate legal proceedings overseas, language barriers, economic burdens, and the risks associated with cross-border judgment enforcement would substantially diminish their substantive right to relief. This outcome clearly deviates from the legislative philosophy of protecting the rights of the weaker party established in domestic law.

In essence, cross-border tourism disputes between China and Central Asia exhibit a threefold complexity typified by: the concurrence of legal claims, structural asymmetry between the involved parties, and substantive regional divergences in legal culture. Traditional rules for jurisdiction allocation and choice of law reveal a dual failure in this context: the fragmentation of territorial connecting factors and the abuse of the principle of party autonomy. Meanwhile, existing tourism cooperation documents in the Central Asian region mostly remain at the level of policy pronouncements and administrative coordination, with scant attention

paid to the resolution of civil and commercial disputes and consumer rights protection. There is a marked deficiency in regional-level regulatory coordination mechanisms and procedural linkage pathways. Consequently, difficulties in rights protection that could have been mitigated through institutional synergy are further amplified and entrenched into the practical contradiction of being able to "go out" and "enjoy the trip" but finding it hard to "seek redress". Thus, cross-border tourism disputes have become a crucial touchstone for testing whether China's foreign-related civil and commercial rules can support the high-quality opening-up under the Belt and Road Initiative. They also provide a clear problem-oriented basis for subsequently reconstructing the jurisdictional rule system and improving the choice-of-law mechanism within the Central Asian context.

Method and materials

This paper employs a literature analysis method.

Literature Analysis Method—This paper, through literature analysis, points out that the systemic challenges encountered in the governance of cross-border tourism disputes stem from three interrelated attributes: the inherent transnational nature of tourism activities, structural inequalities among participants, and significant differences in regional legal cultures. The cumulative effect of these attributes exposes the structural deficiencies of traditional private international law in applying it to China-Central Asia tourism disputes, particularly in the fragmentation of jurisdictional factors and the imbalance in the determination of applicable law. Through literature analysis, corresponding solutions are identified.

Results

In China–Central Asia cross-border tourism disputes, the determination of the applicable law ought to perform a structural function of protecting tourists as the weaker party. Yet the misaligned application in judicial practice of Articles 41 and 42 of the *Law of the People's Republic of China on the Application of Laws to Foreign-Related Civil Relations* (hereinafter the "*Foreign-Related Choice-of-Law Law*") has confined consumer protection to an institutional design on paper while rendering it ineffective in adjudication. This directly affects whether Chinese tourists can obtain substantive judicial relief when disputes arise in Central Asia.

1 Article 41 "Crowding Out" Article 42: Empirical Identification of the Core Conflict

Empirical research indicates that Chinese courts in foreign-related tourism contract disputes rely heavily on Article 41, the general conflicts rule for contracts, while rarely activating Article 42, the special rule for consumer contracts. A systematic review of foreign-related tourism disputes published on China Judgments Online from 2011 to 2019 shows that more than 60 % of cases involved misapplication or improper application of conflict-of-laws rules, and the application rate of Article 42 was below 10 % [5]. A considerable number of tourism contracts have been mechanically characterized as service contracts or contracts of carriage and thereby subsumed under the "neutral" framework of Article 41, with their inherent consumer attributes being systematically disregarded.

This deviation is particularly salient in disputes involving travel to Central Asia. Tourism products in this setting are highly packaged and platform-based: Chinese tourists typically purchase bundled products to Kazakhstan, Uzbekistan, and other destinations through domestic travel agencies or online travel platforms; contract negotiation and payment are completed within China; and the tourist squarely satisfies the definition of a consumer under Article 42, namely a person contracting for personal life needs. Nevertheless, some decisions treat the fact that tourism services are performed abroad as the sole foreign element and apply the law of a Central Asian state to the entire dispute without first determining whether the contract constitutes a consumer contract and whether Article 42 should take priority.

From the standpoint of normative structure, Article 41 prioritizes party autonomy and the law of the place with the closest connection, and is in essence value-neutral; Article 42, by contrast, operationalizes targeted protection of the weaker party through the application of the law of the consumer's habitual residence and by restricting party autonomy. Where the consumer character of a tourism contract is not recognized, courts effectively replace a protective rule that should serve distributive-justice functions with a formally neutral conflicts rule. In Central Asia-related cases, this misordering of normative priority often leads to adjudicatory consequences, such as lower standards for non-pecuniary damages (such as emotional distress) and a more lenient review of standard-form exculpatory clauses—outcomes that significantly weaken Chinese tourists' sense of legal security and their litigation expectations in an unfamiliar legal environment.

2 The Distortion of the "Closest Connection" Principle and Result-Oriented Correction

Even in cases where courts acknowledge the consumer nature of the contract, the closest-connection principle is frequently applied in a distorted manner. One distortion is the simple equation of "closest connection" with the law of the travel destination. Under either Article 41 or the fallback clauses associated with Article 42, some decisions directly treat the foreign place of performance as the closest-connection locus, while overlooking key elements such as the place of contract formation, the operator's place of registration, and the directionality of marketing. This renders the destination law—often markedly unfavorable to tourists—the de facto default applicable law. A second distortion is the neglect of claim-splitting and plural connecting factors. Academic commentary observes that matters like contract termination and the enforceability of standard clauses often embody purely domestic legal constructs; however, when subsumed under a monolithic adjudicative framework, they are collectively submitted to foreign law, thereby producing substantively unjust results.

A sharp contrast can be found in Article 6 of the EU Rome I Regulation, which establishes an explicitly consumer-favorable orientation for consumer contracts: while allowing the parties to choose the applicable law, it prohibits such choice from depriving consumers of the minimum protection afforded by mandatory provisions of the law of their habitual residence. In evaluating foreign-related tourism disputes, Chinese scholarship widely advocates, within the framework of Article 42, introducing a result-oriented interest-balancing method—treating the substantive protective outcome as a material dimension in assessing the closest connection, rather than mechanically deriving it from geographic factors alone.

In the China–Central Asia tourism context, result-oriented analysis has particular institutional justification. Many commentators observe that although Central Asian states generally recognize basic tourist rights through tourism legislation and consumer-protection laws, they often impose relatively low caps on personal-injury compensation or adopt conservative positions toward non-pecuniary damages. If Chinese courts unreflectively treat destination law as the law of the closest connection, they effectively accept, at a systemic level, a lower standard of protection for Chinese tourists [6]. Accordingly, for Central Asia tourism products organized by Chinese travel agencies, contracted within China, and specifically marketed to the Chinese market, the law of the Chinese tourist's place of habitual residence should, for purposes of interpreting Article 42, be presumptively regarded as the law with the closest connection and given priority. Only where the transaction constitutes a purely extraterritorial consumption scenario with no substantive connection to China should the destination law apply instead.

3 A Restrained Deployment of Mandatory Rules and the Public-Policy Reservation

The last institutional line of defense for consumer protection within the conflicts framework lies in mandatory rules and the public-policy reservation. Article 4 of the *Foreign-Related Choice-of-Law Law* establishes the priority application of China's mandatory provisions, providing a normative basis for the extraterritorial application of consumer-protection rules concerning tourism safety obligations and the invalidity of certain standard terms. In China–Central Asia tourism disputes, if foreign law permits tourism operators to exempt themselves, through standard terms, from liability for personal injury caused by gross negligence, Chinese courts may rely on mandatory invalidation rules under the Civil Code's Contract Book, the *Law on the Protection of Consumer Rights and Interests*, and the *Tourism Law* to exclude the application of foreign law and apply Chinese law directly.

Yet neither mandatory rules nor the public-policy reservation is a panacea for rights relief. Scholarship distinguishes between the affirmative application of mandatory rules and the negative exclusionary function of the public-policy reservation: the former should be confined to a limited set of rules closely linked to fundamental state interests or basic civil rights, while the latter should be invoked only where the outcome under foreign law would significantly conflict with the forum's fundamental values. Moreover, Central Asian states themselves are intensifying tourist-consumer protection. Uzbekistan's tourism legislation, for example, expressly lists the protection of tourists' rights and safety as a basic principle and has recently joined the *International Code for the Protection of Tourists*, signaling an internationally oriented willingness to raise protection standards. Against this backdrop, an overbroad application of China's mandatory rules may undermine cross-border legal trust and institutional alignment within the Belt and Road framework.

Accordingly, in Central Asia-related tourism disputes, the use of mandatory rules and the public-policy reservation should satisfy a triple threshold [7]: (i) the dispute must bear a close and substantive connection with China—manifested, for instance, by the consumer being a Chinese resident, the contract being concluded in China, and the operator having a clear China-oriented market direction; (ii) the relevant rule must implicate core rights such as the tourist's life and personal safety or human dignity, or otherwise relate to China's basic consumer-protection order; and (iii) the outcome under foreign law must be manifestly below the

baseline standards of Chinese law in terms of compensation magnitude or allocation of responsibility, creating an unacceptable value gap. Only where all of these conditions are met is it appropriate to adjust adjudication through mandatory rules or the public-policy clause.

In China–Central Asia cross-border tourism disputes, deviations in choice-of-law practice are concentrated in three respects: at the normative level, Article 41 compresses the application space of Article 42, permitting a formally neutral choice-of-law rule to eclipse the fundamental objective of consumer protection; interpretively, the principle of closest connection is reductively equated with the law of the destination, bypassing considerations of protective outcomes and equitable interest-balancing; and in terms of remedies, mandatory rules and the public-policy reservation are either neglected in judicial practice or display a tendency toward over-expansive use. The shared consequence of these deviations is that the consumer-protection principle remains a legislative proclamation rather than an operational reality in concrete cases. For this reason, the following discussion will examine—along the dual dimensions of rule reconstruction and regional coordination—how, under the China–Central Asia cooperation framework, the choice-of-law regime for cross-border tourism disputes can be reshaped by refining connecting factors, strengthening the consumer-favorable principle, and embedding regional coordination mechanisms.

Discussion

1 The Protective "Dilution" of Connecting Factors

The 2023 amendments to the Civil Procedure Law and the Several Provisions of the Supreme People's Court on Issues Concerning Jurisdiction over Foreign-Related Civil and Commercial Cases introduced, in addition to the general framework for foreign-related jurisdiction, specific provisions addressing foreign-related consumer disputes. By deploying concepts such as an "appropriate connection" and "habitual residence", these reforms broadened the jurisdictional reach of Chinese courts over overseas operators, reflecting an overall legislative orientation toward enhanced consumer protection. In the China–Central Asia cross-border tourism context, however, such protective connecting factors display a conspicuous tendency toward "dilution" at the stage of practical application.

First, the identification criteria for a consumer's habitual residence are poorly adapted to tourism-related transactions. The judicial interpretation of the *Civil Procedure Law* defines habitual residence as a locality where a person has resided continuously for more than one year after leaving the place of domicile. This criterion, premised on a static model of residence, is ill-suited to the high mobility inherent in cross-border tourism [8]. In adjudication, where the place of performance of the tourism contract and the locus of the harmful result are primarily situated in Central Asian states, some courts revert to the traditional jurisdictional approach centered on the defendant's domicile coupled with the place of contract performance, thereby failing to give full institutional effect to habitual residence as a protective connecting factor.

Second, in online tourism business models, the "place of business operations" is marked by pronounced indeterminacy. Tourism packages for China–Central Asia travel are predominantly marketed online through domestic platforms or agencies, whereas their delivery is executed by locally-based destination management companies within Central Asia. This operational model leads to a significant fragmentation of the loci of contract formation, performance, and business establishment. Existing decisions often deny an "appropriate connection" with China on the ground that the foreign destination operator has no permanent establishment in China, and consequently exclude Chinese jurisdiction over overseas operators. In substance, this line of reasoning indirectly incentivizes market actors to achieve a form of jurisdictional "de-China-ization" through contractual structuring and corporate design.

More broadly, China currently lacks specialized jurisdictional provisions tailored to tourism disputes. The extant rules on foreign-related civil jurisdiction are largely calibrated to general commercial transactions and are insufficiently responsive to the low-value, high-frequency nature of tourism disputes and the pronounced asymmetry between operators and consumers. This mismatch renders case characterization and the selection of connecting factors heavily dependent on judicial discretion, resulting in fragmented outcomes. In China–Central Asia cross-border tourism disputes, jurisdictional determinations diverge significantly even for similar routes and similar incidents: some cases are accepted by Chinese courts, while others are held to fall within the jurisdiction of destination courts, making consumers' avenues of judicial relief highly contingent. Moreover, Chinese courts have applied inconsistent thresholds in determining whether jurisdiction may be established on the basis of the "place of business operations" or the "place where the harmful result occurs".

2 Formal Party Autonomy and Substantive Unfairness in Choice-of-Forum Clauses

In China–Central Asia tourism contracts and related platform agreements, operators commonly predesignate—through standard terms—exclusive jurisdiction in the courts of the operator's domicile or submission to foreign courts or arbitral institutions, while excluding the jurisdiction of the consumer's domicile. The 2023 amendments to the *Civil Procedure Law* removed the requirement of an actual connection in the foreign-related choice-of-court regime in order to expand the scope of party autonomy. Yet the amended framework does not distinguish negotiated agreements between commercial entities from adhesion contracts faced by consumers, thereby objectively amplifying the adverse effects of choice-of-forum clauses on the weaker party.

In judicial practice, review standards for choice-of-forum clauses in standard-form agreements are sharply divided. One line of cases adheres to a paradigm emphasizing party autonomy and procedural regularity: so long as the clause is clear in wording and does not contravene rules on hierarchical jurisdiction or exclusive jurisdiction, validity is presumed. Another line of cases seeks to incorporate a consumer-protection perspective, restricting the effect of foreign forum clauses on grounds such as the operator's failure to provide adequate notice and explanation, or the clause being manifestly unfair. In the absence of a unified judicial interpretation, the validity assessment of choice-of-forum clauses largely turns on the trial judge's subjective understanding of the consumer's disadvantaged position.

In practice, tourists may complete registration and payment for tourism products within China, yet must initiate proceedings abroad once a dispute arises. Even where operators highlight jurisdiction clauses through bold type or pop-up windows, given the typically limited amounts in controversy and the high costs associated with foreign litigation, such arrangements substantially compress the consumer's effective space for judicial relief. From a comparative perspective, *the EU's Brussels I Recast Regulation* explicitly prohibits, prior to the emergence of a dispute, contractual arrangements that deprive consumers of the right to sue in the courts of their habitual residence; choice-of-forum agreements generally take effect only after the dispute arises and only under specific conditions. By contrast, China's current framework has not introduced comparable mandatory constraints on standard-form choice-of-forum clauses in the field of foreign-related tourism consumption, and the principle of protecting the weaker party has yet to be meaningfully operationalized at the level of procedural law.

3 Structural Barriers in Regional Jurisdictional Conflicts and the Cross-Border Enforcement of Judgments

Even where Chinese courts can establish jurisdiction through protective connecting factors and by invalidating choice-of-forum clauses, China–Central Asia cross-border tourism disputes still confront the practical difficulty that judgments may fail to "land" extraterritorially. China has concluded civil and criminal judicial assistance treaties with only some Central Asian states, which provide for mutual recognition and enforcement of civil and commercial judgments. Yet these arrangements are generally confined to standard conditions—such as finality of the judgment, jurisdiction of the rendering court, and the absence of res judicata conflicts—and do not design simplified procedures specifically for low-value, high-frequency consumer tourism disputes, nor do they establish a regional "first-seised court" priority rule to coordinate parallel proceedings.

China has not acceded to a unified multilateral convention on the recognition and enforcement of foreign judgments. Recognition and enforcement of Chinese judgments abroad therefore continue to rely primarily on bilateral treaties and de facto reciprocity, resulting in limited predictability and low enforcement efficiency. Accordingly, even if tourists obtain favorable judgments from Chinese courts, substantial obstacles remain to realizing actual compensation in Central Asian jurisdictions. The absence of regional coordination mechanisms further heightens the risk of parallel litigation: Central Asian courts may take up the same dispute first under destination-law approaches or defendant-domicile rules, while Chinese courts lack clear conflict-of-jurisdiction rules to determine whether proceedings should be stayed or continued. Existing scholarship has already underscored the inadequate supply of coordination rules for jurisdictional conflicts within China's foreign-related civil jurisdiction regime; the system also lacks structured tools to respond to abusive foreign litigation, anti-suit injunctions, and duplicative proceedings. China–Central Asia cross-border tourism disputes constitute a paradigmatic manifestation of this structural deficiency.

In sum, the difficulties in applying jurisdictional rules to China–Central Asia cross-border tourism disputes crystallize into three central tensions: the functional insufficiency in identifying and applying protective connecting factors; the institutional imbalance between the formal autonomy of choice-of-forum clauses and substantive justice; and the systemic incompleteness of mechanisms addressing regional jurisdictional conflicts and the enforcement of judgments. These challenges indicate that merely technical, domestic-law

adjustments are unlikely to meet the practical needs of cross-border tourism dispute resolution. Going forward, an overarching redesign of the China–Central Asia cross-border tourism dispute resolution architecture—through rule reconstruction and regional cooperative governance—appears necessary.

Conclusion

The foregoing analysis demonstrates a dual failure of jurisdictional and choice-of-law rules in protecting consumers in China–Central Asia cross-border tourism disputes. Such failure stems not only from technical deficiencies in China's domestic conflict-of-laws framework, but also from the absence of coordination mechanisms at the regional level. Effective protection of Chinese tourists' rights cannot be achieved through unilateral legislative "correction" by a single state. Rather, within the frameworks of the Belt and Road Initiative and the Shanghai Cooperation Organisation (hereinafter the "SCO"), it is necessary to undertake an integrated institutional redesign—combining rules, platforms, and cooperation—in order to construct a Central Asia–oriented structure for coordinated governance of cross-border tourism disputes.

1 Rule Reconstruction: Consumer-Centred Design of Connecting Factors

At the levels of legislation and judicial interpretation, it is necessary to reclassify dispute types and to clarify the consumer-contract character of China–Central Asia tourism contracts. Empirical studies indicate a widespread phenomenon in foreign-related tourism disputes whereby courts misapply Article 41 of the *Foreign-Related Choice-of-Law Law* so as to circumvent Article 42; the application rate of the consumer-contract rule is below 10 %. In group tours to Kazakhstan, Uzbekistan, and other Central Asian states, as well as independent travel products purchased through domestic online travel platforms, the parties' role structure is highly stable: tourists contract for personal consumption purposes, while travel agencies or platforms act for profit. This configuration fully falls within the consumer-contract category contemplated by Article 42. Accordingly, judicial interpretations should enumerate Central Asia–related tourism contracts as a paradigmatic consumer-contract scenario, requiring courts, where the contractual nature is in doubt, to apply a rebuttable presumption in favour of consumer status, with the burden of proof placed on the operator to displace such presumption.

Further refinement is required around connecting factors based on habitual residence and market-orientation. A useful reference point is the rule model reflected in Article 6 of the EU *Rome I Regulation*, which takes the consumer's habitual residence as the baseline while supplementing it with a "directing activities" (market targeting) criterion. Within the framework of Article 42, a judicial interpretation could specify that where a Central Asia tourism product is promoted online or offline in Chinese within China and settled in Renminbi, the operator shall be presumed to have actively directed its activities to the Chinese market; in such circumstances, the law of the Chinese tourist's habitual residence should enjoy priority both for the determination of the applicable law and for jurisdictional allocation. This design would enhance the predictability of legal outcomes and would also provide a clearer normative benchmark for future regional legal negotiations.

It is also necessary to introduce a conflicts-law articulation of the consumer-favourable principle in the Central Asia context. In the consumer-contract domain, the EU effectively establishes a results-control mechanism—prohibiting outcomes more detrimental to consumers—by restricting party autonomy and preserving the minimum protection afforded by the mandatory rules of the consumer's habitual residence. In light of practice in China–Central Asia tourism disputes, future judicial interpretations or guiding cases could establish the following adjudicatory pathway: where multiple connecting factors exist and different laws may potentially apply, courts should, within the ambit of Article 42, give priority to the option that affords the consumer a level of protection no lower than that available under Chinese law. Where the protection afforded by the law of the destination is manifestly inferior to the baseline under Chinese law, courts may, through an interpretive application of the closest-connection principle in conjunction with the institutional function of mandatory rules, assign greater weight to the application of Chinese law. Such reconstruction would transform the consumer-protection principle from a legislative declaration into an operational standard for interest-balancing in adjudication.

2 Mechanism Innovation: Building a "China–Central Asia Cross-Border Tourism ODR + Specialised Collegiate Bench" System

At the procedural level, dispute-resolution infrastructure must be built to match the foregoing rule design. The EU has established a unified consumer online dispute resolution platform pursuant to the *ODR Regulation*, offering multilingual, one-stop online mediation and referral services for cross-border B2C disputes. Drawing on this experience, Chinese scholars in the field of cross-border e-commerce have proposed

platform-based ODR mechanisms characterised by low cost and enhanced visibility to address consumer disputes that are low-value, high-frequency, cross-border, and highly digitalised. This approach provides an institutional template capable of transplantation to China–Central Asia cross-border tourism disputes.

First, a China–Central Asia cross-border tourism ODR platform should be established. On the basis that the SCO's *Outline for the Development of Tourism Cooperation among Member States* and its joint action plans have already incorporated the protection of tourists' lawful rights and tourism safety as cooperation objectives, China could take the lead—together with the competent tourism authorities and ADR institutions of Central Asian states—to co-build a multilingual online platform and position it as the primary entry point for cross-border tourism dispute resolution [9]. The front end should provide multilingual services (including Chinese and Russian) for online complaints, evidence upload, and legal-information consultation [10]; the middle layer should implement intelligent triage based on dispute type (e.g., breach of contract, consumer fraud, personal injury) and claim value; the back end should connect to jointly recognised mediation bodies, arbitral institutions, and specialised collegiate benches within China, thereby enabling hierarchical and categorised dispute processing.

Second, enforceability should be ensured through an "ODR + judicial confirmation" model. Existing studies identify the principal weakness of ODR as the lack of coercive enforceability, which necessitates effective linkage with court judgments or the enforcement mechanisms of internet courts. In China–Central Asia tourism disputes, domestic practice of "mediation + judicial confirmation" can be adapted: mediation agreements reached through the cross-border ODR platform may be judicially confirmed online by China's internet courts or by basic-level courts in port-of-entry cities, issuing rulings on judicial confirmation; in Central Asian states, bilateral judicial assistance arrangements may be utilised to incorporate such confirmed Chinese rulings into expedited recognition procedures. This mechanism would enable tourists to obtain, within China, an enforceable basis binding upon overseas operators, significantly reducing the costs of cross-border rights protection.

Third, pilot the establishment of a circuit court for international tourism disputes and a specialised collegiate bench. Leveraging Xinjiang's geographic proximity to Central Asia and existing legal-services zone platforms, a circuit court or specialised collegiate bench focusing on foreign-related tourism disputes could be established in Urumqi or Khorgos [11]. Concentrated adjudication of China–Central Asia cross-border tourism disputes would generate professionalised adjudicatory capacity and coherence. This court should be deeply integrated with the ODR platform: on the one hand, it would provide merits adjudication and evidentiary support for escalated cases involving serious personal injury or mass disputes; on the other hand, by issuing guiding cases and rules for reference in similar cases, it would in turn standardise platform outcomes and promote stability in the identification of connecting factors and the determination of applicable law in judicial practice.

Fourth, fact-finding of foreign law should be embedded into platform operations. In cross-border tourism disputes, identifying and applying destination law frequently becomes a procedural bottleneck. Drawing on the Hague Conference's institutional ideas concerning central authorities and networks for foreign-law ascertainment, an electronic foreign-law ascertainment module could be built within the ODR platform. Designated liaison points in Central Asian states could periodically provide information on tourism law, consumer law, and procedural law; where necessary, an expert-opinion mechanism could assist judges and mediators in accurately applying foreign law. This approach would reduce the time and economic costs of foreign-law ascertainment and would enhance Central Asian states' institutional trust in the platform.

3 Deepening Cooperation: A Dual-Track Model Driven by Judicial and Administrative Coordination

The effective operationalisation of coordinated governance ultimately depends on cross-border coordination of public authority. On the judicial track, China could, on the basis of existing bilateral treaties on civil and commercial judicial assistance, promote the negotiation and conclusion with Central Asian states of a *Protocol on Judicial Assistance for China–Central Asia Cross-Border Tourism Disputes*. This protocol could provide simplified procedures specifically for service of judicial documents, taking of evidence, and recognition and enforcement of low-value judgments, and accord priority recognition to mediation statements and judicial-confirmation rulings produced through the ODR platform or circuit court mechanisms. Experience from MERCOSUR—where a significant volume of tourism disputes has been handled through administrative agreements and expert committees—suggests that "micro" specialised mechanisms at the regional level can effectively absorb high-frequency, low-value cross-border consumer disputes. In recent years, SCO documents, including prime ministers' council communications and deliverable lists, have repeatedly empha-

sised strengthening cooperation in tourism and legal fields, furnishing a solid political basis for negotiating such a protocol.

On the administrative track, a tripartite cooperative network linking cultural-and-tourism regulation, law-enforcement agencies, and consumer-protection bodies should be constructed [12]. On the one hand, through the SCO tourism ministers' meeting and working-group mechanisms, industry-level cooperation could be institutionalised through joint blacklists, risk-warning notifications, mutual recognition of travel-agency qualifications coupled with dynamic supervision, and timely sharing with Central Asian regulators of problematic-merchant information aggregated through the ODR platform and domestic complaint channels. On the other hand, in high-risk areas, pilot models of "tourism police + cross-border liaison officers" could be explored to conduct coordinated enforcement and joint inspections targeting typical problems such as public-security incidents, forced shopping, and unlicensed tour guides, thereby reducing tourists' rights-protection costs in overseas environments.

Furthermore, it is essential to establish procedural connections between consular protection, travel agency assistance, and platform dispute resolution mechanisms [13]. While the *Tourism Law* has clearly defined the safety guarantee and assistance obligations of travel agencies, in cross-border rights protection scenarios, these obligations are often reduced to mere complaint referrals. Regulations could be introduced to explicitly require tour operators to act as procedural agents for tourists involved in disputes in Central Asia. Their responsibilities would include assisting with collecting evidence for rights protection, facilitating online case filing, and connecting with consular channels and platform ODR mechanisms. Meanwhile, overseas embassies and consulates may relay case information related to tourist rights to domestic cultural and tourism authorities and market regulators, achieving an integrated approach where case resolution is coupled with efforts to improve governance based on case resolutions [14].

Coordinated governance and mechanism innovation oriented toward Central Asia should not be understood as a simple additive supplement to existing rules. Instead, it necessitates a systemic reconfiguration—oriented around the twin pillars of consumer protection and regional collaboration—encompassing the design of connecting factors, the establishment of dispute-resolution platforms, and the architecture of inter-departmental cooperative mechanisms. By reshaping the logic of conflict rules with consumers as the axis, by building cross-border dispute-resolution infrastructure through ODR mechanisms and circuit courts, and by consolidating a regional coordination pattern through judicial assistance and administrative linkage, China–Central Asia cross-border tourism disputes may finally escape the vicious cycle of fragmented rules, high remedial costs, and difficulties in enforcement, thereby enabling sustainable, institutionalised protection of tourists' rights.

Tourism cooperation between China and Central Asia has intensified rapidly within the frameworks of the Belt and Road Initiative and the China–Central Asia community with a shared future. The sustained growth in the number of cross-border tourists and the increasing density of travel routes have rendered tourism disputes an everyday rule-of-law issue in the course of bilateral and regional cooperation.

Taking China–Central Asia cross-border tourism disputes as its focal point, this Article develops a coherent analysis along two parallel dimensions: the protection of the vulnerable party and the enhancement of regional coordinative mechanisms. These disputes are marked by considerable intricacy, stemming from the overlapping of legal claims, the inherent positional asymmetry between the parties, and differences in regional legal culture. In this setting, the conventional private-international-law rules on jurisdiction and choice of law display systemic malfunction. On the jurisdictional plane, multiple difficulties arise, including the functional weakening of protective connecting factors, the absence of substantive review of forum-selection clauses embedded in standard-form agreements, and the lack of regional coordination mechanisms—leading to parallel proceedings and impediments to the recognition and enforcement of judgments. On the choice-of-law plane, a structural deviation emerges in which the "stronger-party" provision (Article 41 of the *Foreign-Related Choice-of-Law Law*) crowds out the "weaker-party" provision (Article 42); the closest-connection principle is reduced to a destination-law inference; and the deployment of mandatory rules and the public-policy reservation remains markedly inadequate. Collectively, these problems demonstrate that China–Central Asia tourism disputes have become a critical touchstone for assessing the modernization of China's foreign-related civil and commercial regime and its capacity for extraterritorial application.

On the basis of the foregoing analysis, this Article proposes a China-specific, Central Asia–oriented solution whose core objective is to construct an integrated institutional scaffold of "rules–judiciary–platform". On the rules dimension, the framework should be anchored in clear protective conflict-of-laws norms. Through judicial interpretation, Central Asia–related tourism contracts should be presumptively character-

ized as consumer contracts; connecting standards based on habitual residence and the direction of activities toward the Chinese market should be refined; and a consumer-favourable principle—precluding any diminution of the level of consumer protection—should be incorporated. Drawing on external experience such as Article 6 of the EU Rome I Regulation, choice-of-law determinations should adopt a result-oriented approach to interest-balancing. On the judiciary dimension, the framework should rest on professionalised and internationalised adjudicatory mechanisms. Building on the port-of-entry regions in Xinjiang, pilot initiatives should explore the establishment of circuit tribunals or specialised collegiate benches for foreign-related tourism disputes, and develop a regional international tourism tribunal aligned with China–Central Asia cooperative arrangements. Through concentrated adjudication, unified decisional standards, and strengthened mechanisms for the recognition and enforcement of foreign judgments, such arrangements would provide a predictable judicial anchor for cross-border disputes. On the platform dimension, the framework should be operationalised through a digital, regional cooperation platform. Under the aegis of the SCO's tourism cooperation framework, a dedicated cross-border Online Dispute Resolution platform for China–Central Asia tourist disputes should be instituted. This platform would synergistically combine online mediation and arbitration services with mechanisms for ascertaining foreign law and obtaining judicial confirmation, drawing on the lessons of the EU ODR platform. This would reduce the cost of rights protection in low-value tourism disputes and enhance the enforceability of dispute-resolution outcomes.

Looking ahead, governance of China–Central Asia cross-border tourism disputes must still address risk spillovers generated by new business models—such as digital tourism products, algorithmic recommendation systems, and packaged tours combined with private security services—as well as the difficult question of delineating the boundaries of the extraterritorial application of China's consumer-protection norms. With the further institutionalisation of China–Central Asia cooperation mechanisms and the deepening of the SCO legal cooperation agenda, China should, while consolidating its existing conflict-of-laws framework, continue to promote improvements in judicial interpretations, develop the guiding function of representative cases, and advance bilateral and multilateral treaty negotiations. By organically combining consumer-centered conflict-of-laws reasoning with platform-based procedural innovation, China can progressively build a regional rule-of-law community that both effectively safeguards the lawful rights and interests of its tourists and enables mutual recognition of rules and institutional interoperability with Central Asian states [15].

References

1 Xinlin, Y., Hong, Z., & Xinyi, H. (2025). A Comparative Study of Chinese and Foreign Research on Rural Tourism Development in China and Its Implications. *Scientia Geographica Sinica, 45,* 10, 2129–2140. DOI:10.13249/j.cnki.sgs.20250138 [in Chinese].

2 Danling, L., & Yuxuan, J. (2025). The Genealogy of Knowledge, Theoretical Horizons, and the Construction of China's Independent Discourse System in National Image Studies. *Journal of Social Science of Hunan Normal University, 54,* 4, 26–36 [in Chinese].

3 Guangyi, P., & Xiaoyu, L. (2025). The New Pattern of «Three Poles, One Belt, One Zone» for Coordinated Regional Development in the Hainan Free Trade Port: Policy Evolution, Contemporary Value, and Promotion Strategies. *Reform of Economic System,* 4, 96–104 [in Chinese].

4 Jianyun, B., & Jin, X. (2025). Exploring the Paths for the International Dissemination of Chinese Culture in the New Era: Taking the Joint Construction of the "Belt and Road" as an Example. *Journal of Beijing Administration Institute,* 4, 1–10. DOI:10.16365/j.cnki.11-4054/d.2025.04.002 [in Chinese].

5 Xuemei, O. (2025). New Trends in International People-to-People and Cultural Exchanges. *People's Tribune, 3,* 27–31 [in Chinese].

6 Mengshan, R., & Lin, W. (2024). Travel Writing and International Communication: The Presentation of China on Social Media Under the Source Credibility Theory. *China Publishing Journal*, 23, 38–43 [in Chinese].

7 Jia, F., & Yanan, L. (2024). Review and Prospect of International Exchanges in Mass Culture. *Library Journal, 43,* 12, 34–39. DOI:10.13663/j.cnki.lj.2024.12.005 [in Chinese].

8 Bo, L. (2025). Thoughts and Policies for Promoting High-Quality Development of the Cultural Industry in the 15th Five-Year Plan Period. *New Horizons,* 2, 13–20 [in Chinese].

9 Yifan, L. (2024). The Logic, Problems, and Pathways for High-Quality Development of Culture and Tourism. *Social Scientist,* 1, 96–101 [in Chinese].

10 Yuankun, N., Bingqian, Z., & Boru, Y. (2022). Research on the Impact Mechanism of Negative Information on Tourist Destination Brand Equity. *Journal of Yunnan University of Finance and Economics, 38,* 1, 93–110. DOI:10.16537/j.cnki.jynufe.000758 [in Chinese].

11 Ruixia, C., & Gennian, S. (2021). Discussion on Several Issues Concerning China's Inbound Tourism Statistics. *Resource Development & Market, 37*, 1, 71–78 [in Chinese].

12 Huanhuan, G. (2020). Research on the Application of Law in Foreign-Related Tourism Disputes. *Thesis*. Southwest University of Political Science and Law [in Chinese].

13 Yun, Z. (2020). Research on the Application of Law in China's Foreign-Related Tourism Disputes. *Thesis*. Shandong University [in Chinese].

14 Yiping, C., & Tonghui, X. (2020). The Security and Consular Protection of Overseas Chinese Citizens Under the COVID-19 Pandemic. *Southeast Asian Studies*, 4, 139–152+158. DOI:10.19561/j.cnki.sas.2020.04.139 [in Chinese].

15 Jiajie, W. (2019). International Collaboration of Internet Finance in Tourism International Trade. *Social Scientist*, 7, 80–85 [in Chinese].

Ван Хунвэй, Е. Омиржанов, Су Минчжэ

Қытай мен Орталық Азия ынтымақтастығы тұрғысынан шекарааралық туризм дауларын реттеу ережелерін қайта құрылымдау және аймақтық үйлестіруді зерттеу

Шекарааралық туризм дауларын реттеуде кездесетін жүйелік қиындықтар өзара байланысты үш факторға негізделген: туризмнің ішкі трансұлттық сипаты, қатысушы тараптар арасындағы құрылымдық теңсіздіктер және аймақтық құқықтық мәдениеттердегі айқын айырмашылықтар. Бұл факторлардың біріккен әсері Қытай мен Орталық Азия арасындағы туризм дауларына қолданылатын дәстүрлі жеке халықаралық құқықтың құрылымдық кемшіліктерін, әсіресе юрисдикцияларды байланыстыратын факторлардың бөлшектенуін және қолданылатын заңды анықтаудағы теңгерімсіздікті көрсетеді. Осы мәселелерді шешу үшін бұл зерттеу әлсіз тарап тәсілін негізгі нормативтік негіз ретінде қабылдайды және екі тірек бойынша реформа жолдарын зерттейді: нормаларды қайта құру және аймақтық үйлестіру. Бір жағынан, ол тұтынушылардың қарым-қатынасын анықтайтын факторлардың қорғаныс жүйесін қайта құруды ұсынады, олардың әдеттегі тұрғылықты жеріне назар аударады және мақсатты нарық критерийімен толықтырады. Сондай-ақ, тұтынушыларды қорғауды кез келген төмендетуге тыйым салатын заң таңдау қағидатын құруды ұсынады. Екінші жағынан, трансшекааралық туризм саласындағы дауларды онлайн шешудің Қытай-Орталық Азия платформасын мамандандырылған алқалы алқалармен ұштастыра отырып, дауларды шешу инфрақұрылымын дамыту, сондай-ақ бірлескен сот көмегі мен әкімшілік реттеуге негізделген өңірлік ынтымақтастықтың екі кезеңдік механихмін жетілдіру ұсынылады. Мемлекеттік сот егемендігін тұтынушылардың құқықтары мен мүдделерін қорғаумен теңестіре отырып, бұл тәсіл трансшекааралық туризм саласындағы дауларды шешуде ережелерді аз қолданудан жүйелі институционалдық үйлестіруге көшуге жәрдемдесуге бағытталған, сайып келгенде, процестік қолжетімділікті, материалдық әділеттілікті және трансшекааралық туризм саласындағы құқық үстемдігі жөніндегі мамандар қауымдастығын қалыптастыруға ықпал ете отырып, трансшекааралық туризм саласындағы өңірлік өзара сенімді нығайтуға құқылы.

Кілт сөздер: шекарааралық туризм дауары, юрисдикциялық ережелер, Заң таңдау ережелері, тұтынушыларды қорғау, «Бір белдеу, бір жол» бастамасы.

Ван Хунвэй, Е. Омиржанов, Су Минчжэ

Исследование по реконструкции норм и региональной координации трансграничных туристических споров с точки зрения сотрудничества Китая и Центральной Азии

Системные трудности, возникающие при регулировании трансграничных туристических споров, обусловлены тремя взаимосвязанными факторами. К ним относятся: транснациональная природа туристической деятельности, структурное неравенство между участвующими сторонами и выраженные различия в региональных правовых культурах. Совокупный эффект этих факторов выявляет структурные недостатки традиционного международного частного права применительно к туристическим спорам между Китаем и Центральной Азией, в частности, фрагментацию факторов, связывающих юрисдикции, и дисбаланс в определении применимого права. Для решения указанных проблем в данном исследовании в качестве основной нормативной ориентации используется защита более слабой стороны, и предлагаются пути реформ по двум направлениям — реконструкции норм и региональной координации. С одной стороны, предлагается перестроить защитную систему факторов, определяю-

щих отношения между потребителями, с упором на место их обычного проживания, дополненную критерием целевого рынка, а также установить принцип выбора применимого права, запрещающий любое снижение уровня защиты потребителей. С другой стороны, предлагается развивать инфраструктуру разрешения споров, сочетающей китайско-центральноазиатскую платформу онлайн-разрешения споров в сфере трансграничного туризма со специализированными коллегиальными органами, а также усовершенствование двухэтапного механизма регионального сотрудничества, основанного на совместной судебной помощи и административном регулировании. Балансируя государственный судебный суверенитет и защиту прав и интересов потребителей, данный подход ориентирован на переход от фрагментарного применения норм к системной институциональной координации в сфере разрешения споров в трансграничном туризме, что способствует повышению процессуальной доступности, обеспечению материального правосудия и укреплению регионального взаимного доверия к верховенству права.

Ключевые слова: трансграничные споры в сфере туризма, юрисдикционные нормы, правила выбора применимого права, защита прав потребителей, инициатива «Один пояс, один путь».

Information about the authors

Wang Hong-wei — PhD in International Law, Associate Professor at Law Department, Harbin Institute of Technology, Harbin, China; e-mail: whwkzc@126.com

Yesbol Omirzhanov — PhD in Law, Professor, Al-Farabi Kazakh National University, Almaty, Kazakhstan; e-mail: omyrzhanov.esbol@kaznu.kz

Su Ming-zhe — Doctoral student, Al-Farabi Kazakh National University, Almaty, Kazakhstan; e-mail: su_minchzhe1@live.kaznu.kz