

Directions for Improving Ukrainian Legislation on Tourism in Post-War Times

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Abstract

It is expected that people from all over the world will visit Ukraine after its victory in the war against Russian aggression, turning Ukraine into a world-popular tourist destination. Hence, Ukrainian legislation on tourism must be improved in the post-war period. The authors analysed the current legislation on tourism in Ukraine and identified major problems that must be addressed systematically and those that should be settled in the post-war period in view of the post-war humanitarian, socio-economic, institutional, and cultural challenges. In this context, the authors proposed a set of changes to improve Ukraine's legislation on tourism on the national and institutional levels. Such changes should positively impact other socio-economic processes of reconstruction in post-war Ukraine.

Keywords

legislation on tourism, Ukraine, post-war, improvement, directions

Introduction

Ukraine is the largest country in Europe by area but receives 10 times less revenue from tourism than similar European countries such as France and Spain. Moreover, Ukraine has the lowest income from tourism per capita – only USD 118. In comparison, Poland receives 2.4 times more per capita, and the per capita rate in Spain is 8.4 times more. Overall, the income from tourism in Ukraine is only USD 5.08 billion, with 24.6 million tourists visiting each year. By contrast, Hungary is visited by 2.4 times fewer tourists, yet the revenue derived from each tourist is 2.3 times higher. Similarly, Norway is visited by 5.2 times fewer tourists, and the income per tourist is 5.7 times more, while Israel, in conditions of constant military tension and with a population 5 times smaller and a territory 27.7 times smaller than Ukraine, is visited by 8.4 times fewer tourists, but the per capita income is 9.3 times greater than that in Ukraine (Ініціативна група 2021).

The unfavourable tourism situation in Ukraine has worsened due to the COVID-19 pandemic. Additionally, because of military operations on its territory, tourism has almost entirely ceased to exist. Both domestic and international tourism, as well as participation in related activities (hotel and restaurant businesses, air transportation, insurance, excursion activities, etc.), have declined. Other factors, such as the liquidation of the state body that was responsible for tourism and the absence of a complex approach to tourism, have also negatively impacted the industry. One of the most crucial factors is the imperfect and outdated legislation regarding tourism development in Ukraine. Hence, it is urgent to create a set of proposals to save the tourism sector and return Ukraine to pre-pandemic level tourism. In the long term, we aim to achieve competitive indicators of tourism development among European countries.

First, it is necessary to seize the chance to turn Ukraine into a popular tourist destination after the war is over. International tourists would like to learn more about the country, its culture, and the places of military operations. In this context, tourism and its related activities will be in demand in the post-war socio-economic revival of Ukraine. Thus, it is expedient to create a programme for transforming Ukraine into a tourist destination.

Second, a thoughtful and complex approach is necessary to revive tourism in Ukraine and promote Ukraine as a tourist destination. Some steps have already been taken in this direction. A Reanimation Package of Reforms in Tourism (Ініціативна група 2021) was proposed by an initiative group from Kharkiv Karazin National University. In this document, several main directions for improvement were outlined, including institutional, legislative, and strategic goals.

In this study, the authors have chosen to focus on legislation, as they believe that adequate and flexible legislation responding to the current situation will be of great help in developing Ukrainian tourism.

Ukraine's legal regulation of tourism faces many problems and challenges. First, there is the need to regulate the organisation of new types of tourism (dark, military, extreme, etc.) and the certification of innovative excursion programmes related to the recent history of the war in Ukraine. For instance, to conduct a new excursion, it is necessary not only to write a proposal but also to gather several documents, including permits that certify the excursion as a tourist-ready product and confirm the right of a person to conduct the excursion.

Second, security measures must be strengthened for travellers and appropriate legal tools must be created, especially during the organisation of dark and military tourism in areas where active hostilities were carried out. For instance, it is necessary to know what state services or bodies to address to obtain a permit for safety; what safety procedures should be upheld during the tour; who can be a tour guide on such tours and what their professional skills and competence must be; and the mechanism of supporting a tourist in case of emergency.

Third, there is a lack of effective mechanisms for protecting consumers of tourist services. The current legislation does not foresee many issues. One of the most significant problems is the lack of liability insurance provided by travel companies for low-quality or incomplete provision of travel services. Tourists are forced to go to court or contact insurance companies to receive compensation or reimbursement for the cost of non-provided or low-quality services. This mechanism is too complicated and time-consuming, so most tourists avoid it. As a result, tourist companies are not interested in providing high-quality services.

Fourth, tourism activities are over-regulated, and an unnecessary workload is placed on Ukrainian businesses.

1. Fifth, there are discriminatory conditions on the activity of tourism enterprises as a mechanism of financial guarantees, which do not take into account the volume of tourist services provided by the enterprises. For example, the right of tour operators to conduct other activities and operations is limited, and there is a conflict of law regarding the permit system for the right to provide tourist support.
2. Lastly, Ukrainian legislation is not currently aligned with international law and does not take into account the experience of most countries with developed markets for tourism services.

Therefore, the current Law of Ukraine "On Tourism" needs critical rethinking in the context of post-war humanitarian, socio-economic, institutional, and cultural challenges to meet the interests and demands of society and businesses, taking into account the best international and European tourism business practices.

In general, the systematic improvement of Ukrainian legislation on tourism has not yet been the subject of research. In particular, there has been no research on the problems of the legislative provision of tourism in the post-war period. In this context, it seems expedient to outline the major areas of Ukraine's tourism legislation that must be addressed immediately and implemented in the post-war period.

Hence, the purpose of the article is to outline the main directions for improving Ukrainian legislation on tourism in post-war times. The authors aim to provide an adequate scientific and practical justification for the determined directions and are convinced that the creation of an appropriate legislative basis will support Ukrainian tourism and entrepreneurs who are engaged in the reception and service of tourists in Ukraine, making tourism a competitive economic sector in Ukraine.

Literature review

The review of the literature shows that some Ukrainian and international scholars have studied legislation on tourism development. In particular, Bobkova et al. (Бобкова et al. 2014) studied the general issues concerning the legal support of tourism as a system, forming a systematic approach to the history, current state, and prospects of legal support of tourism in different countries, as well as analysing the legislation of tourism in some countries with developed tourism.

The relationship between tourism and armed conflicts has also been examined in various articles; for example, the ongoing conflict in Israel (Mansfield 1999), Thai tourism and the Vietnam War (Suntikul 2013), and the Yugoslav Wars and tourism (Causevic 2010) have been studied. In the latter, the author showed how the Yugoslav Wars contributed to the promotion of local cultural heritage through the “tourisification” of war memories in Sarajevo. However, most articles have been devoted to the phenomena of dark (Miles 2002; Light 2017) and political tourism (Rivera 2008; Simone-Charteris and Boyd 2011). The studies focused on a wide variety of related issues: conflict sites as attractions, motives for visiting war and conflict locations, and dilemmas of how to satisfy the competing demands of those who remember and those who are willing to forget (Boyd 2016). However, the issues concerning the legislation of tourism were not touched upon in these studies.

Some issues concerning the legislation of tourism are found in works by Butler (2015) and Jakulin (2016), who are devoted to the study of tourism as a multifaceted phenomenon. However, in these studies, legislation was analysed within the framework of general tourism development. In particular, Jakulin (2016) considered the systematic management of the tourist destination and the mechanisms of regulating its effective functioning, while Butler (2015, p. 20) argued for the significant role of comprehensive planning for tourism development, as without it, “tourism development can be carried out sustainably”.

A group of Balkan scholars (Metodijeski et al. 2017) analysed tourism legislation in the Balkan countries of Croatia, Serbia, Macedonia, and Bulgaria. They provided basic data according to the selected criteria: territory characteristics, population, number of international tourists, tourism law, and the existence of a National Tourism Organization. In addition, they considered government bodies responsible for tourism, national tourism development strategies, and tourism-related legislation. Their analysis and review of tourism laws were based on a systematic evaluation of the laws’ content, and they outlined the structures, differences, and similarities of tourism laws in the Balkan countries.

A more detailed analysis of tourism policy is presented in the work conducted by Denda et al. (2019), in which the scholars analysed the legal aspects of tourism development in Serbia. They distinguished the following areas in tourism legislation: laws, spatial planning documents, strategies, master plans, and rule books. Their analysis began with the “umbrella document”, the Law on Tourism, and they defined its main strong and weak features, focusing on its role in promoting Serbia as a destination. They concluded that Serbia should strategically define appropriate tourism policy. To respond to the turbulent market and transform Serbia into a competitive tourist market, the law must be accompanied by other legislative documents specifying necessary tasks.

Other scholars, including Bramwell (2011), Brokaj (2014), and Cooper (2006), thoroughly analysed the issues of state and regional tourism management, as well as the need to consolidate key regulatory functions of the state at the legislative level, the right to carry out tourist activities and provide excursion services, and the need to guarantee the safety of tourist service consumers. Issues of tourism policy in the EU – in particular, the formation of a competitive environment in the market of tourist services and the regulation of tourism destinations – were analysed in the work of Radulescu (2011, p. 67), who noted the significance of regulating as the basis for a sustainable tourism model that could provide “quality, continuity, and balance between tourism and the needs of the environment”.

The issues of tourism legislation have thus been researched by scholars with a holistic approach to tourism. However, scarce articles have focused on directions of improvement exclusively for tourism legislation. Furthermore, there have unfortunately been no works proposing ways to improve tourism legislation in post-war times.

Analysis

As has been established, the goal of this research is to identify what changes should be made to the current Ukrainian tourism legislation to support the development of tourism in post-war times. To this end, the researchers applied their professional knowledge and practical experience in the field of tourism legislation. The researchers also consulted the representatives of multiple tourism-related NGOs: the All-Ukrainian Tourism Association of Ukraine and the League of Tour Guides in Kyiv.

Considering the legal implementation of certain norms of Ukraine's legislation in practical tourism activity, the major problems of the legal regulation of tourism in Ukraine were outlined. Subsequently, the main directions for improving Ukraine's legislation on tourism in the post-war period were formulated.

Issues to be regulated

The Law of Ukraine "On Tourism" as amended in 2003 does not meet the challenges of the internal and external environment and must be radically improved to address urgent issues of the revival of Ukrainian tourism in the post-war period. Significant human, infrastructural, and socio-cultural losses; the total destruction of popular Ukrainian destinations; and tourist and recreational resources require powerful institutional and legal changes in the formation of a new model of national tourism development. The main tool for the success of building such a model will be the systematic improvement of tourism legislation. The proposed changes are a set of effective measures to support tourism entities and the formation of a trajectory of optimisation and reformatting of key business processes. The large-scale involvement of investors is also suggested for the reconstruction of tourism infrastructure in Ukraine and the restoration of cultural heritage objects.

After a thorough analysis of Ukraine's current tourism legislation, the authors outlined 9 main issues that must be addressed.

1. The conceptual and terminological apparatus of the legislation must be aligned with international standards in the field of tourism. Such adjustments should be made to align with the understanding and application of organising international tourism, conducting the statistical accounting of international tourists' arrivals, and calculating the received incomes.

In particular, due to the legislator's lack of a clear position on the definitions of "tourism" and "tourism activity", the legal status of entities engaged in tourism has been insufficiently defined. As a result, there is confusion regarding the adoption of bylaws in this area (Опанасюк et al. 2021).

The analysis of international (Tourism Satellite Account 2010) and European documents (EN 2003) proved that Ukraine's legislation must define new concepts and terms for the modern reality of the tourism business, which includes innovative forms and methods (electronic tourist vouchers), online tour sales, the export and import of tourist services, commercial presence in the country, place of tourist services, place of tourist sales product, online booking systems and/or ordering travel services, timeshares, travel navigation, tourist information centres, and so on. In addition, the tourism legislation must align with international standards and definitions of the following terms: tourist, travel services, visitor, traveller, tour guide, hotel, hostel, day visitor, and social tourist, among others.

- 1) The organisation and activities of new types of tourism (military, extreme, etc.) must be regulated, as well as the certification of innovative excursion programmes related to the coverage of the recent history of hostilities in Ukraine.
- 2) A favourable investment climate must be created for entrepreneurs who will participate in the reconstruction of the tourist and general infrastructure of Ukraine.
- 3) Objects of cultural heritage in Ukraine that require restoration or renovation should be transferred to the subjects of tourism business on the terms of rent.
- 4) Tourism activity leaders, who will carry out the organisation of foreign (inbound) tourism and form innovative tourist products for this category of consumers, should be encouraged.
- 5) An income tax holiday of 10 years should be introduced for hotel enterprises that are built and put into operation in the first four post-war years.

- 6) Security guarantees for travellers must be strengthened, especially during the organisation of specialised types of tourism and in areas where active hostilities took place.
- 7) The responsibility of tour operators and travel agents to provide quality tourist services should be increased.
- 8) Restrictions on the right of tour operators to carry out other types of business activities that are not prohibited by the legislation of Ukraine should be abolished.

These are the most urgent problems that must be settled in the near future, though the list represented in this article is not comprehensive. More improvements could be made; for instance, the tourist tax rate could be increased to 5% for inbound tourism and the received funds could be directed exclusively to the restoration of tourism infrastructure in the region; the renewal of licensing travel agency activities could be improved; and a new permitting procedure for tourist support specialists such as guides, translators and sports instructors could be introduced. These changes, however, may happen in the long term.

2. Proposals

2.1. Proposals on the national level

After determining the main problems that must be solved immediately, the authors systematised the proposals for improving Ukraine's legislation on tourism in the post-war period. The authors distinguished the proposals on the national and institutional levels. The first group of proposals is presented in Table 1.

Table 1. Proposals on the main directions for improving Ukraine's tourism legislation in the post-war period

No.	An issue that must be resolved	The regulatory act of Ukraine that needs improvement	Proposals made by the authors
1.	The conceptual and terminological apparatus in the field of tourism and the need for its harmonization with the European and world standards	Law of Ukraine "On Tourism" (Article 1)	Improve and supplement the terminological, conceptual, and categorical apparatus in the field of tourism in accordance with generally accepted international definitions of the following terms: tourism, tourist, tourist services, visitor, traveller, tourist guide, hotel, hostel, one-day visitor, social tourist, electronic tourist voucher, online tour sale, export and import of tourist services, commercial presence in the country, place of tourist services, point of sale of a tourist product, a system of online booking and/or ordering of tourist services, timeshare, tourist navigation, tourist information centre, etc.
2.	The need for the legal regulation of activities for the organization of new types of tourism (military, extreme, etc.) and the certification of innovative excursion programmes related to the recent history of hostilities in Ukraine	Law of Ukraine "On Tourism"	Provide legislative definitions for the terms and features of the organization of new types of tourism. Introduce certification for innovative excursion programmes.
3.	Creation of a favourable investment climate for entrepreneurs who will participate in the reconstruction of the tourist and general infrastructure of Ukraine	Laws of Ukraine "On Tourism" and "On Investment Activities", Tax Code of Ukraine	Introduce preferential conditions for investors who will invest in the reconstruction of tourist and general infrastructure of the country. Provide for the possibility of creating areas of prioritized tourism development. Cooperate with investors on the terms of a public-private partnership. Exempt investment entities from taxation. Guarantee the return of funds to foreign investors or the participation of the latter in the right to own, use, and dispose of objects and results of investments in Ukraine in accordance with the laws of Ukraine.

Table 2 (cont.)

No.	An issue that must be resolved	The regulatory act of Ukraine that needs improvement	Proposals made by the authors
4.	The possibility of transferring the objects of cultural heritage in need of restoration or renovation to the subjects of tourism business on the terms of rent	Law of Ukraine "On Tourism"	Develop the draft law of Ukraine "On Rent Payments for the Use of Cultural Heritage Sites of Ukraine".
5.	Stimulation of tourism activity subjects who will carry out the organization of foreign (inbound) tourism and will form innovative tourist products for this category of consumers	Law of Ukraine "On Tourism", Tax Code of Ukraine	Partially finance expenses (at the expense of the state budget) for the participation of tour operators in inbound tourism in tourist exhibitions included in the list of annual international exhibitions and fair events abroad. Exempt transactions for the supply of a tourist product (tourist service) from VAT for the benefit of a non-resident by a tour operator, intended for its consumption on the territory of Ukraine (export of tourist services).
6.	Introduction of a 10-year tax holiday for hotel enterprises that are built and put into operation in the first four post-war years	Draft Law of Ukraine "On Amendments to Certain Laws of Ukraine on Reconstruction and Development of Hotel Infrastructure in the Post-War Period", Law of Ukraine "On Tourism", Tax Code of Ukraine	Exempt enterprises providing hotel services of 3-, 4-, and 5-star categories from income taxation for 10 years if such hotels have been reconstructed or rebuilt or have undergone overhaul or restoration work and will be put into operation within four years after the end of martial law in Ukraine.
7.	Strengthening security guarantees for travellers, especially during the organization of specialized types of tourism and in the locations where active hostilities took place	Law of Ukraine "On Tourism"	Introduce norms on the obligatory formation of a safety plan for each type of tour offered by tourism activity subjects in the tourist services market.
8.	Increasing the responsibility of tour operators and travel agents for the quality of tourist services	Law of Ukraine "On Tourism"	Introduce effective instruments of financial guarantees for tour operators' and travel agents' civil liability to tourists, the amount of which will depend on the volume of services provided by the tourism enterprise for the reporting (calendar) year.
9.	The abolition of restrictions on the right of tour operators to carry out other types of business activities that are not prohibited by the legislation of Ukraine.	Law of Ukraine "On Tourism"	Repeal the norm on the exclusivity of tour operator activities that is represented in Article 5 of the Law of Ukraine "On Tourism".

Source: Own elaboration.

2.2. Proposals on the institutional level

The second group of proposals contains the main issues that must be addressed on the institutional level. Among them, the authors highlighted the following:

- 1) Create an enterprise, "Visit Ukraine", which would be financed by the state and investment funds to implement measures promoting tourism in Ukraine.
- 2) Introduce a set of measures to promote Ukraine as a unique tourist family destination in Europe.
- 3) Create a multilingual promotional video for the international tourism market under the brand, "By visiting Ukraine, help rebuild the European family!" Broadcast the video on the world's leading television and radio company, CNN, and post it on social networks popular among foreigners (Facebook, Instagram, TikTok, Snapchat, and Twitter). The efficiency of posting on social networks is substantiated by the analytical company Insider Intelligence (2022), as these social networks were the most popular abroad in 2021.

Thus, the set of measures proposed by the authors aims to create a legal basis for the restoration of national tourism and promote its rapid and successful development, which will positively

affect other socio-economic processes of post-war Ukraine (such as the reconstruction of general and tourist infrastructure, job creation, investment, and addressing social and humanitarian issues). Legal and institutional measures to direct tourist flows to Ukraine and restore and build foreign consumers' trust will help support the processes of sustainable tourism development in Ukraine and the world.

Conclusion

The unpredictable global coverage of Russia's military aggression against Ukraine has hampered all spheres of socio-economic life, caused a serious humanitarian and infrastructural crisis, and blocked travel and leisurely local traffic in Ukraine. Against the background of serious problems caused by the war, there is a significant redistribution of tourist flows around the world and a general reduction in tourism caused by the COVID-19 pandemic. These factors will inevitably affect the socio-economic prospects of Ukraine and increase the risks for most developed countries in terms of tourism, as well as launch serious global economic issues across the world (rising energy prices, food, unemployment, etc.).

Given this context, the authors argue that a task of utmost priority in post-war Ukraine is restoring the socio-economic development of the state and society. This project can be aided by the formation of a tourism renovation model which attracts guests and investors from all over the world. This, in turn, will require the systematic improvement of Ukraine's legislation on tourism, taking into account the post-war humanitarian, socio-economic, institutional, and cultural challenges.

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