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## **THE IMPACT OF CHANGES IN LEGAL REGULATIONS ON THE ACTIVITIES OF TOUR OPERATORS IN UKRAINE**

## **WPŁYW ZMIAN PRZEPISÓW PRAWNYCH NA DZIAŁALNOŚĆ ORGANIZATORÓW TURYSTYKI NA UKRAINIE**

## **ВЛИЯНИЕ ИЗМЕНЕНИЙ ПРАВОВОГО РЕГУЛИРОВАНИЯ НА ДЕЯТЕЛЬНОСТЬ ТУРОПЕРАТОРОВ В УКРАИНЕ**

### **Abstract**


*The article deals with the problems of the activities of tour operators in Ukraine in the conditions of state regulation changes. The features of their functioning are determined taking into account the requirements of the regulatory framework for the regulation of tour operators' activities. The dynamics of the development of a network of subjects (entities) of tourism is analyzed. Attention is drawn to the current trends in the development of tour operators and travel agents' activities in Ukraine. The author proposes directions for the revitalization of tour operators' activities in the market of inbound and domestic tourism.*

**Keywords:** *tour operator's activity, tourist product, tourist market, licensing, travel agent.*

### **Streszczenie**

*Artykuł porusza problematykę działalności organizatorów turystycznych na Ukrainie w kontekście rozporządzeń państwowych. Specyfika ich funkcjonowania jest określana z uwzględnieniem wymogów ram regulacyjnych i legislacyjnych regulujących działalność*

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*organizatorów turystycznych. Analizowana jest dynamika rozwoju sieci podmiotów turystyki. Zwrócono uwagę na obecne tendencje rozwoju turystyki i biur podróży na Ukrainie. Autor proponuje kierunki rewitalizacji działalności organizatorów turystycznych na rynku turystyki przyjazdowej i krajowej.*

**Słowa kluczowe:** *działalność organizatora turystyki, produkt turystyczny, rynek turystyczny, licencjonowanie, biuro podróży.*

#### **Аннотация**

*В статье рассмотрены проблемы деятельности туроператоров Украины в условиях государственного регулирования. Определены особенности их функционирования с учетом требований нормативно-законодательной базы регулирования туроператорской деятельности. Проанализирована динамика развития сети субъектов туристической деятельности. Обращено внимание на современные тенденции развития туроператорской и турагентской деятельности в Украине. Автором предложены направления активизации деятельности туроператоров на рынке въездного и внутреннего туризма.*

**Ключевые слова:** *туроператорская деятельность, туристический продукт, туристический рынок, лицензирование, туристический агент.*

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#### **Statement of the problem in the general outlook and its connection with important scientific and practical tasks.**

In the midst of the economy transformation and increased competence at the international tourism market, an important problem arises before tour operators, which is related to the domestic and international tourism development. One of the ways of this problem solving is to form an individual agent network, to produce quality regional tourist goods good for satisfying needs of external and internal customers, prompt response to the market demand.


The production of quality goods promotes the increase of their sales and return on capital, reduces costs of consumers and ensures the full consumer satisfaction of tourists. This problem becomes especially topical in the context of globalisation of the tourism market and implementation of the Association and Deep and Comprehensive Free Trade Area Agreement between the European Union and Ukraine.

#### **Analysis of the latest research where the solution of the problem was initiated.**

The problem on determining the essence of the economic activity of tour operators, peculiarities of their functioning as travel companies are studied in works of many authors. In the special economic literature, approaches of authors for determining companies that provide tourism services

are different. There are authors calling any enterprise that produces goods or provides services for tourists as a travel company. This opinion is held by, for instance, the Russian scientists Azar V.I. (Azar V.I., 1972), Gulyayev V.G. (Gulyayev V.G.,

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1996) and others. Another position is upheld by Gavrilyuk S.P. (Gavrilyuk S.P., 2006), Vasilenko V.O. and Tkachenko T.I. (Vasilenko V.O. and Tkachenko T.I., 2012), who think that not all entities of tourist activities should be called travel companies. Among them, such travel companies should be identified, the main function of which is to group and sale a complex tourist product, the share of operating profits from selling which shall be more than 50 % of the overall turnover volume (income, proceeds from sales of goods, works, services). The scientists highlight the fact that the basis of classification of enterprises as travel companies shall include industrial features of types of activities according to the Industry Classification System, according to which such enterprises get their main revenues. We absolutely agree with this viewpoint. According to the content and nature of the principal economic activity, travel companies are kind of mediators between a consumer (tourist) and a manufacturer of specific

tourism services (accommodation for tourists, culinary options, transport organisations and so forth). Due to this fact, N.E. Kudla (Kudla N.E., 2015) call them companies of mediator travel services, and V.F. Semenov and A.V. Zhupanenko (Gerasimenko V.G. et al., 2016) call them enterprises of the implicit infrastructure of the tourism and recreation sector.

The intermediary nature of the tour operator's activity is indicated by the Directive (EU) 2015/2302 of the European Parliament and of the Council of 25 November 2015 on package travel and linked travel arrangements, amending Regulation (EC) No 2006/2004 and Directive 2011/83/EU of the European Parliament and of the Council and repealing Council Directive 90/314/EEC. The latent signs by the grouping and typology of the tourist product of tour operators, regulation of the activities of tour operators attracted the attention of researchers (McKercher, 2016; Holland and Leslie, 2018)

### **Aims of paper. Methods.**

The purpose of the article is to study the activities of tour operators in conditions of international integration of Ukraine and the introduction of new rules for licensing tour


operator activities. So to secure the set aim achieving, the methods of generalisation, logic and statistical analysis were used.

### **Exposition of the main material of research with the complete substantiation of obtained scientific results. Discussion.**

The evolution processes going at the present stage when influenced by the globalisation and international integration, progress of digital technologies in many countries assist in transforming the present economic systems. The term “transformation” is used with regard to the travel market and activities of the travel industry economic entities. The analysis of the tourism legal framework shows that, according to Article 5 of the Law of Ukraine “On Tourism”,

participants of economic relationships arising, when the travel company activities are carried out, shall be divided into two main groups: travel industry entities and consumers of travel services. Travel industry entities in Ukraine are tour operators, travel agents, other enterprises, guide-interpreters, tour guides, coaches, hosts and other tourism specialists, individuals who are not business entities and provide services on temporary accommodation, meals, etc. (On Amendments to the Law of Ukraine “On

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Tourism”: Law of Ukraine, 2015). Tour operator is a travel company dealing with the arrangement of inland and international trips with a wide range of services. Its special activity is to arrange and secure the creation of tourist products, sales and provision of travel services, including mediation activities in providing specific and supplementary services. In accordance with the National Classification System of Ukraine “Industry Classification System”, more than 60 types of economic activities are related to the tourism industry, what causes the information richness of the tourism industry due to the variety of business relations with partners, dynamics of business processes, individualisation of travel services, technological improvement and extreme business competition. It should be mentioned that expectations of parties involved require a prompt response to them and necessity to have information about the factors influencing the functioning process of travel companies, which depends on their joining to business relations with a great number of counterparties at the travel market, complication of economic relationships and other phenomena affecting the tourism development.

The specific of services of the tour operator is such: it combines personal services and services of other business entities under one price in one standalone tourist product. Enterprises of this type provide tourists

with an opportunity of a wide range and use of lodging facilities, land, air and water transports, various cultural and entertainment establishments, travel agencies, excursion bureaus. The tour operator offers a complex tour to the client on its behalf, at its own expense and at its sole risk. As opposed to the tour operator, the travel agency is a typical mediation unit that is engaged in selling tours and services of particular travel companies by tour operators. The Law of Ukraine “On Tourism” also determines the content of activities of the travel agency: “Travel agents are legal entities formed in accordance with the laws of Ukraine and individuals-business entities (sole traders) carrying out the mediation activity on selling tourist products and travel services of other tourism business entities, including the mediation activity on selling specific and supplementary services” (On Amendments to the Law of Ukraine “On Tourism”: Law of Ukraine, 2015). Therefore, if an exclusive activity for tour operators is to arrange and secure the creation of tourist products, then mediation services in its selling to the final consumer-tourist are an exclusive activity for travel agents. We can accentuate some more differences in the activity and responsibility of tour operators and travel agents. The main differences in the activity of tour operators and travel agents are shown in Table 1.

**Table 1. Main differences in the activity of tour operators and travel agents**

№ 3/n	Tour operator	Travel agent
1	2	3
1	Legal entity only	Legal entity or individual-business entity (sole trader/enterprise)
2	Acquisition of a license for tour operator's activities	Activities that may be carried out by travel agents: - Mediation activity on selling tourist products of tour operators; - Mediation activity on selling travel services of other tourism business entities; - Mediation activity on selling specific and supplementary services.
3	Activities that may be carried out by tour operators (exclusive activities): - Arrangement and securing of the creation of tourist products; - Sales and provision of travel services; - Mediation activity on providing specific and supplementary services.	The travel agent is responsible for consequences of the inappropriate formation of tourist goods and implementation of the agreement for travel services as a part of the agreement drawn up with the tour operator.
4	Responsible for the non-fulfillment or undue fulfillment of liabilities under the agreement for travel services (claims to the tour operator may also be presented for not provided or improperly provided travel services as a part of a tourist product, irrespective of the fact who should have provided or provided these services).	The travel agent is responsible for consequences of the inappropriate formation of tourist products and implementation of the agreement for tourist services as a part of the agreement drawn up with the tour operator.
5	Responsible before tourists for actions (lack of actions) of third parties participating in the formation of tourist products.	Not responsible before tourists for actions of third parties participating in the formation of tourist products.
6	The tour operator's responsibility is also related to the sales of tourist products without registering a vacation package.	Responsible as the sales of tourist products is a free-standing service provided for tourists.
7	Claims to the tour operator may be presented with regard to either the tourist product quality (the whole set of travel services) or non-provided information (misrepresentation of consumer-oriented qualities of tourist products).	Claims may be presented only for non-provided or provided false information such as schedule of stay, route, travelling terms, accommodation (meals, passenger transportation services and so forth).
8	Size of proper financial provisions against liabilities before tourists – bank guarantee or guarantee of another financial institution in an amount equivalent to not less than 20000 Euro or 10000 Euro in the arrangement of domestic and inbound tourism.	Size of proper financial provisions against liabilities before tourists – bank guarantee or guarantee of another financial institution in an amount equivalent to not less than 2000 Euro.
9	Total size of a participatory interest in authorised capitals of other operators in Ukraine shall not be over 20 % of their authorised capitals.	_____
10	Has an exclusive right for providing services on processing documents for going outside Ukraine.	_____
11	Has an exclusive right to carry out the mediation activity for concluding travel services agreements with foreign tourism business entities.	_____

Source: made by the authors, based on: *Licensing conditions for the conduct of tour operator activities, 2015; On Amendments to the Law of Ukraine "On Tourism", 2015.*

On the basis of the information given in Table 1, by taking into consideration the aim of our research, we can assert that tour operators are responsible before tourists for actions (lack of actions) of third parties participating in the formation of tourist products. Therefore, the tour operator shall work not just on its own tourist product quality, but client servicing in the course of its consumption as well. The management of tour operations, quality of travel services, business processes and personnel training should be constantly improved.

For the travel agent's activities, this task is also highly important as it is directly responsible for consequences of the inappropriate formation of tourist products and implementation of the travel services agreement (see sub-items 4-6 of Table 1), and is directly responsible for the quality of its work at the stage of client servicing and also for the quality of additional services, quality of the personnel management.

We should pay attention to the fact that one of the effective levers of the government influence on the quality of services provided by tour operators and travel agents is licensing of their activities. It is performed for creating equal opportunities of tourism business entities at the tourism market, ensuring the protection of rights and legal interests of citizens, increasing the consumer servicing level. The licensing of travel company activities was initiated in 1994 in our country, and has been changed greatly since then. For the first time, tourism was included into types of licensed types of activities by the virtue of the Law of Ukraine "On Entrepreneurship". According to the law, any activity associated with the provision of travel services was licensable. Herewith, not only tour operators and travel agents were considered as entities of licensing. Accommodation means, catering facilities, transport companies, etc. were considered as such as well. In October

2010, the licensing procedure was changed once due to the fact that the Law of Ukraine "On Amending Certain Legislative Acts of Ukraine regarding restriction of state regulation of economic activity" came into force, according to which the licensing of the travel agent's activity was cancelled. Thus, just one entity, tour operator, is licensable in Ukraine (On Amending Certain Legislative Acts of Ukraine regarding restriction of state regulation of economic activity, 2010).

Due to the cancelled licensing of activities of travel agents, a fierce dispute flared up in the tourism business environment. Herewith, quite dissonant thoughts were expressed. Supporters of the cancellation of this principle pointed out that the licensing procedure had a formal nature, was not a guarantee of a quality work of travel agencies and did not rule out the appearing of rogue firms. Representatives of an opposed viewpoint asserted that the cancellation of licensing of activities of travel agencies might create chaos at the tourism market due to the increasing number of travel agencies with non-professional business operations, possible signs of fraud. Herewith, irrespective of different viewpoints all the specialists are same concerning the fact that it will be more difficult to do business for tour operators and travel agents. For tour operators, it will be difficult as they are fully responsible for producing and selling tourist products. Due to this, they must have relationships just with reliable partners, and check beforehand their work experience at the market, professionalism of fellows, reliability and so forth. For travel agents, it will be difficult because every tour operator will present its own claims to them, which do not always meet interests of travel agents. We will describe this collaboration of tour operators and travel agents under the new terms of

the state regulation of activities of tour operators. It is established that a high level of the market consolidation caused the concentration of the main tourist traffics and opportunities to dictate the collaboration terms to travel agents in some dozens of large tour operators. We can observe the situation when in order to prevent abusive activities in the financial field, to not allow unfair agents working with clients, most of tour operators demand a certificate about financial guarantees, copies of education documents of directors and managers of the travel agency, office rental documents, etc. beside the set of incorporation and financial documents. Thus, the supervision of work of travel agencies, which the state executive authorities performed earlier concerning the licensing in the tourism field, is performed now by leading tour operators in their own way. Furthermore, it is established that most of large tour operators started developing their personal distribution network of authorised travel agencies after the licensing of activities of travel agencies had been cancelled. From our viewpoint, a perspective trend in the tour operator's business is such: franchise dynamics at the regional markets, which is a powerful tool for doing business through the agency network. First, it is a many years' experience of work of famous international tour operators at the tourism market. Second, it is an existence of the quality management in the context of the tourism market globalisation, and a tested system of promotion and sales of tourist products. Third, it is an existing branched online net-

work for booking and selling travel services. It must be separately noted that the existing famous brand and positive image of the tour operator that always follows a certain standard of quality of tourist products and servicing attract tourists effectively.

As the researches show, the mentioned influence factors and transformation of the market situation almost did not change the entrepreneurial activity and structure of the Ukrainian tour operating. For the last ten years, a certain number of tour operators has slightly fluctuated and made almost a third of the tourism market. The number of travel agencies has also been increasing in proportion to the progress of the tour operator's activity. The network of tourism business entities in Ukraine, legal entities and individuals-entrepreneurs (sole traders), comprised 3506 units in 2016, what is by 324 units bigger than in 2015. The network structure according to types of tourist activities has the largest category, travel agents – 80 % of the overall number of entities. In total, there are 552 enterprises – tour operators. The number of tourists-citizens of Ukraine services by the tourism business entities has made 2,5 million people for this year. The number of foreign tourists has equaled to 35 thousand people for this year (in 2015 – 2,0 million and 15 thousand correspondingly). The average registered number of regular employees of the tourism business entities is equal to 8545 people. In 2016, the income gained by the enterprises-tour operators and travel agents from providing travel services made 11522.5 million UAH (Table 2).

**Table 2. Tourism business entities in Ukraine as on 01.01.2017**

Types of tourism business entities	In total	Including		
		Tour operators	Travel agents	Entities that carry out the excursion activity
Legal entities				
Number of tourism business entities, units	1838	552	1222	64
Average registered number of regular employees, persons among them	8545	4926	3448	171
People with the specialised education in the tourism domain	3723	2064	1602	57
Women	6219	3483	2646	90
Persons not older 30 years	2442	1583	829	30
Income gained from providing travel services, million UAH (1)	11522,5	10983,1	518,4	21,0
Individuals-entrepreneurs (sole traders)				
Number of tourism business entities, units	1668	x	1581	87
Average registered number of regular employees, persons including people with the specialised education in the tourism domain	1867	x	1776	91
Number of unsalaried team members (owners, founders of companies, members of their families), persons	763	x	732	31
Number of unsalaried team members (owners, founders of companies, members of their families), persons	926	x	871	55
Income gained from providing travel services, million UAH (1)	413,2	x	402,7	10,5

<sup>1</sup> VAT-exempt, without ED and similar mandatory payments. Geographic coverage: all the regions of Ukraine, except the temporarily occupied territory of the Autonomous Republic of Crimea and Sevastopol City, including the sections of the ATO zone.

Source: Network of subjects of tourist activity in 2016, 2017.

At the same time, according to the information contained in the excerpt from the Licensed Register of Tour Operators of the Ministry of Economic Development and Trade of Ukraine, the number of entities, which met the requirements of the License Terms for Tourism Business to the full extent, made 401 units or 72.6 % as on 31.10.18 (Excerpt from the Licensed Register of tour operators Ministry of Economic Development and Trade of

Ukraine, 2018). This situation and non-fulfillment of agreements with tourists by charter operators regarding the arrangement of tours to Egypt, Tunis in summer 2018 urged the Government of Ukraine to support the decisions initiated by the Ministry of Economic Development and Trade of Ukraine, which were targeted at improving the system of the government control of activities of tour operators in our state. Thus, first, the Government included the



Ministry of Economic Development and Trade to the list of controlling authorities not affected by the moratorium on business supervision. The Ministry was authorised to make scheduled inspections of the fact of the tourism business conformance to the licensing terms for tour operators' activities till the end of 2018. Second, the Government introduced new criteria of risk assessment in relation to licensable activities of tour operators. The type of this assessment will be related to the determination of the periodicity of tour operators' inspections. In doing so, the type of tour operator's activity will be taken into consideration (inbound, outbound and domestic tourism), where the inbound tourism has the highest level of risks, scope of travel services provided by tour operators (number of tourists using travel services during a year) – more the number of consumers, higher the risk of tour operators regarding their own activities, present violations of the licensing terms by tour operators during the last 3 years, a court decision about the sustainment of the tourism consumer's claim. The said changes will make it possible for the Ministry of Economic Development and Trade of Ukraine to take immediate measures when detecting violations made by tour operators of the licensing terms for tour operators' activities, and to revoke licenses of unfair tour operators.

By analyzing the modern trends of the tourism market growth in Ukraine, we should highlight that according to the data provided by the State Statistics, the majority of tourists (85 %) have such an aim in their trips as arranged leisure time and rest. In turn, travel agents carry out their own marketing studies of the tour operating market. Thus, for instance, from 6<sup>th</sup> to 7<sup>th</sup> September 2017 the Ukrainian Association of Travel Agencies held inquiries for directors and managers of travel agencies of

Ukraine as regards the appraisal of activities of the tour operators having their own charter programs for the largest directions. 11 Ukrainian tour operators were appraised under 7 criteria concerning the client servicing quality. For this period, 300 answers were gotten and verified. Before processing the results obtained from the massive data received, such answers were included, where a tour operator got the highest and the lowest estimation under all the criteria. Having analysed the respondents' answers, the rating of the most efficient tour operators of Ukraine was made. The first place was taken by TEZ Tour with the rating of 4.34 according to the five-point scale. Concerning all 7 parameters, the tour operator "TEZ Tour" was appraised as above the average. The second place was taken by the tour operator "Mouzenidis Travel" (4.26). The top free included its last winner, tour operator "Pegas Touristik" with 4.16. The fourth place was taken by the tour operator "GTO", which set flights to Turkey for the first time in this year. The parameter of order confirmation and guaranteed best early booking price was appraised by the agents as a bit below the average (Rating tourist-friendly tour operators. Summer 2017).

The study of the regional market shows that, for example the biggest share in the tourist traffic structure in Odessa Region belonged to the outbound tourism, 73.66 %, and 23.88 % - inbound tourism in 2015. According to the official data, Odessa Region was visited by more than 4 million tourists in 2016. Irrespective of the tourist traffic positive dynamics, we can observe the reduction of capital investments in the field of tourism and hospitality by 49.3 % as compared with 2010 (Nezdoyminov, S.G., 2016). The main investment sources are funds from the government for budget institutions of the tourism infrastructure

and financial resources of owners of private companies. But so to increase the level of investments to the travel market development, we should design and implement actions for attracting foreign investors, what will assist in the tourist traffic increasing in Odessa Region.

For this purpose, in 2017 the work on developing the international relationships of local governmental authorities, tour operators, recreation enterprises dealing with the formation of Odessa travel image was performed. So, for instance, the Memorandum was signed between Odessa and the European Council about the city's participating in the National Network of Intercultural Cities of Ukraine (ICC-UA) acting as a part of the international program of the European Council "Intercultural Cities" (ICC). The participation in the ICC program gives an opportunity to enlarge the number of international relations of tour operators, to use the resources, expert support, advice and know-how of the European and national cultural networks. One of the first stages of collaboration with ICC was calculation of the index of intercultural cities by means of survey questionnaires. According to the results of processing the information received from inquiring tourists and experts, Odessa takes:

- the 17<sup>th</sup> place among 93 cities with the overall intercultural city index – 70 % after Oslo (85 %), Barcelona (72 %), Dortmund (71 %);
- the 12<sup>th</sup> place among the cities with more than 200 000 inhabitants, being ahead of Lisbon Province, Lublin and Strasbourg;

## **Conclusions.**

The study of the national tourism market allows us making the following conclusions. The tour operator's activity transformation in the climate of the international integration of Ukraine and introduction of new rules for licensing the activity of tour

- the 13<sup>th</sup> place among the cities, where more than 15 % of foreign citizens live, being ahead of Munich, Rotterdam and Bergen (Last year, Odessa was visited by 2.5 million tourists, 2018).

We hope that the joint implementation by the regional tour operators and local self-government authorities of the International Program of the European Council "Intercultural Cities" will assist in the formation of Odessa positive image as a tourist and resort Centre with a rich and varied natural-resources potential, outstanding cultural and historical heritages, friendly and welcoming population. The World Travel and Tourism Council carries out studies of the tourism and travelling influence on the economic state of particular regions and countries. According to the study in 2016, the direct proceeds from the travelling and tourism made 34,8 billion UAH in Ukraine in 2016 (1.5 % GDP), and will increase by 4.2 % or to 36,2 billion UAH as expected. The increase of all the indices is predicted, what shows the improvement of the travel industry status in Ukraine and strengthening of its influence on the national economy (Travel & Tourism Economic impact 2017 Ukraine, 2018). By creating new territorial forms and contributing to the change of already existing elements, tourism activity has a very large impact on the improvement of the region's areas, subordinating them to a greater extent to the requirements of tourists (Wołowiec T., Gwoździewicz S., Ahmed-Skrzypek p. 352-353).

operators caused the situation when the supervision of work of travel agencies, which was earlier performed by the state executive authorities in the tourism domain, is carried out now by leading tour operators in their own way. The main market trends

are such: aspects of tour operator's activity on arranging trips of the Ukrainian tourists with the purpose of recreation and rest. At the same time, the tour operating market structure has not changed in actual fact.

For the last ten years, a certain number of tour operators has slightly fluctuated and made almost a third of the market. The number of travel agents has also been increasing in proportion to the tour operator's activity. The number of entities, which fully met the requirements of the Licensing terms for Tourism Business, comprised 401 units or 72.6 % of the overall number of tour operators as on 31.10.18. Furthermore, it is established that majority of large tour operators started extending their own

distribution network of authorised agencies after the licensing of activities of tour operators had been cancelled. From our viewpoint, a perspective trend in the tour operator's business is such: franchise dynamics at the regional markets. Franchise was firstly introduced by the tour operators that offered their own form of business to travel agents, and standardised proposals of unified tourist products for mass consumptions. So to increase the quality of travel services provided by tour operators through their enterprises, the policy measures on organisational support of the implementation of quality management international standards should be designed.

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