



Lecture No. 2

REGULATORY AND LEGAL REGULATION OF TOURIST ACTIVITIES IN UKRAINE

by Chuieva Inna



General characteristics of Ukrainian legislation on tourism

The basis for any legal relations in Ukraine is the Constitution of Ukraine. It guarantees the fundamental rights of citizens, in particular the right to free movement and the right to rest. These fundamental norms are the starting point for the development of the entire legal framework in the field of tourism.

The key document that regulates tourism activities in detail is the Law of Ukraine "On Tourism".

This law defines the basic principles of state policy in the field of tourism, establishes concepts and terms such as "tourism services" and "tourism product", and also delimits the rights and obligations of all participants in tourism relations. It is a kind of "core" of tourism legislation, on which other regulatory acts are based.





Subjects and objects of legal regulation



In order to understand the mechanism of legal regulation, it is necessary to clearly distinguish its participants. The subjects of legal relations in the field of tourism are:

- The state, represented by its bodies, such as the State Agency for Tourism Development (DART), which forms and implements state policy.
- Subjects of tourism activity are enterprises and individuals that provide tourist services. These include tour operators that create tourist products and travel agents that sell them.
- Tourists are direct consumers of services whose rights are protected by law.

The objects of legal regulation are what is at the center of these relations: tourist services, a tourist product that is the result of the tour operator's activities, and legal relations that arise between all subjects. The material base of tourism is also regulated, for example, standards of hotel services and means of transport.



Protection of tourists' rights

Legal regulation of tourism is aimed primarily at protecting consumer rights. The main document that works here is the Law of Ukraine "On Protection of Consumer Rights". This law gives tourists the right to receive complete and reliable information about services, the right to safety and the right to compensation for damages in case of improper provision of services.

Imagine the situation: you paid for a tour, but there is no hot water in the hotel, although this was stated in the contract. In such a case, according to the law, you have the right to demand compensation. To protect your rights, a tourist can apply with a written claim to the tour operator, and in case of refusal – to the court. The State Service of Ukraine for Food Safety and Consumer Protection also deals with the protection of consumer rights.





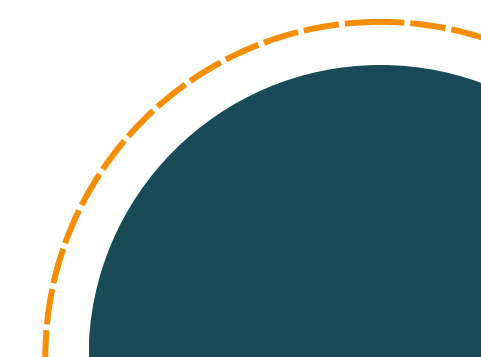
General characteristics of the legislation of Ukraine on tourism



Legal regulation of tourism activities in Ukraine is based on the principles enshrined in the Constitution of Ukraine, which is the fundamental source of law. Article 43 guarantees everyone the right to rest, and Article 33 – freedom of movement, which are fundamental for the exercise of tourist rights.

The central place in the system of tourism legislation is occupied by the Law of Ukraine "On Tourism". It not only defines the basic concepts (for example, a "tourism product" as a set of services that is sold or offered for sale at a certain price), but also establishes state policy in the field of tourism. In particular, this is promoting the development of domestic and inbound tourism, supporting tourism infrastructure and ensuring travel safety. The law also delimits the powers of state authorities and tourism entities, which creates a clear structure for managing the industry.

For example, Article 22 of the Law of Ukraine "On Tourism" clearly states that a tour operator is obliged to provide tourists with complete and reliable information about the conditions of a tourist trip, including the characteristics of vehicles, accommodation, food, and information about additional services. This is a direct example of the implementation of the principle of information transparency, which is key to protecting consumer rights.





In addition to the main law, the legal field is formed from a number of other regulatory legal acts that regulate individual aspects of tourism activities:

- The Civil Code of Ukraine regulates contractual relations between a tourist and a tour operator, which is the basis for any tourism agreement.
- The Law of Ukraine "On Protection of Consumer Rights" applies to tourism services, granting tourists the right to proper quality of services and compensation in the event of their non-provision or incomplete provision.
- The Law of Ukraine "On Licensing of Types of Economic Activities" establishes requirements for licensing tour operator activities, which is an important mechanism of state control and a guarantee of quality for consumers.

This multifaceted system of legislation provides holistic regulation of the tourism industry, aimed at its sustainable development, protection of the rights of all participants and integration of Ukraine into the international tourism space.

Request for a description of the third point of the lecture, dedicated to the subjects and objects of legal regulation of tourism activities.





Subjects and objects of legal regulation in tourism

Understanding the structure of legal relations in the field of tourism requires a clear distinction between their subjects and objects. In the language of law, a subject is someone who participates in legal relations, and an object is something about which these relations arise.

Subjects of legal regulation

In tourism legal relations, there are three main groups of subjects:

1. The state represented by authorized bodies. The role of the state here is to form and implement a policy that would contribute to the sustainable development of the industry.
 - o Example: The State Agency for Tourism Development of Ukraine (DART) develops national tourism support programs, promotes the tourism potential of Ukraine in the international arena, and exercises state supervision over the activities of tour operators. Imagine that DART organizes and finances the advertising campaign "Travel Ukraine", popularizing domestic tourism. This activity, financed from the state budget, is a vivid example of the exercise of the powers of a state subject.





2. Subjects of tourism activity. These are legal entities and individual entrepreneurs who directly provide tourist services. Their activities are regulated by licenses and other regulatory acts.

- o Example: LLC "Mandrivnyk" (tour operator) develops and sells a tourist product, for example, an excursion tour to the Carpathians, which includes travel, accommodation, meals and excursion accompaniment. FOP "Ivanov I.I." (tour guide) provides services for accompanying a group of tourists. Both entities are obliged to act within the law, observing the terms of the contract concluded with tourists.

3. Tourists (consumers of services). These are individuals who travel for the purpose of recreation, health improvement, attending cultural events, etc. The law protects their rights as consumers.

- o Example: Student Maria buys a tour to Egypt. She is a subject, since she has rights (to receive quality services) and obligations (to pay the cost of the tour, to observe the rules of conduct in the country). If the hotel services do not correspond to those stated in the contract, Maria has the right to demand compensation.





Objects of legal regulation



The objects of tourist legal relations are what these relations arise from:

1. Tourist product. This is a set of services (transportation, accommodation, meals, excursions) combined into a single price.
 - o Example: Consider a "tour to Paris". It includes air tickets, hotel transfer, hotel accommodation, breakfasts, an excursion to the Louvre and medical insurance. Each of these elements is a separate service, but together they form a tourist product, which is the object of a contract between a tour operator and a tourist.
2. Contractual legal relations. These are relations that arise in the process of concluding, performing and terminating tourist contracts.
 - o Example: A contract concluded between a tourist and a tour operator is a legal document that regulates their mutual rights and obligations. If the tour operator does not book the hotel specified in the contract, it violates its contractual obligations, and tourists have the right to demand compensation for damages.

Thus, understanding the distinction between subjects and objects of legal regulation allows us to systematize the legal framework of tourism, ensuring the protection of the rights of all participants and contributing to the development of a civilized tourism market.



Licensing and certification in the field of tourism

To guarantee the quality and safety of tourism services, the state applies such regulatory mechanisms as licensing and certification. These are key tools that ensure the protection of consumer rights and create conditions for a civilized market.

Licensing

Licensing is a mandatory permitting mechanism that gives the right to a business entity to carry out a certain type of activity. In Ukraine, according to the Law of Ukraine "On Licensing of Types of Economic Activities", tour operator activities are subject to mandatory licensing. This means that no company can form and sell a tourist product without obtaining an appropriate license from the authorized body, which is the Ministry of Economy of Ukraine.

- Example: Imagine that a newly created company "Hot Tickets" wants to organize tours to Turkey. To do this, it needs not only to register as a legal entity, but also to obtain a tour operator license. This procedure requires the submission of documents confirming its financial capacity (the presence of a bank guarantee), personnel qualifications and compliance with other legislative requirements. This is a precautionary measure to avoid fraud and protect the interests of tourists, because in the event of the tour operator's financial insolvency, customers' funds can be returned thanks to a bank guarantee.



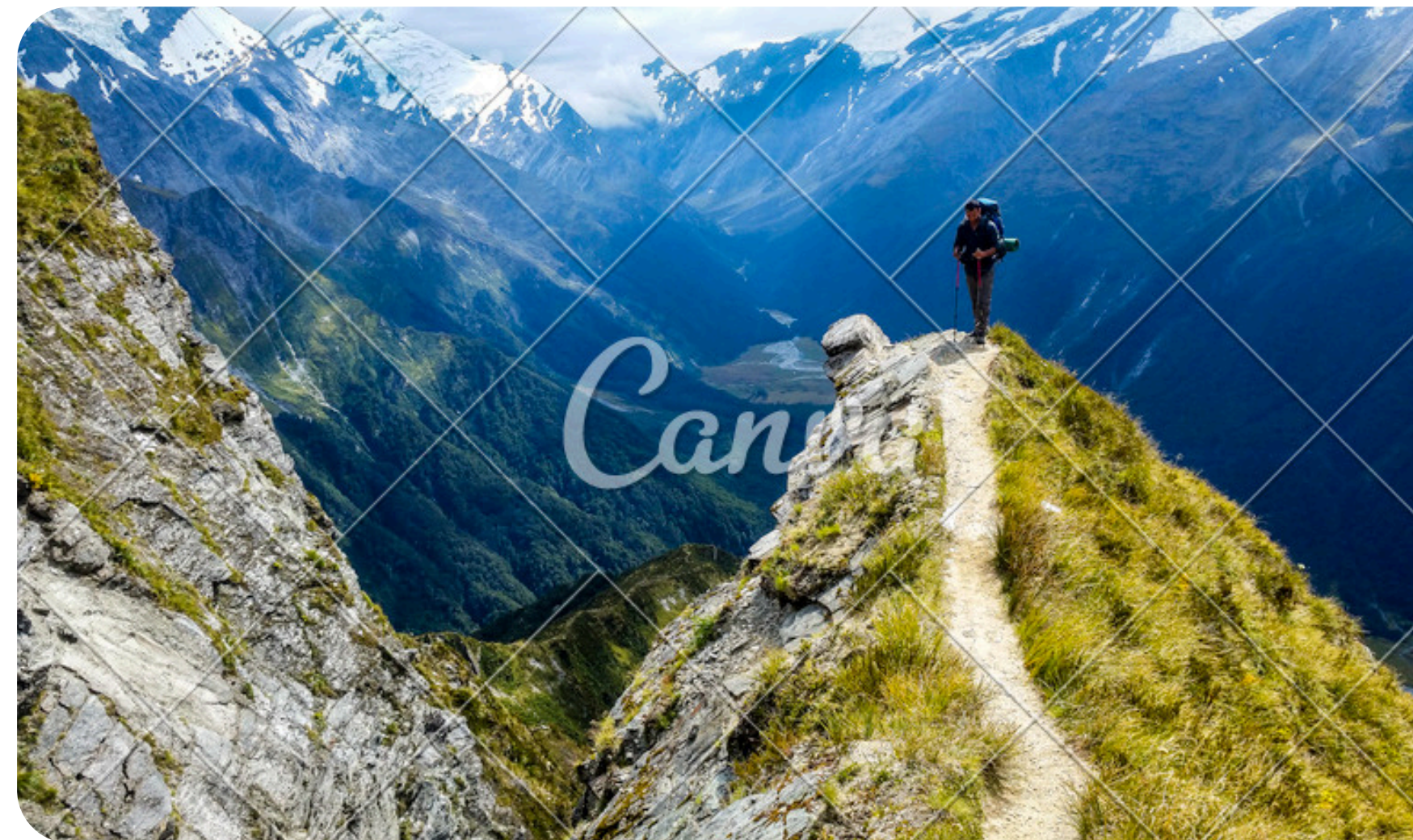


Certification

Unlike licensing, certification is a largely voluntary procedure for confirming that services meet established standards. It is a tool for increasing competitiveness and trust from customers.

- Example: The "Palace of the Sun" hotel can undergo voluntary certification in order to receive the "five-star" category★★★★★. This procedure involves checking the hotel for compliance with requirements regarding the quality of rooms, level of service, availability of additional services (swimming pool, restaurant, gym, etc.). Although the law does not oblige the hotel to receive this certification, its presence becomes a powerful marketing tool and a guarantee for the tourist that the quality of services will meet international standards. The presence of a certificate is often a decisive factor for the tourist when choosing a hotel.

Thus, licensing and certification are two different, but complementary instruments of legal regulation, providing a systematic approach to quality control in the tourism industry.





PROTECTION OF TOURISTS' RIGHTS: REALITIES AND MECHANISMS

Protection of consumer rights in the field of tourism is one of the priority areas of legal regulation, which requires a deep understanding of legislative norms and mechanisms for their application. The main provisions that guarantee the rights of a tourist are enshrined in the Law of Ukraine "On Tourism" and the Law of Ukraine "On Protection of Consumer Rights".

Basic rights of a tourist

1. The right to information. A tourist has the right to receive complete, reliable and timely information about the conditions of a tourist trip, including:

- o Hotel characteristics (category, accommodation conditions, meals).
- o Tour program (excursions, list of services included in the price).
- o Medical insurance conditions.
- o General rules and norms of behavior in the country of visit.
- o Example: Imagine the situation that occurred in 2018 with Ukrainian tourists traveling to Egypt. The tour operator informed that the hotel has "five stars", but in fact, the hotel was of a much lower category, with poor conditions. Tourists, relying on the right to reliable information, had legal grounds for compensation for damages.

2. The right to quality services. A tourist has the right to services that meet the conditions specified in the contract.

- o Example: In 2021, a group of Ukrainian tourists was unable to fly out of the Dominican Republic due to the tour operator's problems with paying for a charter flight. Instead of the promised vacation, the tourists lived at the airport for several days, and then were forced to buy tickets home on their own. This case became a vivid example of improper fulfillment of contractual obligations, and the tourists subsequently won lawsuits for compensation for moral and material damages.





Mechanisms for protecting rights

The legislation provides tourists with several tools to protect their rights:

- Pre-trial settlement. The first step is always to file a written complaint with the tour operator or travel agent. This mechanism allows you to resolve the conflict without going to court.
 - Example: A tourist, having returned from a trip, writes a claim demanding compensation for poor-quality food at the hotel, providing photo and video evidence. In the event of a positive decision, the tour operator returns part of the funds, avoiding litigation.
- Judicial protection. If the pre-trial settlement did not bring results, the tourist can go to court.
 - Example: After the above-mentioned incident in the Dominican Republic, tourists filed a class action lawsuit against the tour operator. The court, having considered the evidence provided, made a decision to compensate for the damage caused to tourists. This became an important precedent that confirmed the effectiveness of judicial protection of consumer rights in the tourism sector.
- Appeal to state authorities. Tourists can apply to the State Service of Ukraine for Food Safety and Consumer Protection with an official complaint.

All these mechanisms are important for ensuring the rights of tourists, and their effective use contributes to improving the level of services in the tourism industry of Ukraine.





State management and regulation in the field of tourism

State management of the tourism industry in Ukraine is a holistic system of measures aimed at the formation and implementation of state policy, ensuring sustainable development of tourism, rational use of tourism resources, as well as protection of the interests of the state and consumers. These functions are performed by a number of bodies, among which the State Agency for Tourism Development of Ukraine (DART) plays a central role.



ДАРТ

Role of the State Agency for Tourism Development (DART)

DART is a central executive body, the activities of which are coordinated by the Cabinet of Ministers of Ukraine through the Minister of Economy of Ukraine. Its key functions can be divided into several areas:

1. Formation of state policy. DART is responsible for the development of concepts, strategies and state programs for tourism development, which is the basis for further legislative regulation. This includes market analysis, forecasting trends and determining priority areas, such as the development of rural, ecological, cultural or medical tourism.
 - o Example: DART has developed a Strategy for the Development of Tourism and Resorts until 2026, where it has identified priorities for the development of the tourism industry, in particular, the promotion of Ukraine at international exhibitions, the digitalization of tourist information, and the creation of tourist clusters.
2. State supervision and control. DART monitors compliance with licensing conditions by tourism entities. This prevents unfair competition and fraud.
 - o Example: In 2020, DART inspected dozens of tour operators, revealing numerous violations, including the lack of financial guarantees, which is a mandatory condition for a license. As a result, some licenses were canceled, which protected potential tourists from risks.

3. Promotion of tourism potential. One of the most important functions of DART is to promote Ukraine as an attractive tourist destination in both domestic and international markets.

o Example: DART regularly participates in international tourism exhibitions, such as ITB Berlin or WTM London, where it presents the tourism opportunities of Ukraine. In addition, the agency implements projects such as "Travel Ukraine", which encourages domestic travel and contributes to the opening of new tourist routes.

4. Coordination of interaction. DART coordinates the work of various entities of the tourism market – from local governments to public associations and private businesses. This ensures harmonious cooperation to achieve common goals.

Thus, state management in the field of tourism is a set of interrelated functions that ensure the systematic development of the industry, increasing its competitiveness and protecting the rights of all its participants.





Liability in the field of tourism

The system of legal regulation of tourism activities would be incomplete without liability mechanisms that ensure the implementation of legislation and the protection of the rights of all participants. Liability in the field of tourism can be classified into three main types: civil, administrative and criminal.

Civil liability

This is the most common type of liability in the field of tourism. It occurs for non-fulfillment or improper fulfillment of the terms of the contract concluded between a tourist and a tour operator (or travel agent). The Civil Code of Ukraine and the Law of Ukraine "On Protection of Consumer Rights" are the main regulatory acts regulating these relations.

- Example: Imagine that the tour operator "Sunny Travels" sold a tour to Turkey, but upon arrival the tourists discovered that they were placed not in the four-star hotel specified in the contract, but in a much worse hotel without the declared amenities. In this case, the tour operator violated the terms of the contract, which entails civil liability. Tourists have the right to demand compensation for material damages (the difference in the cost of hotels) and moral damage caused by poor-quality services.

Administrative liability

This type of liability applies to tourism entities for violating public norms established by law, in particular, requirements for licensing, certification and other rules for doing business.

- Example: If a tour operator carries out its activities without obtaining an appropriate license, this is a violation of the Law of Ukraine "On Licensing Types of Economic Activities". This provides for administrative liability in the form of fines, and in some cases – confiscation of income. Similarly, if a tour operator does not provide reliable information about services, which is a violation of consumer rights, an administrative fine may be imposed on it.

Criminal liability

Criminal liability occurs for the most serious offenses that contain elements of a crime. This is, first of all, fraud, the provision of services that threaten the life and health of consumers, or other crimes provided for by the Criminal Code of Ukraine.

- Example: In 2017, a case was recorded in Ukraine when a tour operator, having collected funds from dozens of tourists, suddenly ceased its activities without providing any services. After the opening of criminal proceedings, it turned out that this was a fraudulent scheme aimed at the illegal appropriation of funds. The owners and managers of the company were brought to criminal liability for fraud. This example demonstrates the highest degree of liability applied in the tourism sector.

Thus, liability in the tourism sector is multifaceted and provides legal protection for both tourists and honest market participants.



Control questions

1. What is the main law in Ukraine that regulates tourism activities?
2. Who are the subjects of tourism activities, besides tourists?
3. Is a license mandatory for everyone who provides tourism services?
4. Which state body is responsible for the development of tourism in Ukraine?
5. Name one of the rights that a tourist has according to Ukrainian legislation.



See you next time
**Thank you
For Attention**

