

УДК 338.24 (4)

INSTITUTIONAL AND LEGAL FRAMEWORK OF TOURISM MANAGEMENT IN THE EUROPEAN UNION

Sinitsyna N.D., Pobirchenko V.V.

Taurida National V.I. Vernadsky University, Simferopol, Republic of Crimea
E-mail: sinitsinanatalie@gmail.com

The purpose of this paper is to analyze the existing legal acts in the sphere of tourism, their interaction and institutional framework in terms of the Lisbon Strategy and program “Europe 2020”.

Keywords: European Union, tourism, Europe 2020, Lisbon strategy, legal framework, institutional mechanism.

INTRODUCTION

Over the last six years Europe, as the entire world, faced the strongest economic crisis and, as a result, slowed its economic development. The main problems of European countries are high unemployment, slow economic growth, increasing level of external debt. In this regard, in 2010, based on pre-existing Lisbon Strategy, was developed plan for economic growth in Europe over the next 10 years “Europe 2020”¹. The strategy established three pillars of development of Europe: smart growth (development of the economy, based on knowledge and innovation), sustainable growth (creating an economy based on effective use of resources, environment and competition), and inclusive growth (promotion a high level of employment, and achievement social and territorial cohesion) [1]. Nowadays one of the activities, which shows higher growth rates than other sectors of the economy of Europe, is tourism, which enhances the competitiveness of Member States, the welfare of the population, the inflow of foreign currencies, infrastructure development, job creation and the development of the economy as a whole. In this way, tourism is a priority sector of development within the program “Europe 2020”, because it is able to achieve most of the European Union’s (EU) goals.

Currently Europe is the most developed touristic zone. According to the World Tourism Organization UNWTO, almost 80% of all tourists visit this region every year. In 2013, the total number of arrivals reached 563 million, so Europe was leading region in terms of growth, ahead of the Pacific and the United States, which percentage in the international tourism is 23% and 16%, respectively. As for today, tourism is the third largest field of socio-economic activities in the EU after trade and construction, and occupies more than 5% of the EU GDP, but it is expected that by 2020 tourism will provide more than 10% of GDP and about 12% of the jobs, which means growing role of tourism in solving world’s unemployment problem [2].

Nevertheless, the development of certain economic fields in modern conditions is not possible without proper planning and regulation. *Aim of research*, it is appropriate to study the legal regulation of tourism as one of the foundations of the development of Europe's economy, focusing on the institutions of the EU and European law.

RESULTS OF RESEARCH

The importance of tourism as activity of the EU first was recognized in the framework of the Treaty of Rome in 1957, establishing the European Community, in the Article 3 of the First part, where tourism is indicated as one of the main activities of the Community, because it helps to implement tasks, covered by Article 2 of the Treaty. According to Article 2 Community should establish a common market and progressively approximating the economic policies of Member States, to promote throughout the Community a harmonious development of economic activities, a continuous and balanced expansion, an increase in stability, an accelerated raising of the standard of living and closer relations between the States belonging to it [3].

Beginning with the Treaty of Rome and before the signing of the EU Constitution in fundamental treaties, such as the Single European Act (1986-1987), The Maastricht Treaty (1992-1993), The Treaty of Amsterdam (1997-1999), The Treaty of Nice (2001-2003), there is no mention of tourism as the scope of the EU, because of general orientation of the countries on the achievement of global goals, where tourism is only a small element in a chain of transformations within the EU.

This transformations include: the construction of a united and common internal market, the establishment of the Economic and Monetary Union, as well as economic and social cohesion, the promotion of research and technological progress, employment, the development of a high level of education and health, cultural development and vocational training, protection of consumer rights and the environment, as well as ensuring the harmonization of national legislation.

In October 2004 in Rome took place a signing ceremony of the “Treaty, establishing a Constitution for Europe” with the participation of 25 Member States of the EU. This agreement was intended to replace Rome, Maastricht, Amsterdam and Nice Treaties. According to Article I-17 EU has the competence to support, coordinate or complement actions in the field of tourism [4]. This Article can be viewed as an extension of the competence of the Union, which establishes the legal framework for implementation of new policies or legally confirmed policies, which are already being implemented in the Union, but were not provided by the founding Treaties, including tourism.

In accordance with Article III-281 EU complements the action of the Member States in the tourism sector, in particular by promoting the competitiveness of Union undertakings in that sector, encourages the creation of a favorable environment for the development of undertakings, and promotes cooperation between the Member States, especially by the exchange of good practice [4]. European laws or framework laws establish specific measures to complement actions of the Member States in order to achieve the objectives set out in this Article, excluding any harmonization of the laws and regulations of the Member States.

However, due to the signing of the Treaty of Lisbon, “European Constitution” was never ratified. Treaty makes changes in existing EU agreements and simplifies the system of collective management bodies of the EU, the principles and procedures of their work. Regarding articles about tourism, the Treaty of Lisbon in 2007 is in line with the proposed EU Constitution in 2004, and, that means, that the level of competence of the EU in the field of tourism is stagnant.

In March 2000, the European Council in Lisbon identified tasks for the EU for next decade to create the most dynamic economy in the world based on knowledge, capable for

continuous growth and providing the largest number of better jobs, as well as a strong social cohesion. According to the document, one of the most important objectives of the EU is to promote tourism competitiveness and the achievement of its sustainable development in the long term. Today these goals are reflected in the EU's economic strategy "Europe 2020". According to this strategy and the decision of the European Commission, the activities that contribute to the development of tourism are formed in following four groups of priorities and today are the basis of a single EU policy in the field of tourism: stimulate competitiveness in the European tourism sector; promote the development of sustainable, responsible and high-quality tourism; consolidate the image and profile of Europe as a collection of sustainable and high-quality destinations; maximize the potential of EU financial policies and instruments for developing tourism [5, 6].

These four priorities are the foundation of development of tourism in the EU, and they determine the direction of the activities of the European Commission's efforts to promote closer cooperation between the EU Member States and major European tour operators. They are also the basis of the Communication from The Commission to The European Parliament, The Council, The European Economic and Social Committee and The Committee Of The Regions "Europe, the world's No 1 tourist destination – a new political framework for tourism in Europe", in which tourism industry is a key element of Europe's growth, which have a significant perspectives, but currently facing with problems, both natural and financial.

In addition, tourism also contributes to the implementation of other flagship initiatives, in particular: "Innovation Union", "A Digital Agenda for Europe" and "An Agenda for new skills and jobs" [1]. Furthermore, the development of a more active policy of tourism can make a significant contribution to improving the competitiveness and expansion of the internal market.

An important result after the introduction of the Strategy is increased attention to the quality of services, taking into account national experiences of Member States. Since the environmental characteristics of hotels and camping were considered in Regulation (EU) № 66/2010 and the Regulation (EU) № 1221/2009, and because of differences in national tourism quality programs, it was appropriate to create a set of European quality principles in tourism sector, which will be recognized by consumers and individuals engaged in this field. In this regard, in 2014 the EU developed European Tourism Quality Principles. These principles are: ensure the training of employees; apply a consumer satisfaction policy; keep and adhere to a documented cleaning and maintenance plan for the facilities or equipment where appropriate; make information available to consumers; ensure that this information is correct, reliable, clear and accessible in at least the most relevant foreign language [7].

Nevertheless important is the Council Directive 90/314/EEC of 13 June 1990 on package travel, package holidays and package tours. The purpose of this Directive is to approximate the laws, regulations and administrative provisions of the Member States relating to packages sold or offered for sale in the territory of the Community [8]. This Directive was the basis for the harmonization and unification of legislation in the field of tourism in all EU countries. On its basis in Europe were developed mandatory requirements for the tourism product, information, and were defined "package" tour, "organizer", "retailer" and others. Also in this document have been set general requirements of all EU Member States to financial provision of tourist organizations,

which became the basis for the creation of an effectively functioning system of financial protection for the rights and legitimate interests of tourists.

Thus, were considered the main documents regulating the tourism sector of the EU and we can conclude that among a significant number of adopted documents predominate acts of “soft law” of the EU, which are not legally binding and consequently in no way extend the competence of the Union in this area. Therefore, the issues concerning the tourism sector is directly within the competence of the Member States, each of which has rights to determine their own tourism policy. Tourism has been and remains a part of improvement the region's competitiveness programs and sustainable development. However, as a separate activity of the Union it is not considered.

However, nowadays, there is no single official institution, which regulates the development of tourism in the EU countries and allows implementation the above-mentioned standards. These functions are distributed across a number of organizations. Basic is the European Commission, which through the system of spreading the structural funds regulates and promotes the development of tourism in the EU. Structural Funds of the European Union are the largest source of investment in the tourism industry of the least developed European regions, which include a group of countries of Central and Eastern Europe. They operate in three main areas:

- Ensuring regional economic and social development in the European Union.
- Implementation of programs and activities in various areas (environment, tourism, training, market research, support for cultural heritage).
- Financial support through loans from the European Investment Bank.

As well, the organizations that interact with the structural funds and provide funds for the development of tourism include the European Regional Development Fund (ERDF), European Social Fund (ESF), and the European Agricultural Fund for Rural Development (EAFRD), the European Travel Commission (ETC), and the European Investment Bank (EIB). Among others significant impact on the tourism sector have INTERREG (Trans-European Cooperation Initiative in the Balanced Development), URBAN (Sustainable Urban Development), JEV (Joint European Entrepreneurial Initiative) etc.

Each of the above organizations and initiatives occupies certain niche in the regulatory system of the EU tourism industry. Thus, the European Regional Development Fund is financing infrastructure projects and create jobs through the mechanism of providing investment, and provides financial support to small businesses. The European Parliament has adopted a number of very important decisions in the tourism industry, for example, the Resolution “Tourism and Development” and the Resolution on “Prospects and new challenges for sustainable European tourism”.

The Council of the European Union appealed to the tourism sector in a number of cases, mainly to emphasize the need for sustainable development, competitiveness and job creation in the tourism sector. The European Commission has published various reports, particularly in 2006 was set out new travel policy of the EU. In addition, the Commission has established and managed the European Tourism Forum, conducted conferences on various topics related to European tourism and organized many other activities, such as a pilot project entitled “European Destinations of Excellence”, which recognizes and promotes good practices carried out in the Member States of the EU and in the applicant countries.

European Economic and Social Committee (EESC) has always taken and continues to take a special interest in issues related to tourism, as evidenced by several documents

adopted on tourism since 1999. The Committee actively participated in European Tourism Forums, promotes numerous events dedicated to various aspects of tourism. In turn, the European Social Fund (ESF) provides support of employees during their retraining and professional development in various areas, including in the tourism sector. Furthermore, ESF provides support to small businesses in order to increase the number of jobs and employment. The European Social Fund is considering scheme designed to improve employment prospects, geographical mobility for employees in the tourism sector. European Agricultural Fund for Rural Development is financing activities, which include the development of rural areas, including the promotion of the development of green tourism.

Should also be noted a non-profit organization, as the European Travel Commission, which includes 33 national tourism organization. Its main objectives are:

- Promoting Europe as an attractive tourist destination.
- Assist member countries in the process of knowledge sharing and collaboration
- Provide easy access to materials and statistics on tourism in Europe [9].

Among initiatives, the largest is INTERREG, which provides funding for the development of interregional cooperation in Europe and is closely related to the objectives of the Lisbon strategy. The overall objective of the INTERREG is improving the efficiency of regional institutions and policies, and promotion the modernization and competitiveness of the European economy. The project is based on the exchange of experience between partners who are responsible for the development of their local and regional policies.

Each of the aforementioned institutions takes a position in the regulation of the tourism sector of the EU. Nevertheless, it can be argued, that there is no single center of control and regulation, despite the priority of decisions of the European Commission, whose main aim is to prepare bills, the implementation of decisions of the European Parliament and of the Council, monitoring compliance with EU treaties and other legal instruments in various fields, besides the tourism. In addition, there is a significant number of organizations offering only an indirect impact on the tourism sector through the financing small and medium-sized businesses, the organization of forums and conferences, but there is no direct impact on the subjects of the tourism industry. Consequently, the EU institutions in the field of tourism have an auxiliary character, complementing and coordinating policies of the participating countries in this area.

CONCLUSION

Thus, despite the fact that tourism is the third largest area of the EU economy, by far the competence of the EU in this area is limited, travel EU law is not independent and is complementary with national law, which today provides the highest position of Europe in system of international tourism. In the EU, tourism is regulated by norms of “soft law”, and still does not exist a single law on tourism, despite the existence of an extensive system of European law in other areas. Nevertheless, the current program of the EU “Europe 2020” includes a provision on tourism, recognizing the importance of its sustainable development and competitiveness of organizations involved in this field.

Tourism is now seen as an integral part of the concept of “competitiveness” and “sustainable development”, therefore, does not pay particular attention to the regulation of tourism as a separate sphere of activity at the level of the Union, leaving this at the level

of competence of the Member States. In general, as an outcome of the research, we can conclude that the best result in the field of tourism and improvement of EU's positions in the world tourism can be achieved through the promotion of sustainable tourism development, creation a single EU tourism policy, which can be realized by existing and, in perspective, new EU institutions in this field, the expansion of the competence of this institutions, and also follow the priorities set for the achievement of the objectives of the current decade.

References

1. Восточное партнерство: геоэкономическая стратегия Украины [монография] / Под ред. проф. Никитиной М.Г. – Симферополь: ИТ «АРИАЛ», 2014. – 368 с.
2. World Tourism Organization UNWTO. URL: <http://www2.unwto.org/ru>, last accessed on 28/11/2014
3. THE TREATY OF ROME. URL: http://ec.europa.eu/archives/emu_history/documents/treaties/rometreaty2.pdf, last accessed on 27/11/2014
4. Official Journal of the European Union. URL: <http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=OJ:C:2004:310:FULL&from=EN>, last accessed on 29/11/2014
5. Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions: Europe, the world's № 1 tourist destination – a new political framework for tourism in Europe, Brussels, 30.6.2010, COM (2010) 352 final.
6. COMMUNICATION FROM THE COMMISSION «EUROPE 2020»: A strategy for smart, sustainable and inclusive growth. URL: http://ec.europa.eu/commission_2010-2014/president/news/documents/pdf/20100303_1_en.pdf, last accessed on 30/11/2014
7. Proposal for a Council recommendation on European Tourism Quality Principles, Brussels, 20.2.2014, COM (2014) 85 final. 2014/0043 (NLE).
8. Council Directive 90/314/EEC of 13 June 1990 on package travel, package holidays and package tours. URL: <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:31990L0314:en:HTML>, last accessed on 29/11/2014
9. EUROPEAN TOURISM in 2014: TRENDS & PROSPECTS. URL: <http://www.etc-corporate.org/>, last accessed on 30/11/2014

Синицына Н.Д. Институционально-правовая основа регулирования туризма в ЕС / Н.Д. Синицына, В.В. Побирченко // Ученые записки Таврического национального университета имени В.И. Вернадского Серия: «Экономика и управление». – 2014 – Т. 27 (66). № 4. - С. 169-175.

Европа, как и весь мир, в 2008 году столкнулась с тяжелейшим экономическим кризисом со времён Великой депрессии. Главными проблемами европейских стран стали: высокий уровень безработицы, медленный экономический рост, возрастающий уровень внешнего долга. В 2010 г. на основе Лиссабонской стратегии был разработана среднесрочная программа экономического развития Европы, получившая название «Европа 2020», которая предусматривает достижение 3-х главных целей: разумный рост (развитие экономики, основанное на знаниях и инновациях), устойчивый рост (создание экономики, основанной на целесообразном использовании ресурсов, экологии и конкуренции), всеобъемлющий рост (способствование повышению уровня занятости населения, достижение социального и территориального согласия). Приоритетной отраслью развития в рамках программы «Европа 2020» назван и туризм.

Европа сегодня самый развитый регион мира в сфере туризма, по данным Всемирной туристической организации на ее долю приходится около 80% всех туристов. В 2013 г. общее количество прибытий достигло 563 млн. человек. Ожидается, что к 2020 году туризм будет обеспечивать более 10% ВВП (против 5% в 2013 г.) и порядка 12% рабочих мест, являясь на сегодня третьим по величине видом социально-экономической деятельности в ЕС после торговли и строительства.

Несмотря то, что туризм является третьей по величине сферой экономики ЕС, на сегодняшний день компетенция Союза в данной сфере ограничена, туристское право ЕС не является самостоятельным и носит лишь дополняющий характер по отношению к национальному праву, которое на сегодня обеспечивает наивысшую позицию Европы в системе международного туризма. Данная сфера регулируется ЕС нормами «мягкого права», а также до сих пор не выработан единый закон о туризме, несмотря на существующую обширную систему Европейского права в других сферах.

Согласно программы «Европа 2020» и решения Европейской комиссии, мероприятия, способствующие развитию туризма могут быть сгруппированы по следующим четырем приоритетам и на сегодняшний день являются основой для создания Единой политики ЕС в сфере туризма: стимулирование конкурентоспособности в европейском туристическом секторе; содействие развитию устойчивого, безопасного и качественного туризма; создание имиджа ЕС, как центра качественного и устойчивого туризма; использование всего потенциала финансовой политики и инструментов для развития туризма ЕС через систему структурных фондов ЕС.

Важным выводом после введения вышеуказанной стратегии стало повышенное внимание непосредственно к качеству предоставляемых услуг, при учете национального опыта стран-участниц. В этой связи ЕС в 2014 г. были разработаны Принципы качества туристических услуг. К ним относятся: обеспечение обучения сотрудников, применение политики максимального удовлетворения потребителей, реализация документального плана обслуживания средств и оборудования, обеспечение доступности верной, надежной и понятной информации для потребителей.

Однако на данный момент не существует единого официального института, регулирующего вопросы развития туризма в странах ЕС и позволяющего имплементировать вышеуказанные стандарты. Данные функции распределены через ряд организаций, в первую очередь, Европейскую комиссию, которая через систему распределения своих структурных фондов осуществляет деятельность по регулированию и стимулированию развития туризма в странах ЕС.

К организациям, взаимодействующим со структурными фондами и предоставляющим средства на развитие туризма также относят Европейский фонд регионального развития, Европейский социальный фонд, Европейский фонд управления сельским хозяйством, Европейскую комиссию путешествий, а также Европейский инвестиционный банк. Помимо прочих существенное влияние на туристическую сферу оказывают INTERREG (Инициатива по трансъевропейской кооперации в сбалансированном развитии), URBAN (Структура устойчивого развития городов), JEV (Объединенная европейская предпринимательская инициатива) и ряд других.

Достижение наилучших результатов в сфере туризма, обеспечивающих сохранение и улучшение позиций ЕС на мировом рынке туристических услуг, может быть достигнуто путем содействия устойчивому развитию туризма, расширения компетенции институтов ЕС в данной сфере, а также следования поставленным приоритетам для достижения целей текущего десятилетия.

Ключевые слова: Европейский Союз, туризм, Европа 2020, Лиссабонская стратегия, нормативно-правовая база, институциональный механизм.

Статья поступила в редакцию 10. 11. 2014 г.