



UDC 349.42

DOI: 10.31548/law2021.04.01

Legal aspects of the development of gastronomic tourism in Ukraine

Olena V. Hafurova*

Full Doctor in Law, Professor
National University of Life and Environmental Sciences of Ukraine
03041, 15 Heroiv Oborony Str., Kyiv, Ukraine

Iryna S. Siuiva

PhD in Law, Assistant
Taras Shevchenko National University of Kyiv
01033, 60 Volodymyrska Str., Kyiv, Ukraine

Article's History: **Abstract**

Received: 1.09.21
Revised: 15.10.21
Accepted: 20.11.21

The paper covers certain legal aspects of the development of gastronomic tourism in Ukraine. The study analyses the state and prospects of legislative support for the development of gastronomic tourism in Ukraine. The authors investigated the specific features of providing services in the field of gastronomic tourism by private rural farms. This paper raises the issue of legal regulation of registration of capacities for the production and/or circulation of food products by persons providing food supply to tourists. It was concluded that the provisions of the Law of Ukraine "On Fundamental Principles and Requirements for Food Safety and Quality" regarding the registration of such capacities do not apply to owners of private farms

Keywords: gastronomic tourism, rural green tourism, private farming, service provision, foods, market operator

Suggested Citation:

Hafurova, O., & Siuiva, I. (2021). Legal aspects of the development of gastronomic tourism in Ukraine. *Law. Human. Environment*, 12(4), 6-12. doi: 10.31548/law2021.04.001.



*Corresponding author

Copyright © The Author(s). This is an open access article distributed under the terms of the Creative Commons Attribution License 4.0 (<https://creativecommons.org/licenses/by/4.0/>)

Introduction

In 2003, the Law of Ukraine “On Private Rural Farming” factually legalized the concept of rural green tourism (hereinafter referred to as – RGT) as a type of agricultural activity that does not relate to entrepreneurial activity, and its implementation does not require the creation of a legal entity. At the same time, the lack of proper legal regulation of relations in this area considerably complicates the provision of RGT services by persons who run private rural farms (PRF). The Ministry of Agrarian Policy and Food of Ukraine (the MAPFU) was supposed to provide organizational and methodological support to the subjects of the RGT in organizing activities in this area (item 7 of the “Action Plan of the Ministry of Agrarian Policy and Food of Ukraine for the development of rural green tourism for the period up to 2015”). However, these measures were never implemented. Accordingly, the study of the procedure for rendering PRF services in the field of RGT and highlighting the features of certain types of RGT becomes particularly relevant.

Analysis of recent studies and publications. The theoretical framework of this paper included the works of the following Ukrainian specialists in agrarian, land, and environmental law: M.Ya. Vashchyshyn, V.M. Yermolenko, T.O. Kovalenko, V.I. Lebed, S.I. Marchenko, V.V. Nosik, O.O. Pohribnyi, O.S. Semenets, V.I. Semchyk, A.M. Stativka, N.I. Tytova, V.Yu. Urkevych, O.M. Shmygova, M.V. Shulha, V.Z. Yanchuk, and others.

The purpose of this study is to investigate the legal aspects of the development of rural green tourism and its variety – gastronomic tourism, to identify current trends in the legal regulation of gastronomic tourism in

Ukraine, analyse the legislative support for the development of gastronomic tourism in Ukraine, identify its shortcomings and substantiate proposals for improving legislation on rural green tourism.

Results and Discussion

Since Ukraine gained independence, rural green tourism has been widely developed in this country, and every year new types and areas of it appear. One of the world trends is gastronomic tourism, a relatively young area of RGT, which, according to experts, can become one of the most promising areas of tourism in Ukraine. The World Food Travel Association defines gastronomic tourism as travel to obtain an authentic experience based on the culture of food or drink consumption; discovering unique places and their culture through national cuisine [1, p. 17]. Its essence is to get acquainted with local culinary traditions and features of national or regional cuisine, tasting unique products and dishes unique to the given area.

Historically, gastronomic tourism was considered as a service area of the RGT, as a related area to the main task and content of tourist activities. The first types of gastronomic tourism are the use of mineral waters as the main product and resource of wellness tours, wine tourism, and travel to places of production of certain types of food products, which were the main object of discovery in such tours. At the beginning of the 20th century, gastronomic and entertainment tourism of the cultural and educational direction was also spread, which was timed to coincide with local holidays, calendar and ritual events, and ethnic and religious traditions

(fasts, Twelve Great Feasts, etc.) and other events related to the traditions of cooking and consuming local food and harvesting certain agricultural crops and cooking traditional dishes from them [2].

In Ukraine, diverse types of gastronomic tourism have become widespread, which can take the form of annual festivals, gastronomic tours, etc. Thus, the annual festivals of varenyky and halushky (in Poltava; Sorochyntsi, Poltava region), varenyky in Lutsk and Ternopil, the International Festival of Potato Pancakes in Korosten, Zhytomyr region, the National Festival of borscht "Borshchiv" in the city of Borshchiv, Ternopil region, gastronomic festivals "Red Wine" in the city of Mukachevo, Zakarpattia region, the wine and honey festival "Sunny Drink" in the city of Uzhhorod [2], gastronomic tours that include a visit to the oyster farm "Scythian Oysters" near Koblevo, a snail farm in the village of Halytsynove, Zakarpattia cheese-making factory (Baranovo PRF, Carpathian buffalo farm, Turianskyi Dvir private estate, etc.), Babyny Kozy goat farm, etc.

Legislative support of gastronomic tourism in Ukraine is merely at the initial stage of development, despite the prevalence and prospects of development of this direction of RGT in Ukraine and popularity in the world, its important socio-cultural, practical-cognitive and socio-economic significance, considering the original historical and cultural heritage of Ukraine, the specific features of the national agricultural sphere, the state and prospects of rural development.

The Law of Ukraine "On Tourism" recognizes the development of rural, ecological (green) tourism as one of the main priorities of the national policy in the field of tourism

(Article 6), but the Law of Ukraine "On Private Rural Farms" establishes the possibility of rendering services in the field of RGT on principles other than the legislation on tourism. Such activities are non-entrepreneurial, they are not subject to state registration, have a different purpose, etc. In 2015, the Draft Law on Amendments to the Law of Ukraine "On Private Rural Farms" was submitted to the Verkhovna Rada of Ukraine, which addressed the development of rural green tourism. This Draft Law is awaiting a second reading since 2017.

Legislative support of gastronomic tourism as one of the areas of the RGT is currently reduced to declarative norms and the absence of mechanisms for their implementation. Many programmatic sub-legislative acts have been adopted, with measures aimed at the development of RGT, ethnic gastronomic tourism, including the involvement of the private sector, especially in rural areas, in recreational and tourist entrepreneurship and ancillary activities in the field of tourism have been established (item 3 of the "Main vectors of tourism development in Ukraine until 2010"); support to owners of PRFs and farms rendering services in the field of RGT or ethnic gastronomic tourism and recreational services taking part in All-Ukrainian and regional tourist exhibitions and fairs (Order of the Ministry of Agrarian Policy and Food of Ukraine "On approval of the plan of measures of the Ministry of Agrarian Policy and Food of Ukraine regarding the development of rural green and ethnic gastronomic tourism in rural areas for the period until 2020"); involvement of rural households in rendering services in the field of rural tourism (Concept of development

of rural areas), etc. However, due to the lack of proper funding and the reorganization of the Ministry of Agrarian Policy and Food of Ukraine in 2019, these measures have not yet been implemented.

The recommendations of the parliamentary hearings “Development of the tourism industry as a tool of economic development and investment attractiveness of Ukraine” made provision for the development and approval of the Plan of measures for the development of priority types of tourism (historical and cultural, business, congress, medical, sports, wine, gastronomic etc). This initiative was never implemented.

Depending on the particular types of services rendered in the field of gastronomic tourism, the legislation establishes several requirements. Activities in the field of gastronomic tourism make provision for the rendering of services for temporary accommodation, catering for tourists, etc. (Article 5.7 of the Law of Ukraine “On Tourism”). In addition, according to DSTU 4527:2006 “Tourist services. Accommodation facilities. Terms and definitions”, on the basis of PRF, catering services are rendered, or conditions are created for unassisted preparation of food mainly from the products of such farms.

The rendering of catering services within the framework of the RGT (gastronomic tourism) involves many responsibilities. PRF members, farmsteads, and other persons rendering services in the field of gastronomic tourism are required to comply with the current standards for the quality and safety of food products, sanitary, environmental, and other requirements pursuant to the legislation (specifically, veterinary and sanitary rules for keeping poultry, yard

slaughter of animals, veterinary and sanitary requirements for producers of raw commercial milk, state sanitary standards for drinking water intended for human consumption, etc.).

Within the framework of this study, the authors propose to focus on the problems of registering capacities for the production and/or turnover of foods, which is prescribed by the Law of Ukraine “On Fundamental Principles and Requirements for Food Safety and Quality”, which are faced by PRF owners who are not business entities and render tourist catering services. Thus, capacities that do not require an operational permit are subject to state registration (Article 25.1). At such facilities, the following types of activities can be carried out: primary production of animal-based foods (ABF), as well as related activities; transportation and storage of ABF; production and/or storage of foods, the ingredients of which are exclusively plant-based products and/or processed animal-based products; operation of public catering establishments (Article 23.2).

To determine whether these legal requirements apply to PRF owners who feed tourists, the study analysed the legal features of such a farm. Firstly, the Law of Ukraine “On Private Rural Farming” prescribes that these farms operate only to meet the personal needs of their members through the production, processing, and consumption of agricultural products, the sale of its surpluses and the rendering of services using the property of such a farm, including in the field of RGT (Article 1). And the Law of Ukraine “On Fundamental Principles and Requirements for Food Safety and Quality” does not apply to foods intended

(produced) for personal consumption (Article 3.2). Secondly, the specified law establishes that the operators of the foods market include a business entity that operates with or without the purpose of profiting and which manages the capacities at which the primary production, production, sale and/or turnover of foods and/or other objects of sanitary measures is carried out (Article 1.1). However, the Economic Code of Ukraine does not consider either PRFs or its members as business entities (Article 55).

Thirdly, for the production and/or turnover of foods using unregistered capacity, if the mandatory state registration of it is prescribed by law, legal liability is imposed only on legal entities (a fine of 20 minimum wages, and on individual entrepreneurs (11 minimum wages (Article 65.1 of the Law of Ukraine “On State Control Over Compliance with Legislation on Foods, Feed, Animal By-products, Animal Health and Welfare”). In other words, individual members of PRFs that render catering services for tourists without state registration of capacities cannot be held legally liable. Considering the above, as well as the fact that PRF members do not engage in business activities, tourist food provision refers to services related to temporary accommodation (Article 20 of the Law of Ukraine “On Tourism”) and they are rendered in the kitchens of residential buildings where the owners themselves eat, the authors of this paper believe that the requirement of the Law of Ukraine “On Fundamental Principles and Requirements for Food Safety and Quality” regarding the registration of capacities for the production and/or circulation of foods does not apply to PRF owners.

If one turns to the EU legislation in the field of safety of industrial equipment (based on which, by the way, Ukrainian legislation on the specified issues was developed), then it is necessary to indicate that it applies exclusively to subjects of economic activity (items 2, 3 of Article 3 of Regulation (EC) No. 178/2002 of the European Parliament and of the Council of 28 January 2002 laying down the general principles and requirements of food law, establishing the European Food Safety Authority and laying down procedures in matters of food safety [3]; Article 1.1 of Regulation (EC) No. 852/2004 of the European Parliament and of the Council of 29 April 2004 on the hygiene of foodstuffs [4]; Article 1.1 of Regulation (EC) No. 853/2004 of the European Parliament and of the Council of 29 April 2004 laying down specific hygiene rules for food of animal origin) [5], etc. Furthermore, the last two documents specify that their norms do not apply to the direct supply of small quantities of primary products by the manufacturer to the end user (Article 1.2; Article 1.3). Regulation (EC) No. 853/2004 [5] additionally states that it does not apply to the direct supply of small amounts of poultry meat and hares slaughtered on the farm by the producer to the end user (Article 1.3). Thus, the EU legislator makes exceptions for those producers who directly supply a small amount of foods to consumers. The authors of this study believe that to simplify the conduct of activities in the field of RGT based on PRF property, as well as considering the provisions of EU legislation, it is necessary to consolidate such norms in the Ukrainian legislation on food safety.

Conclusions

Thus, a promising area for the development of RGT is gastronomic tourism, which performs not only socio-cultural, socio-educational, but also socio-economic functions. Legislative support for gastronomic tourism is at the initial stage of development, its priority has been determined, and an action plan to promote the development of RGT and its types were consolidated, but in the vast majority they stay not implemented.

PRF members engaged in gastronomic tourism do not engage in entrepreneurial

activities, and the food provision for tourists refers to services related to temporary accommodation (Article 20 of the Law of Ukraine "On Tourism"), which are rendered in the kitchens of residential buildings, where the owners themselves eat. Taking this into account, the authors of this paper believe that the requirement of the Law of Ukraine "On Fundamental Principles and Requirements for Food Safety and Quality" regarding the registration of capacities for the production and/or turnover of foods does not apply to PRF owners.

References

- [1] Omelnytska, V.O. (2018). Essence and classification of gastronomic tourism. *Pryazovskyi economic herald*, 1(6), 15-20.
- [2] Patiichuk, V.O. Features of gastronomic tours organization. In *Recreational and touristic potential of the regions of Ukraine: Current state, problems and development prospects: materials of the 1st All-Ukrainian scientific and practical internet conference* (pp. 26-34). Lutsk: Lutsk University Institute of Human Development "Ukraine".
- [3] Regulation (EC) №178/2002 of the European Parliament and of the Council of 28 January 2002 laying down the general principles and requirements of food law, establishing the European Food Safety Authority and laying down procedures in matter of food safety. Retrieved from <https://eur-lex.europa.eu/eli/reg/2002/178/oj>.
- [4] Regulation (EC) No. 852/2004 of the European Parliament and of the Council of 29 April 2004 on the hygiene of foodstuffs. Retrieved from <https://eur-lex.europa.eu/eli/reg/2004/852/oj>.
- [5] Regulation (EC) No. 853/2004 of the European Parliament and of the Council of 29 April 2004 laying down specific hygiene rules for food of animal origin. Retrieved from <http://data.europa.eu/eli/reg/2004/853/oj>.

Правові аспекти розвитку гастрономічного туризму в Україні

Олена Вікторівна Гафурова

Доктор юридичних наук, професор
Національний університет біоресурсів і природокористування України
03041, вул. Героїв Оборони, 15, м. Київ, Україна

Ірина Сергіївна Сьюва

Кандидат юридичних наук, асистент
Київський національний університет імені Тараса Шевченка
01033, вул. Володимирська, 60, м. Київ, Україна

Анотація

Стаття присвячена окремим правовим аспектам розвитку гастрономічного туризму в Україні. Аналізуються стан та перспективи законодавчого забезпечення розвитку гастрономічного туризму в Україні. Досліджуються особливості надання послуг в сфері гастрономічного туризму особистими селянськими господарствами. Піднімається проблема правового регулювання реєстрації потужностей з виробництва та/або обігу харчових продуктів особами, які здійснюють харчування туристів. Зроблено висновок, що норми Закону України «Про основні принципи та вимоги до безпечності та якості харчових продуктів» щодо реєстрації таких потужностей не розповсюджується на власників особистих селянських господарств

Ключові слова: гастрономічний туризм, сільський зелений туризм, особисте селянське господарство, надання послуг, харчові продукти, оператор ринку
