



UDC 349.42

DOI: 10.31548/law2021.02.03

Legal basis of rural hospitality in the context of inclusive rural development

Olena Hafurova*

Full Doctor in Law, Professor

National University of Life and Environmental Sciences of Ukraine
03041, 15 Heroiv Oborony Str., Kyiv, Ukraine

Article's History: **Abstract**

Received: 2.04.21

Revised: 28.04.21

Accepted: 13.06.21

The article provides a scientific and theoretical analysis of the legal framework of rural hospitality in Ukraine in the context of inclusive rural development. Special attention is paid to the justification of the expediency of developing and adopting a special law which would define the general legal, organizational, socio-economic principles of regulation of citizens' activities in this area. It is noted that the draft Law of Ukraine "On Stimulating the Development of Rural Hospitality in Ukraine" is characterized by a number of positive features. These include the following: rural hospitality is defined as a diversified activity that can be carried out by any household located in rural areas; the provision of rural hospitality services is not an entrepreneurial activity (Article 3 of the draft). Thus, the process of establishing legislation in the field of rural hospitality is currently underway. It is aimed at creating a framework for broader involvement of the rural population in the provision of tourism services and improving their

Suggested Citation:

Hafurova, O. (2021). Legal basis of rural hospitality in the context of inclusive rural development. *Law. Human. Environment*, 12(2), 20-26.



*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/>)

economic situation. This contributes to improving the level and quality of life in rural areas, and thus to ensuring inclusive rural development

Keywords: inclusive rural development, rural green tourism, rural hospitality, rural area, rural population, private farming

Introduction

Restrictions on the movement of citizens caused by the COVID-19 pandemic, a drop in their incomes as a result of the economic crisis, and, accordingly, the loss of confidence in their future by a large part of the population have had a negative impact on the development of the global tourism industry. In such circumstances, the issue of further development of domestic tourism is of particular relevance. On the one hand, Ukrainians are increasingly starting to pay attention to recreational opportunities within their country. This is especially true for rural areas, which have significant tourism potential. First of all, it is about receiving rural green tourism services (hereinafter referred to as RGT) provided by persons who run private farms (hereinafter referred to as PFH). On the other hand, this type of activity is aimed at ensuring inclusive rural development, as it creates conditions for various categories of rural population, mainly the poor, to start their own business.

The study of issues of legal regulation of sustainable development of rural areas, including rural green tourism, is devoted to the works of leading domestic experts in the field of agrarian law, in particular: V.M. Yermolenko [1], T.O. Kovalenko, I.M. Kulchii, V.V. Nosik, A.M. Stativka, V.Y. Urkevych.

The purpose of this article is to conduct a scientific and theoretical analysis of the legal framework of rural hospitality in Ukraine in the context of inclusive rural development. Particular attention is paid to substantiating the expediency of developing and adopting a special law which would define the general legal, organizational, socio-economic principles of regulation of citizens' activities in this area.

Results and Discussion

In the economic literature, inclusive rural development is defined as both an outcome and an instrument of rural development that ensures an inclusive improvement in the quality of life, where all, without exception, have and realize economic, social, and political rights, develop their potential and benefit from the advantages arising in the local environment. This process leads to significant improvements in the economic opportunities and livelihoods of all rural people (not just specific groups), small farmers, women and youth, poor and landless peasants, marginalized social groups and ethnic minorities [2]. As for the concept of rural development (development of rural areas) itself, it was proposed by representatives of agrarian and legal science. In particular, V.M. Yermolenko [1] understands sustainable development of

rural areas as a system of organizational, economic, political and legal measures aimed at ensuring proportional and simultaneous, irreversible and stable progressive changes in the production, social and environmental spheres which occur proportionally and simultaneously in each of the components of rural areas. Such development includes a gradual increase in the standard of living and quality of life of the population living in rural areas; growth and efficiency of agricultural production; improvement of the environmental situation in rural areas [1]. It should be noted that EU legislation defines six priority areas of rural development. These are:

- promoting knowledge transfer, innovation in agriculture, forestry, and rural areas;
- increasing the viability and competitiveness of agriculture in all regions, promoting innovative agricultural technologies and sustainable forest management;
- promoting the organization of food chains, including processing and marketing of agricultural products, animal welfare and risk management in agriculture;
- restoring, preserving and strengthening ecosystems related to agriculture and forestry;
- promoting efficient use of resources, supporting the transition to a low-carbon and climate-resilient economy in the agriculture, food and forestry sectors;
- promoting social inclusion, poverty reduction and economic development in rural areas (Article 5 of Regulation (EU) No. 1305/2013 of the European Parliament and of the Council of 17 December 2013 on support for rural development by the European Agricultural Fund for Rural

Development (EAFRD) and repealing Council Regulation (EU) No 1698/2005 (Regulation (EU) No 1305/2013) [3].

Taking into account all of the above, it should be noted that activities in the field of agricultural and rural development contribute to inclusive rural development by involving low-income groups of the population in running their own businesses, growing organic products, preserving natural resources in rural areas, etc.

According to Ukrainian legislation, the implementation of activities in the area of agricultural production on the basis of the property of individual farms is characterized by a number of special features, which are mainly due to their legal status. First of all, it should be noted that neither the Law of Ukraine of May 15, 2003 "On Private Peasant Farms" (Article 1) nor the Commercial Code of Ukraine (Article 55) consider these farms as business entities. Accordingly, the provision of services in the field of rural transit does not require state registration of the individual farm as such an entity. Unfortunately, a significant obstacle to the spread of the idea of rural tourism is the lack of understanding of its fundamental difference from commercial tourism activities in legislative, governmental and educational circles. The NWT is mistakenly viewed as a tourism industry, i.e., it is identified with a highly profitable business in urbanized areas with all the consequences that follow [4]. Therefore, clear criteria should be established at the legislative level to distinguish between entrepreneurial and non-entrepreneurial activities in this area. In order to regulate this issue, the Verkhovna Rada of Ukraine adopted

in the first reading the draft Law of Ukraine on Amendments to the Law of Ukraine “On Private Peasant Farming” regarding the development of rural green tourism (Reg. No. 2232-a) [5]. It stipulated that this activity should be limited exclusively to the provision of services on the basis of the property owned by the individual farmers; accommodation of tourists in manor-type residential buildings where the owners themselves live with the number of places for vacationers not exceeding 10 [5]. Unfortunately, in the process of preparing for the second reading by the Verkhovna Rada Committee on Agrarian Policy and Land Relations, it underwent strange metamorphoses. Now it is a draft law “On Amendments to the Law of Ukraine ‘On Private Farming’ on the Development of Rural and Ecological (Green) Tourism” [6]. This document refers to other types of tourism (ecological (green) and rural), which completely changes its original meaning. In addition, it excludes the criteria that made it possible to recognize activities in the field of SRT carried out using the property of individual farms as non-entrepreneurial.

It should be noted that the legislation of a number of foreign countries either recognizes a similar type of activity as non-entrepreneurial or is subject to taxation on a preferential basis. For example, the legislation of the Republic of Belarus stipulates that the activities of individuals, in particular, those who conduct personal subsidiary farming on land plots allocated for this purpose, to provide services in the field of agroecotourism, are not entrepreneurial (clause 1 of the Decree of the President of the Republic of Belarus of October 9, 2017 No. 365 “On the

Development of Agroecotourism”) [7]. At the same time, it is established that the total number of rooms in an agro-ecological farmstead may not exceed 10 (clause 12). According to Polish law, income received from renting out guest rooms in residential buildings located in rural areas, on a farm, as well as income received from their meals, if the number of rooms rented out does not exceed 5, is not taxed (clause 43 of Article 21 of the Law of July 26, 1991 “On Taxation of Personal Income”) [8].

Unfortunately, today, according to industry experts, there is a growing trend towards the gradual transformation of rural tourism into tourism activities in rural areas, which has a negative impact on inclusive rural development due to a significant increase in the dichotomy between the rural population involved in obtaining livelihoods from agriculture and providing rural hospitality services and the rest of the citizens who use rural attractions and local resources for the tourism industry and their own enrichment [9]. This trend is also characteristic of the development of tourism legislation. Thus, the Draft Law of Ukraine “On Amendments to the Law of Ukraine “On Tourism” and Some Other Legislative Acts on the Basic Principles of Tourism Development” (Reg. No. 4162) [10] (in the part that relates directly to the Draft Law of Ukraine “On the Basic Principles of Tourism Activity” [10] (hereinafter – the Draft Law) states that the subjects of tourism activity are legal entities established in accordance with the legislation of Ukraine, as well as individual entrepreneurs who carry out and/or provide tourism activities and whose information is entered in the

Unified State Register of Entrepreneurs. In other words, persons providing services in the field of tourism, including rural tourism (rest in rural areas to get acquainted with the peculiarities of customs, traditions and life of the rural population and associated with temporary residence in a rural estate (clause 3 of Article 4 of the draft Law) [10], are considered by this draft law exclusively as business entities.

In the context of the above, it seems appropriate and timely for the Institute of Economics and Forecasting of the National Academy of Sciences of Ukraine to develop a draft Law of Ukraine "On Stimulating the Development of Rural Hospitality in Ukraine" [2]. It defines the general legal, organizational, socio-economic principles of regulation of citizens' activities in the field of rural hospitality, including on the basis of joint and several liability of providers and consumers of relevant services, in order to meet the recreational, cognitive, cultural and spiritual needs of the population, diversify the activities and incomes of rural households in the provision of recreational and health services in rural areas. It also establishes the principles of rational use of natural and recreational resources of rural areas and regulates relations related to the organization and provision of rural hospitality services aimed at the multiplier development of rural communities.

It should be noted that the concept of "rural hospitality" is related to the STS. The former is proposed to be understood as one of the types of diversified activities of rural households engaged in agricultural production. Activities in the field of rural hospitality involve the reception, organization of meals

and provision of other services to persons (guests) traveling or visiting rural areas for recreation, health improvement, educational purposes, to get acquainted with nature, historical heritage, traditions, peculiarities of rural lifestyle and work in agriculture. In other words, this type of activity is not related to tourism by its content.

In addition, it is particularly important, in our opinion, that, first, rural hospitality is defined as a diversified activity. Secondly, it is carried out by a household – a group of people who live together in one dwelling or part of it, provide themselves with everything necessary for life, run a common household, fully or partially pool and spend funds. These persons may be related to each other by blood or by marriage, may not be related to each other, or may be related to both. A household may consist of one person. That is, such households may include individuals who are members of a household, as well as those who have received a land plot for the construction and maintenance of a residential building and outbuildings (homestead), individual summer cottage construction and gardening, and live in rural areas. Thirdly, the draft law clearly states that the provision of rural hospitality services is not considered an entrepreneurial activity. Guests are accommodated in residential buildings where the owners live; the number of beds is limited to 10.

Conclusions

Thus, it should be noted that today the process of establishing legislation in the field of rural hospitality is underway. It is aimed at creating the basis for broader involvement

of the rural population in the provision of tourism services and improving their economic situation. This contributes to improving the level and quality of life in rural areas, and thus to ensuring inclusive rural development.

References

- [1] Yermolenko, V.M. (2010). Features of the formation of the “sustainable development of rural areas” category. *Scientific Bulletin of the National University of Bioresources and Nature Management of Ukraine*, 156, 50-59.
- [2] Borodina, O.M. (2020). *Inclusive rural development in Ukraine*. Kyiv: National Academy of Sciences of Ukraine.
- [3] Regulation (EU) No. 1305/2013 of the European Parliament and of the Council on support for rural development by the European Agricultural Fund for Rural Development (EAFRD) and repealing Council Regulation (EC) No. 1698/2005. (2013, 2005 December). Retrived from <http://eur-lex.europa.eu/>.
- [4] Sobutsky, S. (2021). Rural green tourism: development prospects. Retrived from <http://www.visnuk.com.ua/ua/pubs/id/90010301>.
- [5] On amendments to the Law of Ukraine “On Personal Peasant Farming” regarding the development of rural green tourism”: Draft Law of Ukraine. No. 2232a. (2015, July) Retrived from http://w1.c1.rada.gov.ua/pls/zweb2/webproc4_1?pf3511=55828.
- [6] On amendments to the Law of Ukraine “On Personal Peasant Farming” regarding the development of rural and ecological (green) tourism: Draft Law of Ukraine. (2017, July). Retrived from http://w1.c1.rada.gov.ua/pls/zweb2/webproc4_1?pf3511=55828.
- [7] On the development of agro-ecotourism: Decree of the President of the Republic of Belarus. No. 365. (2017, October). Retrived from <http://president.gov.by>.
- [8] Personal Income Tax Act. (1991, July). Retrived from <https://isap.sejm.gov.pl/isap.nsf/DocDetails.xsp?id=WDU20200001426>.
- [9] Report of the State University “Institute of Economics and Forecasting of the National Academy of Sciences of Ukraine”. (2020). Retrived from <http://ief.org.ua/wp-content/uploads/2021/03/zvit2020-1.pdf>.
- [10] On Amendments to the Law of Ukraine “On Tourism” and some other legislative acts regarding the basic principles of tourism development”: Draft Law of Ukraine. No. 4162. (2020, September). Retrived from http://w1.c1.rada.gov.ua/pls/zweb2/webproc4_1?pf3511=70072 (access date: 07/08/2021).

Правові засади сільської гостинності в умовах інклюзивного сільського розвитку

Олена Вікторівна Гафурова

Доктор юридичних наук, професор

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

Анотація

У статті проведено науково-теоретичний аналіз правових засад сільської гостинності в Україні в умовах інклюзивного сільського розвитку. Окрема увага приділяється обґрунтуванню доцільності розробки і прийняття спеціального закону, який би визначив загальні правові, організаційні й соціально-економічні засади регулювання діяльності громадян у вказаній сфері. Зазначається, що проект Закону України «Про стимулювання розвитку сільської гостинності в Україні» характеризується рядом позитивних ознак. До них можна віднести наступні: сільська гостинність визначається як диверсифікована діяльність, яка може здійснюватися будь-яким домогосподарством, розташованим у сільській місцевості; надання послуг сільської гостинності не є підприємницькою діяльністю (ст. 3 проекту). Тож сьогодні відбувається процес становлення законодавства у сфері сільської гостинності. Воно спрямоване на створення підвалин для широкого залучення сільського населення до сфери надання туристичних послуг, покращення його економічного становища. Вказане сприяє підвищенню рівня і якості життя у сільській місцевості, а отже і забезпеченню інклюзивного сільського розвитку

Ключові слова: інклюзивний сільський розвиток, сільський зелений туризм, сільська гостинність, сільська територія, сільське населення, особисте селянське господарство
