

ppi 201502ZU4645

Esta publicación científica en formato digital es continuidad de la revista impresa
ISSN-Versión Impresa 0798-1406 / ISSN-Versión on line 2542-3185 Depósito legal pp
197402ZU34



CUESTIONES POLÍTICAS

Instituto de Estudios Políticos y Derecho Público "Dr. Humberto J. La Roche"
de la Facultad de Ciencias Jurídicas y Políticas de la Universidad del Zulia
Maracaibo, Venezuela



Vol.39

Nº 70

2021



Transformations of the organizational and legal mechanism of the Ukrainian state policy in tourism and hospitality

DOI: <https://doi.org/10.46398/cuestpol.3970.46>

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Abstract

The purpose of the work is to analyze the transformation and efficiency of the organizational and legal mechanism of Ukraine's state policy in the field of tourism and hospitality. Methods of grouping, modeling, and forecasting, methods of theorization and historical formalization, as well as methods of analysis, comparison, sampling, and description of the system were used to substantiate scientific principles and approaches for the development of organizational and legal mechanisms of Ukrainian state policy in the field of tourism and hospitality. In addition, the study identifies the conceptual foundations of the organizational and legal mechanism of Ukraine's state policy in the field of tourism and hospitality, which corroborates the importance of updating national legislation, its unification with international, including European, improving the Tourism and Resorts Strategy of Ukraine. As contributions of the research and outline the objectives and priority measures of the state policy in the field of tourism and hospitality, the strategic tasks of the state policy in this area are formulated, namely: to ensure progress towards the formation of a unique tourist space with other countries of the Commonwealth of Independent States (CIS).

Keywords: tourism; hospitality; state policy; organizational and legal mechanism; tourism development strategy.

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Transformaciones del mecanismo organizacional y jurídico de la política estatal de Ucrania en el ámbito del turismo y la hospitalidad

Resumen

El propósito del trabajo es analizar la transformación y eficiencia del mecanismo organizativo y legal de la política estatal de Ucrania en el campo del turismo y la hostelería. Se utilizaron métodos de agrupación, modelado y pronóstico, métodos de teorización y formalización histórica, así como métodos de análisis, comparación, muestreo y descripción del sistema para fundamentar los principios y enfoques científicos para el desarrollo de mecanismos organizativos y legales de la política estatal de Ucrania en el campo del turismo y la hostelería. Además, el estudio identifica los fundamentos conceptuales del mecanismo organizativo y legal de la política estatal de Ucrania en el campo del turismo y la hostelería, lo que corrobora la importancia de actualizar la legislación nacional, su unificación con la internacional, incluida la europea, mejorando la Estrategia de Turismo y Resorts de Ucrania. Como aportes de la investigación se delinear los objetivos y medidas prioritarios de la política estatal en el ámbito del turismo y la hostelería, se formulan las tareas estratégicas de la política estatal en este ámbito, a saber: asegurar el avance hacia la conformación de un espacio turístico único con otros países de la mancomunidad de Estados Independientes (CEI).

Palabras clave: turismo; hotelería; política de estado; mecanismo organizativo y legal; estrategia de desarrollo del turismo.

Introduction

It is well known that the tourism industry around the world suffers losses on a global scale as a result of measures to counteract the ID-COV19 pandemic and the uncertainty of further developments: 96% of tourist destinations have been subjected to restrictions. According to various data in 2020 international tourist revenues fell by 58-78% compared to the previous year. According to the experts estimate that the recovery of demand to the level of 2019 will last at least two years, while at the same time airlines will have to increase the travel cost by an average of 43-54%. Domestic tourism also suffered significant losses: in particular, the losses of the tourism industry in Ukraine are estimated at more than 150 million dollars. The late start of the resort and recreational season as a result of the restrictive measures has caused a cumulative effect that has had a negative impact on the leisure and travel industry, and related industries - the hotel and restaurant business, transport (passenger transport), retail,

entertainment industry and cultural institutions activity. Also, there is a drop in Ukraine's tourist attractiveness due to the long military conflict in the East of Ukraine, the annexation of the Crimean peninsula, the low level of quality tourist infrastructure, the lack of a coordinated marketing promotion strategy of the Ukrainian national tourist product in the world markets.

It is clear that adequate responses to such challenges are impossible at the local or sectoral level. Ways out of the crisis should be sought at the level of national and supranational political institutions, formulating political decisions that can keep the balance, and producing adequate mechanisms of state and interstate regulation, especially in those spheres of social life that are most affected by the situation, thus threatening overall stability. Despite this, the problems of reforming public policy in the socio-humanitarian sphere, with tourism as an important component, improving the management of social and humanitarian development, strengthening the social partnership role (Timoshenko, 2020) are actualized.

It is not accidental to choose tourism and hospitality as a subject field for research: they belong to those socio-cultural practices which obviously integrate global transformation processes of modern society - as the famous philosopher B. Markov noted at the beginning of this century, tourism itself can be qualified as «a form of globalization» (Markov, 2003: 188). The tourism phenomenon absorbs qualitative characteristics of modern global society: mobility, emphasizing consumer priorities, virtualization, visualization, informatization, and so on. Taking into account the scale and influence of the tourism phenomenon, there is no way to ignore its instrumental potential, including for ideology: the ability to introduce into the public consciousness and public practice the basic social policy ideas, to take a direct part in the project of building the equal opportunities society, etc., - in fact, tourism and hospitality in the newest global space act as conductors of social cohesion ideology (Oleksenko *et al.*, 2017). So, despite the fact that tourism and hospitality are a holistic phenomenon - cultural, social, economic, political, etc. - and a significant factor in the formation of the global socio-cultural space (Bortnykov *et al.*, 2021), they can be considered among the priority areas of political and economic efforts on the part of state and supranational institutions in the context of the crisis recovery tasks.

1. Objectives

Therefore, the purpose of the proposed study is to analyze the transformation and effectiveness of the organizational and legal mechanism of Ukrainian state policy in tourism and hospitality.

2. Materials and methods

In order to substantiate the scientific foundations and approaches to the development of the organizational and legal mechanism of Ukrainian state policy in tourism and hospitality sphere, there were used methods of grouping, modeling and forecasting. To determine the organizational and legal mechanism components of the state tourism policy, as well as the genesis of the mechanisms formation in Ukraine, there were used the theorizing and historical formalization methods. In order to study foreign public policy practices in the tourism sphere from the position of determining the perspective directions of their consideration in Ukraine the methods of system analysis, comparison, sampling and description were used.

3. Results and discussion

3.1. Ukrainian state policy in the tourism and hospitality sphere

Before we proceed directly to the analysis of Ukrainian state policy in the tourism and hospitality sphere and its organizational and legal mechanism in the studied sphere, let us make the necessary clarifications in the wording we have chosen for its designation - «the tourism and hospitality sphere». Being aware that in modern socio-economic conditions of Ukraine, hospitality is positioned mainly as an independent industry that provides a person with non-material production services and satisfaction of social needs, gradually separating into a separate national economy sphere, within the proposed study, however, we will consider it through the prism of tourism - as a separate tourism sector, especially important for the development of inbound and domestic tourism - and only in that part of it, which is designed to meet the needs of accommodation and catering for tourists (cf.: delimitation of hospitality for tourists and hospitality for the population – (Dishkantyyuk, 2016: 92)). In addition, it is worth considering the fact that in foreign sources (previously very popular in the post-Soviet space works of L. Wagen, J. R. Walker, etc.) it is necessary to consider the fact that the hospitality industry is considered in the international literature. Hospitality industry is considered as a combination of hotel and tourism business, as a separate tourism industry sector, which provides tourist accommodation, as well as related sectors of trade, catering, entertainment industry, etc. (Wagen, 2001; Woker, 2012).

Another argument in favor of our chosen formulation - despite the insistence on positioning hospitality as a separate economic sector, the issues of its institutionalization is still open (there is no scientific definition of this sphere as a scientific category and its interrelation with other

national economy sectors, does not allow to determine the priority areas of hospitality management, providing it with the necessary resources, etc. (Dishkanyuk, 2016: 86)), and then the public policy problems in this sphere and public management of the hospitality industry still remain almost outside of scientific research, and the lack of a systemic vision of the hospitality industry development does not allow for effective government regulation of the national economy sphere (Dishkanyuk, 2016: 87). After all, in practice we most often observe a combination of hotel and restaurant services with the tourism enterprises services in the general course of tourist business development. Despite this, in the proposed study, talking about Ukrainian state policy in the tourism and hospitality sector, we will take into account the hospitality industry only in the part where the sphere development is based on the institutional basis for state regulation of the tourist sphere.

State policy in tourism and hospitality is the influence of the state on the activities of economic entities and market conditions to ensure proper conditions for the market mechanism functioning, implementation of state socio-economic priorities and elaboration of unified industry development concept (Melnichenko *et al.*, 2017). In addition, it is a complex organizational process that includes the elaboration procedure of state policy on tourism and hospitality development, justification of its goals, objectives, main directions, selection of tools and production methods. This policy is set in motion by the appropriate organizational and legal public policy mechanisms (Oleksenko *et al.*, 2013; Timoshenko, 2020).

Organizational and legal mechanism analysis of state policy in the Ukrainian tourism sphere gives reason to believe that in the next 5-6 years it will develop under the strategic directions defined by the Government. Strategy, as it is known, is a generalizing plan of certain activities, covering a long period, a way to achieve a complex goal. The strategy is considered as a long-term, consistent, constructive, rational, supported by ideology, resistant to uncertainty of environmental conditions, accompanied by constant analysis and monitoring in the process of its implementation and aimed at achieving success in the end. The strategy tends to move from abstraction to specificity in the form of concretized plans and is an effective tool for the stable functioning of the state in general and the regions in particular. In Ukraine since 2015, the Strategy of Sustainable Development of Ukraine (Strategy, 2015), the action of which is calculated for the period until 2020. In 2019, the Decree of the President of Ukraine № 722 / 2019 on the goals of sustainable development of Ukraine for the period until 2030 (Presidential Decree, 2019), which noted that the goals of sustainable development of Ukraine until 2030. are benchmarks for the draft forecast and program documents, draft regulations to ensure a balance of economic, social and environmental dimensions of sustainable development of Ukraine (Presidential Decree, 2019).

Despite this, we consider it necessary to outline the Tourism and Resorts development strategy for the period up to 2026r. (Strategy, 2017), approved by the Government of Ukraine in 2017. (Order of the Cabinet of Ministers of Ukraine, 2017) from the position of its compliance with the requirements of time and society (Rybalchenko, 2020a; 2020b). Ukrainian tourism and resorts development strategy for the period up to 2026. Determines the necessity of entrepreneurship development (activation) in the specified sphere. Its peculiarity lies in the fact that it is carried out within two planes: state and market. In this lies the dichotomy of tourist sphere development, as the state implements its function «from the top down», and the enterprise, on the contrary, is repelled from the needs of the consumer. To subordinate the realization of functions to the interests of the consumer is the key task of the management programs of tourist business enterprises. Development of the tourism sphere state policy system should be streamlined within a single multi-sectoral body, whose primary tasks should go out to develop regulations that streamline the institutions activities of various ownership forms and departmental affiliation, ensure the implementation of tourist and recreational functions in the state and regions (Pomaza-Ponomarenko, 2015).

Tourism and resorts development strategy contains definitions of the main strategic objectives of tourism development, taking into account the current state and trends in the development of Ukraine. In our opinion, the urgent task for Ukraine is to harmonize the conflicting order of adoption of the Strategy for the development of tourism and resorts in Ukraine, concerns the long-term planning of such development. In Ukraine, this type of planning, particularly in the tourism sector, is carried out for a period of more than 5 years, but no more than 10 years, certifying its short-termism. However, the world experience shows the advantages of another widespread planning practice - medium-term planning of tourist sphere development, assumes its achievement and retention at the proper level for not less than 10 years (Kotler *et al.*, 2008). Despite this, we can offer a more systematic approach to the implementation of tourism planning in Ukraine, that is, taking into account the positive foreign experience in this area, covering compliance with such principles of public administration: consistency, science, innovation, strategic and the like. According to these principles, the development of the tourism sector should take place with the maximum definition and consideration of factors, risks, challenges and threats to the development of tourism, as well as changing conditions of its external institutional environment (Apaza-Panca *et al.*, 2020)

Based on the above, we believe that it is necessary to prepare appropriate amendments to the Law of Ukraine «On Tourism» (Law of Ukraine, 1995), as well as the Strategy for Development of Tourism and Resorts of Ukraine (until 2026.) (Strategy, 2017). We believe that the Law of Ukraine «On Tourism» should contain an appropriate section «Planning the

development of the tourism sector» and contain a reference to ensure the long and medium term planning in this area. The strategy should form the basis for its development in the long and medium term. In continuation, we note that the implementation of this requirement is also not possible by taking into account the principles of time management. Consequently, it is important to define in the Law of Ukraine «On Tourism» a clear rule on the timing of the adopted strategy in this area, and prevail in this medium- and long-term strategies for the development of the tourist sector.

3.2. Organizational and legal support for state policy in the tourism sphere in the CIS countries and the prospects for the formation of a unified tourist space

In our opinion, a promising and, what is important, strategic direction in the development of tourism sphere is to ensure progressive movement towards the formation of a single tourist space, which is possible within the framework of transboundary cooperation. It provides for active joint activities, in particular the subjects-participants of Euroregions, among which, on the one hand, there are regions of Ukraine, having a common border with the region of another country (for details see: Diganova, 2019). In addition, the potential is the formation of a common tourist space with the participation of member countries of the Commonwealth of Independent States (CIS).

Assessing the organizational and legal support of the state policy in the tourism sphere in the CIS countries, it should be noted that the formation process of a unified organizational and legal support, design and implementation of tourism activities in the CIS countries has developed consistently and experienced certain peaks, largely overlapping with changes in the life cycle of domestic tourism product and key destinations of the Commonwealth countries. Fig. 1 shows the evolution of the main normative act regulating the recreation and tourism sphere in the CIS countries during the existence of this association, starting from 1993. and up to the present time. Let us consider each of the above-mentioned stages in more detail in terms of the main legislative initiatives for the formation of a unified tourism space for the CIS countries.

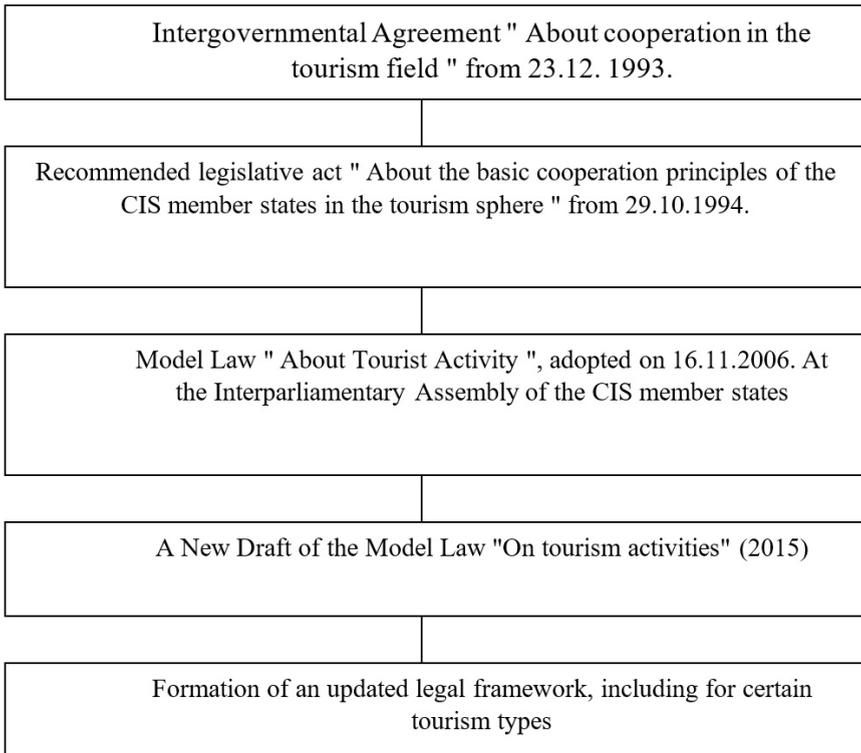


Fig. 1. The main stages in the establishment of organizational and legal support for the tourism sector development in the CIS. Source: compiled on the basis of (Law of Ukraine, 2000; Chan Thuy Vang, 2016).

The first attempt to unify the organizational and legal provision of the CIS countries' tourism sphere should be recognized the Intergovernmental Agreement «On Cooperation in the Tourism Sphere» of 23.12.1993 (Agreement, 1993), which was based on the principles of the Manila Declaration on World Tourism (1980, Philippines) and the Hague Declaration on Tourism (1989, The Netherlands). It is appropriate to say that this deal is a certain declaration of intent, which proclaims a course for the formation of a unified tourism space and a common service market. At the same time, this intergovernmental legislative act does not contain specific forms and mechanisms for implementing the general goal, does not define the specifics of tourism and recreational potential of the CIS

countries, does not provide recommendations on possible financing sources for proposed joint projects in the tourism sector. All this contributed to the further transformation of the considered normative act from a declarative to a more specific legal document, which creates a functional basis for the development of the CIS single tourist market.

The legislative act «On the basic cooperation principles of the CIS member states in the field of tourism,» adopted by the Interparliamentary Assembly of the CIS member states on October 29, 1994 (Recommendatory legislative act, 1994), contained a number of important legal and regulatory aspects, which include the following:

- formation of a unified approach to defining the key categories, which can be used to characterize and regulate the tourism services market in the future. These might include the concept of «tourist», «tour», «tourism resources», etc.
- definition of specific competencies of the Commonwealth member states, which include «state property management in the tourism sphere, funding of public administration and supervision of tourist rights, definition of the procedure for granting privileges to certain categories of tourists», etc.
- characterization of the tourists' rights and obligations, with a separate regulation of foreign nationals' situation.
- development of methodological guidelines for the tourism activities certification and use voucher as a policy tool in the tourism sector, which is an individual or group document issued by a tourism organization, is a form of contract between the supplier and the consumer of tourist services and confirms their payment.

The normative act under consideration had a recommendatory character, existed for 12 years and was transformed, on the basis of a collegial decision of the Interparliamentary Assembly of the CIS member states (Decision NO. 27-15, 2006), into the Model Law on Tourist Activity» (Decision NO. 27-15, 2006). In comparison with the previous legal document, this legislative act has a number of indisputable advantages, which include:

- concretization of basic definitions and expansion of the necessary terms list; thus, the model law mentions such relatively new for that time socio-economic categories as «tourism registry», «timeshare», «promotion of tourism industry entities' services», «tourist voucher», etc.
- characterization of the main types and varieties of tourism, including such categories as «international tourism», «domestic tourism», «ecological tourism», «sustainable tourism development» (as a concept of such development), etc. were introduced in the rulemaking, etc.

- significant attention to the issues related to the state regulation of activities in the tourism sphere, which is caused by a return to the position of the defining role of the state as a key regulator in the development and stimulation of economic growth of tourist destinations;
- the established unified methodological basis for the characterization and classification of tourism resources.
- analyzed issues related to the creation and development of tourist and recreational areas as separate organizational and economic formations, with the help of which it is possible to accelerate the renewal of infrastructure of tourist destinations and ensure sustainable demand for appropriate resources (Decision NO. 27-15, 2006).

In general, it is quite a large document and compared with previous versions, contains 17 chapters, including 67 articles. It is worth noting that over time there was a need to update the legal norms in accordance with the demands of modern society, and such an attempt was made in 2015. During this period was created a new draft version of the model law, which aims to update the current trends in tourism activities, including issues related to the tourists' safety, with the need for permanent financing of tour operators and travel agents, increasing the responsibility of tourist business entities and so on. Considering this and taking into account the changing socio-economic and socio-political situation in most CIS countries, there was a need for law-making activities on the formation and implementation of uniform legal norms, which would be as much as possible consistent with the strategic development trajectories of the member countries of the association.

In our opinion, it is necessary to pay attention of parliamentarians of the Inter-Parliamentary Assembly of the CIS member states to finalize or create a new model law, as well as to develop and adopt specialized normative acts which regulate tourism activities and certain tourism types, primarily medical and therapeutic, which is especially relevant in connection with the expanding capacity and demand of the overall tourism market. Undoubtedly, such rulemaking activity will contribute to updating the domestic legislation in the tourist sphere (Kulagina *et al.*, 2009: 27-32).

3.3. Development Prospects of Organizational and Legal Mechanism of State Policy of Tourism in Ukraine

Normative activities to update the CIS modular legislation in the field of tourism will contribute to the improvement of the domestic regulatory framework in this area, namely: The Law of Ukraine «On Tourism» and the Tourism and Resorts Development Strategy (Fig. 2). Moreover, one of the

objectives of the CIS modular legislation in the tourism sphere is to help in the development of national legislation of the CIS member states in this area.

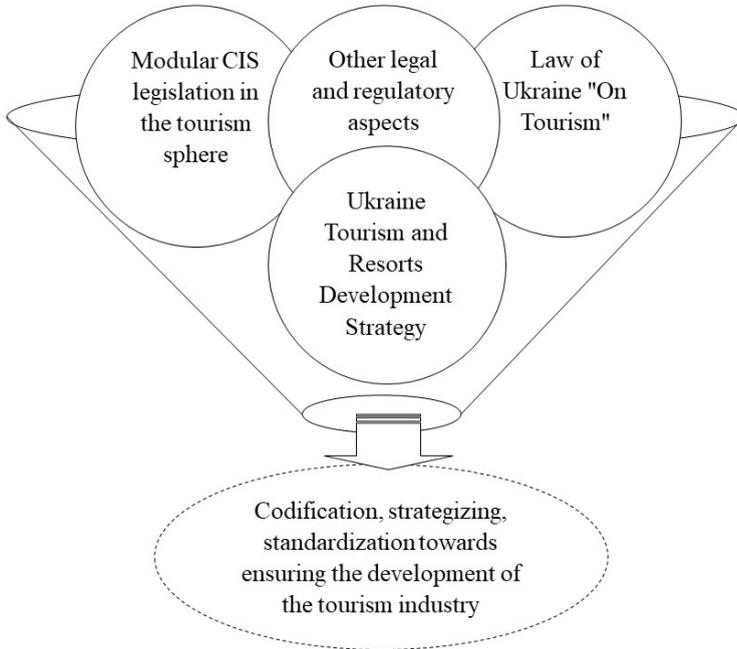


Fig. 2. Development prospects of the organizational and legal mechanism of the state policy of the tourism sphere in Ukraine.
Source: author's elaboration.

Ensuring the development of tourism in Ukraine requires a balanced system of its monitoring. Analysis of the Tourism and Resorts Development Strategy of Ukraine contains a forecast assessment of its condition for the period up to 2026 Among the indicators of development the following are defined:

1. the number of foreign tourists entering Ukraine, million people.
2. the number of subjects of tourist activity, thousand pcs.
3. the volume of revenues to local budgets from the payment of tourist fees, mln.
4. the volume of revenues to the consolidated budget (taxes and fees) from the activities of tourist entities, billion, UAH.

5. the number of jobs in tourism, thousand people.
6. the number of domestic tourists, thousand people.
7. the number of excursionists, thousand people.

At the same time, these indicators of development of the tourism sector of Ukraine requires clarification, taking into account the accumulated foreign practice of assessing the state of such sphere, in particular UNWTO. Moreover, the Strategy under consideration specifies the requirement to take into account the UNWTO recommendations and to improve the domestic system of statistical accounting, and then the methodological approaches to the assessment of the tourism sector. On this basis, we justify the need to assess the state of functioning and development of the tourism sector of Ukraine not only from the position of determining the dynamics of the relevant market, but also by such indicators:

- The volume of services of tourist sector (mln. UAH) AND the share in GDP (%);
- the volume of tourism services (mln. UAH) AND their share in GDP (%);
- the number of employees in the tourism sector (thousand PE.) AND the share of employees in the national economy (%);
- the number of those employed in the tourism sector (thousand P.M.) AND the share of those employed in the national economy (%);
- the volume of exports of tourist services (mln. UAH) AND the share in total exports (%);
- index of the level of development of tourist functions (beds / per 100 inhabitants) (Rybalchenko, 2019; Pomaz-Ponomarenko *et al.*, 2020).

Therefore, the main goal of Ukraine is to implement regulations, in particular the Strategy for the Development of Tourism and Resorts to achieve the following indicators:

- Improving the competitiveness of the domestic tourist product can be produced at the national and regional levels;
- improving the standard of living and quality of life of the Ukrainian, which requires ensuring economic growth of the state as a whole, its social and environmental security, improving the quality of services in the tourism sector (Oleksenko *et al.*, 2021)
- Creating new jobs and expanding opportunities for self-employment in the tourism sector by providing them with state support for the development of small and medium-sized businesses;

- Create a modern tourist information infrastructure, as well as disseminating information about the tourist resources of Ukraine in the international information space.

Conclusion

The conceptual foundations for the development of organizational and legal mechanism of public policy of Ukraine in tourism and hospitality, which justified the importance of updating national legislation, its unification with international, in particular the European, the improvement of the Development Strategy of Tourism and Resorts of Ukraine (for the period up to 2026). In this case the priority goals and measures of state policy in the tourism and hospitality sphere are outlined. Also formed the strategic objectives of state policy in the tourism sector, namely: ensuring progressive movement towards the formation of a single tourist space with other countries of the Commonwealth of Independent States (CIS).

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CUESTIONES POLÍTICAS

Vol.39 N° 70

*Esta revista fue editada en formato digital y publicada en octubre de 2021, por el **Fondo Editorial Serbiluz**, Universidad del Zulia. Maracaibo-Venezuela*

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