

Regulatory Aspects of Arctic Tourism*Antje Neumann*

Arctic spectacular land- and seascapes and the natural phenomenon of aurora borealis have been attracting travelers from outside the region for a long time. While first visitors, often in search of adventure or on board of scientific exploration vessels, came to the region in the early nineteenth century, mass tourism started with the development of transport infrastructure and the establishment of cruise tourism in the last century. During the last two decades, however, the Arctic experienced a significant growth of tourism, both, in terms of visitor numbers and types of activities. Beside technological advances, the enlargement of ports and the commencing of new airlines, climate change is one of the main reasons facilitating especially cruise tourism in waters that were previously unnavigable, such as for example through the North West Passage. Climate change also lengthens the tourism summer season, previously limited to a few months only. Arctic tourism is nowadays well established year-round and encompasses a large variety of activities, from leisurely tours by aircraft and ship to more active ventures like dog sledding and snowmobiling, to extreme sports on water and ice.

Due to this growth, tourism advanced to become a critical power in Arctic economies and provides an increasing source of income. At the same time, however, it also accelerates the environmental footprint. Thus, for example, cruise ship traffic itself is known to cause severe pollution to the marine environment and its carbon footprint is many times higher than that of cars. For Arctic ecosystems, which are highly specialized to cold-climate conditions and thus especially vulnerable to minimal changes, these impacts may lead to degradation and destruction. Increasing traffic may also pose greater risks towards possible accidents which may result in irreparable damage, as previous disasters in the Arctic have shown. Beside environmental impacts, the rising inflow of tourists may also cause tensions with local residents whose lifestyles are often characterized by subsistence practices, such as farming, fishing and hunting. Especially small communities and Indigenous peoples may be severely impacted in their ways of life.

Against this background, effective regulation of tourism activities in the Arctic becomes imperative. It can be broadly divided into state law, supplemented by international and regional law and policy, on the one hand, and self-regulation of the tourism industry, on the other.

Since the Arctic does not fall under one central legal regime, it is the laws and policies of the eight Arctic states with territories and territorial rights in the region (Canada, the Kingdom of Denmark, including the Faroe Islands and Greenland, Finland, Iceland, Norway, Sweden, the Russian Federation and the United States) that are most imperative for the regulation of tourism. These national laws and policies can range from legally binding access restrictions or banning of certain activities, for example, in protected areas and reserves, up to voluntary guidelines to manage visitors' behavior at the local level, for example, at heavily frequented places. A particularity applies to the Nordic countries where the so-called *Everyman's right*, a public right of access, is extensively established. The right, which evolved over history from a largely unwritten code of practice, implies everyone's basic right to roam freely in the countryside, without needing to obtain permission, no matter who owns or occupies the land. For commercial tour operators, it may extensively enlarge business opportunities, but also set some limits.

Domestic tourism regulation is supplemented by international regulation. Central in this regard is the *United Nations Convention on the Law of the Sea* of 1982. The convention imposes a legal order for all seas and oceans of the world. It includes principal rules for navigation, cooperation and environmental protection. Importantly for Arctic tourism, it also defines rights and responsibilities for 'flag states', which are states where companies, for instance cruise companies, register their ships. Hence, all states which allow a cruise ship to fly its flag in Arctic waters have respective responsibilities under this regime. Another important regulation is the *International Code for Ships Operating in Polar Waters*, developed under the auspice of the International Maritime Organization. Enforced in 2017, it establishes technical and environmental standards specifically for ships navigating in Arctic waters. These standards include, among others, a *Polar Ship Certificate* that classifies vessels according to their capabilities to navigate in ice-covered waters. Moreover, the code encourages ships not to use or carry heavy fuel oil in the Arctic, substances that are particularly harmful through their *black carbon*

emissions if burned. This recommendation will become mandatory as of 2024 (with exceptions towards ships of Arctic coastal states).

At the regional level, the *Arctic Council*, a high-level intergovernmental forum of the eight Arctic states and formally established in 1996, plays an important role for Arctic tourism. Even though the council has no legal authority, it has however proven to be effective at providing policy-relevant knowledge and scientific assessments. The latter are mostly generated by six working groups, of which two are especially relevant: the *Protection of the Arctic Marine Environment Working Group* and the *Sustainable Development Working Group*. While the first puts a focus on Arctic marine tourism and has produced key assessments and recommendations to strengthen existing mandatory requirements and various voluntary policies, the second working group aims especially at Indigenous peoples and Arctic communities to advance sustainable development and improve environmental, economic and social conditions.

In contrast, self-regulation is provided by the various stakeholders engaged in Arctic tourism industries, most noticeably by the *Association of Arctic Expedition Cruise Operators*. Founded in 2003, the association has continuously grown over the years and includes today almost thirty full members and numerous provisional members, which are operating in waters north of 60 degrees. It sets out a range of industry guidelines underscoring its members' commitments to managing responsible, environmentally friendly and safe tourism in the Arctic. Its objective aims also to protect the culture and habitat of Indigenous and non-Indigenous communities in relation to cruise tourism. Recent examples in this regard include the development of *Community Specific Guidelines*, which are negotiated with the input of local stakeholders to improve the visitor's experience on site and to make visitation more sustainable.

Overall, Arctic tourism is not centrally regulated but rather subject to a patchwork of domestic, regional and international laws and policies, complemented by industry self-regulation. Biggest challenges exist with regard to the continued growth of tourism, its importance for Arctic economies and its accelerating footprint on the Arctic environment. The latter

becomes particularly intensified by the consequences of climate change which are in the region more drastic than on global average.

For more on this, read...

Protection of the Arctic Marine Environment (PAME) Arctic Council Working Group, *Arctic Marine Tourism Project - Passenger Vessel Trends in the Arctic Region (2013-2019)*, (Arctic Council 2021) <https://oaarchive.arctic-council.org/handle/11374/2747>

Association of Arctic Expedition Cruise Operators (AECO), *General Guidelines for Travelers visiting the Arctic* + Video <https://www.aeco.no/guidelines/visitor-guidelines/>

Rantala O and Others, 'Arctic tourism in times of change: Seasonality' (2019) Nordic Council of Ministers <http://norden.diva-portal.org/smash/get/diva2:1312957/FULLTEXT01.pdf>

