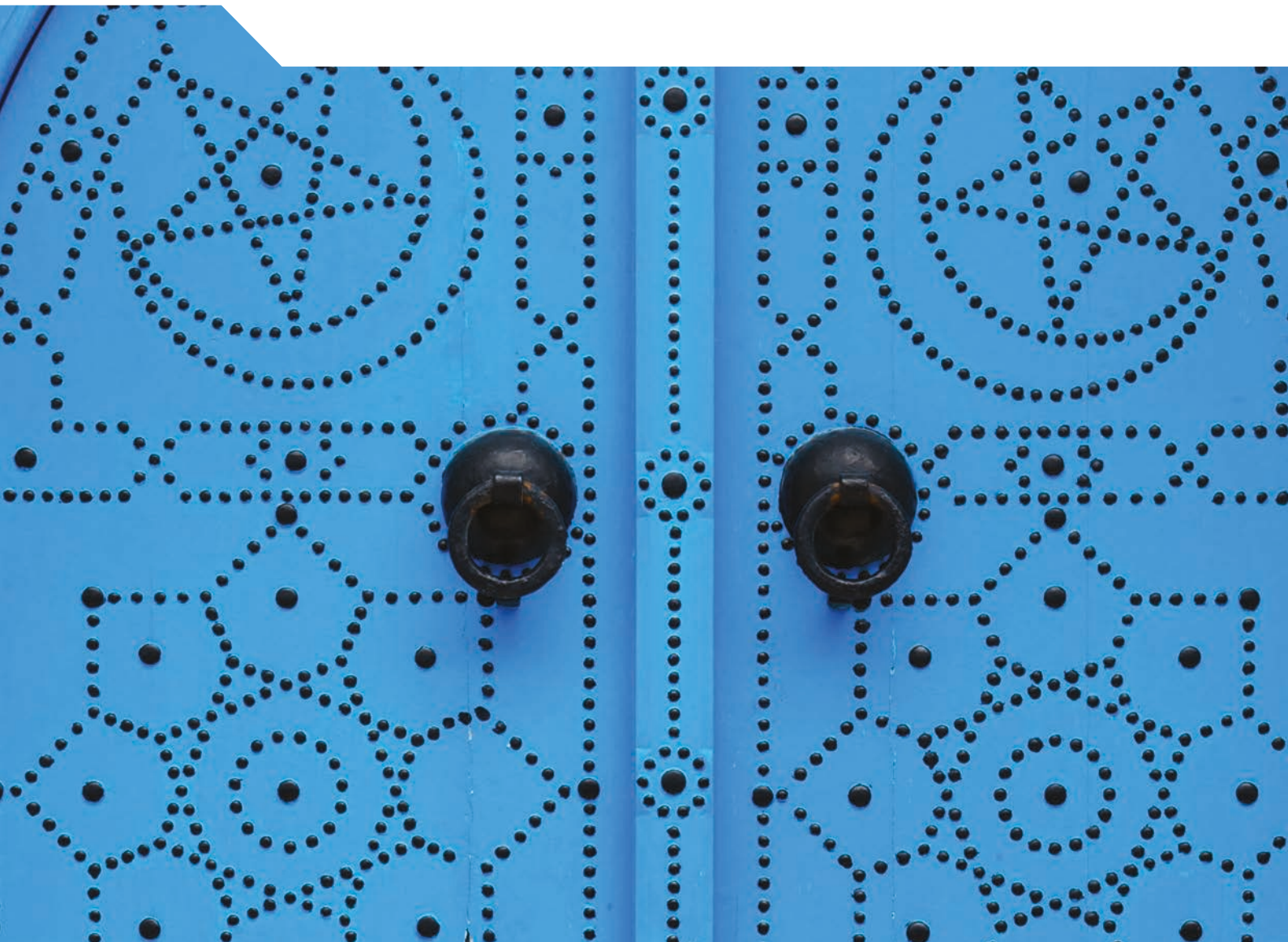




OECD Competition Assessment Reviews

TUNISIA 2023



OECD Competition Assessment Reviews: Tunisia 2023

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Preface

Tourism is a key part of Tunisia’s growing services economy and has been an important source of job creation, export revenue and domestic value added for years. The industry was hit hard by the depth and duration of the crisis triggered by the COVID-19 pandemic. The crisis aggravated new and existing structural weaknesses. It also highlighted the need for tourism to be better prepared to respond, adapt and recover from future shocks. As the sector navigates these challenges, steadfast and transformative action is required to drive its recovery and to set it on a path to a more resilient, sustainable and inclusive future.

Initiated by the Ministry of Tourism, the “National Tourism Strategy 2035” was developed in 2022 to support the recovery that has begun to take root and serve as a framework for developing a tourism industry that celebrates Tunisia’s rich cultural heritage, preserves the environment, and benefits Tunisian businesses, citizens and tourists alike.

Crucial to the success of that strategy will be a pro-competitive regulatory framework that reduces or eliminates unnecessary costs and maximises the industry’s flexibility.

The European Union and the OECD are keen supporters of this effort. This report is the result of a competition assessment project, developed within the EU’s *Programme d’Appui à la Gouvernance Economique* (PAGE), aiming to improve the business climate and revive investment. The project was conducted in close consultation with the Ministry of Tourism and other local stakeholders.

The project identified rules and regulations that may hinder the competitive and efficient functioning of markets in the country’s tourism sector. It assessed 163 legal texts and made 351 recommendations for reform. These recommendations address persistent structural constraints in the sector, reduce barriers to entry and promote a more level playing field for the benefit of the industry, Tunisia’s broader economy, and society at large.

If these recommendations are fully implemented, Tunisia can expect to improve the functioning of its tourism industry and reap benefits such as lower prices for consumers, increased competitiveness and dynamism across the sector as well as the economy, improved rates of job creation, and an increased gross domestic product growth estimated at 1.2%.

The Ministry of Tourism, the EU and the OECD are certain that this joint undertaking will make a valuable contribution to reform efforts to put Tunisia on a sustainable growth trajectory by enhancing its competitiveness, stimulating productivity and promoting inclusive economic growth and formal job creation. We look forward to working together towards the implementation of the assessment’s recommendations.



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Foreword

The depth and duration of the crisis triggered by the COVID-19 pandemic has severely affected the tourism industry worldwide, and Tunisia's tourism sector has not escaped its impacts. The shock came at a time when the industry was slowly recovering amid the aftermath of the 2011 revolution and the 2015 terrorist attacks in the country. The crisis has aggravated existing structural weaknesses and highlighted the need for authorities to respond and accelerate structural reforms to promote its full recovery. A pro-competitive regulatory framework that avoids unnecessary costs and enables flexibility will be crucial to these efforts. This report therefore analyses regulatory barriers to competition in the Tunisian tourism sector.

Anti-competitive regulations that hinder entry into and expansion within markets may be particularly damaging because they reduce productivity improvement, limit investment and innovation, and harm employment creation. In addition, tourism is susceptible to external events, and changes in business cycles can have an outsized effect on activity. As a result, it is crucial that the sector is sufficiently flexible to adapt to changes in conditions. An absence of significant entry and exit barriers in the regulatory framework for tourism would contribute to that flexibility.

This OECD competition assessment review of Tunisia was conducted in close co-operation with the Ministry of Tourism, the Conseil de la Concurrence, or Competition Council, and other Tunisian authorities and local stakeholders. The report includes an assessment of competition and an analysis of 163 pieces of legislation regulating key tourism services such as accommodation, food and beverage service, transport, travel agencies, and cultural, sports and recreational services. The report identifies 447 potential regulatory barriers to competition and submits 351 recommendations to make regulation in the sector more pro-competitive.

The report builds on the previous competition assessments by OECD's Competition Division. Using its Competition Assessment Recommendation and Toolkit, the OECD has been supporting governments in the adoption of pro-competitive laws and regulations for more than a decade. Since 2013, the OECD has assisted Greece, Mexico, Portugal, Romania, Iceland, Brazil and 10 ASEAN countries with competition assessments of strategic sectors, such as medicines, construction, logistics, media, manufacturing, and retail and wholesale trade.

The Tunisia competition assessment review adds to the country's ongoing efforts to strengthen its competition policy framework. It is part of a broader project, supported by the European Union Delegation to Tunisia, aimed at fostering pro-competitive reforms in the country. The project builds on the success of 2019 OECD Competition Assessment Reviews: Tunisia, which examined the country's wholesale and retail trade, and road and maritime freight transport sectors. Other outcomes of the project include OECD Peer Reviews of Competition Law and Policy: Tunisia, published in 2022, and the OECD Competition Market Study of the retail banking sector, to be published in mid-2023.

This document was produced with the financial assistance of the European Union Delegation to Tunisia. The views expressed herein can in no way be taken to reflect the official opinion of the EU.

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This report is the result of the project on Competition Assessment of Laws and Regulations in the Tunisian tourism sector. It was developed by the OECD in close co-operation with the Delegation of the European Union to Tunisia, the Ministry of Tourism and Handicraft and the Competition Council.

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We are grateful to the Ministry of Tourism and to ONTT for their co-operation, commitment and support throughout the project. In particular, the authors are thankful to Mohamed Moez Belhassine, Minister of Tourism and his team, especially Mehdi Bel Hadj Ali and Monia Layouni as well as Nizar Slimane, Head of ONTT and his team, especially Haroun Ouni, Saber Karoui, Ahlem Barbaria, Wissem Hmaidi, Wajdi Chouchene and Mohamed Ayari.

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In addition, we acknowledge the valuable input from government experts who participated in the project by providing information, advice and feedback throughout the project from the following departments of the involved ministries:

- Ministry of Health: National Office of Thermalism and Hydrotherapy (ONTH)
- Ministry of Transport: Land Transport Department and the Legal Affairs Directorate
- Ministry of Cultural Affairs: International Co-operation Department and the National Institute of Heritage (INP)
- Presidency of the Government: General Authority for Public-Private Partnerships (IGPPP) and the General Secretariat of Maritime Affairs.

We would also like to thank the management, staff and members of the following trade associations for the informative exchange and for their valuable input through direct interviews as well as through the online survey:

- Tunisian Federation of Travel Agencies (FTAV)
- Interprofessional Federation of Tunisian Tourism (FI2T)
- Tunisian Federation of Tourist Restaurants (FTRT)
- National Syndicate for Tourist Transport
- National Syndicate for Vehicle Rentals
- Tunisian Federation of Licensed Tourism Guides

- Association of Cruise Tourism Guides
- Tunisian Federation of Underwater Activities and Aquatic Lifesaving (FAST)
- National Chamber of Marina Managers
- Consumer Defence Organisation (ODC).

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The opinions expressed in the report do not necessarily reflect the views of the above-mentioned organisations or individuals.

The review was prepared by a team led by Saïd Kechida composed of Sophie Flaherty, Cristina Volpin, Yosuke Jin and Richard May, all from the OECD Competition Division under the strategic supervision of Ori Schwartz, Head of the OECD Competition Division. Federica Maiorano, also of the Competition Division, peer reviewed it and provided extensive and valuable comments. Special thanks go to the OECD experts who provided their input and offered useful comments and feedback. These include António Gomes, Deputy-Director for Financial and Enterprise Affairs; Jane Stacy, Christopher Howard and Kristen Corrie from the Centre for Entrepreneurship, SMEs, Regions and Cities – Entrepreneurship, SMEs and Tourism Division; Daniel Trnka from the Public Governance Directorate – Regulatory Policy Division; Fernando Mistura and Stephen Thomsen from the Investment Division. We would also like to thank Mehdi Ben Braham and Menna Mahmoud for their contribution.

The report was edited by Padraic Convery and prepared for publication by Liv Gudmundson and Erica Agostinho, Directorate for Financial and Enterprise Affairs. Nasli Aouka of the Competition Division revised the French version.

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Abbreviations and acronyms

AFT	Agence Foncière Touristique (Tourism Real Estate Agency)
AMVPPC	Agence de Mise en Valeur du Patrimoine et de Promotion Culturelle (Agency for Heritage Development and Cultural Promotion)
ANPE	Agence Nationale de Protection de l'Environnement (National Environmental Protection Agency)
APAL	Agence de Protection et d'Aménagement du Littoral (Coastal Protection and Planning Agency)
APIP	Agence des Ports et des Installations de Pêche (Fishing Ports and Installations Agency)
ATANP	Association Tunisienne des Activités Nautiques et de Plaisance (Tunisian Association of Nautical Pleasure Activities)
ATTT	Agence Technique des Transports Terrestres (Tunisian Technical Agency for Land Transport)
B&B	Bed & breakfast
CMAS	Confédération Mondiale des Activités Subaquatiques (World Underwater Federation)
DGCEE	Direction Générale de la Concurrence et des Enquêtes Économiques (Directorate for Competition and Economic Investigations)
EUR	Euro
F&B	Food & beverage
FAO	Food and Agriculture Organization
FAST	Fédération Tunisienne des Activités Subaquatiques et de Sauvetage Aquatique (Tunisian Federation of Underwater Activities and Aquatic Lifesaving)
FDI	Foreign direct investment
Fi2T	Fédération Interprofessionnelle du Tourisme Tunisien (Interprofessional Federation of Tunisian Tourism)
CNLV	Chambre Syndicale des Loueurs de Voitures (National Syndicate for Vehicle Rentals)
FODEC	Fonds de Développement de la Compétitivité dans le Secteur du Tourisme (Fund for the Development of Competitiveness in the Tourism Sector)
FTANT	Fédération Tunisienne des Activités du Tourisme Nautique (Tunisian Federation of Nautical Tourism Activities)
FTAV	Fédération Tunisienne des Agences de Voyages et de Tourisme (Tunisian Federation of Travel Agencies)
FTGT	Fédération Tunisienne des Guides Touristiques (Tunisian Federation for Tourist Guides)
FTH	Fédération Tunisienne de l'Hotellerie (Tunisian Hotel Federation)
FTRT	Fédération Tunisienne des Restaurants Touristiques (Tunisian Federation of Tourist Restaurants)
GDP	Gross domestic product
GVA	Gross value added
IGPPP	Instance Générale de Partenariat Public Privé (General Public-Private Partnership Authority)
INS	Institut National des Statistiques (National Institute of Statistics)
INP	Institut National du Patrimoine (National Heritage Institute)
ISO	International Organization for Standardization
MENA	Middle East and North Africa
NAT	Nomenclature d'Activites Tunisiennes (Nomenclature of Tunisian Activities)
ODC	Organisation Tunisienne de Défense du Consommateur (Tunisian Consumer Defence Organisation)
OMMP	Office de la Marine Marchande et des Ports (Office of the Merchant Marine and Ports)
ONTH	Office National du Thermalisme et de l'Hydrothérapie (National Office of Thermalism and Hydrotherapy)
ONTT	Office National Du Tourisme Tunisien (Tunisian National Tourism Office)
PADI	Professional Association of Diving Instructors
PMR	Product market regulation
SOE	State Owned Enterprise
SSI	Scuba Schools International
STDG	Société Tunisienne de Développement du Golf (Tunisian Golf Development Company)
TND	Tunisian dinar
TSA	Tourism Satellite Account
UNESCO	United Nations Educational, Scientific and Cultural Organization
UNWTO	World Tourism Organization
UTICA	Union Tunisienne de l'Industrie, du Commerce et de l'Artisanat (Tunisian Industry, Trade and Crafts Union)

Executive summary

The competition assessment review of laws and regulations in Tunisia's tourism sector is part of a broader project aiming at fostering pro-competitive reforms in the country. Tourism is a key part of Tunisia's economy and has been an important source of job creation and domestic value added for years. This competition assessment review was carried out by the OECD to identify rules and regulations that may hinder the competitive and efficient functioning of markets in Tunisia's tourism sector.

The report submits 351 recommendations that can mitigate harm to competition and facilitate market access for businesses engaging in tourism-related activities. Tourism market opportunities have gained renewed importance following the COVID-19 pandemic, which has severely affected the sector. A pro-competitive regulatory framework that avoids unnecessary costs and enables flexibility will be crucial for its sustainable recovery.

The recommendations in this report, if implemented, would create benefits for Tunisia's consumers and economy worth Tunisian dinar (TND) 1.4 billion, or 1.2% of the country's 2018 GDP, on the OECD's most conservative estimate.

The project used the OECD's Competition Assessment Toolkit, a thoroughly tested methodology that entails collecting and mapping all relevant legislation, and closely scanning legal texts to identify provisions that include potential restrictions to competition. The OECD identified the policy objectives of each provision and analysed each regulation in depth. This process included assessing whether restrictions were proportional to policy objectives. To better understand the provisions, the policy objectives and the issues involved in each activity, the OECD conducted more than 65 interviews with public and private stakeholders, and carried out an online survey among tourism professionals. The report proposes specific changes to remove or change regulations and practices found to be overly restrictive and which hamper market access and the optimal functioning of tourism operations. Those restrictions were grouped into three main categories: heavy and burdensome licensing requirements, onerous and overly detailed operational requirements, and the influence of incumbents in decision-making bodies. The project also contributed to the development of a Tourism Satellite Account for the first time in Tunisia.

Accommodation and well-being services

Hotels and accommodation services account for the largest share of tourism revenues in Tunisia. Several regulations pose challenges to competition, business efficiency and growth, including complex licensing procedures, inflexible zoning policies and onerous operating requirements. This report proposes streamlining licensing procedures for facilities outside tourist areas, abolishing accommodation standards that are not enforced and which have no clear policy objectives, revising zoning controls, and lifting foreign ownership restrictions that may limit investment in the sector. **Well-being services** are strongly linked to the hotel industry and have the potential to support the diversification of Tunisia's tourism sector. Conflicting regulatory provisions and an absence of adequate frameworks for some well-being services are exacerbating legal uncertainty and stifling investment. The report proposes measures to simplifying and harmonising the regulatory framework for hydrotherapy and removing related conflicting legal provisions.

Food and beverage service

Tourist restaurants are subject to licensing and classification procedures similar to those applied to accommodation services. The report recommends removing the mandatory fork classification system and requirements beyond those that concern hygiene, safety and consumer protection, and considering the transfer of specific size, layout and equipment details into an investor guide. Processes involved in applying for alcohol licences, which also apply to hotels and entertainment establishments, should be revised and streamlined. For **other food service businesses**, such as traditional and fast-food restaurants, the report proposes lifting sanitary requirements that impose undue costs on small businesses and which go beyond considerations of hygiene, safety and consumer protection. Authorities should consider other regulatory options for street food hawkers or vendors that wish to operate such facilities as food trucks, for instance granting temporary site authorisations for public areas.

Passenger transport services

Transport is a vital part of Tunisia's tourism industry, and the second-largest contributor to sector revenues. **Tourist transport** remains subject to several restrictions, limiting its provision exclusively to Category-A travel agencies, with vehicles able to be driven only by individuals holding a professional licence issued subject to specific requirements. The report recommends abolishing the exclusivity granted to these travel agencies to offer tourist transport services and lifting the distortive eligibility requirements for professional licences. The report also proposes abolishing specific qualifications, minimum fleet sizes and age limits that impose undue burdens on **car rental** businesses. **Taxis and other non-regular public transport services** are also vital contributors to tourism in Tunisia. The assessment suggests that regulatory changes are necessary to ensure a pro-competitive market for these services and to reduce burdens on market participants. The report recommends eliminating duplicative licensing requirements, revising criteria defining taxi quotas, and reviewing those criteria more regularly.

Travel agencies and related services

Travel agencies are essential to Tunisia's domestic and international tourism industry. Despite the introduction of an ex-post notification procedure and *cahiers des charges*, or sets of specifications, sector regulations still include several barriers to entry, such as specific equipment and operating requirements, professional qualifications and minimum share capital, distorting competition and fuelling informality. The report makes a number of recommendations, including opening to competition services that can currently be provided only by travel agencies, removing the distinction between Category-A and Category-B travel agencies, ensuring that specific operating requirements are proportional to business needs. **Tourist guides** are subject to an outdated regulatory framework with rigid, cumbersome licensing procedures, onerous and superfluous requirements, and a requirement to renew their professional licences annually. The report recommends that authorities simplify the requirements for professional licences, as well as their validity and procedures for their renewal.

Cultural services

Cultural services have the greatest untapped potential for tourism diversification in Tunisia. **Heritage concessions** are at the heart of this potential. The report recommends regulatory changes to minimise the conflict of interest arising from the business model of the Agency for Heritage Development and Cultural Promotion, though a better definition and clarification of its role in the allocation of heritage concessions. It also recommends consolidating the current framework for heritage concessions and ensuring that it is more open to private initiatives, more flexible, and conducive to competition. Private galleries, private

museums and arts and crafts workshops, are mainstays of a vibrant cultural environment, and the report proposes lifting specific requirements for capitalisation, space allocation and qualifications, and abolishing mandatory notifications of cultural events and programmes.

Sport and recreational services

Sports and recreational activities are subject to cumbersome licensing procedures at the local level, conferring significant discretionary power on authorities and deterring market entry. This explains in part why investment in these activities is weak and has not exceeded 10% of total tourism investment over the past decade. The report analyses a selection of services and proposes several regulatory changes.

Marinas have the potential to put yachting tourism in Tunisia on a new trajectory. To this end, the report recommends accelerating the publication of the implementing regulations for the Maritime Ports Code, to resolve conflicts of competences between the various authorities. In complement, the report proposes a number of policy recommendations targeting **yachting and recreational vessels**, such as setting clear conditions for the authorisation to sail yachts, clarifying customs rules and procedures for the use of foreign boats under the temporary import regime, and streamlining yachting permits procedures. **Dive and water sports centres** could also benefit from a streamlining of their respective authorisation and licensing procedures, the publication of clear and transparent guidelines for evaluating applications, and the adoption of appropriate regulatory inspections and enforcement frameworks.

Finally, the tourism market overall would be advantaged by an easing of several administrative burdens identified in the report, which makes several recommendations to improve regulatory quality, streamline investment licensing and compliance inspections procedures, and lift restrictions on foreign investment.

1 Assessment and recommendations

Regulations aim to pursue legitimate policy objectives, but when they are overly restrictive or onerous, a comprehensive review can help identify problematic areas and develop alternatives that achieve such objectives without harming competition. This assessment identifies distortions of competition in Tunisian legislation. It proposes 351 specific recommendations for the removal of regulatory barriers to competition in the tourism sector. The benefits of removing these barriers will lead to increased market entry and facilitate business operations, bringing about lower prices, more innovative and diverse services, greater choice for consumers, and the ability to better meet wide-ranging demand as new, more efficient enterprises enter the market and existing firms adopt more innovative forms of production and service delivery.

1.1. Project background

The competition assessment review of laws and regulations in Tunisia's tourism sector is part of a broader project aiming at fostering pro-competitive reforms in the country. In addition to this tourism competition assessment, the project includes a peer review of competition law and policy and a competition market study of the banking sector. The project follows an initial competition assessment conducted by the OECD in 2019 that covered two important sectors of the economy: wholesale and retail trade, and road and maritime freight transport.

The project was conducted within the framework of the European Union's *Programme d'Appui à la Gouvernance Economique*, or Economic Governance Support Programme, which aims to support the Tunisian Government's efforts to improve the national business climate and revive business investment as part of a post-COVID-19 recovery plan. The project began in February 2021 and concluded with a formal launch of the OECD recommendations and a public report published in June 2023.

Using the methodology set out in OECD's Competition Assessment Toolkit, the project aimed to identify unnecessary regulatory restrictions that act as barriers to competition, sustainable economic growth and innovation in Tunisia, and suggests alternative, less restrictive ways to achieve the same regulatory goals.

The OECD's Tunisia competition assessment project identifies features of the national regulatory and policy environment that may be hindering the efficient functioning of competitive markets in the tourism sector. The project considers the likely consequences of existing regulation and proposes alternatives that may better achieve policy objectives while ensuring a competitive business climate. The project outcome, which comprises mainly recommendations for regulatory reforms, aims to support the Tunisian Government's priorities by promoting competition, alongside increased productivity and innovation, throughout the economy.

The OECD's competition assessment methodology is based on the assumption that there are often several ways to achieve any given public policy goal, and that some policies restrict competition more than others. Since consumers generally benefit from more, rather than less, competition, it is essential to identify which restrictions to competition are not strictly necessary for the pursuit of public goals, and to develop alternative, less restrictive policies that still achieve the desired objectives. The OECD's Competition Assessment Toolkit provides a general methodology for these two tasks. This methodology has been used in several countries and updated based upon lessons learned and global regulatory advances.

This project was carried out against the backdrop of the COVID-19 pandemic, which has had a profound impact on Tunisia's economy. Putting in place a pro-competitive regulatory framework that helps businesses avoid unnecessary costs and enables flexibility will be crucial for a sustainable recovery from that crisis. More than ever, it is critical to maximise society's well-being without unnecessary, burdensome regulatory costs to companies.

The tourism industry has played, and continues to play, a significant role in advancing Tunisia's economic development. It has been the main source of foreign currency reserves for decades and a strong generator of additional activity in other sectors of the economy. In 2019, tourism's contribution to gross domestic product (GDP) was about 8.1%, half of which was generated indirectly through its contribution to upstream industries. The sector is also at the core of current structural and regulatory reforms, in line with the *Stratégie Nationale du Tourisme 2035*, or National Tourism Strategy 2035, which is based on four main pillars: 1) competitiveness; 2) diversification; 3) investment; and 4) marketing. The activities in its scope were chosen considering the priorities of the EU's *Tounes Wijhetouna*, or Tunisia – Our Destination, programme, aimed at diversifying tourism, developing crafts, and enhancing heritage in Tunisia.¹

In this context, and after initial research and exchanges with stakeholders, the sectoral analysis focused on: 1) accommodation and well-being services; 2) food and beverage (F&B) service; 3) passenger

transport services; 4) travel agencies and related services; 5) cultural services; and 6) sports and recreational services.

1.2. The benefits of competition

The competition assessment aims to identify regulations that may unduly restrict market forces and, in doing so, may harm the country's growth prospects. In particular, the project identifies restrictions that:

- are unclear, meaning that they may be applied in an arbitrary fashion or lack transparency
- make it harder for new firms, including small and medium-sized enterprises, to access markets
- allow a limited number of firms to earn greater profits than they otherwise would, for reasons unrelated to their underlying productivity or product quality
- cause consumers to pay more than they otherwise would.

Each restriction is likely to have an impact well beyond individual consumers in the market segments assessed. When consumers can comparison shop for products and services, firms are compelled to compete with one another, increase innovation and be more productive (Nickell, 1996^[1]; Blundell, Griffith and Reenen, 1999^[2]; Aghion et al., 2004^[3]). Industries in which there is greater competition experience faster productivity growth. These conclusions have been confirmed by a wide variety of empirical studies and summarised by the OECD (Forthcoming^[4]). Competition stimulates productivity primarily because it provides the opportunity for more efficient firms to enter and gain market share at the expense of less efficient firms.

In addition to evidence that competition fosters productivity and economic growth, many studies have shown the positive effects of more flexible product market regulation (PMR), the area most closely relevant to this project.² These studies analyse the impact of regulation on productivity, employment, research and development, and investment, among other variables. Differences in regulation also matter and can significantly reduce both trade and foreign direct investment (Fournier et al., 2015^[5]; Fournier, 2015^[6]).³ By fostering growth, more flexible PMR can increase the sustainability of public debt, which is particularly important in countries such as Tunisia (OECD, 2019^[7]).

A particularly large body of evidence demonstrates the productivity gains achievable through more flexible PMR. At the company and industry level, restrictive PMR is associated with lower multifactor productivity (MFP) levels (Nicoletti and Scarpetta, 2003^[8]) and (Arnold, Nicoletti and Scarpetta, 2011^[9]).⁴ This also holds true at aggregate level (Égert, 2016^[10]).⁵ Anti-competitive regulations have an impact on productivity that goes beyond the sector in which they are applied, although the effects are more pronounced in sectors closer to the productivity frontier (Bourlès et al., 2013^[11]).⁶ Specifically, a large portion of their impact on productivity is felt in research and development investment (Cette, Lopez and Mairesse, 2017^[12]). Lowering regulatory barriers in network industries, conversely, can have a significant impact on exports (Daude and de la Maisonneuve, 2018^[13]).

Innovation and investment in knowledge-based capital, such as computerised information and intellectual property rights, are also negatively affected by stricter PMR (Andrews and Criscuolo, 2013^[14]; Andrews and Westmore, 2014^[15]). Nicoletti et al. (2020^[16]) show that competitive pressure, as measured by lower regulatory barriers (for example, lower barriers to market entry), encourages firms to adopt digital technologies such as cloud computing. Pro-competitive reforms to PMR are associated with an increase in the number of patents (Westmore, 2013^[17]). More stringent PMR is shown to be associated with less investment and an amplification of the negative effects of restrictive labour market regulation (Égert, 2018^[18]).⁷

Greater flexibility can also lead to higher employment. Cahuc and Kramarz (2004^[19]) found that after France's road transport industry was deregulated, employment levels in the sector increased at a faster

rate.⁸ A 10-year, 18-country OECD study (Criscuolo, Gal and Menon, 2014^[20]) concluded that small firms operating for five or fewer years on average contribute about 42% of job creation.⁹ As the OECD (2015^[21]) notes, “such a disproportionately large role by young firms in job creation suggests that reducing barriers to entrepreneurship can contribute significantly to income equality via employment effects”.

Evidence also exists indicating that lifting anti-competitive regulations helps to reduce income inequality. Causa et al. (2015^[22]), for instance, found that less restrictive PMR improved household incomes and reduced income disparity.¹⁰ Evidence further suggests that barriers to competition can contribute to the accumulation of resources by the wealthiest segments of society at the expense of others. Ennis et al. (2019^[23]), for example, assessed the redistributive effects of market power in eight countries.¹¹ They found that market power benefits the wealthiest households by providing them with rents and that the share of wealth of the most affluent 10% of households derived from market power is between 12% and 21%.

Finally, Eklund and Lappi (2018^[24]) studied the impact of PMR on the persistence of profits in the long term. Regulations that raise barriers to entry can protect incumbents’ above-average profits. The authors found that more stringent product market regulation, as measured by the OECD’s PMR indicator, was associated with persistent profits.

The results described above hold true in a variety of settings, although the specific estimates may differ by country. For instance, Égert (2017^[25]) quantified the impact of structural reforms and found that “stringent product market regulations will have a three-times larger negative impact on MFP in countries with per capita income lower than USD 8 000 (in purchasing power parity terms)”.

In summary, anti-competitive regulations that hinder entry into and expansion within markets may be particularly damaging for a country’s economy because they reduce productivity growth, limit investment and innovation, harm employment creation, and may favour a certain group of firms over other firms and consumers, with consequences for income inequality. This is particularly true for tourism, which is also susceptible to external events. Changes in business cycles, for example, can have an outsized effect on tourism activity (Wong, 1997^[26]; Guizzardi and Mazzocchi, 2010^[27]). It is therefore crucial that the sector be flexible to changes in conditions. An absence of significant entry and exit barriers in the regulatory framework for tourism, as this report advocates, contributes to that flexibility.

1.3. Main findings and recommendations

OECD competition assessment projects evaluate market regulations to identify regulatory barriers to competition. These include regulations that restrict market entry, constrain enterprises’ ability to compete (for example, by regulating prices), treat competitors differently (for instance, by favouring incumbents), facilitate co-ordination among competitors, or restrict consumers’ ability to change suppliers. The methodology followed in this systematic exercise is summarised in Annex A, which also describes the stages of the project and provides full references to the OECD competition assessment methodology.

This section provides a summary of the main regulatory and administrative issues in Tunisia’s tourism sector, and recommendations for addressing them. More details can be found in the report’s subsequent chapters, and a complete list of all the barriers to competition identified and the OECD’s recommendations is contained in a spreadsheet published as a standalone document on the dedicated webpage, <https://oe.cd/ca-tunisia>.

1.3.1. Sector overview

The sectors covered by this review are essential for the tourism industry in Tunisia which represented about 4.5% of GDP and 4.4% of formal salaried employment in 2019. Given this proportion and the importance of the industry for the performance of many other sectors of the economy, lifting barriers to

competition in these sectors could have a powerful economic effect. The activities in scope constitute the main components of the Tourism Satellite Account (TSA), the official and internationally recognised conceptual framework for a comprehensive reconciliation of tourism data related to supply and demand (OECD et al., 2017^[28]). In close co-operation with the *Institut National des Statistiques* (INS), or National Institute of Statistics, the project has contributed to the creation of the TSA for the first time in Tunisia.

Overall, the OECD has identified 447 potential regulatory barriers in 163 legal texts, including laws, decrees, ordinances, regulations and concession contracts reviewed for the purpose of this assessment (see Table 1.1). This report makes 351 specific recommendations to make regulation more pro-competitive. The assessment does not cover the resources available to authorities and does not evaluate whether these are sufficient to support the performance of their tasks.

Table 1.1. Summary of the legal provisions analysed

	Accommodation & well-being	F&B service	Passenger transport	Travel agencies	Cultural services	Recreational services	Total
Potential restriction identified	159	59	41	51	58	79	447
Recommendations made	115	54	38	48	34	62	351

Using the methodology described in the OECD Competition Assessment Toolkit and data from the TSA, the report provides estimates of the impact that the implementation of its recommendations would have. It finds that the implementation of its key recommendations would lead to benefits worth around TND 1.4 billion, 1.2% of Tunisia's 2018 GDP.

1.3.2. Common issues identified across sectors

The assessment revealed a number of similar restrictions across different sets of regulations. These can be grouped into three main categories:

- complex, burdensome licensing procedures
- onerous, overly detailed operational requirements
- the influence of incumbents in decision-making bodies.

Complex licensing procedures stifle competition. Competition is affected by how easily firms can enter and exit markets, and by the extent of licence requirements for starting or expanding a business. Many of the activities within the scope of the assessment are subject to elaborate licensing procedures, discussed in more detail in Chapter 9. It is important for Tunisian authorities to take stock of the burdens that even well-intentioned regulations and codes can impose on private activity.

Overly detailed operational requirements were identified in several parts of the tourism sector. These include minimum share capital requirements (for example, for travel agencies and specific cultural establishments), professional and academic requirements (such as those applied to accommodation and particular transport services), staff and equipment requirements (for instance, in the well-being, restaurant and transport segments) and size, layout and functional requirements (in such segments as accommodation, well-being and some recreational services). These detailed and sometimes duplicative requirements deter market entry, create an uneven playing field, and fuel informality. The OECD recommends that Tunisian authorities revise these requirements to make them less burdensome and reconsider the level of detail necessary, ensuring that requirements are reduced to the strict minimum necessary to achieve their respective public policy objectives. Most of these details could be transferred into investor guides, if the purpose is to help investors comply with standards.

The participation of incumbent industry participants in public authorities' decision-making processes (such as those of the classification and reclassification commissions for accommodation establishments and

restaurants) might lead to potential foreclosures of competition and the promotion of professional associations' interests, especially against those of newcomers. Another negative consequence could be the introduction of unnecessary administrative barriers due to a tendency to standardise interests and actions in cases where the members of private associations may influence the attitudes of public authorities and legislation in their favour. The OECD recommends revising the membership of these commissions, or at least establishing a complete, clear and accessible set of conflict rules to be adopted by professional associations involved in such decisions.

The combination of these issues, together with several shortcomings in the quality of Tunisia's regulations that are analysed in more detail in Chapter 9 appear to be an important driver of informality in most of the segments reviewed. Where high informality and weak competition coincide, the consequences for both growth and equity can be particularly severe. To foster formal job creation, all parts of a country's regulatory framework should be simple and clear, promote competition, and facilitate both market entry and exit by firms (Loayza, Oviedo and Serven, 2005^[29]).

1.3.3. Accommodation and well-being services

Accommodation services

Tunisian regulation classifies tourist businesses providing accommodation according to their characteristics, the quality of their services and the facilities they offer. Tunisian authorities have employed a zoning policy since the 1970s to attract and encourage investment in the sector. Tourist investments made in tourist areas identified by decree benefit from a number of advantages and a fast-track approval procedure. Outside these areas, administrative procedures for obtain classifications and licences are lengthy and burdensome. A number of minimum size, layout and functional characteristics to meet classification standards are provided for in regulation, in relation to both hotel-type accommodation and alternative accommodation. For the latter, classification requirements are very detailed, burdensome, and not necessarily linked to any specific policy objectives. Appointments of managers of tourist businesses providing accommodation, including alternative types of accommodation, are subject to several qualification requirements. These explain in part the informality that characterises a large portion of Tunisia's supply of alternative accommodation.

Against this backdrop, the OECD makes several recommendations. The following are those considered most important to foster competition in the accommodation sector:

- Revise the zoning policy and redefine tourist areas in different categories benefiting from different regimes with, for example, peak, medium and lower levels of fiscal and administrative advantages, and covering all areas of tourist potential.
- Streamline the licensing process for accommodation projects outside of tourist areas according to the best international practices for permitting and licensing.
- Revise requirements on classification, and on size, layout and functional thresholds for hotels and alternative accommodation, reducing the level of detail of minimum requirements to the strict minimum necessary for the fulfilment of public policy objectives.
- Eliminate qualification requirements for managers of small, alternative accommodation facilities such as bed and breakfasts, guesthouses and *gîtes rural*, or rural lodges.

Well-being services

Tunisia's well-being and hydrotherapy (also called three-waters treatments, using sea, fresh and hot water) sector includes thermal cures, thalassotherapy and freshwater (spa) treatments. All three activities became subject to an authorisation process overseen by the *Office National du Thermalisme et de l'Hydrothérapie*, or National Office of Thermalism and Hydrotherapy, in 2011. Although the process is relatively clear for

thermal and thalassotherapy centres, no official application text exists for spa centres. The authorisation process and conditions for operating thalassotherapy and thermal centres impose multiple permitting and licensing steps involving several government agencies. These well-being activities are also subject to several operational conditions, such as minimum size, layout and equipment requirements, and minimum staffing levels.

The OECD recommends that authorities consider simplifying and harmonising the regulatory framework for hydrotherapy and remove contradictory legal provisions. The OECD also recommends streamlining the licensing process for establishing and operating hydrotherapy centres according to the best international practices for permitting and licensing, and simplifying technical requirements by removing detailed provisions to refer only to International Organization for Standardization benchmarks. Specific size and layout details, and suggested staff numbers, might be included an investor guide if the purpose is to help investors comply with standards.

1.3.4. Food and beverage service

Tourist restaurants

Tourist restaurants are regulated by the *Office National Du Tourisme Tunisien* (ONTT), or Tunisian National Tourism Office, through an authorisation and classification process based on their physical characteristics, facilities and the quality of services. There are four classification categories ranging from one-*fourchette*, or fork, to three-*fourchette* luxury. The classification process imposes a wide range of minimum size, layout, functional and management standards. It is overseen by a commission that includes incumbent enterprises among its members. Tourist restaurants must obtain a specific licence if they intend to serve alcohol. Legislation provides that this licence is issued by the Ministry of Interior, following the opinion of the municipal authority and the territorially competent governor. The licensing process is lengthy, cumbersome, and its outcome is particularly uncertain.

The OECD recommends removing the mandatory *fourchette* classification system and requirements that fall outside the scope of hygiene, safety and consumer protection concerns, and considering the inclusion of specific size, layout and equipment details in an investor guide. The process for applying for alcohol licences should be streamlined as part of the investment procedure for restaurants and other F&B service establishments. Alternatively, authorities should set out clear rules for obtaining licences and digitalise procedures so that applicants are not required to apply for them at local police stations.

Other food service operators

Traditional restaurants, traditional fast-food restaurants and street food are regulated at the municipal level. All food service providers must obtain sanitary approval from the municipality in which they wish to operate and comply with general sanitary regulations. The regulations set out very strict, specific requirements that are difficult to fulfil and are not necessarily clearly related to policy objectives. Street food markets do not exist in Tunisia. Vendors are required to obtain the same site authorisations required for newspaper kiosks and flower sellers' shops. The absence of an appropriate framework is the reason for the disproportionately informal character of street food in Tunisia.

The OECD recommends removing requirements beyond those addressing hygiene, safety and consumer protection issues from the sanitary regulations and considering other regulatory options for street food hawkers and vendors that wish to operate such non-fixed facilities as food trucks. Adapting specific areas or streets in cities and granting temporary occupation authorisations for public areas are two possible alternatives.

1.3.5. Selected passenger transport services

Tourist transport

Although legislation stipulates that tourist transport is regulated by the Ministry of Transport through a particular *cahier des charges*, or set of specifications, this has not been drafted, and the activity remains reserved exclusively for Category-A travel agencies. Tourist transport vehicles can be driven only by a person holding a professional licence. The licence is granted by the territorially competent governor, based on several conditions, including relevant experience, specific training and a work contract. Licences have an exclusivity provision that disallows drivers providing one type of transport service from providing another. Each type of transport requires a professional licence, and drivers may hold only one.

The OECD recommends withdrawing the exclusivity granted to travel agencies to offer tourist transport and adopting a separate framework, as provided for in the legislation. Authorities should also consider abolishing the work contract requirement and the exclusivity clause associated with professional licences to allow individuals to engage in different types of tourist transport provision if they satisfy relevant requirements.

Vehicle hire

Car rental services are regulated by a *cahier des charges* setting out minimum entry and operating standards. Market entry requirements include a minimum fleet size of 20 vehicles. Vehicles are also subject to strict minimum and maximum age requirements, according to their type. Following a recent regulatory change, services are now provided exclusively by companies, with sole proprietorships no longer permitted to operate.

The OECD recommends abolishing or reducing the minimum fleet size for vehicle rental companies, and abolishing or significantly increasing maximum vehicle age requirements while applying other measures to ensure roadworthiness. Such measures could include establishing a uniformly applied maximum number of years that vehicles can be in service and a requirement that vehicles pass more frequent technical inspections. The OECD also recommends removing professional experience requirements for vehicle hire management and allowing sole proprietorships once again to provide car rental services.

Taxis and other for-hire vehicles

Taxis and other for-hire vehicles are subject to the issuance of an operating licence by the territorially competent governor. The number of licences granted is set for each governorate by the Ministry of Transport. Companies have been excluded from providing non-regular public road transport following a recent regulatory change. Applicants are required to satisfy several conditions, including the possession of a specific driving licence (Category D or G), a minimum level of experience, and specific first-aid training. Applicants should also have a professional licence and a professional aptitude certificate, both issued by the governor. Tariffs for non-regular public transport are regulated by the Ministry of Transport. However, the legislation doesn't include any details relating to the frequency or to the parameters of tariff revision.

The OECD recommends revising and publishing criteria defining taxi quotas and the conditions for the issuance of operating licences, and streamlining procedures for obtaining licences, ensuring the transparency of selection criteria. Authorities should reconsider the exclusion of companies from the market. The professional licence requirement should also be reconsidered, as operators must already hold a specific driving licence for the relevant transport category and are required to hold an operating licence. In terms of tariff regulation, authorities should adopt a more flexible, predictable tariff framework for non-regular public transport that takes into account conditions for its sustainability and which promotes fair competition with providers of “disruptive” new transport services.

Ride-hailing services

Ride-hailing platforms are not regulated in Tunisia as disruptive innovations and new business models do not fit into the traditional regulatory framework of regulated tourist or public transport. These services are offered mainly by taxis through several apps. The current supply of road transport vehicles has remained unchanged by the introduction of ride-hailing platforms, as regulated taxis are their main users, thanks to the fact that they offer a way for drivers to avoid compliance with regulated tariffs. The use of the apps is associated with an increase in fares and limited service availability for consumers.

The OECD recommends ensuring that anti-competitive distortions and safety concerns arising from the informal practices of ride-hailing service providers are limited as much as possible to enable them to achieve compliance, increase the size of the market, and improve the quality of services provided to consumers.

1.3.6. Travel agencies and other reservation services

Travel agencies

Travel agencies in Tunisia are designated Category-A or Category-B. An agency's category determines the activities it may provide. Both categories are subject to a notification process through a *cahier de charge* that includes a number of requirements, including minimum capital levels for each category, staff qualifications and other operating standards. Informality is widespread among travel agencies, with many companies providing activities intended to be reserved exclusively for travel agencies without meeting the category requirements, notably *sociétés de service*, or service companies, which are regulated by the Ministry of Industry and SMEs. Category-B travel agencies tend also to provide services restricted by legislation to Category-A agencies. Current regulations grant travel agencies monopolies to provide certain services such as tourist transport and prevent foreign travel agencies from operating directly in Tunisia. Foreign agencies may operate only indirectly through partnerships with local Tunisian travel agencies.

The OECD recommends, among other things, ensuring that the services reserved exclusively for travel agencies are limited to core services. It also recommends revising the *cahiers des charges* for travel agencies so that authorisation requirements are proportional. This means removing the distinction between the two categories of travel agencies and subjecting all agencies to the same requirements, removing minimum capital requirements and complying with the general provisions of commercial law, abolishing professional requirements that do not necessarily provide any guarantee of quality, and considering allowing foreign travel agencies to enter the Tunisian market.

Tourist guides

The regulatory framework for tourist guide services dates back to the early 1970s and differentiates between two categories: professional guides and auxiliary guides. Both categories require a professional licence to operate in the market. Applicants must be graduates of one of Tunisia's public tourist training centres or have successfully passed the tourist guide recruitment exam organised by the ONTT. The professional licence must be renewed annually. If it is not renewed within two years of its expiry, the guide's cardholder status lapses.

The OECD's main recommendations to deal with the harm to competition arising from these arrangements include revising the education requirements for the professional licence and revising the card application and renewal procedures, and the rules determining its validity. Applicants should be able to renew their cards online, and auxiliary guides should be allowed to re-enter the market, from which they were de facto excluded after the terrorist attacks of 2015, when renewals of their professional licences were disallowed.

1.3.7. Cultural services

Heritage concessions

Heritage concessions are regulated by general concessions rules. A 2019 amendment to these rules allowed the *Agence de Mise en Valeur du Patrimoine et de Promotion Culturelle* (AMVPPC), or Agency for Heritage Development and Cultural Promotion, to grant concessions for cultural and archaeological sites. However, the agency is reluctant to make use of its mandate, despite the growing interest among private investors, hinting at a potential conflict of interest. The agency has the monopoly on managing monuments, archaeological sites and museums, and is in part funded by their entrance fees. Yet stakeholders have told the OECD that the agency lacks the human and financial resources to ensure proper management of the nation's 4 000-plus historical and archaeological sites.

The OECD recommends regulatory changes in order to minimise any conflict of interest, including a revision of the AMVPPC's business model and a clarification of its role in the allocation of heritage concessions. The OECD also recommends consolidating the current framework for heritage concessions and ensuring that it is more open to private initiative, more flexible, and more conducive to competition by adopting guidelines that allow grantors, including local authorities, to properly manage concession procedures and design offers that consider the specificities of the sites to be granted.

Specific types of cultural tourism

Private galleries, private museums and arts and crafts workshops are regulated by specific *cahiers des charges*. Despite the adoption of an *ex-post* notification procedure for operating these facilities, regulations still include several barriers to entry, such as specific equipment requirements, professional qualification standards and minimum capital thresholds. The regulations also include some onerous operating requirements, such as mandatory one-year advance notice for programmes and some grandfather clauses providing exemptions for incumbents from certain requirements, such as those involving capital levels and professional standards.

The OECD's main recommendations are that minimum capital requirements be lifted, that operators be required to comply only with horizontal requirements provided for by commercial law, and that the requirement for announcements of gallery or workshop programmes one year in advance be replaced by more flexible alternatives such as monthly or quarterly online notifications. Authorities should also ensure competitive neutrality between incumbent enterprises and new entrants by subjecting both to the same requirements.

1.3.8. Sport and recreational services

Golf courses

Unlike most sporting and adventure activities, which are regulated at the municipal level, golf is regulated at the national level. Legislation subjects golf courses to several technical criteria related to land use and other operational limitations on real estate and accommodation services. These restrictions have constrained the emergence of integrated golf courses and reduced the attractiveness of Tunisia as a golf destination in a very competitive regional context. In addition, the state's presence in the operation of golf courses raises concerns over competitive neutrality.

The OECD recommends revising all restrictions on land use and transferring specific size and layout details into an investor guide if the purpose of the regulations is to help investors comply with standards. The OECD also recommends reconsidering the state's presence in the sector, streamlining land reclassification procedures and ensuring that urban development plans are updated to further promote the sector.

Marinas

The regulatory framework for marinas is lacking most implementing texts. An official list of marinas has not been published as stipulated by the 2009 *Code des Ports Maritimes*, or Maritime Ports Code. The institutional framework remains undefined, which means no overall authority is in charge of the sector and there is no clarity on the respective responsibilities of various actors, namely the Ministry of Tourism and Handicrafts, concession holders, customs, the *Garde Nationale Maritime*, or National Maritime Guard, and the border police. This has given rise to conflicts of competence among these actors. It has also affected the transparency and effectiveness of procedures to award, renew and monitor concessions, which has led to problems with the management and maintenance of several marinas. Moreover, the management of some marinas by state-owned enterprises raises concerns over competitive neutrality.

The OECD recommends accelerating the publication of the implementing regulations for the Maritime Ports Code that relate to marinas to clarify institutional arrangements and resolve the issues involving the roles and powers of the various authorities. The OECD also recommends rethinking the role of the state in the sector and revising the concession framework, including by defining the conditions and criteria for the approval or rejection of extension requests, and aligning the duration of extensions with the Maritime Ports Code.

Yachting and recreational vessels

Recreational vessel traffic is an important determinant of demand for marinas. The use of such vessels is subject to authorisation by the *Commission Centrale de Sécurité Maritime*, or Central Maritime Safety Commission. The conditions for the approval or rejection of authorisation requests are not clarified in legislation. The use of foreign-flagged boats is subject to specific customs regulations, and they can be used only privately under a temporary import regime for a maximum period of 24 months. Customs rules are ambiguous when it comes to entitled users of recreational vessels and the types of uses to which such vessels may be put, conferring considerable discretionary power on regional customs offices.

Paid maritime transport between ports and coastal sites is subject to authorisation by the *Office de la Marine Marchande et des Ports* (OMMP), or the Office of the Merchant Marine and Ports. Transport permits are valid for one year and are renewable. No official guidelines or criteria underpin decisions to grant permits. Operators of all recreational vessels are required to file sailing notices with port authorities to enter or exit marinas. These declarations are completed on paper and must be submitted in person.

The OECD recommends setting clear conditions for authorisations to use recreational vessels, establishing a transparent evaluation grid for authorisation requests, and revising customs rules and procedures relating to the use of yachts under the temporary import regime to avoid ambiguity and limit the discretionary power of authorities. Authorities should consider clearly defining the conditions and criteria for granting maritime transport permits and make them publicly available. They should also ensure that sailing notice procedures are simplified and digitalised to cut the costs involved in terms of waiting times and the administrative burden.

Dive centres

Dive centres are subject to authorisation by the territorially competent governor following the opinion of the *Commission Nationale de Plongée*, or National Diving Commission. The commission is chaired by the Ministry of National Defence and rules on several other matters, including authorisations to operate diving activity, qualification requirements, and the recognition of foreign diplomas. Only training and tourism centres are approved and regulated by the law, but sports associations, regulated by the Ministry of Youth and Sports, account for a significant portion of dive industry activity in Tunisia. Diving certifications are issued following the *Confédération Mondiale des Activités Subaquatiques* (CMAS), or World Confederation of Underwater Activities, system and there is no official equivalence framework for other certifications.

The OECD's main recommendations are to streamline the authorisation and licensing process for dive clubs, revise the sector's institutional arrangements, clarify the status of diving associations as industry participants, publish a clear and transparent grid for evaluating applications, and adopt an appropriate regulatory inspection and enforcement framework.

Water sports centres

Water sports centres are subject to authorisations by the territorially competent governor following the opinion of the *commission régionale des activités touristiques et de loisir*, or regional committee of leisure tourism activities. The steps involved in obtaining a licence are rather complicated and lack transparency. Applicants must file a request that includes nine documents and go through several administrative processes that differ from one governorate to the other. Licences are granted for a renewable one-year period following the favourable opinion of the regional committee. Eligibility criteria for the allocation of permits are vague. Although legislation does not state clearly whether authorisation to establish and operate water sports centres is limited to individuals and not company entities, the OECD has learned that this is the case in practice.

The OECD recommends streamlining the authorisation and licensing process, developing a clear, transparent and publicly available evaluation grid, making the technical opinions of the regional committees of leisure tourism activities accessible to candidates, and ensuring that rejection decisions are justified and subject to an appeal process. Authorities should also revise the one-year duration of permits or streamline the renewal process by further shortening deadlines and limiting interventions by the regional committees to matters in which risk levels as well as the risk drivers mandate such interventions.

1.3.9. Horizontal findings

Regulatory quality

The regulations reviewed in this project are often dispersed across many different pieces of legislation. Modifications to core legislation result in further fragmentation and, on many occasions, a lack of clear rules, and new legislation does not always explicitly repeal previous provisions. In the course of its assessment, the OECD found conflicting provisions and legislation that is vague and inconsistently implemented. A number of activities are missing application texts, despite legal frameworks having been enacted, and other activities lack adequate frameworks.

The OECD recommends undertaking a comprehensive legislative review to ensure that: 1) superseded legislation is explicitly abolished; 2) all adopted legal texts, including circulars, are published, and when possible, legally consolidated; and 3) authorities' websites provide updated lists of applicable legislation, when they do not do so already, to improve transparency and help new market entrants. The OECD also recommends adopting a regulatory impact assessment framework to inform policy makers' decisions on the effectiveness and efficiency of this legislative review and of forthcoming policies.

Investment licensing

The activities upon which this report focuses are for the most part subject to complex, cumbersome licensing procedures. In the course of its assessment, the OECD identified 26 *ex-ante* authorisations and eight administrative operating requirements embedded in some *cahiers des charges*, such as the *cahiers des charges* for travel agencies. The assessment also revealed anomalies involving regulatory inspections and enforcement practices. As is the case with all *ex-ante* barriers, licensing and permitting can cause serious economic harm, strongly curtailing competition, imposing substantial administrative and financial burdens on regulated entities, raising actual and perceived barriers to new start-ups, and hindering innovation and investment.

The OECD recommends that Tunisian authorities consider streamlining their licensing procedures according to international best practices. Regulatory systems and instruments need to be risk-based, risk-proportional and risk-focused. The OECD also recommends that reform should involve not only *ex-ante* and start-up matters, but improvements to *ex-post* regulatory inspections and enforcement. A risk-targeted, risk-proportional approach will ensure that official efforts target businesses and activities presenting the highest combined level of likelihood and potential magnitude of harm. Such an approach will also achieve results while limiting costs and optimising resource efficiency in both the private and the public sectors.

Restrictions on foreign investment

The participation of foreign companies in several activities related to tourism in Tunisia is subject to restrictions and screening procedures. Some activities are reserved strictly for Tunisian nationals and others are subject to pre-approvals if foreign participation exceeds 50% of capital. Restrictions apply also to the recruitment of foreign managers. The implications of service restrictions typically go beyond sector borders, limiting potential economy-wide productivity gains.

The OECD recommends that Tunisian authorities consider lifting or reducing nationality requirements and the associated restrictions imposed on foreign investors in the tourism industry in line with Law No. 2016-71 on investment, establishing the principle of freedom of investment and participation by non-Tunisian citizens in Tunisian companies alongside the national treatment instrument of the OECD's Declaration on International Investment and Multinational Enterprises.

1.4. Benefits of lifting barriers

This competition assessment project focuses on legislation, not enforcement. However, changes in regulation can have an impact only if that regulation is enforced. This is not always the case in Tunisia (OECD, 2019^[7]), which limits the potential benefits of lifting regulatory restrictions.¹² Moreover, the broader business environment is also important and contributes to the economic benefits of reform.

The OECD's recommendations address specific restrictions in legislation. The impact of the recommendations is directly linked to lifting those restrictions and the consequent positive effect on competition in the tourism sector. It has not been possible to quantify the effects of all the individual restrictions identified, due either to a lack of data or the nature of the recommended regulatory change.

Throughout this quantification exercise, the focus is on the activity level, or GDP at constant price. The focus on GDP, rather than consumer surplus, reflects the belief that GDP can provide a better measurement of welfare. By adopting the recommendations in this report, inefficiently high prices would fall and tourism activity would increase. This would add to the consumer surplus, mostly for foreign tourists, since foreign visitors account for 83.7% of Tunisian tourism (INS, 2022^[30]). At the same time, the adoption of the recommendations would increase GDP, and thus income, while diversifying the tourism market, and the gains would be shared more widely among Tunisian people. Finally, the adoption of the recommendations would lay the groundwork for increased investment, productivity and output in the long run, as shown above.

This assessment draws on a standard analytical framework that has been used in previous OECD competition assessment reports. The framework is built on the classical diagram used to investigate consumer surplus (OECD (2017^[31]); see Box A.A.2). This means that the GDP impact derived from this framework is partial (looking at only one product) and static (with no consideration of changes in productivity or income). However, the framework allows for taking account of consumer demand specific to tourism in Tunisia and the effects of price changes specifically expected following the implementation of recommendations and resulting from changing market structures.

In this assessment, tourism GDP at the sector level is taken into account (Table 1.2). Tourism direct GDP is defined as tourism-specific, value-added, meaning goods and services specifically produced for tourism and consumed by tourists, adjusted for tax and subsidies, according to the TSA (OECD et al., 2017^[28]). Tourism direct GDP at the sector level is used to gauge the initial level of sector revenue in the classical diagram to investigate consumer surplus (see Box A.A.2). It is assumed that tourism sector revenue is approximated by tourism direct GDP at the sector level (direct effects) and that GDP in other sectors (value-added, adjusted for tax and subsidies) are intermediate inputs for tourism (indirect effects). It is also assumed that tourism sector revenue and tourism GDP are proportional and that they change proportionally for any given price change. Intermediate inputs are considered costs of production for tourism enterprises and are used proportionally to the level of tourism activity, in line with the TSA methodology. The price effects of reducing restrictions on sector revenue, and thus tourism GDP at the sector level, are specified in detail below. Once the total change in tourism GDP is identified, the associated change in GDP in other sectors required as intermediate inputs will be separately identified.

1.4.1. Initial level of economic activity

This report benefits from the latest estimates of tourism activity made by the INS. As mentioned earlier, these estimates were made based on the methodology defined by the TSA, so only goods and services directly consumed by tourists are considered tourism value added (OECD et al., 2017^[28]). According to the estimates, tourism gross domestic product (GDP) amounted to TND 4.8 billion in 2018, representing 4.3% of national GDP (the OECD average is 4.4%). The OECD, in co-operation with the INS, estimated tourism activity at a granular level (see Table 1.2). These estimates form the basis for the estimation of the GDP impact arising from adopting the OECD's recommendations in each market segment.

Table 1.2. Tourism GDP by sector

Sector	Sub-sector	NAT Industrial code	Tourism GDP, TND million
Accommodation		55	1 080.3
Food & beverage service		56	1 399
Land transport, etc.	Other land transport (i.e. excluding railways)	493	548.5
Water transport	Sea and coastal water transport	501	68.1
Rental and leasing activities	Renting and leasing of motor vehicles	7711	127
	Renting and leasing of recreational and sports goods	7721	≈0
Travel agencies, tour operators, etc.		79	326.0
Libraries, museums, etc.	Museum activities	9102	3.2
	Operation of historical sites	9103	
Sports activities, amusement and recreation activities	Other sports activities	9319	351.2
	Other amusement and recreation activities	932	

Note: In some cases it was possible to estimate the figures only at a higher level of aggregation including all the sub-sectors (e.g. accommodation and food & beverage service), while in other cases it was possible to estimate the figures at a detailed level more specifically related to tourism (e.g. renting and leasing of motor vehicles and renting and leasing of recreational and sports goods). In each case, the figures for tourism GDP should in principle reflect tourism activity as defined by the TSA (OECD et al., 2017^[28]), i.e. only goods and services directly consumed by tourists are considered tourism value added.

Source: TSA, (INS, 2022^[30]), Compte Satellite du Tourisme: Principaux résultats 2018-21.

1.4.2. Price elasticity of demand

The price elasticity of demand is assumed to be -2 in the baseline scenario, in accordance with previous OECD competition assessment reports. This assumption is subject to uncertainty. Since 83.7% of Tunisia's

tourism consumption is attributed to foreign visitors, the demand for international tourism (non-Tunisians) is considered. The price elasticity of demand for international tourism has often been found to be lower than -2, according to a relatively large body of literature. For instance, Crouch (1994^[32]) shows that, on the basis of the results from around 80 studies, the price elasticity of demand for international tourism ranges between -0.6 and -0.8 after adjusting for differences in the selection of variables, sample and methodology.

Nonetheless, the price elasticity of demand for Tunisian tourism may differ from what is generally observable in international tourism. For example, Ouerfelli (2008^[33]), focusing specifically on demand for tourism in Tunisia, found stronger price elasticities of demand. According to Ouerfelli (2008^[33]), the price elasticity of demand differs across countries of origin: -8.34 for the United Kingdom; -5.17 for Germany; between -4.89 and -2.51 for France; and -1.51 for Italy. Tourists from these countries account for the vast majority of Tunisia's foreign visitors, and these estimates were obtained controlling for other factors that can affect tourism demand, such as supply factors (e.g. accommodation capacity), income and exchange rates. The findings support the use of a price elasticity of -2, although this is much higher than typical international levels.

Over the years, estimates of the price elasticity of demand for international tourism have been investigated in detail, including specifications of relevant prices. It is difficult to identify a representative price index for tourism, since tourism consumption consists of products across many sectors (see Chapter 2). At the same time, it is practically impossible to include all related prices in estimates of tourism demand (Crouch, 1994^[32]). In practice, general price levels have been used in the literature. When considering international tourism, the difference in general price levels denominated in different currencies needs to be taken into account. This has been achieved by adjusting general price levels normalised by exchange rates (e.g. (Dogru, Sirakaya-Turk and Crouch, 2017^[34]). The baseline scenario in this report, according to which the price elasticity of demand is -2, is built on this methodology, drawing on Ouerfelli (2008^[33]).

Different estimates have been calculated using metrics other than exchange rates. Seetaram, Forsyth and Dwyer (2016^[35]) argue that the use of real exchange rates is relevant to measure changes in the relative price but not the level of the relative price (as real exchange rates are typically normalised to the value of the base year, which is common across countries, as though countries had the same price levels in the base year). They instead use purchasing power parity between countries as the measure of the relative price and find that the price elasticity of demand for international tourism is -1.07. According to their notes on empirical results, income is another major determinant of tourism demand, and real exchange rates are closely associated with it, which can distort the estimated effects of real exchange rates on tourism demand. The abovementioned findings by Ouerfelli (2008^[33]) may also suffer from this problem. Based on these findings, this report also uses an alternative scenario in which the price elasticity of demand is -1.

1.4.3. Estimates of price changes

Transport: Rental cars

Tourism GDP generated by the vehicle hire sector was TND 127 million in 2018 (see Table 1.2). The OECD's recommendations for this sector are related to administrative requirements, which are similar to those required for licences and qualifications. This report takes into account comprehensive studies looking at the price effects of occupational licensing by Kleiner (2000^[36]) and Kleiner and Vorotnikov (2017^[37]). The impact of licensing-related practices on prices ranges between 5% and 33%, depending on the type of occupational practice and location. According to Kleiner (2000^[36]) the estimates are larger for licensed occupations that require more education and training, such as lawyers. Since there are no relevant results looking specifically at those requirements in the rental car sector, the OECD makes a conservative assumption of a price decline of 5%. This will result in additional economic activity worth TND 12.7 million (i.e. $1\,270\,000 \times (-0.05) \times -2$) in the baseline scenario, in which the price elasticity of demand is -2. In the

alternative scenario, in which the price elasticity of demand is -1, additional economic activity is estimated to be worth TND 6.4 million (i.e. $1\,270\,000 \times (-0.05) \times -1$).

Transport: Tourist transport

Tourism GDP attributable to this sector is reported as “other land transport”, worth TND 548.5 million in 2018, in Table 1.2, which is combined with non-regular public road transport (see below). Tourism GDP generated by the tourist transport sector is estimated to be TND 109.7 million, with an assumption that this sector accounts for one-fifth of “other land transport” in Table 1.2. This report takes into account the results in Barrett (2005^[38]), showing that costs in regulated coach services markets are higher than in deregulated ones by 52%, as well as those in Darbéra (2004^[39]), providing evidence that deregulation of coach services would reduce costs by 46%. Then, the OECD estimates the price change to be -50% following the adoption of recommendations related to this sector, with additional economic activity worth TND 109.7 million in the baseline scenario and TND 54.9 million in the alternative scenario.

Transport: Non-regular public road transport

Tourism GDP generated by this sector, essentially taxis, is assumed to be TND 438.8 million, with an assumption that the sector accounts for four-fifths of “other land transport” in Table 1.2. Most of the OECD’s recommendations relate to reducing requirements to operate taxis, which would result in an increased taxi supply. In Tunisia’s formal taxi sector, fares are regulated, so no price effects are assumed and volume effects are directly estimated in this quantification exercise. This report takes into account the results in Bentivogli (2009^[40]), who studies the case of Italy, where a similar reform was adopted at the national level in the 2000s. That reform resulted in a supply increase ranging from 6.4% to 30%, depending on the municipality, as municipalities have authorisation competency. Drawing on this study, a 25% increase in the supply of taxis is assumed. A further assumption is that the increased supply is fully met by unsatisfied demand. Such a reform is therefore assumed to result in a 25% increase in economic activity in the sector worth TND 109.7 million. Since no price effects are assumed, the baseline and alternative scenarios do not differ.

Travel agencies

Tourism GDP arising from the travel agency sector is TND 326 million (see Table 1.2). The OECD’s recommendations for this sector concern requirements related to qualifications. The estimate of prices takes into account the results in Kleiner and Park (2014^[41]), who investigated certain occupational licences with a strong focus on such requirements as age, education and examinations, according to which costs in related sectors are higher by 6%-8%. This also aligns with findings on licensing-related practices by Kleiner (2000^[36]) and Kleiner and Vortnikov (2017^[37]), according to which the impact on prices ranges between 5% and 33%, with weaker effects for those sectors requiring low educational attainment and training. The OECD estimates the price impact due to the adoption of its recommendations would be a 7.5% decline, with additional economic activity worth TND 48.9 million in the baseline scenario and TND 24.5 million in the alternative scenario.

Tourist restaurants

Tourism GDP attributable to the tourist restaurant sector is TND 1.4 billion (see Table 1.2). Most of the OECD’s recommendations concern requirements related to the restaurant classification system, which are similar to those for administrative licences and qualifications. This estimation draws on the findings on licensing-related practices by Kleiner (2000^[36]) and Kleiner and Vortnikov (2017^[37]), according to which the price effect ranges between 5% and 33%, with weaker effects for those sectors requiring low educational attainment and training. Since no relevant studies exist looking specifically at tourist restaurants, the OECD makes a conservative assumption of a price decline of 5% following the adoption

of its recommendations for the sector, resulting in additional economic activity worth TND 139.9 million in the baseline scenario and TND 70 million in the alternative scenario.

Water transport

Tourism GDP generated by this sector and its subsectors is TND 68.1 million (see Table 1.2). Thus, tourism value added accounts for a significant share of the total value added in the overall sea transportation sector, which amounts to TND 200.2 million (0.2% of total value added in Tunisia in 2019, compared with 2.9% in Greece and 0.2% in Italy). The OECD's recommendations related to this sector are similar to those in a past study on tourism in Greece (OECD, 2014^[42]). The OECD follows the assumption made in the Greek study of a 5% increase in sales. This assumption would translate into additional economic activity worth TND 3.4 million. This estimate implicitly assumes a price decline of 2.5%. Therefore, in the alternative scenario, in which the price elasticity of demand is halved, additional economic activity is estimated to be TND 1.7 million.

Accommodation

Tourism GDP accounted for by the accommodation sector is TND 1.08 billion (see Table 1.2). The nature of the OECD's recommendations for this sector varies. One strand of recommendations relates to requirements involving qualifications. The estimate of prices takes into account the results in Kleiner and Park (2014^[41]), who investigated certain occupational licences with a strong focus on such requirements as age, education and examinations, according to which costs in related sectors are higher by 6%-8%. This also aligns with findings on licensing-related practices by Kleiner (2000^[36]) and Kleiner and Vorotnikov (2017^[37]), according to which the impact on prices ranges between 5% and 33%, with weaker effects for those sectors requiring low educational attainment and training. The OECD estimates that the price decline arising from the adoption of its recommendations would be 7.5%, with additional economic activity of TND 162 million in the baseline scenario and TND 81 million in the alternative scenario.

For the accommodation sector, this report includes another strand of recommendations relating to space requirements for hotel classification. The OECD takes account of the results in Suzuki (2013^[43]) on the restrictiveness of land use, based on a restrictiveness indicator formulated by Gyourko et al. (2008^[44]). An illustrative policy impact is directly taken into account, according to which prices are 4% higher if the land use restrictiveness indicator is higher by one standard deviation. A decline in prices of 4% would result in additional economic activity worth TND 86.4 million in the baseline scenario and TND 43.2 million in the alternative scenario.

1.4.4. Summary

In total, the GDP impact of adopting the recommendations in this report is estimated to be worth TND 672.8 million, which is equivalent to 0.6% of Tunisia's 2018 GDP in the baseline scenario, in which the price elasticity of demand for tourism is -2. The GDP impact is measured at base year 2018 prices, as it would appear in the national accounts if all other factors are held constant. In the alternative scenario, in which the price elasticity of demand for tourism is -1, the total benefits would be worth TND 391.3 million, or 0.3% of 2018 GDP. The price elasticity of demand is twice as strong in the baseline scenario as in the alternative scenario, but the estimated figure is not simply doubled because in some cases volume effects are estimated directly.

The total GDP impact should also take into account the associated increase in intermediate inputs (indirect effects). Tourism is typically a downstream industry, requiring intermediate inputs from many other industries. Based on this understanding, the TSA provides a means of calculating the size of such indirect effects, assuming a constant relationship between tourism production and the consumption of intermediate inputs from other industries based on input-output tables showing flows of final and intermediate goods

and services. According to an estimate by the INS, a unit increase in tourism activity is associated with a rise in activity in all other industries by 0.98. This is called the multiplier of tourism activity to derive indirect effects.

Table 1.3. Estimated impact on tourism GDP (TND million)

	$ \epsilon = 2$	$ \epsilon = 1$
Transport: Vehicle hire	12.7	6.4
Transport: Tourist transport	109.7	54.9
Transport: Taxis, etc.	109.7	109.7
Travel agency	48.9	24.5
Tourist restaurant	139.9	70.0
Maritime, water activities	3.4	1.7
Accommodation (qualifications)	162.0	81.0
Accommodation (classification)	86.4	43.2
Total impact	672.8	391.3
Tunisian GDP in 2018	11 2679.2	11 2679.2
Total impact as a percentage of GDP	0.6%	0.3%

The rise in economic activity including these indirect effects would be equivalent to the rise in total tourism revenue. Drawing on an estimate made by the INS and using the multiplier of tourism activity, the benefits of reform in the baseline scenario (additional activity worth TND 672.8 million) would necessitate more intermediate inputs, raising the level of economic activity in Tunisia by a further TND 659.3 million (indirect effects). Thus, the total effects (direct effects plus indirect effects), on approximate tourism revenue would be worth TND 1.3 billion, or 1.2% of Tunisia's 2018 GDP. In the alternative scenario, the total effects would be worth TND 774.7 million, or 0.7% of 2018 GDP.

The expected benefits are likely to spill over to the broader economy, notably in additional spending on goods that tourists purchase. These goods are not counted as tourism value added, according to the TSA, because they are not produced specifically for tourism. They are, however, recorded as tourism consumption, which is part of the TSA that identifies products effectively purchased by tourists. According to INS estimates, tourism consumption amounted to around TND 10 billion in 2018, compared with tourism GDP of TND 4.8 billion. Assuming that the consumption of goods not accounted for in the TSA as value-added is proportional to tourism GDP as defined by the TSA, additional consumption of TND 59.9 million (0.1% of Tunisian GDP in 2018) would be expected following the rise in tourism activity estimated in the baseline scenario (in this case, the total benefits would add up to TND 1.4 billion, or 1.2% of Tunisia's 2018 GDP).

Importantly, the total benefits would be even larger, in particular in the longer run, if dynamic aspects are considered. Such dynamic aspects reflect, among other things, intra-company productivity growth and reallocations of resources that raise productivity and income in the aggregate (see OECD (Forthcoming_[4]) forthcoming). These are facilitated by encouraging market entry, as new firms tend to be more innovative than incumbents, and facilitate the expansion of productive enterprises through competitive pressures, in line with the recommendations of this report. Although such positive effects can be sizable, it is practically impossible to identify every single transmission mechanism in a model in order to quantify these precisely [and such effects tend to be evaluated globally, linking productivity and policy, see OECD (Forthcoming_[4])].

References

- Aghion, P. et al. (2004), "Entry and Productivity Growth: Evidence from Microlevel Panel Data", [3]
Journal of the European Economic Association, Vol. 2/2/3, pp. 265-276,
<https://about.jstor.org/terms>.

- Andrews, D. and C. Criscuolo (2013), “Knowledge-Based Capital, Innovation and Resource Allocation”, *OECD Economics Department Working Papers*, No. 1046, OECD Publishing, Paris, <https://doi.org/10.1787/5k46bj546kzs-en>. [14]
- Andrews, D. and B. Westmore (2014), “Managerial Capital and Business R&D as Enablers of Productivity Convergence”, *OECD Economics Department Working Papers*, No. 1137, OECD Publishing, Paris, <https://doi.org/10.1787/5jxx3d441knr-en>. [15]
- Arnold, J., G. Nicoletti and S. Scarpetta (2011), “Regulation, resource allocation and productivity”, *Nordic Economic Policy Review*, Vol. Number 2/2011, pp. 61-97. [9]
- Barrett, S. (2005), *Les bénéfices de la déréglementation*, Conférence européenne des ministres des transports. [38]
- Bentivogli, C. (2009), “Taxi regulation and the Bersani reform: a survey of major Italian cities”, *European Transport*, Vol. 41, pp. 1-27. [40]
- Blundell, R., R. Griffith and J. Reenen (1999), “Market Share, Market Value and Innovation in a Panel of British Manufacturing Firms”, *The Review of Economic Studies*, Vol. 66, pp. 529-554, <https://academic.oup.com/restud/article/66/3/529/1575508>. [2]
- Bourlès, R. et al. (2013), “Do productmarket regulations in upstreamsectors curb productivity growth? Panel data evidence for oecd Countries”, *Review of Economics and Statistics*, Vol. 95/5, pp. 1750-1768, https://doi.org/10.1162/REST_a_00338. [11]
- Cahuc, P. and F. Kramarz (2004), *De la précarité à la mobilité: vers une Sécurité sociale professionnelle*. [19]
- Causa, O., A. De Serres and N. Ruiz (2015), “Can pro-growth policies lift all boats? An analysis based on household disposable income”, *OECD Journal: Economic Studies*, Vol. Vol. Volume 2015, pp. 227-268, https://doi.org/10.1787/eco_studies-2015-5jrqb1t5jb. [22]
- Cette, G., J. Lopez and J. Mairesse (2017), “Upstream Product Market Regulations, ICT, R&D and Productivity”, *Review of Income and Wealth*, Vol. 63, pp. S68-S89, <https://doi.org/10.1111/roiw.12252>. [12]
- Criscuolo, C., P. Gal and C. Menon (2014), “The Dynamics of Employment Growth: New Evidence from 18 Countries”, *OECD Science, Technology and Industry Policy Papers*, No. 14, OECD Publishing, Paris, <https://doi.org/10.1787/5jz417hj6hg6-en>. [20]
- Crouch, G. (1994), “Price Elasticities in International Tourism”, *Journal of Hospitality & Tourism Research*, Vol. 17/3, pp. 27-39. [32]
- Darbéra, R. (2004), “L’expérience anglaise de dérégulation des transports par autobus”, *Cahiers Scientifiques du Transport*, Vol. 46. [39]
- Daude, C. and C. de la Maisonneuve (2018), “Network service deregulation and manufacturing exports in Greece”, *OECD Economics Department Working Papers*, No. 1474, OECD Publishing, Paris, <https://doi.org/10.1787/d35026d6-en>. [13]
- Dogru, T., E. Sirakaya-Turk and G. Crouch (2017), “Remodeling international tourism demand: Old theory and new evidence”, *Tourism Management*, Vol. 60, pp. 47-55, <https://doi.org/10.1016/j.tourman.2016.11.010>. [34]

- Égert, B. (2018), “Regulation, Institutions and Aggregate Investment: New Evidence from OECD Countries”, *Open Economies Review*, Vol. 29/2, pp. 415-449, <https://doi.org/10.1007/s11079-017-9449-9>. [18]
- Égert, B. (2017), “The quantification of structural reforms: Extending the framework to emerging market economies”, *OECD Economics Department Working Papers*, No. 1442, OECD Publishing, Paris, <https://doi.org/10.1787/f0a6fdcb-en>. [25]
- Égert, B. (2016), “Regulation, institutions, and productivity: New macroeconomic evidence from OECD countries”, *American Economic Review: Papers & Proceedings*, Vol. 106/5, pp. 109-113, <https://doi.org/10.1257/aer.p20161026>. [10]
- Eklund, J. and E. Lappi (2018), “Product regulations and persistence of profits: OECD evidence”, *Journal of Regulatory Economics*, Vol. 54/2, pp. 147-164, <https://doi.org/10.1007/s11149-018-9365-y>. [24]
- Ennis, S., P. Gonzaga and C. Pike (2019), “Inequality: A hidden cost of market power”, *Oxford Review of Economic Policy*, Vol. 35/3, pp. 518-549, <https://doi.org/10.1093/oxrep/grz017>. [23]
- Fournier, J. (2015), “The negative effect of regulatory divergence on foreign direct investment”, *OECD Economics Department Working Papers*, No. 1268, OECD Publishing, Paris, <https://doi.org/10.1787/5jrqvg0dw27-en>. [6]
- Fournier, J. et al. (2015), “Implicit Regulatory Barriers in the EU Single Market: New Empirical Evidence from Gravity Models”, *OECD Economics Department Working Papers*, No. 1181, OECD Publishing, Paris, <https://doi.org/10.1787/5js7xj0xckf6-en>. [5]
- Guizzardi, A. and M. Mazzocchi (2010), *Tourism demand for Italy and the business cycle*, pp. 367-377, <https://doi.org/10.1016/j.tourman.2009.03.017>. [27]
- Gyourko, J., A. Saiz and A. Summers (2008), “A New Measure of the Local Regulatory Environment for Housing Markets: The Wharton Residential Land Use Regulatory Index”, *Urban Studies*, Vol. 45/3, pp. 693-729. [44]
- INS (2022), *Compte Satellite du Tourisme: Principaux résultats 2018-2021*. [30]
- Kleiner, M. (2000), “Occupational Licensing”, *Journal of Economic Perspective*, Vol. 14/4, pp. 189-202. [36]
- Kleiner, M. and K. Park (2014), “Life, limbs, and licensing: occupational regulation, wages, and workplace safety of electricians, 1992-2007”, *Monthly Labor Review*, Vol. January 2014, <http://www.bls.gov/ooh/construction-and-extraction/electricians.htm>. [41]
- Kleiner, M. and E. Vorotnikov (2017), “Analyzing occupational licensing among the states”, *Journal of Regulatory Economics*, Vol. 52/2, pp. 132-158, <https://doi.org/10.1007/s11149-017-9333-y>. [37]
- Loayza, N., A. Oviedo and L. Servén (2005), *The impact of regulation on growth and informality – cross-country evidence*, <https://documents.worldbank.org/en/publication/documents-reports/documentdetail/212041468134383114/the-impact-of-regulation-on-growth-and-informality-cross-country-evidence>. [29]
- Nickell, S. (1996), “Competition and Corporate Performance”, *Journal of Political Economy*, Vol. 104/4, pp. 724-746, <https://about.jstor.org/terms>. [1]

- Nicoletti, G. and S. Scarpetta (2003), “Regulation, Productivity and Growth: OECD Evidence”, *Economic Policy*, Vol. 18/36, pp. 9-72. [8]
- Nicoletti, G., S. Scarpetta and O. Boylaud (2000), “Summary Indicators of Product Market Regulation with an Extension to Employment Protection Legislation”, *OECD Economics Department Working Papers*, Vol. No. 226, <https://doi.org/10.1787/215182844604>. [45]
- Nicoletti, G., C. von Rueden and D. Andrews (2020), “Digital technology diffusion: A matter of capabilities, incentives or both?”, *European Economic Review*, Vol. 128, <https://doi.org/10.1016/j.euroecorev.2020.103513>. [16]
- OECD (2019), *OECD Competition Assessment Reviews: Tunisia*, OECD Publishing, Paris, <http://www.oecd.org/daf/competition/competition-assessment-reviews-tunisia.htm>. [7]
- OECD (2017), *Competition Assessment Toolkit: Volume 3. Operational Manual*, OECD Publishing, Paris, https://www.oecd.org/daf/competition/COMP_Toolkit_Vol.3_ENG_2015.pdf. [31]
- OECD (2015), *Economic Policy Reforms 2015: Going for Growth*, OECD Publishing, Paris, <https://doi.org/10.1787/growth-2015-en>. [21]
- OECD (2014), *OECD Competition Assessment Reviews: Greece*, OECD Competition Assessment Reviews, OECD Publishing, Paris, <https://doi.org/10.1787/9789264206090-en>. [42]
- OECD (2014), *Regulatory Enforcement and Inspections, OECD Best Practice Principles for Regulatory Policy*, OECD Publishing, <https://doi.org/10.1787/9789264208117-en>. [46]
- OECD (Forthcoming), *Factsheet on competition and macro-economic outcomes*. [4]
- OECD et al. (2017), *Tourism Satellite Account: Recommended Methodological Framework 2008*, OECD Publishing, Paris, <https://doi.org/10.1787/9789264274105-en>. [28]
- Ouerfelli, C. (2008), “Co-integration analysis of quarterly European tourism demand in Tunisia”, *Tourism Management*, Vol. 29/1, pp. 127-137, <https://doi.org/10.1016/j.tourman.2007.03.022>. [33]
- Seetaram, N., P. Forsyth and L. Dwyer (2016), “Measuring price elasticities of demand for outbound tourism using competitiveness indices”, *Annals of Tourism Research*, Vol. 56, pp. 65-79, <https://doi.org/10.1016/j.annals.2015.10.004>. [35]
- Suzuki, J. (2013), “Land Use Regulation as a Barrier to Entry: Evidence from the Texas Lodging Industry”, *International Economic Review*, Vol. 54/2, pp. 495-523, <http://www.sharcnet.ca>. [43]
- Westmore, B. (2013), “R&D, Patenting and Growth: The Role of Public Policy”, *OECD Economics Department Working Papers*, No. 1047, OECD Publishing, Paris, <https://doi.org/10.1787/5k46h2rfb4f3-en>. [17]
- Wong, K. (1997), *The relevance of business cycles in forecasting international tourist arrivals*, pp. 581-586. [26]

Notes

¹ See https://ue-tunisie.org/projet-192-13-300_appui-au-programme-tounes-wijhetouna-programme-d-appui-a-la-.html

² The methodology followed in this project is consistent with PMR developed by the OECD. See OECD (2014^[46]), Box 2.1, p.67. To measure a country's regulatory stance and track the progress of reforms over time, the OECD in 1998 developed an economy-wide indicator set of PMR (Nicoletti, Scarpetta and Boylaud, 2000^[45]). The indicator was updated in 2003, 2008 and 2013.

³ Fournier et al. (2015^[5]) find that national regulations, as measured by the economy-wide PMR index, have a negative impact on exports and reduce trade intensity (defined as trade divided by GDP). Differences in regulations between countries also reduce trade intensity. For example, convergence of PMR among EU member states would increase trade intensity within the European Union by more than 10%. Fournier (2015^[6]) studied the impact of heterogeneous PMR in OECD countries and concluded that lowering regulatory divergence by 20% would increase foreign direct investment by about 15% on average across OECD countries. He investigated specific components of the PMR index and found that command-and-control regulations and measures protecting incumbents (such as antitrust exemptions and entry barriers for networks and services) are especially harmful in terms of reducing cross-border investment.

⁴ Arnold et al. (2011^[9]) analysed firm-level data from 10 countries from 1998 to 2004 using the OECD's PMR index at industry level and found that more stringent PMR reduces firms' MFP.

⁵ Égert (2016^[10]) investigated the drivers of aggregate MFP in a sample of 30 OECD countries over a 30-year period.

⁶ The study of 15 countries and 20 sectors from 1985 to 2007 estimated the effect of regulation of upstream service sectors on downstream productivity growth.

⁷ Égert investigated the link between product and labour market regulations with investment (capital stock) using a panel of 32 OECD countries from 1985 to 2013 (Bourlès et al., 2013^[11]).

⁸ Employment growth in France increased from 1.2% a year between 1981 and 1985 to 5.2% a year between 1986 and 1990. Between 1976 and 2001, total employment in the road transport sector doubled from 170 000 to 340 000.

⁹ The sample includes 18 countries over a 10-year period.

¹⁰ Using the OECD's summary index of PMR in seven non-manufacturing industries in the energy, telecoms and transport sectors, Causa et al. (2015^[22]) found stringent PMR had a negative impact on household disposable income. This result held both on average and across the income distribution, and led to greater inequality. The authors noted that lower regulatory barriers to competition would "tend to boost household incomes and reduce income inequality, pointing to potential policy synergies between efficiency and equity objectives".

¹¹ These were Australia, Canada, France, Germany, Japan, South Korea, the United Kingdom and the United States.

¹² The lack of enforcement calls for regulatory compliance cost analysis, since several regulations are outdated and simply not enforceable.

2 Overview of the tourism sector

This chapter provides an economic overview of the tourism sector in Tunisia, identifying the key national institutions issuing sectoral regulation and the main applicable legal instruments. Tourism is one of the most important parts of the Tunisian economy, directly contributing 4.5% of gross domestic product (GDP) and accounting for 4.4% of formal employment in 2019. The Ministry of Tourism and Handicrafts plays a central role in regulating the sector. Several legal instruments – laws, decrees and ministerial orders – are applicable, at different levels, to tourism sub-sectors, including legislation applicable to accommodation, travel agencies and several sports and leisure activities. This chapter provides a review of the legal texts within the scope of this project that affect tourism in Tunisia at a horizontal level as well as those affecting selected transport and food and beverage services.

2.1. Definition and scope of the sector

Tourism as a demand-side phenomenon involves purchases of goods and services by visitors. It can also be viewed from the supply side as a set of productive activities that cater mainly to visitors (OECD; EUROSTAT; UNWTO, 2010^[1]). In this report, the scope of analysis consists of the main components of the Tourism Satellite Account (TSA), which represents the official and internationally recognised conceptual framework for a comprehensive reconciliation of tourism data related to supply and demand (Box 2.1). It includes the following tourism activities, as identified in the statistical classification codes from the 2009 *Nomenclature d'Activités Tunisiennes* (NAT), or Tunisian Nomenclature of Activities (INS, 2009^[2]):

- Accommodation services (Code 55), including:
 - Hotels and similar accommodation (Code 55.10)
 - Holiday and other short-stay accommodation (Code 55.20)
 - Camping grounds, recreational vehicle parks and trailer parks (Code 55.30)
 - Other accommodation (Code 55.90).
- Food and beverage service (Code 56), including:
 - Restaurants (Code 56.11)
 - Mobile food service (Code 56.12)
 - Beverage service (Code 56.32).
- Transport services (Code 49 and 77), including:
 - Urban and suburban passenger land transport (Code 43.31)
 - Taxi and *louage* (minibus) operation (Code 43.32)
 - Other passenger land transport (Code 43.39)
 - Renting and leasing of cars and light motor vehicles (Code 77.11)
 - Renting and leasing of recreational and sports goods (Code 77.21).
- Travel agency, tour operator reservation services and related activities (Code 79), including:
 - Travel agency activities (Code 79.1)
 - Tourist guides (Code 79.9).
- Sports and recreational services (Code 91 and 93), including:
 - Museum activities (Code 91.02)
 - Operation of historical sites/buildings and similar visitor attractions (Code 91.03).
 - Sports activities (Code 93.1)
 - Amusement and recreation activities (Code 93.2).

Box 2.1. The TSA

The TSA is a standard statistical framework and the main tool for the economic measurement of tourism. It was developed by the World Tourism Organisation (UNWTO), the OECD, the Statistical Office of the European Communities (Eurostat) and the United Nations Statistics Division. The Tourism Satellite Account: Recommended Methodological Framework 2008 (RMF 2008) provides the updated common conceptual framework for constructing a TSA. It adopts the basic system of concepts, classifications, definitions, tables and aggregates of the System of National Accounts 2008 (SNA 2008), the international standard for systematic summaries of national economic activity, from a functional perspective.

The TSA reconciles tourism data related to supply and demand. Tourism measurement and analysis require a classification of products, mainly those belonging to tourism expenditure, and productive activities that are the basis for defining tourism sectors. A tourism sector represents a grouping of establishments whose main activity is the same. The TSA-RMF 2008 provides a typology of tourism consumption products and activities.

Table 2.1. Tourism consumption products and activities

Tourism consumption products	Tourism activities (tourism sectors)
Accommodation services for visitors	Accommodation for visitors
Food & beverage service	Food& beverage service activities
Railway passenger transport services	Railway passenger transport
Road passenger transport services	Road passenger transport
Water passenger transport services	Water passenger transport
Air passenger transport services	Air passenger transport
Transport equipment rental services	Transport equipment rental
Travel agencies and other reservation services	Travel agencies and other reservation services activities
Cultural services	Cultural activities
Sports and recreational services	Sports and recreational activities
Country-specific tourism goods	Retail trade involving country-specific tourism goods
Country-specific tourism services	Other country-specific tourism activities

Source: Adapted from OECD et al. (2010^[1]), Tourism Satellite Account: Recommended Methodological Framework 2008, <https://doi.org/10.1787/9789264274105-en>.

2.2. Economic overview

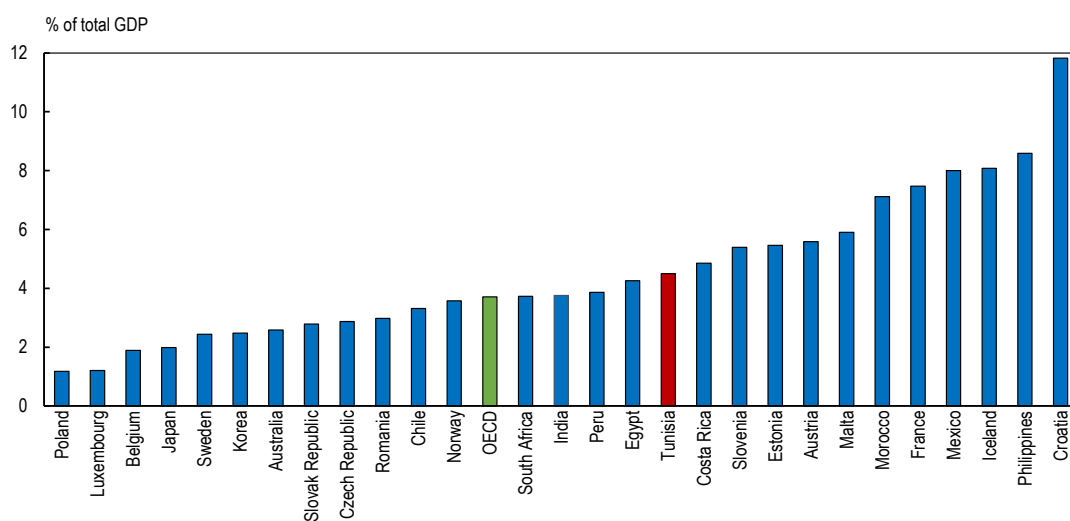
The tourism sector has long been an important pillar of the Tunisian economy. The sector has experienced diverse shocks, with the 2011 revolution and especially the 2015 terrorist attacks in Bardo and Sousse hitting it very hard. More recently, the COVID-19 pandemic has worsened matters. Although the sector has recovered from such shocks, it faces structural problems that have put strain on its financial viability, its ability to create jobs, and its capacity to innovate in terms of products, as discussed in this report. This overview provides an economic analysis of the sector, showing its weight in the Tunisian economy as a whole, as well as the determinants of demand and the characteristics of supply.

2.2.1. Contribution of the tourism sector to the national economy

Tourism value added

The TSA was developed for the first time in Tunisia for the years 2018-21. The data considered for this section is from 2019, the latest consistent year before the COVID-19 pandemic outbreak. According to the TSA methodology, tourism GDP amounted to TND 5.5 billion in 2019, representing 4.5% of national GDP (INS, 2022^[3]) (see Figure 2.1). Depending on the source, there are significant differences in the calculation of tourism value added.¹ The TSA methodology stipulates that only goods and services produced specifically for tourism and directly consumed by tourists should be considered tourism value added (OECD; EUROSTAT; UNWTO, 2010^[1]).

Figure 2.1. Direct GDP from tourism



Note: Data are from 2019 or are the latest available data prior to 2019.

Source: OECD [OECD.Stat Metadata Viewer](#), (INS, 2022^[3]).

In addition to direct tourism value added, the tourism sector generates extra activity for other sectors of the economy. According to Bouzaiene and Chibani (2021^[4]), tourism has a multiple of gross value added (GVA) of 0.98 (see Table 2.1), measured as a ratio of indirect value added from tourism to direct value added. The multiple of 0.98 indicates that the indirect contribution of upstream industries to tourism is almost equivalent to the GVA generated directly by the tourism sector itself. These figures confirm the cross-cutting nature of tourism and its importance in the Tunisian economy. Domestic tourism consumption, including consumption of goods not specifically produced for tourism, was worth TND 11.8 billion in 2018, the vast majority of which (78.8%) is attributable to non-resident visitors (INS, 2022^[3]).

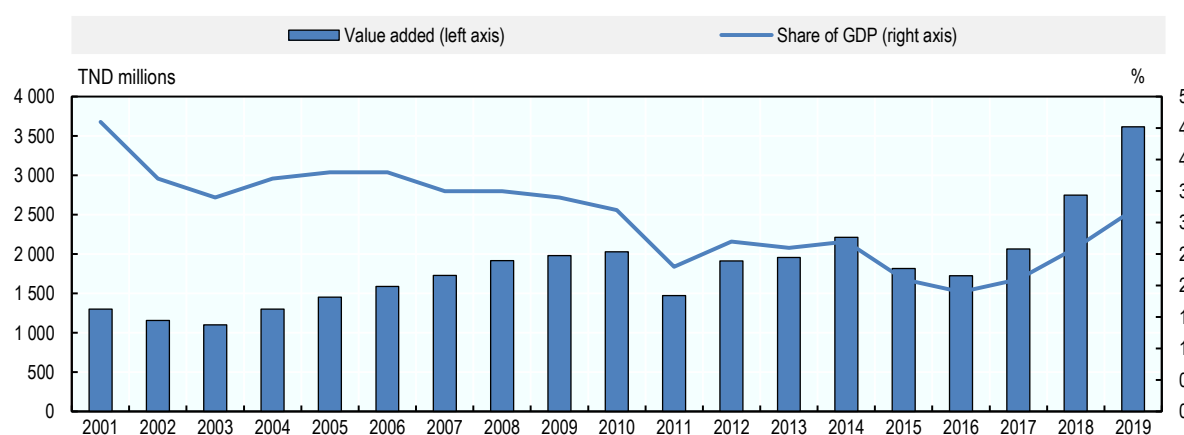
Tourism in Tunisia has been on a rising trend long term, although it has not grown as fast as it could have (see Figure 2.2). According to data from the *Office National Du Tourisme Tunisien* (ONTT), or Tunisian National Tourism Office, which provides longer time series data, the share of tourism² in Tunisia's economy as a whole fell between 2000 and 2016 due to growth in overall activity exceeding that of tourism. The share of tourism recovered after the 2015 terrorist attacks, with activity growing significantly to reach TND 3.5 billion in 2019, a growth rate of 110% compared with 2016. However, it was significantly affected by the COVID-19 crisis, with tourism direct GDP falling 64.6% in 2020 (INS, 2022^[3]), compared with a decline of 8.8% in total GDP in the same year.

Table 2.2. Direct and indirect contribution of tourism by sector, 2018

	Direct GVA	Indirect GVA	Total GVA	Share
	(in TND million)			(%)
Accommodation and catering services	1 698	18	1 716	19.3
Transportation and storage services	1 228	189	1 416	15.9
Other market services	260	517	777	8.7
Trade, maintenance and repairs	396	136	532	6.0
Other tourism-related services	636	13	649	7.3
Other activities	276	3 515	3 791	42.5
Total	4 494	4 387	8 881	100

Source: Bouzaiene and Chibani (2021^[4]), Poids économique du tourisme: points de vue des comptes nationaux.

Figure 2.2. Tourism activity in Tunisia



Source: ONTT (2019^[5]), Rapport Annuel, <https://www.ontt.tn/sites/default/files/inline-files/rapport2019.pdf>.

Tourism employment

Tourism is an important generator of employment. According to the INS, it accounted for around 267 000 jobs in 2018, including 144 000 corresponding to direct GDP and 123 000 corresponding to indirect GDP, representing 7.6% of total employment (INS, 2022^[3]). These statistics differ by source and definition; according to the ONTT, employment related to the tourist sector (as defined by the ONTT) totalled 95 000 people in 2018.

The sector is characterised by a high degree of informality.³ INS statistics reveal that the informality rate in the hospitality sector was 46% in the second quarter of 2019 (see Table 2.3). Furthermore, marked seasonality accentuates variations in informal employment, as activity increases from June to September, which does not allow the same level of stable employment to be maintained throughout the year. In addition, the sector suffers from a certain level of disorganisation, with more than 4 000 *sociétés de service*, or service companies, reportedly operating in the parallel market, which is completely informal (Espace Manager, 2021^[6]).

Table 2.3. Share of informal employment in Tunisia's hospitality sector, 2019

	Q2		Q3		Q4	
	In thousands	Share	In thousands	Share	In thousands	Share
Hospitality	70.2	46.0%	76.4	48.1%	70.3	44.4%

Source: INS (2019^[7]) Employment survey, <http://www.ins.tn/sites/default/files/publication/pdf/Note:2520emploi%2520informel%25202019.pdf>.

2.2.2. The demand perspective: tourism revenues and entries

Analysing the tourism sector requires both quantitative and qualitative analyses of consumer behaviour, distinguishing between resident and non-resident customers when data permit. The level of attraction for tourists can be assessed using three key parameters: tourism revenues; total overnight stays; and inbound arrivals. Tourism revenues give a general idea of trends in the sector. Total overnight stays include tourism-related stays by both resident and non-resident tourists. Inbound arrivals highlight changes in the country's attractiveness to international visitors.

As noted by Khelif (2004^[8]), tourism is characterised by high levels of uncertainty and volatility, related mainly to consumer confidence. As such, the sector is sensitive to exogenous shocks both within Tunisia and elsewhere.

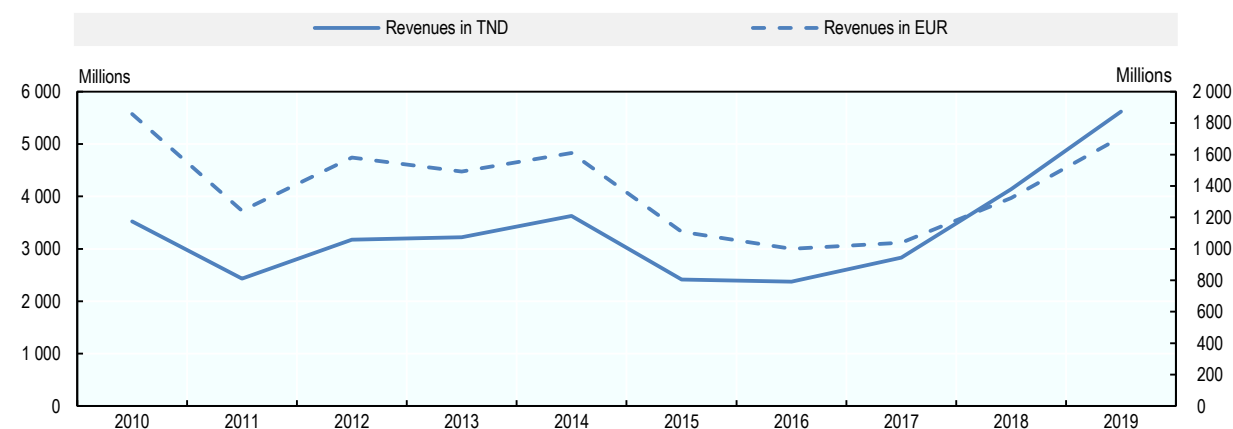
The evolution of tourism revenues

In Tunisia, the evolution of revenues has fluctuated, marked by political and social events that have caused significant drops and subsequent recoveries. Following the Tunisian Revolution in 2011 and the terrorist attacks in 2015, revenue levels recovered (rising 46% in 2018 and 35% in 2019) to reach TND 5.6 billion in 2019 (see Figure 2.3), which is explained by the gradual return of tourists to the country. Tourism revenues represented 10% of goods and services exports in 2019, recovering from a low of 6.6% in 2016, but were still far below the levels of the 2000s (18.8% in 2005). This shows that tourism has not grown as fast as the overall economy during the past decade.

Revenues expressed in euros remained below levels prior to the revolution and the terrorist attacks (see Figure 2.3). The depreciation of the dinar, which fell from TND/EUR 1.9 in 2010 to 3.2 in 2019, explains the sluggish growth in nominal tourism revenues in euros, while the decline in prices of Tunisian tourism products, reflecting the depreciation, has not contributed enough to rekindle tourism demand in Tunisia's favour. Indeed, the recovery in volume terms has not progressed as would have been expected given the depreciation of the dinar, as the price elasticity of demand for Tunisian tourism is considered to be relatively high (see Section 1.4). This likely reflects some lingering uncertainty following the shocks perceived by foreign tourists, but the structural weakness of the tourism sector may also have weighed down a full recovery.

Tunisia is among the world's least expensive tourist destinations. This reflects the difficulties of upgrading the sector in order to position it better globally. In 2019, individual tourists' average per-stay expenditure was around EUR 395 [EUR 190 for flights, EUR 7 for hotel transfers and the remainder for the cost of the stay; (Espace Manager, 2021^[6])]. Also, Tunisia receives 0.6% of the world's tourists but collects only 0.2% of global tourism revenue (Galtier, 2019^[9]). These figures suggest that Tunisia's tourism sector, while recovering fully from the shocks of the revolution and the attacks, would benefit from structural reforms to help it expand durably while diversifying its products.

Figure 2.3. Tunisia's tourism revenues

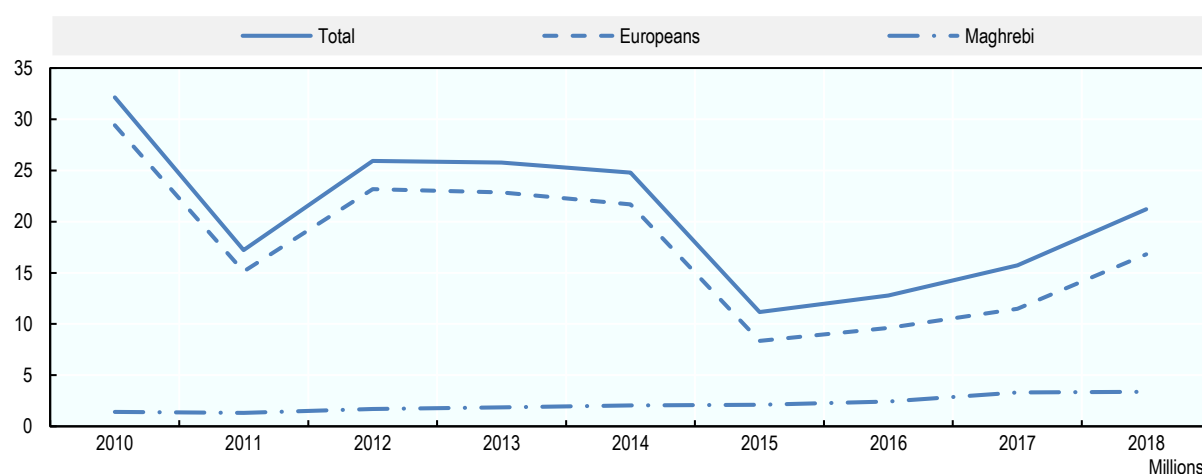


Source ONTT (2019^[5]), Rapport Annuel, <https://www.ontt.tn/sites/default/files/inline-files/rapport2019.pdf>.

Number of overnight stays and tourist entries

The number of overnight stays by tourists fell significantly between 2010 and 2016. Despite a recovery that began in 2016, these figures have not yet returned to 2010 levels (see Figure 2.4). European tourists are far ahead of other groups by the number of overnight stays. The number of overnight stays by Maghrebi tourists, meanwhile, has increased since 2014.

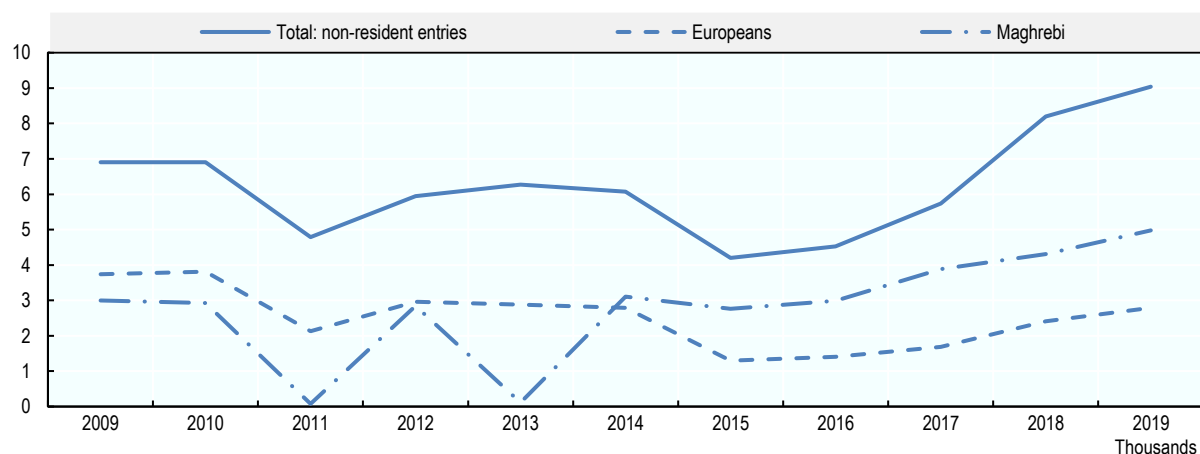
Figure 2.4. Number of overnight stays by non-residents



Source: ONTT (2019^[5]), Rapport Annuel, <https://www.ontt.tn/sites/default/files/inline-files/rapport2019.pdf>.

Tourist arrival numbers showed an overall upward trend over the 2010-19 period, marked by drops in 2011 and 2015 (see Figure 2.5). Since 2015, Maghrebi tourists have been ahead of Europeans in terms of entries to the country, contrasting with figures recorded on the number of overnight stays. One explanation for this is that Maghrebi tourists do not necessarily opt for hotel accommodation but instead consider renting from private individuals (Othmani and Benhacine, 2021^[10]).

Figure 2.5. Entries of non-residents by nationality



Source: ONTT (2019^[5]), Rapport Annuel, <https://www.ontt.tn/sites/default/files/inline-files/rapport2019.pdf>.

A performance gap exists between the number of entries, which has exceeded 2010 levels since 2018, and the number of overnight stays, which has not returned to 2010 levels. This can be explained by the rise in the number of Maghrebi tourists, who are more likely to rent from private hosts, and whose stays are thus not counted as overnight stays in hotels. In addition, the average length of stay in Tunisia has decreased, according to data from the ONTT, dropping from five days in 2010 to three in 2018.

Origin of foreign-currency revenues

Statistics from the ONTT and the Central Bank of Tunisia for 2019 allow us to distinguish between three main origins of non-resident tourists:

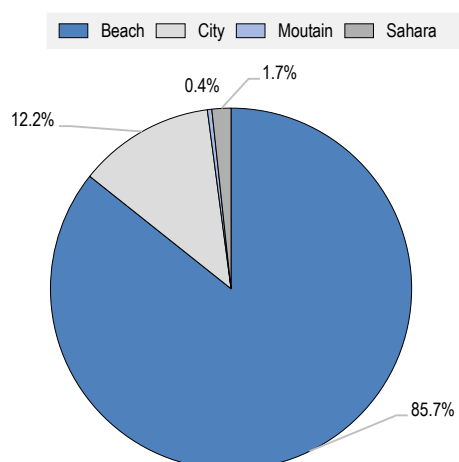
- Europe (TND 3.6 billion), in particular France (TND 1.04 billion), Germany (TND 640 million) and the United Kingdom (TND 325 million)
- Arab Maghreb countries (TND 1.73 billion), split almost equally between Algeria and Libya
- Russia (TND 792 million).

The six countries mentioned above account for 80% of Tunisia's foreign currency tourism revenue.

Reasons for choosing Tunisia as tourism destination

It is essential to understand the factors that attract tourists to Tunisia in order to draw attention to the diversification of Tunisian tourism products and the need to better develop the country's natural, cultural and historical offering. Tunisia's tourism sector has often been criticised for a lack of product diversification, as it focuses primarily on beach tourism, being the only thing attracting 85.7% of visitors to the country (see Figure 2.6). The strong predominance of beaches, which, as noted by Khlif (2004^[8]), seem better developed than other attractions (such as thalassotherapy, golf, cultural attractions, desert tours, sailing, cruising and business), has sometimes earned Tunisia the reputation of being more of a "hotel" destination than a tourist one.

Figure 2.6. Distribution of overnight stays by destination



Source: ONTT (2019_[5]), Rapport Annuel, <https://www.ontt.tn/sites/default/files/inline-files/rapport2019.pdf>.

2.2.3. The supply perspective: characteristics of the tourism industry

Accommodation

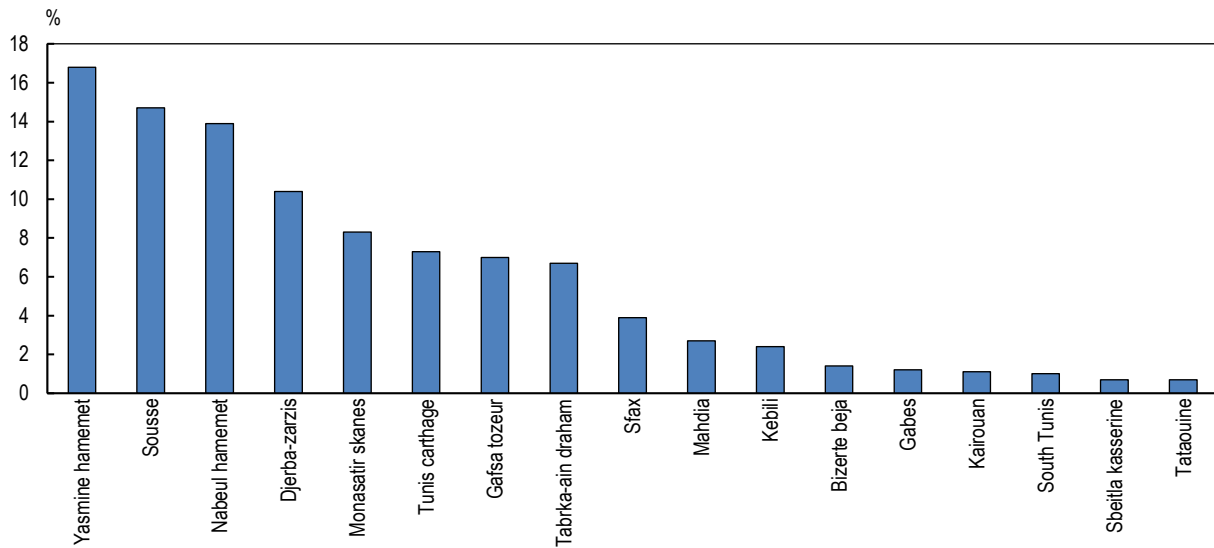
The number of tourist facilities in Tunisia has remained relatively stable since 2010 and stood at 876 in 2019 (see Table 2.3). In terms of the number of overnight stays, classified hotels account for 94.5% of the total, while other categories of accommodation (such as non-classified hotels, apart-hotels and *vacance villages*, or holiday villages) account for 5.5% (ONTT, 2019_[5]). The classification of hotels ranges from one star to five stars. Among classified hotels, around half are classified as four-star (51.9% of all classified hotels), followed by three-star (22.5%), five-star (18.7%), two-star (5.4%) and one-star [1.4%; (ONTT, 2019_[5])]. Accommodation infrastructure in Tunisia is concentrated in the country's coastal areas (see Figure 2.7). The distribution of hotel guests by region highlights the attractiveness of the coastal areas of Nabeul-Hammamet, Sousse and Djerba, which alone accommodate 56% of all hotel guests.

Table 2.4. Numbers of tourist facilities

	2010	2011	2012	2013	2014	2015	2016	2017	2018	2019
Number of tourist facilities	856	861	846	847	848	862	824	848	868	876
Variation	-	1%	-2%	0%	0%	2%	-4%	3%	2%	1%
Tourism investment (in TND millions)	376	208	240	298	242	200	261	447	216	196

Source: ONTT (2019_[5]), Rapport Annuel, <https://www.ontt.tn/sites/default/files/inline-files/rapport2019.pdf>.

Figure 2.7. Distribution of hotel guests by region, 2019



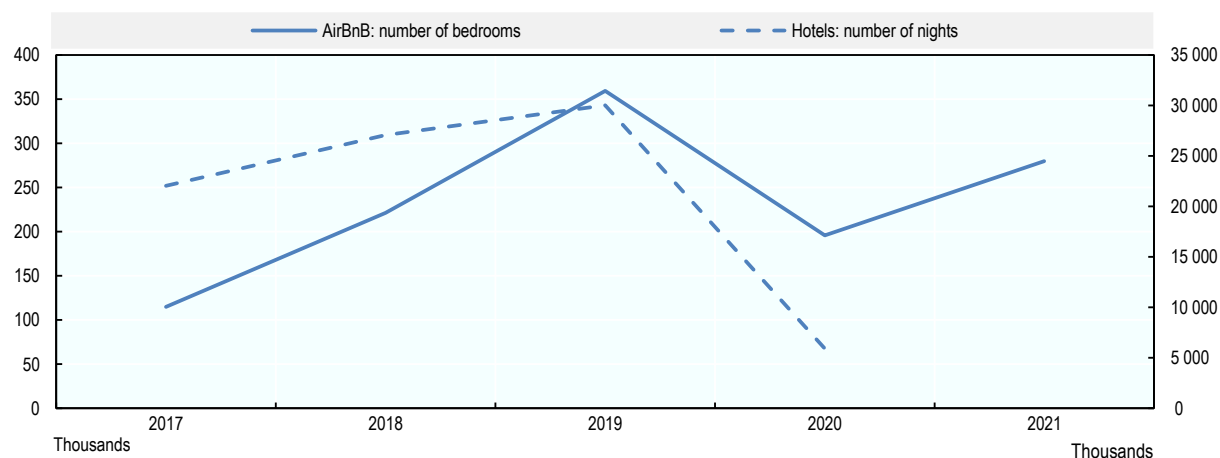
Source: ONTT (2019^[5]), Rapport Annuel, <https://www.ontt.tn/sites/default/files/inline-files/rapport2019.pdf>.

The majority of tourists stay in classic hotel resorts (three-, four- or five-star hotels). This confirms the predominance of mass tourism, which is often based on large resorts, the number of which has risen sharply since the 1970s and whose strategy is often based on all-inclusive package deals.⁴ To maintain profit margins, hoteliers hire seasonal workers and cut back on services. This practice may have contributed to the decline of tourism revenue per bed, which fell from TND 11 360 to TND 4 593 between 2005 and 2015. This type of package, which is becoming the most common in Tunisia, may result in a decrease in the quality of services provided.

The sluggish demand for overnight hotel stays coincides with the emergence of alternative forms of accommodation, of which Airbnb, which offers vacation rental properties online, is a notable example. According to vacation rental market data aggregator AllTheRooms, Airbnb generated gross revenue from accommodation services in Tunisia of around TND 25.4 million in 2021. This segment of the market is still small compared with the remainder of the accommodation sector (tourism direct GDP in the accommodation sector was TND 1.08 billion in 2018). However, it is expanding rapidly, almost trebling in size between 2017, when it was worth TND 8.5 million, and 2021. The number of overnight stays at Airbnb-listed properties has increased similarly. Although this market segment, like the others, was hit by the COVID-19 crisis in 2020, the damage was less extensive than in the traditional accommodation sector, and activity quickly recovered in 2021 (see Figure 2.8).⁵ The development of such alternative accommodation suggests that the traditional accommodation sector will face increased competitive pressures, providing a further reason for rationalising inefficient regulations to ensure it remains competitive. Stakeholders also note that the majority of such alternative accommodation operates informally (see Chapter 3).

Figure 2.8. Overnight stays in alternative accommodation facilities

Number of room nights* booked at Airbnb-listed properties in Tunisia



*Airbnb shows the number of room nights booked, which is the number of nights booked adjusted by the number of beds. Hotels shows the number of overnight stays at accommodation facilities as reported by the ONTT (2019; 2020).

Source: AllTheRooms; ONTT (2020^[11]), Rapport Annuel, <https://www.ontt.tn/sites/default/files/inline-files/Rapport%20ONTT%202020.pdf>. ONTT (2019^[5]), Rapport Annuel, <https://www.ontt.tn/sites/default/files/inline-files/rapport2019.pdf>.

Travel agencies

Travel agencies play a key role in promoting the tourism industry. Tunisia was home to 1 354 travel agencies in 2019, up from 1 220 in 2018 (ONTT, 2019^[5]). Agencies are located mostly in Tunis and in the regions where hotels are concentrated, particularly Nabeul-Hammamet, Sousse and Djerba, which with the capital are where 75% of all travel agencies are sited. Travel agencies are classified as Category-A or Category-B. Tunisia had 1 031 Category-A agencies and 323 Category-B agencies in 2019. Certain activities are supposed to be carried out only by Category-A agencies, which are subject to stricter licensing requirements than Category-B agencies. According to a survey by the Arab Institute of Business Leaders and the *Fédération Tunisienne des Agences de Voyages et de Tourisme* (FTAV), or Tunisian Federation of Travel Agencies), travel agencies generated nearly 20 000 jobs in Tunisia in 2021.

The COVID-19 pandemic and resulting lockdowns greatly affected travel agencies' activity, resulting in a 28% reduction in jobs as of June 2020 (Tunisie.co, 2021^[12]). Some agencies specialising in Hajj pilgrimages to Mecca stopped operating due to the closure of Saudi Arabia's borders. However, it should be noted that such agencies work not only to promote Tunisia as a destination, but also operate tourist trips abroad.

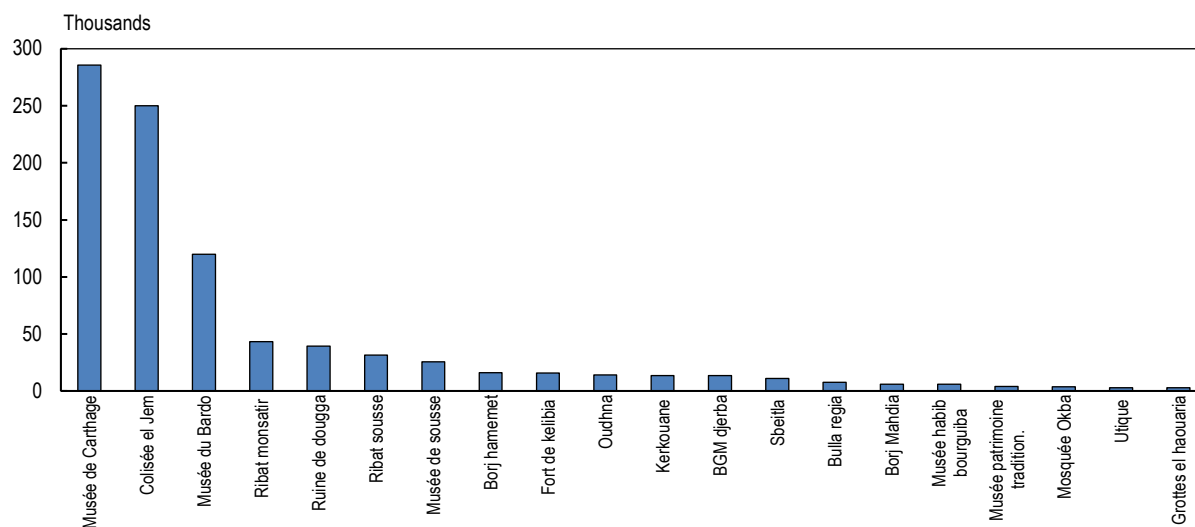
Recreational services

Making the most of its geographical position, since the mid-1990s, Tunisia has tried to take advantage of cruise tourism to increase the number of inbound visitors and tourist activity overall. Concentrated in the port of La Goulette, the cruise segment enjoyed sustained and even exponential growth until 2011, before slowing sharply and then stopping completely after the 2015 terrorist attacks. After a seven-year hiatus, activity gradually restarted in 2022 with an estimated 40 cruises expected over the year, well below the 400 cruises and 1 million visitors seen in 2010.

Analysis of the main monuments visited (see Figure 2.9) highlights the fact that the full potential of Tunisia's cultural, natural and historical capital is not being reached. Only three monuments attracted a significant number of tourists in 2019: the Carthage National Museum received 285 000 visits; the Amphitheatre of El

Jem recorded 250 000 visits (by comparison, Rome’s Colosseum attracts 6.5 million visitors annually); and the Bardo Museum saw 120 000 visits. Many monuments do not receive visitors due to a lack of communication about them and the absence of well-established, well-structured routes for tourists to take from the country’s main cities.

Figure 2.9. Number of visits to Tunisia’s main monuments and museums, 2019



Source: ONTT (2019^[5]), Rapport Annuel, <https://www.ontt.tn/sites/default/files/inline-files/rapport2019.pdf>.

As Khlif (2004^[8]) points out, museum offerings are dated, cultural sites are not maintained, infrastructure to provide minimum services such as catering and sanitation is lacking, and itineraries are monotonous and unoriginal, a situation that has persisted since those observations were made. In addition, guides are rarely trained in history, languages or art, and most certified guides are professors affiliated to universities, according to ONTT (2019^[5]). Finally, a lack of signage and tourist information, and the poor design of signs where they exist, means that routes are not intuitive. As a result, tourists do not get to know the country and struggle to find their way around.

Food and beverage service

In Tunisia, tourist restaurants are distinguished from standard restaurants mainly because the consumption of alcoholic drinks is permitted in the former. Tunisia had 374 tourist restaurants in 2019, concentrated mostly in coastal areas, with 79% located in Tunis, Nabeul-Hammamet, Sousse and Djerba.

Tourist restaurants are subject to the *fourchette*, or fork, restaurant classification system. The *Fédération Tunisienne de l’Hotellerie* (FTH), or Tunisian Hotel Federation, and the FTAV have voting rights in the classification process, while the *Fédération Tunisienne Des Restaurants Touristiques*, or Tunisian Federation of Tourist Restaurants, has only a consultative role. In the classification process, administrative issues such as consumer protection are also scrutinised. Classifications are made in descending order according to the number of *fourchettes*: three *fourchettes* luxury (four restaurants); three *fourchettes* (38 restaurants); two *fourchettes* (185 restaurants); and one *fourchette* (147 restaurants). Restaurants classified as three *fourchettes* luxury exist only in Tunis, as do the vast majority of three-*fourchettes* restaurants.

Car rental services

Car rental agencies are major players in Tunisia's tourism industry. In 2019, the country had 468 car rental agencies with a combined turnover of around TND 1 billion, of which 70% was from tourism, employing some 10 000 people (Webmanagercenter, 2020_[13]).

Like the tourism sector as a whole, the car rental business suffers from the existence of a parallel informal market that has a fleet of approximately 52 000 vehicles, dwarfing its pool of around 20 000. According to the chair of the *Chambre Syndicale des Loueurs de Voitures*, or Association of Car Rental Companies, the informal market costs the state TND 150 million annually in the form of losses related to road tax, other taxes and customs duties (Destination Tunisie, 2021_[14]).

The sector has also suffered from the negative impact of the COVID-19 crisis. Closures of 33 car rental agencies and 1 800 employee layoffs occurred following the imposition of lockdown measures between March and December 2020 (Destination Tunisie, 2021_[14]). Although turnover in the sector is largely dependent on tourism, the agencies are under the supervision of a different department, namely the Ministry of Transport, which can make institutional co-ordination more difficult.

Tourism investment

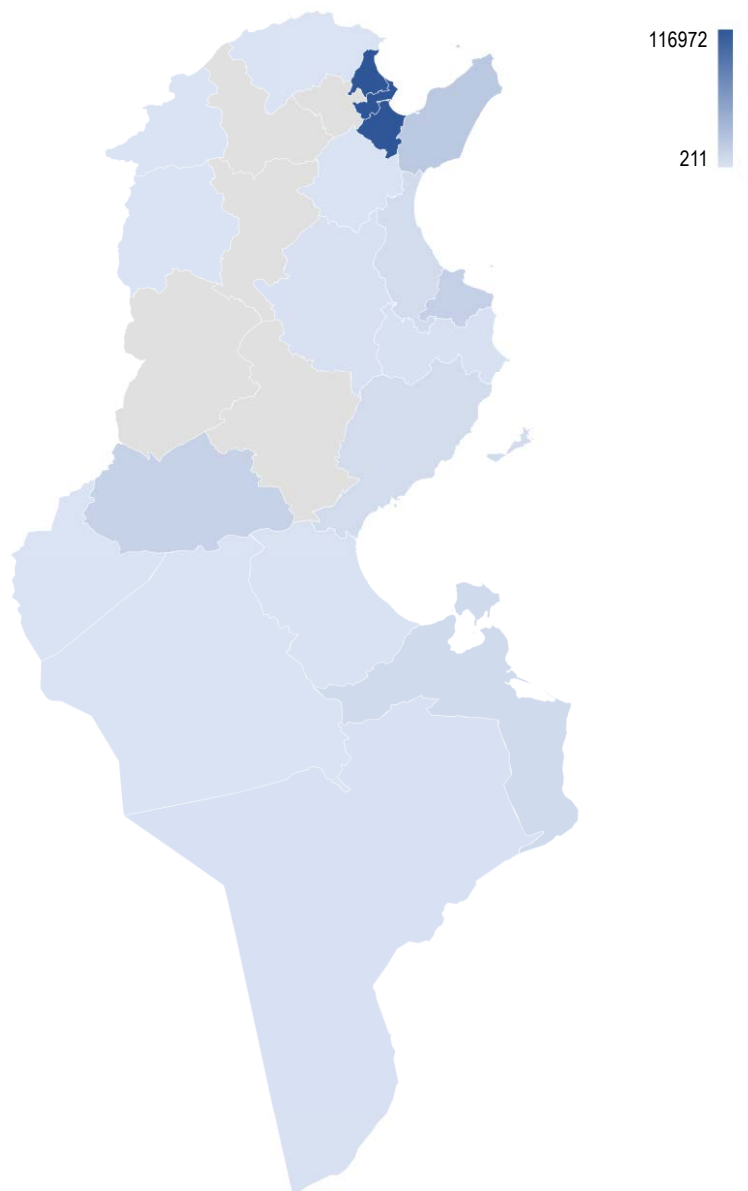
Investment in Tunisia's tourism industry has been cyclical, reflecting investors' lack of confidence and uncertainty about the national and regional context since the 2011 revolution. In addition to experiencing huge fluctuations, tourism investment is unevenly distributed throughout the country and focused mainly on accommodation, to the detriment of entertainment facilities. According to ONTT statistics for 2019, 60% of all investment was associated with the Tunis governorate, a share that rises to around 90% if Nabeul-Hammamet and Djerba are included (Figure 2.10). In terms of investment categories in the tourism sector, 88% of all investment is focused on accommodation and the remainder on entertainment and recreational services.

Aware of the outdated state and limited modernisation of a significant number of hotel facilities, in 2006, the government set up the *Programme de Mise à Niveau des Établissements Hôteliers*, or Hotel Facility Upgrade Programme, which aimed to:⁶

- improve the quality of services
- boost the performance of the hotel business, and strengthen its competitiveness and ability to withstand external risks
- consolidate the position of the Tunisian tourism sector on a global scale.

According to the latest figures, 322 facilities have benefitted from programme spending of a total of TND 592 million. The coverage of the programme remains limited, particularly with regard to its intangible investment component, according to a government report.

Figure 2.10. Tourism investment by region



Source: ONTT (2019^[5]), Rapport Annuel, <https://www.ontt.tn/sites/default/files/inline-files/rapport2019.pdf>

2.3. Institutional overview

The Tunisian tourism sector's institutional framework is formed by the public administration and a number of other public and semi-public entities over which the Tunisian state has a significant influence.

2.3.1. Public institutions

The primary institution is the Ministry of Tourism and Handicrafts,⁷ which is in charge of applying the legal framework for accommodation, travel agencies, recreational services and elements of F&B service. Its work involves the adoption of ministerial orders that develop general rules established by laws and

decrees, and which sometimes involves other ministries (the Ministry of Transport, for example, in the case of tourist transport and marinas).

The Ministry of Tourism undertakes several roles relating to the sector, such as encouraging investment in tourism and tourist recreation, and supervising projects, overseeing the quality of tourist services and creating tourism promotion programmes. It is also in charge of the enforcement of regulation and hosts several committees and commissions, including:

- **The *Commission de Classement et de Révision de Classement***, or Classification⁸ and Reclassification⁹ Commission, which is responsible for the licensing and classification of tourist establishments providing accommodation services and revisions to these, and for the classification and reclassification of tourist restaurants. It brings together representatives of the administration (the Ministry of Tourism and the ONTT) and two of the country's main tourism federations (the FTH and the FTAV).
- **The *Fonds de Développement de la Compétitivité (FODEC)***¹⁰ whose objective, among others, is to finance advertising, as well as sectoral and strategic studies proposed by the management committee for advertising and promotional programmes, and a steering committee for the upgrading of hotel establishments and any activities involving the upgrading and promotion of the tourism sector. It has the same membership as the Classification and Reclassification Commission, in addition to a representative of the Ministry of Finance and the national airline, Tunisair.
- **The *Conseil National des Ports de Plaisance***, or National Council of Marinas,¹¹ which is responsible for the development of port infrastructure and its maintenance, the operation and management of the public areas of ports, tools and port equipment, safety, security, health, cleanliness and environmental protection rules, and activity at maritime pleasure ports.

The Ministry of Tourism supervises several public institutions, including two of the most important organisations in the tourism sector:

- **The ONTT**,¹² which is tasked with promoting tourism and overseeing tourist activity. The ONTT ensures the development of professional competence and quality control and maintenance, as well as the promotion of investment in the tourism sector. This includes the branding of tourist investment and the delivery of related pre-project and final project approvals. The ONTT is represented through several offices in different countries, including Algeria, Austria, Belgium, France, Germany, Libya and Sweden.
- **The *Agence Foncière Touristique*** (AFT), or Tourism Real Estate Agency,¹³ which is a key actor in zoning policy. It is tasked with acquiring land in tourism zones, developing plans and infrastructure in them, selling and completing projects, and ensuring appropriate real estate conditions within these zones. The AFT is represented by delegations in different regions in Tunisia.

In addition to the Ministry of Tourism, several other public institutions supervise specific activities. The Ministry of Health, through the *Office National du Thermalisme et de l'Hydrothérapie* (ONTH), or National Office of Thermalism and Hydrotherapy,¹⁴ is the main regulator of well-being activities. The ONTH is in charge of allocating concessions and authorisations for thalassotherapy, thermal cures and spas, and for monitoring the implementation of programmes to upgrade hydrotherapy, setting up quality systems, and carrying out technical, economic and financial studies, among other things.

The Ministry of Culture, through the *Institut National du Patrimoine* (INP), or National Heritage Institute,¹⁵ and the *Agence de Mise en Valeur du Patrimoine et de Promotion Culturelle* (AMVPPC) Agency for Heritage Development and Cultural Promotion,¹⁶ plays a central role in cultural services. Both institutions are involved in heritage concessions and in authorisation processes for private museums, galleries and arts and crafts workshops.

The Ministry of Transport regulates all passenger transport services except tourist transport, which is regulated by the Ministry of Tourism through the *cahier des charges*, or set of specifications, for travel agencies. The Department of Land Transport is the main actor when it comes to issues related to car rental or taxi services.¹⁷ The Ministry of Transport also hosts the *Conseil Supérieur des Ports Maritimes*, or Supreme Council of Maritime Ports, which is responsible for issuing opinions on general guidelines and sectoral policies for maritime ports and programmes for their upgrading and development.¹⁸ The Ministry of Transport's *Office de la Marine Marchande et des Ports* (OMMP), or Office of the Merchant Marine and Ports, is the main authority involved in licensing pleasure boats and granting permits for paid maritime passenger transport.¹⁹

The Ministry of Interior is the main authority regulating alcohol licences, including for hotels and tourist restaurants, which are processed in consultation with local authorities such as municipalities and territorially competent governors.²⁰

The Ministry of National Defence chairs the *Commission Nationale de Plongée*, or National Diving Commission.²¹ The commission plays an essential role in authorising the establishment and operation of dive centres and makes decisions on a number of matters related to diving, including medical and technical aptitude conditions and the criteria for engaging in such activity, as well as requests for recognition and equivalence for foreign diving qualifications.

Under the supervision of the Presidency of the government, the *Instance Générale de Partenariat Public Privé* (IGPPP), or General Public-Private Partnership Authority, and the *Secrétariat Général des Affaires Maritimes* (SGAM), or General Secretariat for Maritime Affairs, are also involved in some of the tourism activities examined in this study. The IGPPP is an important stakeholder in heritage and marina concessions, and the SGAM oversees co-ordination between various entities involved in maritime affairs, such as maritime security, the protection of underwater cultural heritage, yachting, and diving and underwater activities.²²

Local authorities also play a significant role in sports and recreational activities, since most of the related authorisations are granted by territorially competent governors. This is the case, for example, for authorisations to establish and operate dive and water sports centres (see Sections 8.5 and 8.6) as well as for taxis and similar for-hire vehicles (see Section 5.4). Restaurants, traditional fast-food restaurants and street food are also regulated at the municipal level (see Section 4.3).

It is worth mentioning that despite the multiple actors involved in tourism, a robust co-ordination mechanism to ensure swift and efficient co-ordination among tourism programmes and projects is lacking, creating a significant burden for investors and in some cases acting as a barrier to market entry.

Box 2.2. Co-ordination mechanisms for tourism: country approaches

In **France**, an Inter-Ministerial Tourism Council chaired by the prime minister was established in 2017 to co-ordinate action across six key priority areas for the development of tourism in the country: improving hospitality, security and service standards at border crossings; the modernisation and promotion of the *Qualité Tourisme* label; co-ordinating the tourism offer to encourage international tourists to visit many different parts of France, with government support for new investment in products and quality through the France Tourism Development Fund; providing skills training to improve service quality and help to combat unemployment; continued support for digitalising the sector; and improving access to holidays, especially for people with disabilities.

Tourism Forum **Switzerland** was developed to provide a platform for dialogue, co-ordination and co-operation across the sector. Working groups consisting of representatives of the private sector, cantons, municipalities, the national government and subject matter experts, as required, meet regularly, often on a temporary basis. At the forum's main event in November each year, the results of its working groups are presented and steps for the following year are discussed.

In the **United States**, the Tourism Policy Council is an inter-agency body established by law for the purpose of ensuring that the nation's tourism interests are considered in federal decision-making. Its main function is to co-ordinate the national policies and programmes of federal agencies that have significant effects on international travel and tourism, recreation and national heritage resources. In addition, the Travel and Tourism Advisory Board is composed of industry representatives appointed by the secretary of commerce to advise on travel and tourism issues on an ongoing basis.

In **Finland**: A High-Level Working Group on Tourism was established in September 2021. Chaired by the Ministry of Economic Affairs and Employment, it comprises ministries, regional councils, state administrations, regional tourism organisations, travel companies, and research and educational institutions and organisations. The group will serve as an expert advisory body on strategy related to tourism development through 2028. It will also monitor and assess the sector's operating environment and current phenomena, and support the preparation of tourism policy measures.

Sources: OECD (2020^[15]), OECD Tourism Trends and Policies 2020, <https://doi.org/10.1787/6b47b985-en>; OECD (2022^[16]), OECD Tourism Trends and Policies 2022, <https://doi.org/10.1787/a8dd3019-en>.

Tunisia's *Conseil de la Concurrence*, or Competition Council, is an independent administrative authority with an advisory and jurisdictional role in all industries, including tourism. With the *Direction Générale de la Concurrence et des Enquêtes Économiques* (DGCEE), or General Directorate for Competition and Economic Investigations, at the Ministry of Trade and Export Development, the council is responsible for implementing competition rules and regulations in the country.

Tunisia has several consumer rights associations, the main one of which is the *Organisation Tunisienne de Défense du Consommateur* (ODC), or Tunisian Consumer Defence Organisation. It was established in 1989 and has a seat on several boards and commissions dealing with many sectors, although is not part of any commission dealing with the tourism sector.

2.3.2. Federations and industry unions

Federations play a central role in the tourism industry. The FTH is the main actor in the accommodation sector. Created in 1961, it groups members into several regional federations and has around 400 members.²³ The alternative and small-scale tourist accommodation sectors are represented mainly by the *Association Edhiafa*, or Edhiafa Association.²⁴ The FTAV was created in 1964 as the first professional

body to represent travel agencies. It has 720 member agencies and 12 regional offices.²⁵ Tourist guides are represented mainly by two bodies: the *Fédération Tunisienne des Guides Touristiques*, or Tunisian Federation for Tourist Guides,²⁶ and the *Association des Guides de Tourisme de Croisière*, or Association of Cruise Tourism Guides.²⁷ The *Fédération Interprofessionnelle du Tourisme Tunisien* (Fi2T), or Inter-professional Federation of Tunisian Tourism, was founded in 2016 as independent union that brings together various stakeholders such as legal entities, individuals and NGOs working in the tourism industry in travel agencies, sports and recreational activities.²⁸

The main association involved in food and beverage service is the *Fédération Tunisienne des Restaurants Touristiques* (FTRT), or Tunisian Federation of Tourist Restaurants, which promotes Tunisian cuisine as a focus for tourism development and supports its membership of classified tourist restaurants.

Important federations and unions involved in passenger transport activities include the *Chambre Syndicale du Transport Touristique*, or National Syndicate for Tourist Transport,²⁹ which began operations in 2020, bringing together professionals in the tourist transport sector such as travel agencies, hotels and other service providers,³⁰ as well as the *Chambre Syndicale des Loueurs de Voitures*, or National Syndicate for Vehicle Rentals (FNLV) which was created in 1976. It is part of the *Union Tunisienne de l'Industrie, du Commerce et de l'Artisanat* (UTICA), or Tunisian Industry, Trade and Crafts Union, and has 231 members.³¹

Finally, several federations are active in maritime tourism activities. The *Fédération Tunisienne des Activités du Tourisme Nautique*, or Tunisian Federation of Nautical Tourism Activities, was created in 2018 as an independent professional union encompassing a wide range of nautical tourism activities, including dive centres, marinas, water sports centres, cruises and other sea transport, equipment manufacturers and sellers of boats and fittings, maintenance services and recreational vessel makers. The *Fédération Tunisienne des Activités Subaquatiques et de Sauvetage Aquatique* (FAST), or Tunisian Federation of Underwater Activities and Aquatic Lifesaving, was established in 1989 with the aim of developing underwater activities, mainly diving.³² Other federations have been founded to enhance and promote marinas and yachting, such as the *Association Tunisienne des Activités Nautiques et de Plaisance*, or Tunisian Association of Nautical Pleasure Activities (ATANP) and the *Chambre Nationale des Gestionnaires des Ports de Plaisance*, or National Trade Union Chamber of Marina Managers, which was founded in 2020 as part of UTICA.

2.4. Overview of the legislation

The OECD has identified 163 pieces of legislation related to the tourism activities included in the scope of this assessment. The main legislative items affecting the hotels and accommodation services sector are:

- Decree No. 2007-457, completed by Decree No. 2016-335, which sets out classification procedures and requirements for tourist accommodation.
- The Orders of the Minister of Tourism of 29 July 2013 and 1 October 2013, which set minimum standards for the classification of guest houses and *gîtes rural*, or rural lodges, respectively. Decree No. 2018-191 competes the latter and details the conditions and procedures for authorisation of the development of rural lodges and agricultural tourist areas. The Order of the Minister of Commerce of 25 September 1978 sets similar standards for tourist campsites.
- Law No. 2008-33 on timeshares, as amended by Law No. 2019-47 on improving the investment climate, and Decree No. 2009-1935 set conditions for obtaining authorisation to offer timeshares. A joint decree by the ministers of tourism and finance of 16 June 2009 sets the value of bank guarantees provided by timeshare companies and conditions for their management.

- Law No. 2016-71 on investment, as amended by Law No. 2019-47, seeking to improve the investment climate, and Law No. 90-21 promulgating the investment code (only articles 3, 5, 6, 7 and 8 remain in force) include key provisions related to tourism investment.
- Presidential Decree No. 2022-317, which amends Decree No. 2018-417 on the publication of the list of economic activities subject to authorisation and the list of administrative authorisations for projects, provisions relating to them and their simplification.
- Decree No. 94-822, which lists municipal tourist areas.³³
- Decree No. 73-216, as modified by Decree No. 82-1017, on the organisation and functioning of the AFT. Decree No. 2005-2124, which sets rules for the organisation, functioning and intervention of the FODEC.
- Decree No. 2006-2215, which approves qualifications for directors of tourist accommodation. The Order of the Minister of Tourism of 9 November 2006, which details specifications for tourist accommodation.

The main pieces of legislation dealing with well-being services include:

- Law No. 1975-58 on the creation of the ONTH, as amended by Law No. 1989-120 and Decree-Law No. 2011-52 on the authorisation of hydrotherapy activities by the ONTH.
- Decree No. 2006-3174, which sets standards for thalassotherapy centres.
- The Order of the Minister of Tourism of 24 August 1999, which approves a *cahier de charge* setting standards for thermal wellness establishments.

Food and beverage service operations are subject to several regulations at the central and local levels, including:

- Decree No. 89-432, relating to the classification of tourist restaurants, and the Order of the Ministry of Tourism of 31 March 1989, which sets out size and layout requirements, and management standards for tourist restaurants.
- Order of the Minister of Interior and Local Development of 17 August 2004, which approves the *cahier de charge* on conditions for business premises compliance. This order is completed by several municipal regulations dealing with size, layout and sanitary considerations.
- Decree No. 2009-1934, which classifies musical tourist entertainment venues. The Order of the Minister of Tourism of 10 June 2009 lays down minimum standards for the classification of such venues.

The main pieces of legislation dealing with passenger transport services are:

- Law No. 1999-71, promulgating the *Code de la Route*, or the Rules of the Road, and Law No. 2004-33 on land transport, as amended by Law No. 2006-55, provide a general framework for passenger transport.
- Decree No. 2004-2410, which governs the composition and functioning of the regional consultative commission provided for in Article 24 of Law No. 2004-33.
- Decree No. 2007-4101, which details conditions for granting professional licences for public and tourist transport.
- Decree No. 2007-2202, as amended by Decree No. 2012-3128, which includes provisions on non-regular public road passenger transport.
- Decree No. 2006-2118, which establishes nationality-related and professional qualification requirements for individuals intending to carry out any of the activities set out in articles 22, 25, 28, 30 and 33 of Law No. 2004-33.

- The Order of the Minister of Transport of 22 January 2010, as amended by orders of 31 May 2012 and of 30 June 2014, which sets a maximum age and technical specifications for automobiles used for non-regular passenger transport.

Travel agencies and tourist guide services are regulated mainly by:

- Decree-Law No. 1973-13 on travel agencies, as amended by Law No. 2006-33 on simplifying procedures for authorisations in the sector.
- The Order of the Minister of Tourism of 9 August 2007, which sets out rules for online travel agencies.
- Orders of the Minister of Tourism of 9 November 2006, which detail specifications for Category-A and Category-B travel agencies.
- Decree-Law No. 1973-5, which sets out conditions for tourist guides, and Decree No. 74-580, which defines tourist guides' rights and obligations.

The main pieces of legislation affecting cultural services are:

- Law No. 1994-35, relating to the archaeological heritage code, and Law No. 1988-11, creating a national agency for the development of archaeological and historical heritage, as amended by Law No. 1997-16.
- Law No. 2008-23, relating to the concessions system, as amended by Law No. 2019-47, which is the main reference for heritage concessions.
- Orders of the Minister of Culture of 2 January 2001 and 10 July 2001 that approve specifications relating to the creation of private museums and specifications relating to the creation of private galleries for exhibiting and selling of works of three-dimensional art.

Finally, sports and recreational services are subject to myriad laws and regulations, including:

- Presidential Decree No. 2022-579, which establishes conditions and criteria for the construction and operation of golf courses.
- Law No. 2009-48, promulgating a code for maritime ports and defining marinas. Decree No. 2013-1808, which establishes the composition of, and operating procedures for, the National Council of Marinas.
- Law No. 1995-73 on maritime public areas, as amended by Law No. 2005-33 and Decree No. 2014-1847 on the temporary occupation of maritime public areas, sets out conditions and the private uses of maritime public areas.
- Law No. 1990-80, which governs paid maritime passenger transport. Decree No. 90-942, which establishes safety rules for vessels and recreational maritime transport. The Order of the Minister of Transport of 27 April 1994, which provides more detail related to general safety conditions and rules for marinas and water sports centres
- Law No. 2005-89, which governs diving, and Decree No. 2006-1017, which establishes the prerogatives, composition and operating rules of the National Diving Commission.

The OECD's assessment reveals that a number of implementing regulations have been pending for several years, notably those relating to marinas and tourist transport. Certain rules and regulations in legislation reviewed are redundant, since they have been rendered obsolete either by everyday practice or by more recent legislation but have not been explicitly repealed. This is the case for some provisions of Law No. 1990-21, related to tourism investment.

Some rules set out in specific legislation have been altered by other pieces of legislation, but legislation overall has not been amended to reflect the changes. This is the case for provisions relating to the pre-approval of certain types of tourist investment detailed in Presidential Decree No. 2022-317.

The assessment also reveals a lack of harmonisation and contradictory provisions such as those relating to the duration of concessions for marinas and the need for authorisations to establish thalassotherapy centres.

Outdated, obsolete legislation should be explicitly abolished or amended to reduce uncertainty and create a more predictable and attractive investment environment. Other issues related to the overall quality of regulation and enforcement are treated in more detail in Chapter 9.

Countries have differing legislative frameworks for tourism, but there is a general trend in favour of simplifying complex legislation for the industry (OECD, 2022^[16]). The OECD is currently supporting such initiatives, including in Croatia, where a new tourism law is being developed to respond to a new policy framework established in 2022 by the country's Sustainable Tourism Development Strategy 2030.

Box 2.3. Croatia's new tourism law

The Ministry of Tourism and Sport is in the process of developing a new tourism law to respond to the new policy framework established in 2022 by the Sustainable Tourism Development Strategy 2030, which was adopted by parliament on 16 December 2022. The new law will focus on three subjects considered integral to overcoming challenges, namely: 1) destination management organisations; 2) standards to ensure the sustainability of tourism; and 3) incentives to promote sustainable tourism development. It will also ensure, where possible, the success of a new approach to performance management that will build on enhanced tourism data and statistics, including through the development of Tourism Satellite Accounts that integrate sustainability.

The ongoing work, with the support of the OECD, lays out a number of issues and identifies key priorities that Croatia may wish to consider as it approaches the finalisation of the draft new tourism law and enters the consultation phase. Key considerations in this context include:

- To what extent can a new law facilitate delivery of strategic objectives? To what extent are revisions of existing law required?
- Which legislative approach will be most effective for the new tourism law: broad instruments or detailed law?
- How should destination management responsibilities be enhanced to deliver Croatia's new strategy, locally or regionally or both? Is a differentiated approach required to respond to local and regional circumstances?
- Which resources, services and facilities are key focuses in order to ensure the sustainability of tourism?
- Are current incentives of the type, scale and scope to promote sustainable tourism development sufficient? If not, what else is needed, and how targeted could they be?

Source: OECD (Forthcoming^[17]), Guidance report for strengthening Croatia's legal framework to enhance the resilience, sustainability, monitoring and management of the tourism sector.

References

- Bouzaiene, M. and K. Chibani (2021), *Poids économique du tourisme : points de vue des comptes nationaux*, INS. [4]
- Destination Tunisie (2021), “Location de voitures : « avant la crise du Covid-19, plus de 70% de notre chiffre d’affaires provenaient du tourisme”, *Destination Tunisie*, <http://www.destinationtunisie.info/location-voitures-tunisie-chiffre-affaires-tourisme/> (accessed on 7 Juin 2022). [14]
- Espace Manager (2021), “Tourisme: La Tunisie fait partie destinations les moins chères au monde”, *Espace Manager*, <http://www.espacemanager.com/tourisme-la-tunisie-fait-partie-destinations-les-moins-cheres-au-monde.html> (accessed on 7 Juin 2022). [6]
- Galtier, M. (2019), “Tunisie — Tourisme : les enjeux derrière la bataille des chiffres”, *Jeune Afrique*, <http://www.jeuneafrique.com/790526/economie/tunisie-tourisme-les-enjeux-derriere-la-bataille-des-chiffre> (accessed on 7 Juin 2022). [9]
- INS (2022), *Compte Satellite du Tourisme: Principaux résultats 2018-2021*. [3]
- INS (2019), *Enquête emploi: Indicateurs sur l’emploi informel*, <http://www.ins.tn/sites/default/files/publication/pdf/Note%2520emploi%2520informel%25202019.pdf>. [7]
- INS (2009), *Nomenclature d’Activités Tunisienne*, INS, <http://www.ins.tn/publication/nomenclature-dactivites-tunisienne-de-2009-nat>. [2]
- Khlif, W. (2004), *L’hôtellerie tunisienne : radioscopie d’un secteur en crise*, pp. 375-394, <https://journals.openedition.org/anneemaghreb/325?lang=fr>. [8]
- OECD (2022), *OECD Tourism Trends and Policies 2022*, OECD Publishing, Paris, <https://doi.org/10.1787/a8dd3019-en>. [16]
- OECD (2020), *OECD Tourism Trends and Policies 2020*, OECD Publishing, Paris, <https://doi.org/10.1787/6b47b985-en>. [15]
- OECD (Forthcoming), *Guidance report for strengthening Croatia’s legal framework to enhance the resilience, sustainability, monitoring and management of the tourism sector*, OECD Publishing, Paris. [17]
- OECD; EUROSTAT; UNWTO (2010), *Tourism Satellite Account: Recommended Methodological Framework 2008*, OECD Publishing, Paris, <https://doi.org/10.1787/9789264274105-en>. [1]
- ONTT (2020), *Rapport Annuel*, ONTT, <https://www.ontt.tn/sites/default/files/inline-files/Rapport%20ONTT%202020.pdf>. [11]
- ONTT (2019), *Rapport Annuel*, <https://www.ontt.tn/sites/default/files/inline-files/rapport2019.pdf> (accessed on 8 Juin 2022). [5]
- Othmani, W. and D. Benhacine (2021), *Stratégies et pratiques des Maghrébins dans le choix d’un hébergement touristique en Tunisie*, Université de Québec, <http://journals.openedition.org/teoros/10832>. (accessed on 30 Mars 2022). [10]

Tunisie.co (2021), “Résultats de l’enquête FTH-IACE sur le secteur du tourisme”, *Tunisie.co*, [12]
<https://tunisie.co/article/16352/actus/actualites/resultats-enquete-fth-iace> (accessed on
 6 Juin 2022).

Webmanagercenter (2020), “La location des voitures réalise annuellement un CA de 1 milliard
 de dinars”, *Webmanagercenter*, [http://www.webmanagercenter.com/2020/12/06/460264/la-
 location-de-voitures-realise-annuellement-un-ca-de-1-milliard-de-dinars/](http://www.webmanagercenter.com/2020/12/06/460264/la-location-de-voitures-realise-annuellement-un-ca-de-1-milliard-de-dinars/) (accessed on
 7 Juin 2022).

Notes

¹ This is mainly due to the lack of a universal approach to the precise definition of the sector in order to identify tourist consumption and take into account many informal activities.

² Total value added, thus not limited to goods and services consumed effectively by tourists, in a number of sectors defined as tourist-related by the ONTT.

³ Informal employees are those not covered by the social security system in the private sector.

⁴ All-inclusive packages include the entire trip (flights, hotel transfers, hotel accommodation, meals, drinks, entertainment, access to sports and relaxation facilities, and other goods and services).

⁵ Airbnb is just one company in the fast-growing B&B, or homestay/alternative accommodation, segment. According to FIT2, there are 78 guest houses and rural *gîtes*, or holiday homes, with official licences in Tunisia, but the number in the market is 10 times that.

⁶ In 2005, the ONTT had already estimated that 50% of hotels were completely outdated and that 25% needed urgent refurbishment (Khlif, 2004^[8]).

⁷ The Ministry of Tourism was established through Decree No. 2015-2761 (modifying Decree No. 2005-2122). Through this decree and its amendments, the ministry is mandated to carry out the following: (1) research and studies related to tourism and tourist recreation; (2) proposing legislation in areas relating to tourism; (3) suggesting and implementing programs and projects; and (4) implementing decisions undertaken by the government relating to tourism.

⁸ Article 15 of Decree No. 2007-457 (completed by Decree No. 2016-335) provides that the commission is chaired by the director general of the ONTT or their representative, and is composed of a representative of the Ministry of Tourism, a representative of the ONTT, a representative of the FTH and a representative of the FTAV.

⁹ Article 18 provides for a similar composition of the commission for the revision of tourist establishments providing accommodation services, which is chaired by the minister of tourism or their representative, and is composed of a representative of the Ministry of Tourism, the director general of the ONTT, the president of the FTH and the president of the FTAV.

¹⁰ The FODEC was established by Article 58 of Law No. 95-109 of 25 December 1995. Article 8 of Decree No. 2005-2124 stipulates that its board is composed of the minister in charge of tourism or their representative as president, a representative of the Ministry of Finance as a member, the director general of the ONTT as a member, the president of the FTH as a member, the president of the FTAV as a member,

a representative of the FTRT of professional restaurant owners and managers as a member, and a representative of Tunisair as a member.

¹¹ Decree No. 2013-1808 sets out the composition and operating methods of the National Council of Marinas.

¹² The ONTT was created by Law No. 70-66 to operate as a public institution with non-administrative status and a civic personality. It is financially autonomous. It is managed through a board of directors headed by a general manager. The latter is tasked with managing the ONTT administratively, technically and financially, aided by an assistant general manager.

¹³ The AFT is a civil public institution with financial autonomy. It was created in 1973 after a study undertaken in the 1970s revealed a need to adequately develop and manage tourist attractions, which led to the creation of tourism zones and the AFT.

¹⁴ After being supervised by the Ministry of Health for decades since the promulgation of law No. 75-58, the ONTH was placed under the supervision of the Ministry of Tourism by Law No. 89-102 of 11 December 1989, modifying Law No. 75-58, and Decree No. 91-597 modifying Decree No. 75-655, related to the administrative and financial organisation of the ONTH. However, in August 2008, Decree No. 2008-2864 handed supervision of the ONTH back to the Ministry of Health.

¹⁵ Other administrative institutions include the National Library of Tunisia, the National Centre of Cultural Communication, the Tunisian Superior Institute of Music and the National Institute of Popular Music and Art.

¹⁶ Other non-administrative institutions include: The National Museum of Modern and Contemporary Art; The Centre of Arab and Mediterranean Music; The Tunisian Organisation for Authors' Rights and Neighbouring Rights; The National Theatre of Tunisia; The National Centre for Translation; The National Establishment for the Promotion of Festivals and Cultural and Artistic Events; The International Cultural Centre of Hammamet; The National Centre for Cinema and Image; The Opera Theatre; the Tunis Centre for Digital Cultural Economy; and the Palace of Literature and Arts (the Happy Palace).

¹⁷ Decree No. 2014-409 sets out the role of the Ministry of Transport.

¹⁸ Article 124 of Law No. 2009-48 promulgated the Maritime Ports Code.

¹⁹ Paid maritime transport between ports and coastal sites is subject to an authorisation delivered by the OMMP. Law No. 90-80 sets out conditions and rules for recreational vessels.

²⁰ This is Article 7 of Law No. 59-147, regulating drinking establishments and similar establishments (modified by Law No. 61-55, Decree-Law No. 74-23, Law No. 93-18, Law No. 2001-27 and Law No. 2004-75).

²¹ The commission is chaired by the minister of national defence or their representative. It is composed of other members including a doctor specialising in diving and hyperbaric medicine, an occupational physician, an engineer qualified in hyperbaric systems, a specialist in labour law, a specialist in maritime affairs, three specialists in the fields of diving, a representative of the FAST or federation of underwater activities of Tunisia, and a representative of the *Union Tunisienne de l'Agriculture et de la Pêche*, or Tunisian Union of Agriculture and Fisheries. The commission meets at least once every three months or

whenever deemed necessary. Its deliberations are valid only in the presence of at least a majority of its members.

²² The general secretariat is tasked with: 1) following up on the implementation of the commitments of the Tunisian state in the maritime domain; 2) the study of issues related to maritime delimitation with neighbouring countries and maritime areas in general; 3) the monitoring of external relations relating to the sea and the activities of regional and international organisations and bodies working in the field of the sea, in co-ordination with the Ministry of Foreign Affairs; 4) the issuance of opinions on drafts of legal texts related to maritime affairs submitted by the ministries concerned and formulating all proposals likely to develop them; 5) the adaptation of national legislation in the maritime field with ratified international conventions; 6) the formulation of all proposals likely to promote and develop the maritime training sector and monitoring their implementation; 7) the issuance of opinions on the economic and development projects presented by ministries and related to the maritime domain; 8) the development of studies and research concerning maritime plans and policies, in co-ordination, where appropriate, with the *Institut Tunisien des Études Stratégiques*, or Tunisian Institute for Strategic Studies, and specialised research centres and institutions at the national level; and 9) the monitoring of the implementation of the decisions of the Ministerial Commission for Maritime Affairs.

²³ See <https://www.hotellerie-tunisie.com/>

²⁴ See <https://iddeco.info/lassociation-edhiafa-la-tunisie-autrement/>

²⁵ See <https://www.ftav.org/>

²⁶ See <https://www.facebook.com/FpercentageC3%A9dpercentageC3%A9ration-tunisienne-des-guides-agrpercentageC3%A9%C3%A9s-de-tourisme-254230045528287/>

²⁷ See <https://tourisminfo.com.tn/2021/02/les-guides-de-croisiere-celebrent-la-journee-internationale-des-guides-touristiques/#:~:text=L'Association%20des%20Guides%20de%20Tourisme%20de%20CroisippercentageC3%A8re%20a%20vu,l'agence%20Hope%20Travel>).

²⁸ See <https://www.fit-tunisie.org/en/>

²⁹ See <https://www.espacemanager.com/creation-de-la-chambre-syndicale-du-transport-touristique.html>

³⁰ See <https://tunisie.co/article/14364/actus/acces-et-transport/chambre-syndicale-du-transport-touristique-453108>

³¹ See <https://www.fnlv.fr/>

³² See The International Lifesaving Federation (ILS) website. <http://www.ilsf.org/ils-history/>.

³³ This decree was completed by Decree No. 96-1474, Decree No. 97-1989, Decree No. 99-659, Decree No. 99-2810, Decree No. 2001-2510, Decree No. 2010-479, Decree No. 2012-483, Decree No. 2016-895, Decree No. 2017-663, Decree No. 2017-969 and Decree No. 2019-1026.

3 Accommodation and well-being services

Hotels, accommodation and well-being services account for the largest share of tourism revenues in Tunisia. Several regulations pose challenges to competition, business efficiency and growth. Complex licensing procedures, inflexible zoning policies and onerous operating requirements cause market distortions and affect market efficiency, especially for emerging alternative accommodation services, encouraging their informality. The direct involvement of some incumbent associations in several commissions dealing with the regulation and funding of important tourism activities affects market growth, deterring entry and limiting consumer choice. Conflicting provisions and an absence of adequate frameworks for some well-being services increase legal uncertainty and stifle investment. Against this backdrop, this chapter proposes reforms based on the OECD's analysis and international experience.

3.1. Introduction

Accommodation is, by a long way, the most prominent sub-sector of the tourism economy (Cooper et al., 2005^[11]). In Tunisia, tourist accommodation accounts for a large portion of overall tourism revenue. The sector comprises many forms of accommodation, including tourist and boutique hotels, apart-hotels, holiday villages, guesthouses and other lodgings. It also includes a significant number of informal enterprises offering alternative accommodation. This section explores how tourist investment and zoning policies affect market dynamics, and how the classification system for different types of accommodation and related requirements may constitute barriers to entry and create unjustified discriminatory treatment of different operators. The chapter also analyses issues affecting well-being services such as thalassotherapy, thermal and spa centres. Although these are regulated by the Ministry of Health, they are closely linked to the accommodation industry in Tunisia, since most such services are offered by hotels.

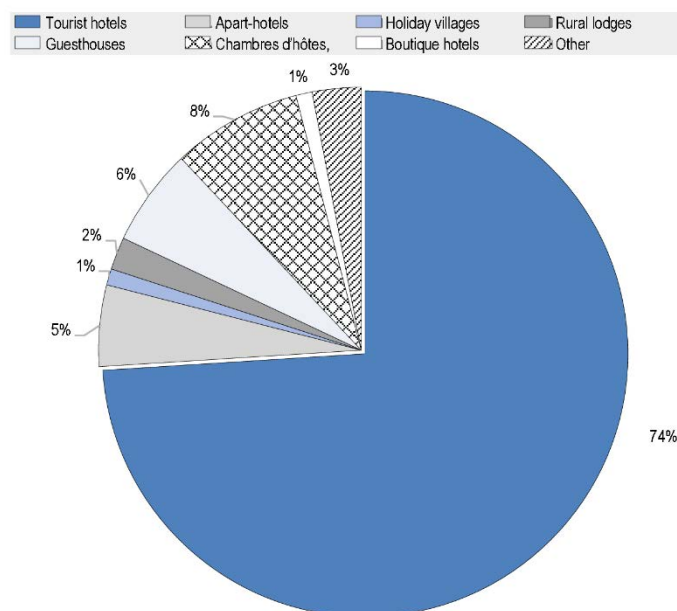
3.2. Accommodation services

3.2.1. Background

The classification system

Regulation classifies tourist establishments providing accommodation according to their characteristics, the quality of their services, and the facilities offered. According to Decree No. 2007-457 (completed by Decree No. 2016-335), accommodation is divided into ten categories: 1) tourist hotels; 2) apart-hotels; 3) *villages vacances*, or holiday villages; 4) motels; 5) guesthouses; 6) campsites; 7) boutique hotels; 8) *gîtes ruraux*, or rural lodges; 9) *residences touristiques*, or apartment residence complexes; and 10) *chambres d'hôtes*, or B&Bs (see Box 3.1 for more details). As of 2020, tourist hotels accounted for the vast majority of accommodation establishments (see Figure 3.1).

Figure 3.1. Accommodation establishments by category



Source: ONTT (2020^[2]), *Tourisme tunisien en chiffres*, <https://www.ontt.tn/sites/default/files/inline-files/Extrait%20tourisme%20en%20chiffres%202020.pdf>.

Box 3.1. Types of tourist accommodation

1. **Tourist hotels** are defined by Article 3 of the decree as tourist establishments offering accommodation services in the form of rooms, suites or bungalows on a temporary basis. Tourist hotels must provide, according to their category, certain services and activities in common areas.
2. **Apart-hotels** are defined by Article 4 as tourist establishments offering temporary accommodation in the form of apartments or bungalows with kitchenettes. They must provide, according to their category, certain services and activities in common areas.
3. **Villages vacances**, or holiday villages, are, according to Article 5, tourist establishments that offer accommodation and entertainment services based on a range of sporting, cultural and recreational activities, subject to the rules of hotel management as determined by regulations.
4. **Motels** are defined by Article 6 as tourist establishments located on motorways or main roads with heavy traffic, intended to receive travellers and offering accommodation services as well as services such as petrol refuelling and breakdown services. Like apart-hotels and holiday villages, they are subject to hotel management rules.
5. **Guesthouses**, defined by Article 7, are tourist establishments offering accommodation services with limited capacity, built or equipped to provide tourists with accommodation and breakfast.
6. **Campsites**, under Article 8, consist of land for camping outside urban areas. Visitors may reside in tents that they bring, or which are provided on the spot, or which are pre-installed, or in towed caravans. Campsites must provide a range of communal areas and services.
7. **Boutique hotels**, defined by Article 9, are tourist establishments in buildings or environments with specific architectural or touristic value. They offer guests personalised service and are subject to hotel management rules as set out by regulations.
8. **Gîtes ruraux**, or rural lodges, are, according to Article 10, tourist establishments located in rural environments with significant natural or cultural value. Aside from accommodation, rural lodges offer services aimed at enhancing the environmental value of the areas in which they are located.
9. **Residences touristiques**, or apartment residence complexes, defined by Article 11, are compounds in tourist areas that offer accommodation units for rent or purchase.
10. **Chambres d'hôtes**, or B&Bs, under Article 12, are accommodation units in which one or more of the rooms is made available to visitors by their owners or occupiers, and which offer accommodation and breakfast.

Source: Decree No. 2007-457 (completed by Decree No. 2016-335).

Two broad groups of tourist establishments exist in Tunisia: hotel-type accommodation that includes tourist hotels, apart-hotels, holiday villages, motels and boutique hotels, which are subject to hotel management rules; and alternative accommodation such as guesthouses, campsites, rural lodges and B&Bs, which operate under family management rules.

Informal accommodation

A notable feature of the Tunisian accommodation economy is the informality that characterises most alternative accommodation (see Section 2.2). Fewer than one in ten guesthouses, for example, are believed to be licensed.¹

Several factors may contribute to this phenomenon. First, much informality seems to be related to the lengthy, burdensome administrative procedures involved in obtaining classifications and licences, which significantly hinder operators' ability to access the market and create barriers to entry. This affects alternative accommodation much more than hotel-type establishments and leads to a difference in treatment that penalises alternative accommodation.

Second, a lack of certainty around tourism indicators, such as income, stays and revenue per visitor, creates a favourable environment for some tourist activities to remain hidden and potentially escape taxation.² This applies to both hotels and alternative accommodation, but for alternative accommodation it is incentivised by the lengthy, burdensome administrative procedures required to operate formally in the sector.

Third, with digitalisation and the sharing economy being among the biggest drivers of tourism globally, the lack of regulation of peer-to-peer accommodation platforms, which are reported also to be used by some hotel owners and other tourist establishments,³ also contribute to informality.

Fourth, the banking system and exchange regulation may also foster informality among both hotels and alternative accommodation, due in particular to a prohibition on Tunisian residents opening and holding foreign currency accounts outside of Tunisia and strict requirements for opening foreign currency bank accounts. The annual thresholds for the sums of money that can qualify as *allocation touristique*, or a tourism cash allowance are also extremely low.⁴ A new *Code des Changes*, or Exchange Code, is supposed to enter into force in 2023.⁵

Box 3.2. International experience of regulating short-term rental accommodation platforms

The World Travel and Tourism Council's *Best Practices for Short-term Rentals* report, published in July 2022 says:

“Empowering people to use their homes to earn extra income, short-term rentals have expanded participation in tourism, increased the quantity and distribution of available accommodation, and offered a new and different value proposition to travellers.”

The report established international best practices for governments across the world to manage the sector in a way that promotes tourism while also safeguarding local communities. Examples of short-term rental platforms include Airbnb, Booking.com, Expedia and TripAdvisor.

Some of the main best practices are described below:

- **Digital registration.** Some municipalities and large cities across the world, such as Sydney, Australia, and Raleigh, North Carolina, have developed digital registration processes in co-operation with short-term rental platforms like Airbnb. A quick, straightforward registration system allows authorities to monitor the sector, adapting initiatives to trends while not overburdening owners or operators with excessive requirements.
- **Data sharing.** Several local governments, such as those in Cape Town, South Africa, and Seattle, Washington, co-operate with platforms for data collection to manage short-term rental activity and inform their decision-making.
- **Smart taxation.** To ensure compliance with tax regulation, some governments have partnered with short-term rental platforms to facilitate the calculation, collection and retrieval of taxes. For instance, Estonia and Puerto Rico have entered into agreements with Airbnb to simplify tax declarations for owners and operators.
- **Restrictions on primary residence rentals to ensure long-term community investment.** In order not to deplete the supply of accommodation in local communities and to strike the right

balance between compliance with local regulation and the benefits of enhanced tourism activity, jurisdictions such as France set a limit on the number of days people can share their primary residences (in France, this is 120 days annually).

In November 2022, the European Commission adopted a proposal for a regulation to enhance transparency relating to short-term accommodation rentals, including the collection and sharing of data from hosts and online platforms. The proposal currently includes:

- the harmonisation of registration requirements for hosts and their properties introduced by national authorities
- the clarification of rules to ensure registration numbers are displayed and verifiable
- the streamlining of data sharing between online platforms and public authorities
- the collection and reuse of aggregate data for statistical purposes
- the creation of an effective implementation framework.

Source: World Travel and Tourism Council's Best Practices for Short-Term Rentals, July 2022, <https://wtcc.org/Portals/0/Documents/Reports/2022/Best%20Practices-%20Short%20Term%20Rentals.pdf?ver=2022-07-13-124741-227>; Press release, Commission acts to promote transparency in the short-term rental sector to the benefit of all players, November 2022, https://ec.europa.eu/commission/presscorner/detail/en/ip_22_6493.

3.2.2. Tourist investment and zoning policy

Description of the obstacles and policy makers' objectives

Zoning policy: according to Article 5 of Law No. 90-21 on Tunisia's tourist investment code, tourist investments made in tourism zones determined by decree benefit from a number of advantages and a fast-track approval procedure by the *Agence Foncière Touristique* (AFT), or Tourism Real Estate Agency. Investments may also be made outside tourism zones, however, if, thanks to their geographical location and the ways in which they are used, they are likely to contribute to the diversification and enrichment of the tourism offer.

The zoning technique was adopted by the Tunisian Government to plan new tourism areas. The AFT,⁶ established in 1973, was, among other things, in charge of defining tourism zones, acquiring land and drawing up development plans for such areas. Tourism zones are therefore subject to a regulatory framework aimed at attracting investment that includes the following provisions:

- Purchases of land in tourism zones does not require authorisation by territorially competent governors (Law No. 2005-40, supplementing the decree of 4 June 1957).
- Tourism zones benefit from fiscal advantages.
- The price of land in tourism zones is fixed by the Ministry of Tourism in conjunction with the AFT and, from interviews conducted with the ministry, the OECD understands that it is below the market average (symbolic dinar per m²).⁷

Tunisia currently has some 22 tourism zones,⁸ although the tourism zone status of 16 other areas is provided for in law.

It should be noted that tourism zones aimed at attracting investment⁹ exist not only at the national level but also at the local level. Local level tourism zones aim to facilitate investment in areas of municipalities that are suitable for construction, ensuring compliance with overall urban development plans, planning requirements and land use priorities.¹⁰ In the 1970s, tourism development was focused on meeting burgeoning demand among tour operators with block hotels on the coast and shoreline. More attention

was later paid to the creation of integrated resorts offering public spaces and entertainment facilities (Hellal, 2020^[3]).

The role of the state in the centralised planning of tourist accommodation has diminished progressively, leaving more room for private investors. This change, combined with the global financial crisis of 2008 and the Covid-related economic crisis of 2020, required an adaptation of supply to demand. In this context, the zoning approach has progressively been superseded by more flexible flexible *projets de station*, or precinct planning, where development is entrusted to private operators.¹¹

Authorisation process: Separately from zoning policy, Article 6 of Law No. 90-21 specifies that any natural or legal person wishing to make a tourism investment with a view to creating, extending, transforming or developing a tourist project must obtain the prior authorisation of the minister in charge of tourism. The minister may delegate this power to the director general of the *Office National Du Tourisme Tunisien* (ONTT), or Tunisian National Tourism Office.

According to articles 7 and 8 of the law, prior authorisation is granted after the submission of a file including information on the location of the project, an architectural plan, and a financing scheme. It is provided within 30 days of the submission, and within one year of it being granted, a request for final authorisation must be submitted that includes a complete technical file approved by the ONTT and documents relating to the availability of funding. The file to be provided for *accord préalable*, or pre-authorisation, must include:¹²

- a request to the director general of the ONTT
- a pre-authorisation form (available from the ONTT's Investment Promotion Directorate)
- a project feasibility study
- when a company is to be created, a draft of the bylaws establishing the company, and a list of backers.

The file to be provided for final authorisation (*délivrance d'attestation de dépôt de déclaration d'investissement pour la réalisation d'un projet touristique*) must include:¹³

- a written request to the director general of the ONTT
- a copy of the register establishing the company
- a list of the company's backers
- documents demonstrating the availability of 50% of the company's equity capital
- final agreements from banks for necessary loans for the project
- an investment declaration form (available from the ONTT's Investment Promotion Directorate).

The OECD understands that the authorisation regime is intended to provide the ONTT with all the information it requires concerning the construction or modification of tourism establishments, including on the availability of financing. It seems that it could also be useful given the many externalities associated with tourism, which create a need to oversee and manage areas in which it takes place at high intensity. According to authorities, the purpose of pre-authorisation is to assist investors and increase the chances of obtaining final authorisation.

FODEC: The *Fonds de Développement de la Compétitivité dans le Secteur du Tourisme*, or Fund for the Development of Competitiveness in the Tourism Sector, established by Article 58 of Law No. 95-109, has as its main objective support for advertising and promotional programmes for Tunisian tourism and all other activities to develop the competitiveness of the sector either directly or indirectly.

Article 60 of Law No. 1995-109 provides that FODEC contributions are due at a rate of 1% on turnover made by the operators of tourism establishments as defined by legislation, and by operators of classified tourist restaurants. Contributions are collected based on a monthly declaration filed by the operators of tourism establishments.

According to Decree No. 2005-2124, the FODEC's management committee decides how to use the fund's resources for advertising and promotional activities. The committee is composed of the minister of tourism or their representative as president, a representative of the Ministry of Finance, the director general of the ONTT, the president of the *Fédération Tunisienne de l'Hotellerie* (FTH), or Tunisian Hotel Federation, the president of the *Fédération Tunisienne des Agences de Voyages et de Tourisme* (FTAV), or Tunisian Federation of Travel Agencies, a representative of *Restaurateurs Professionnels*, or (the) Professional Restaurant Owners and Managers (Association), and a representative of Tunisair.

Harm to competition

Tourism investment and zoning policy: Tourism zones and other areas are treated differently in a number of respects due to the desire to attract investment. This has several implications.

First, investors' choices are influenced by the zoning policy, which concentrates investments in specific areas, reducing the scope of tourism offerings and limiting consumer choice.

Second, the reduced bureaucratic requirements and preferential prices set by the Ministry of Tourism and the AFT create significant disparities between tourism zones and other areas that might have similar tourism potential but which are currently disadvantaged by the zoning system. For instance, the interior of the country, despite its tourism potential, remains marginalised and unable to attract investment. According to interviews with stakeholders, more than 90% of tourism investments in 2019 went to accommodation, 95% of which was concentrated in only three coastal cities and areas: Tunis, Nabeul and Djerba. This reinforces regional disparities between the coast and the hinterland.

Third, the zoning system fosters a mass tourism model concentrated in specific areas of the country and may contribute to Tunisia's positioning as a low-cost destination, potentially jeopardising the growth of the industry compared with the sector in other emerging tourism destinations, such as China and India (Hellal, 2020^[3]). Although the objective of attracting investment is extremely important and to be preserved, it should be attained without causing harm, and it should stimulate investment also in non-coastal areas for a more varied tourism offering. This is also important in light of the threats to the Tunisian tourism economy posed by coastal erosion, which risks affecting almost half of Tunisia's beaches, according to the *Agence de Protection et d'Aménagement du Littoral*, or Coastal Protection and Planning Agency.¹⁴

Authorisation process: The use of a pre-authorisation regime may result in different treatment of investors and suppliers in different areas and discrimination, because, with prior agreement, investors can secure: 1) options to land located in tourism zones; 2) the registration of a company's constitutive acts, as well as acts establishing or confirming increases of initial capital, transformations of legal status, mergers and contributions for a period of 10 years from the date of notification of preliminary authorisation; and 3) deductions of income or profits reinvested in initial capital or in increases of this capital of up to 35%, 75% or 100%, according to circumstances, of their overall annual income subject to personal income tax or their profits subject to corporation tax.

The authorisation regime imposes a heavy administrative burden, creating an unnecessary barrier to investment in the country. The OECD understands that it remains unclear whether it will be replaced by a new procedure six months after the entry into force of Presidential Decree No. 2022-317, and what this will look like.

FODEC: Levies may create distortions and competitive imbalances between various market participants. The existence of levies used for para-fiscal purposes was addressed in the OECD's 2014 competition assessment review of Greece, as this was the case for the flour and cement sectors, among others, which financed pension and insurance funds for bakers and employees (OECD, 2014^[4]). The OECD considered that not only did the "presence of such levies distort the market price" by increasing the costs faced by certain categories of operators, but that "it also skew[ed] the market in favour of some sub-groups relative to others". The review concluded that the levy could reduce producer output due to higher costs, which

translated into lower revenues and fewer jobs. The OECD recommended that any such levies be lifted (OECD, 2014^[4]; 2019^[5]).

In the case of the FODEC, market participants excluded from the management commission, such as the *Fédération Interprofessionnelle du Tourisme Tunisien* (Fi2T), or Inter-professional Federation of Tunisian Tourism, may face costs that help their prospective or existing competitors but does not provide them with any benefit. This might severely distort competition.

This tax, levied at 1% of the turnover of all tourist establishments, contributes to a fund for advertising and promotional programmes in the sector. The use of the funds collected is decided by a commission on which tourism stakeholders are not adequately represented. Consultation with stakeholders confirmed that, due to the non-inclusive composition of the commission, which does not provide for the participation of many of the associations and federations that are subject to the tax in the tourist sector, those associations and federations are never allocated the funds. In combination with the high level of discretion the commission enjoys, this may create significant competition distortions between market players.

Recommendations

Investment policy, zoning policy and authorisation process: Policy makers should weigh very carefully the benefits of using the zoning and pre-authorisation systems to attract investment in accommodation against their costs. If facilitating investment in the sector remains a policy priority for Tunisia, the effectiveness of the restrictions described above in achieving these objectives should be carefully assessed to ensure that the favourable treatment enjoyed by areas defined as tourism zones does not discourage investment in non-coastal areas with high tourism potential. In this context, the OECD recommends:

- Streamlining the licensing process for accommodation projects outside of tourism zones according to the best international practices for permitting and licensing (see Section 9.2) and consider revising the regulatory inspection and enforcement framework in place. OECD's Regulatory Enforcement and Inspections Toolkit provides useful guidance in this respect (OECD, 2018^[6]).
- Revising the definition of tourism zones periodically to capture tourism trends, encourage visitor dispersal to support regional development, and ensure that no region is left behind.

FODEC: The OECD recommends:

- Ensuring that decision-making on the allocation of the funds follows transparent criteria and is reserved to a commission composed to be representative of government only and not of selected stakeholders, or, as a less preferable alternative, made more representative of the various stakeholders.
- Providing a strong governance code to prevent potential conflicts of interest for members and establishing an appeal procedure.
- Lifting the 1% tax on the turnover of all tourist establishments contributing to the FODEC.

3.2.3. Classification and operational requirements

Description of the obstacles and policy makers' objectives

As mentioned above, the system of classification of different types of accommodation is provided by Decree No. 2007-456 (completed by Decree No. 2016-335). Article 1 of Decree No. 2007-456 lists ten types of accommodation: 1) tourist hotels; 2) apart-hotels; 3) *villages vacances*, or holiday villages; 4) motels; 5) guesthouses; 6) campsites; 7) boutique hotels; 8) *gîtes ruraux*, or rural lodges; 9) *residences touristiques*, or apartment residence complexes; and 10) *chambres d'hôtes*, or B&Bs. Article 2 of the same

decree provides that orders of the Ministry of Tourism determine the minimum requirements for each category.

Classification and reclassification requirements and related commissions: All types of accommodation are subject to authorisation requirements in the form of a *demand de classement*, or classification request. According to Article 13 of Decree No. 2007-456, the classification request must be addressed to the ONTT before the establishment begins operating.

Decisions on classification are made by the director general of the ONTT based on a dossier prepared by tourism administration officials in charge of inspections (*les agents de l'administration du tourisme chargés de l'inspection*) and after consultation with the *Commission de Classement des Établissements Touristiques fournissant des Prestations d'Hébergement*, or Classification Commission for Tourist Establishments providing Accommodation Services, as per Article 14 of the decree, composed as discussed below.

Requests for reclassification must be addressed to the Ministry of Tourism, according to Article 16 of the same decree.

Article 15 of Decree No. 2007-456, completed by Decree No. 2016-335, provides that the Classification Commission is chaired by the director general of the ONTT or their representative, and is composed of: a representative of the Ministry of Tourism; a representative of the ONTT; a representative of the FTH; and a representative of the FTAV.

Article 18 of the decree provides that the commission for revising the classification of tourist accommodation is chaired by the minister in charge of tourism or their representative and is composed of the heads of the ONTT, FTH and FTAV.

The OECD understands that the classification provisions and process are aimed at ensuring clarity and legal certainty for service providers so they know from the start what legal framework applies according to the type of accommodation they offer.

Some flexibility is provided, for instance, in relation to boutique hotels and B&Bs, but only for establishments whose construction is being planned, where the *Commission Technique de la Construction des Établissements de Tourisme* or Technical Commission for the Construction of Tourism Establishments, may, if it deems it useful, adjust minimum standards in view of the capacity, design and nature of the accommodation to be classified.

Minimum size, layout and functional requirements for classification: Regulation provides minimum size, layout and functional requirements are set out for hotel-type accommodation and alternative accommodation classification standards. Such requirements are not uncommon for hotel-type accommodation internationally in countries including Iceland (OECD, 2020^[7]), Italy,¹⁵ Poland and Spain.¹⁶

The Annex to the Order of the Minister of Tourism of 29 July 2013 fixing such rules for boutique hotels, for example, provides minimum size, layout and functional criteria concerning room surface area, bed size and bathroom size.

More generally, the annex stipulates the size of reception areas (calculated at 0.50m²/bed), room equipment, the number of staff members in different functions (e.g. one chef, one pastry chef and one *chef de brigade* per 50 diners, and one waiter per ten diners in a restaurant). The annex also requires that staff (without further specification) must speak Arabic and three foreign languages, one of which must be English.

In relation to small-scale alternative accommodation such as guesthouses, rural lodges and B&Bs, however, classification requirements are very detailed, burdensome, and not necessarily linked to specific policy objectives. The classification system is also based largely on physical and technical criteria (for instance, the dimensions of guestrooms, reception rooms and dining rooms).

Box 3.3. Common international standards for four- and five-star hotels

According to the *Hotel Classification Systems* report by the World Tourism Organization (UNWTO), most classification systems rely on objective criteria such as the availability of specific facilities, equipment or services and/or size and layout criteria for rooms and spaces. The most common criteria for the European and global classification systems analysed relate to rooms, bathrooms, food & beverage offerings and services (albeit with different rankings).

In these categories, the most common criteria include:

- Room
 - Telephone with external line
 - Desk, worktable, chair
 - one seat/chair per bed
 - Wardrobe or clothes niche
 - Reading light by each bed
- Bathroom
 - Number of bathroom amenities
 - Percentage of ensuite bathrooms
 - Bathmat
 - Number of towels per person
 - Light over hand basin
- Food and beverage offering
 - Dinner service restaurant
 - Room service breakfast
 - Room service offer
 - Beverage offer in lobby area
 - Breakfast requirements
- Services
 - Fax availability
 - Wake-up service
 - Laundry service
 - Hotel information
 - Internet available in public areas

Source: UNWTO (2015^[8]), *Hotel Classification Systems: Recurrence of Criteria in 4- and 5-star hotels*, <https://www.e-unwto.org/doi/pdf/10.18111/9789284416646>

For alternative accommodation, the Order of the Minister of Tourism of 29 July 2013 provides in Article 5, for example, that hosts should live with their guests, be considerate but not intrusive, and speak a foreign language in addition to their mother tongue. The host must also pay special attention to breakfast and to time for discussions and exchanges with guests.

Rural lodges are also subject to extremely detailed requirements¹⁷ (see Annex to the Order of the Ministry of Tourism of 1 October 2013).

The OECD understands that the size, layout and functional requirements for tourist accommodation in Tunisia aim to provide transparency and reduce information asymmetries between suppliers and consumers concerning the type and quality of services provided, enabling them to make better choices and enhance distributive efficiency.

Although strict, detailed requirements are widespread internationally for hotel-type accommodation, this is not the case for smaller-scale alternative accommodation such as B&Bs, guesthouses and rural lodges. For example, even if there is no worldwide standard for official hotel classification systems, and classification is wholly voluntary in some countries, there are considerable commonalities and recurrent criteria for different star categories across the world.¹⁸ According to the ONTT, minimum standards are applied by the *Commission de classement des établissements touristiques fournissant des prestations d'hébergement*) or Classification Commission for Tourist Establishments providing Accommodation Services (on the basis of common sense and pragmatism), but are not rigid.

Other capacity minimum and maximum limitations: These requirements are also linked to Tunisia's classification system. For instance, there is a capacity minimum and limit for:

- B&Bs – a maximum of five rooms for a maximum of 15 people¹⁹
- Rural lodges – a maximum of ten rooms for a maximum of 30 people²⁰
- Rural lodges – a minimum area of 1 hectare or a minimum of 20 hectares when established on land subject to forestry regulations (with the lodge occupying a maximum of 1% of the forested area)²¹
- Rural lodges – a maximum lodge height of 10m²²
- One-star hotels – a minimum of ten rooms²³
- Boutique hotel – a maximum of 50 beds²⁴
- Campsites – a minimum area of 1 hectare.²⁵

Capacity minimums and limitations can allow the classification of different types of accommodation. For example, a limited number of beds or rooms might help meet the personalisation of service requirement for B&Bs and boutique hotels. They can also be imposed for security and hygiene purposes, such as a maximum density of installations at campsites, or for biodiversity preservation, environmental protection and the promotion of local and homemade products.

Harm to competition

Classification and reclassification requirements and related commissions: The authorisation requirements for classification constitute a heavy administrative burden for smaller-scale alternative accommodation, operators of which benefit much less from classification than those of hotels (through, for example the easing of first-time consumer concerns, the provision of a framework for collective contracts, and support for marketing and promotion).²⁶ Additionally, a lack of transparency relating to the development of the classification process grants considerable discretionary powers to officials, making outcomes less predictable and raising significant barriers to entry, for instance by creating uncertainty for businesses and investors and by discouraging private initiatives. It also incentivises informalisation.

From the OECD's consultations with stakeholders, it emerged that the unbalanced composition of the classification commission (which involves only the FTV and the FTAV as tourism federations) and the reclassification commission may result in discriminatory treatment of alternative accommodation classification requests, with longer waiting times and greater uncertainty in terms of outcomes. In general, when market participants decide on matters involving their competitors, risks of foreclosure of competition emerge, alongside prioritisation of the interests of professional associations – especially at the expense of newcomers or so-called mavericks that compete aggressively – and possible exchanges of sensitive information between competitors. Another negative consequence can be the imposition of unnecessary administrative barriers due to a tendency to standardise interests and actions in cases where members of private associations may influence the attitudes of public authorities and legislation or regulation in their favour (OECD, 2016^[9]).

Box 3.4. International best practices in hotel classification systems

The UNWTO's *Hotel Classification Systems* report defines hotel classification as:

“The ranking of hotels, usually by using nomenclature such as stars (or diamonds), with one star denoting basic facilities and standards of comfort and five stars denoting luxury in facilities and services. The purpose is to inform intending guests in advance on what can be expected in order to reduce the gap between expected and experienced facilities and service delivery. The terms ‘grading’, ‘rating’, ‘classification’ and ‘star rating’ are used to refer to the same concept, i.e. to rank hotels by their facilities and standards.”

Looking at the recurrence of criteria in four- and five-star hotels across 30 European destinations and six global destinations, the report finds that:

- Hotel classification systems are widespread globally to address the information asymmetry between consumers and intermediaries, on the one hand, and owners and providers, on the other. They are commonly used as a marketing tool and as a proxy for assessing quality.
- There are significant differences across hotel classifications, but notable commonalities between geographical groups (European and global) and star categories (four and five stars).
- There are different types of classification systems:
 - traditional classification systems consisting of mandatory objective criteria, sometimes together with additional voluntary criteria (e.g. in Germany and India)
 - classification systems with International Organization for Standardization (ISO)-certified inspectors consisting only of mandatory criteria (France)
 - classification systems including quality assurance consisting of objective criteria and the assessment of the quality of some establishments (Scotland, Iceland and Australia)
 - classification systems including guest reviews consisting of guest reviews alongside mandatory criteria (Abu Dhabi)
 - trust-based systems consisting of criteria that are self-assessed by hotels (Slovak Republic).

Source: UNWTO (2015^[8]), *Hotel Classification Systems: Recurrence of Criteria in 4- and 5-star hotels*, p.14, <https://www.e-unwto.org/doi/pdf/10.18111/9789284416646>.

Minimum size, layout and functional requirements for classification: Although minimum size, layout and functional requirements for classification make classification easier and potentially more objective, insofar as they are based on quantifiable criteria, Tunisia's current classification system is based largely on physical and technical criteria (for instance, the dimensions of guestrooms, reception rooms and dining rooms, or the number of staff and their linguistic skills).

This system does not guarantee the quality of services offered by hotels and alternative accommodation providers, and may give rise to discriminatory treatment between types of accommodation meeting the same standards but providing very different levels of service, skewing the playing field and stifling competition on merit by market players.

First, the system distorts competition between hotels and alternative accommodation, the latter being subject to extremely burdensome size, layout and functional requirements to obtain classification, but for which classification is not as customary or beneficial as hotel star classification systems. This results in several types of alternative accommodation suppliers being discouraged from applying for classification or operating informally, both of which distort and damage competition.

Second, and more generally relating to both hotel and alternative accommodation, minimum size, layout and functional requirements are often not necessary to reach any specific policy objective, so they do not satisfy the proportionality requirement (e.g. stringent language requirements for all types of staff, including non-customer-facing staff). These requirements are overall very detailed and onerous for all accommodation suppliers. When unnecessarily burdensome, they lead to potential restrictions of supply, potential increases in the cost of entry, and limits to innovation. Although some such provisions may aim to ensure security and hygiene, they also limit the number of suppliers, lead to market concentration and possibly higher prices, and restrict competition by reducing the range of alternatives that consumers might enjoy.

They also impose substantial barriers to growth and expansion by new entrants, and make it more difficult to switch to alternative forms of accommodation once a presence in the market has been established.

If unnecessary requirements are lifted, and criteria are formulated to ensure they reflect the actual quality of services provided, this may lead to more competition, more investment, lower prices and greater choice for consumers. This may also stimulate innovation and allow differentiation to meet consumer preferences.

Other capacity minimums and limitations: These requirements limit the flexibility of various types of accommodation providers that cannot easily innovate or diversify their offers but which tend to need to continue providing the services they meet the requirements for, presenting them with significant investment requirements and barriers if they wish to change.

In addition, legislation has created a gap in the classification system that makes it unclear which category an accommodation service offering more than five rooms but less than ten rooms in an urban area falls into, as it would not qualify as a boutique hotel or a rural lodge.

The gap is particularly serious given the lack of regulation of accommodation offered on peer-to-peer platforms such as Airbnb, TravelTodo and TunRooms, which may open the door to informal transactions.

According to stakeholders consulted by the OECD, the Ministry of Tourism is finalising a new set of requirements focusing on qualitative rather than quantitative criteria. At the time of writing, however, it was not known when the new *cahier des charges*, or set of specifications, will be published and what it will contain.

Recommendations

Classification and operational requirements: The OECD recommends revising requirements on classification and size/layout and functional requirements for hotels and alternative accommodation by:

- Revising the membership of the classification and reclassification commissions to limit them to representatives of the administration, so as to avoid the exercise of influence by stakeholders or, as a less preferable alternative, make them more representative of all stakeholders. In this case, authorities should consider establishing a complete, clear and accessible set of conflict rules to be followed by professional associations. The implementation of an ethical code of conduct should be mandatory for each professional association involved in public decisions. The code of conduct should cover at least rules regarding the identification of what constitutes a conflict of interest (such as an expert who sits on a technical commission or committee controlling or analysing the issuance of a permit for a competitor), disclosure procedures, and the obligation to abstain from actively participating in authorities' decision-making process in instances of conflicts.
- Modifying the level of detail of the minimum requirements that need to be kept, ensuring they are reduced to the strict minimum necessary for the preservation of the public policy objective pursued, such as:
 - limiting language requirements for hotel staff only to staff that are in direct contact with guests

- reducing room equipment requirements for rural lodges to a strict minimum and eliminating other equipment requirements (such as suitcase holders in bedrooms, soap dishes, wardrobes with personal lockers and bedside lamps)
- eliminating requirements and limits that are not proportional to public policy objectives, such as:
 - minimum sizes for campsites and rural lodges
 - maximum room and guest numbers at B&B, rural lodges and boutique hotels
 - second-language requirements for B&B hosts
 - cohabitation requirements for B&B hosts.

3.2.4. Qualification and nationality requirements

Description of the obstacles and policy makers' objectives

Managers' qualifications: according to Order of the Minister of Tourism of 9 November 2006, relating to administrative services provided by the Ministry of Tourism and the enterprises and public establishments under its supervision, and the conditions for offering them, the responsibility for operating tourist accommodation must be entrusted to a manager who meets certain conditions of eligibility and specifications laid down by decree and who has received prior authorisation from the ministry. The terms of reference are approved by the Ministry of Tourism.

As established by Decree No. 2006-2215, which sets out the qualification requirements for managers of tourist accommodation, any person wishing to act as the manager of a tourist accommodation facility must meet one of the following conditions:

1. Hold a higher education diploma from a course of at least four years or an equivalent diploma in one of the specialties of hotels and tourism, or in one of the specialties of economy and management, and have worked for at least three years in a tourist accommodation establishment, including one uninterrupted year in the position of manager.
2. Hold a higher education diploma from a course of at least three years or an equivalent diploma in one of the specialties of hotels and tourism, or in one of the specialties of economy and management; or hold a specialised technical diploma in one of the specialties of hotels and tourism delivered by a higher education institution in accordance with legislation and regulations; or hold a professional training diploma in one of the hotel and tourism specialties approved at the same level, and have worked for at least five years in a tourist accommodation establishment, including two uninterrupted years in a managerial position.

These requirements aim to ensure the quality and safety of accommodation services by placing them under the supervision of competent, experienced professionals.

Nationality requirements: According to Article 5 of Law No. 2016-71, which sets out an investment code, investors are free to acquire, rent or exploit non-agricultural real estate in order to carry out or continue direct investment operations subject to compliance with the provisions of the *Code de l'Aménagement du Territoire et de l'Urbanisme et des Plans d'Aménagement du Territoire*, or Land Use and Urban Planning and Land Use Plans Code. This provision omits acquisitions of agricultural land, which may create uncertainty about whether non-Tunisian citizens can own and run rural lodges.

In addition, when a company structure is required or chosen by a tourist establishment, Article 6 of the same law provides that companies may recruit managers of any nationality up to a limit of 30% of the total number of executives until the end of the third year from the date of the company's legal constitution or the date of the effective start of operations. This rate must be reduced to 10% from the fourth year. In any

case, the company may recruit four managers of foreign nationality. It is possible to exceed the limit with an authorisation issued by the Ministry of Vocational Training and Employment.

The OECD understands that the main policy objective of the nationality requirement for owning agricultural land is to protect Tunisia's agriculture industry by reserving ownership of such land for residents. The main policy objective of the nationality limit for managers is to create jobs by favouring the employment of Tunisian nationals.

Harm to competition

Managers' qualifications: In many countries, hotel manager positions may be accessible simply after several years of experience in the accommodation industry, without specific qualification requirements provided by the law, but hotel managers in Tunisia are generally expected to have at least a bachelor's degree and more often than not a master's degree.²⁷ Hotels have a very clear incentive to hire the best managers.

This, however, does not typically apply to alternative accommodation, which is often family-run. The provisions established by Decree No.2006-2215, which apply to both hotels and alternative accommodation, may therefore impose excessive requirements for managers of tourist accommodation, particularly since there is no distinction between classified hotel-type accommodation and alternative accommodation. The need for approvals of managers by the ONTT also constitutes a significant administrative burden for small-scale alternative accommodation operations such as B&Bs, guesthouses and rural lodges. These requirements may represent a significant barrier to entry for alternative accommodation, limit the range of potential suppliers, and incentivise informality. They may also lead to significant cost increases and discourage investors and their businesses, thus forming a significant barrier to market entry. They can also lead to discriminatory treatment of some suppliers against others that do not have to meet these requirements, such as campsites.

Owners of rural lodges and managers' nationality: The nationality requirement for owning agricultural land could create discrimination between Tunisians and non-Tunisian citizens, and thus result in restrictions in the supply of rural lodges. The differential treatment of Tunisians and non-Tunisians aims to favour domestic employment and protect arable land and the agricultural sector more generally. Although it may be effective in helping to achieve that goal, in the tourism sector it may reduce the supply of accommodation and also positive spillovers and transfers of know-how from foreign talent and experience. The limitations thus imposed on the tourist accommodation industry do not seem justified by the objective of the law.

Box 3.5. Requirements for hotel and B&B management

Hotels

Although no legal requirements for hotel managers exist in many countries, such as France and Italy, hotel managers typically hold a three- or five-year degree. Similarly, in the UK, these jobs are open to anyone, including candidates without a national higher diploma or degree, particularly if they have relevant experience. Some chains and luxury hotels may, however, tend to favour candidates with specific degrees, including in business, management, languages, hospitality management, travel, tourism or leisure studies.

For instance, one of the UK Automobile Association's criteria for five-star hotels includes "service and efficiency of an exceptional standard without detriment to other service areas at any time delivered by a structured team of staff with a management and supervisory hierarchy".

Knowledge of multiple languages is also not mandatory, with the AA Quality Standards for Hotels requiring only that "where there is a market need, some consideration should be given to having multilingual staff" by five-star hotels.

B&Bs

No education requirements exist for B&B owners in many countries, although it is sometimes required that owners satisfy specific moral requirements. In Italy, for instance, it is generally required that the owner, among other things:

1. has not been sentenced to a term of imprisonment of more than three years for a non-negligent offence and has not been rehabilitated
2. has not been convicted of a criminal offence against the state or the public order, or against persons when committed with violence, or for theft, robbery, extortion, kidnapping for the purpose of robbery or extortion, or for violence or resistance to authority.

Sources: Royal Decree of 18 June 1931, No. 773; Prospects, Job Profile, Hotel Manager, <https://www.prospects.ac.uk/job-profiles/hotel-manager>; UK Automobile Association, Ratings and awards, <https://www.theaa.com/hotel-services/ratings-and-awards>.

Recommendations

Qualification and nationality requirements: Qualification requirements may be maintained for hotel-type accommodation, but the OECD recommends eliminating the requirements for managers of tourist establishments in the following categories:

- B&Bs
- guesthouses
- rural lodges.

The OECD recommends lifting or reducing the nationality requirement for managers in the tourism industry and for owners of rural lodges. This seems consistent with a recent update to the Law No. 2016-71, which establishes the principle of freedom of investment and participation by non-Tunisian citizens in Tunisian companies. As an adherent to the OECD Declaration on International Investment and Multinational Enterprises, and according to its national treatment instrument, Tunisia is encouraged to ensure that Tunisian and foreign investors are treated equally.

3.3. Well-being services

3.3.1. Background

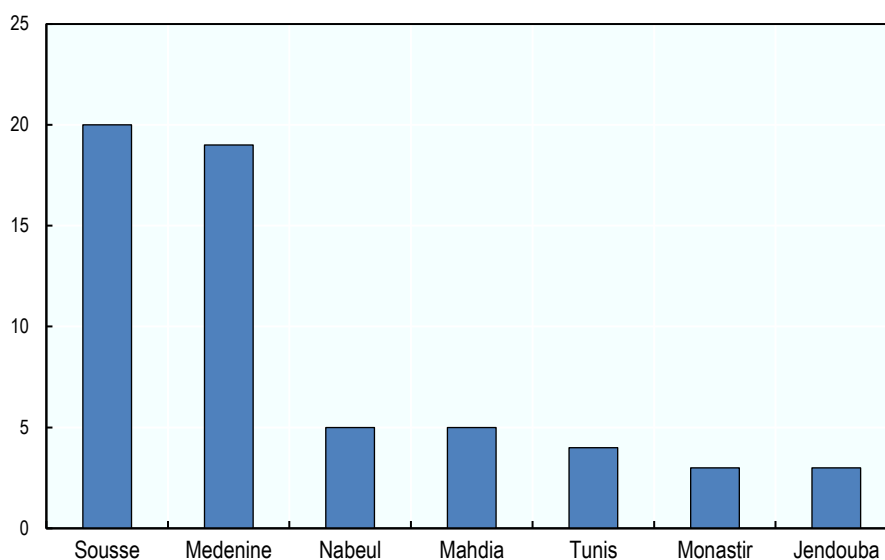
The well-being and hydrotherapy sector in Tunisia includes thermal cures, thalassotherapy and freshwater (spa) treatments. According to decree No. 2006-3174, thalassotherapy is:

“a service that is both therapeutic, preventive and promotes well-being and health, using simultaneously, in a privileged marine site, under medical supervision and with the assistance of qualified staff, the elements of the marine environment, which are the marine climate, seawater, algae, marine mud, sands and all other substances extracted directly from it”.²⁸

Thalassotherapy centres offer other services, such as sun therapy, hot sand therapy, water-based treatments such as balneotherapy in various forms (baths, rain and under water, for instance), and applications of seaweed and sea mud therapy.

In Tunisia, thalassotherapy is linked mostly to hotels and tourist accommodation. According to the *Office National du Thermalisme et de l’Hydrothérapie* (ONTH), or National Office of Thermalism and Hydrotherapy, treatment not associated with accommodation comprises a maximum of 5% of thalassotherapy centres’ activities. The industry witnessed a surge since the 1990s thanks to a substantive increase in accommodation capacity. Currently, 59 thalassotherapy centres located mainly in Sousse and in the southern governorate of Mednine are in operation, with a combined daily capacity of 6 700 spa guests (see Figure 3.2). The Ministry of Tourism is responsible for granting authorisations to tourist establishments providing accommodation, setting out operating requirements and supervising them, but thalassotherapy is overseen by the Ministry of Health.

Figure 3.2. Thalassotherapy centres in Tunisia



Source: ONTH (2019₁₀), L’hydrothérapie en chiffre, <http://www.hydrotherapie.tn/portail-de-hydrotherapie/base-documentaire/hydrotherapie-en-chiffre/>

The Order of the Minister of Tourism of 24 August 1999 defines thermalism as:

“The external or internal and simultaneous use in a privileged setting, under medical supervision, and for preventive and curative purposes, of the waters of a hot or cold mineral thermal spring as well as any other

natural element (mud, clays, seaweed, other substances, and medicinal plants) matured or mixed with these waters.”²⁹

In Tunisia, there are five thermal sites and 46 thermal *hammams*, or steam baths (see Box 3.6). According to the ONTH, two springs are in development and another two are undergoing evaluation.

Box 3.6. Thermalism in Tunisia

Tunisia currently has five thermal centres respectively located at the following sites: Korbous (Nabeul); Djebel Oust (Zaghouan); Djerba (Médenine); Hammam Bourguiba (Jendouba); and Boulaâba (Kasserine). Their combined capacity, turnover, employment and visitation figures are as follows:

- Capacity of around 2 500 clients/day
- Annual turnover of around TND 5 million
- Direct employment of 525 people
- Number of visitors in 2019: 47 244.

Tunisia also has 46 thermal *hammams* spread over 17 governorates:

- Capacity of around 5 000 clients/day
- Annual turnover of around TND 2.3 million
- Direct employment of 300 people
- Number of visitors in 2019: around 4.5 million.

Source: ONTH (2019^[10]), L’hydrothérapie en chiffre, <http://www.hydrotherapie.tn/portail-de-lhydrotherapie/base-documentaire/lhydrotherapie-en-chiffre/>

According to ISO 17 679 for wellness spa services and the ONTT, a spa centre is.

“an establishment whose main activity is therapy with running fresh water. This activity is complemented by wellness services such as massage therapy, aesthetics and fitness.”

Tunisia boasts around 340 spa centres, which include spas in hotels and urban areas.³⁰ According to the draft *cahier des charges* for spas, there are two types:

- **Centre Type-A:** Medicalised freshwater care centres whose activities involve medical treatment with fresh water and under the supervision of full-time medical staff
- **Centre Type-B:** Freshwater treatment centres for well-being and fitness care whose activities involve freshwater treatment using massage, beauty treatments and fitness care.

3.3.2. Description of the obstacles and policy makers’ objectives

Thalassotherapy centres

Authorisation requirements: Although Decree No. 2006-3174 does not specify that authorisation is required to establish a thalassotherapy centre, Article 2 of Decree-Law No. 2011-52 stipulates that thalassotherapy is subject to authorisation by the ONTH. Decree No. 2006-3174 and the annex included in Decree No. 2018-417³¹ list requirements and obligations for investors establishing and operating thalassotherapy centres. Investors intending to start thalassotherapy centres must apply for an authorisation in a two-step process:

- In the first phase, investors provide several documents³² for preliminary approval by the ONTH's technical committee. The technical committee for thalassotherapy centres studies the file documents and informs the applicant of any concerns. Once the committee is satisfied with the applicant's responses to its queries, the file is considered complete and the committee has 30 days to decide whether to grant the applicant a preliminary approval.
- During the second phase, investors submit several documents and technical studies.³³ The committee issue a final authorisation if there are no outstanding concerns and if all legal and safety requirements are met. This process takes an additional month from the date of submission of the completed file.

Although the process and documentary requirements are set out in legislation, there is no justification for the two-step approach and no clear evaluation criteria for reviewing applications. The OECD also understands that final decisions to issue authorisations may depend largely on the ONTH's current development plans and strategies.

Following discussions with authorities, the OECD understands that the list of documents to be provided during the two phases aims to ensure that thalassotherapy centres protect the environment from pollution and degradation, and that they provide quality services. To achieve the environmental goal, the ONTH requires investors to provide an environmental impact study, a plan for the location of each thalassotherapy centre, and a location plan for the intake and discharge of used seawater. In addition, to obtaining final approval, thalassotherapy centres must guarantee the provision of good quality treatments, respect for hygiene conditions and quality standards, employ qualified and specialised personnel, and submit an agreement with an analysis laboratory to monitor the water used in treatments. These conditions aim to ensure the safety and preserve the health of the centres' clients to develop the thalassotherapy sector, which attracts many tourists and represents a source of foreign currency. Although the documents and studies required are clear, the OECD understands that the discretion of the ONTH in final decisions ensures that centres are approved when in line with current government policies and strategies.

The authorisation process requires applicants to obtain several documents, approvals and licences from various ministries and organisations, including the ONTH, the ONTT, the *Agence Nationale de Protection de l'Environnement* (ANPE), or National Environment Protection Agency, and a laboratory recognised and authorised by the Ministry of Health.

The OECD understands that the involvement of several ministries and organisations in the process is required, given that it affects several policy areas including health, tourism and the environment.

Operational requirements: Decree No. 2006-3174 sets out minimum requirements for thalassotherapy centres, including size, layout, functional and staffing standards:

- Minimum size, layout and equipment requirements for baths, showers and care stations:³⁴ Baths must be set up in individual cabins or boxes with at least 4m² of floor area and 3m in height, although a ceiling height of 2.6m is acceptable if adequate mechanical ventilation is provided. Large showers with a single nozzle or with alternating temperatures must be set up in cabins with an area of at least 10m². Individual care areas equipped with such facilities as sprays and aerosols provided in a shared space each require approximately 2m² of floor space.
- Minimum staffing requirements: Thalassotherapy centres must employ the following staff: a physiotherapist for a maximum of 15 massages per day with a minimum of two physiotherapists per centre; a nurse; senior hydrotherapy and thalassotherapy specialists in sufficient numbers in relation to the number of treatment cabins, with a minimum of four per centre; a lifeguard; and a hygienist. In addition, all staff working at thalassotherapy centres must be employed full-time.³⁵

Tunisian authorities confirm that these requirements comply with ISO standards and aim to ensure the quality of treatments offered to clients and the maintenance of health and safety standards. The minimum staffing requirements also comply with ISO standards and are in place to ensure the quality of treatments,

mainly therapeutic care, whether curative, preventive or for health and well-being. This is also the rationale behind the requirement for full-time, qualified staff, which is regarded as a means of preserving customer health and hygiene. According to the authorities, all of these requirements aim to foster the development Tunisia's thalassotherapy industry.

Thermal centres

Authorisation requirements: Although Order of the Minister of Tourism of 24 August 1999 does not specify that authorisation is required to establish a thermal centre, Article 2 of Decree-Law No. 2011-52 stipulates that the activity is subject to authorisation by the ONTH. The *cahier des charges* approved by the Order of the Minister of Tourism of 24 August 1999 lists the conditions for obtaining the approval to establish a thermal centre. Potential investors must follow a four-step procedure that involves several approvals and requires documents from the ONTH, the ONTT and the Ministry of Agriculture, Water Resources and Maritime Fisheries. The process is long and cumbersome, with myriad pre-authorisations and studies. It consists of:

- **A preliminary agreement**, in which the investor should submit:
 - the name of the source or borehole that will supply the centre, and a determination of its thermo-mineral water needs
 - an application for a concession to exploit the waters of the source or authorisation from the Ministry of Agriculture, Water Resources and Maritime Fisheries, a request that must be accompanied by a hydrogeological study of the area and an environmental impact study
 - a preliminary study of the feasibility of the project, such as a market study and an explanation of its financing.
- **Prior authorisation**, in which the investor should include:
 - a concession decree or agreement approved by the Ministry of Agriculture, Water Resources and Maritime Fisheries for the exploitation of water from the point requested.
- **The project preliminaries**, which should include:
 - a layout plan of all offices and premises (for example, treatment areas, reception areas, waiting and relaxation areas, and pools)
 - a detailed plan of all levels and facades.
- **An execution agreement**, comprising:
 - a full list of medical equipment.

A preliminary agreement will be approved only after an examination of the file by the ONTH, which submits it to a medical committee for final approval. The agreement must be confirmed by the Ministry of Tourism.

According to Article 11 of the *cahier des charges*, which sets out the standards and conditions for the establishment of thermal centres, the capacity of establishments must be proportional to the number of clients, their composition, and the variety and nature of the treatment services that they will offer.

Following discussions with authorities, the OECD understands that the lengthy licensing process is considered justified by the nature of the activity, which requires special attention, given its impact on the health of clients and on the availability of thermal and mineral water resources. The obligation to investors to submit several studies aims to ensure their credibility and transparency, and the highest compliance standards such as guaranteeing quality, ventilated spaces that allow good air circulation to ensure that space and capacity are adequate for the nature and the variety of treatment services. The authorities insist on the importance of ensuring the hygiene, safety, satisfaction and health of customers, and the provision of quality care and services to develop and promote hydrotherapy in Tunisia.

The OECD understands that the regulation of thermal activity involves multiple agencies, given its impact on policy areas such as health, tourism and the environment. The Ministry of Tourism, for instance, considers thermalism an important element to diversify the industry. The ONTH ensures compliance with hygiene and sanitary requirements in relation to premises and water sources to preserve the health of clients and limit contagion or disease. The Ministry of Agriculture, Water Resources and Maritime Fisheries is involved in the application for concessions and agreements to exploit water sources in order to preserve the environment and water resources.

Wellness spa centres

Authorisation requirements: Article 2 of Decree-Law No. 2011-52 stipulates that care activities involving fresh water are subject to authorisation by the ONTH. The OECD understands that a *cahier des charges* setting out general conditions for establishing and operating spa treatment centres is being developed and that a first draft is available. Although the draft *cahier des charges* sets out the documents and technical studies required for authorisation to set up a spa business, it does not contain clear evaluation criteria for the review of applications and does not set deadlines for authorities' approvals, for example, in relation to the delivery of technical opinions on projects.³⁶

3.3.3. Harm to competition

Thalassotherapy centres

The imposition of multiple licensing steps to establish thalassotherapy centres has the cumulative effect of restricting entry and limiting the number of options available to domestic and foreign consumers in Tunisia. The absence of clear evaluation criteria increases significantly the discretionary power of the competent authorities and results in an uneven playing field. This can lead to arbitrary standards in decision-making, meaning that successful applicants may not be the most efficient, but may be successful in navigating the complex process. The risks of rent-seeking conduct are also pronounced. Given the length and costly nature of the authorisation process, the uncertainty around whether or not projects will be approved amid the lack of clear criteria and scope for official discretion may discourage investment and deter new entries, thus reducing competitive pressures, limiting consumer choice, increasing prices, and affecting product quality and consumer welfare.

The involvement of multiple ministries and authorities, alongside the lack of co-ordination, may increase administrative burdens and create barriers to entry, restricting the number of market players and reducing competitive pressure on incumbents. Stakeholders noted that since most of the equipment required is sourced outside Tunisia, this situation is exacerbated by complex customs procedures and high import duties.

Although some standards seem reasonable on hygiene and security grounds, others, such as those involving quality, may be set above what some well-informed consumers would choose. These standards are, for example, more detailed than those set out in international standards (ISO 17680:2015).³⁷ This may raise the cost of entry for suppliers, discouraging potential entrants and reducing the number of participants in the market over time. It may also reduce incentives for current operators to expand. Consumer welfare can be harmed by such exacting standards as consumers are prevented from accessing cheaper, innovative and differentiated services that they might prefer.

Thermal centres

The imposition of multiple permitting and licensing steps to establish thermal centres, especially those required at the same stage of the process, represents a considerable administrative burden and has the

cumulative effect of restricting entry and limiting the number of options available to domestic and foreign consumers in Tunisia.

The involvement of multiple ministries and authorities, combined with a lack of co-ordination reported by stakeholders, may increase administrative burdens and delay market entries. This raises barriers to entry, reducing the number of market players and reducing competitive pressure on existing players.

Conditions relating to the capacity of thermal centres are rather vague and ambiguous, which may increase the discretionary power of the competent authorities, create uncertainty for potential market entrants, and increase the risk of favouritism. Further, it could discourage investment and reduce the number of operators in the market and have a negative impact on the choice and quality of thermal treatments available to consumers.

Box 3.7. Thermal centres in France

According to the French *Code de la Santé Publique*, or Public Health Code, thermal establishments can exploit natural mineral water only for therapeutic purposes after obtaining authorisation from the territorially competent prefecture. Authorisations are based on an examination by an *Agence Régionale de Santé*, or Regional Health Agency, that includes the expertise of a hydrogeologist and the opinion of the *Conseil Départemental de l'Environnement, des Risques Sanitaires et Technologiques*, or Departmental Council for the Environment and Health and Technological Risks. In addition, the opinion of the *Académie Nationale de Médecine*, or National Academy of Medicine, may be requested by the Ministry of Health for any new request to operate a thermal establishment for therapeutic purposes or any new request for therapeutic orientation.¹

The Public Health Code does not specify minimum requirements on the number of personnel, equipment or dimensions of baths and showers. It refers only to the concept of proportionality, meaning that staff, equipment and all services must be based on the maximum number of people that can be treated on site on the same day, depending on the size of the establishment, and its supply of mineral water. It specifies only the equipment that must be available at each thermal establishment necessary for each type of service, such as rehabilitation room equipment allowing the individual mobilisation of patients, necessary equipment for kinesi-balneotherapy services allowing mobilisation under water, and an examination room with at least one table that can potentially be used as an emergency treatment room. In terms of technical staff authorised to carry out rehabilitation, the code specifies that each establishment must include one or more physiotherapist masseurs, depending on the importance of the service. The number of operational staff should be merely sufficient and they need possess only the necessary skills.

Note: 1. See <https://solidarites-sante.gouv.fr/sante-et-environnement/eaux/article/eaux-thermales>.

Source: Articles L. 1322-1 to L. 1322-13; R. 1322-1 to R. 1322-44-8; R. 1322-45 to R. 1322-67 of the Public Health Code.

Wellness spas centres

The absence of official regulation could lead to legal uncertainty for investors and affect the level of investment and development of Tunisia's spa industry. The existence of several spa centres raises the question of whether they are subject to regular inspections, and, if so, on what basis. Authorities argue that the standard ISO 17679:2016 remains the reference until an official *cahier des charges* is adopted. However, stakeholders confirmed that the current draft *cahier des charges* is their reference, which increases legal uncertainty and makes them subject to authorities' discretionary power. Stakeholders also noted that since most of the equipment they use is imported, this situation is exacerbated by complex customs procedures and high import duties.

3.3.4. Recommendations

The hydrotherapy sector is subject to regulatory provisions that are fragmented and, in some ways, inconsistent. The OECD recommends regulatory changes in order to minimise harm to competition and productivity, and to better contribute to achieving the desired policy goals. In particular, the OECD recommends that Tunisia:

- Simplify and harmonise the regulatory framework for hydrotherapy (thalassotherapy, thermal cures and freshwater wellness) and remove contradictory legal provisions.
- Streamline the licensing process for establishing and operating hydrotherapy centres according to the best international practices for permitting and licensing (see Section 9.2). Consider revising the regulatory inspection and enforcement framework in place. OECD's Regulatory Enforcement and Inspections Toolkit provides useful guidance in this respect (OECD, 2018^[6]).
- Reduce the discretionary power of the competent authorities to approve hydrotherapy centre projects by publishing a transparent evaluation grid and clearly defining the conditions for granting authorisation to reduce uncertainty. Ensure that rejection decisions are subject to an appeal process.
- Publish clear and binding deadlines for authorities to evaluate authorisation requests and issue opinions.
- Simplify operational requirements by removing detailed provisions and refer only to ISO standards. Abolish the full-time staff requirement. Specific size and layout recommendations and suggested staff numbers might be transferred into an investor guide if the purpose is to help investors comply with standards.

References

- Cooper, C. et al. (2005), *Tourism principle and practice*, Prentice Hall. [1]
- Hellal, M. (2020), "L'évolution du système touristique en Tunisie. Perspectives de gouvernance en contexte de crise", *Études caribéennes* 6, <https://doi.org/10.4000/etudescaribeennes.19397>. [3]
- OECD (2020), *OECD Competition Assessment Reviews: Iceland*, OECD Publishing, <http://www.oecd.org/daf/competition/oecd-competition-assessment-reviews-iceland.htm>. [7]
- OECD (2019), *OECD Competition Assessment Reviews: Tunisia*, OECD Publishing, <https://www.oecd.org/daf/competition/ca-tunisia-review-2019-en.pdf>. [5]
- OECD (2018), "Effective policy approaches for quality investment in tourism", *OECD Tourism Papers*, No. 2018/03, OECD Publishing, Paris, <https://doi.org/10.1787/88ea780c-en>. [11]
- OECD (2018), *OECD Regulatory Enforcement and Inspections Toolkit*, OECD Publishing, <https://doi.org/10.1787/9789264303959-en>. [6]
- OECD (2016), *OECD Competition Assessment Reviews: Romania*, OECD Publishing, <https://doi.org/10.1787/9789264257450-en>. [9]
- OECD (2014), *OECD Competition Assessment Reviews: Greece*, OECD Competition Assessment Reviews, OECD Publishing, Paris, <https://doi.org/10.1787/9789264206090-en>. [4]

- ONTH (2019), *L'hydrothérapie en chiffre*, <http://www.hydrotherapie.tn/portail-de-hydrotherapie/base-documentaire/lhydrotherapie-en-chiffre/> (accessed on 26 January 2023). [10]
- ONTT (2020), *Le Tourisme tunisien en chiffres*, <https://www.ontt.tn/sites/default/files/inline-files/Extrait%20tourisme%20en%20chiffres%202020.pdf>. [2]
- UNWTO (2015), *World Tourism Organisation, Hotel Classification Systems: Recurrence of Criteria in 4- and 5-star hotels*, <https://www.e-unwto.org/doi/pdf/10.18111/9789284416646>. [8]

Notes

¹ Stakeholder interviews found, for instance, that at the time of writing, 78 B&Bs were operating with licences but that more than 800 were operating informally.

² K. Jelassi, H. Sayadi, I. Hamrouni and I. Bliwa, “Grand Enquête – Tourisme de masse, Airbnb, maisons d’hôtes et autres : ces transactions qui échappent à la Tunisie”, *LaPresse.tn*, 27.12.2021, <https://lapresse.tn/119077/grande-enquete-tourisme-de-masse-airbnb-maisons-dhotes-et-autres-ces-transactions-touristiques-qui-echappent-a-la-tunisie/>.

³ Ibid.

⁴ Ibid.

⁵ L'Économiste Maghrébin, “BCT : La Tunisie aura son nouveau code de change avant fin juillet 2022”, 20 Mai 2022, <https://www.leconomistemaghrebin.com/2022/05/20/bct-la-tunisie-aura-son-nouveau-code-de-change-avant-fin-juillet-2022/> ; Kapitalis, “La Tunisie promulguera un nouveau code des changes en juillet 2022”, 21 May 2022, [https://kapitalis.com/tunisie/2022/05/21/la-tunisie-promulguera-un-nouveau-code-des-changes-en-juillet-2022/#:~:text=Le%20gouverneur%20de%20la%20Banque,de%20la%20percentageC3%A9glementation%20des%20changes.](https://kapitalis.com/tunisie/2022/05/21/la-tunisie-promulguera-un-nouveau-code-des-changes-en-juillet-2022/#:~:text=Le%20gouverneur%20de%20la%20Banque,de%20la%20percentageC3%A9glementation%20des%20changes.;); Tustex, “Marouane El Abassi sur le nouveau code des changes: les conditions actuelles ne sont pas propices à la convertibilité totale”, 17 June 2022, <https://www.tustex.com/economie-actualites-economiques/marouane-el-abassi-sur-le-nouveau-code-des-changes-les-conditions-actuelles-ne-sont-pas-propices-a->.

⁶ The AFT’s mission is to: 1) acquire land in tourism zones; 2) proceed to the clearance of the land included in the perimeters of intervention; 3) carry out development plans and land reorganisation in the area with the aim of creating serviced lots; 4) build the necessary infrastructure; 5) put the lots up for sale for the development of tourism projects; and 6) ensure land reorganisation and the transfer of property titles to investors.

⁷ The method of calculating the cost price is part of the policy of encouraging the state to invest in tourism and takes into consideration the importance of the funds committed by the promoter, the jobs generated by the project, and its macroeconomic effects. It is not analogous to ordinary market prices.

⁸ Completed tourism zones include Bizerte, Cap Gammarth, Chaffar, Chott Ennassim, Douz, Hammamet Yasmine, Jerba, Jerba Houmet Essouk, Kebelli, Kelibia La Blanche, Kerkenah Sidi Fradj, Mahdia,

Monastir, Nabeul-Hammamet, Nefta, Skanes Monastir, Sousse, Tabarka, Tozeur, Tunis North, the Coasts of Carthage, South Tunis and Zarzis.

⁹ For a discussion on tourism investment, please also see OECD (2018^[11]).

¹⁰ The main local tourism zones are:

- Tunis, la Marsa, Hammamet, Nabeul, Sousse Hammam-Sousse, Kairouan and Djerba Houmt.
- Souk, Djerba-Midoun, Zarzis, Monastir, Mahdia, Tabarka, Tozeur, Nafta, Kébili and Douz.
- Djerba-Ajim, Ain Drahem, Sidi Boussaïd and Kélibia.
- Kerkennah, Carthage, Sahline and Sidi Ameer.
- Akouda, Bouficha, Bizerte, El Jem and la Vielle Matmata.
- La Goulette and Le Kram, Tataouine and Elktar.
- El Kef, Sfax, Tamaghza, Sbeitla and Makthar.
- Chenini Nahal and El Hamma, Bardo and Bengardene.
- Zarzis Nord, Tataouine Sud and Raguada.

¹¹ Ibid.

¹² [Accord préalable pour la réalisation d'un projet touristique \(sicad.gov.tn\);
http://www.sicad.gov.tn/Fr/Accord-prealable-pour-la-realisation-dun-projet-touristique_57_3_D1494](http://www.sicad.gov.tn/Fr/Accord-prealable-pour-la-realisation-dun-projet-touristique_(sicad.gov.tn);http://www.sicad.gov.tn/Fr/Accord-prealable-pour-la-realisation-dun-projet-touristique_57_3_D1494).

¹³ See http://www.sicad.gov.tn/Fr/Prestations_57_3_D891.

¹⁴ L. Foroudi, "Holding back the tide – sea's advance threatens Tunisia's beaches", Reuters, 19 March 2020, <https://www.reuters.com/article/us-tunisia-tourism-climate-idUSKBN2160PA>.

¹⁵ Art. 7 Legge 17 maggio 1983, No. 217, "Legge quadro per il turismo e interventi per il potenziamento e la qualificazione dell'offerta turistica", https://www.gazzettaufficiale.it/atto/serie_generale/caricaDettaglioAtto/originario;jsessionid=n+UZ+uRFVh3ngHAINOUGsA.ntc-as2-guri2a?atto.dataPubblicazioneGazzetta=1983-05-25&atto.codiceRedazionale=083U0217&elenco30giorni=false.

¹⁶ See, for instance, the mandatory systems on p.14 of the UNWTO's *Hotel Classification Systems: Recurrence of Criteria in 4- and 5-star Hotels* (2015), <https://www.e-unwto.org/doi/pdf/10.18111/9789284416646>.

¹⁷ Including equipping rooms with suitcase holders, soap dishes, security measures, wardrobes with personal lockers, bedside lamps, bathmats, etc.

¹⁸ See, for instance, the UNWTO's *Hotel Classification Systems: Recurrence of Criteria in 4- and 5-star Hotels* (2015), <https://www.e-unwto.org/doi/pdf/10.18111/9789284416646>.

¹⁹ Article 2, Order of the Minister of Tourism of 29 July 2013.

²⁰ Article 5, Order of the Minister of Tourism of 1 October 2013, establishing minimum standards for the classification of tourist establishments providing accommodation services within the category of rural lodges.

²¹ Articles 3 and 7, Decree No. 2018-191, on conditions and procedures for granting authorisation to develop and create projects for rural lodges or tourist areas linked to agricultural activity.

²² Article 6, Decree No. 2018-191, on conditions and procedures for granting authorisation to develop and create projects for rural lodges or tourist areas linked to agricultural activity.

²³ Annex to the Order of the Ministers of National Economy and Tourism and Handicrafts of 2 November 1994, setting out minimum sizes, layouts and functional standards for classified hotels. All contrary previous provisions were abrogated by Decree 2007-457 (see Article 20).

²⁴ Article 4, Order of the Minister of Tourism of 29 July 2013.

²⁵ Article 1, Order of the Ministry of Commerce of 25 September 1978.

²⁶ See, for instance, the UNWTO's *Hotel Classification Systems: Recurrence of Criteria in 4- and 5-star Hotels* (2015), <https://www.e-unwto.org/doi/pdf/10.18111/9789284416646>, p.13.

²⁷ See, for example, for France: https://www.lhotellerie-restauration.fr/emploi/fiche_metier/directeur-hotel.htm.

²⁸ Decree No. 2006-3174, setting out conditions and standards for the construction and operation of thalassotherapy centres.

²⁹ *Cahier des charges* setting out standards and conditions for the approval, organisation and operation of thermal establishments, approved by the Decree of the Minister of Tourism of 24 August 1999.

³⁰ NOTH, 2017.

³¹ Decree No. 2018-417, relating to the publication of an exclusive list of economic activities subject to authorisation and a list of administrative authorisations for the realisation of projects, related provisions and their simplification.

³² The first stage consists of a preliminary agreement, for which the investor should present the following documents: 1) an application on behalf of the general director of the ONTH; 2) a copy of the approval from the Ministry of Tourism; 3) a copy of the National Environmental Protection Agency approval of the project; 4) a copy of the environmental impact study of the project; 5) maps of the thalassotherapy centre; 6) a location plan of seawater inflow and outflow routes; and 7) a copy of the status of the company related to the thalassotherapy centre.

³³ The information to be submitted in the second stage consists of: 1) a request on behalf of the director general of the ONTH; 2) a copy of the preliminary agreement; 3) the appointment of the director of the centre; 4) the hiring contract of the doctor approved by the *Ordre des Médecins*, or Medical Council; 5) an exhaustive and up-to-date list of personnel and the contracts of the staff employed, accompanied by scientific diplomas; 6) a copy of the agreement with the laboratory that will perform the inspection and analysis; 7) the sampling points with a diagram of geographical co-ordinates and certificates of analysis carried out at the seawater collection points by a laboratory recognised and authorised by the Ministry of Health and dated within six months; 8) a copy of the insurance certificate; 9) a copy of a valid shop safety certificate; 10) a copy of a rapid intervention plan in case of pollution; and 11) a copy of the agreement with the competent authority for the cleaning and monitoring of the paths.

³⁴ See, Decree No. 2006-3174 and the Order of the Minister of Public Health approving the *cahier des charges* related to the extension and redevelopment of thalassotherapy centres.

³⁵ Article 37 of Decree No. 2006-3174 sets out conditions and standards for the establishment and operation of thalassotherapy centres. Further, in the event that the capacity of a centre is extended, the centre must meet the following minimum staffing requirements:³⁵ 1) a physiotherapist for a maximum of 20 massages per day with a minimum of three physiotherapists per centre; 2) a nurse; 3) one specialist for eight cabins with at least three specialists per centre; 4) one specialist for a maximum of 50 showers per day, with a minimum of three specialists per centre; 5) a lifeguard; and 6) a hygienist.

³⁶ The legal representative of the operating company must: 1) complete an architectural study of the project; 2) complete a feasibility study and economic profitability study of the project; 3) own the premises or have a rental contract; 4) have medical equipment; and 5) provide documents related to its legal and commercial status. The legal representative must submit to the office three signed copies of the *cahier des charges* relating to the general operating rules at least 10 days before the opening of the centre.

³⁷ For example, ISO 17680:2015 does not set dimensions for baths and showers but simply explains that the minimum surfaces of the premises must ensure the quality of the thalassotherapy treatments offered and the comfort of clients. The ISO also does not fix the number of staff nor require employed staff to work full-time.

4 Food and beverage service

This chapter analyses food and beverage service, including tourist and traditional restaurants, street food and entertainment establishments. Local authorities play a central role in regulating and enforcing sanitary requirements. However, many businesses, such as tourist restaurants and entertainment establishments, are subject to additional restrictions imposed by a mandatory government classification process. Classification requirements include specific equipment and operational conditions. Selling alcohol at such establishments requires a specific licence whose issuance process lacks transparency and predictability, increasing costs for market participants and deterring entry. Further challenges are posed by the absence of an adequate framework for street food, encouraging informality and affecting consumer choice and overall welfare.

4.1. Introduction

Food and beverage service is an essential part of culinary tourism, defined as the exploration of food for the purposes of tourism (Long, 2004^[1]).¹ The World Food Travel Association estimates that food and beverage expenses account for 15% to 35% of all tourism spending and 25% of added economic benefits for destinations (WFTA, 2020^[2]). According to the Tunisian Tourism Satellite Account, food and beverage expenses accounted for 24% of all tourism spending in 2019. Four main types of food service exist in Tunisia: tourist restaurants; standard restaurants; traditional fast-food restaurants; and street food. The *Office National Du Tourisme Tunisien* (ONTT), or Tunisian National Tourism Office, regulates tourist restaurants at the national level since they are considered tourism investments, while traditional restaurants, fast-food restaurants and street food are regulated at the municipal level. All food providers are subject to sanitary regulations at the municipal level. This chapter analyses the main restrictions affecting restaurants and proposes policy changes and regulatory reforms to mitigate harm and enhance competitiveness and competition in the sector. Other entertainment establishments, such as bars and nightclubs, are analysed in detail in a spreadsheet published as a standalone document on our dedicated webpage, <https://oe.cd/ca-tunisia>.

Box 4.1. Countries' approaches to fostering culinary tourism

In **Hungary**, the National Tourism Development Strategy 2030 adopted a destination-based approach in a project entitled “The Taste Map of Hungary”. Through dynamic food maps, tourists are able to search and filter local food and produce in a given region. The map helps to find distinctive and traditional tastes in various regions, driving tourism and supporting local supply chains.

Tourism and culinary experiences have been an integral part of **Sweden**'s food strategy since 2017. The government has also identified culinary tourism as priority for action within the EU Rural Development Programme, which has dedicated SEK 40 million to develop tourism in rural areas and SEK 60 million to develop culinary tourism in rural areas. The partly government-owned marketing company Visit Sweden AB works with Swedish regions to develop and market destinations' culinary offerings.

Spain's National Food and Wine Tourism Plan, part of a plan modernise and increase the competitiveness of the tourism sector, is funded to the tune of EUR 68.6 million, which includes tourism sustainability plans for food and wine destinations (EUR 51.4 million), the Spain Tourism Experiences Programme (EUR 10 million), and the International Promotion Programme (EUR 2.2 million). The plan aims to promote food and wine destinations by financing destination sustainability plans, generating sustainable and diverse gastronomic tourism experiences, and improving worker training and skills.

Sources: OECD (2020^[3]), OECD Tourism Trends and Policies 2020, <https://doi.org/10.1787/6b47b985-en>; OECD (2022^[4]), OECD Tourism Trends and Policies 2022, <https://doi.org/10.1787/a8dd3019-en>.

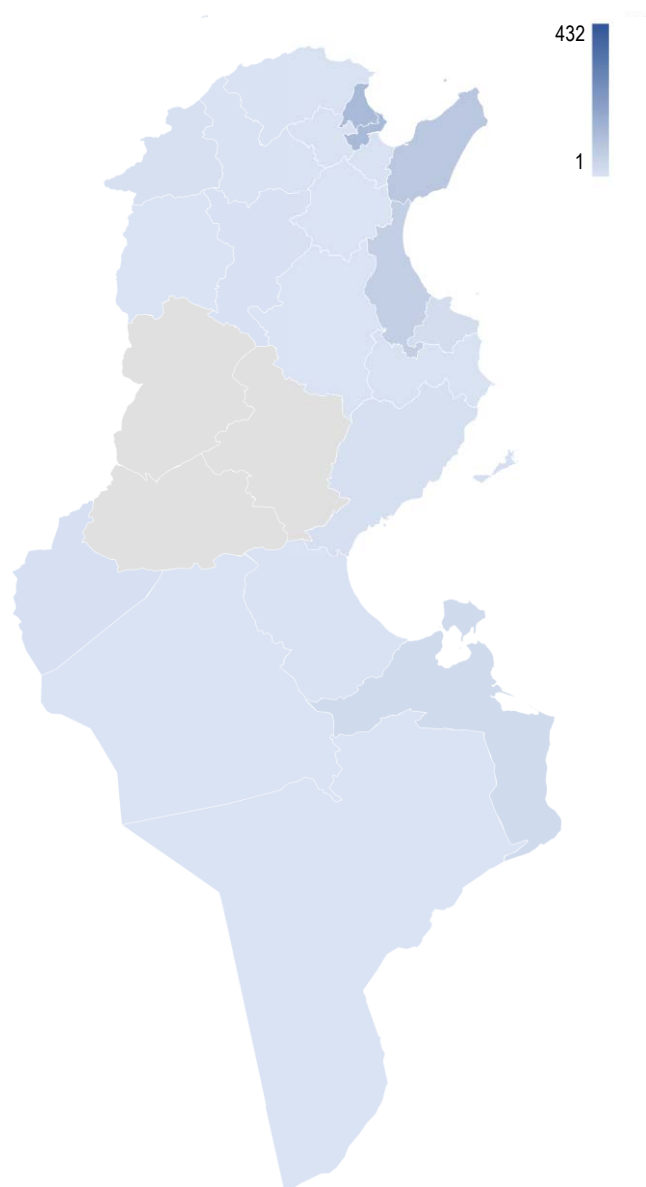
4.2. Tourist restaurants

4.2.1. Background

Tourist restaurants are authorised to sell alcohol and have longer opening hours (12pm-5am) than other types of restaurants (12pm-12am).² Legislation provides for four categories of tourist restaurants, which are classified according to their physical characteristics, their facilities and the quality of their services:

1. One fourchette, or fork
2. Two fourchettes
3. Three fourchettes
4. Three fourchettes luxury³

Figure 4.1. Tourist restaurants by region



Source: Adapted from ONTT (2020^[5]), *Tourisme tunisien en chiffres*, <https://www.ontt.tn/sites/default/files/inline-files/Extrait%20tourisme%20en%20chiffres%202020.pdf>.

In 2019, the ONTT recorded a total of 374 tourist restaurants in Tunisia. Most tourist restaurants are concentrated in the country's main tourism zones (see Figure 4.1). For example, one-third of tourist restaurants were located in Tunis-Nord (125) in 2019. Other areas with relatively high number of tourist restaurants included Nabeul-Hammamet (77), Sousse (57) and Djerba (28). By classification, 147 were

one-*fourchette* restaurants, 185 were two-*fourchettes*, 38 were three-*fourchettes* and four were three-*fourchettes* luxury.⁴

According to the ONTT's 2020 annual report, 25 *accords préalables*, or prior agreements, and 12 *accords définitifs*, or final agreements, were granted for tourist restaurants (ONTT, 2020^[6]). A prior agreement is an initial operating authorisation, and a final agreement is a definitive operational authorisation. The ONTT is also involved in the classification of tourist restaurants. In addition, ONTT inspectors at both the central and regional levels carry out inspections of tourist restaurants to ensure compliance with legislation. In 2020, the ONTT carried out 626 restaurant inspections (ONTT, 2020^[6]).

4.2.2. Description of the obstacles and policy makers' objectives

Classification process: According to Decree No. 89-432, “restaurants which receive tourist customers and provide them with food and drink services, whether or not accompanied by leisure programmes, are considered to be tourist establishments”.⁵ In order for a restaurant to obtain classification as a tourist restaurant, its operator must file an application form to the director general of the ONTT before commencing operations. The OECD understands that an *accord de principe*, or provisional authorisation, is granted to allow such restaurants to operate. At the end of the first year of operation, restaurants may receive a final approval (see Section 3.2.2). The same process applies to entertainment establishments such as bars and nightclubs.

According to authorities, the classification system exists in order to encourage tourist restaurants to provide high-quality services, and to achieve ratings of two or more *fourchettes*. If they are able to achieve higher classifications, they are able to charge higher prices.

Classification requirements: Restaurants may apply for classification once they have received provisional authorisation. The Order of the Ministry of Tourism of 31 March 1989 provides that tourist restaurants must comply with a list of common requirements including health and safety conditions. In addition, they must offer services in line with their categorisation and ensure: 1) the cleanliness of their premises, furniture, various installations and all operating equipment; 2) the servicing and maintenance of all equipment; 3) the proper presentation of every dish; 4) compliance with recipes and quantitative standards (portioning) according to rules and practices accepted in the industry; 5) good conduct by staff; and 6) friendly, courteous treatment of customers. These conditions are not explained further.

Tourist restaurants must provide menus in Arabic, French and either German or English. The ministry order sets out very detailed and cumulative requirements for each classification. In order to obtain a one-*fourchette* rating, for example, a tourist restaurant must meet certain minimum size, layout, functional and management standards. For example, the kitchen must contain certain equipment (cookware and utensils) and comply with certain safety conditions (such as being fitted with non-slip tiles and sufficient ventilation and lighting). The order sets out minimum management standards for kitchens, such as food safety, and minimum staffing requirements.

According to the authorities, these conditions uphold a certain level of quality, hygiene and safety. They aim to ensure consumer protection and to promote the image of Tunisian restaurants. The prescriptive requirements for each category also help inform investors wishing to open tourist restaurants about how to set them up. According to the authorities, the criteria are more indicative than prescriptive, so, for example, meeting 90% of the criteria is deemed adequate.

Classification commission: Classification decisions are made by the director general of the ONTT following consideration of a report by ONTT staff and after consulting a classification committee. The classification committee for tourist restaurants is chaired by the director general of the ONTT or their representative and includes a representative of the ONTT, a representative of the *Fédération Tunisienne de l'Hotellerie* (FTH), or Tunisian Hotel Federation, and a representative of the *Fédération Tunisienne des Agences de Voyages et de Tourisme* (FTAV), or Tunisian Federation of Travel Agencies. The *Fédération*

Tunisienne Des Restaurants Touristiques (FTRT), or Tunisian Federation of Tourist Restaurants, is informally part of the commission but does not have voting rights. The commission is also in charge of classifying entertainment and musical tourism establishments.⁶

If the operator of a tourist restaurant wishes to apply for a different categorisation, they must make a new request through the same process.

In 2020, the classification commission met three times and studied 14 applications, resulting in confirmations of classification for three restaurants, reaffirmations of classification for six restaurants, provisional classification for one restaurant, prolongation of the duration of provisional classification for three restaurants and a rejection of a request for classification renewal for one restaurant (ONTT, 2020, p. 13^[6]).

According to the authorities, the classification committee includes FTH, FTAV and FTRT representation because the associations have a good understanding of restaurants in Tunisia and are therefore well placed to decide on classifications. The decree does not include the FTRT, which is involved in order to defend the interests of its members, on the committee, but the authorities say the ministry decided to add it informally, and that giving it the right to vote would require an official amendment to the decree.

Withdrawal of classification: The director general of the ONTT may withdraw classification from a tourist restaurant or reclassify it in a lower category if it considers that the state of the premises, the equipment or the quality of the services it provides no longer corresponds to the category in which it was classified. In 2020, the ONTT cancelled the classification of three tourist restaurants (ONTT, 2020, p. 14^[6]). In practice, this results in the sudden closure of the restaurant.

According to the authorities, this provision allows the ONTT to ensure that restaurants maintain the required standards (particularly in respect of hygiene, security and quality) and do not reduce their standards once they have obtained classification. The ONTT explains that classification may be withdrawn from a restaurant following a report by hotel inspectors from the Ministry of Tourism. In practice, the restaurant is first given a warning, and if it does not ensure alignment with its category, the inspectors send a report to the ONTT and the restaurant loses its classification. There are no public rules for this process, only internal rules. According to the ONTT, in 2016, 400 inspections were carried out and 90 restaurants ceased operations after being stripped of their classifications.

Licence to sell alcohol: According to Law No. 1959-147, restaurants must obtain an authorisation to serve alcohol. The same rule applies to hotels and entertainment establishments. Legislation provides that these licences are issued by the Ministry of Interior following the opinion of the municipal authority and the territorially competent governor. An official request for a licence must be made at a local police station.⁷ It appears, however, from the ONTT's 2020 annual report, that there is a special committee charged with overseeing files relating to the sale of alcoholic drinks in tourist establishments. This committee has five members from the Ministry of Interior, the Ministry of Tourism, the Ministry of Public Health, the Ministry of Social Affairs and the ONTT. According to the 2020 ONTT report, the committee made 65 site visits, reaching most regions, which resulted in the grating of alcohol licences for 32 establishments and the regularising of alcohol licences for 33 establishments (ONTT, 2020^[6]). Stakeholders have complained that the process of obtain licences to sell alcohol takes too long and that the requirements are unclear.

According to Law No. 2004-75, which abolished authorisations and revised administrative requirements relating to certain commercial, tourism and leisure activities, hotels with four or more stars and tourist restaurants with more than three *fourchettes* are not required to obtain an additional licence for the sale of alcohol, as required by Law No. 1959-147. In practice, the OECD understands from some stakeholders that all restaurants are required to obtain a separate alcohol licence once they have obtained the right to operate through preliminary classification by the ONTT. Other stakeholders claim this is not required for restaurants with three-*fourchette* luxury rankings, in line with the legislation.

The authorities argue that the licence requirement exists to control the sale of alcohol in hotels and restaurants for public health reasons and ensure that such establishments do not pose public order concerns. The OECD understands that hotels with four or more stars and tourist restaurants with three *fourchettes* need not hold licences to sell alcohol, given their nature and the importance of the investments involved.

4.2.3. Harm to competition

Classification process: Mandatory Government classification of tourist restaurants, whether in general or in relation to alcohol licences, does not appear to be a standard international practice and may limit competition. The classification system segments the market artificially and may also limit competition between different categories. The regulation tries to signal quality levels and protect consumers, but those signals may not correspond to reality as ratings are time-bound and may not reflect a restaurant's current quality. This artificial market segmentation can also affect prices, since higher-rated restaurants will charge higher prices even if their offering is the same as lower-rated establishments. Without the classification system, there might be limited substitution between restaurants of slightly lower and higher quality (for example, between one-*fourchette* and three-*fourchettes* establishments). With the system, there may however be some competition at the margins between adjacent classifications.

Box 4.2. Government classification systems for restaurants

The OECD has identified few examples of government classification systems for restaurants. One operates in **Jordan**, where in order to be licensed and classified as a tourist restaurant,¹ the establishment's operator must submit a number of documents and allow the restaurant to be inspected by a classification committee. The committee assesses the restaurant's compliance with government specifications and determines its grade. It presents a report to the Tourism Committee that makes a decision on the restaurant's classification and licensing. If the Tourism Committee approves the classification committee's decision, the restaurant must submit several documents before the Ministry of Tourism and Antiquities issues its tourist licence.²

Other majority-Arab jurisdictions, such as **Abu Dhabi**, do not operate a government classification system for tourist restaurants. Restaurants that wish to provide entertainment or artistic services must, however, apply for a specific licence.³

Most jurisdictions worldwide do not operate government-backed restaurant classification schemes. In **France**, for instance, the state-driven star classification of restaurants was abolished in 1999. There is now a voluntary three-tier scheme named the *pyramide de qualité*, or the quality pyramid, recognised by the government.⁴ There is also a voluntary classification process for tourist restaurants that sets out minimum standards.⁵ There are, however, no categories within this classification. Other famous restaurant classifications, such as the Michelin Guide and Gault et Millau, are not recognised by the French Government but are used by consumers to denote a certain standard of quality.⁶

Notes:

1. In Jordan, there are seven types of tourist restaurants including restaurants, cafeterias, rest houses, parks, amusement and recreation centres, and nightclubs.

2. See <https://portal.jordan.gov.jo/wps/wcm/connect/gov/egov/government+ministries+ +entities/ministry+of+tourism+and+antiquities/services/licensing+and+classification+of+a+tourist+restaurant>.

3. See <https://tcaabudhabi.ae/en/what.we.do/tourism/licensing/classifications.aspx> and <https://emiratesdiary.com/uae-tips/tourism-in-abu-dhabi-business-license-requirements>.

4. See <https://www.europe-consommateurs.eu/en/travelling-motor-vehicles/gastronomy-in-france.html>.

5. See <https://www.legifrance.gouv.fr/jorf/id/JORFTEXT000000385255>.

6. See <https://www.europe-consommateurs.eu/en/travelling-motor-vehicles/gastronomy-in-france.html>.

Competition may be further limited by excessive requirements and the classification process as discussed below.

Classification requirements: Although some standards seem reasonable on hygiene and security grounds, others, for example on quality, may be set above what is required to address market failures resulting from information asymmetries between suppliers and customers. It is highly unlikely that tourists, and consumers in general, are familiar with the requirements imposed by the *fourchette* system. They are more likely to refer to online restaurant rankings by sources such as TripAdvisor and the *Guide du Routard*. A quick look at some of these platforms shows that the *fourchette* classification system has no impact on how customers perceive service, since some standard restaurants are better rated than two- and three-*fourchettes* restaurants. In addition, standards regulating recipes, for example, reduce incentives to innovate and to cater to different and changing tastes and preferences among consumers.

The overly detailed requirements may raise the cost of market entry, discouraging potential entrants and reducing the number of participants in the market over time. They may also provide undue advantages to some suppliers, such as incumbents or large operators, over others, such as less well-resourced operators, and reduce innovation. Consumer welfare can be reduced by standards that are above the level that some well-informed customers would choose, as consumers are prevented from accessing cheaper, more innovative and differentiated services that they might prefer.

In addition to the prescriptive requirements, ambiguous standards, such as compliance with health and safety conditions in the absence of objective criteria (for example, references to legal documentation outlining such conditions) may deter entry due to legal uncertainty. In general, ambiguous conditions are also more likely to be applied differently between applicants on subjective grounds and can therefore distort competition.

Classification commission: The classification process may harm competition as incumbents, represented by the FTH, FTAV and FTTR, are involved in the process of classifying new restaurants and in reclassifying existing restaurants. The involvement of these three federations may lead to foreclosures of competition and conflicts of interest (many hotels, for instance, have tourist restaurants) and discriminate against new entrants and market participants not associated with the federations. This process may also interfere with feedback from customers and provide a potential means of co-ordination between established restaurants. Another negative consequence could be the imposition of unnecessary administrative barriers due to a tendency to standardise interests and actions in cases where the members of federations may influence the attitudes of public authorities, and legislation and regulation, in their favour.

Withdrawal of classification: Ambiguous provisions with no objective criteria, or any criteria, for that matter, are more likely to be applied differently between applicants on subjective grounds and can therefore be a barrier to competition. Current classification withdrawal practices breed legal uncertainty, grant considerable discretionary power to civil servants and inspectors and are therefore harmful to competition.

Alcohol licences: These may increase costs for market participants, as they are first required to satisfy investment requirements regulated by the ONTT. They are then required to apply for classification as tourist restaurants. After this, they may apply for licences to sell alcohol. A lack of transparency surrounds the considerations involved in deciding on alcohol licence requests. It is therefore risky for businesses that there is no guarantee they will be granted licences, as alcohol sales may be essential to their business model (notably for restaurants, as it is a high-margin activity). The current licensing process could thus deter market entry by restaurants and hotels, discouraging competition. It may also increase costs for existing market participants, given the number of mandatory procedures.

4.2.4. Recommendations

In light of the harms to competition described above, the OECD recommends:

- Abolishing the mandatory *fourchette* classification system for tourist restaurants.
- In relation to classification conditions for tourist restaurants and entertainment establishments:
 - Abolishing requirements that go beyond considerations of hygiene, safety and consumer protection. Revising such requirements to ensure they are not more burdensome than is required to achieve underlying policy objectives.
 - Considering the transfer of specific size, layout and equipment requirements into an investor guide if the purpose is to help investors comply with standards.
- Ending the involvement of incumbents in the tourist restaurant classification process. Alternatively, the OECD recommends the implementation of an ethical code of conduct establishing a complete, clear and accessible set of conflict rules to be followed by the federations if they are to be involved in decisions made by the committee (see Section 3.2).
- Revising the regulatory inspection and enforcement framework in place. OECD's Regulatory Enforcement and Inspections Toolkit provides useful guidance in this respect (OECD, 2018^[71]).
- Publishing clear publicly available rules for the withdrawal of classification for tourist restaurants. There should be clear escalating steps, such as fines and warnings, with withdrawal only as the final step. Appeal procedures should also be introduced.
- Revising and streamlining the alcohol licensing process:
 - Abolishing the separate alcohol licence requirement and incorporating it into the investment procedure for hotels, restaurants and other food and beverage establishments.
 - Setting out clear rules for licences to sell alcohol and digitalising procedures so that applicants can apply online and are not required to go to local police stations.

4.3. Other food service operations

4.3.1. Background

Unlike tourist restaurants, standard restaurants, traditional fast-food restaurants and street food are regulated at the municipal level. Traditional fast-food restaurants include those providing different types of traditional dishes such as *kaftaji* (a dish of fried vegetables), *brick* (a stuffed filo pastry), *lablabi* (chickpea soup) and *ftayer* (a deep-fried doughnut). Street food includes a wide range of ready-to-eat foods and beverages sold and sometimes prepared in public places, and it is very popular among tourists. The following requirements are based on those applied by the Commune of Tunis,⁸ which is subject to the Order of the Ministries of Interior and of Local Affairs of 17 August 2004, approving the *cahier des charges*, or set of specifications, relating to general conditions for business premises compliance. In the Commune of Tunis, traditional restaurants and traditional fast-food restaurants are subject to a *cahier des charges* detailing sanitary requirements.

All food service providers, including operators wishing to provide street food, must obtain a sanitary approval from the municipality in which they wish to operate and comply with the general sanitary regulation for food service providers. The Commune of Tunis also has specific sanitary regulations for premises handling specific types of food (for example, poultry, meat and fish) and for specific types of premises (for examples, cafes, bakeries and pastry shops) that are not reviewed in this assessment.⁹

Street food is not regulated by a *cahier des charges*. There are no specific authorisations or licence requirements for street food other than the sanitary agreement, but according to stakeholders, vendors are required to obtain an authorisation for the placement of their stands, caravans or trucks.

4.3.2. Description of the obstacles and policy makers' objectives

Space allocation: Article 133 of the *Règlement Sanitaire de la Ville de Tunis*, or General Municipal Sanitary Regulation for the City of Tunis,¹⁰ requires that restaurant premises be organised in a certain way and specifies minimum space and layout requirements for different services and functions. For example, 50% of the total area should be reserved for customers, 25% for food preparation and cooking, 10% for food storage, 5% for employee clothing, and 10% for customer sanitary services such as toilets.

These minimum requirements are likely in place to ensure quality among food service providers and to promote the image of the industry.

Minimum requirements: Articles 69-83 of the sanitary regulation detail general requirements for all types of food processing operations, including, for example, a minimum ceiling height of 2.8m and connection to public water and sewerage systems.

The regulation also sets out various minimum equipment requirements for restaurants, for example:

- Article 134 of the regulation details the equipment required for space reserved for sales. This includes, for instance, a counter for preparing sandwiches, a refrigerated window (maximum 4°C) for perishable products, tables or counters for customer consumption and bins.
- Article 135 details minimum equipment for kitchens and food preparation areas. Food service providers must have at least three washbasins with hot water to clean utensils, three washbasins to wash produce, a marble or stainless steel worktable and a hood, the height of which must exceed by at least 3m the roof of the highest buildings within a radius of 25m.
- Article 136 lists equipment required for storerooms. Food service providers must have tiered cupboards that separate vegetables from other foods and a cold room whose temperature must not exceed 4°C for perishable products.

The OECD understands that these minimum requirements uphold a certain level of quality, hygiene and safety. They aim to ensure consumer protection and public health and to promote the image of Tunisian food service providers. The detailed requirements may help also new entrants establishing their businesses. The minimum ceiling height requirements are likely in place to ensure compliance with building safety regulations.

Placement authorisation for street food vendors: According to stakeholders, street food vendors are required to obtain the same placement authorisation required for newspaper or flower sellers (for *kochk*, or kiosks) from the municipality as per Article 74 of Law No. 2018-29. This means they are required to locate their caravans or food trucks in a single designated space. The OECD understands that there is no regulation of other street food stalls, and that all stalls currently in operation selling dishes such as “*Ayari and Mraweb*” are running informally.

Authorities likely require vendors using caravans or trucks to obtain placement authorisation due to a lack of specific authorisations for such service providers. It is likely required to protect public order and hygiene by for example, preventing traffic disturbances and ensuring proper waste disposal.

4.3.3. Harm to competition

Space allocation: Limitations on the setup of food outlets may prevent innovation and the optimal use of resources. Some food service providers may sell various products, and when space available to store food is limited, the range of possible business models is also limited.

Minimum requirements: Although some standards seem reasonable on hygiene and safety grounds, others, for example concerning quality (such as how food service providers arrange their outlets) may limit choice, innovation and flexibility. This may raise the costs of entry for suppliers, discouraging potential entrants and reducing the number of participants in the market over time, with a potential impact on product

variety. These standards may also provide an undue advantage to some suppliers, such as incumbents or large operators, over others, such as less well-resourced operators.

Placement authorisation for street food vendors: As is the case for almost all authorisations in Tunisia, the process of obtaining a placement authorisation from the municipality is lengthy and cumbersome. Once authorisation is obtained, caravans and food trucks must operate in the specific area designated in the authorisation, treating the business in the same way as if it were a permanent outlet. This prevents operators moving to different locations unless they can obtain several placement authorisations, which may significantly increase costs. It may reduce service providers' ability to react to changes in demand by changing locations, which is part of the business model behind street food and food trucks.

In France, food trucks must obtain a *carte de commerce ambulante*, or street trading authorisation, which is renewed every four years. Operators must then obtain an authorisation for temporary occupation of a public area. There are three types of temporary occupation, depending on the location: a road permit; an installation permit; and a market permit. Depending on the type of authorisation sought, the applicant must contact different stakeholders (to park on a private road or area, they must contact the owner; to set up within a market, they must contact the town hall or organiser of the market; and to set up a food truck in a public space, with or without fixtures, they must contact the local town hall).¹¹ As in Tunisia, food trucks in France are subject to the same hygiene rules as restaurants and other food service providers.¹²

Box 4.3. Street food in developing countries: lessons from Asia

The term street food describes a wide range of ready-to-eat food and beverages sold and sometimes prepared in public places, unsurprisingly often streets.¹ Street food often reflects traditional local cultures and exist in practically endless variety. Vendors' stalls are usually located outdoors or under roofs and are easily accessible from the street. Street food businesses are typically owned and operated by individuals or families, but the benefits of their trade extend throughout the local economy. For instance, vendors typically buy fresh food locally, potentially linking their enterprises directly with small-scale farms and market gardens.

The contribution of street food vendors to the economies of developing countries has been vastly underestimated and even neglected, although statistics for some places exist. In the Indonesian city of Bogor, sales of street food are worth USD 67 million annually. Malaysia's estimated 100 000 street food stalls make annual sales worth USD 2.2 billion. However, the street food industry is merely tolerated in many countries. Because street food operations are spread over multiple locations and not systematically co-ordinated in any way, it is common for clusters of vendors to be considered impediments to urban planning and hazards to public health.

Regulation can make street food safer. Once policy makers have decided that street food is here to stay, there are innumerable small ways to make life easier for both vendors and inspectors while ensuring that food is safer for consumers. Fair licensing and inspections, combined with education drives, are the best long-term measures to safeguard the public. Regulations for vendors should therefore be realistic, attainable and properly enforced; prohibiting the street food trade or imposing impossible requirements drives vendors to conceal unsanitary practices, eroding standards. Consumers' needs should also be taken into account when establishing policies and regulations. Policies that help the street food trade benefit low-income consumers. For example, more licences might be issued for vendors selling low-cost, nutritionally sound foods or for those with good records of hygiene. Street food deserves the attention of policy makers, and vendors should be given opportunities to improve their situation and expand their enterprises.

Note: 1. This definition of street food was agreed upon by the FAO Regional Workshop on Street Foods in Asia, held in Jogjakarta, Indonesia, in 1986.

Source: FAO (1991^[9]), Food, Nutrition and Agriculture, <https://www.fao.org/3/u3550t/u3550t08.htm#TopOfPage>

For other street food stalls, a lack of regulation means that operators provide services informally. This poses a major obstacle to promoting the sector, discouraging entrepreneurs from investing and improving the quality of their services and in so doing contributing to the promotion of local, traditional food. Most tourist apps and platforms recognise street food as a simple pleasure in many popular cities throughout the world. It is an easy way to eat on the go, and can sometimes showcase some of the best local cuisine a country has to offer at the lowest prices. In several countries, street food markets and popular night markets have become tourist destinations.¹³ In 2020, for instance, Singapore’s street food “hawker culture” was included on UNESCO’s Representative List of the Intangible Cultural Heritage of Humanity.¹⁴

4.3.4. Recommendations

In view of the restrictions above and their harm to competition, the OECD recommends:

- Removing requirements beyond considerations of hygiene, safety and consumer protection from sanitary regulation. Requirements should be reviewed to ensure that they are not more burdensome than required to achieve underlying policy objectives.

Box 4.4. Singapore’s food safety licensing framework

The Government of Singapore in 2023 adopted a new food safety licensing framework to replace its annual grading system. Under the new framework, the Safety Assurance for Food Establishments (SAFE), food establishments are awarded bronze, silver or gold ratings, corresponding respectively to three-, five- or 10-year licence durations. Assessments are based on the operation’s track record, such as having no major food safety lapses over a period of time and being able to put in place systems to strengthen food safety assurance, such as the appointment of advanced food hygiene officers and implementing food safety management systems. To support and complement the SAFE framework, the Singapore Food Agency has established a comprehensive training framework targeting food handlers, food hygiene officers and advanced food hygiene officers.

Source: Singapore Food Agency (2023^[9]), Safety Assurance for Food Establishment (SAFE) Framework, [https://www.sfa.gov.sg/food-retail/SAFE-framework/safety-assurance-for-food-establishments-\(safe\)-framework](https://www.sfa.gov.sg/food-retail/SAFE-framework/safety-assurance-for-food-establishments-(safe)-framework).

For street food, the OECD recommends:

- Considering other regulatory options for hawkers and vendors who wish to operate food trucks and not fixed shops, such as adapting specific areas or streets in cities, creating food courts, or granting temporary occupation authorisations for public areas.
- Adopting clear and transparent licensing and enforcement frameworks.

References

- FAO (1991), *Food, Nutrition and Agriculture*, United Nations Food and Agriculture Organization (FAO), <https://www.fao.org/3/u3550t/u3550t08.htm#TopOfPage>. [8]
- Long, L. (2004), *Culinary Tourism*, p. 20, [1]
<https://www.kentuckypress.com/9780813122922/culinary-tourism/>.
- OECD (2022), *OECD Tourism Trends and Policies 2022*, OECD Publishing, Paris, [4]
<https://doi.org/10.1787/a8dd3019-en>.

- OECD (2020), *OECD Tourism Trends and Policies*, OECD Publishing, <https://doi.org/10.1787/6b47b985-en>. [3]
- OECD (2018), *OECD Regulatory Enforcement and Inspections Toolkit*, OECD Publishing, <https://doi.org/10.1787/9789264303959-en>. [7]
- ONTT (2020), *Le Tourisme tunisien en chiffres*, <https://www.ontt.tn/sites/default/files/inline-files/Extrait%20tourisme%20en%20chiffres%202020.pdf>. [5]
- ONTT (2020), *Rapport Annuel 2020*, <https://www.ontt.tn/sites/default/files/inline-files/Rapport%20ONTT%202020.pdf>. [6]
- Singapore Food Agency (2023), *Safety Assurance for Food Establishment (SAFE) Framework*, [https://www.sfa.gov.sg/food-retail/SAFE-framework/safety-assurance-for-food-establishments-\(safe\)-framework](https://www.sfa.gov.sg/food-retail/SAFE-framework/safety-assurance-for-food-establishments-(safe)-framework) (accessed on 19 February 2023). [9]
- WFTA (2020), *Food Travel Monitor*, <https://www.worldfoodtravel.org/what-is-food-tourism>. [2]

Notes

¹ Food tourism includes activities such as cooking classes, food and drink tours, food & beverage festivals, specialty dining experiences, specialty retail spaces, and visits to farms, markets and producers.

² Article 1, Order of the Minister of Interior and Local Development of 15 August 2006, setting the opening hours of premises intended for the exercise of certain commercial, tourist and leisure activities. Modified by the Order of 8 November 2016 and the Order of 16 November 2018. If an establishment is located within a four- or five-star hotel that is not opening onto public space, or in closed holiday villages, it is not subject to any limits on opening hours or the service of alcoholic drinks.

³ Decree No. 89-432, relating to the classification of tourist restaurants (Article 2).

⁴ See ONTT, *le tourisme tunsien en chiffres 2019*, p.81.

⁵ Decree No. 89-432, relating to the classification of tourist restaurants (Article 1).

⁶ In Tunisia, there are four types of musical tourist establishments: cabarets; nightclubs; discos; and musical tourist entertainment establishments. Beach bars and lounges are currently classified as tourist restaurants.

⁷ Article 7 of Law 59-147, regulating drinking establishments and similar establishments, modified by Law 61-55, Decree-Law No. 74-23, Law No. 93-18, Law No. 2001-27 and Law No. 2004-75.

⁸ See <http://www.commune-tunis.gov.tn/publish/content/article.asp?id=17202>.

⁹ See <http://www.commune-tunis.gov.tn/publish/content/article.asp?id=17202>.

¹⁰ Règlement sanitaire de la ville de Tunis: http://www.commune-tunis.gov.tn/publish/images/citoyen/cahiers_charges/arrete_sanitaire.pdf

¹¹ See <https://www.legalstart.fr/fiches-pratiques/metiers-restauration/reglementation-food-truck/>

¹² See <https://www.legalstart.fr/fiches-pratiques/metiers-restauration/reglementation-food-truck/> and <https://www.legalstart.fr/fiches-pratiques/hotellerie-restauration/normes-hygiene-securite-sanitaire/>

¹³ See, for example, <https://gastronomerlifestyle.com/best-street-food-in-bangkok-2021/>

¹⁴ See <https://ich.unesco.org/en/lists> and <https://www.nationalgeographic.com/travel/article/why-unesco-is-honoring-singapore-street-food>

5 Selected passenger transport services

The passenger transport service sector is the second-largest contributor to tourism revenues in Tunisia. This chapter provides an overview of a selection of road passenger transport services and transport equipment rental services that are closely linked to tourism. Service exclusivity clauses for tourist transport and complex licensing requirements for other passenger transport such as taxis and other for-hire vehicles pose challenges to competition and business growth. Discrepancies between regulations create scope for grandfather clauses, favouring older firms and hampering the establishment of new ones. The absence of an adequate regulatory framework for disruptive innovation in road transport is causing market distortions affecting service quality and consumer welfare. Against this backdrop, the chapter proposes policy changes and regulatory reforms to enhance competitiveness and competition in the sector.

5.1. Introduction

Transport plays a vital role in moving tourists efficiently from their places of residence to their final destinations and then on to supporting attractions. The location, capacity, efficiency and connectivity of transport can play a significant role in how destinations develop physically by influencing visitor mobility and facilitating the internal movement of visitors between the various components of the tourist experience, such as accommodation, attractions and commercial services. Due to the highly seasonal nature of tourism, demand and supply in the transport service market do not always align, putting pressure on existing transport services and infrastructure, particularly at the local level and in urban contexts. Managed effectively, transport and tourism synergies can improve visitor mobility to and within destinations, enhance visitor satisfaction, and help to secure the economic viability of local transport systems and services by serving both residents and tourists (OECD, 2020^[1]). In Tunisia, transport is the second-largest contributor to tourism revenues, accounting for 19.6% of total tourism gross value added and 23.7% of all tourism spending in 2019. However, service quality and mobility are hampered by several restrictions limiting availability and affecting prices. This assessment focuses on key modes of transportation used by tourists in Tunisia and analyses barriers affecting tourist transport, car rental services and non-regular public transport services such as taxis and ride-hailing services.

5.2. Tourist transport

5.2.1. Background

Tourist transport is defined in Tunisian law as “any transport of persons reserved for tourists or provided by a tourist establishment for the benefit of its customers”.¹ It typically includes the use of buses and shuttles. It is distinguished from public transport, which includes taxis and other for-hire services, and from private transport.² The law stipulates that tourist transport is subject to a *cahier des charges*, or set of specifications, and prior declarations to the competent branches of the Ministry of Transport. In practice, there is no such *cahier des charges*. Operators wishing to offer tourist transport must instead comply with the *cahier des charges* for travel agencies, which is supervised by the Ministry of Tourism.

Tourist transport can be provided only by drivers holding a professional licence granted by the governor of the region where their business is based, and it is regulated by the Ministry of Transport.³

Tourist transport vehicles must comply with signage requirements to facilitate policing and for consumer protection purposes.⁴

5.2.2. Description of the obstacles and policy makers’ objectives

Service exclusivity: Operators of tourist transport must qualify as Category-A travel agencies and meet specifications set out in the associated *cahier des charges* (see Section 6.2.2). No other authorisation process exists for companies operating tourist transport. It is worth mentioning that only companies are allowed to provide tourist transport services, not individuals. According to stakeholders, service companies informally provide some tourist transport services, notably in terms of organisation and interactions with clients, but still rent vehicles and drivers through travel agencies. Drivers hired for tourist transport must, however, have specific authorisations, which are discussed below.

The OECD has not identified public policy objectives behind making tourist transport an activity exclusive to travel agencies and hence requiring service providers to meet the requirements of the relevant *cahier des charges*. The regulation of travel agencies through a *cahier des charges* is likely in place to ensure the quality of services. The OECD understands that the Ministry of Transport attempted to propose a *cahier des charges* for tourist transport, but that it was blocked amid strong opposition by travel agencies.

Restrictions on the legal structures required for the exercise of certain operations, such as tourist transport, are used by authorities to ensure the financial standing of market participants. The OECD understands that Tunisian authorities consider companies to be more capable of offering sound financing guarantees than individuals and that they are also deemed less likely to offer low-quality services that could harm consumers.

Operational requirements: Tourist transport vehicles can be driven only by a person holding a professional licence. According to Decree No. 2007-4101, a professional licence is granted to those providing collective public transport or tourist transport, provided the applicant holds the correct driving licence, completes a training programme at an approved institution, and completes a road safety course.

In addition to these requirements, two key barriers are linked to the granting of professional licences for tourist transport:

- Applicants must have a contract with an employer to apply for the licence (where they are not the owner of the company providing tourist transport) and they must apply to renew their licence when they change employers.
- No driver can hold more than one professional licence at the same time, meaning, for example, that a driver cannot be both a taxi driver and a tourist vehicle driver.

Stakeholders informed the OECD that the tourist transport industry is facing difficulties in renewing its ageing vehicles fleet. Law No. 94-41 on foreign trade stipulates that the import of second-hand tourist transport vehicles, including coaches and minibuses is subject to prior authorisation by the Ministry of Commerce.⁵

The professional licence is likely required for safety purposes. The rationale behind requiring drivers to have contracts with employers to obtain professional licences may aim to ensure that only companies provide tourist transport services. It may also aim to ensure that drivers are not state, local government or public enterprise employees, a prohibition enshrined in law. In their applications, drivers must provide a sworn declaration that they are devoted solely to driving tourist transport vehicles and that they are not employed by the civil service, local authorities or public establishments or enterprises.

The requirement to apply for a new licence if a driver changes employers likely aims to reinforce the linkage of the licence with a specific employer.

Restriction on the import of second-hand tourist transport vehicles is in place to promote the local automotive industry and better manage the trade deficit.

Qualification requirements: According to Law 2006-2118,⁶ the legal representative of a tourist transport company or an employee at management level must meet one the following conditions:

- have at least three years of work experience at management level in a public passenger transport company, in tourist transport, or in the rental of private cars or limousines, buses or coaches
- hold a diploma from a licensed tourism school in a specialisation related to tourist transport and a baccalaureate or a diploma deemed equivalent to this level and relevant experience in Tunisia of at least one year⁷
- hold a university degree or a diploma equivalent to this level in a specialty related to tourist transport.

Professional qualification requirements seek to ensure the quality of services and to avoid unqualified management.

5.2.3. Harm to competition

Service exclusivity: If travel agencies have the exclusive right to provide tourist transport services (and meeting the requirements of the *cahier des charges* for travel agencies is difficult), this will reduce the number of operators in the market, creating artificial scarcity and increasing prices for consumers. If new entrants are interested only in providing transport services around Tunisia, it might be excessive to make them comply with the onerous and complex requirements for operating a travel agency that may organise tours all over the world. This restriction will also reduce the quality and range of services, and incentives for innovation. In theory, other providers of tourist services, such as service companies, must contract with travel agencies to organise and offer transport services to customers. In practice, however, the OECD understands that many service companies provide tourist transport services informally, except for transport by bus. This creates an uneven playing field between legal operators and operators that do not comply with the legal framework.

The existence of *cahiers des charges* that set minimum professional and material requirements to operate beyond those that would ensure safety and consumer protection leads to an increase in companies' fixed costs. This will increase prices charged in the market. These barriers may also reduce the number of companies in the market, which will result in less competitive pressure for incumbent companies. The content of, and need for, such requirements are analysed in Section 6.1.

Restrictions on legal structures prevent sole proprietorships from offering tourist transport services. This increases the costs of entering the market and also operating costs. According to stakeholders, in practice, sole proprietorships offer tourist transport services to customers on an informal basis.

Operational requirements: The requirement for a professional licence in addition to a driving licence may reduce the number of potential drivers, making the sector less competitive and reducing the number of services. The requirement to have a work contract in place to qualify and receive a professional licence may delay entry and reduce the number of market participants, as this appears to be an onerous requirement both for companies and individual drivers who have no way of knowing whether the individual's application for a licence will be successful and permit them to take up a position as a driver. The requirement to seek a new licence when changing employers may discourage mobility and facilitate employers' monopsony power, which may allow them to depress remuneration below a competitive level, reduce employment, or dictate other working terms and conditions.⁸ This requirement may also make it more difficult for companies to launch new services if it is difficult to employ drivers.

The exclusive character of the professional licence prevents drivers who provide one type of transport service from providing another, as each type of transport requires a separate professional licence and drivers may only hold one at a time. This may reduce the ability of drivers to seek more flexible business opportunities, for instance hindering entry into areas of high demand while increasing entry to areas with less demand or a lower willingness to pay. It may hinder the efficient use of drivers' capacity, as they cannot change their mode of transport to follow seasonality and meet demand during peaks, such as moving from providing taxi services to tourist transport during the high season. Indeed, due to the highly seasonal nature of tourism, demand and supply in the transport services market do not always align and tourism professionals tend to have portfolio offerings that follow seasonality instead of sticking only to a single activity. Therefore, this restriction may unduly limit the number of suppliers, reduce competition between suppliers of different transport services, and result in higher prices.

Import restrictions generate distortions in the market by creating artificial scarcity and limiting consumer choice, which may translate into more expensive and lower-quality products (OECD, 2019^[2]). This is particularly constraining for the tourist transport sector, which as confirmed by various stakeholders is penalised by an ageing vehicle fleet. The OECD understands that this situation is caused by a reduced investment capacity of operators strongly impacted by the pandemic coupled with very high prices of locally produced or imported tourist transport vehicles by authorised car dealers.

Qualification requirements: Requiring legal representatives of companies or managers to have specific academic qualifications or alternatively, three years of prior specialised experience in a leadership position in a specific type of transport enterprise, may increase costs for operators seeking to establish themselves in the market. This is particularly the case when there is a lack of suitably qualified workers. It may deter market entry.

5.2.4. Recommendations

The OECD's recommendations for revising tourist transport requirements are as follows:

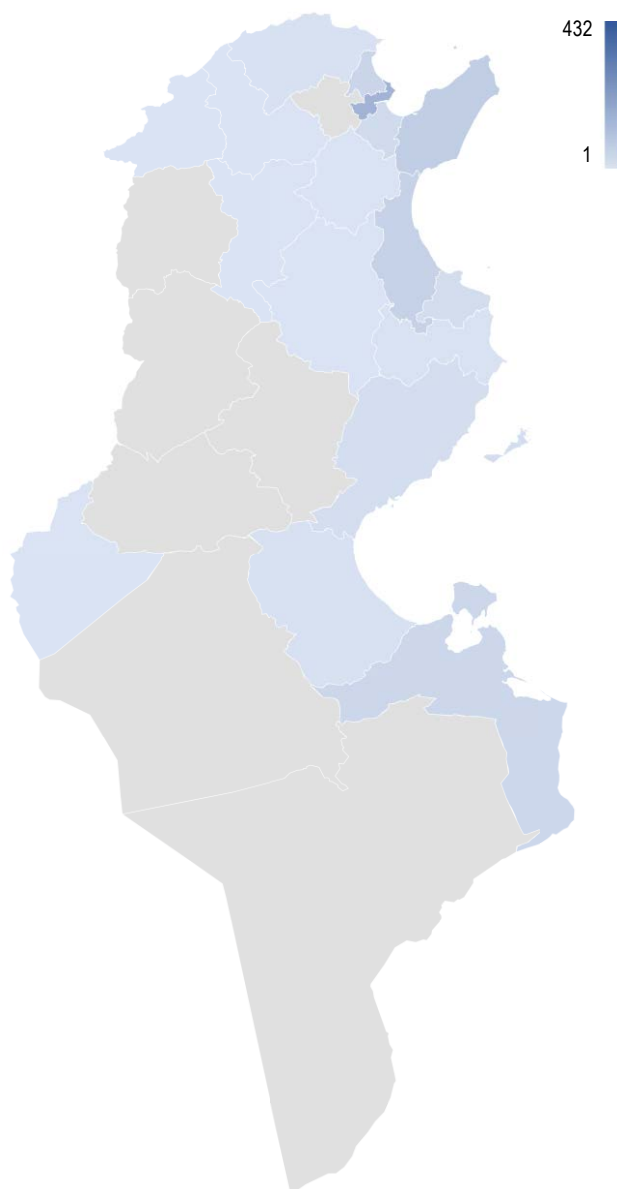
- Revise the *cahier des charges* for travel agencies (see Section 6.2). Create a separate *cahier des charges* for tourist transport under the responsibility of the Ministry of Transport, as provided for in legislation. Related requirements should be exclusively transportation-based and completely independent of travel agencies' activities.
- Remove the professional requirements for legal representatives or management of agencies providing tourist transport services.
- With regard to the professional licence for tourist transport:
 - Abolish the work contract requirement. Individuals should be able to obtain a professional licence independently, irrespective of whether they have a work contract.
 - Abolish the exclusivity clause. An individual should be allowed to engage in different activities if they satisfy the relevant requirements.
- Revise the restrictions on the import of used tourist transport vehicles in line with OECD (2019)^[2] recommendations on international trade.
- Adapt existing regulations to allow sole proprietorships to provide tourist transport services.

5.3. Vehicle hire

5.3.1. Background

Vehicle hire is defined in Tunisian law as “any operation under which the lessee receives a vehicle with or without a driver, for a fixed period and for remuneration, both agreed in advance”⁹ and it is regulated primarily by Law 2004-33¹⁰ and a *cahier des charges*.¹¹ Law 2004-33 provides that vehicle rental is covered by a *cahier des charges*. The *cahier des charges* covers the rental of passenger cars, hybrid cars and vans, and sets out minimum entry and operating standards. The *cahier des charges* is an *ex-post* authorisation to operate a vehicle rental agency and is to be signed by the agency's representative and presented to the Ministry of Transport and the *Direction Régionale du Transport*, or Regional Land Transport Authority. In 2019, the country had 468 car rental agencies. The activity is heavily dependent on tourism and most agencies are located in tourist areas (Figure 5.1)

Figure 5.1. Vehicle hire agencies by region



Source: Adapted from ONTT (2019_[3]), Rapport Annuel, <https://www.ontt.tn/sites/default/files/inline-files/rapport2019.pdf>

5.3.2. Description and objectives of the provisions

Fleet requirements: Vehicle rental agencies must own or rent at least 20 vehicles, down from 25 vehicles following the Order of the Minister of Transport of 5 February 2022 approving the *cahier des charges* relating to the activity of a car rental establishment.

The OECD understands that this provision is intended to ensure a certain level of service. One goal could be to avoid a proliferation of small, unstructured operators. It also seeks to encourage growth and job creation by companies.

Vehicles that are owned or hired by agencies are subject to several requirements, including proper registration and that:

- Vehicles rated 7 horsepower or less must not be more than three months old when first used by the agency, and other vehicles no more than one year old.
- Vehicles rated 5 horsepower and below must be less than 42 months old, those rated 6 horsepower must be no more than five years old, and those rated 7 horsepower and above no more than seven years old.

The OECD understands that these limits on vehicle age aim to encourage the renewal of Tunisia's vehicle fleet, which was ageing at the time the specifications were adopted, and to ensure safety by strengthening the standards applied to vehicles. These requirements may also be easier to monitor than more detailed safety standards.

Professional experience: Agency representatives must satisfy one of the following three conditions: 1) possess training of at least two years in the field of commerce, economics or law; 2) have a minimum of three years of experience in the car rental, public transport or tourism industry; or 3) have a minimum of one year of study at a tourism school.

Additionally, according to Law 2006-2118,¹² legal representatives of vehicle rental companies or employees at management level must meet one of the following conditions: 1) possess at least three years of work experience as a manager or at management level in a public transport company for people, or in tourist transport, or in rentals of private cars, limousines, buses or coaches; 2) hold a diploma from a licenced tourism school in a specialisation related to tourist transport and a baccalaureate or a diploma deemed equivalent to this level and have had experience in Tunisia of at least one year;¹³ 3) hold a university degree or a diploma equivalent to this level in a specialty related to tourist transport.

The OECD understands that specific academic qualifications or professional experience in the field are seen to guarantee a minimum level of knowledge of the activity or profession in question and compliance with quality and safety standards and help to ensure the sustainability of the business.

Legal structure: Legislation provides that only companies can offer vehicle hire services.¹⁴ This means that sole proprietorships cannot enter the market, which was possible under the previous version of the *cahier des charges* regulating vehicle hire.¹⁵ It appears that the only possible way for a sole proprietorship to provide vehicle hire services is to qualify as a Category-A travel agency.¹⁶ Vehicle hire is listed as one of the activities in which travel agencies may engage, and those who wish to provide such services in that capacity must meet the specifications set out in the applicable *cahier des charges* (see Section 6.1).

Restrictions on the legal structure required to engage in certain operations, such as vehicle rentals, are used by authorities to ensure operators' financial standing. The OECD understands that the authorities consider companies to be more capable of offering sound financing guarantees than individuals and are more likely to benefit from leasing services. They are also deemed less likely to offer low-quality services that could harm both local consumers and the sector's international competitiveness. According to the Ministry of Transport, the *cahier des charges* was adapted to reflect the realities of the market, in which only companies provide vehicle rental services.

5.3.3. Harm to competition

The existence of *cahiers des charges* mandating minimum professional and material requirements increases companies' fixed costs, which increases the cost of market entry. This reduces competition and results in higher prices. As these barriers may reduce the number of companies in the market, there will be less competitive pressure on incumbent businesses, which might also increase informality. In this respect, the *Chambre Syndicale des Loueurs de Voitures*, or National Syndicate for Vehicle Rentals, has claimed that there are around 52 000 vehicles rented informally every year in Tunisia.¹⁷ This informality is driven by a supply shortage and price increases during peak periods due to overwhelming demand. The content of, and the need for, the *cahier des charges* requirements are analysed below.

Fleet requirements: Requiring a minimum number of vehicles excludes small and medium-sized service providers that may be able to better meet consumer demand from the vehicle rental market. This limits choice for consumers and results in a lack of available vehicles, notably during peak periods such as tourism high seasons. It also limits the flexibility of companies to respond to changing business conditions by scaling down their activities and leads to high fixed costs, reducing competition. Maintaining large fleets also increases operating and maintenance costs, pushing up prices for consumers and encouraging them to take advantage of cheaper informal options.

Maximum vehicle age requirements raise entry costs and deter market entry, especially among smaller and medium-sized enterprises. High start-up costs likely increase rental costs for consumers. They also impose a long-term commitment to fleet renewal, which is a significant undertaking. These restrictions are imposed in addition to mandatory technical inspections of vehicles. Benchmarking with EU member states shows that the policy objectives of guaranteeing road safety and the quality of the technical inspections may be achieved by less restrictive means. The principal factors determining the condition of goods vehicles are: proper operation; kilometres covered; years in service; and regularity of technical inspections. Maintaining vehicles correctly becomes particularly important as they age (European Commission, 2014^[4]). Further, the *cahier des charges* may set standards above the level that well-informed customers would choose, with some consumers preferring lower cost to newer vehicles. Consumer welfare can be reduced by such standards as consumers are prevented from using cheaper services that they might prefer.

Professional experience: Requiring specific academic qualifications, or, alternatively, three years of specialised experience in car rentals, may increase costs for operators looking to set up and operate. This is particularly the case when there is a lack of suitably qualified workers. These requirements may deter market entry and reduce innovation.

Legal structure: Restrictions on legal structures prevent sole proprietorships from offering car rental services, raising entry and operating costs. According to stakeholders, in practice, sole proprietorships offer car rental services on an informal basis. In other jurisdictions, such as Croatia, both companies and individuals may provide vehicle rental services.¹⁸

5.3.4. Recommendations

The OECD's recommendations for revising requirements on vehicle hire are:

- Abolish or lower the minimum number of vehicles that vehicle rental companies are required to operate.
- Abolish or significantly increase the maximum vehicle age requirements and complement this with other measures to ensure roadworthiness. These could involve establishing a uniformly applied maximum number of years in service and a requirement to pass regular technical inspections. The establishment of additional criteria should ensure that both new and existing companies operate under the same regulatory framework.
- Remove professional experience requirements.
- Adapt existing regulations to allow sole proprietorships to provide car rental services. This was possible under the previous version of the *cahier des charges*.

5.4. Taxis and other for-hire vehicles

5.4.1. Background

Non-regular public road transport includes the following: individual taxis; *grand tourisme* taxis; collective taxis; *louage*, or hire, taxis; and rural transport taxis.¹⁹ *Grand tourisme taxis* are allowed to operate between

airports and any destination countrywide. Collective taxis are used mainly in big cities and follow specific routes. *Louage* taxis are the most commonly used form of non-regular public road transport between cities. And rural transport taxis are used to connect cities with villages and remote areas. These types of transport are a very important mobility option for tourists. In 2019, there were a total of 52 373 taxis and other for-hire vehicles registered in Tunisia.

Table 5.1. Non-regular public road passenger transport in Tunisia

Individual taxis	Rural transport taxis	<i>Grand tourisme</i> taxis	Collective taxis	<i>Louage</i> taxis	Total
32 183	7 234	184	2 701	10 071	52 373

Source: Ministry of Transport, 2019 (http://www.transport.tn/uploads/Statistique/Transport_public_non_regulier_personnes_fr.pdf)

5.4.2. Description of the obstacles and policy makers' objectives

Licensing process and conditions

Article 23 of Law No. 2004-33 stipulates that operators of taxis and other for-hire vehicles require licences issued by the governor of the region where the applicant resides. Licences are granted following agreement between the governor and the *commission consultative régionale*, or regional advisory commission. The composition and functioning of the commission are established by Decree No. 2004-2410. Once authorisation is obtained, if the applicant does not obtain the licence document for the vehicle registered within two years, authorisation is cancelled.²⁰ The licensing process is subject to several conditions:

Quota system: The ministry's land transport department annually calculates quotas for new authorisations to be granted for each governorate and for each form of non-regular public road transport. These quotas consider many parameters, including existing transport available and the density of the population in the governorate. However, the territorially competent governor has the freedom to manage the quotas allocated to the governorate.

The OECD understands that this system was put in place to ensure a balance between supply and demand in the market for non-regular public road transport services nationwide.

Legal structure: Companies are prohibited from obtaining operating licences and hence from providing non-regular public road transport. Such services may be offered only by individuals. However, this rule is not applicable to companies that were offering non-regular public road passenger transport by taxi, *louage* taxi and rural transport taxi before it was introduced.²¹ According to authorities, these companies continue to exist, may expand their fleets, and can renew their operating licences.

The OECD understands that the change was implemented to promote employment opportunities among poorer people. It may reflect policy makers' preference for independent owner/operator businesses over larger businesses employing drivers, and may reflect a desire to avoid the risk of monopolisation of licences by a small number of operators.

Restrictions on individuals: A licence granted to an individual is valid only for a single named vehicle.²² The vehicle to be used as a taxi or other for-hire vehicle may be owned or leased, but an individual cannot register more than one vehicle. Companies in the market must have at least five vehicles and may apply to add further vehicles to their fleets (see below).

Activity restrictions: An applicant may obtain only one authorisation to engage in one of the following activities: individual taxi services; collective taxi services; *grand tourisme* taxi services; *louage* taxi services; or rural transport taxi services.²³ The policy objective is probably to ensure the quality of services and to control supply by limiting drivers to a specific category.

Licensing requirements

Eligibility criteria: In order to obtain an operating licence, applicants must: 1) hold Tunisian nationality and have no criminal record; 2) not be an employee of the state, local government or a public enterprise; 3) engage exclusively in the activity and not have any other sufficient source of revenue (defined as three times the minimum salary in the non-agricultural sector);²⁴ and 4) satisfy minimum material requirements as set out in law (see fleet requirements, below).

The applicant should also: 1) hold a professional licence; 2) hold a Category-D or -D1 driving licence; 3) hold a professional aptitude certificate; 4) have been employed as a driver by a public passenger carrier for at least one year; and 5) have undertaken a roadside first-aid course.²⁵

Fleet requirements. Several minimum requirements are set out in the Order of the Minister of Transport of 22 January 2010, including the maximum ages of vehicles, minimum fleet sizes (for companies), and office and garage specifications.

- **Maximum vehicle age:** All cars used as individual taxis, collective taxis, *grand tourisme* taxis, *louage* taxis and rural transport taxis must be less than seven years old when first used, and the maximum age for their use is 15 years.
- **Fleet sizes and renewal:** Companies must have a minimum fleet size of five vehicles.²⁶
- **Offices and garages:** Companies are required to have two premises available, one for their head office and the other to house their vehicles.²⁷

Minimum equipment requirements are place likely to the ensure quality of service. The OECD understands that limits on the age of vehicles aim to encourage the renewal of Tunisia's vehicle fleet, which was ageing at the time the specifications were adopted, and to ensure safety by strengthening the standards applied to vehicles. Age requirements may also be easier to monitor than more detailed safety standards. Age restrictions may also be imposed by jurisdictions wishing to reduce carbon emissions. London, for example, has tightened age restrictions for this reason. Between 1 November 2021 and 31 October 2022, vehicles older than 12 years were ineligible for licensing in London. Between 1 November 2022 and 31 October 2023, vehicles older than 11 years will be ineligible for licensing. Previously, an age limit of 15 years was in place.²⁸

Tunisia's fleet size provision is intended to ensure a certain level of service among companies. It is important to note that this applies only to existing companies, as new companies are not able to enter the market. One aim could be to avoid a proliferation of small, unstructured operations. The measure also seeks to encourage growth and job creation by companies. According to the ministry, prior approval for increasing fleet sizes is required, but there is no clear procedure for applicants.²⁹

Professional licence: Drivers of non-regular road passenger transport must have a professional licence, conditions for the granting of which are set out in Decree No. 2007-4101. Licences are granted by the governor of the region in which the driver resides, and are valid for five years.³⁰ In order to obtain a professional licence for taxi, *louage* taxi or rural transport taxi services, applicants must: 1) hold Tunisian nationality; 2) hold a professional aptitude certificate, as set out in Decree No. 2006-2118, to operate individual taxis or *grand tourisme* taxis, and provide a photocopy of this certificate with their application; 3) have completed a road safety course; and 4) not be a state, local government or public enterprise employee.³¹

In addition, the professional licence is issued subject to the following conditions:

- **Minimum licensed period:** Applicants must have held a Category-D or -D1 driver's licence for at least two years.
- **Activity restrictions:** The professional licence is linked to a single type of transport and no driver can hold more than one licence at the same time.

The OECD understands that drivers are required to obtain professional licences for safety reasons and consumer protection. The requirement to have held a specific driving licence for at least two years likely seeks to ensure passenger and road safety, and the quality of services, and exclude unqualified drivers. The aim of the activity restriction is likely to ensure better control of supply by limiting drivers to specific service categories.

Driving licence: Drivers of non-regular passenger road transport must have an appropriate driving licence. According to Decree No. 2021-510, driving licence categories have been updated to specify the following categories for non-regular passenger transport:

- Category-D: passenger transport vehicles with more than eight seats, excluding that of the driver
- Category-G: vehicles in the taxis, *louage* taxi and rural transport taxi categories.

Before obtaining a Category-D or -G driving licence, applicants must already have a Category-B licence, which is the standard driving licence for motor vehicles, and have undertaken relevant training.³² The minimum age for a Category-B licence is 18, while the minimum age for Category-D licences is 21 and that for Category-G licences is 20.³³ In order to obtain a Category-D or -G licence, applicants must apply to the regional services of the *Agence Technique des Transports Terrestres* (ATTT), or Technical Agency for Land Transport, through a recognised training establishment specialising in driving and road safety.

To obtain a licence, applicants must have completed a minimum number of theory and practical training sessions. They must also have successfully completed three exams: theory; a practical exam focused on traffic; and a practical exam focused on manoeuvres. For all licences, a medical certificate is required. For Category-D and -G licences, it must be issued by an occupational doctor.³⁴ Category-D and -G licences are valid for three years for drivers under 60 (vs. 10 years for a Category-B licence), for two years for those aged 60-76 (vs. five for Category B), and for one year for those over 76 (vs. three for Category B).

The OECD understands that Category-D and -G licences have a shorter validity period to ensure that licence holders continue to fulfil the conditions for licences and that valid licences are active.

Professional aptitude certificate: To obtain this certificate, applicants must be Tunisian nationals, hold a Category-D driving licence, and have passed an exam set by the local governor, which, according to legislation, is held at least once every two years for individual taxis and at least once every three years for *grand tourisme* taxis. Once obtained, the certificate is valid indefinitely. The certificate is delivered by the governor to successful applicants to provide services within an area marked on the certificate, which in the case of *grand tourisme* taxis can cover the whole country.³⁵

The professional aptitude certificate is likely in place to ensure the quality of services. The exam requirement is in place to ensure passenger and road safety by assuring drivers' knowledge.

Tariff regulation

According to Article 15 of Decree No. 2007-2202 of 3 September 2007, the tariff for non-regular passenger transport is set by a joint decision by the Ministry of Transport, the Ministry of Commerce and the Ministry of Tourism. The decree does not specify a time schedule for tariff revisions. The Order of the Minister of Transport of 29 November 2022 revised tariffs, with an overall increase of 15% for all taxi categories.

Decree No. 2014-409, which sets out the role of the Ministry of Transport, provides that the ministry is required to set the prices of the services falling within its competence. The likely policy objective is consumer protection and to support the Tunisian public transport system by increasing affordable mobility.

Table 5.2. Newly adopted individual taxi tariffs

Taximeter flag fall	900 millimes
Taximeter flag fall from airport	4 500 millimes
Distance	46 millimes per 79 metres
Waiting time	46 millimes per 18 seconds
Luggage (over 10kg)	1 000 millimes per unit
Night tariff	50% from 9 p.m. to 5 a.m.

Source: Ministry of Transport (2022^[5]), <http://www.transport.tn/fr/terrestre/article/378/tarifs-du-transport-non-regulier-des-personnes>.

5.4.3. Harm to competition

Licensing process and conditions

According to several stakeholders, demand for non-regular public road passenger transport and requests for authorisations, especially in large cities, greatly exceed the official quotas, creating an artificial scarcity of supply. The technical criteria underlying the system are not communicated, raising questions as to their adequacy to address dynamic, fluctuating demand for mobility that is characterised by proliferation, multiplicity and diversity in terms of needs, actors and modalities. Governors' management of quotas also raises questions. The OECD has been informed that the licensing process is not transparent, giving considerable discretionary power to governors and increasing the risk of rent-seeking behaviour and favouritism.

The restriction on legal structures raises two issues. First, it limits the range of business models in the industry. In particular, it prevents the establishment of taxi companies that own multiple vehicles and which hire drivers as employees. Taxi drivers are thus required to be entrepreneurs with access to vehicles, which may reduce the number of market players. Multi-car taxi businesses operate in many other jurisdictions, and can give rise to significant economies of scale, including by managing vehicle downtime risk, spreading repair and maintenance costs, and diversifying service offerings, such as the provision of multiple cars for events. In a competitive market, cost savings arising from these efficiencies lead to lower consumer prices, and service quality gains are also to be expected (OECD, 2020^[6]). Other transport businesses in Tunisia, such as tourist transport, are not restricted to individuals. In addition, new companies were allowed to enter the taxi market until 2006.

Second, the legislation treats existing market players differently from new entities entering the market. This grandfather clause restricts competition because new market entrants can operate only as individuals and not company entities, unlike like some incumbents.

An individual has the right to use only one vehicle. If that specific vehicle cannot be used, perhaps due to a need for repairs, inefficiencies could result as the individual may need to register a new vehicle or cease work for the period the registered vehicle is off the road. This affects both taxi operators and consumers. Established companies, however, may add vehicles to their fleets with permission from the Ministry of Transport.

The activity restriction prevents drivers providing one type of transport service from providing any other, as each type of transport requires an operating licence and individuals may hold only one licence for a particular transport service. This may limit flexibility and hinder entry into areas of high demand, yet it may increase competition in areas with less demand or a lower willingness to pay. It may hinder the efficient use of individuals' capacity as they cannot change their transport offering to meet demand during peaks, such as by moving from standard taxi services to other for-hire services during high season. This may unduly restrict the number of suppliers, reduce competition between suppliers of different transport services, and result in higher prices.

Licensing requirements

Eligibility criteria: The cumulative provisions detailing eligibility criteria limit flexibility and impose significant limitations on alternative business models. They effectively eliminate part-time driving and place such drivers at a disadvantage to those offering informal ride-hailing services. In Tunisia, these services are not regulated (see Section 5.5), so drivers can undertake these activities while generating other income streams and operating in other occupations. Given this, the provisions may reduce the number of qualified drivers, shrinking the number of market players or potential entrants, and raising prices for consumers.

The associated documentary requirements, such as proof of revenues, may increase the administrative burden on market players, increasing costs and deterring market entry.

In general, requiring prior specialised experience or specific academic qualifications may increase a business's market entry and operating costs, particularly amid a lack of suitably qualified workers. This may limit the number of service providers and result in increased prices. The specific minimum professional experience requirement may limit the number of service providers in the market. A reduced number of qualified professionals with the required authorisation may thus increase costs for companies wishing to establish themselves and operate in the market.

Fleet requirements: A requirement to adhere to very specific or excessive standards may raise the costs of entry for suppliers, discouraging potential market entrants and reducing the number of participants in the market over time.

Maximum vehicle age requirements increase entry costs and deter market entry. High start-up costs reduce competition and likely increase the cost of services for consumers. These standards may exceed the level that well-informed customers would choose, with some preferring lower cost to newer vehicles. Consumer welfare can be reduced by such standards, as consumers are prevented from using cheaper services that they might prefer. In Australia, by contrast, the Taxi Service Commission of Victoria removed age limits for taxis and hire cars in 2016.³⁶ Previously, taxis were required to comply with a maximum vehicle age limit according to vehicle type and the area in which it was driven. In metropolitan Melbourne, for example, the maximum vehicle age was 6.5 years for operations and 2.5 years for initial licensing.³⁷

Setting a minimum number of vehicles excludes some small and medium-sized service providers that may be able to better meet consumer requirements from the market. It also means high fixed costs for businesses, which can be passed on to consumers. The lack of publicly available rules or guidelines on the procedure for applying to the Ministry of Transport to add vehicles to a company's fleet, and the lack of objective requirements for decision makers, could lead to discrimination between applicants and result in legal uncertainty, deterring companies from increasing their fleet sizes.

Professional licence: The conditions for obtaining professional licences duplicate those required for obtaining operational licences. The additional licence requirement is likely an administrative burden as applicants must already satisfy operational licence requirements and specific education requirements to obtain a Category-D or -G driving licence. In jurisdictions such as France, taxi drivers are required to obtain a professional licence but require only a standard driving licence.

The requirement to have held a Category-D or -G driving licence for at least two years delays market entry. Other jurisdictions, such as France,³⁸ require drivers to have held a standard driving licence for a minimum period instead (three years in France). In Spain, no minimum period exists for taxi drivers, but for ride-hailing services, drivers are required to have held a standard driving licence for at least two years.

The activity restrictions prevent drivers who provide one type of transport service from providing another, as each type of transport requires a professional licence and drivers may only hold one such licence. In many other jurisdictions, drivers can offer both taxi and tourist driver services. In the US, most Uber drivers also operate as taxis.³⁹ In Spain and Italy, thanks to partnerships with taxi associations,⁴⁰ taxi drivers are

able to operate using Uber's platform and so are able to offer both standard taxi and tourist driver services.⁴¹ This model also operates in countries such as Germany and Austria.⁴²

Driving licence: Having to renew Category-D or -G licences every three years, more than three times as often as standard licences, may constitute an excessive administrative burden. Such burdens increase costs for operators with possibly no discriminatory effect on competition in the market, such as time spent, possible delays and opportunities missed to maximise efficiency. As such, they might reduce incentives for market entry and hinder efficiency and competitiveness. In France, driving licences for passenger transport vehicles must be renewed every five years for drivers aged under 55.⁴³

Professional aptitude certificate: The examination requirement may delay or deter market entry, as it is run only every two years for individual taxis and every three years for *grand tourisme* taxis. If examinations are not run according to the legislation, this may further reduce the number of individuals authorised to operate in the market, raising costs and reducing the diversity of services offered.

Tariff regulation

This provision may limit the ability of operators to set prices, leaving them unable to undercut rivals' prices to gain market share. Even if regulating taxi tariffs is a common practice in many jurisdictions, the absence of any reference to the frequency of tariff revisions represents a source of uncertainty for operators. In France, taxi tariffs are revised on an annual basis, taking several parameters into consideration, including fuel and vehicle prices, and repair, maintenance and insurance costs.⁴⁴

Stakeholders informed the OECD that revisions of regulated tariffs were constantly delayed by authorities, despite pressing requests by taxi trade unions following several fuel and insurance price increases. This was the main factor behind taxi drivers' increasing participation in the ride-hailing market, especially during rush hours. This activity is unregulated in Tunisia and prices are freely set by the operators of the platforms. However, stakeholders reported that it created market distortions and was seriously affecting consumer welfare (see Section 5.5).

5.4.4. Recommendations

The OECD's recommendations for revising requirements for taxis and other for-hire vehicles are as follows:

- In terms of the licensing process and conditions, authorities should:
 - Revise and publish the criteria defining taxi quotas and the conditions for granting operating licences, and streamline procedures for obtaining licences by ensuring the transparency of selection criteria (see Chapter 9).
 - Allow companies to enter the market and operate taxi and other for-hire vehicle businesses, not just individuals, in line with the *cahier des charges* that was in place until 2006, and abolish minimum fleet size requirements.
 - Allow drivers to offer more than one type of transport if they satisfy the required conditions.
- In terms of licensing requirements, authorities should:
 - Abolish the minimum professional experience requirement.
 - Abolish the requirement for drivers to drive full-time and not have sufficient other income sources.
 - Abolish or increase the maximum age requirements for vehicles used for the first time and replace them with stringent safety regulations and more frequent technical control measures.
 - Reconsider the need for the professional licence, as operators must already hold a specific driving licence for a particular transport category and are required to hold an operating licence.

- Consider increasing the validity period for driving licence categories D and G to align it with that of Category B.
- If authorities consider the professional licence essential, they should consider abolishing the requirement to hold a specific driving licence. Policy makers could require drivers to have held a standard driving licence for two years.
 - If aptitude certificates for taxis (individual and *grand tourism*) are regarded as essential, consider increasing the frequency of the associated examinations and guarantee candidates' right to sit exams on a regular basis.
 - In terms of tariff regulation, authorities should:
 - Adopt a more flexible and predictable tariff framework for non-regular passenger road transport that promotes fair competition with providers of new transport services.
 - Ensure the framework allows regular tariff revisions based on objective and transparent criteria such as the prices of fuel, vehicles and insurance. An annual revision, as is mandated in some jurisdictions, could be considered.

5.5. Ride-hailing services

5.5.1. Background

Disruptive innovation in the road transport sector has changed the regulatory and competitive landscape worldwide (OECD, 2022^[7]). In its *Handbook on Competition Policy in the Digital Age*, the OECD explained that this has resulted in key benefits to consumers:

In recent years, ride-hailing services have entered and quickly expanded their provision of competing services. The platform model has disrupted traditional taxi and private hire vehicles markets and improved services for consumers.

While many features were introduced by new players, incumbents have often responded, for instance, by introducing or signing up to their own digital applications with many of the same features" (OECD, 2022^[7]).

Ride-hailing services are not yet regulated in several jurisdictions, but taxis and private-hire vehicles are often subject to extensive regulation.

In Tunisia, no regulatory framework exists for ride-hailing services. However, the OECD understands that these services are offered mainly by taxi drivers through several apps, including Bolt, Yassir, InDriver and OTO.

5.5.2. Description of the obstacles and policy makers' objectives

Ride-hailing platforms are not regulated in Tunisia because the disruptive innovations and new business models to which they have given rise do not fit into the traditional regulatory framework for tourist and public transport. According to the authorities, ride-hailing platforms do not fall within any of the definitions of road transport (tourist, public or private transport) in Law No. 2004-33 on the organisation of land transport.

The Ministry of Transport informed the OECD that a *cahier des charges* to regulate the sector is currently being drafted. Decree No. 2014-409, setting out the role of the Ministry of Transport, provides that the ministry is required to:

intensify the use of new [information and communication technology] applications in the various fields falling within its competence to ensure the optimal exploitation of the means and the infrastructure of transport.

The OECD understands that this initiative is subject to strong objections by taxi federations and individual taxi drivers.

5.5.3. Harm to competition

In general, the entry of new companies and business models may generate significant consumer benefits in the form of lower prices, shorter waiting times, increased choice, higher quality and greater availability of services, creating efficiencies. Yet given Tunisia's lack of a regulatory framework for ride-hailing, a risk exists that these new business models will gain favour over traditional taxi and transport services that are subject to regulatory requirements, meaning that they would not operate on a level playing field, distorting competition outcomes.⁴⁵ Further, in Tunisia, it appears that the current supply of road transport vehicles has not changed with the introduction of these platforms, as regulated taxi drivers are the main users of the platforms, which are seen as a way to get around regulated tariffs.

When using these apps, taxi drivers claim they are not bound by the regulated fare system, since they are providing a private service and can therefore charge higher prices. In some jurisdictions, taxi drivers are allowed to negotiate fees with customers and are not required to use a taximeter when the fare is pre-negotiated, provided that passengers have access to the formula governing the price (OECD, 2020^[6]). Ride-hailing services generally use dynamic pricing algorithms that adjust rates based on a number of variables, such as time, distance, traffic flows and passenger-to-driver demand. This can result in temporary price spikes during particularly busy periods, as when demand increases, the algorithms use a "surge pricing" mechanism to encourage more drivers to get on the road to help meet the number of passenger requests. Once more drivers are available and passenger requests are met, demand becomes more manageable and fares generally revert to lower levels.⁴⁶ However, surge pricing remains controversial as it creates scope for price manipulation.⁴⁷

During consultations with stakeholders, it was confirmed that most taxis use these apps, especially during rush hours, when fares are highest. This leaves consumers with almost no alternatives, given Tunisia's inadequate public transport services, and makes it very difficult for consumers who do not use the apps to find rides. Moreover, app-defined prices can exceed regulated fares for the same trip by threefold. According to a recent investigation report by Tunisian media outlet Al Katiba,⁴⁸ such price increases appear to be a constant, even outside rush hours, raising questions about potential competition infringements. The issue of whether intra-platform algorithmic pricing results in anti-competitive agreements or concerted practices is widely debated. The fact that drivers remain independent contractors rather than workers or employees of such platforms and are at the same time unable to compete and set fares for rides freely suggests that competition enforcers could view the platforms as hub-and-spoke arrangements that facilitate horizontal price-fixing cartel conduct (Bekisz, 2021^[8]).

Box 5.1. EU's highest court confirms liability of cartel facilitators

In a judgement dated 22 October 2015 (Case [C-194/14 P](#)), the Court of Justice of the European Union upheld a decision by the General Court and thereby a European Commission decision of 2009 to hold Swiss consultancy firm AC Treuhand liable under EU antitrust rules for facilitating cartels according to Article 81(1) of the European Commission Treaty (now Article 101(1) of the Treaty on the Functioning of the European Union [TFEU]), irrespective of it not being active in the cartelised market.

This decision was a landmark judgment, since it was the first time the court had ruled on the so-called “facilitation” of cartels, such as the organisation of a cartel by a consultancy firm. The ruling was particularly important for two reasons.

First, the court confirmed that the service agreement between AC Treuhand and suppliers of heat stabilisers constituted an illegal agreement under EU competition rules. Agreements that distort competition in the EU are illegal under Article 101 of the TFEU, irrespective of whether the parties involved operate in the same market. Moreover, the court held that the effectiveness of Article 101 of the TFEU, which prohibits anti-competitive business practices, would be endangered if facilitators such as AC Treuhand could escape liability.

Second, the court confirmed that the commission was entitled to fix the fine as a lump sum instead of using the value of sales as its basis. AC Treuhand, as a consultancy firm, was not active in the markets for tin stabilisers and ESBO/esters, and therefore had no sales in those markets.

Source: European Commission, Case C-194/14 P, AC Treuhand AG v. European Commission, ECLI: EU: C:2015:717, <https://curia.europa.eu/juris/liste.jsf?language=en&td=ALL&num=C-194/14%20P>.

The use of ride-hailing apps in Tunisia does not appear to have delivered the expected consumer benefits. It has not increased choice, as it is based on the supply of the current taxi system, and the consumer rating system does not seem to have improved quality, another of the apps' anticipated benefits. It has also increased prices and affected service availability.⁴⁹ Moreover, there seem to be growing data protection concerns, as shown by a complaint filed by the *Instance nationale de protection des données à caractère personnel* or Tunisian Authority for the Protection of Personal Data against one of the platforms.⁵⁰

5.5.4. Recommendations

The OECD's recommendations for ride-hailing services are:

- Ensure that anti-competitive distortions and safety concerns caused by the informal activity of current service providers are addressed.
- Foster compliance in order to increase the size of the market and improve the quality of the services provided to consumers (Box 5.2).

Box 5.2. Examples of ride-hailing regulation

Spain

In 2014, Uber became the first foreign ride-hailing platform to operate in Spain. Its business model was soon declared illegal by regional courts for using drivers without licences (Noa, 2019^[9]). In 2015, the US-based company returned to the Spanish market, which now included Cabify, a powerful local competitor. This time, operators had to comply with the country's tourist vehicle driver regulations and strict rules under the Land Transport Regulation Act. Spanish regulation became some of the most stringent in Europe, imposing a ratio of one tourist vehicle driver per 30 taxi licences, with platforms required to provide 80% of their services in the region where their authorisations were obtained and to own a minimum of seven vehicles (Niblett, 2019^[10]). The requirements were challenged by the *Comisión Nacional de los Mercados y la Competencia*, or National Markets and Competition Commission, and several industry associations that considered the restrictions an unnecessary barrier to innovation that harmed consumers (Cluet Vall, 2019^[11]). In 2018, Spain's Supreme Court upheld the restrictive regulation (Castro and Ramón Medina, n.d.^[12]), although the 1:30 ratio was never respected in practice. In response, taxi drivers launched a series of massive protests, paralysing cities such as Madrid and Barcelona. In response, the government passed Royal Decree 13/2018, which mandated a four-year transition period for the transfer of tourist vehicle driver licence regulation from a national to a regional level (Estado, 2018^[13]). After that, it would be up to regions to authorise ride-hailing platforms' urban operations. In areas without a system in place by 2022, platforms would be allowed only to operate on inter-city routes, effectively abolishing them, since their business models focused on intra-city transport (Álvarez, 2022^[14]). So far, only Madrid has passed a regulation permitting urban operations by tourist vehicle drivers. The transition period ended in October 2022, and if other regions do not speed up to follow the capital's steps, ride-hailing platforms will have to cease their operations in most of the country (Jiménez, 2021^[15]).

Egypt

Egypt has become the biggest market in the Middle East and North Africa region for ride-hailing platforms such as Uber and Dubai-based Careem. These two operators had been gaining ground in Egypt's local transport market for years, fuelling strong opposition among taxi drivers that reached critical mass in 2017 (Oxford Business Group, 2019^[16]). An administrative court ordered Uber and Careem to suspend their activities in 2018 following a lawsuit brought by taxi associations that accused them of hiring drivers who used private vehicles (Menabytes.com, 2018^[17]). The *Mahkamat al-Amoor al-Mustaejila bi-l-Qahira*, or Cairo Court of Urgent Matters, overturned the ruling, although tensions in the sector remained high (Menabytes.com, 2018^[18]). In order to tackle the legal challenges that ride-hailing platforms had traditionally experienced in the country, the government approved Law No. 87 of 2018 and Executive Resolution No. 2 180 of 2019 (Sadek, 2019^[19]). Among other provisions, the new regulations required the platforms to obtain five-year renewable licences for a fee of USD 1.7 million and vehicle owners to obtain special licences to drive for Uber and Careem by paying an annual fee in the range of USD 56-112 (Riad-Riad, 2018^[20]). Furthermore, ride-hailing companies were also required to: 1) store user data for 180 days and share it with the government upon request; 2) run background checks on drivers before hiring them; and 3) conduct random drug and alcohol tests. These regulations were the result of a consultation process with the platforms, which praised it as efficient and pioneering in the region (Mamdouh El Shiekh and S., 2019^[21]), (Voanews, 2018^[22]).

Mexico

In 2015, 18 months after Uber began operating in the country, the Government of City became the first Latin American authority to regulate ride hailing. Among other measures, the US platform became subject to a 1.5% ride levy, a yearly permit fee and a minimum vehicle value of USD 12 674 (De Haldevang, 2018^[23]). In 2019, a ban on cash payments was imposed (Love and N., 2019^[24]).

- Encourage closer co-operation between the Ministry of Transport and the *Conseil de la Concurrence*, or Competition Council, to further analyse and address potential anti-competitive conduct by ride-hailing platforms (Box 5.1).
- Regulating ride-hailing may provide an opportunity to reform current extensive regulation of other transport services. The OECD recommends that new regulatory frameworks for ride-hailing services, and any changes to existing regulations for taxis and other for-hire vehicles, seek to promote competition in the land transport sector. Regulatory changes should consider technological developments affecting how customers access those transportation services and work towards the removal of unjustified barriers to access (Box 5.3).

Box 5.3. Reassessing regulatory frameworks for taxis and for-hire vehicles

Taxi and private-hire vehicle services are strictly regulated in many countries. Following recent innovations, at least some aspects of these regulatory frameworks are due for reassessment

- First, the pace of innovation in these markets has highlighted the importance of focusing on principles rather than detailed rules when designing regulations. This is because more detailed rules may not be sufficiently flexible to accommodate future innovations and developments.
- Second, supply constraints are common and likely to restrict competition. It is unclear whether the original rationale for these constraints ever necessitated such restrictions, but the emergence of ride-hailing services has exposed their harmful nature.
- Third, although ride-hailing apps have improved price transparency and use dynamic pricing to boost service availability for passengers, traditional taxi services are required to offer fixed prices and are often unable to offer price estimates. This may overcome an asymmetric information problem when passengers hail a taxi on the street or from a rank, but it restricts the ability of taxi drivers to compete for passengers hailing rides using apps.
- Fourth, taxi and private-hire vehicles are often obliged to comply with various service and safety requirements. Although some requirements are excessively restrictive, creating entry barriers and increasing costs, the rationale for others, such as insurance and safety, remains valid. New and competitive digital services may find alternative means to comply with certain policy objectives, such as ensuring a level of service accessibility for disabled passengers.

Source: OECD (2022^[7]), OECD Handbook on Competition in the Digital Age, <https://www.oecd.org/daf/competition/oecd-handbook-on-competition-policy-in-the-digital-age.pdf>.

References

- Álvarez, D. (2022), *El futuro incierto de las VTC en España a partir de octubre*, [14]
<https://capital.es/2022/06/13/vtc-futuro-incierto-espana/>.
- Bekisz, H. (2021), “When Does Algorithmic Pricing Result In an Intra-Platform Anticompetitive Agreement or Concerted Practice? The Case of Uber In the Framework of EU Competition Law”, *ournal of European Competition Law & Practice*, Vol. 12/3, pp. 217-235, [8]
<https://doi.org/10.1093/jeclap/lpab017>.

- Castro, L. and J. Ramón Medina (n.d.), *Supreme Court upholds restrictions on VTC (Spanish acronym of transport service through rented car with driver)*, [12]
<https://www.osborneclarke.com/insights/supreme-court-upholds-restrictions-on-vtc-spanish-acronym-of-transport-service-through-rented-car-with-driver>.
- Cluet Vall, A. (2019), *VTC y taxis, historia de una batalla*, [11]
<https://www.elsaltodiario.com/uber/vtc-huelga-taxis-historia-batalla-falsos-autonomos>.
- De Haldevang, M. (2018), *Mexico City unveils first regulation on Uber in Latin America*, [23]
<https://www.reuters.com/article/us-mexico-uber-idUSKCN0PP2SU20150716>.
- Estado, J. (2018), *Real Decreto-ley 13/2018, de 28 de septiembre, por el que se modifica la Ley 16/1987, de 30 de julio, de Ordenación de los Transportes Terrestres, en materia de arrendamiento de vehículos con conductor*, [13]
https://noticias.juridicas.com/base_datos/Laboral/629071-rdl-13-2018-de-28-sep-modificacion-ley-16-1987-de-30-jul-de-ordenacion.html#au.
- European Commission (2014), *Report from the Commission to the European Parliament and the Council on the State of the Union Road Transport Market*, European Commission, [4]
https://ec.europa.eu/transport/sites/transport/files/modes/road/news/com%282014%29-222_en.pdf.
- Jiménez, M. (2021), *Las VTC urgen a las comunidades una regulación del sector “para evitar su desaparición” en España*, [15]
https://cincodias.elpais.com/cincodias/2021/10/18/companias/1634583413_485403.html.
- Love, J. and T. N. (2019), *Uber, Didi slam Mexico City’s new rules on ride-hailing, including cash ban*, [24]
<https://www.reuters.com/article/mexico-uber-idINL1N2271D6>.
- Mamdouh El Shiekh, S. and H. S. (2019), *Egypt passes new regulations for ride-hailing apps*, [21]
<https://english.ahram.org.eg/News/351174.aspx>.
- Menabytes.com (2018), *Egypt approves law to regulate Uber, Careem and other ride-hailing apps in the country*, [18]
<https://www.menabytes.com/ride-hailing-law-egypt/>.
- Menabytes.com (2018), *Egyptian court orders Careem and Uber to halt operations in the country*, [17]
<https://www.menabytes.com/uber-careem-egypt-ban/>.
- Ministry of Transport (2022), *Tarifs du transport non régulier des personnes*, [5]
<http://www.transport.tn/fr/terrestre/article/378/tarifs-du-transport-non-regulier-des-personnes>.
- Niblett, M. (2019), *When regulation goes wrong: ride hailing in Spain*, [10]
<https://www.inlinepolicy.com/blog/when-regulation-goes-wrong-ride-hailing-in-spain>.
- Noa, M. (2019), “Uber en España: Factores Sociales, Económicos y Políticos para Considerar”, [9]
<https://repositorio.comillas.edu/xmlui/bitstream/handle/11531/27174/TFG-%20Noa%2CMaura.pdf?sequence=1&isAllowed=y#:~:text=Uber%20ilega%20por%20primera%20vez,siendo%20acusado%20de%20competencia%20injusta>.
- OECD (2022), *OECD Handbook on Competition in the Digital Age*, [7]
<https://www.oecd.org/daf/competition/oecd-handbook-on-competition-policy-in-the-digital-age.pdf>.

- OECD (2020), *OECD Competition Assessment Reviews: Iceland*, OECD Publishing, [6]
<https://www.oecd.org/daf/competition/oecd-competition-assessment-reviews-iceland.htm>.
- OECD (2020), *OECD Tourism Trends and Policies*, OECD Publishing, [1]
<https://doi.org/10.1787/6b47b985-en>.
- OECD (2019), *OECD Competition Assessment Reviews: Tunisia*, OECD Publishing, [2]
<https://www.oecd.org/daf/competition/ca-tunisia-review-2019-en.pdf>.
- ONTT (2019), *Rapport Annuel*, <https://www.ontt.tn/sites/default/files/inline-files/rapport2019.pdf> [3]
 (accessed on 8 Jun 2022).
- Oxford Business Group (2019), *Egyptian market remains promising as ride-hailing services face new transport regulations*, <https://oxfordbusinessgroup.com/analysis/testing-ground-ride-hailing-services-face-new-regulations-promising-market>. [16]
- Riad-Riad (2018), *New Law Regulating Ride-hailing Services*, <https://riad-riad.com/new-law-regulating-ride-hailing-services/>. [20]
- Sadek, G. (2019), *Egypt: Ministerial Resolution Issued to Regulate Activities of Ride-Sharing Companies*, <https://www.loc.gov/item/global-legal-monitor/2019-10-22/egypt-ministerial-resolution-issued-to-regulate-activities-of-ride-sharing-companies/>. [19]
- Voanews (2018), *Egypt Approves Law to Govern Popular Ride-Hailing Apps*, [22]
<https://www.voanews.com/a/egypt-law-ride-hailing-apps/4383613.html>.

Notes

¹ Law No. 2004-33 of 19 April 2004, on the organisation of land transport, as amended by Law No. 2006-55 of 28 July 2006.

² See Law No. 2004-33 of 19 April 2004, on the organisation of land transport, as amended by Law No. 2006-55 of 28 July 2006. *Article 3 gives definitions of public transport and private transport*. Public transport is defined as “any passenger transport service provided for a fee or offered to the public” and private transport is defined as “any transport of persons to which the definitions of public transport and tourist transport do not apply”. Article 14 provides that private transport is not subject to regulation.

³ Decree No. 2007-4101 of December 11, 2007, setting the terms and conditions for the issuance and granting of the professional card for public passenger transport and tourist transport.

⁴ Order of the Minister of Communication Technologies and Transport of 26 August 2004, fixing the distinctive marks of the vehicles assigned to the tourist transport.

⁵ These products are part of the detailed list of products excluded from the foreign trade freedom regime established by Decree No. 94-1742.

⁶ Decree No. 2006-2118 of July 31, 2006, setting the conditions relating to the nationality and professional qualification of the person wishing to carry out one of the activities provided for in Articles 22, 25, 28, 30

and 33 of Law No. 2004-33 of April 19, 2004 on the organization of land transport as amended by Decree No. 2012-512 of May 29, 2012, and Government Decree No. 2016-1101 of 15 August 2016, Article 5.

⁷ Professional experience can be acquired abroad, for Tunisians and for citizens of countries that recognise experience acquired in Tunisia, on the basis of reciprocity.

⁸ See OECD, Competition Concerns in Labour Markets – Background Note by the Secretariat, 5 June 2019.

⁹ Law No. 2004-33 of 19 April 2004, on the organisation of land transport, as amended by Law No. 2006-55 of 28 July 2006, Article 32. Decree No. 2006-2118 of July 31, 2006, setting the conditions relating to the nationality and professional qualification of the person wishing to carry out one of the activities provided for in Articles 22, 25, 28, 30 and 33 of Law No. 2004-33 of April 19, 2004 on the organization of land transport as amended by Decree No. 2012-512 of May 29, 2012 and Government Decree No. 2016-1101 of 15 August 2016 is also relevant.

¹⁰ Law No. 2004-33 of 19 April 2004, on the organisation of land transport, as amended by Law No. 2006-55 of 28 July 2006.

¹¹ Order of the Minister of Transport of 16 January 2020, approving the specifications for the exercise of the activity of rental of passenger cars, mixed cars and vans - (*Cahier des charges – Voiture mixte*, 2020). This *cahier des charges* replaced an earlier *cahier des charges* set out in the Order of the Minister of Transport of 5 February 2002 approving the *cahier des charges* for the operation of a car rental establishment.

¹² Decree No. 2006-2118 of July 31, 2006, setting the conditions relating to the nationality and professional qualification of the person wishing to carry out one of the activities provided for in Articles 22, 25, 28, 30 and 33 of Law No. 2004-33 of April 19, 2004 on the organization of land transport as amended by Decree No. 2012-512 of May 29, 2012, and Government Decree No. 2016-1101 of 15 August 2016, Article 5.

¹³ Professional experience can be acquired abroad, for Tunisians and for citizens of countries that recognise experience acquired in Tunisia, on the basis of reciprocity.

¹⁴ . Decree No. 2006-2118 of July 31, 2006, setting the conditions relating to the nationality and professional qualification of the person wishing to carry out one of the activities provided for in Articles 22, 25, 28, 30 and 33 of Law No. 2004-33 of April 19, 2004 on the organization of land transport as amended by Decree No. 2012-512 of May 29, 2012, and Government Decree No. 2016-1101 of 15 August 2016, Article 4.

¹⁵ Order of 5 February 2002.

¹⁶ Article 1 of Decree-Law No. 73-13 defines a travel agency as any enterprise that carries out, on a permanent basis and for profit, any activity that involves selling to the public (directly or indirectly) on a flat-rate or commission basis, tours and holiday packages (individual or group), as well as any related service. Article 2 sets out the other activities of travel agencies, one of which is car rental. Travel agencies are subject to a *cahier des charges* and a prior declaration filed with the ONTT (Decree-Law No. 73-13, Article 3).

¹⁷ [Al-Sabah News - President of the National Chamber of Car Companies for "Morning": 66 companies closed their doors and 52000 cars prepared for hate outside the legal formulas. \(assabahnews.tn\).](https://www.assabahnews.tn/)

¹⁸ See Law on providing services in tourism, chapter VI. Vehicle rental services, Articles 1 and 2.

¹⁹ Law No. 2004-33 of 19 April 2004, on the organisation of land transport, as amended by Law No. 2006-55 of 28 July 2006, Article 21.

²⁰ Decree No. 2016-828 increased this delay from one to two years.

²¹ Decree No. 2006-2118 of July 31, 2006, setting the conditions relating to the nationality and professional qualification of the person wishing to carry out one of the activities provided for in Articles 22, 25, 28, 30 and 33 of Law No. 2004-33 of April 19, 2004 on the organization of land transport as amended by Decree No. 2012-512 of May 29, 2012, and Government Decree No. 2016-1101 of 15 August 2016. Under the 2006 decree, non-regular public road passenger transport by taxi, rental and rural transport cars could be carried out by individuals or companies.

²² Decree no. 2007-2202 of 3 September 2007, on the organisation of non-regular public road transport of passengers.

²³ Decree no. 2007-2202 of 3 September 2007, on the organisation of non-regular public road transport of passengers.

²⁴ Applicants must provide a declaration of revenues and a sworn declaration that they are entirely devoted to the activity and are not an employee of the state, local authorities or public establishments or companies or, where applicable, an undertaking to resign from any such position.

²⁵ Those present in the market before the introduction of the law in 2006 need not comply with the requirements, and any foreigners operating in the market before this time are exempt from the Tunisian nationality requirement.

²⁶ These can be owned or leased vehicles. A company must obtain permission from the Ministry of Transport to add vehicles to its fleet.

²⁷ The head office may be in a separate office on the premises that house the vehicles.

²⁸ See Emissions standards for taxis - Transport for London (tfl.gov.uk), <https://tfl.gov.uk/info-for/taxis-and-private-hire/emissions-standards-for-taxis#:~:text=On%201%20January%202018%2C%20we,age%20limit%20remains%20in%20place.>

²⁹ Applicants send a letter to the ministry, which has discretion, applying no objective criteria, to decide whether to approve their requests. Refusals are not uncommon and are fuelled by complaints from individuals who do not wish certain companies to increase their fleet sizes.

³⁰ When a holder of a professional licence for taxi, *louage* or rural transport services changes their place of residence from one governate to another, they must seek a new licence. The area covered by the licence for individual taxi and *grand tourisme* taxi services will be the same as what was specified on the previous licence unless the applicant has a professional aptitude certificate that can cover a different service type.

³¹ Applicants must provide a sworn declaration that they are entirely devoted to the activity and are not an employee of the state, local authorities or public establishments or companies.

³² Category-B is for motor vehicles intended for the transport of people or goods with a maximum of eight seats, excluding the driver's seat, and with a total permissible laden weight not exceeding 3 500kg.

See Government Decree No. 2021-510, which establishes licence categories, conditions for granting them, their validity and their renewal (articles 3 and 7).

³³ Decree No. 2021-510, which establishes licence categories, conditions for granting them, their validity and their renewal (Article 11).

³⁴ Decree No. 2021-510, which establishes licence categories, conditions for granting them, their validity and their renewal (articles 12 and 13). The duration of driving licences depends on their category and on the age of the applicant. For Category-B licences, the duration is as follows: under 60 years of age, 10 years; 60-76, five years; 76 and above, three years). For Category-D and -G licences, the duration is as follows: under 60, three years; 60-76, two years; 76 and above, one year. To renew licences, the requirements are not overly burdensome: the applicant needs only to provide the original licence and a medical certificate and pay the required fee.

³⁵ If a certificate holder wishes to extend the zone of validity of the certificate or to change the zone to another area, they must apply again and sit a new exam.

³⁶ See Victorian Taxi Association - TSC announces changes to vehicle age limits and specifications (victaxi.com.au), <https://www.victaxi.com.au/news-and-events/news/2016/07/29/tsc-announces-changes-to-vehicle-age-limits-and-specifications/>.

³⁷ See Victoria Government Gazette No. S 284 Monday 28 September 2015, Transport (Compliance and Miscellaneous) Act 1983 Determination of Specifications for Taxi-Cabs, <https://www.victaxi.com.au/assets/downloads/Old%20taxi-cab%20vehicle%20specification.pdf> (previous version).

³⁸ See *Devenir chauffeur de taxi* | *entreprendre.service-public.fr*, <https://entreprendre.service-public.fr/vosdroits/F21907#:~:text=Vous%20voulez%20devenir%20chauffeur%20de,puis%20demander%20une%20carte%20professionnelle.>

³⁹ See The Objective, *A quarter of Uber vehicles in Madrid are already taxis despite criticism from the sector*, 27 May 2022 (translated from Spanish), <https://theobjective.com/economia/2022-05-27/uber-taxi-vc/>

⁴⁰ See The Objective, *A quarter of Uber vehicles in Madrid are already taxis despite criticism from the sector*, 27 May 2022 (translated from Spanish), <https://theobjective.com/economia/2022-05-27/uber-taxi-vc/>

⁴¹ See El Pais, *Uber already allows you to hire taxis in Madrid through its platform*, 22 November 2019, https://elpais.com/economia/2019/11/21/actualidad/1574351342_919782.html?event_log=oklogin

⁴² See The Objective, *A quarter of Uber vehicles in Madrid are already taxis despite criticism from the sector*, 27 May 2022 (translated from Spanish), <https://theobjective.com/economia/2022-05-27/uber-taxi-vc/>

⁴³ See *Permis de conduire* | *Service-public.fr*, <https://www.service-public.fr/particuliers/vosdroits/N530>

⁴⁴ Decree No. 2015-1252 of 7 October 2015 on the tariffs of cab fares

⁴⁵ See page 20 of OECD paper [https://one.oecd.org/document/DAF/COMP/WP2\(2018\)1/en/pdf](https://one.oecd.org/document/DAF/COMP/WP2(2018)1/en/pdf)

⁴⁶ See “How Uber’s dynamic pricing model works”: <https://www.uber.com/en-GB/blog/uber-dynamic-pricing/>

⁴⁷ See arguments defending Uber’s surge pricing: Bill Gurley, “A Deeper Look at Uber’s Dynamic Pricing Model” (Above the Crowd, 11 March 2014) <http://abovethecrowd.com/2014/03/11/a-deeper-look-at-ubers-dynamic-pricing-model/>.

⁴⁸ Al Katiba is an independent Tunisian investigative journal: See [بُولَط تُونِس: غَثَّ ضَرِيْبِي، تَقْوِيْض لِّلْسُوْق وَمَعْطِيَات \(alqatiba.com\)](http://alqatiba.com)

⁴⁹ See https://instant-m.tn/single-article/ar5223_transport-ces-applis-qui-facilitent-le-quotidien-des-tunisiens

⁵⁰ Bolt poursuivie en justice pour infraction à la loi sur les données personnelles : https://www.businessnews.com.tn/bolt-poursuivie-en-justice-pour-infraction-a-la-loi-sur-les-donnees-personnelles_520_123906_3

6

Travel agencies and other reservation services

This chapter analyses the framework for travel agency and tourist guide services in Tunisia, proposing policy changes and regulatory reforms to enhance competitiveness and competition. Despite the introduction of a notification procedure and a cahier des charges, or sets of specifications, for travel agencies, regulations still include several barriers to entry, such as requirements relating to specific equipment, professional qualifications, operational matters and minimum share capital, creating market distortions, weakening competition and fuelling informality. The regulatory framework for tourist guides is outdated, rendering them subject to rigid, cumbersome licensing procedures with onerous and unnecessary requirements and an annual licence renewal obligation.

6.1. Introduction

As “retailers” of transport, accommodation and recreation activities to the public, travel agencies and reservation services play a major role in Tunisia’s travel and tourism industry (OECD; EUROSTAT; UNWTO, 2010^[1]) and have made a major contribution to the development of the tourism industry since the 1960s. This chapter analyses the regulatory framework for their operation, which dates back to 1973, identifies several barriers to entry, and proposes policy changes and regulatory reforms to enhance competitiveness and competition in the industry. It also analyses the framework for tour and tourist guides, which are closely linked to travel agencies. The regulatory framework for tourist guides imposes rigid and cumbersome licensing procedures with onerous and duplicative requirements that serve no clear policy objectives.

6.2. Travel agencies

6.2.1. Background

A travel agency is defined in Tunisian law as “a company which carries out, on a permanent basis and for profit, an activity that involves selling to the public, directly or indirectly, on a fixed price or commission basis, tours and stays, individual or collective, as well as any related service”.¹ The activities of travel agencies include:

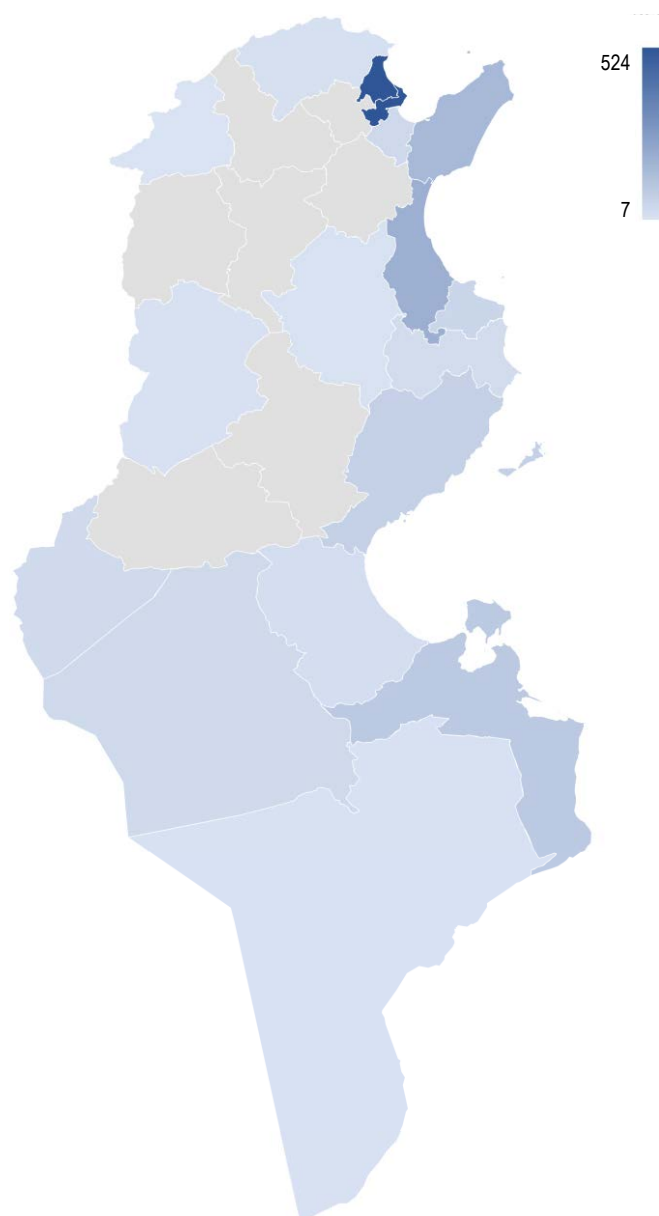
- reserving and selling stays in tourist establishments
- selling transport tickets of any kind
- transporting tourists and renting vehicles (with or without drivers)
- organising and selling trips, excursions and tours
- receiving and assisting tourists during their holidays
- fulfilling insurance formalities on clients’ behalf for any form of risk arising from tourist activity
- representing other local agencies or foreign companies with a view to providing these services on their behalf.²

Travel agencies in Tunisia are classified as Category-A or Category-B. Both categories are subject to a *cahier des charges*, or set of specifications.³ The category determines the activities that may be provided by the travel agency:⁴

- Category-A agencies offer the full range services listed above.⁵
- Category-B agencies can provide a more limited range of services: reserving and selling stays in tourist establishments; selling transport tickets; and representing Category-A agencies in order to provide these services.

A separate piece of legislation governs online travel agencies.⁶ This decree applies both to Category-A and Category-B agencies. In order to operate an online travel agency, the agency must simply inform the *Office National Du Tourisme Tunisien* (ONTT), or Tunisian National Tourism Office, in writing of its intention. The policy objective behind this simple notification procedure is that travel agencies must already qualify as Category-A or -B before they can operate online. A travel agency may thus provide services via the Internet according to its category. In 2019, Tunisia was home to 1 354 travel agencies which are mostly located in Tunis, Nabeul-Hammamet, Sousse and Djerba (Figure 6.1).

Figure 6.1. Travel agencies by region



Source: OECD based on ONTT (2019^[2]), *Le tourisme tunisien en chiffres*, <https://www.ontt.tn/sites/default/files/inline-files/extrait%20tourisme%20en%20chiffres%202019%20vf.pdf>.

As in the accommodation sector, informality is widespread. Many companies provide services that are supposed to be the exclusive preserve of travel agencies without meeting the requirements, notably *sociétés de service*, or service companies. The businesses are regulated by the *Agence de Promotion de l'Industrie et de l'Innovation* (APII), or Agency for the Promotion of Industry and Innovation, under the Ministry of Industry and SMEs. The issue of service companies was also highlighted in responses to an OECD survey (see Chapter 1). Alternatively, companies satisfy the requirements of Category-B travel agencies but provide services demarcated in the legislation for Category-A agencies. The OECD understands that enforcement is lacking. The legislation provides for penalty provisions for any individual or company that carries out these activities without meeting the conditions stipulated by the *cahier des charges*.⁷

6.2.2. Description of the obstacles and policy makers' objectives

Capital requirements: Category-A travel agencies are required to have capital of TND 100 000, while Category-B agencies must have capital of TND 30 000. This capital must be in cash and fully paid up. By contrast, the minimum capital requirement for a *société à responsabilité limitée*, or limited-liability company, is generally TND 1 000.

In addition, any individual or company wishing to operate a Category-A or Category-B agency must provide an unconditional bank guarantee as security for their professional obligations. The amount of this deposit is set by an order of the Ministry of Tourism and is stipulated in the *cahier des charges*. For Category-A agencies, the sum required is TND 50 000. For Category-B agencies, it is TND 25 000.

According to the ONTT, the minimum capital requirement ensures travel agencies' proper operation. In Tunisia in general, the amount of capital required by regulations is determined by company type. The bank guarantee is in place to protect clients from non-execution by travel agencies. If an agency does not fulfil its contracts, the ONTT can use these funds to reimburse its clients.

The OECD understands that the reason for designating two categories of travel agencies is to allow investors wishing to provide the limited services of Category-B agencies to enter the market and operate subject to fewer requirements than required for Category A. According to the authorities, the legal framework is currently being revised, and it was not available for the OECD's review before the finalisation of this report. One aim of the current revisions is to merge the two categories and tighten the requirements in the *cahier des charges*. The proposed merge aims to prevent agencies complying with the lower requirements for Category B from providing Category-A services, and to make compliance enforcement easier for the ministry.

Professional requirements: Any individual or legal representative of a business entity wishing to operate as a travel agency must meet certain professional requirements.⁸ In order to operate a Category-A agency, the individual or legal representative of the business must either:

- Hold a higher education diploma (a degree with a course duration of at least four years) or a specialised diploma (in hotel management, tourism or economics and management) and have two years of work experience (with one year at managerial level).
- Or hold a higher education diploma (a degree with a course duration of at least three years), a specialised or technical diploma, or a specialised professional training diploma, and have three years of work experience in a travel agency (with two years uninterrupted in a managerial position).

According to the ministry, the individual or legal representative of the business must possess the required education and experience because they sign the *cahier des charges* and become the contact for the ministry and the agency's clients, including tourists and international partners.

Monopoly on certain activities: The OECD understands that, aside from specific exceptions mentioned in the law, such as the limited exemptions for associations,⁹ only travel agencies can provide the services stipulated in the legislation. These include: 1) sales and reservations of stays in tourist establishments; 2) sales of transport tickets, tourist transport and vehicle rentals (with or without drivers); 3) the organisation and sale of trips, excursions and tours; 4) services related to the reception of, and assistance for tourists during their stays; 5) the fulfilment of insurance formalities for any form of risk arising from tourist activities on behalf of clients; and 6) the representation of other local agencies or foreign companies with a view to providing these services on their behalf.¹⁰ In practice, vehicle rentals are not offered only by travel agencies, as the activity is regulated by a *cahier des charges* under the Ministry of Transport.

The OECD understands that these activities may be provided only by travel agencies for consumer protection purposes and to guarantee the quality of services, given the requirements in the *cahier des charges*, such as capital levels and bank guarantees.

Operating requirements: The *cahier des charges* for Category-A travel agencies requires that they obtain approval from the ONTT for each excursion that will be undertaken. Agencies are required to provide information about the route, the driver and the number of people participating 48 hours in advance. According to stakeholders, problems arise when tourists book online and wish to undertake excursions at short notice. In such circumstances, travel agencies must either give up the opportunity to organise the excursion because they will not obtain the required approval from the ONTT in time (especially during weekends) or organise the excursion in violation of the law. Given the approval requirements, companies are unable to provide customers with immediate or real-time responses to such requests. These issues were highlighted in discussions with industry federations and in the OECD survey (see Chapter 1).

According to the authorities, the approval requirement is in place to ensure safety, manage site congestion and protect consumers.

Category-A travel agencies have the right to organise tours and visits. For any tour organised in a public space, such as in a museum, at an historical monument or on public transport, the travel agency must use a licensed tourist guide. The use of licensed guides is controlled by regional tourism authorities. Travel agencies are required to submit their excursion plans to these authorities and, once approved, they receive an authorisation to carry out their excursions. In their submissions, they must name the guide(s) who will accompany the tourists on the excursion. Travel agencies are thus required to use licensed guides even for tours such as food tours, which do not necessarily require the knowledge of a licensed guide.

According to the authorities, the requirement is in place to ensure certain standards and quality in the provision of services. Official guides must adhere to certain condition, including education requirements (see Section 6.3).

Foreign travel agencies: The legislation provides that foreign travel agencies may operate in Tunisia only in accordance with international conventions or subject to reciprocity. According to the authorities, foreign travel agencies cannot operate directly in the country, but only indirectly through partnerships with local Tunisian agencies.

The Ministry of Tourism does not supervise and is not otherwise involved in partnerships between foreign and local travel agencies, which involve bilateral commercial contracts and are not governed by any laws, guidance or reporting obligations for the Tunisian agency. The *cahier des charges* lists the activity as being one of the activities of travel agencies, reaffirming the fact that foreign agencies cannot operate directly in Tunisia.

6.2.3. Harm to competition

Minimum professional capacities and material requirements to operate lead to an increase in companies' fixed costs. This potentially increases prices charged in the market. These barriers may also reduce the number of companies in the market, resulting in less competitive pressure for incumbents.

Capital requirements: Requiring minimum capital levels higher than those mandated for limited-liability companies increases market access costs, preventing potential entrants from deploying smaller amounts of capital, even if these would be adequate for their businesses. This has a disproportionate impact on small-scale operators and new companies. These provisions may lead to a reduction in the number of operators and greater market concentration, and may prevent smaller operators from offering more innovative, lower-priced services. They may also raise prices charged by existing market players. In addition, businesses providing travel agency services informally through service companies are subject to minimum capital requirements only in line with the general minimum of TND 1 000 for a limited-liability company.

The bank guarantee requirement increases market access costs, but unlike the capital requirement, it is likely proportional. Other jurisdictions, such as France, have financial guarantee requirements for travel

agencies. In France, the guarantee must be taken out with specific institutions and is unlimited in nature, taking into account the experience and activities of the agency. It is required to ensure the reimbursement of consumers, particularly those purchasing package deals.¹¹ In Croatia, before a travel agency begins operating, it is required to submit information and proof of fulfilment of the protection obligation in case of insolvency and liability insurance to the Ministry of Tourism.¹² The OECD recommends the use of bank guarantees or insurance contracts instead of capital requirements (see Box 6.1).

Although the classification of travel agencies as Category A or B aims to encourage entry and minimise barriers for those wishing to offer fewer services, the lack of enforcement may distort competition, as in practice, businesses misuse the categories. In addition, there is a lack of enforcement against service companies providing travel agency services informally without meeting the requirements of Category A or B. The ineffective enforcement of the rules for the two categories and against service companies may distort the market, as businesses adhering to the official requirements face higher barriers than those that satisfy only the requirements of Category B or which do not satisfy the *cahier des charges* at all. The lack of enforcement also suggests that some of the requirements for travel agencies may be stricter than necessary to achieve policy makers' objectives.

Professional requirements: These may increase costs for operators seeking to establish themselves and operate in the market, which may be reflected in higher end costs and less diversity of services. The prerequisite of professional experience in the sector further reduces the number of potential professional entrants in the sector and limits employment opportunities for new graduates who may hold the requisite academic qualifications, particularly in small markets with limited numbers of operators. Being required to obtain work experience at an existing agency could also affect an individual's incentives to start a competing firm.

In France, professional aptitude conditions for travel agents, such as diplomas and experience, were abolished in 2016. To register as a travel agent in France, applicants must provide only proof of the conditions of civil liability insurance and comply with a financial guarantee.¹³ In Croatia, travel agency managers must have completed secondary school and have passed a professional exam for business managers.¹⁴

Monopoly on certain activities: Travel agencies' monopoly on a large range of tourism activities may result in increased market concentration, given the numerous requirements associated with establishing agencies. In France, travel services are considered activities of travel agencies only where the agency organises such services and does not itself provide them.¹⁵

Operating requirements: The requirement that the ONTT approve excursions makes it more difficult for market players to operate due to the significant administrative burden it places on them. It limits operators' flexibility and their ability to innovate, seek new business opportunities, and adapt to consumer demand for last-minute excursions and trips, in addition to limiting consumer choice.

The requirement to use licensed guides in all situations may reduce choice for travel agencies and increase costs. It may also mean that new and innovative tours, such as food tours, cannot be offered as licensed guides may not possess the required knowledge and travel agencies are allowed to use only official guides. The requirement to name guides ahead of time may, and in practice appears to, result in businesses attempting to bypass this rule, distorting competition between them and those operating in compliance with it. Stakeholders explained that travel agencies often name official guides in declarations, but in reality they use unofficial guides to save money. According to stakeholders, inspector numbers are insufficient to verify the use of only licensed guides by travel agencies.

Box 6.1. Capital requirements: international experience

Many countries have general minimum paid-up capital requirements for specific types of company structures, for example, limited-liability companies or public limited-liability companies, rather than sector-specific capital requirements.

In *Doing Business* (2013^[3]), in a chapter entitled “Why are minimum capital requirements a concern for entrepreneurs?”, the World Bank observed that, in general, minimum share capital is not an effective measure of a firm’s ability to fulfil its debt and client service obligations. Share capital is a measure of investment by a firm’s owners, not the assets available to cover its debts and operating costs. In the report, the bank concluded that minimum capital requirements protect neither consumers nor investors, and that they are associated with less access to financing for SMEs and a lower number of new companies in the formal sector. Creditors prefer to rely on objective assessments of companies’ commercial risks based on analysis of financial statements, business plans and references, as many other factors can affect a firm’s chances of facing insolvency. Moreover, such capital requirements are particularly inefficient if firms are allowed to withdraw the funds soon after incorporation.

Contrary to initial expectations, the World Bank report cites evidence that minimum capital requirements do not help the recovery of investments; indeed, they are negatively associated with creditor recovery rates. Credit recovery rates tend to be higher in economies without minimum capital requirements, suggesting that alternative measures, such as efficient credit and collateral registries, and enhanced corporate governance standards, are potentially more efficient in addressing such concerns. Moreover, capital requirements tend to diminish firms’ growth potential.

Minimum capital requirements have been found to be associated with higher levels of informality, and with firms operating without formal registrations for longer periods. In turn, informality results in an uneven playing field in the market, increased difficulty in enforcing necessary regulations, and lost tax revenue for the state.

Commercial bank guarantees and insurance contracts are a better instrument for managing counterparty risks, and should therefore be the focus of any regulation seeking to promote a minimum level of business certainty for users of tourism services.

In addition to being largely ineffective in achieving policy makers’ objectives, higher minimum capital requirements are associated with lower business entry, as shown in the World Bank report (2020^[4]).

An increasing number of countries have eliminated or reduced minimum capital requirements. In 2003, 124 countries imposed minimum capital requirements for the founding of companies. Since then, 58 countries have eliminated such requirements altogether. The World Bank finds that the most significant changes have occurred in the Middle East and North Africa, where average minimum capital requirements amounted to 466% of income per capita when the *Doing Business* report (2003^[5]) was published but had dropped to 5% of income per capita by the time the 2020 report was published.

Source: OECD (2021^[6]), OECD Competition Assessment Reviews: Logistics Sector in ASEAN, <https://www.oecd.org/competition/fostering-competition-in-asean.htm>.

The requirement for travel agencies to use licensed guides is more limited in some other jurisdictions. In France, for example, only guided tours in museums or at historical monuments must be carried out by qualified guides that hold a professional licence (*la profession de guide-interprète ou de conférencier*, or the profession of guide-interpreter/lecturer) where paid tours are organised by travel agencies or tour operators.¹⁶ The profession of tour guiding is not otherwise regulated in France.¹⁷

Foreign travel agencies: This prohibition directly limits the number of suppliers and potential investors in Tunisia's tourism market. It may affect prices and quality, as competition with foreign travel agencies may encourage both local and foreign firms to become more efficient.

6.2.4. Recommendations

The OECD recommends revising the *cahier des charges* for travel agencies. In general, activities that may be provided exclusively by travel agencies should be limited to core activities and authorisation requirements should be proportional. Therefore, the OECD recommends:

- Ending the exclusive character of the following travel agency activities:
 - sales of transport tickets
 - services related to welcoming and assisting tourists during their stays
 - the fulfilment of insurance formalities on behalf of clients
 - car and vehicle rental
 - tourist transport.
- Where necessary, introducing alternative regulations for the above activities where a genuine public benefit would result and considering possible harm to competition.
- Allowing market participants to accumulate authorisations in the tourist services sector, such as those to provide tourist transport, offer travel agency services and sell transport tickets, if they fulfil the necessary requirements.
- Creating a separate *cahier des charges* for tourist transport under the Ministry of Transport as provided for in the legislation (see Section 5.2).
- Abolishing the distinction between Category-A and -B travel agencies and subjecting all agencies to the same requirements, which should be reformed as outlined above.
- Abolishing travel agency-specific minimum capital requirements and instead requiring compliance only with general requirements under commercial law. Alternatively, bank guarantees or insurance contracts rather than cash deposits could be accepted to comply with capital requirements. The Category-A and -B *cahiers de charges* already require travel agencies to provide bank guarantees.
- Abolishing professional requirements such as academic qualifications and experience levels that do not necessarily provide any guarantee of service quality.
- Ending the ONTT approval requirement for excursions, or at least replacing it with a notification requirement that can be filed online to allow short-notice activities outside of administrative working hours.
- Considering allowing the use of unofficial guides for innovative tours that do not require the expertise of licensed guides.
- Considering allowing foreign travel agencies to enter and operate in the Tunisian market and removing the local partnership requirement. Foreign agencies should be required to comply with the same requirements imposed on local players. Alternatively, foreign agencies could be permitted to operate subject to reciprocity agreements (see Section 9.3).

6.3. Tourist guides

6.3.1. Background

According to the ONTT's 2020 annual report, 1 000 guides were active in Tunisia in 2020, including 823 professional guides, 100 teaching auxiliary guides, 26 auxiliary guides, 15 local guides, three site guides

and 33 Saharan guides. The professional tourist guide exam held in 2019 saw 60 new guides admitted with differing languages and specialities (ONTT, 2020, pp. 15-16^[7]). According to the *Fédération Tunisienne des Guides Touristiques* (FTGT), or Tunisian Federation for Tourist Guides, only 400 guides are currently operating, 95% of whom are freelance and have no contracts with travel agencies.

6.3.2. Description of the obstacles and policy makers' objectives

The tourist guide profession is defined by Decree-Law No. 73-5 as including “any person who accompanies tourists for remuneration, in transport vehicles, in a public space, at historical monuments and museums, and provides them with comments and explanations of any kind”. The decree-law also provides for two categories of tourist guides: professional guides and auxiliary guides. Professional guides are defined as those “exercising their function on a permanent basis, the competence of these guides being able to extend either to the whole of the territory (national guides) or to a commune or a governorate (local guides)”. Auxiliary guides are those that engage in the profession temporarily.

Several EU countries, including Austria, Belgium, Croatia, Cyprus, France, Hungary, Italy, Malta, Romania, the Slovak Republic, Slovenia and Spain, and non-EU countries, such as Egypt, Jordan, Morocco, South Africa and the United Arab Emirates, regulate the tourist guide profession.¹⁸

In order to work as a tourist guide in Tunisia, an individual must obtain a professional licence granted by the ONTT. The OECD understands that competences and qualification conditions are not defined by decree but are set out on the website of the Ministry of Tourism and through the portal of online government information service SICAD. One set of requirements must be met to obtain the licence for the first time and another set applies for renewals of the licence.¹⁹ According to the authorities, the professional licence requirements for local and national guides are the same.

The legislation provides for fines for those violating the provisions of the law, including, for example, by providing tourist guide services without being officially recognised. Stakeholders have noted a large number of guides operating illegally and whom are often illegally employed by travel agencies to provide services reserved for official guides. Although the ONTT carries out inspections of travel agencies, enforcement appears to be lacking.

Criteria for obtaining a professional licence: Applicants must fulfil the criteria set out on the Ministry of Tourism and SICAD websites. They include educational requirements, a clean criminal record and a medical certificate, the latter being required both at the time of first issuance and for renewals. Applicants must be graduates of one of Tunisia’s two tourist training centres (*Centres de Formation Touristique de Kerkouane et de Bellargia*) and have specialised as a tourist guide. Alternatively, they must have passed a tourist guide recruitment exam organised by the ONTT. According to the stakeholders, the exam is held every three or four years. The last exam was held in 2019 and the one before that in 2015.

The educational requirements or alternative exam requirements are likely in place to ensure a certain level of knowledge among guides and thus service for tourists. The OECD understands that the medical certificate and the criminal record requirements are in place to ensure that guides are fit and authorised to carry out their profession.

Box 6.2. Tourist guide regulation

France

In France, only tour guides providing guided visits to certain museums or historical monuments are required to obtain professional licences and meet educational requirements.¹ Other, more general guides are not subject to regulation.

Morocco

In Morocco, the tourist guide profession is regulated by Law No. 05-12 (modified by Law No. 133.13 and Law No. 93.18). These laws set out conditions for entering and practicing the profession. A legal distinction exists between two types of guides: guides for towns and organised tours; and guides for natural sites. According to *OECD Tourism Trends and Policies 2022*, “in February 2018, in accordance with existing laws, the Department of Tourism launched a review of licensing relating to city guides, tour guides and nature guides. At its conclusion, the programme had led to the certification of 1 108 guides, including 905 in the category of city and tour guides and 203 in the category of natural area guides. This programme also encouraged the integration of guides mastering new languages such as Mandarin, Japanese, Russian, Swedish, Polish, Turkish, Dutch and Portuguese”.³

Jordan

In Jordan, individuals must obtain licences from the Ministry of Tourism and Antiquities to work as tourist guides. Applicants must hold a university degree or a diploma in tour services, and pass a language test, an interview and an exam following a six-month course held by the ministry.⁴

Notes:

1. See <https://bpi-france-creation.fr/activites-reglementees/guide-conferencier>.
2. See <https://mtaess.gov.ma/fr/tourisme/metiers-et-formation/guides-de-tourisme/>.
3. See <https://www.oecd-ilibrary.org/sites/409d3fd2-en/index.html?itemId=/content/component/409d3fd2-en>.
4. See Ministry of Tourism and Antiquities, https://mota.gov.jo/En/Pages/Tourist_Guides_Qualification.

Renewal of the professional licence: The professional licence must be renewed annually. According to stakeholders, the annual renewal is an administrative burden as it takes a long time and involves the provision of a medical certificate attesting that the candidate is fit to practice the profession. The licence cannot be renewed if more than two years have elapsed since its expiry. In such cases, guides must obtain new licences and comply with the relevant conditions. If guides do not meet the education requirements, they must re-sit the exam, which is run only every three or four years.

The annual renewal is likely in place to ensure the quality of guide services in Tunisia and to ensure consumer protection. The two-year limit likely aims to encourage renewals and commitment to the profession.

Auxiliary guides: Although it is provided for in the legislation, according to the authorities, the auxiliary guide profession no longer exists, as the ONTT no longer grants such guides the required professional licence. There is no legal document that supports this change and data from the ONTT’s 2020 annual report appears to contradict this, showing 26 auxiliary guides and 100 teaching auxiliary guides active in the market (ONTT, 2020, p. 15^[7]). According to stakeholders, professionals such as university professors could previously work as guides during semester breaks. Since 2019, they have lost the right to work as guides because one of the current conditions for renewing the professional licence, as explained on SICAD’s website, is not to be engaged in another profession.

The OECD understands that the ONTT decided to stop granting auxiliary guides professional licences because too many were operating in the market and professional guides were struggling to find job opportunities.

Temporary authorisations for foreign guides: To be able to accompany tourists in Tunisia, representatives of foreign travel agencies, including foreign guides, must obtain a temporary authorisation from the relevant consular authority. The OECD has not been able to identify the process and conditions for obtaining this authorisation, as they are not publicly available. The OECD understands that in practice, temporary authorisations for foreign travel agency representatives are issued by the ONTT, at its discretion and infrequently. However, according to the FTGT, several foreign guides are informally active in the market, especially for tourists whose languages are not commonly spoken by Tunisian guides, such as eastern European languages.

The OECD understands that the ONTT does not issue authorisations for foreign guides unless there is a lack of Tunisian guides. They are notably issued when Tunisian guides cannot meet demand for tours in certain languages. For example, authorisations may be granted for representatives that speak Mandarin, as very few Tunisian guides are proficient in this language.

6.3.3. Harm to competition

Criteria for obtaining a professional licence: The specific educational requirements – a specific course at one of only two institutions – may reduce the number of tour guides in the market, increasing concentration. The exam provides an alternative, but applicants must wait up to four years until an exam is held, which may delay their entry. The medical certificate requirement may increase the administrative burden on applicants.

Box 6.3. Educational requirements for tourist guides

Croatia

In Croatia, individuals wishing to work as tour guides must pass a basic professional exam. There is an additional exam for tour guides seeking to provide services in protected areas of artistic, heritage and archaeological value. A further category of tourist guides, known as honorary tourist guides, are not required to sit the professional exam in order to provide occasional services. Such guides include prominent scientists and experts who can be recognised on request and at the discretion of the minister of tourism as guides in fields of high specialisation.¹

France

In France, only guides offering guided visits to certain museums or historical monuments are required to obtain a professional licence.² For this authorisation, guides must hold a master's degree and have undertaken three specific course units or have minimum experience of one year in a specific domain.³

Notes:

1. See, Article 70 (1) of the law on providing services in tourism. To provide tourist guide services, the applicant must pass the professional exam for tourist guides, have completed at least secondary education, know the language he or she will use (B2 level and possess sufficient Croatian language skills). Article 76 sets out the conditions for honorary guides.

2. See <https://bpifrance-creation.fr/activites-reglementees/guide-conferencier>

3. See Order of 9 November 2011 on the skills required for the issuance of the professional guide card to holders of a professional license or diploma conferring the master grade.

Renewal of the professional licence: Annual renewals impose an administrative burden on tour guides in Tunisia, possibly deterring entry, encouraging exit and raising costs, ultimately raising prices or lowering quality for customers. Administrative delays amplify the harm. Although annual renewals appear to exist in some jurisdictions, such as the United Arab Emirates and Qatar, licences can be renewed online in those countries.²⁰ In jurisdictions such as France, no renewal requirement exists.

Auxiliary guides' ineligibility for the professional licence: Denying auxiliary guides permission to work reduces the number of tour guides and increases market concentration, potentially raising prices and reducing quality by preventing more diversity. Language or history professors, for example, may bring new and valuable insights to the market. In general, the renewal requirement not to have another occupation may also reduce the number of market players and discourage entry. The authorities informed the OECD that this decision had been taken following the 2015 terrorist attacks to ensure licenced guides had sufficient job opportunities.

Temporary authorisations for foreign guides: This requirement directly limits the number of tour guides able to operate in Tunisia and discriminates against foreign guides. It may affect price and quality, as competition may be reduced. It may also directly reduce the number of multi-country tours that include Tunisia on their itineraries and may stop some tours altogether.

6.3.4. Recommendations

In light of the harm to competition caused by the provisions described above, and their limitations in terms of achieving policy goals, the OECD recommends:

- Streamlining the procedure for applications and renewals of the professional licence and increasing its validity so that renewals are required less often, or allowing applicants to renew their licences easily online.
- Allowing auxiliary guides to be granted professional licences to operate as official guides, as provided for in the legislation.
- Revising the educational requirements for the professional licence for tourist guides and increasing the frequency of the exam.
- Considering the exemption of individuals who wish to provide tours outside of museums and historical sites from the professional licence obligation.
- Streamlining temporary authorisation procedures for foreign travel agency representatives, including foreign guides, that demand it. Rules or guidelines on the process and conditions for temporary authorisations should be clear and publicly available.

References

- OECD (2021), *OECD Competition Assessment Reviews: Logistics Sector in ASEAN*, [6]
<https://www.oecd.org/competition/fostering-competition-in-asean.htm>.
- OECD; EUROSTAT; UNWTO (2010), *Tourism Satellite Account: Recommended Methodological Framework 2008*, UN, <https://doi.org/10.1787/9789264274105-en>. [1]
- ONTT (2020), *Rapport Annuel 2020*, <https://www.ontt.tn/sites/default/files/inline-files/Rapport%20ONTT%202020.pd>. [7]
- ONTT (2019), *Rapport Annuel*, <https://www.ontt.tn/sites/default/files/inline-files/rapport2019.pdf> [2]
 (accessed on 8 Juin 2022).

- World Bank (2020), *Doing Business 2020 : Comparing Business Regulation in 190 Economies*, World Bank, <http://hdl.handle.net/10986/32436>. [4]
- World Bank (2013), *Doing Business 2014: Why are minimum capital requirements a concern for entrepreneurs*, World Bank, https://elibrary.worldbank.org/doi/pdf/10.1596/978-0-8213-9984-2_Case_studies_1. [3]
- World Bank (2003), *Doing Business 2004*, World Bank, <https://archive.doingbusiness.org/en/reports/global-reports/doing-business-2004>. [5]

Notes

¹ Decree-Law No. 73-13 of 17 October 1973, on the regulation of travel agencies as amended by Law 2006-33 of 22 May 2006 on the simplification of procedures in the field of administrative authorizations relating to the sector, Article 1.

² Decree-Law No. 73-13 of 17 October 1973, on the regulation of travel agencies as amended by Law 2006-33 of 22 May 2006 on the simplification of procedures in the field of administrative authorizations relating to the sector, Article 2.

³ Decree-Law No. 73-13 of 17 October 1973, on the regulation of travel agencies as amended by Law 2006-33 of 22 May 2006 on the simplification of procedures in the field of administrative authorizations relating to the sector, Article 3.

⁴ Decree-Law No. 73-13 of 17 October 1973, on the regulation of travel agencies as amended by Law 2006-33 of 22 May 2006 on the simplification of procedures in the field of administrative authorizations relating to the sector, Article 5.

⁵ Decree-Law No. 73-13 of 17 October 1973, on the regulation of travel agencies as amended by Law 2006-33 of 22 May 2006 on the simplification of procedures in the field of administrative authorizations relating to the sector, Article 2.

⁶ Order of the Minister of Tourism of 9 August 2007, on the rules applicable to the exercise of the activity of travel agencies by Internet.

⁷ Decree-Law No. 73-13 of 17 October 1973, regulating Travel Agencies – Amended by Law No. 2006-33 of 22 May 2006 on the simplification of administrative procedures related to the sector, Article 24. Any individual or company engaged in travel agency activities without meeting the conditions in the *cahier des charges* is liable for a fine ranging from TND 5 000 to TND 10 000. In addition, the court will order the immediate closure of the business. In cases of recidivism, the fine will be doubled.

⁸ See Chapter 1 for details on barriers.

⁹ Decree-Law No. 73-13 of 17 October 1973, regulating Travel Agencies – Amended by Law No. 2006-33 of 22 May 2006 on the simplification of administrative procedures related to the sector, Article 3. Legally constituted associations can engage in travel agency activities, specifically, organising trips, excursions or tours subject to the agreement of the minister in charge of tourism, up to a limit of twice a year, and after submitting a programme of excursions and tours to the ONTT.

¹⁰ Decree-Law No. 73-13 of 17 October 1973, regulating Travel Agencies – Amended by Law No. 2006-33 of 22 May 2006 on the simplification of administrative procedures related to the sector, Article 2.

¹¹ See Decree No. 2015-1111, relating to the financial guarantee and professional civil liability of travel agents and other operators involved in the sale of travel and stays:

<https://www.legifrance.gouv.fr/loda/id/JORFTEXT000031127908/> and Articles L.211-18 et R.211-26 of the Tourism Code.

¹² See Article 13 (2) of the Law on providing services in tourism.

¹³ See <https://jesuisentrepreneur.fr/idees-business/agence-voyage/reglementation-agence-voyage#:~:text=Les%20professionnels%20du%20secteur%20ont,renouvelpercentageC3%A9e%20tous%20les%20trois%20ans.>

¹⁴ See Articles 16-19 of the Law on providing services in tourism.

¹⁵ Article L.211-1 of the Tourism Code.

¹⁶ Tourism Code, Article L221-1 and L221-2. See:

https://www.legifrance.gouv.fr/codes/section_lc/LEGITEXT000006074073/LEGISCTA000006107988/#LEGISCTA00006107988

¹⁷ See <https://bpifrance-creation.fr/activites-reglementees/guide-conferencier>

¹⁸ EU: <https://ec.europa.eu/growth/tools-databases/regprof/index.cfm>, Non-EU examples: Morocco : [Guides de tourisme - Ministère du Tourisme, de l'Artisanat et de l'Economie Sociale et Solidaire \(mtaess.gov.ma\)](#); South Africa: <https://www.westerncape.gov.za/dept/edat/services/813/17782>; Jordan: <https://mota.gov.jo/Default/En>,

¹⁹ See <http://www.tourisme.gov.tn/pour-investir/prestations-administratives.html>

²⁰ See Qatar: <https://hukoomi.gov.qa/en/service/request-to-renew-tour-guide-license>

7 Cultural services

Cultural activities are considered as an essential part of the tourism diversification efforts recently made by Tunisian authorities. Heritage concessions are at the centre of these efforts, and represent one of the main means of ensuring better management of 3 000-plus historical and archaeological sites nationwide. Despite the existence of a relatively clear and conducive framework, the development of heritage concessions is hindered by several obstacles, including institutional conflicts of interest. This chapter addresses restrictions on the establishment of private museums, galleries and art workshops. The introduction of notification procedures for these activities falls short of the expected outcomes as the regulations still include several barriers to entry, such as specific equipment requirements, professional qualifications, corporate legal structures and minimum levels of capital.

7.1. Introduction

The cultural and creative industries are a significant source of jobs and income. They are a driver of innovation and creative skills, within these industries and beyond (OECD, 2022^[1]). Cultural tourism, defined by the World Tourism Organization as tourism centred on cultural attractions and products, is one of the fastest-growing segments of the tourism industry, accounting for an estimated 40% of all tourism worldwide (UNESCO, 2021^[2]). It includes heritage and religious sites, crafts, performing arts, gastronomy, festivals and special events, among other things. The cultural and creative sectors can directly feed into activity in the tourism sector, such as hospitality, accommodation and travel, and can be harnessed to promote more sustainable tourism (OECD, 2022^[3]).

Tunisia has a rich cultural history and is home to eight sites that feature on the UNESCO World Heritage List, including the archaeological sites of Carthage, Dougga and Kerkouane, the Amphitheatre of El Jem, the Medina of Tunis, the Medina of Sousse and the Medina of Kairouan, in addition to the Ichkeul National Park, a natural World Heritage site.¹ Tunisia is home to 35 public museums: 23 historical and archaeological museums; ten museums of art and popular tradition; and two contemporary history museums.² The Bardo National Museum, the Carthage National Museum and the Sousse Archaeological Museum are Tunisia's most famous museums. Entrance fees for public museums are set by the Ministry of Culture.³ Until recently, the *Agence de Mise en Valeur du Patrimoine et de Promotion Culturelle* (AMVPPC), or Agency for Heritage Development and Cultural Promotion, had a monopoly on managing and overseeing museums, historical sites and archaeological sites, and heritage concessions did not exist.

This chapter analyses recent developments in this field and issues related to the establishment of private museums, galleries and art workshops. Other types of cultural services, such as producing and marketing historical and archaeological goods, are analysed in a spreadsheet published as a standalone document on the dedicated OECD webpage, <https://oe.cd/ca-tunisia>.

7.2. Heritage concessions

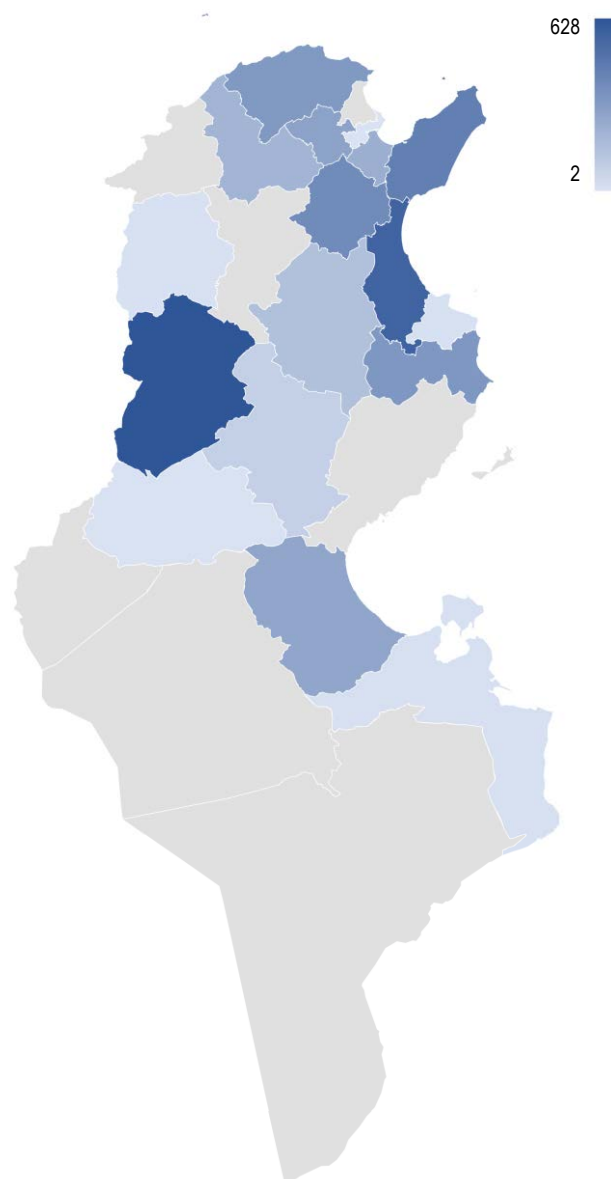
7.2.1. Background

The *Institut National du Patrimoine* (INP), or National Heritage Institute, publishes a map of archaeological sites and historical monuments in Tunisia.⁴ The *Code du Patrimoine Archéologique, Historique et des Arts Traditionnels*, or Code on Archaeological, Historic and Traditional Arts, defines several types of cultural heritage sites:

- Cultural sites are defined as man-made, or natural and man-made, and include archaeological sites that have national or international value from the point of view of history, aesthetics, art or tradition.⁵ Cultural sites are classified by a joint order of the minister of culture and the minister of town planning following consultation with the INP.⁶
- Historical monuments are defined as immovable property, built or not, in private or public areas, the protection and conservation of which has national or international value from the point of view of history, aesthetics, art or tradition.⁷ Historical monuments are subject to a protection decree issued by the minister responsible for heritage on their own initiative or on the initiative of any person with an interest and following consultation with the INP.⁸

The National Heritage Institute assessed over 3 000 archaeological sites and 1 300 archaeological monuments countrywide (INP, 2023^[4]).

Figure 7.1. Archaeological sites and monuments by region



Source: OECD based on INP (2023^[4]), Base de données de la carte archéologique, https://www.inp2020.tn/projets/carte/data_base_sites_monuments/

7.2.2. Description of the obstacles and policy makers' objectives

In Tunisia, the granting of concessions is regulated by Law No. 2008-23, which applies to all sectors in which no specific sector laws govern concessions. Following the adoption of Law No. 2019-47 on the improvement of the investment climate, which amended Law No. 2008-23, the AMVPPC was empowered to grant concessions for cultural and archaeological sites.⁹ However, the agency did not make use of this new mandate, despite growing interest among private investors.

It is noteworthy that the agency has many regulatory functions, such as granting licences and approvals, and manages sites, museums and monuments itself. Article 3 of Law No. 1997-16, amending Law No. 1988-11, which created a national agency for the development and exploitation of archaeological and

historical heritage, explains that the agency is funded through cultural events it organises and entrance fees to monuments, cities and museums, income from the agency's heritage other or property assigned to it, and income from archaeological monuments, sites and museums.¹⁰

Box 7.1. Tunisia's concessions system

The Tunisian general concessions system is defined by Law No. 2008-23, amended by Law No. 2019-47.¹ According to Article 2 of the law, a concession is “a contract by which a public person designated a ‘grantor’ delegates, for a limited period, to a public or private person designated a ‘cessionnaire’, the management of a public service or the use and operation of public areas or tools in return for remuneration that it collects from users for its benefit under the conditions set by a contract. The concessionaire may also be responsible for construction related to, and modification or extension of constructions, works and installations, and for acquire necessary goods to fulfil the purpose of the contract. The contract may authorise the concessionaire to occupy parts of the area belonging to the grantor to build, modify or extend constructions, aforementioned works and installations”.

Note: 1. As amended by Law No. 2019-47, relating to the improvement of the investment climate and Law No. 2021-9, relating to the approval of Decree-Law No. 2020-24, as well as the regulatory texts adopted for its application, in particular Decree No. 2020-316, laying down the conditions and procedures for granting concessions and their monitoring. Law No. 2008-23 is considered the fundamental legal framework governing concessions in Tunisia. The provisions of the law are applicable to all concessions granted, without prejudice to specific sector texts and provisions governing concessions (Article 43).

Source: Law No. 2008-23.

Tunisian authorities informed the OECD that heritage concessions are a top priority for the country. Several international partners, including the EU and French international technical co-operation agency Expertise France, are providing financial and technical support to unlock this potential. The OECD understands that the AMVPPC's involvement in the process of granting heritage concessions is important since it aims to ensure the consistency of the national strategy for the restoration of architectural integrity, the safeguarding of heritage authenticity, and the conversion to new functionalities, allowing the exploitation of monuments for cultural and tourism purposes.

7.2.3. Harm to competition

The involvement of the AMVPPC in the concession process creates a conflict of interest. The agency currently has a monopoly on the management of historical and archaeological sites, and these operations are the main source of its budget. Granting concessions at some of these sites would potentially reduce the agency's revenues, as it may not benefit directly from concession fees. In addition, to the extent that sites operating under concessions compete with those managed directly by the agency, the agency would also face the potential of further revenue reductions if tourists switched to competing sites. This could result in unfair or anti-competitive outcomes through discrimination against new entrants and lead to reduced market entry.

Despite the AMVPPC's reluctance to grant heritage concessions, the first concession contract was signed in December 2021 for the restoration of the El Karaka site in the Tunis municipality of La Goulette, and its transformation into a museum of artisanal ceramics. Other contracts are being finalised, including for the restoration and use of the 14th century Casino de Hammam-Lif. These contracts were made possible through memorandums of understanding signed between the *Instance Générale de Partenariat Public Privé* (IGPPP), or General Public-Private Partnership Authority, the Ministry of State Property and Land Affairs, and the INP. The memorandums also enabled the development of model contracts to help promote heritage concessions, especially with local municipalities.

Stakeholders told the OECD that the reluctance of the agency to grant heritage concessions thus far and its lack of engagement in recent operations are clear indicators of the conflict of interest. The status quo may hinder the development of this market in the long run and could pose a serious challenge for attracting the private investment needed to promote numerous historical sites that are currently practically neglected. Various stakeholders confirmed that the AMVPPC lacks the human and financial resources to ensure proper management of Tunisia's 4 000-plus historical and archaeological sites.

7.2.4. Recommendations

If the promotion of heritage concessions remains a policy priority in Tunisia, the OECD recommends the following regulatory changes in order to minimise harm to competition and productivity:

- Revise the AMVPPC business model to avoid any conflict of interest in the allocation of heritage concessions and clarify its role in related procedures. This will involve separating AMVPPC's regulatory powers from its role as a market player.
- Consolidate the current framework for heritage concessions, which is based on the general concessions regime, and ensure that it is more open to private initiative, more flexible and conducive to competition.
- Adopt guidelines that allow grantors, including local authorities, to properly manage concession procedures and design offers that consider the specificities of the sites to be granted.
- Consolidate the experience of model contracts to help grantors better manage concessions.

Box 7.2. Redeveloping national cultural heritage for tourism in Portugal

National heritage properties are an important part of Portugal's historical, cultural and social identity, making a rich and distinctive contribution to the attractiveness of its regions and the tourist experience. The country's REVIVE programme aims to streamline the redevelopment of vacant properties for tourism, to support regional development, and lengthen the tourist season. Under the programme, publicly owned properties in low-density and coastal regions are being opened up to private sector investment through concessions for their development and operation. The programme is run by a technical team that includes representatives from the Department of Cultural Heritage within the Ministry of Culture, the Department of Treasury and Finance within the Ministry of Finance, the National Defence Resources Department within the Ministry of Defence, and the Portuguese Tourism Board within the Ministry of Economy, together with the close involvement of local municipalities. Safeguards exist to ensure that the plans put forward for each heritage property are suitable for both the property and the development needs of each region. Concession contracts are awarded following an international tender process to ensure transparency, competition and promotion. The inclusion of tourism-related infrastructure, such as hotels, restaurants, and cultural activities and other forms of entertainment, can stimulate new private sector investment to conserve the fabric of heritage sites and open them up to new visitors. As of 2020, a total of 11 properties had been granted exploration licences for four- of five-star hotels with concession lengths of 50 years. The tourism board is actively involved in attracting investors through its official website, the Ministry of Foreign Affairs in strategic international markets, and the board's presence at international fairs.

Source: OECD (2020^[5]), OECD Tourism Trends and Policies, <https://doi.org/10.1787/6b47b985-en>.

7.3. Types of cultural tourism

7.3.1. Background

In Tunisia, *cahier des charges*, or sets of specifications, govern specific types of cultural tourism businesses. The following analysis examines private galleries, businesses producing and marketing historical and archaeological goods, private museums, and arts and crafts workshops.

7.3.2. Description of the obstacles and policy makers' objectives

Private museums

Any person wishing to establish a private museum must comply with the relevant *cahier des charges*, as set out by the Order of the Minister of Culture of 2 January 2001. This applies to all types of private museums including museums of customs, traditions, popular arts and historical museums. It must be signed by the individual or legal representative of the entity that wishes to operate the museum and presented to the Ministry of Culture.

Role of the INP: Investors are required to consult the INP for guidance and support on the technical and scientific components of projects throughout their development and construction. The OECD understands that investors must submit several documents, including:

- a file specifying the scientific objectives of the project, its content, its concept, its collection policy and its source
- a detailed list of the collections and documents exhibited in museum rooms, with indications of their provenance, condition, ownership, history, aesthetic and documentary value, and photos
- a study of the activities to be organised in the museum and a visual presentation on the mode of presentation.
- technically specific examples of the spaces that will house the museum, with the definition of the site geographically and historically, highlighting its value if it is a historical monument, and providing as much information as possible related to its dimensions, rooms, condition, maintenance, location and status.

Article 15 of the *cahier des charges* explains that museum collections exhibited and any information disseminated must be approved by the INP. How collections are presented, including texts and signs, must be approved by the INP and must: 1) guarantee the aesthetics and authenticity of the collection; 2) provide adequate lighting for each type of exposure; and 3) ensure humidity control in exhibition halls.

Article 16 provides that the INP's approval must be obtained before making any modification to exhibited museum collections or their presentation. Museum owners are required to inform the INP and the *délégation régionale pour la culture*, or regional delegation for culture, of the area in which museums are located or of any change in their activities.

The OECD understands that the aim of these mandatory consultations is to ensure that all activities of private museums are approved by the relevant authorities before they are taken up, to ensure quality and prevent losses to investors.

Operational requirements: Museum directors must work full-time. The *cahier des charges* also mandates several minimum equipment requirements related to such considerations as designated spaces for collections, main corridors, disabled persons' access and adequate ventilation and lighting. Museums must also include a manager's office, a space for writing and storing documents, a shop, a room to store spare parts, and a room for the observation and protection of exhibits and holdings. The *cahier des charges*

stipulates utilities that must be provided, such as water and electricity, and mandates the provision of sanitary areas.

Private galleries, arts and craft workshops

Any person seeking to establish a private gallery for the exhibition and sale of works of art must comply with the relevant *cahier des charges*, as set out in the Order of the Minister of Culture of 10 July 2001. This *cahier des charges* covers the operations of art galleries exhibiting and selling works of art including photographs, sculptures, paintings and carpets, and must be signed by the owner of the business and presented to the Ministry of Culture.

A different *cahier des charges* applies to the establishment of private arts and crafts workshops for recreation and tourism purposes. It must be signed by the workshop owner and presented to the Ministry of Culture. In such establishments, participants may take part in activities such as drawing, sculpture, painting and painting on glass.

Capital requirements: Operators of private galleries and arts and crafts workshops must have minimum capital of TND 5 000.

Qualification requirements: Managers of businesses must be able to demonstrate training in the field in which the business is active. The OECD understands that this means that the manager must show evidence of a diploma or work experience. In the case of arts and craft workshops, the manager must present an attestation that he is medically fit to work in the field.

Operational requirements: Galleries and workshops must prepare and notify their programmes one year in advance. Their managers must not have another occupation.

Grandfather clause: An exemption from certain provisions in the *cahier des charges*, such as the capital and professional requirements, exists for incumbents that had been successfully operating for at least five years before the legislation came into force.

Producing and marketing historical and archaeological goods

Any business operator seeking to create and market historical and archaeological goods must obtain an authorisation from the director general of the INP. They must present certain documents in their application, including a plan of the premises where the goods will be stored, proof that they meet a minimum capital requirement of TND 3 000, proof of ownership or lease of premises, and a detailed and complete inventory of goods to be marketed proving their origins and the legality of their possession. This inventory must be approved by the INP before the goods are put on sale. The manager of the business must also provide proof of the highest diploma held by its director in the business's area of specialisation. Once the INP has received the complete file, it has 30 days to study it, visit the premises where the goods will be stored, and issue an authorisation.¹¹

The barriers to competition presented by the capital and qualification requirements are analysed in relation to private galleries and museums.

The OECD understands that the minimum capital requirements for various private cultural activities serve as guarantees for third parties interacting with private museums, private galleries and arts and crafts workshops, and should ensure they are on a solid financial footing.

The requirement for proof of training is in place likely to ensure the quality of service, to promote the financial viability of companies, and to avoid market entry by unqualified managers. This provision also promotes the employment of graduates with specific qualifications. The OECD understands that the prohibition on managers having another occupation seeks to avoid conflicts of interest and enhance service quality.

The one-year advance notice requirement for the exhibition and activities programmes likely exists to ensure that the authorities are aware of the activities of private museums and galleries, and that such plans are clear and marketed to consumers to encourage tourism.

The public policy objective of exempting incumbents from certain requirements is unclear.

7.3.3. Harm to competition

The requirement to obtain INP approval for private museums before allowing operations to begin may constitute a barrier to entry, especially if approval is delayed or is based on unclear conditions.

Qualification requirements: The professional and academic requirements may exceed what is necessary for the provision of the services in question at an acceptable level of quality and may increase costs for operators seeking to establish themselves and operate in the market. The existence of such entry and fixed costs may be reflected in higher end costs and less diversity of services. This requirement may discourage market entry and reduce competitive pressure on incumbents, allowing them to charge higher prices. Furthermore, the law does not provide any example of, or guidance on, what is considered “proof of training”, creating legal uncertainty and potentially allowing the arbitrary use of this criterion.

In the case of private galleries, such requirements may be disproportionate, as the managers of private galleries may not need technical expertise or knowledge to carry out their functions. In France, even though gallery management is a regulated activity, there appear to be no obligatory educational requirements for the managers or owner of private art galleries.¹² Registration of second-hand goods is, however, required. In the UK, there is no specific regulation for establishing an art gallery, yet in Scotland, the sale of second-hand goods requires a licence or registration, and some UK local authorities may also require this.¹³

Operational requirements: The advance notice of programmes requirement limits flexibility and may impose a considerable burden on small or new galleries and workshops, as it can be difficult for them to plan so far ahead. If galleries and workshops are unable to adapt, it could limit innovation.

The medical certificate requirement is likely an administrative burden, and the requirement that managers have no other occupation may increase costs for market participants, reduce scope for alternative business models, and reduce the quality of candidates.

By increasing setup costs, the equipment requirements provisions for private museums may reduce the number of potential operators in the market. Furthermore, incumbents may charge higher prices due to having to bear higher costs. These material requirements may also impose administrative burdens on market players, leading to increased prices. The requirements also threaten to reduce output as they essentially prevent short-notice changes. They do not allow museums and galleries to respond to competitors or to consumer demand in the short term.

Grandfather clause: The legislation treats existing market players differently from newer market entrants. Competition is restricted in the sense that newer operators face disadvantages as they must fulfil capital and training requirements that incumbents do not need to satisfy.

7.3.4. Recommendations

Considering the harm to competition described above, the OECD recommends:

- Ensuring that any INP consultation or approval requirements are subject to clear rules and guidelines to minimise delays and improve legal certainty.
- Abolishing the educational requirements for the managers of cultural establishments and the requirement that workshop managers provide medical certificates. Considering registration requirements or licensing for sales of second-hand goods.

- Abolishing the requirement that directors work full-time and/or the ban on other employment. This would permit more flexible working arrangements and uses of resources.
- Abolishing the requirement mandating designated minimum spaces in cultural establishments.
- Abolishing the requirement to announce gallery and workshop programmes one year in advance.
- Ensuring competitive neutrality between incumbents and new entrants by subjecting both to the same requirements. The OECD recommends either:
 - subjecting all market players, including incumbents, to the requirements of the *cahier des charges*
 - or abolishing the requirement that new entrants satisfy the requirements of the *cahier des charges* which incumbents are not required to satisfy.

References

- INP (2023), *Base de données de la carte archéologique*, <https://www.inp2020.tn/projets/carte-archeologique/> (accessed on 20 March 2023). [4]
- OECD (2022), *Maximising synergies between tourism and cultural and creative sectors - Discussion Paper for the G20 Tourism Working Group*, <https://www.oecd.org/cfe/leed/OECD-G20-TWG-Discussion-Paper-Tourism-Cultural-Creative-Sectors.pdf>. [3]
- OECD (2022), *The Culture Fix: Creative People, Places and Industries, Local Economic and Employment Development (LEED)*, OECD Publishing, <https://doi.org/10.1787/991bb520-en>. [1]
- OECD (2020), *OECD Tourism Trends and Policies*, OECD Publishing, <https://doi.org/10.1787/6b47b985-en>. [5]
- UNESCO (2021), *Cutting Edge | Bringing cultural tourism back in the game*, <https://www.unesco.org/en/articles/cutting-edge-bringing-cultural-tourism-back-game> (accessed on 5 January 2023). [2]

Notes

¹ Tunisia became a member of UNESCO in 1956 and has ratified seven culture- and heritage-related international conventions, including the 1954 Hague Convention, the 1954 Hague Convention (1st protocol), the 1970 Convention on the Means of Prohibiting and Preventing the Illicit Import, Export and Transfer of Ownership of Cultural Property, the 1972 World Heritage Convention, the 2001 Convention on the Protection of the Underwater Cultural Heritage, 2003 Convention for the Safeguarding of the Intangible Cultural Heritage, and 2005 Convention on Diversity of Cultural Expressions. See <https://whc.unesco.org/en/statesparties/tn>

² See https://inp.rnrt.tn/inp_tunisie/musees/

³ See Order of the Ministry of Culture of 13 March 2019.

⁴ See [Exploration de la carte \(inp.tn\)](#) and [Exploration de la carte \(inp.tn\)](#)

⁵ Code on Archaeological, Historic and Traditional Arts, Article 2.

⁶ Within five years of the classification of a cultural site, the ministries publish a plan for the protection and enhancement of the site. According to Section 8 of the Code on Archaeological, Historic and Traditional Arts, the development of protection and enhancement plans for a cultural site follows the same procedures as those governing urban development plans. Plans are approved after consultations with the INP by decree issued on the proposal of the minister responsible for heritage and the minister responsible for urban planning.

⁷ Code on Archaeological, Historic and Traditional Arts, Article 4.

⁸ The protection decree can be extended to historic monuments' surroundings, the conservation of which is necessary for the protection and safeguarding of these monuments. According to Article 27, the protection order is issued to owners by the minister of culture. It is published in the Official Journal of the Republic of Tunisia and displayed at the seat of the local municipality or, failing that, at the seat of the governorate. The Ministry of Culture affixes a plaque indicating that the building is a protected historical monument. If the building is registered, the protection order will be registered on the land title at the request of the Ministry of Culture. Otherwise, the Ministry of Culture will act on the premises and places of the owners to request registration.

⁹ According to Article 24, the state, a local community, a public body or a state-owned company are allowed to grant concessions.

¹⁰ Other sources of funding include advertising and sponsorship income, taxes, duties and fees created for the benefit of the agency, state subsidies, and public and private contributions and donations.

¹¹ Decree No. 2018-417, relating to the publication of the exclusive list of economic activities subject to authorisation and the list of administrative authorisations for the realisation of projects, related provisions and their simplification.

¹² See <https://bpifrance-creation.fr/activites-reglementees/galerie-dart>

¹³ See https://www.lawdonut.co.uk/business/sector-specific-law/art-gallery-legal-issues?_gl=1*89nh8l*_ga*NDcyMTQzMTQ2LjE2Njl1NTc4OTA.*_ga_9222P8LECX*MTY2MjU1Nzg5MC4xLjAuMTY2MjU1Nzg5MC42MC4wLjA.*_ga_H25S6RG6XF*MTY2MjU1Nzg5MC4xLjAuMTY2MjU1Nzg5MC42MC4wLjA.#_ga=2.74738004.738779815.1662557891-472143146.1662557890

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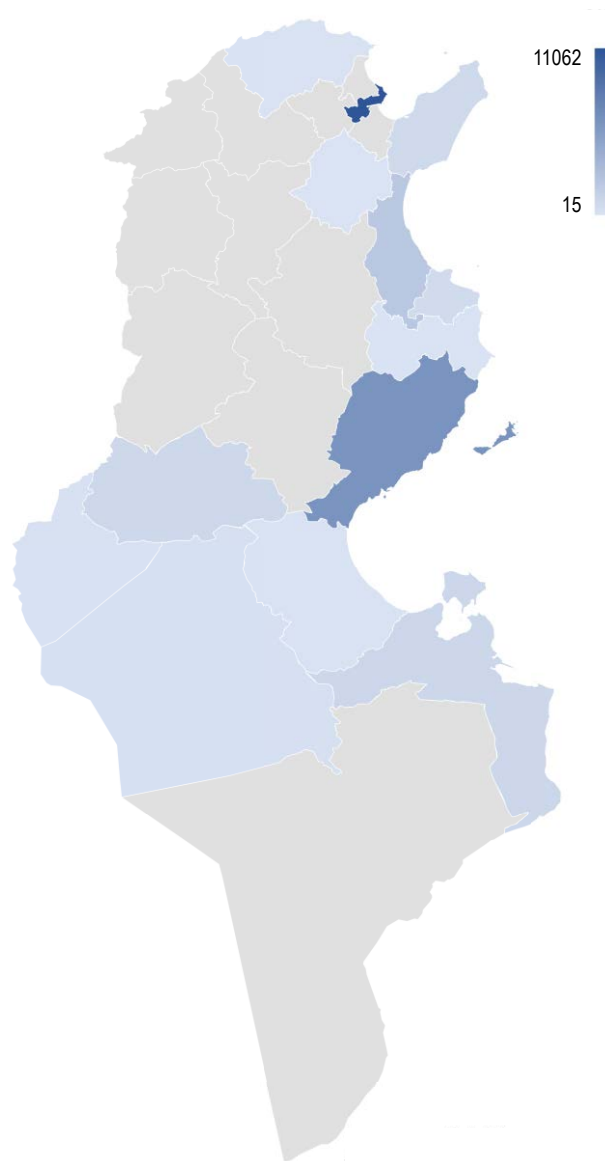
Sports and recreational services

This chapter provides an overview of some of the most important sports and recreational services in Tunisia, identifies the main restrictions to competition, and provides recommendations. The regulatory framework for some activities, such as operating marinas, is incomplete, with implementing texts missing. For other activities, frameworks are fragmented and various pieces of legislation are not well harmonised. Most of the activities analysed are subject to cumbersome licensing procedures at the local level, conferring significant discretionary power on authorities and deterring market entry. Because of the complex regulatory framework and a lack of co-ordination between central and local authorities, investment in sports and recreational services is relatively weak, having not exceeded 10% of total tourism investment over the past decade.

8.1. Introduction

Global tourism demand trends show that an exponentially growing number of tourists are interested in active holidays.¹ Demand for adventure tourism is on the rise as consumer interest in customised and transformative experiences grows (UNWTO, 2014^[1]). As one of the fastest-growing segments of the industry, the global adventure tourism market is forecast to reach a value of USD 1.1 trillion by 2028.² As in many Mediterranean countries, Tunisia's tourist industry has followed a "sun and sea" model over the past decades, generating problems of seasonality and a concentration of tourism activity in coastal areas. ONTT statistics for 2019 show that tourism investment was mainly captured by the accommodation sector (see Chapter 2). Investment in recreational services didn't exceed 12% of the total tourism investment and was mainly concentrated in the Tunis governorate (Figure 8.1).

Figure 8.1. Investment in recreational services by region



Source: OECD based on ONTT (2019^[2]), Rapport Annuel, <https://www.onnt.tn/sites/default/files/inline-files/rapport2019.pdf>

Sports and recreational activities have the potential to foster adventure tourism, extend the season, increase accommodation occupancy levels, and open new markets by using existing resources. This chapter analyses the barriers affecting a selection of important tourist sports and recreational activities in Tunisia, including golf, yachting and scuba diving, and makes policy recommendations to encourage competition in these markets and help improve the competitiveness of the tourism sector. Other activities such as hunting, recreational aviation and hot-air ballooning are analysed in detail in a spreadsheet published as a standalone document on our dedicated webpage, <https://oe.cd/ca-tunisia>.

8.2. Golf courses

8.2.1. Background

Unlike most sporting and adventure activities, which are regulated at the municipal level in Tunisia, golf is regulated at the national level. This is due mainly to its capital-intensive nature and extensive land and equipment requirements. Tunisia's first golf course, Golf de Kantaoui, was established in 1979. Currently, there are ten golf courses in the country,³ including three in the areas of Hammamet, Monastir and Carthage, which are managed by the *Société Tunisienne de Développement du Golf* (STDG) or the Tunisian Golf Development Company, a state-owned enterprise supervised by the Ministry of Tourism.⁴

According to stakeholders, no golf course currently offers accommodation. Presidential Decree No. 2022-579 sets out the conditions and criteria required for the construction of golf courses and their activities, and for the first time allows golf courses to use a portion of their land for building accommodation and entertainment facilities.

8.2.2. Description of the obstacles and policy makers' objectives

A golf course is defined as “any space designed for the game of golf and considered a tourist establishment within the meaning of Article 3 of Law No. 90-21 on tourism investments, remaining in force by Law No. 2016-71”. This means that golf courses must comply with the requirements for tourist establishments (see Section 3.2.2). The legislation requires that golf courses fulfil minimum technical criteria (see Table 8.1). Courses with more than 18 holes on the same land (27, 36 or 45 holes) are also subject to the criteria in Table 8.1.

Table 8.1. Technical criteria for golf courses

Course type	Area dedicated to play	Game distance	Minimum area dedicated to training	Minimum and maximum total area of course
Nine-hole course	10-15 hectares	More than 1 350m	2.5 hectares	25-40 hectares
18-hole course	25-30 hectares	More than 2 700m	2.5 hectares	40-80 hectares

Source: Presidential Decree No. 2022-579, Article 4.

Land use: Articles 4 and 5 of Decree No. 2022-579 set out what proportion of golf course land can be used for tourist hotels, apart-hotels, tourist residences, spaces linked to golf, and shopping and entertainment centres. The floor occupation coefficient for tourist accommodation establishments is set at 2%.⁵ The land use coefficient is set at 6% of the course's total area.⁶

This decree allows golf course owners to build accommodation facilities on their courses despite the land's classification as recreational or agricultural and the associated use restrictions. The provision of accommodation around golf courses helps to finance the provision of golf course services and thus impacts the quality of services provided. Limitations may be in place in order to preserve the course environment,

such as open green space, to limit additional infrastructure costs associated with such developments, such as roads, sewerage pipes and water, and to prevent real estate speculation. Prior to the issuance of the decree, OECD's online survey indicated that real estate projects have been allowed on some golf courses but not others, so such development has been uneven (see Annex A).

Maximum building height: Tourist hotels and apart-hotels on golf courses must not exceed three floors, including a ground floor, and other buildings are restricted to a height of two floors, including a ground floor. The OECD understands these limits are in place to ensure compliance with building safety regulations and standards and with planning regulations.

State presence: three out of ten golf courses in Tunisia are controlled by STDG, a state-owned enterprise established in 2015 following a merger between the managing entities of these three resorts.⁷ The OECD understands that the involvement of the state in the sector is meant to enhance its development given its capital intense nature. According to the authorities, the merger between the three SOEs was a move to increase efficiency and improve performance and service quality for golf players.

8.2.3. Harm to competition

Land use: Limitations on land use may prevent innovation and the optimal use of resources. Building accommodation facilities may improve courses' profitability and help course owners to finance the provision of services, without which they may be forced to exit the market. These limitations also hamper the emergence of integrated golf courses (see Box 8.1) and may reduce the attractiveness of Tunisia as a golf destination in a very competitive regional context.

Stakeholders informed the OECD that authorisations to build accommodation facilities were granted to some golf courses prior to the adoption of Decree No. 2022-579. However, this was made conditional on the reclassification of land, which in most cases is still agricultural land, and on the adoption of updated urban development plans. The latter is undertaken by local authorities and adopted jointly with the minister of urban planning, but in most cases it has not been carried out since 2010.

Maximum building height: These requirements may limit the ability of golf course owners to innovate, and may limit the ability of suppliers to compete, by reducing the intensity and dimensions of competition, leading to higher prices for consumers and less product variety.

State presence: the heavy involvement of the state in the industry raises competitive neutrality concerns as it may hinder the incentives of the state-controlled courses to compete and innovate and create an unlevel playing field if STDG benefits from differential treatment and privileged access to public services such as water or more favourable financing conditions through state-owned banks. In addition, the efficiency argument underpinning the merger doesn't seem to hold. Stakeholders told the OECD that STDG is facing several problems affecting its performance, including a disproportionate wage bill and a deteriorating service.

Box 8.1. Coastal integrated golf resorts in the European Mediterranean region

According to the 2015 KPMG report *Golf Resorts in the European Mediterranean Region*, there were 1 400 golf facilities in European Mediterranean countries. Around 30% (382) were located within 20km of the coast and included 212 standalone facilities (courses not directly associated with a hospitality facility or a residential real estate development) and 170 coastal integrated golf resorts.

According to KPMG, residential real estate and accommodation facilities are key components of coastal integrated golf resorts, alongside other sports and leisure facilities. Among the resorts KPMG examined, more than half offered only onsite hotel accommodation and only 10% were based solely on residential real estate. The remaining third were focused on a combination of accommodation and residential real estate. In terms of hotels and rental units, the average number of beds varied between countries. Greece and Türkiye had the highest average capacity, exceeding 500 rooms, while France had the lowest average of 120 rooms. In addition to accommodation, nearly half of coastal golf resorts featured extensive spa and wellness facilities.

Source: KPMG (2015^[3]), *Golf Resorts in the European Mediterranean Region*, <https://assets.kpmg/content/dam/kpmg/pdf/2015/04/golf-resorts-european-mediterranean-region.pdf>

8.2.4. Recommendations

In light of the harm to competition described above, the OECD recommends:

- Revising the provisions that restrict the emergence of integrated golf resorts and facilities. More specifically, the authorities should consider revising all restrictions on land use and transferring specific size and layout details into an investor guide if the purpose is to help investors comply with standards.
- Streamlining land reclassification procedures and ensuring that urban development plans are updated and adopted according to the provisions of articles 16 and 17 of Law No. 1994-122, which promulgates a code for land use and town planning.
- Defining the rationale for the state to own and manage golf courses in line with OECD Guidelines on Corporate Governance of State-Owned Enterprises (OECD, 2015^[4]). In case the authorities decide to divest the state's participation, the OECD reiterates the guidelines set out in the OECD's "A Policy Maker's Guide to Privatisation" which provides guidance and best practices in privatisations of SOEs (OECD, 2019^[5]).

8.3. Marinas

8.3.1. Background

Marinas are large leisure ports specially constructed to receive leisure craft. They offer moorings, catering, security services and numerous auxiliary services such as car-parking facilities, shipbuilding and repair units for the repair and maintenance of leisure craft. Beyond developments in the leisure craft market, the demand for marina services is determined mainly by: the cost of services provided by organised marinas and port dues; and the quantity and quality of marine services provided per mooring. Demand for marinas is also seasonal, with peak demand for berthing during the summer months while during the winter period the demand for dry-docking increases so that vessels can be repaired and maintained. In Tunisia, marinas are regulated by the *Code des Ports Maritimes*, or Maritime Ports Code, promulgated by Law No. 2009-48.

This code sets out the conditions to which the establishment of maritime ports are subject and requirements for the management of public areas of ports, their use, protection, conservation, and general rules to ensure safety, security, health, cleanliness and the preservation of the environment. The code applies to all maritime ports, with the exception of military ports.

The Maritime Ports Code classifies ports into three main types: commercial ports; fishing ports; and leisure ports (marinas). Article 6 of Law No. 2009-48 stipulates that marinas are under the authority and supervision of the Ministry of Tourism. Tunisia currently has seven leisure ports (see Table 8.2). The ports of La Goulette, Tabarka, Mahdia and Kelibia are sometimes mentioned among marinas, but they are only partly used as such and have limited capacity for yachts. In terms of management, the marinas of Sidi Bou Saïd and El Kantaoui are under the authority of the Ministry of Tourism, and the remainder are managed by private investors.

Table 8.2. Occupation rates at Tunisian marinas, March 2022

Port	Number of moorings	Number of vessels			Occupation rate
		Tunisian flag	Foreign flag	Total	
Port Yasmine Hammamet	766	285	272	557	73%
Marina Bizerte Cap 3000	720	127	59	186	26%
Marina Gammarth	380	250	100	350	92%
Port Sidi Bou Saïd	424	303	73	376	89%
Port El Kantaoui	340	157	99	256	75%
Marina Monastir	300	93	226	319	106%
Marina Jerba Houmet Essouk	200	47	58	105	53%
Total	3 130	1 262	887	2 149	69%

Source: National Trade Union Chamber of Marina Managers.

8.3.2. Description of the obstacles and policy makers' objectives

According to Article 2 of the Maritime Ports Code,⁸ ports are created by the state or under construction and operating concessions granted by the state according to a contract and specifications approved by a decree from the minister in charge of port activity. Maritime ports are classified based on the type of activities for which they are used, which is set by decree. The conditions and procedures for the establishment and extension of maritime ports are set by decree.⁹

Port authorities: According to the Maritime Ports Code, each of the three types of ports should be subject to application decrees. However, unlike commercial and fishing ports, there are currently no application texts or executive regulations for marinas. This means, for example, that there is no institutional framework for port authorities such as the *Office de la Marine Marchande et des Ports* (OMMP), or the Office of the Merchant Marine and Ports, for commercial ports, or for the *Agence des Ports et des Installations de Pêche*, or Fishing Ports and Installations Agency, for fishing ports. There is no clear allocation of tasks between the different parties at ports, such as the Ministry of Tourism, concession holders, customs, the *Garde Nationale Maritime*, or National Maritime Guard, and the border police. This also means that clear and transparent conditions and procedures for the award of concessions and to ensure proper monitoring are lacking, which causes problems when it comes to the management and maintenance of marinas.¹⁰

The OECD understands that the absence of application decrees related to marinas causes significant difficulties for both authorities and investors. However, it has not been possible to obtain any explanation of the reasons for the regulatory gap.

Port concessions: According to Article 18 of the Maritime Ports Code, the use of public areas of ports, works, facilities and equipment are ensured either by the port authority, in the context of temporary occupation, or within the framework of a concession with or without a public service obligation.

In line with Article 23 of the Maritime Ports Code, if the occupation of public areas of ports involves the creation of structures, works or fixed equipment, it should be granted only by virtue of a concession contract. Occupation of the public areas of ports may be also granted under a concession contract concluded with individuals or legal representatives of businesses, or with establishments whose activities are linked to port activity, even if it does not involve the construction of structures or fixed equipment.¹¹ Concessions are granted for a maximum period of 30 years, extendable for an additional period not exceeding 20 years. However, stakeholders noted that some concession contracts currently in force stipulate that the extension period is set for only two years with a termination notice of one year. The OECD found the legal basis for this contradiction in Article 26 of Law No. 1995-73, which relates to maritime public areas, and stipulates that concessions are extendable for two-year periods each time. There are no predefined conditions for extensions of concession contracts, and so the approval or rejection of any request is at the discretion of the decision maker.

The OECD understands that the provisions in place, including the 30-year concession duration, seek to facilitate investment by operators and take into consideration the high setup costs. The short, two-year extension periods seek to ensure contestability and enable new operators to compete for concessions at the end of the agreed period.

Operating requirements: The organisation of nautical activities, events and sports competitions in marinas is subject to pre-approval by the Ministry of Tourism as per Circular of the Minister of Tourism No. 01/2019 of 29 October 2019. According to the circular, port managers must present a request for each activity or event with one month of advance notice and firm dates.

The authorities said this requirement is intended to overcome the absence of clearly defined port management and has the objective of facilitating co-ordination between organisers and the various public bodies involved at the local and central levels.

8.3.3. Harm to competition

Port authorities: The absence of an adequate regulatory framework and clear enforcement regulations for marinas creates legal uncertainty and deters market entry, especially foreign investment. According to Article 4 of Decree No. 2013-1808, the *Conseil National des Ports de Plaisance*, or National Council of Marinas, should convene its members to meet at least twice a year. However, stakeholders informed the OECD that the council had met only twice over the past nine years. The lack of adequate regulatory and institutional frameworks has led to a deterioration in the quality of services provided at marinas and the inefficient use of resources.

Stakeholders informed the OECD that the unclear allocation of responsibilities has seriously affected service quality, hampered the efficient planning and introduction of new services, and led to conflicts of competences on many occasions between port authorities and concession holders.

Port concessions: The absence of an institutional framework has affected concessions. The conditions for granting, extending or revoking concessions are not transparent. The lack of clear criteria may lead to discrimination between concession holders, given the degree of discretion of the authorities enjoy. This leads to uncertainty and likely reduces incentives for investing in the sector. Renewals of concessions for successive periods of two years, as specified in Law No. 1995-73, is inconsistent with the Maritime Ports Code, which stipulates that concessions can be extended for a period of up to 20 years. Although concessions with long durations may substantially harm competitive processes by reducing the frequency with which private operators can compete, two-year extensions might considerably limit concession holders' appetite to invest in improving or even maintaining infrastructure. The one-year notice period for decisions on concession contract extension or termination does not allow investors to plan or make properly considered decisions on further investment or on timely liquidations of their assets.

Stakeholders emphasised that the marinas of Sidi Bou Saïd and Gammarth were operating without concessions. It is worth mentioning that the marina of Sidi Bou Saïd is run by *Société des loisirs touristiques* or the Tourist leisure company, a SOE under the supervision of the Ministry of Tourism. This distortion raises competitive neutrality concerns and puts concession holders that operate legally at a disadvantage, given their higher compliance costs, including concession fees. The OECD was informed that a new framework for estimating concession fees adopted by authorities does not take into consideration marinas' profitability, which affects the financial viability of projects and will likely disincentivise investors.

Operating requirements: The requirement for ministerial pre-approval of nautical activities, events and sports competitions in marinas represents an undue administrative burden and limits the flexibility of marina managers to innovate and host public events. The OECD was informed that this provision does not encourage port managers to develop new leisure, culture and sports offerings within marinas and attract new business.

8.3.4. Recommendations

In light of the harm to competition posed by the provisions above, as well as their limitations when it comes to achieving policy goals, the OECD recommends:

- Accelerating the publication of the implementing regulations for the Maritime Ports Code related to marinas to:
 - Clarify the institutional setup for marinas and define the roles and powers of the various authorities involved in their supervision to limit any ambiguity or conflicts in the management of ports and concessions.
 - Ensure compliance with Article 4 of Decree No. 2013-1808 and convene the National Council of Marinas to meet more regularly, which could serve as a good opportunity to discuss draft implementing texts and issues affecting the industry.
- Defining the conditions and criteria for approvals or rejections of authorisation requests for temporary occupation of public areas of ports and setting out a transparent evaluation grid to avoid legal uncertainty. Rejection decisions should be justified and subject to an appeal process.
- Setting out clear conditions and establishing a transparent evaluation grid for concession extension requests and clarifying related procedures.
- Introducing clear and publicly available conditions under which temporary occupation of public areas can be revoked and developing associated procedures to limit the discretionary powers of the authorities.
- Revising the concession framework by:
 - Defining the conditions and criteria for approvals and rejections of concession extension requests and setting out a transparent evaluation grid to avoid legal uncertainty.
 - Reconsidering the one-year notice period for the extension or termination of concession contracts to allow concession holders to make appropriate decisions in a timely manner.
 - Considering aligning the extension duration of concessions with Article 25 of the Maritime Ports Code, which allows for extensions of up to 20 years. Authorities should also establish clear, objective and transparent criteria to determine the length of any extension, based on a business plan and related investment.
 - Levelling the playing field among all marinas by ensuring compliance by the marinas of Sidi Bou Saïd and Gammarth and defining the rationale for the state to manage marinas in line with OECD Guidelines on Corporate Governance of State-Owned Enterprises (OECD, 2015^[41]).
- Abolishing the Circular of the Ministry of Tourism No. 01/2019 of 29 October 2019 on the organisation of events within marinas.

8.4. Yachting and recreational vessels

8.4.1. Background

Recreational vessel traffic is an important determinant of demand for marinas. As defined in Decree No. 90-942, a yacht or recreational vessel is “any ship or craft used without profit in maritime navigation for sporting or leisure activities”. The use of recreational vessels is subject to authorisation by the *Commission Centrale de Sécurité Maritime* (CCSM), or Central Maritime Safety Commission, whereas the use of foreign-flagged boats is subject to specific customs rules.

Recreational maritime transport involves paid maritime passenger transport between ports and coastal sites. In Tunisia, yachting and paid maritime passenger transport is regulated mainly by Law No. 1990-80.¹² According to figures from the Ministry of Tourism, there are currently 60 pleasure boats with licences to transport paying passengers. Foreign-flagged boats can also be used for recreational passenger transport under specific conditions.

8.4.2. Description of the obstacles and policy makers’ objectives

Authorisation to use recreational vessels: According Article 6 of Decree No. 90-942, prior to the construction, manufacture or importation of any boat or recreational vessel, “the constructor or importer who wants to use the vessel for commercial activities, or to market their vessels, must submit plans and documents to the [CCSM]”.¹³

The CCSM rules on: 1) the approval or rejection of these plans and documents; 2) the category of navigation likely to be practised; and 3) the maximum number of people that can be on board the vessel.¹⁴ The conditions under which the CCSM decides to approve or reject authorisation requests to use recreational vessels are not clearly defined in the decree or its application texts.

Following exchanges with the authorities, the OECD understands that the objective of authorisation requests for the use of locally manufactured or imported recreational vessels is to preserve port safety, and the security of customers and tourists. Monitoring the quality of recreational vessels and whether they comply with all safety and quality standards also serves the objective of environment protection.

The use of foreign-flagged boats is subject to specific customs regulations. When it comes to the duration of vessels’ immobilisation and release for free circulation, official customs note No. 89 047 of 10 August 1989¹⁵ stipulates that foreign boats are admitted to Tunisia with a suspension of customs duties and taxes and benefit from free navigation for six months a year. They must not remain immobilised for more than two years continuously without having been released periodically for free circulation. In addition, official customs note No. 026/2014 of 2 August 2014 specifies that immobilisation or release for free circulation can be renewed without limitation. However, stakeholders said that in practice, customs officers consider that foreign yachts should not stay in Tunisia longer than 12 months, which can in exceptional circumstances be extended by another 12 months, at the end of which they must leave Tunisian waters for a foreign port.

Yachts, under the temporary import regime for foreign boats belonging to foreigners or Tunisians residing abroad, can be used only privately for the personal needs of their owners or users, according to official customs note No. 89047. The note further stipulates that lending a vessel to a person resident inside the customs jurisdiction is prohibited. The note, however, does not identify the type of users mentioned in Paragraph 17, the type of use (sailing or undertaking maintenance and repair operations), or whether it is possible to obtain a proxy or a power of attorney to be able to use a boat. However, the OECD was informed that in practice, the use of these boats differs from port to port, and that customs offices at some marinas accept signed proxies while others do not.

The OECD understands that customs regulation on immobilisation and release for free circulation and the use of yachts under the temporary import regime aims to ensure compliance by owners and operators of foreign-flagged boats with the rules and procedures in place and to offer a predictable framework for customs duties.

Permit to transport passengers: Paid maritime passenger transport between ports and coastal sites is subject to authorisation by the OMMP. Law No 1990-80 sets out the conditions and rules for recreational vessels to operate in this capacity. The permit is valid for one year and is renewable. The vessel must be recognised as appropriate for maritime passenger transport by the OMMP, although no clear criteria exist upon which to base such recognition. The permit specifies the maximum number of passengers that can be carried, the safety equipment that the vessel is required to have on board, and the routes, services and conditions under which the permit is issued. No guidelines or criteria exist in relation to these matters. The vessel must be Tunisia-flagged, and its owner must have an insurance contract with a Tunisian company covering civil liability in the event of an accident that affects passengers or third parties, a provision that is one of the conditions set by the *Code de Commerce Maritime*, or Maritime Commercial Code.

Specific provisions exist for foreign-flagged vessels providing paid maritime transport between ports and coastal sites.¹⁶ According to Law No 1990-80, the OMMP may in exceptional circumstances grant permits to foreign-flagged vessels if certain conditions are met. These permits can be granted for a maximum period of one year and may be renewed. The conditions and criteria for renewals are not defined in the law. The use of foreign-flagged boats for passenger transport is subject to a fee set by Decree No. 91-164.¹⁷ On each excursion, the boarding of any passenger from a port or site on Tunisia's coast is subject to the payment of a stamp duty, the amount and terms for collection of which are set by Decree No 1991-164. In addition, non-resident individuals or legal representatives of businesses operating boats must pay an annual lump-sum fee of TND 100 multiplied by the maximum number of passengers, as specified in the permit.

Preserving the safety and security of passengers are the main objectives mentioned by the authorities regarding authorisations for permits for paid maritime transport between ports and coastal sites. The authorities emphasised that it is essential to ensure that vessels have the necessary equipment and facilities to transport people. In addition, the OECD understands that to preserve the safety and security of maritime navigation and passenger transport, the permit sets a capacity limit for the number of passengers and assesses thoroughly the safety equipment on board. The OECD understands that the one-year validity period is to enable closer technical checks and to ensure the safety and security of passengers through annual checks on whether operators and vessels respect and comply with all rules and safety measures.

According to the authorities, the nationality criteria were adopted to encourage the creation of legal entities and jobs for Tunisians. The authorisation fee associated with the use of foreign-flagged vessels aims to favour the use of Tunisian vessels and potentially encourage foreign vessels to adopt the Tunisian flag.

Operating requirements: According to the Maritime Ports Code, to enter, move within, or exit a port, recreational vessels must file a declaration commonly known as a sailing notice with port authorities or operators. In most cases, the port authority or operator may request an inspection of the vessel before granting authorisation for its movement.¹⁸ This declaration is not digitalised and requires in-person submission.

The sailing notice requirement for recreational vessels is a common practice. The OECD understands that the objective is to preserve safety and security, and also to preserve the environment by monitoring the entry and exit of vessels into ports and their movements within ports.

8.4.3. Harm to competition

Authorisation to use recreational vessels: Although authorisations for the use or marketing of recreational vessels seems justified, the absence of clear, pre-defined conditions and criteria for approvals or rejections of authorisation requests could lead to discrimination, given the discretion enjoyed by the authorities, and increases uncertainty, potentially deterring market entry. It may also reduce the availability

of vessels for service providers to supply recreational services and could subsequently affect demand for marinas. Stakeholders informed the OECD that the development of a local yachting market was further hampered by the lack of a conducive tax scheme for boat acquisitions and lengthy police enquiries preceding purchases of yachts by Tunisian nationals. The OECD was informed that these enquiries can take up to six months. Stakeholders also mentioned the absence of a legal framework for obtaining navigation licences and for establishing private navigation schools as being among the issues affecting Tunisia's yachting industry.

The customs rules regarding vessels' immobilisation and release for free circulation and the use of yachts under the temporary import regime are confusing and confer significant discretionary powers on authorities. Allowing users other than owners to use foreign boats against a signed proxy, without specifying who they may be (for example, family members, crewmembers or machinists), in some ports but not others puts the latter ports at a disadvantage. The ambiguity around the immobilisation and release of foreign boats is a source of concern among port users and concession holders alike. The OECD was informed that customs officials are currently asking the owners of foreign boats that have exceeded a dwell time of 24 months to pay customs duties and taxes from their date of first entry into Tunisia, amounting to large sums and prompting a wave of departures from Tunisian marinas.

Licence to transport passengers: The practice of issuing permits for paid maritime transport between ports and coastal sites follows the same logic as for the use of recreational vessels and seems therefore to be justified. However, the one-year duration of the permit, which can be much shorter, according to stakeholders, particularly if renewal conditions are not transparent, represents an administrative burden for market participants as they are required to undertake the same procedures with different authorities and apply for a renewal every year. Vague, non-transparent conditions may increase legal uncertainty and lead to discrimination between applicants, given the discretion enjoyed by the authorities. This could deter market entry, increase the price of services, and limit quality and choice for customers.

The authorisation fees related to foreign boats seem to be justified. However, the additional cumbersome administrative procedures amount to discrimination, increase the cost of entry, and restrict potential foreign investment. According to stakeholders, foreign vessels can operate in other jurisdictions without such restrictions. The restrictions could limit the number of players in the market and ultimately affect yachting activity in Tunisia and limit productivity growth.

Operating requirements: The lack of digitalised procedures for the entry and exit of vessels and the requirement for in-person filing of authorisations for short excursions, or even to move from one port to another within Tunisia, is an administrative burden and may increase costs for market participants. The lengthy, complicated, cumbersome port entry and exit procedures, combined with constraining legislation, seriously affect the yachting industry and the attractiveness of Tunisian marinas in a very competitive regional context. Indeed, unlike several neighbouring countries, the regulatory framework does not allow charter activity, which involves renting boats, local or foreign, with or without crew.

8.4.4. Recommendations

In light of the harm to competition posed by the provisions governing yachting and recreational vessels, and their limitations when it comes to achieving policy goals, the OECD recommends:

- Setting clear and transparent conditions for authorisations for the use of recreational vessels and establishing a transparent evaluation grid for authorisation requests, as well as clarifying related procedures to limit the discretionary powers of the authorities.
- Revising customs rules and procedures on vessels' immobilisation and release for free circulation, and on the use of yachts under the temporary import regime, to avoid ambiguity and limit the discretionary power of the authorities. Considering displaying the regulations and related sanctions at port authority and customs offices at each marina.

Box 8.2. Regulation of foreign-flagged vessels in the EU

Article 217(e) of the Commission Delegated Regulation (EU) 2015/2446 (UCC-DA) permits the private use of vessels in the EU's seas and waterways for 18 months. Non-EU-flagged vessels used temporarily for private purposes only in the EU's customs territory and intended for re-export operate under a temporary admission procedure with customs and are exempted from the payment of any customs duties or value-added tax (VAT) during those 18 months. However, if a vessel does not leave the EU's customs territory before the expiration of the permitted period, its owner must pay customs duty and VAT. During the 18 months, the vessel is free to move from one EU member state to another with no further customs formalities.

According to Article 251(3) of the Union Customs Code, the 18 months is extendable only in exceptional circumstances.¹ Section 5 of the Customs Temporary Admission Manual states: "Means of transport temporarily imported without payment of import charges may not be lent, hired, pledged, transferred or put at the disposal of any person established in the EU for any purpose other than for immediate re-exportation", except in the event of occasional use of the vessel by a person established in the EU but acting on behalf of and on the instructions of the person who temporarily imported the means of transport, while the person who imported the vessel is in the EU, or in case they are hired under a written contract to return to their home in the EU or to leave the EU.²

Notes:

1. The rules for private boats, available at: https://taxation-customs.ec.europa.eu/system/files/2018-04/rules_for_private_boats-faq_en.pdf

2. Paragraph 5.3 of Section 5, relating to importation for private use (Article 215 of DA), Customs Temporary Admission Manual, updated in 2021.

Source: European Commission Delegated Regulation (EU) 2015/2446.

- In relation to authorisations for permits for paid maritime transport between ports and coastal sites:
 - Clearly defining and making publicly available the conditions and criteria for the granting of authorisations.
 - Reviewing the duration of permits or, alternatively, streamlining related procedures to reduce the cost of renewals in terms of both time and money.
 - Revising the existing framework on the use of foreign-flagged vessels for passenger transport by reconsidering the period of six months a year as the total duration of use of these boats, as well as related fees and the way they are collected.
 - Developing a clear and transparent evaluation grid and clearly setting out conditions for renewals of permits for foreign-flagged vessels.
- In relation to authorisations for the movement of recreational vessels, digitalising procedures for entry and exit to reduce waiting times and the administrative burden.

8.5. Dive centres

8.5.1. Background

Diving refers to "all activities and operations exposing people to a pressure higher than the local atmospheric pressure by breathing".¹⁹ In Tunisia, diving activities include coral and sponge fishing, archaeological excavations, scientific research, rescue, underwater work such as the removal of wrecks

and their preservation, the repair and maintenance of marine installations and equipment, and oil, economic, and sporting and recreational activities related to diving at sea, in lakes and dams, or related to caving, among other things.²⁰ Two categories of divers are recognised: professional divers who dive as part of their profession or for remuneration; and amateur divers who dive as a sport or leisure activity.

According to the *Fédération Tunisienne des Activités Subaquatiques et de Sauvetage Aquatique* (FAST), or Tunisian Federation of Underwater Activities and Aquatic Lifesaving, around 15 clubs and five associations currently operate in the dive sector, mostly in Tunisia's north and Sahel regions. The industry started to develop in Tunisia in the late 1980s but remains heavily dependent on tourism.

8.5.2. Description of the obstacles and policy makers' objectives

Despite legislative texts regulating Tunisia's dive industry, the sector lacks application texts and a *cahier des charges* or set of specifications. As a result, no clear conditions exist for approvals of training organisations and tourism centres providing diving activities. The FAST has its own *cahier des charges* that serves as a reference for its adherents, but it has no official standing.

Authorisation process: Authorisations to operate dive clubs are granted by the territorially competent governor, based on the opinion of the *Commission Nationale de Plongée*, or National Diving Commission. The commission must be consulted on all matters related to amateur and professional diving activities,²¹ including on authorisations for carrying out diving activities, qualification requirements, and the recognition of foreign diplomas. The qualifications required to serve as a dive club director are also approved by the commission, and for professional diving are set by an order of the minister of national defence, while for diving on an amateur basis they are set by an order of the minister of youth and sports.²²

According to Article 4 of Law No. 2005-89, which governs diving in Tunisia, diving activities outside of a structured framework, defined as a public or private body or establishment authorised to practice diving activities, are forbidden. The conditions for approvals of training organisations and tourism activity centres and the granting of authorisations for diving are set by decree. Only training organisations and tourism activity centres are approved and regulated by the law. The law does not cover sports associations, which are regulated by the Ministry of Youth and Sports, and which in practice provide a significant amount of diving activity in Tunisia.

Following exchanges with the authorities, the OECD understands that a *cahier des charges* is being considered by the National Diving Commission, and that the aim of intervention by the commission, which is chaired by the Ministry of National Defence, in the regulation of the dive sector is to protect national security and underwater heritage. The OECD understands that by consulting with the commission, the sector benefits from the technical and political expertise of the minister of national defence and that of other experts. Further, the objective of consulting the commission on the authorisation process for diving activities in Tunisia, and its intervention to specify the qualifications required for diving directors, is to ensure that divers possess certain medical and technical aptitudes and meet certain requirements, and to preserve their safety and security. In addition, consulting the commission on requests for the recognition of foreign diplomas is necessary to ensure that divers have the necessary qualifications to engage in diving while preserving their safety and the safety of other divers.

Qualifications requirements: In order to engage in diving activities in Tunisia, professional and amateur divers must comply with the qualification conditions set out in Decree No. 2008-2568.²³ Professional and amateur divers are classified in one of four qualification levels according to the qualifications they have obtained at the end of training.²⁴ For professional divers, the conditions for the issuance of diving aptitude diplomas and the definition of the different levels of qualification are set by the Order of the Minister of Employment and Vocational Training.²⁵ For amateur divers, the definition of different levels of qualification is set by the Order of the Minister of Youth and Sports.²⁶

Non-Tunisian nationals are allowed to engage in diving activities according to their specialities and qualifications, respecting conventions, on the condition that they obtain an authorisation from the authorities.²⁷ However, the OECD understands that even though foreigners are permitted to engage in diving activities in Tunisia, many cannot do so in practice as there is no framework for recognising foreign aptitude certificates. In Tunisia, the diving certification process follows the *Confédération Mondiale des Activités Subaquatiques* (CMAS), or World Underwater Federation, system, and there is no official equivalence framework for Professional Association of Diving Instructors (PADI) or Scuba Schools International (SSI) certificates (see Box 8.3).

Box 8.3. Recreational scuba diving certifications

Many recognised international training centres award diving certification. Most are interchangeable, despite slight differences in the definitions of the levels in their certification systems and teaching methods. The oldest and best-known training organisations are PADI and CMAS.

Established in 1966, PADI is considered the world's largest diving organisation, operating in 186 countries with a network of more than 6 600 dive centres and resorts. It has more than 128 000 professional members worldwide and has awarded more than 29 million certifications.¹ Around 70% of all dive certifications in the world are issued by PADI.

CMAS was established in 1959 and today operates on all five continents through more than 130 federations and by co-ordinating with national federations in various countries.²

Other recognised diving organisations include SSI, which was founded in 1970 and is recognised by most countries, Scuba Diving International (SDI), founded the late 1990s and represented in more than 100 countries, and the National Association of Underwater Instructors (NAUI), founded in 1959. Most of the certifications obtained from these organisations are valid worldwide and are part of an equivalence system for compatibility with one another. The best-known equivalence agreement is the CMAS-PADI convention, which dates back to 1998.³

Notes:

1. PADI official website, available at: <https://www.padi.com/about/who-we-are>.

2. CMAS official website, available at: <https://www.cmas.org/cmas/about>

3. PADI Qualification Comparison Table: [C0067%20-%20PADI%20Qualification%20Comparison_8QujxLmcRguaSNwnZoIT.pdf \(website-editor.net\)](#)

The provision limiting diving activities to training organisations and tourism activity centres aims to preserve divers' safety and security by ensuring that they dive within a structured framework in which the necessary expertise exists. In terms of qualification conditions, the OECD understands that the provision aims to preserve the safety and security of divers by ensuring that they have a minimum level of training and a certified diploma allowing them to dive safely. Thus, it prevents the entry of unqualified divers. The objective behind the recognition of foreign diplomas is to allow foreigners and Tunisians who have received diplomas abroad to enter the Tunisian market easily and practice diving activities, either on a professional or amateur basis.

8.5.3. Harm to competition

The absence of implementing legislation and an official *cahier des charges* for the provision of diving activities in Tunisia is problematic in many respects. The lack of transparent conditions for approvals of training organisations and tourism activity centres increases the risk of discrimination and legal uncertainty among investors, discouraging market entry, especially among foreign operators and smaller market players.

The lack of clarity in terms of regulation and supervisory responsibilities between the National Diving Commission, governors and the Ministry of Youth and Sports is also a major source of uncertainty. The

legislative framework allows only training organisations and tourist activity centres to be granted authorisations to carry out diving activities and to be issued with aptitude diplomas, and does not mention associations. Yet there are five associations²⁸ involved in diving in Tunisia. This could be a source of distortions since dive clubs that have to go through a more complicated process are competing with sports associations that need only to comply with the general rules for their sector and obtain permissions by order of the minister of youth and sports. The role of the FAST is unclear and its *cahier des charges*'s lack of legal standing adds more ambiguity.

The involvement of the Ministry of National Defence and its leading role within the National Diving Commission to regulate a leisure and tourism activity has been described by several stakeholders as potentially inappropriate. Although final decisions on granting authorisations are in the hands of governors, the commission's opinion has always been followed. The discretion and decision-making power of the commission on all matters related to the dive sector in Tunisia, and specifically in relation to the authorisation process, qualification requirements and recognition of foreign diplomas, could potentially increase the level of bureaucracy and prevent or delay market entry.

Requiring a qualification or specialised training for diving activities may increase entry costs, but it is likely justified by safety objectives. However, the lack of a framework in Tunisia to recognise equivalent foreign diplomas may increase uncertainty among foreign divers and Tunisian divers who have received diplomas abroad. The absence of transparent conditions for recognising equivalent PADI, SSI or any other foreign diplomas also increases the risk of discrimination. This may reduce market entry and the overall attractiveness of the industry in a very competitive regional context. Stakeholders noted that the situation is exacerbated by structural issues such as a lack of hyperbaric chambers used for the treatment of decompression sickness and submerged shipwrecks that are often designated as dive sites.

Box 8.4. The diving industry

The Maldives

In the Maldives, according to Tourism Act No. 2/99¹ and its recreational diving regulations², issued in 2003, all dive centres must register with the Ministry of Tourism and obtain licences to provide diving services. Operating licences are valid for five years and are renewed upon the expiration of their validity. Diving in restricted areas requires special approval by other authorities, such as the Maldives Ports Authority in areas close to commercial harbours, or the Ministry of Defence in areas close to ships or domains under its supervision.

Malta

Recreational diving services in Malta are regulated by the Malta Tourism Authority (MTA), which falls under the responsibility of the Ministry for Tourism, and which is formally governed by the Malta Travel and Tourism Service Act of 1999. According to Maltese recreational diving services regulations, any person seeking to provide or organise recreational diving services must hold a valid licence issued by the MTA after being interviewed or following an inspection of the location and facilities allocated for the provision of services, and payment of a non-refundable fee of EUR 50. The process of licence issuance takes around 45 days.

Egypt

Egypt is home to more than 293 dive centres operating in compliance with international standards such as EN 14 467 or ISO 24 803 for recreational diving providers and according to European Underwater Federation standards. These centres are monitored by the Chamber of Diving and Water Sports (CDWS), the sole inspection and auditing body in Egypt and the official representative of the dive sector at both the national and international levels. Founded in 2007 by Ministry of Tourism Decree

No. 266-2007³, the CDWS is responsible for issuing ID cards for dive instructors and guides to provide and practice diving activities.

Notes:

1. Maldives Tourism Act No. 2/99, issued in May 1999, Ministry of Tourism, available at:

https://www.tourism.gov.mv/en/legislation/tourism_act

2. Maldives Recreational Diving Regulation (2003), Ministry of Tourism, available at: <https://www.tourism.gov.mv/en/legislation/regulations>;

an unofficial translation is available at: https://www.maldives-divesafari.com/images/pdf/maldives_recreational_diving_regulation.pdf

3. Modified by Ministry of Tourism Decree No. 532/2007.

8.5.4. Recommendations

In light of the restrictions above, and the limitations of the provisions when it comes to achieving policy objectives, the OECD recommends:

- Streamlining the authorisation and licensing process for dive clubs according to the best international practices for permitting and licensing (see Section 9.2).
- If a decision is made to adopt an *ex-post* approach based on a *cahier des charges*, the OECD recommends including sports associations as dive industry participants, publishing a clear and transparent grid for evaluating applications, and adopting an appropriate regulatory inspection and enforcement framework, focused particularly on the regular monitoring of safety and security standards. OECD's Regulatory Enforcement and Inspections Toolkit provides useful guidance in this respect (OECD, 2018^[6]).
- Revising the institutional setup and supervision of diving activities for recreational and tourist purposes in line with international best practices. The mandate and composition of the National Diving Commission and the role of the FAST, in particular, should be considered.
- Defining and publishing a clear framework to recognise equivalent foreign diplomas and training certifications.

8.6. Water sports centres

8.6.1. Background

Article 16 of Decree No. 90-942, relating to safety rules for vessels and recreational maritime transport (yachting activities) defines a recreational maritime base or a water sports centre as “any sheltered place located at the edge of the sea with appropriate equipment and which is the seat of nautical, sporting and leisure activities”.²⁹ According to the Ministry of Tourism, in 2022 Tunisia had 200 water sports centres along its coast.

8.6.2. Description of the obstacles and policy makers' objectives

Authorisation process: As stipulated in Decree No. 90-942, for reasons of safety and maritime navigation, “the establishment of marinas and maritime bases is subject to prior authorisation issued by the minister of transport”.³⁰ However, according to Decree No. 89-457, authorisations for setting up water sports centres are the responsibility of territorially competent governors, following the opinion of the *commission régionale des activités touristiques et de loisir*, or regional leisure tourism committee. The Order of the Minister of Transport of 27 April 1994, related to general safety conditions and rules for marinas and water sports centres, details the information required for authorisation requests, including the number and location of water sports centres, the activities permitted, and the period of activity.

To obtain authorisation, water sports centre operators must file nine documents with the regional maritime authority closest to the location of their facilities, including an application on behalf of the governor, a copy of their national identity card or the company's founding documents, a list of staff and equipment to be operated, and a copy of an insurance contract covering civil responsibility.³¹ According to Decree No. 2018-417, the authorisation process follows four main steps:

1. preparation of a duly completed authorisation request that is filed at the headquarters of the territorially competent governorate³²
2. consultation by the parties with the regional committee of leisure tourism activities, including the technical opinion of the regional maritime authorities
3. presentation and discussion of the authorisation request and related technical opinions within the regional committee
4. issuance of the decision to operate the water sports centre, a copy of which is sent to the regional office of the OMMP and the municipality.

Decree No. 2018-417 also stipulates that the committee's decision should be communicated to candidates within 30 days of the receipt of the complete permit file. However, stakeholders mentioned that in practice it takes much longer since there is a first phase during which the regional committee can reject the application or provide a preliminary approval following a field visit and related technical assessments. If preliminary approval is granted, operators are required to set up the water sports centre within 30 days, after which the committee undertakes an inspection visit and issues a final opinion.

Following exchanges with the authorities, the OECD understands that authorisations to establish and operate water sports centres aim to preserve sensitive shorelines and ensure the safety and the security of maritime navigation. The authorisation process is intended to guarantee appropriate supervision and control by public authorities over public maritime areas by ensuring that the licensees comply with rules and procedures.

Duration of authorisations: Authorisations to establish and operate water sports centres are granted for a one-year period. According to the authorities, the permit can be renewed, conditional on the favourable opinion of the regional committee of leisure tourism activities. There is no limit to the number of renewals, but the duration of the permit remains unchanged and renewal requests follow the same procedure.

The OECD understands that the main objective of the short duration of authorisations is environmental protection. Authorities say that the technical opinion of the *Agence de Protection et d'Aménagement du Littoral*, or Coastal Protection and Planning Agency, is key in this context for both initial approvals and renewals. Other objectives mentioned include facilitating access to new investors by not granting exclusivity to incumbents for long periods and ensuring the safety and security of customers through regular checks on operators and equipment safety. By the same logic, the power to revoke or not renew authorisations in the event of non-compliance with the rules obliges operators to comply with the conditions and safety measures.

Eligibility criteria: Although the Order of the Minister of Transport of 27 April 1994 does not stipulate clearly whether authorisations to establish and operate water sports centres can be granted only to individuals, the OECD was informed that in practice this is the case. In several authorisations granted in 2022 in the governorates of Sousse and Nabeul, it was clearly stated that they were personal licences and could not be assigned or transferred to others.

It has not been possible to identify the public policy objective behind the prioritisation of individual licensees in the establishment and operation of water sports centres. However, the OECD understands from interactions with the authorities that most tourist beaches are saturated and that available locations to establish water sports centres are relatively rare, hence the tendency to accord priority to young entrepreneurs.

8.6.3. Harm to competition

Authorisation process: Despite relative clarity in terms of the documents required to file permit requests, the authorisation process to obtain a water sports centre licence is rather complicated and lacks transparency. The procedures seem to differ between governorates, and the 30-day deadline for the issuance of final decisions is far from being standard practice. The technical opinions of the members of the regional committee of leisure tourism activities are not published, which does not allow applicants to challenge them. Moreover, stakeholders noted that onsite inspections by committee members are sometimes unfair or excessively “hostile”.

The absence of clear and transparent conditions significantly increases the discretionary power of the authorities. This can lead to arbitrary standards of decision-making, meaning that successful applicants may not be the most efficient, simply better connected or more adept at navigating the complex process. Risks of rent-seeking conduct are also pronounced, which increases uncertainty for investors and may act as a major deterrent for investment, business creation and growth.

Duration of authorisations: The one-year validity of authorisations could be considered inappropriate, given the complicated application process for both first-time applicants and applicants for licence renewals, imposing a substantial administrative burden, increasing costs for investors, and raising actual and perceived barriers to entry.

Eligibility criteria: The fact that licences to establish and operate water sports centres are granted to individuals rather than companies may prevent economies of scale, including those achieved by pooling equipment purchases, spreading repair and maintenance costs, and diversifying service offerings. In a competitive market, cost savings arising from such efficiencies would lead to lower prices and service quality gains could also be anticipated.

8.6.4. Recommendations

The OECD recommends the following regulatory changes in order to minimise the harm to competition and productivity arising from the measures currently in place:

- Streamline the authorisation and licensing process for the establishment and operation of water sports centres according to the best international practices for permitting and licensing (see Section 9.2). Application and review procedures, alongside substantive and documentary requirements, should be simplified and streamlined as much as possible by using digitalisation, reducing duplication, ensuring transparency and shortening deadlines.
- Develop a clear, transparent and publicly available evaluation grid and clearly establish conditions for approvals or rejections of initial authorisation requests.
- Ensure that the technical opinions of the regional committee of leisure tourism activities are accessible to applicants, and that rejection decisions are justified and subject to an appeal process.
- Revise the one-year duration of permits and consider *ex-post* regulatory inspections and enforcement. Alternatively, streamline the renewals process by further shortening deadlines and limiting the intervention of the regional committee of leisure tourism activities to matters in which the level of risk and risk drivers mandate this (for instance, the opinion of the Coastal Protection and Planning Agency on potential environmental impacts and the opinion of the regional office of the OMMP on the compliance of equipment with safety standards).

References

- KPMG (2015), *Golf Resorts in the European Mediterranean Region*, [3]
<https://assets.kpmg/content/dam/kpmg/pdf/2015/04/golf-resorts-european-mediterranean-region.pdf>.
- OECD (2019), *A Policy Maker's Guide to Privatisation, Corporate Governance*, OECD Publishing, [5]
<https://doi.org/10.1787/ea4eff68-en>.
- OECD (2018), *OECD Regulatory Enforcement and Inspections Toolkit*, OECD Publishing, [6]
<https://doi.org/10.1787/9789264303959-en>.
- OECD (2015), *OECD Guidelines on Corporate Governance of State-Owned Enterprises, 2015 Edition*, OECD Publishing, [4]
<https://doi.org/10.1787/9789264244160-en>.
- ONTT (2019), *Rapport Annuel*, <https://www.ontt.tn/sites/default/files/inline-files/rapport2019.pdf> [2]
 (accessed on 8 Jun 2022).
- UNWTO (2014), *Global Report on Adventure Tourism*, UNWTO, <https://www.e-unwto.org/doi/pdf/10.18111/9789284416622>. [1]

Notes

¹ The first global adventure tourism market size study was conducted by the Adventure Travel Trade Association, The George Washington University and Xola Consulting in 2010. It found that the global value of adventure tourism was USD 89 billion. The study was repeated in 2013 and found that 42% of travellers departed on adventure trips, making the sector worth USD 263 billion, an increase of 195% in two years.

² Estimated by Allied Market Research: <https://www.alliedmarketresearch.com/adventure-tourism-market>

³ <https://www.discovertunisia.com/en/tunisie-activities/golf>.

⁴ See <http://www.tourisme.gov.tn/ar/le-ministyre/etablissements-sous-tutelle.html>

⁵ Not exceeding 1.6% for tourist residences and 0.6% of the total area of the building for spaces directly linked to golf course activity. This includes a clubhouse at the golf course that includes an area for administration, a reception area, changing rooms, a store for the sale of golf accessories, a classified tourist restaurant, and rooms for maintaining and operating the facility.

⁶ This translates to 4% for the construction of tourist accommodation (not exceeding 3% for tourist residences), 1% for spaces directly linked to golf course activity and 1% for shopping facilities and leisure activities.

⁷ The merging entities include: Société Promogolf Monastir, Société Promogolf Hammamet and Société Golf de Carthage: <https://www.stdgolf.tn/>.

⁸ Law No. 2009-48 of 8 July 2009 promulgating the Maritime Ports Code.

⁹ On the proposal of the minister of equipment after consulting the minister of transport, the minister of fisheries and the minister of tourism.

¹⁰ Article 11 of the Maritime Ports Code, for example, stipulates that port authorities are responsible for the management and operation of ports, however, all or some of the services related to the management and operation of ports may be granted to third parties within the framework of a concession.

¹¹ Article 24 of Law No. 2009-48, promulgating the Maritime Ports Code.

¹² Complemented by Decree No. 90-942, related to safety rules for vessels and recreational maritime transport.

¹³ Article 6 of Decree No. 90-942 states that for yachting activities and recreational vessels, the commission must consist of: members (a representative of the Ministry of Tourism and a representative of the Ministry of Youth and Sports, members with a consultative voice (a representative of the relevant water sports federation and a representative of the relevant nautical industries). The commission may be also consulted by the minister of transport on any matter relating to the application of the regulations in force for yachting.

¹⁴ Article 6 of Decree No 1990-942, related to safety rules for vessels and recreational maritime transport (yachting activities).

¹⁵ The Official Customs Bulletin is a publication of the General Directorate of Customs intended to inform the public on many issues of interest to authorities and their relationship with users (through laws, regulations, procedures, missions and taxation).

¹⁶ See Law No 1990-80, which sets out the conditions for paid maritime transport between ports and coastal sites, complemented by Decree No. 91-164, fixing fees and stamp duties for foreign-flagged vessels, and the Order of the Minister of Planning and Finance of 17 December 1980, which establishes procedures for customs control of yachting activities and the conditions for applying the temporary importation regime to foreign-flagged pleasure cruises and recreational vessels arriving by sea.

¹⁷ Decree No. 91-164, fixing the amount and the methods of collection of royalties and stamp duties on foreign ships transporting paying passengers between ports and coastal sites.

¹⁸ Article 27 and Article 28 of Law No. 2009-48, promulgating the Maritime Ports Code.

¹⁹ Article 3 of Law No. 2005-89, which governs diving activity.

²⁰ Law No. 2005-89, which governs diving activity.

²¹ See Article 2 of Decree No. 2006-1017, fixing the prerogatives, composition and operating rules for the National Diving Commission.

²² Decree No. 2008-2568, setting medical and technical requirements and the procedures for engaging in diving activities.

²³ The decree details four levels of qualification for professional divers, defined according to the value of the maximum relative pressure allowed, four levels for amateur divers according to the maximum authorised depth, and three levels for monitors.

²⁴ In accordance with Article 5 of Law No. 2005-89, “any diver, amateur or professional, must hold a diploma certifying their aptitude for diving issued by an approved training establishment or a foreign diploma recognised as equivalent and authorised to practice diving in accordance with its speciality. The conditions of equivalence of foreign diplomas are fixed by decree. Conditions for the approval of training organisations and activity centre tourism, the issuance of aptitude diplomas, and the granting of authorisations for the practice of diving are fixed by decree.”

²⁵ Order of the Minister for Vocational Training and Employment of 19 May 2010 defining different levels of qualification for professional divers.

²⁶ Order of the Minister for Youth, Sports and Physical Education of 18 November 2008 defining different levels of qualification for amateur divers.

²⁷ Article 11 of Law No. 2005-89, which governs diving activity.

²⁸ Ministry of Tourism.

²⁹ Decree No. 90-942, relating to safety rules for vessels and recreational maritime transport (yachting activities).

³⁰ Article 18 of Decree No. 90-942, relating to safety rules for vessels and recreational maritime transport (yachting activities).

³¹ The application process is set out in Decree No. 2018-417, relating to the publication of the exclusive list of economic activities subject to authorisation and the list of administrative authorisations for the implementation of projects, the related provisions and their simplification.

³² This must include: an application indicating the person’s identity, the nature of the activities envisaged, the period of activity, and the number and qualifications of the personnel operating the centre. In addition, the request must include a location map of the centre on land and on the water, a diagram of the proposed centre including buoys and other signalling marks, and an inventory of safety and first-aid equipment. See Article 16 of Order of the Minister of Transport of 27 April 1994, relating to general conditions for safety and enforcement at ports and water sports centres.

9 Horizontal barriers and administrative burdens

Several regulations applicable to all tourism-related activities pose challenges to competition in Tunisia. This chapter will focus on horizontal legal provisions that cut across the various tourism activities analysed in the previous chapters. These norms are related to regulatory quality and enforcement, investment licensing procedures, and restrictions on foreign firms' operations in the country. The chapter makes recommendations for reform.

9.1. Regulatory quality

9.1.1. Description of the issues

The regulations reviewed in this assessment are dispersed across many different pieces of legislation. In order for businesses and consumers to gain a comprehensive understanding of the legislation applicable to a given economic activity, they must identify the relevant provisions in many separate texts and understand how these provisions interact with one another. For instance, as explained in Chapters 5 and 6, investments in sports and recreational activities such as dive centres, and in food and beverage service operations such as restaurants, is subject to various rules and regulations, some of which are implemented at the local level. In addition, subsequent modifications to core pieces of legislation have resulted in further fragmentation and, on many occasions, a lack of clear rules. Thalassotherapy centres are an illustration of this. Decree 2006-3174 sets out a notification requirement for opening thalassotherapy centres, even though a 2011 modification of Law No. 1989-120 made these centres subject to *ex-ante* authorisation without further details.

New legislation does not always explicitly repeal previous provisions. For example, the OECD identified a number of legal provisions that, although not explicitly abolished, have been implicitly repealed. According to authorities, in some cases, the implementing legislation for repealed legal texts remains in force.¹ In other cases, however, the rule seems to be that the implementing legislation for repealed laws is considered repealed. Establishing with certainty whether a legal text remains in force or not is complex, time-consuming, and requires repeated interaction with authorities.

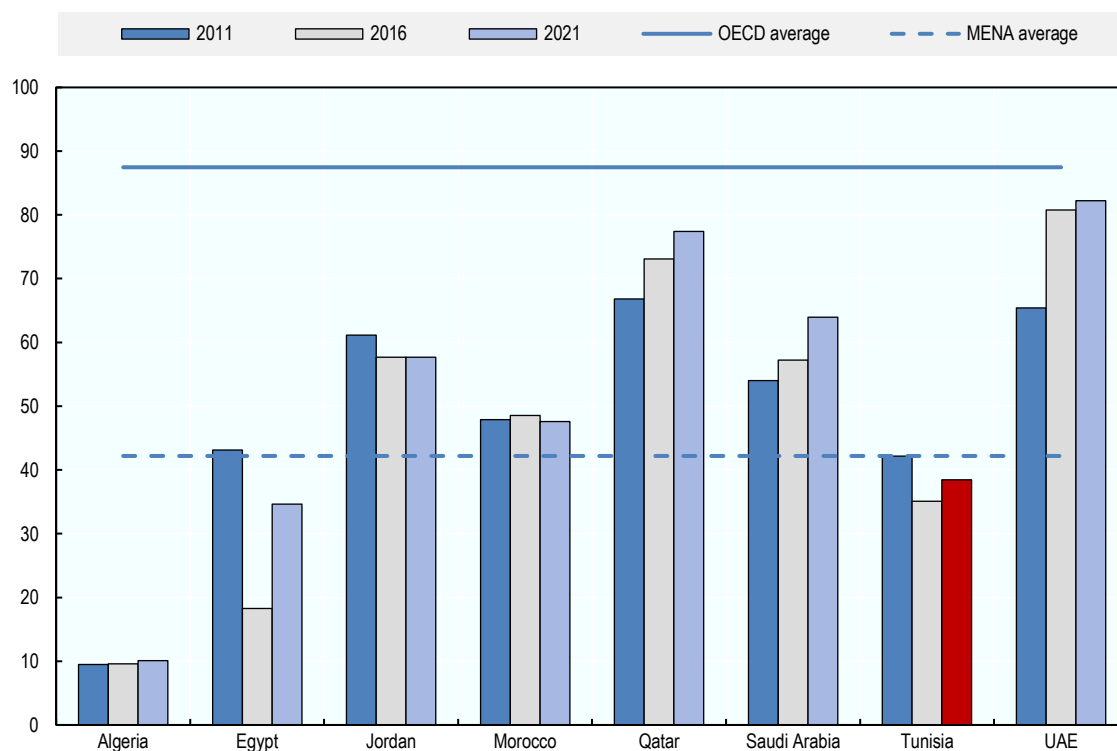
In the course of this assessment, the OECD found conflicting provisions and legislation that is vague and inconsistently implemented. For instance, the renewal of marina concessions for successive periods of two years, according to Law No. 1995-73, is inconsistent with Law No. 2009-48, which stipulates that concessions can be extended for an additional period of up to 20 years.² Customs rules regarding the immobilisation and release for free circulation of foreign-flagged boat and the use of yachts under the temporary import regime are a source of confusion, as detailed in Chapter 5.

The OECD also identified a number of activities for which implementing regulations are still missing, despite the legal texts having been enacted. This is the case with marinas and with tourist transport, as described in sections 5.2 and 8.1, respectively. A number of other activities lack adequate frameworks, such as short-term rental accommodation, street food and ride hailing.

Although this competition assessment focuses on barriers created by regulation rather than on how regulation is implemented in practice by the authorities, it is useful to highlight several issues involving the extent of enforcement in the country. Interviews with the representatives of the business community have confirmed that enforcement can be patchy. For instance, business associations have noted that travel agency regulation is not enforced. Category-B travel agencies frequently perform activities reserved for Category-A agencies, and service companies regulated by the Ministry of Industry and SMEs perform a significant number of the activities reserved for travel agencies. Similarly, stakeholders pointed out that most legislation applicable to alternative accommodation services is legally in force yet remains unenforced.

Shortcomings in regulatory quality are reflected in Tunisia's score in the World Bank's Worldwide Governance Indicators (see Figure 9.1). This estimate of regulatory quality captures the perception of a government's ability to formulate and implement sound policies and regulations that permit and promote private sector development. Tunisia scores below both the OECD and the Middle East and North Africa averages.

Figure 9.1. World Bank Worldwide Governance Indicators: Regulatory quality percentile ranking



Note: The percentile rank ranges from 0 (lowest) to 100 (highest). The solid line is the average percentile rank of OECD countries (88) and the dashed line the average percentile rank of Middle East and North Africa region countries (42) in 2021.

Source: World Bank Worldwide Governance Indicators, <http://info.worldbank.org/governance/wgi>

9.1.2. Harm to competition

The difficulty of identifying applicable legislation in force, particularly due to obsolete or superseded provisions, can act as a regulatory barrier to entry. It creates legal uncertainty, and so potentially raises regulatory and legal compliance costs for market players.

The lack of clarity and predictability in the legal framework increases the complexity that companies and individuals face, negatively affects the business environment, and creates space for corruption and maladministration. The absence of application texts for enacted laws affects the legitimate expectations of new investors and increases the discretionary power of authorities.

The absence of adequate frameworks skews the playing field, fuels informality, and could have implications in terms of issues such as increased sanitary risks (in the case of street food, for example) and safety, security and data protection (in the case, for instance, of ride-hailing and alternative accommodation services).

Outdated legislation can also act as a regulatory barrier by creating legal uncertainty, potentially raising compliance and legal costs for suppliers. Moreover, the proliferation of legislative texts, amid enforced general and sector laws, may result in considerable confusion and a lack of clarity for new investors, raising compliance costs and administrative burdens, especially for small enterprises.

By contrast, a clear and easily accessible regulatory framework is essential for new entrants that are not necessarily familiar with the national legal framework, and for small businesses, for which compliance costs and administrative burdens are relatively more important than for larger companies.

The transparent development and implementation of regulation is one of the key pillars of regulatory quality (see Box 9.1). Transparency and public accountability are among the requirements for sound governance by regulators (OECD, 2014^[1]), as transparency enhances their accountability and confidence in them. In addition, clarity helps regulated firms understand regulators' policies and expectations, and helps them to anticipate how these are monitored and enforced.

Box 9.1. Regulatory quality

Regulation is essential in many areas, but it can also be costly in both economic and social terms. Ensuring regulatory quality entails enhancing the performance, cost-effectiveness and legal quality of regulatory and administrative measures. The notion of regulatory quality includes:

- Process: How regulations are developed and enforced, which should follow the key principles of consultation, transparency and accountability, and be evidence-based.
- Outcomes: Ensuring regulation is effective at achieving its objectives.
- Efficiency: Quality regulation should not impose unnecessary costs.
- Coherence: Regulation must not contradict the overall regulatory regime.
- Simplicity: Regulations and their implementation rules must be clear and easy to understand.

Building and expanding on the OECD's Recommendation of the Council on Improving the Quality of Government Regulation, it is possible to define regulatory quality as regulations that:

- serve clearly identified policy goals and are effective in achieving those goals
- are clear, simple and practical for users
- have a sound legal and empirical basis
- are consistent with other regulations and policies
- produce benefits that justify costs, considering the distribution of effects across society and taking economic, environmental and social effects into account
- are implemented in a fair, transparent and proportionate way
- minimise costs and market distortions
- promote innovation through market incentives and goal-based approaches
- are compatible as far as possible with competition, trade and investment-facilitating principles at domestic and international levels.

Source: Adapted from Box 1.1, OECD (2015^[2]), Recommendation of the Council on Public Procurement, <https://www.oecd.org/gov/public-procurement/recommendation/>.

To improve regulatory quality, the OECD recognises the need for governments to undertake comprehensive programmes that include systematically reviewing existing regulations to ensure their efficiency and effectiveness, and to lower regulatory costs for citizens and businesses (OECD, 2012^[4]). Consequently, a clear and well-defined regulatory framework is crucial to facilitate new market entries and create a more favourable investment climate. As mentioned in the Recommendation of the OECD Council on Regulatory Policy and Governance:

“Effective regulatory governance maximises the influence of regulatory policy to deliver regulations which will have a positive impact on the economy and society and will meet underlying public policy objectives.”³

Discrepancies between legislation and its implementation matter because any policy or reform can have an impact only if it is implemented (O'Brien, 2013^[3]). In a 2022 World Justice Project survey of regulatory

enforcement, Tunisia ranked 64 among 140 countries.⁴ The survey took into account factors such as whether government regulations were effectively enforced and whether administrative proceedings were conducted without unreasonable delays.

When certain pieces of legislation are enforced and others are not, businesses and consumers may develop the impression that a framework is arbitrary. As result, current and potential market participants may hold back investment, to the detriment of the wider economy.

Controls and inspections by public authorities also play an important role in ensuring that legislation is implemented according to the original intentions of legislators. Rational actors, considering whether to engage in illegal conduct, will be discouraged by a higher probability of detection of such conduct and higher potential penalties (Becker, 1968_[4]).⁵ Conversely, limited enforcement action by public authorities can have negative consequences for compliance by market players, and even for matters such as public health, if, for example, hygiene and health requirements are not met.

9.1.3. Policy recommendations

In light of these considerations, the OECD recommends that a comprehensive legislative review of regulation in Tunisia's tourism industry is undertaken according to OECD best practice principles (OECD, 2020_[5]) to ensure that: 1) superseded legislation is explicitly abolished; 2) all adopted legal texts, including circulars, are published, and when possible legally consolidated (for example, on the website of the Official Journal of the Republic of Tunisia); and 3) authorities' websites provide updated lists of applicable legislation, when they do not do so already, to improve transparency and help new market entrants.

The OECD also recommends adopting a regulatory impact assessment (RIA) framework to inform policy makers' decisions on the effectiveness and efficiency of this legislative review and of any forthcoming policies. The 2012 Recommendation of the OECD Council on Regulatory Policy and Governance provides principles for the integration of RIAs in the first stages of the public policy process for the elaboration of new regulatory proposals. This normative instrument is complemented by the OECD's *Regulatory Impact Assessment* (OECD, 2020_[6]), a practical guide for policy makers designing and implementing effective RIA systems (see Table 9.1).

Table 9.1. Key elements of the OECD's best practice principles for regulatory impact assessments

• Always start at the inception phase of the regulation-making process.
• Be proportionate to the significance of the regulation.
• Clearly identify the specific policy need and the desired goals of the proposal.
• Identify and evaluate all potential alternative solutions for addressing the policy need identified, both regulatory and non-regulatory, and select the most appropriate instrument or mix of instruments to achieve policy goals.
• Always attempt to assess all potential economic, social and environmental costs and benefits, both direct (administrative, financial and capital costs) and indirect (opportunity costs), whether borne by businesses, citizens or government and indirect, including the distributional effects over time.
• Consider the impact on competitive processes and carefully evaluate any adverse effects against the claimed benefits of the regulation, including by exploring whether the objectives of the regulation cannot be achieved by other, less restrictive means.
• Always assess the costs and benefits, including those of taking no action.
• When policy proposals would have significant impacts, assess costs, benefits and risks in a quantitative manner whenever possible and qualitatively if no quantification is possible, such as impacts on equity, fairness and distribution.
• Develop measures transparently with stakeholders, and ensure the results are clearly communicated
• Lead to identifying the approach likely to address the policy need while delivering the greatest net benefit to society, including complementary approaches such as through a combination of regulation, education and voluntary standards.
• Be publicly available so proposals can be scrutinised by stakeholders and the public.
• Ensure that an oversight body checks the quality of the analysis of all RIAs.

Source: OECD (2020_[6]), *Regulatory Impact Assessment*, <https://doi.org/10.1787/7a9638cb-en>; OECD (2012_[7]), OECD Recommendation of the Council on Regulatory Policy and Governance, <https://doi.org/10.1787/9789264209022-en>.

9.2. Investment licensing

9.2.1. Description of the issues

The activities examined in this assessment are for the most part subject to complex, cumbersome licensing procedures. In the course of its assessment, the OECD identified 26 *ex-ante* authorisations, related mainly to accommodation, sports and recreational activities, restaurants, and passenger transport, imposing very detailed requirements and demanding that applicants provide a considerable number of documents, including feasibility studies and clearances from various government bodies. For instance, hotels and certain restaurants must go through a very detailed two-step licensing process supervised by the *Office National Du Tourisme Tunisien* (ONTT), or Tunisian National Tourism Office, as described in Sections 3.2 and 4.2, respectively. If they intend to serve alcohol on their premises, hotels and restaurants must apply separately for an alcohol licence from the Ministry of Interior.

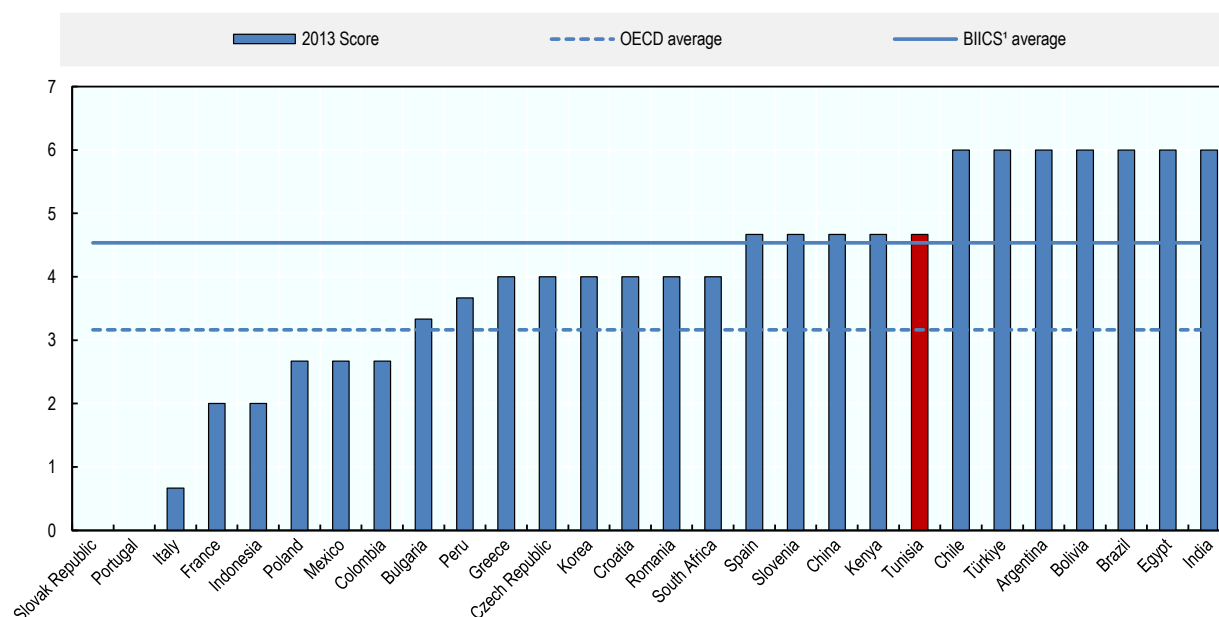
The OECD has also identified eight operating requirements embedded in *cahiers des charges*, or sets of specifications, which are supposed to be *ex-post* regulatory alternatives. These include, for example, mandatory notification of every excursion by travel agencies (see Section 6.2), an obligation for private museums, galleries and art workshops to notify their programmes a year in advance (see Section 7.3), and one-month advance notice and approval for marinas to organise leisure events and activities (see Section 8.3).

An online survey conducted among tourism professionals (see Annex A), revealed some anomalies in regulatory inspections and enforcement practices, especially relating to alternative accommodation. According to Decree-Law No. 73-4 on the control of the construction of tourism facilities,⁶ all tourist establishments are subject to inspection by Ministry of Tourism officials without notice at any time of the day or night. Article 16 of the law explains that owners, managers or others in charge of such establishments must facilitate these inspections by providing access and all required documents. Comments made by survey participants indicated a conflict of competence between the ministry's inspectors and other authorities, such as police, and the lack of an adequate framework to challenge unfair or hostile inspections.

The complexity of the licensing environment in Tunisia is reflected by Decree No. 2018-417.⁷ The decree, the longest in the country's history, is emblematic of the current situation; annexes 1 and 3 of the decree detail, respectively, an exclusive list of 100 economic activities subject to licensing and 143 administrative authorisations or operational requirements relating to various activities and sectors. The decree also details timelines, procedures and conditions that applicants must fulfil in order to obtain authorisations.

International benchmarking suggests that Tunisia has considerable room to promote entrepreneurship. The country's performance, as measured by OECD product market regulation (PMR) indicators, reflects the above shortcomings. It shows that regulatory procedures for establishing businesses, and in particular authorisation systems, are cumbersome, and that the administrative burdens imposed on individual enterprises are particularly high, not only by OECD standards but also compared with a selection of emerging economies (see Figure 9.2).

Figure 9.2. PMRs: licences and permits



Notes: Country performance is ranked using a zero-to-six scale on which a lower value reflects a more competition-friendly regulatory stance. Data for Tunisia are for 2016. Data for other countries are for 2013.

1. Data represent simple averages for Brazil, India, Indonesia, China and South Africa.

Source: OECD-World Bank database on product market regulation.

In 2012, Tunisian authorities had already recognised the need to simplify regulations in order to promote economic activity. A “regulatory guillotine” announced in 2012 was supposed to produce an inventory of all administrative and regulatory procedures involved in conducting an economic activity, and to eliminate those that were obsolete or redundant. Some 500 procedures were deemed inappropriate in 2014. Unfortunately, the reform was never completed and these procedures are still in operation.

In 2016, Tunisia’s government took some steps to improve the regulatory environment, such as adopting a “silence is consent” rule, which was embedded in Law No. 2016-71 on investment.⁸ This rule applies to licences and other authorisation procedures with a statutory response period of 60 days, after which, if no official response to an authorisation request has been given, the request is deemed to be approved. The government also adopted a “once only” principle as part of an omnibus law approved in 2019 to improve the business climate, stipulating that authorities should not require from investors any documents already in their possession or provided by other public bodies.⁹

The adoption of Decree No. 2018-417 is an important milestone in this reform effort. Annex 2 of the decree includes a list of 27 economic activities to be regulated through *ex-post* controls on compliance instead of *ex-ante* authorisations. More recently, Presidential Decree No. 2022-317, which amended Decree No. 2018-417, removed the *ex-ante* licensing requirements for another 15 activities, including guest houses, as well as ten administrative authorisations.

Nevertheless, the OECD was informed that many of the *ex-ante* authorisations that were supposed to be removed following the adoption of Decree No. 2018-417 are still in place since related *ex-post* regulation and *cahiers des charges* are still pending.

9.2.2. Harm to competition

Although licensing and permitting can be useful, even indispensable, regulatory tools to manage risks among certain types of establishments and risks related to certain activities, they must be used in a

discerning manner. Indeed, like all *ex-ante* barriers, licensing and permitting can cause serious economic harm, severely curtailing competition, imposing substantial administrative and financial burdens on regulated entities, raising actual and perceived barriers to new market entry, and hindering innovation and investment.

To the best of the OECD's knowledge, none of the licences or operational requirements reviewed in the course of this assessment can be requested or submitted online. Applications must be submitted in person and should include all related forms and documents, mostly on paper.

Consultations with stakeholders, including through the online survey, revealed that the “silence is consent” rule has not been effectively implemented and that public bodies do not respect it, continuing to request additional documents to extend authorisation deadlines further. The “once only” principle has been similarly stalled, which authorities attribute to technical difficulties hindering interconnectivity and reciprocal access to government databases.

The OECD's analysis has shown that many of the licences examined in this assessment suffer from a lack of transparency in terms of process and their associated evaluation criteria, and sometimes have uncertain outcomes, conferring considerable discretionary power on authorities, especially at the local level. Stakeholders informed the OECD that the timelines for some licences, such as those for individual taxis or for selling alcohol, can be measured in years.

Licensing and permitting may support anti-competitive behaviour and reflect regulatory capture, as incumbent firms have strong incentives to lobby regulators to use these arrangements to protect them from competition. The use of licensing and permitting should be confined to cases in which achieving regulatory goals (such as environmental protection and safety) or managing access to scarce resources can effectively be done only *ex-ante*, or where *ex-ante* barriers will be economically far more efficient than trying to remediate potential harm *ex-post*.

In addition, application and review procedures, alongside substantive and documentary requirements, should be simplified and streamlined as much as possible by using digitalisation, reducing duplication, ensuring transparency, and shortening deadlines. Licensing and permitting can thus move from constituting a major entry barrier to serving as a useful regulatory instrument.

Regulatory inspections and enforcement make up the *ex-post* part of official control of regulatory compliance, often linked to verifying that applicable permits and licenses have been obtained, and that operators remain in compliance with their requirements.

Although inspections and enforcement are indispensable instruments to ensure the effective application of regulations, frequent problems include overlaps and conflicts of competences between different government authorities and agencies, inadequate targeting, and a lack of proportionality. These result in inspection practices that can simultaneously be ineffective at achieving regulatory objectives (such as safe food, a protected environment and health), costly in terms of scarce public administration resources, and extremely burdensome for businesses.

The threat of unfair or excessively aggressive inspections can also act as a major deterrent to investment, business creation and growth, even when start-up procedures are simplified, leading reform efforts to disappoint in terms of their impact.

9.2.3. Policy recommendations

The OECD recommends that Tunisian authorities consider streamlining licensing procedures according to international best practices. Among the key requirements of best practices is that regulatory systems and instruments must be risk-based, risk-proportional and risk-focused. For permitting and licensing, this implies that they must be used only when absolutely necessary to protect key elements of public welfare, such as in cases where the level of risk and risk drivers mandate them and no other way exists to achieve

these goals effectively, or if doing so only *ex-post* would entail much diminished effectiveness and/or far higher costs.

Best international practice shows that in order to ensure that risks created by businesses during their operations are effectively managed and regulatory compliance is maximised, reform should cover not only *ex-ante* and start-up phases, but also the improvement of *ex-post* regulatory inspections and enforcement (OECD, 2014^[8]). A risk-targeted, risk-proportional approach is again the approach that will ensure authorities' efforts target businesses and activities presenting the highest combined level of likelihood and potential magnitude of harm. Such an approach also achieves results while limiting costs and optimising resource efficiency for both the private and the public sector. It makes growth and development far easier for businesses and provides a much more conducive environment for investment.

The *OECD Regulatory Enforcement and Inspections Toolkit* (OECD, 2018^[9]) provides a useful basis for authorities to undertake detailed assessments of their inspections and enforcement frameworks. The toolkit was developed to serve as a simple means of assessing the level of development of inspection and enforcement systems in any given jurisdiction, institution or structure, and to identify strengths and weaknesses, as well as areas for improvement (see Box 9.2).

Box 9.2. The OECD Regulatory Enforcement and Inspections Toolkit

The *OECD Regulatory Enforcement and Inspections Toolkit* is based on the 2014 OECD best practice principles for regulatory enforcement and inspections (OECD, 2014^[8]). The document presents a checklist of 12 criteria divided into sub-criteria to make them easier to use. The criteria are:

1. evidence-based enforcement
2. selectivity
3. risk focus and proportionality
4. responsive regulation
5. long-term vision
6. co-ordination and consolidation
7. transparent governance
8. information integration
9. clear and fair process
10. compliance promotion
11. professionalism
12. reality check.

Source: OECD (2018^[9]), *OECD Regulatory Enforcement and Inspections Toolkit*, <https://doi.org/10.1787/9789264303959-en>.

9.3. Restrictions on foreign investment

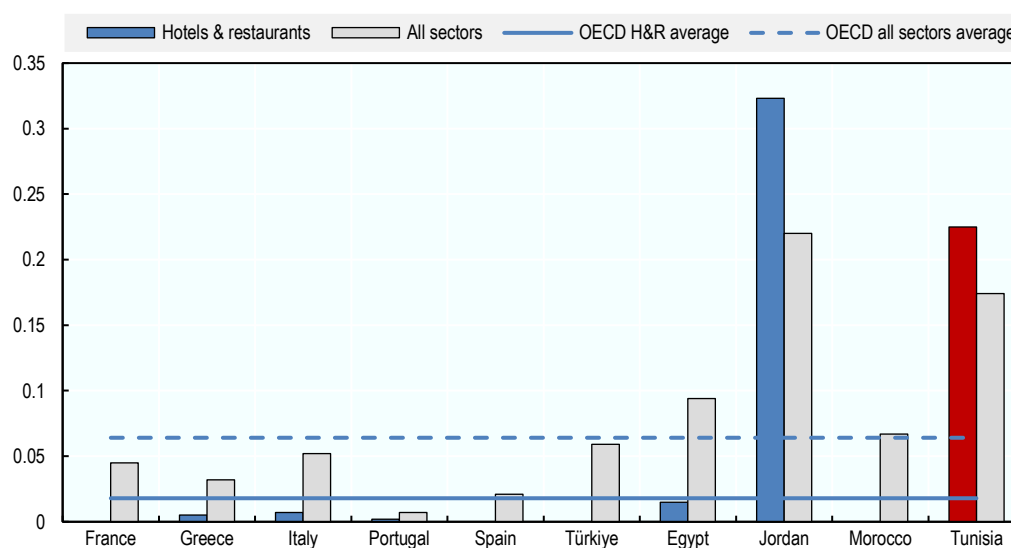
9.3.1. Description of the issues

The participation of foreign companies in several activities related to Tunisia's tourism sector is subject to restrictions and screening procedures. For instance, legislation provides that foreign travel agencies may operate in Tunisia only in accordance with international conventions or subject to reciprocity. Discussions with authorities revealed that foreign travel agencies cannot directly operate in Tunisia. They may operate only indirectly through partnerships with Tunisian travel agencies.

Some accommodation services, mainly *gîtes rural*, or rural lodges, are partly affected by restrictions imposed on non-nationals when it comes to owning agricultural land, stipulated in Law No. 2016-71 on investment. Restrictions apply also to the recruitment of foreign managers.¹⁰ Some sports and leisure activities are affected by similar restrictions. For instance, the operation of water sports centres is reserved for Tunisian nationals (see Section 8.6), and paid maritime passenger transport is subject to a screening procedure for foreigners (see Section 8.4). Most passenger land transport services, such as taxis and other non-regular public road transport, are strictly reserved for Tunisian nationals (see Section 5.4). Foreign investment in vehicle hire services is subject to a screening procedure if it exceeds 50% of total capital (see Section 5.3).

Tunisia's score on the OECD's Foreign Direct Investment Regulatory Restrictiveness Index¹¹ reflects the effect of these measures (Kalinova, Palerm and Thomsen, 2010_[10]). The index measures four types of statutory restrictions on foreign direct investment: 1) foreign equity restrictions; 2) screening and prior-approval requirements; 3) rules for key personnel; and 4) other restrictions on the operation of foreign enterprises. Tunisia scores above the OECD average and that of most nearby countries in the hotels and restaurants sector (see Figure 9.3).

Figure 9.3. FDI restrictiveness in hotels and restaurants, 2020



Notes: Index scale 0 to 1, with 1 being the most restrictive. The horizontal lines correspond to the average of all OECD countries for hotels and restaurants (0.018) and all sectors (0.06).

Source: OECD FDI restrictiveness index database, <https://stats.oecd.org/Index.aspx?datasetcode=FDIINDEX#>

9.3.2. Harm to competition

The restrictions on foreign individuals and businesses engaging in tourism activities in Tunisia constitute an exception to the National Treatment Instrument under the OECD Declaration on International Investment and Multinational Enterprises, to which Tunisia acceded in May 2012 (see Box 9.3).

Box 9.3. The OECD Declaration on International Investment and Multinational Enterprises

In May 2012, Tunisia became the 44th country to sign up to the OECD Declaration on International Investment and Multinational Enterprises. The declaration, adopted in 1976, is a policy commitment by governments to:

- provide an open and transparent environment for international investment
- encourage the positive contribution that multinational enterprises can make to economic and social progress.

The declaration includes four instruments, each underpinned by a decision of the OECD Council on follow-up procedures:

- **The National Treatment Instrument** commits adherent countries to accord foreign-controlled enterprises operating in their territories treatment no less favourable than that accorded to domestic enterprises in similar situations.
- **The Guidelines for Multinational Enterprises** are recommendations on responsible business conduct that firms observe on a voluntary basis. Observance of the guidelines is supported by a unique implementation mechanism: adherent governments, through their networks of “national contact points”, are responsible for promoting the guidelines and helping to resolve issues that arise under the specific instances procedures.
- **The Instrument on Conflicting Requirements** calls on adherent countries to avoid or minimise conflicting requirements imposed on multinational enterprises by governments of different countries.
- **The Instrument on International Investment Incentives and Disincentives** encourages adherent countries to make such measures as transparent as possible so that their scale and purpose can be easily determined, and it institutes a consultation and review procedure to make co-operation among adherent countries more effective.

Source: Adapted from OECD (2012^[11]), OECD Investment Policy Reviews: Tunisia, <https://doi.org/10.1787/9789264179172-en>.

The principle of national treatment means foreign businesses operating within a country’s territory should be treated no less favourably than domestic enterprises. As an adherent country, Tunisia is committed to honouring the obligations under this instrument, including the notification of exceptions to the national treatment regime. The principle of national treatment is set out in Tunisia’s investment law (Article 7, Law No. 2016-71). Nevertheless, the abovementioned provisions remain in force. The OECD’s FDI Regulatory Restrictiveness Index, which reflects notified exceptions to the national treatment regime, demonstrates the restrictive nature of Tunisia’s services sector.

The restrictions directly limit the number of suppliers and potential investors. They may affect prices and quality, as competition with foreign firms may render both local and foreign firms more efficient.

More generally, the implications of services restrictions typically go beyond sector borders, limiting potential economy-wide productivity gains. Barriers to FDI in these activities remain more stringent than observed elsewhere. Apart from a few economies in Asia, these activities have been largely, if not fully, liberalised worldwide.

9.3.3. Policy recommendations

The OECD recommends that the Tunisian authorities consider lifting or reducing the nationality requirement and the associated restrictions imposed on foreign investors in the tourism industry, in line with the update to Law No. 2016-71, which establishes the principle of freedom of investment and the participation of non-Tunisian nationals in Tunisian companies, and with the National Treatment Instrument of the OECD’s Declaration on International Investment and Multinational Enterprises.

References

- Becker, G. (1968), "Crime and Punishment: An Economic Approach", *Journal of Political Economy*, Vol. 76/2, pp. 169-217, <https://doi.org/10.1086/259394>. [4]
- Kalinova, B., A. Palerm and S. Thomsen (2010), *OECD's FDI Restrictiveness Index: 2010 Update*, OECD, <https://doi.org/10.1787/18151957>. [10]
- O'Brien, P. (2013), *Policy Implementation in Italy: Legislation, Public Administration and the Rule of Law*, OECD Publishing, <https://dx.doi.org/10.1787/5k44sssdmgzs-en>. [3]
- OECD (2020), *Regulatory Impact Assessment, OECD Best Practice Principles for Regulatory Policy*, OECD Publishing, Paris, <https://doi.org/10.1787/7a9638cb-en>. [6]
- OECD (2020), *Reviewing the Stock of Regulation, OECD Best Practice Principles for Regulatory Policy*, OECD Publishing, <https://doi.org/10.1787/1a8f33bc-en>. [5]
- OECD (2018), *OECD Regulatory Enforcement and Inspections Toolkit*, OECD Publishing, Paris, <https://doi.org/10.1787/9789264303959-en>. [9]
- OECD (2015), *Recommendation of the Council on Public Procurement*, <https://www.oecd.org/gov/public-procurement/recommendation/>. [2]
- OECD (2014), *Factsheet on how competition policy affects macro-economic outcomes*, <http://www.oecd.org/daf/competition/factsheet-macroeconomics-competition.htm>. [1]
- OECD (2014), *Regulatory Enforcement and Inspections, OECD Best Practice Principles for Regulatory Policy*, OECD Publishing, Paris, <https://doi.org/10.1787/9789264208117-en>. [8]
- OECD (2012), *OECD Investment Policy Reviews: Tunisia*, OECD Publishing, Paris, <https://doi.org/10.1787/9789264179172-en>. [11]
- OECD (2012), *OECD Recommendation of the Council on Regulatory Policy and Governance*, OECD Publishing, Paris, <https://doi.org/10.1787/9789264209022-en>. [7]

Notes

¹ For instance, this is the case for many implementing texts of Law 1990-21, which was repealed by Law No. 2016-71, and for the 1991 Competition Act, no longer in force and replaced by the 2015 Competition Act.

² See Article 26 of Law No. 95-73, related to maritime public areas, and Article 25 of Law No. 2009-48, promulgating the Maritime Ports Code.

³ The 2012 OECD recommendation on regulatory policy and governance.

⁴ See: <https://worldjusticeproject.org/rule-of-law-index/global/2022/Tunisia/Regulatory%20Enforcement/>

⁵ The choice of whether or not to engage in illegal behaviour depends on the comparison between the expected benefits of such behaviour and the expected cost of being caught. The latter depends on the probability of detection and the cost of being detected, such as the size of any financial penalty.

⁶ Amended by Law No. 2006-33 on the simplification of procedures in the field of administrative authorisations relating to the tourist sector.

⁷ Decree No. 2018-417, relating to the publication of the exclusive list of economic activities subject to authorisation and the list of administrative authorisations for carrying out projects, related provisions and their simplification.

⁸ Article 4 of Law No. 2016-71 and Article 6 of Decree No. 2018-417.

⁹ Article 2 of Law No.2019-47. This law modified 24 laws relating to investment through the simplification procedures for establishing and financing companies.

¹⁰ When a company structure is required or chosen by a tourist establishment, Article 6 of Law No. 2016-71 provides that companies may recruit managers of any nationality up to a limit of 30% of the total number of executives until the end of the third year from the date of the company's legal constitution or the date of its effective commencement of activity. This rate must be reduced to 10% from the fourth year from the said date.

¹¹ The OECD FDI Regulatory Restrictiveness Index gauges the restrictiveness of a country's FDI rules. It covers only statutory measures discriminating against foreign investors (such as foreign equity limits, screening and approval procedures, restrictions on key foreign personnel, and other operational measures). Other important aspects of an investment climate (such as the implementation of regulations and state monopolies, preferential treatment for export-oriented investors and special economic zone arrangements, among others) are not considered. Please refer to (Kalinova, Palerm and Thomsen, 2010^[10]) for further information on the methodology.

Annex A. Methodology

This Tunisia competition assessment project began in June 2021 and was carried out in five phases, as agreed between Tunisian authorities, the EU and the OECD. This annex describes the methodology followed in each of the project stages.

Stage 1: Mapping the sector and its regulation

The objective of Stage 1 of the project was to identify and collect sector-relevant laws and regulations. The main tools used to identify the applicable legislation were online databases, the websites of relevant authorities and sector-specific reports by private and government bodies. In addition, in order to ensure that all the important pieces of legislation were covered by the study, the team consulted with industry participants and all competent public bodies involved in the sector, and with members of the High-Level Advisory Group (HLAG), composed of senior government officials.

Over the course of the project, lists of legislation were refined as additional pieces of legislation and regulation were discovered by the team or issued by the authorities, while other instruments initially identified were found not to be relevant to the sector or no longer in force. In total, approximately 163 instruments were selected for analysis, including laws, decrees, ordinances, regulations, public notices and concession contracts.

Another important objective of the first stage (which extended for the duration of the project) was the establishment of contact with the market through the main authorities, industry associations and private stakeholders active in the sector. The OECD team conducted fact-finding missions and met with government and private stakeholders. Interviews with market participants contributed to a better understanding of how the sub-sectors under investigation actually work in practice and helped with discussions of potential barriers deriving from legislation. In total, more than 36 public and private stakeholders contributed to the report.

The team also launched an online survey to better understand the issues in each sub-sector from the perspective of private stakeholders. The survey's main goal was to verify whether private stakeholders considered that their sub-sectors faced regulatory barriers. The team held more than 27 meetings with associations and companies operating in all sub-sectors to present the online survey and to explain the concept of regulatory barriers as per the OECD Competition Assessment Toolkit. The team received 96 responses to the survey, and its results were very useful.

Based on the outcomes of the survey, meetings and discussions of the practical problems stakeholders face, and backed up by further research, the OECD team identified legislation to be prioritised for areas in which *prima facie* barriers to competition existed and impacts on competition could therefore be expected.

Stage 2: Screening the legislation and selecting provisions for further analysis

In the second stage of the project, the main task was screening the legislation to identify potentially restrictive provisions and providing an economic overview of the relevant sub-sectors.

The legislation collected in Stage 1 was analysed using the framework provided by the OECD Competition Assessment Toolkit. This toolkit provides a general methodology for identifying unnecessary obstacles in laws and regulations and for developing alternative, less restrictive policies that still achieve government objectives. One of the main components of the toolkit is a competition assessment checklist that asks a series of simple questions to screen laws and regulations with the potential unnecessarily to restrain competition (see Box A A.1).

Based on the toolkit methodology, the OECD compiled a list of all the provisions that were affirmative in respect of any of the attributes in the checklist. The government experts and members of the HLAG received draft lists and were given an opportunity to comment. The final list consisted of almost 447 provisions with the potential to restrict competition in Tunisia's tourism sector.

The OECD also prepared an extensive economic overview of the relevant sub-sectors (and refined it during later stages), covering industry trends and key indicators such as revenues, employment and prices. The analysis conducted during this stage aimed to gather background information to better understand the mechanisms of the sub-sectors, provide an overall assessment of competition, and examine the most important players and authorities.

Box A A.1. OECD competition assessment checklist

Further competition assessment should be conducted if a piece of legislation is affirmative on any of the following counts:

A) Limits the number or range of suppliers

This is likely to be the case if the legislation:

1. grants a supplier exclusive rights to provide goods or services
2. establishes a licence, permit or authorisation process as a requirement of operation
3. limits the ability of some types of suppliers to provide a good or service
4. significantly raises the cost of entry or exit by a supplier
5. creates a geographical barrier to the ability of companies to supply goods, services or labour, or invest capital.

B) Limits the ability of suppliers to compete

This is likely to be the case if the legislation:

1. limits sellers' ability to set the prices of goods or services
2. limits the freedom of suppliers to advertise or market their goods or services
3. sets standards for product quality that provide an advantage to some suppliers over others or that are above the level that certain well-informed customers would choose
4. significantly raises the costs of production for some suppliers relative to others, especially by treating incumbents differently from new entrants.

C) Reduces the incentive of suppliers to compete

This may be the case if the legislation:

1. creates a self-regulatory or co-regulatory regime
2. requires or encourages information on supplier outputs, prices, sales or costs to be published
3. exempts the activity of a particular industry or group of suppliers from the operation of general competition law.

D) Limits the choices and information available to customers

This may be the case if the legislation:

1. limits the ability of consumers to decide from whom they purchase
2. reduces the mobility of customers between suppliers of goods or services by increasing the explicit or implicit costs of changing suppliers
3. fundamentally changes the information required by buyers to make purchasing decisions effectively.

Stage 3: In-depth assessment of harm to competition

The provisions carried forward to Stage 3 were investigated in order to assess whether they could result in harm to competition. In parallel, the team researched the policy objectives of the selected provisions so as to better understand the regulation. The objectives of policy makers were identified in readings of the legislation, when applicable through discussions with relevant public authorities, and/or through academic literature.

The in-depth analysis of harm to competition was carried out qualitatively and involved a variety of tools, including economic analysis and research on regulations applied in other jurisdictions. All provisions were analysed, relying on guidance provided by the OECD's Competition Assessment Toolkit. Exchanges with government experts and market participants complemented the analysis by providing crucial information on lawmakers' objectives, real-world implementation processes, and the effects of the provisions.

Stages 4 and 5: Formulation of recommendations and final report

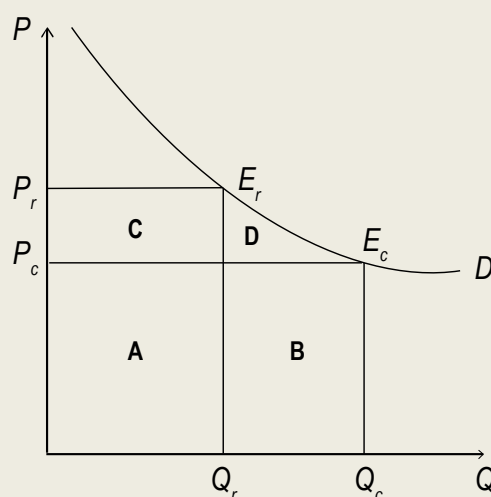
Building on the results of Stage 3, the OECD team developed recommendations for those provisions that were found to restrict competition. It formulated alternative policy proposals that are less restrictive for suppliers but which still aim to fulfil policy makers' initial objectives. For this process, the team relied on international experience whenever available.

In addition, the benefits of removing barriers to competition were analysed qualitatively and, whenever feasible and meaningful, quantitatively. In these cases, the expected impact of lifting a regulatory restriction relied on the standard methodology of measuring the effect of policy changes on consumer surplus. This is explained in Box A A.2.

Box A A.2. Measuring changes in consumer surplus

The effects of changing regulations can often be examined as movements from one point on the demand curve to another. For many regulations that have the effect of limiting supply or raising prices, an estimate of consumer benefit or harm from the change from one equilibrium to another can be calculated. Graphically, the change is illustrated for a constant elasticity demand curve: E_r shows the equilibrium with the restrictive regulation; E_c shows the equilibrium point with the competitive regulation. The competitive equilibrium is different from the restrictive regulation equilibrium in two important ways: lower price and higher quantity. These properties are a well-known result of many models of competition.

Figure A A.1. Changes in consumer surplus



The marginal cost curve is assumed to be flat at P_c .

Under the assumption of constant elasticity of demand, the equation for consumer benefit is:

$$CB = C + D \approx (P_r - P_c)Q_r + \frac{1}{2}(P_r - P_c)(Q_c - Q_r)$$

Where price changes are expected, a basic formula for such a standard measure of consumer benefit from eliminating the restriction is:

$$CB = \left(\rho + \frac{1}{2}|\epsilon|\rho^2 \right) R_r$$

Where CB : standard measure of consumer benefit; ρ : percentage change in price related to restriction; R : sector revenue; and ϵ : demand elasticity. When elasticity is not known, a relatively standard assumption is that $|\epsilon| = 2$. This value corresponds to more elastic demand than in a monopoly market, but also far from perfectly elastic as in a competitive market. Under this assumption, the expression above simplifies as:

$$CB = (\rho + \rho^2)R_r$$

According to this diagram, sales value can either increase or decrease, depending on the price elasticity of demand. By moving to the competitive equilibrium, E_c , rents (the area "C") are eliminated as the price goes down from P_r to P_c . The increase in consumer surplus (CB), is explained by the areas "C" and "D". When the equilibrium is shifted to E_c , activity in volume terms increases from Q_r to Q_c . At the same time, total revenue will also include the area "B". Therefore, total revenue is explained by the areas "A"+"C" at the equilibrium E_r , and the areas "A"+"B" at the equilibrium E_c . If the absolute value of the price elasticity of demand is lower than 1, then the area "C" is larger than the area "B", in which case sales value decreases. Conversely, if the price elasticity of demand is higher than 1, the area "B" is larger than the area "C", in which case sales value increases.

Source: OECD (2019), Competition Assessment Toolkit: Volume 3. Operational Manual, <http://www.oecd.org/competition/toolkit>.

Draft recommendations were presented to the HLAG. Following consultation with the relevant public stakeholders, the recommendations were finalised and this final report was produced. In total, 354 recommendations were submitted to the Tunisian Government.

OECD Competition Assessment Reviews

TUNISIA

This review analyses regulatory barriers to competition in the tourism sector in Tunisia, with the goal of helping Tunisian authorities mitigate harm to competition and foster long-lasting growth. This report is based on a competition assessment conducted by the OECD identifying rules and regulations that may hinder the competitive and efficient functioning of markets in the tourism activities under review. This review also includes estimates of how the implementation of certain recommendations could impact the economy. This is the second competition assessment review conducted by the OECD in Tunisia, after a 2019 review of the freight transport sector and of the wholesale and retail trade sectors.

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