



THE THEORETICAL-ANALYTICAL ASPECTS OF THE EVOLUTION OF TOURISM LEGISLATION

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ABSTRACT

The research paper analyses the genesis in development of tourism legislation in the world. The author focuses on the last tendencies in tourism law by outlining the vital international norms in this sphere. The research paper also provides recommendations on the implementation of international norms in the sphere of tourism.

KEYWORDS

Code, Convention, development, legislation, tourism.

INTRODUCTION

Tourism may develop only in peaceful and stabilized country. Accordingly, in order to evaluate this sector, it should be formulated a strong legal basis. Manila Declaration pronounced that, in the universal efforts to establish a new international economic order, tourism can play a positive role in furthering equilibrium, cooperation, mutual understanding and solidarity among all countries provided appropriate conditions. In this paper the main aspects of tourism legislation will

be analyzed by classifying the important international documents in the sphere of tourism.

Tourism system according to Leiper (1990) is defined to be as “A framework that identifies tourism as being made up of a number of components, often taken to include the tourist, the tourist generating region, the transit route region, the tourist destination and the tourism industry”. Thus tourism laws need to cover all the aspects which makes up the tourism industry.

Tourism Regulations basically refer to controlling activities through formalized processes.

International-legal norms as the basis and sources of international law, set main directions of international relations and cooperation process in the field of tourism, and simultaneously differ from another sources with its “Soft law” character. The norms included in this institution ensure more effective cooperation of states in the sphere of tourism and strengthen mutual interest in their development of participants in tourism exchange. In the process of analyzing the international-legal norms, it is possible to trace an evolution and development of substantive legal provisions. In this regard, many norms of international law in the sphere of tourism are adopted at specially convened international conferences and meetings on tourism. The most significant of them are:

- 1954 In New York, a UN conference was held, which adopted the Convention on customs facilities for tourists;
- 1963 The UN Conference in Rome adopted the “General Resolution on the Development of Tourism”. This resolution facilitated the simplification of formalities established by governments concerning to international tourism;
- 1969. In Sofia, the UN International Conference was held, at which a resolution was adopted on the formation of an intergovernmental organization for tourism (later UNWTO);
- 1980. The World Tourism Conference was held in the Philippines. The result of the work was the “Manila Declaration on World Tourism”.

This Declaration on world tourism, designated a role and place of tourism in a modern society. In this document, in particular, it is said that “tourism is understood as activity, mattering very much in life of

people by virtue of its direct affecting social, cultural, educational and economic spheres of life of the states and their international relations ”.

- 1982, in Mexico the World conference took place on tourism at WTO, during that “Document of Acapulco” was ratified, fastening conception of further collaboration in the sphere of international tourism and setting basic directions of intergovernmental collaboration in this sphere. Document of Acapulco (1982), confirms principles of Manila Declaration and besides, adds to them followings:

- to provide the right for citizens on rest, leisure, pay vacation and on creation of statutory provisions for the facilitation of access to vacation of all layers of population;
- to render assistance to tourism by all mass medias;
- to plug of tourism in the program of education;
- to produce informative materials about tourism and others.

The Hague declaration on tourism (1989) proclaimed 10 principles, which are based on tourism relations. Not all principles of The Hague Declaration have legal character. Except the principles, set forth in the documents accepted before, in The Hague Declaration specified principles of safety and defense of tourists, and also the principle of respect of their dignity; it was also underlined that, tourism must be planned by state authorities and required making of single national tourism politics; 1995, in Sweden the 1st International Conference passed on safety of tourism and reduction of risks at trips, making of mutually accepted and concerted variants of decision of problems in this sphere (in particular, informative

exchange between the states) became the result of that.) .

On VI of session of General Assembly of UNWTO,1985, The “Code of tourist” was approved in Sofia and became component part of the “Charter of tourism”. This document fastened basic tasks standing before the states in the field of tourism, and also basic rights and duties of tourists in the observance of that must assist the mutual understanding between people. General concepts and terminology of tourism, principles of statistics, norm and recommendation for forming of national legislation, system of preferential for tourists, creation of the system of tourist education are worked out in Charter. So, ordered the states to bring over tourism politics in accordance with the politics of general development, conducted on different levels, such as local, regional, national and international; and to extend a collaboration in the area of tourism both on bilateral and on multilateral basis. Furthermore, to base on principles of Manila Declaration on world tourism and Document of Acapulco on development and realization of the politics, plans and programs in the field of tourism in accordance with the national priorities, to protect interests a present and future generations of a tourism environment, that plug in itself a man, nature, public relations and culture, and also to assist to informing tourists with the purpose of creating conditions for understanding of customs of local population in the places of transit and temporary arrival. The “Code of tourist” is the special division of Charter, sanctified to the rights and duties of tourist. According to this Code, tourists have a right on objective and exhaustive information about the terms and possibilities, given during their trip and temporary arrival.

As one of the last tendencies of legal framework and collaboration on tourism, it should be noted on the

UNWTO Framework Convention on Tourism Ethics from September 19, 2017 approved by majority of the member states of the World Tourism Organization. The Convention, approved at the 22nd UNWTO General Assembly transforms the Code of Ethics for tourism into an international convention. This Convention gives more imperative impulse on main principals and issues of touristic activity. Namely, according to this across- the board document, important universal definitions in the field of tourism are given, simultaneously convention emphasized responsibilities of stakeholders in tourism development (Article 9), right to tourism and liberty of tourist movements (10-11), rights of employees and professionals in the tourism sector. Besides, the Convention establishes the World Committee on Tourism Ethics, which is a subsidiary organ of the UNWTO General Assembly, and notwithstanding the functions performed in relation to the Global Code of Ethics for Tourism, it shall be responsible for monitoring the implementation of the provisions of this Convention and carrying out any other tasks (as dispute settlement concerning the implementation and the usage of Convention is mentioned in the Optional Protocol) entrusted to it by the Conference of States Parties (the plenary body of this Convention composed of representatives of all States Parties). Moreover, the Ex- Secretary-General Taleb Rifai said that, the approval of the Convention is a strong legacy of the International Year of Sustainable Tourism Development (2017) .

Here, we could add the next draft Convention in this sphere, which is called as, UNWTO Convention on the protection of tourists and the rights and obligations of tourism service providers, is a project and which is going to be discussed between the state members of UNWTO . In particular, the document provides clear definitions of the fundamental concepts of the tourism

industry, the rights of workers and entrepreneurs in the tourism industries, respect for national legislation, the benefits of the host countries, the responsibilities of all participants in the tourism process, the environmental aspects of tourism, and the conciliatory mechanism for resolving disputes under this Convention. In compliance to this Convention, tourists and providers of tourist services get right and duties, coming from the international standards of human rights. Also, with signing of this convention the parties are obligated joining minimum one the Appendix to the Convention, that consist of help in emergencies, package trip and residence, providing the proper terms to the foreign tourists under different circumstances. The terms set in Convention are considered liberal in regards to Convention on contract for a trip (1970). This legal act is the first international document of obligatory character in the sphere of rights for tourists and providers.

The law will be realized in practice not as an unchanging conglomerate of legal norms, but as associate, general progressing of legal binding overs, derivatives from the real vital processes. Therefore, the normative part of tourism will also always change and it is necessary constantly to watch after these changes.

Moreover, tourism is only mentioned as one of the part of the GATS in the WTO or as defining the UNWTO in the disciplines of international economy law. Such as, “it refers to the services supplied in the territory of one member to the service consumer of any other member. This mode of supply is typical of certain services industries, such as tourism or, in some countries, health care... etc.”.

In order to specifically regulate the sphere of tourism under the GATS, it was elaborated twice Annexes on tourism by developing and developed countries in 1999

and 2001. These documents include eight sections and a list of services in the sphere. As an institutional body-it was suggested – the Council for trade in services. However, developing countries rejected this Draft linking the non-consideration of their interests. Moreover, the existence of regional integrations on free trade of services was a barrier to sign this Annex.

The Chairman of the World Committee on Tourism Ethics (WCTE), Pascal Lamy emphasized that: “In an interconnected world, where the business volume of tourism equals or even surpasses that of oil exports, food products or automobiles, it is important to set out a legal framework to ensure that growth is dealt with responsibility and that it can be sustained over time. Tourism is a power that must be harnessed for the benefit of all”. This benefit should be regulated by the government.

At present one of the important issues in tourism development is to overcome and prevent its negative results on societies’ and governments’ social, economic and environmental life.

The important document after the Covid-19 is the “International Code for the Protection of Tourists”. In this document the guarantee of the rights and freedoms of tourists in the implementation of digital tourist services, which have increased the importance after the COVID-19 pandemic, and the reflection of these guarantees in separate principles (Section III of the Code) have been included. The International Code for the Protection of Tourists (ICPT) provides a set of minimum international standards for the protection of tourists in emergency situations and consumer rights of tourists in the post COVID-19 scenario. It draws from the work produced by the Organization and has been adjusted to adapt to the particular circumstances created by the COVID-19 pandemic, with a view to

ensuring a coordinated approach to the assistance of international tourists during emergency situations . Furthermore, after analysing this document it should be noted that implementation of this document will provide the followings:

- In the process of the rapid development of tourism this Code ensures that disputes arising in the field of tourism are regulated using alternative methods of solving them on the basis of principles based on International Law (Section IV of the code);
- Serves to further strengthen the cooperation of states in the introduction of international legal standards to protect natural and cultural heritage from the negative effects of tourism, as well as to prevent other negative consequences that may arise as a result of tourism development;
- Also, the fact that the mechanism of full accession and introduction to the “International Code of Tourist Protection” is structured in a simplified manner, that the norms in it are aimed at the development of the tourism sector in the countries, and that the membership fee is not paid increases the practical importance of the document.

Undoubtedly, tourism has an international vocation, which influences it and, in turn, is influenced by it, and the international Conventions mentioned above demonstrate this. The UNWTO, for instance, proves this in the activities made since 1970, collecting and processed data, as well as coordinating tourism policies. In a certain sense, with its activity, it has given impetus to a soft law, which influenced the legislation of single States .

CONCLUSION

In conclusion, it is noted that, existence of multilateral legal acts in the analyzed sphere differ in subject, and focus on the settlement of different relations in the field of tourism - cultural, social, ecological, economic and other. Thus, the distinguishing feature of this collaboration is considered to possess a presence of large enough variety of agreements, resolutions of international organizations and another acts, which regulate certain relations of tourism or indirect issues which are connected with tourism. The above analyzed international norms play a vital role in development the cooperation in the sphere of tourism, therefore it is recommended to ratify for states.

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