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**TOURISM
IN FUNCTION OF DEVELOPMENT
OF THE REPUBLIC OF SERBIA**

Tourism product as a factor of competitiveness of
the Serbian economy and experiences of other countries



**THEMATIC
PROCEEDINGS**

II



**UNIVERSITY OF KRAGUJEVAC
FACULTY OF HOTEL MANAGEMENT
AND TOURISM IN VRNJAČKA BANJA**



INTERNATIONAL LEGAL FRAMEWORK FOR TOURISM SUSTAINABILITY

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Abstract

The paper analyses international legal framework for tourism sustainability. Although international legal norms in this area do not have obligatory character they are considered as fundamental rules for policy makers and economic subjects in tourism industry all over the world. Their legal strength stems from their ethical grounds on which they have been built. Special attention in this paper is devoted to basic principles of Agenda 21 for the Travel & Tourism Industry and Global Code of Ethics for Tourism which deal with the issue of sustainability. Based on these legal sources of international law, new resolutions and declarations have emerged attempting to address the challenges of growing complex problems of tourism sustainability.

Key Words: *tourism sustainability, Agenda 21 for the Travel & Tourism Industry, Global Code of Ethics for Tourism, Convention on Tourism Ethics, sustainable development*

JEL classification: *F64, K33*

Introduction

Right to tourism is considered to be one of universal human rights. But, does that right belong to every inhabitant of our planet? Legal norms are often difficult to apply, especially if they are not binding. Without underestimating this fact it should be noted that in last two decades the right to tourism has been dealt with in a large number of international declarations and resolutions. Their legal foundations have been *Agenda 21 for the Travel & Tourism Industry: towards Environmentally Sustainable Development* adopted in 1996, and *Global Code of Ethics for Tourism*, adopted in 1999. Since these two international legal documents

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have been launched, the world has been faced with successive political, ecological and demographic crises on one hand and on unprecedented growth of tourism activities on the other. This controversy has pointed out to the growing importance of tourism sustainability and resulted in an initiative to convert the *Global Code of Ethics for Tourism* into binding legal instrument.

The chronology of the development of legal issues concerning tourism sustainability is quite instructive. It reveals the evolution of attitudes towards the need for preserving natural and cultural resources along with the necessity to make conditions for the development of tourism industry. This paper aims to tackle this chronology and to foresee future legal initiatives.

The first part of the paper discusses basic principles of *Agenda 21 for the Travel & Tourism Industry*, which could be considered as a basis of legal framework for tourism sustainability. The second part of the paper turns to basic principles of *The Global Code of Ethics for Tourism*, labeled as fundamental international legal framework for responsible and sustainable tourism. The third part of the paper is devoted to new international initiatives in legal regulation of tourism sustainability. Special attention is paid to the initiative to transform *The Global Code of Ethics for Tourism* into binding international *Convention on Tourism Ethics*.

Agenda 21 for the Travel & Tourism Industry

Dynamic development of tourism industry has many positive but also numerous negative effects on the development of tourist destinations (Bošković, 2008). Only clean and uncontaminated environment could be the basis for successful tourism activities. However, tourism activities themselves can negatively affect the environment. This is especially truth for different forms of mass tourism.

Simultaneously with environmental degradation the awareness of the need for its protection has been strengthening. Thus the concept of sustainable tourism has been inspired by the concept of sustainable development, established with the *Agenda 21* of the United Nations Conference on Environment & Development (Earth Summit) in Rio de Janeiro, Brazil, on 14 June 1992 (UN, 1992). Although *Agenda 21* was not a legally binding document, it was adopted by 182 governments and it was the first document of its kind to achieve international consensus. It

provided a basis for securing the sustainable future of the planet, from 1992 into the 21st century. It identified numerous environmental and developmental issues which threatened to bring about economic and ecological catastrophe and presented a strategy for transition to more sustainable development practices.

Based on *Agenda 21*, in 1996 an action plan entitled *Agenda 21 for the Travel and Tourism Industry: towards Environmentally Sustainable Development* has been developed by three International Organizations - the World Travel and Tourism Council, the World Tourism Organization and the Earth Council (UNWTO, 1997). That action plan became important basis for the operation of travel and tourism companies as well as for the conduct of governments, national tourism administrations, trade organizations and the travelling public.

The starting point of the *Agenda 21 for the Travel and Tourism Industry* is that the travel and tourism industry has a vested interest in protecting the natural resources and cultural heritage which are the core of its business. It has been stressed that this industry also has the means to do so; as one of the world's largest industries, it has the potential to bring about sustainable development of the communities and countries in which it operates. It has been stipulated that concerted action from governments, and all sectors of this industry, would be needed in order to realize this potential and to secure long-term future development.

The Agenda 21 for the Travel and Tourism Industry document sets the framework for sustainable development to be established by the travel and tourism industry. Guiding principles within that framework were inspired by the Rio Declaration on Environment and Development (UN, 1992):

- Travel and tourism industry should assist people in leading healthy and productive lives in harmony with nature
- Travel and tourism industry should contribute to the conservation, protection and restoration of the earth's ecosystem
- Travel and tourism industry should be based upon sustainable patterns of production and consumption
- Protectionism in trade in travel and tourism services should be halted or reversed
- Environmental protection should constitute an integral part of the tourism development process

- Tourism development issues should be handled with the participation of concerned citizens, with planning decisions being adopted at local level
- Nations shall warn one another of natural disasters that could affect tourists or tourist areas
- Travel and tourism industry should use its capacity to create employment for women and indigenous peoples to the fullest extent
- Tourism development should recognize and support the identity, culture and interests of indigenous peoples
- International laws protecting the environment should be respected by the travel and tourism industry.

When addressing to the participants of tourism activities, *The Agenda 21 for the Travel and Tourism Industry* made distinction between government departments, national tourism administrations and trade organizations on one hand and travel and tourism companies on the other.

For government departments, national tourism administrations and trade organizations, the primary goal set by *The Agenda 21 for the Travel and Tourism Industry* was to establish systems and procedures to incorporate sustainable development considerations at the core of their decision-making process and to identify actions to bring sustainable tourism development into being. In that sense, priority areas for action were stipulated:

- assessing the capacity of the existing regulatory, economic and voluntary framework to bring about sustainable tourism
- assessing the economic, social, cultural and environmental implications of the organization's operations
- training, education and public awareness
- planning for sustainable tourism development
- facilitating exchange of information, skills and technology relating to sustainable tourism between development and developing countries
- providing for the participation of all sectors of society
- designing of new tourism products with sustainability at their core as an integral part of the tourism development process
- measuring progress in achieving sustainable development at local level
- making partnerships for sustainable development.

For travel and tourism companies, the main goal was set to establish systems and procedures to incorporate sustainable development issues as

part of the core management function and to identify actions needed to bring sustainable tourism into being. The following priority areas for action were stipulated:

- waste minimization, reuse and recycling
- energy efficiency, conservation and management
- management of fresh water resources
- waste water management
- management of hazardous substances
- transport management with respect to sustainability
- sustainable land-use planning and management
- involving staff, customers, communities in environmental issues.

The *Agenda 21 for the Travel and Tourism Industry* paved way for a large number of international legal documents in line with major principles of the tourism sustainability. Among those documents, the most important was the *Global Code of Ethics for Tourism*.

Global Code of Ethics for Tourism

The *Global Code of Ethics for Tourism* (The Code) is a comprehensive set of principles designed to guide all participants in tourism. It has been considered as a fundamental international legal framework for responsible and sustainable tourism. The Code is aimed for responsible behavior of governments, travel and tourism industry, communities and tourists in their endeavor to maximize benefits from tourism activities while minimizing potentially negative impact of those activities on the environment, cultural heritage and societies across the globe.

International legal grounds for the creation of basic principles of the Code are numerous conventions and declarations that form the fundamentals of international law. Most important legal basis for the Code has been the

Universal Declaration of Human Rights dating from 1948.² The Code has been adopted in 1999 by the General Assembly of the World Tourism Organization (WTO). Two years later, it has been acknowledged by the United Nations. The Code is not legally binding. It is based on voluntary implementation mechanism (UN, 2001).

The implementation of ethical principles in travel and tourism industry has been regarded as one of the most important aspects of its operations (Alivuk & Petrevska, 2014). Ten articles of the Code set basic principles for ethical behavior in travel and tourism. Those principles cover economic, social, cultural and environmental components of travel and tourism and they are all calling for the awareness of the threats to sustainable development. As stipulated in *Article X*, those entities who decide to adhere to the principles of the Code may refer matters concerning the application and interpretation of those principles to the World Committee on Tourism Ethics (WCTE). Established in 2003, the World Committee on Tourism Ethics (WCTE) should function as an independent and impartial body under the auspices of the UNWTO, to promote primarily responsible and sustainable tourism. (Donyadide, 2010).

2 Those international conventions and declarations are: Universal Declaration of Human Rights of 10 December 1948; International Covenant on Economic, Social and Cultural Rights of 16 December 1966; International Covenant on Civil and Political Rights of 16 December 1966; Warsaw Convention on Air Transport of 12 October 1929; Chicago Convention on International Civil Aviation of 7 December 1944, and the Tokyo, The Hague and Montreal Conventions in relation thereto; Convention on Customs Facilities for Tourism of 4 July 1954 and related Protocol; Convention concerning the Protection of the World Cultural and Natural Heritage of 23 November 1972; Manila Declaration on World Tourism of 10 October 1980; Resolution of the Sixth General Assembly of WTO (Sofia) adopting the Tourism Bill of Rights and Tourist Code of 26 September 1985; Convention on the Rights of the Child of 20 November 1989; Resolution of the Ninth General Assembly of WTO (Buenos Aires) concerning in particular travel facilitation and the safety and security of tourists of 4 October 1991; Rio Declaration on the Environment and Development of 13 June 1992; General Agreement on Trade in Services of 15 April 1994; Convention on Biodiversity of 6 January 1995; Resolution of the Eleventh General Assembly of WTO (Cairo) on the prevention of organized sex tourism of 22 October 1995; Stockholm Declaration of 28 August 1996 against the Commercial Sexual Exploitation of Children; Manila Declaration on the Social Impact of Tourism of 22 May 1997; Conventions and recommendations adopted by the International Labour Organization in the area of collective conventions, prohibition of forced labour and child labour, defence of the rights of indigenous peoples, and equal treatment and non-discrimination in the work place (UNWTO, 2001).

Ethical grounds of the Code are set in *Article I*, *Article II*, *Article VII* and *Article VIII*.

Based on Article 13 of the Universal Declaration of Human Rights, *Article VIII* of the Code stipulates that tourists should enjoy the liberty of movements within their countries and from one State to another. The liberty of movements assumes access both to places of transit and places in which tourists wish to stay. It has been stressed that the liberty of movements assumes that people should be travelling without being subject to excessive formalities or discrimination and have access to all available forms of communication (Higgins-Desbiolles, 2006).

Article I is devoted to the principle of responsible tourism. The principle of responsible tourism is based on the philosophy that tourism should contribute to mutual understanding and respect between peoples and societies, taking into account diversity of their religious, philosophical and moral beliefs. Those diversities should be considered as the foundation and at the same time as the consequence of responsible tourism. Responsible tourism assumes that all tourist activities should be conducted “in harmony with the attributes and traditions of the host regions and countries and in respect for their laws, practices and customs” (UNWTO, 2001). At the same time, *Article I* envisages that host communities should respect the tourists who visit them and find out about their lifestyles, tastes and expectations. In that sense, it has been stressed that the responsibility for the provision of protection of tourists and their belongings lies on local public authorities.

The principle that tourism should be considered as a vehicle for individual and collective fulfilment is set in *Article II* of the Code. This principle is based on ethical attitude that tourism activities should be practiced with a sufficiently open mind. To understand the logic of open-minded approach, tourism has been considered as a privileged means of self-education about the legitimate differences between peoples and cultures. Legal grounds for open-minded approach in tourism are established in *Article VII* of the Code. This article deals with the universal right to tourism which stipulates that the right to tourism should be equally open to all world population. The right of every person is to have the possibility of access to the discovery and enjoyment of world natural and cultural resources. The universal right to tourism being understood as the right to rest and leisure, is guaranteed by Article 24 of the Universal Declaration of Human Rights and Article 7.d of the International

Covenant on Economic, Social and Cultural Rights (McCabe & Diekmann, 2015).

While ethical grounds of the Code are established in *Article I*, *Article II* and *Article VII* of the Code, *Article III*, *Article IV* and *Article V* deal with the social responsibility of the participants in tourism activities (Buzar, 2015). *Article III* is devoted to tourism as a factor of sustainable development. When considering tourism as an integral part of the concept of sustainable development, the starting point is that tourism activities should be conducted as to satisfying equitably the needs and aspirations not only of present but also of future generations. Thus, the importance of social responsibility has been pointed out to. Namely, *Article III* clearly defines sustainable tourism to be an integral part of the concept of sustainable development. Tourism is regarded in its dynamics, taking into account that it has been stipulated that all its participants should safeguard the natural environment in order to achieve sound and sustainable economic growth. It has been stressed that national, regional and local public authorities should give priority and encourage those forms of tourism development that respect the necessity for saving rare and precious resources, in particular water and energy. Also, it has been stressed that tourism should be developed in the manner that enables avoiding as much as possible the waste production. In order to give specific weight to the principle of integrality of tourism and sustainable development, *Article III* points out to the importance of the development of specific forms of tourism such as nature tourism and ecotourism. Those two forms of tourism have been recently recognized as being particularly acceptable in enriching and enhancing tourism growth in line with the principles of sustainable development (Dorobantu, 2012).

While *Article III* calls all participants in tourism activities for cautious attitude towards natural resources, *Article IV* calls them for preserving cultural heritage. Different forms of cultural heritage are considered as integral parts of world cultural resources. Starting premise is that all world cultural resources must be widely open to tourist visits. However, although it has been considered that cultural resources belong to the common heritage of mankind and thus every participant in tourism activities is responsible for their preservation, the communities in whose territories they are situated have particular obligations to them (Jamieson, 2000). In this respect, basic principles of tourism policies in preserving cultural heritage have been set. It has been stipulated that these policies should be conducted as to protect and pass on to future generations the artistic, archaeological and cultural heritage. It should be pointed out that *Article IV* calls for preserving and upgrading monuments, shrines and

museums as well as archaeological and historic sites. Also, special attention has been given to traditional cultural products, crafts and folklore. The importance of tourism policies in preserving these forms of traditional cultural heritage has been particularly stressed.

Principle that tourism should be beneficial activity for host countries and communities is set in *Article V* and *Article IX* of the Code. The creation of direct and indirect jobs resulting from tourism activities are seen as major economic and social benefits. Since new jobs depend on new investments, special attention is given to incorporating investment policy in the overall macroeconomic policy of sustainable development. This aspect of economic policy has been considered of crucial importance for meeting the goals of sustainable development (UNCTAD, 2015). In order to avoid possible conflicts of sustainability and economic growth induced by job creation in tourism, *Article V* of the Code points out to the need for investors to take into consideration the impact of their development projects on the environment and natural surroundings. Their social responsibility is to inform objectively local population on their future programmes and the foreseeable repercussions of their implementation. *Article IX* addresses major investors in tourist industry. Large multinational enterprises are asked not to exploit the dominant positions they frequently occupy and “to avoid becoming the vehicles of cultural and social models artificially imposed on the host communities” (The Code, 1999) In this sense, the principle of equitable distribution of the benefits to growth has been reaffirmed where multinational enterprises should involve themselves in local development in exchange for their freedom to invest and trade (Mihajlović & Krželj-Čolović, 2014).

Principles considering obligations of stakeholders in tourism industry are set in *Article VI* of the Code. As stakeholders, tourism professionals, public authorities and media are considered. Each of these groups of stakeholders are addressed to separately but also specific weight is given to their co-operation in providing security and safety, accident prevention, health protection and food safety of those who seek their services. When tourism professionals are concerned, they have an obligation to provide tourists with objective information on their places of destination and on the conditions of travel, hospitality and stays. The objectivity of information is asked for from media as well. The role of public authorities is particularly important in the event of informing local population about their destination faced with political, social, natural or health crisis (Senić & Marinković, 2016). It is important to mention that *Article VI* considers this role of public authorities to be not only their right but also their duty.

New international initiatives in legal regulation of tourism sustainability

After the *Global Code of Ethics for Tourism* has been adopted at the 56th Session of the United Nations in December 2001, numerous international resolutions and declarations on the sustainability and ethics in tourism emerged. They have all been based on the philosophy incorporated in the principles of the Code. Those new international initiatives in legal regulation of tourism sustainability have been the outcome of new challenges and threats imposed on tourism development in the world at the end of the 20th and the beginning of the 21st Centuries (Ljubojević, 2014).

From 2001 to 2015, important resolutions dealing with tourism sustainability have been adopted by the United Nations (UN). Three UN resolutions that are of particular importance have been the outcome of growing awareness of the importance of sustainable development in tourism that gained momentum in numerous international declarations and action programs. These new international legal initiatives were to a large extent the consequence of growing threats to the security of tourist worldwide. Numerous terrorist attacks, international armed conflicts and migration crises have seriously challenged the human rights in general and the rights for tourism in particular.

The first UN resolution which reaffirmed the importance of the implementation of the principles of the *Global Code for Ethics in Tourism* was adopted by the UN General Assembly on its 68th Plenary Meeting on 22 December 2005 (UN, 2005). The importance of the development of ecotourism was particularly stressed.³ This Resolution has been the

3 According to the UNWTO's definition, ecotourism refers to “all nature-based forms of tourism in which the main motivation of the tourists is the observation and appreciation of nature as well as the traditional cultures prevailing in natural areas; it contains educational and interpretation features. It is generally, but not exclusively organized by specialized tour operators for small groups. Service provider partners at the destinations tend to be small locally owned businesses. It minimizes negative impacts upon the natural and socio-cultural environment. It supports the maintenance of natural areas which are used as ecotourism attractions by: generating economic benefits for host communities, organizations and authorities managing natural areas with conservation purposes; providing alternative employment and income opportunities for local communities; increasing awareness towards the conservation of natural and cultural assets, both among locals and tourists” (UNWTO, 2002).

outcome of new international legal initiatives on the growing importance of sustainable development which emerged from 2000 to 2005.⁴

Then, on the 69th Plenary Meeting of the UN General Assembly held on 20 December 2010 another resolution reaffirming the importance of the implementation of the principles of the *Global Code for Ethics in Tourism* was adopted (UN, 2010). Based on *Millennium Development Goals*, this Resolution has particularly stressed the growing threat of climate changes and the need to halt the loss of biodiversity.⁵ Population in host communities has been urged to increase the benefits from tourism resources while enhancing the protection of ecologically sensitive areas and the natural heritage.

Finally, on 81st Plenary Meeting of the UN General Assembly held on 22 December 2015, the importance of the *Global Code of Ethics for Tourism* as an international legal grounds for the behavior of all participants in tourism activity has been stressed again (UN, 2015a). This international legal document reaffirmed the UN General Assembly Resolution no. 70/1 of 25 September 2015 entitled *Transforming our world: the 2030 Agenda for Sustainable Development*, in which a comprehensive, far-reaching and people-centered set of universal and transformative Sustainable Development Goals and targets was adopted (UN, 2015b).

Implementation of the principles of the *Global Code for Ethics in Tourism* has been considerable. According to the World Committee on Tourism Ethics (WCTE), from 2000 to 2015, 128 Member States of the United Nations World Tourism Organization (UNWTO) accepted

4 Amman Declaration on Peace through Tourism of 11 November 2000, the Johannesburg Declaration on Sustainable Developments and the Plan of Implementation of the World Summit on Sustainable Development of 4 September 2002, the Mauritius Declaration and the Mauritius Strategy for the Further Implementation of the Programme of Action for the Sustainable Development of Small Island Developing States of 14 January 2005 and the Brussels Declaration and the Programme of Action for the Least Developed Countries for the Decade 2001–2010 (UN, 2006)

5 On September 8, 2000, over the course of the United Nations “Millennium Summit” held in New York, USA, eight goals (MDG) were introduced and adopted by 189 nations. These eight goals were: to eradicate extreme poverty and hunger; to achieve universal primary education; to promote gender equality and empower women; to reduce child mortality; to improve maternal health; to combat HIV/AIDS, malaria, and other diseases; to ensure environmental sustainability; to establish a global partnership for development. These goals constituted an unprecedented plan in the global fight against poverty; their achievement was targeted to be by December 31, 2015 (UN, 2000).

formally and implemented the principles of the Code.⁶ However, it has to be pointed out to the fact that there are 29 Member States of the UNWTO that still have not accepted to implement the principles of the Code. One of the reasons for only partial application of the ethical principles of the Code could be found in its voluntary nature. In order to improve the implementation of the Code, WCTE, in consultation with UNWTO, has entrusted the Legal Adviser with the preparation of a proposal for converting the Code into a legally-binding international convention (UN, 2015a).

Based on the initiative of the World Committee on Tourism Ethics (WCTE), an intergovernmental Working Group composed of representatives of 36 UNWTO Member States has been appointed to convert the UNWTO Global Code of Ethics for Tourism into an international Convention. The draft text of the Convention on Tourism Ethics is to be presented to the 105th session of the UNWTO Executive Council, to be held on 11-12 May 2017 in Madrid, Spain. Final text of the Convention is to be taken for consideration and possible adoption to the 22nd UNWTO General Assembly, to take place in Chengdu, China, on 4-9 September 2017 (UNWTO, 2017). If approved, the *Convention on Tourism Ethics* would be the first international treaty of the UNWTO.

It has been envisaged that future Convention on Tourism Ethics would constitute a binding instrument for all UNWTO Member States. When explaining the importance of this new initiative, Taleb Rifai, UNWTO Secretary-General said that: “for UNWTO to have its first International Convention based on its cornerstone policy document would be of great significance, especially at a time when the uninterrupted growth of international tourist arrivals has reached a record of 1.2 billion in 2016,

6 Until 2015, the principles of the Code were implemented in 15 countries in Africa (Angola, Benin, Botswana, Cameroon, Congo, Ethiopia, Gabon, Gambia, Ghana, Morocco, Nigeria, Senegal, Sudan, Swaziland, Zambia), 14 countries in Americas (Argentina, Bahamas, Brazil, Colombia, Costa Rica, Dominican Republic, Ecuador, Haiti, Jamaica, Mexico, Nicaragua, Panama, Uruguay, Venezuela), four countries in Asia and Pacific (Brunei Darussalam, Indonesia, Japan, Myanmar), one country from South Asia (Maldives), 26 countries in Europe (Albania, Andorra, Austria, Azerbaijan, Belarus, Bosnia and Herzegovina, Czech Republic, Finland, Flanders, Belgium, Georgia, Germany, Greece, Hungary, Israel, Netherlands, Portugal, Lithuania, Republic of Moldova, Romania, Serbia, Slovakia, Slovenia, Spain, Switzerland, The former Yugoslav Republic of Macedonia, Turkey and one country in Middle East (United Arab Emirates). (UN, 2015)

doubling the figures of tourism in 1999, year in which the Global Code of Ethics was adopted” (UNWTO, 2017).

Future *Convention on Tourism Ethics* (Convention) would have classical structure of an international treaty. The Preamble of its text has been inspired by the *Global Code of Ethics for Tourism*. Part I of the Convention explains the aim and scope of its provisions as well as the means of their implementation. The most important issues dealt with in the Convention are the Ethical Principles in Tourism that are established in Part II. The mandate, composition and functioning of the World Committee on Tourism Ethics, which is a subsidiary organ of the UNWTO General Assembly, regarding the implementation of the Convention is envisaged in Part III. Conference of States Parties is addressed to in Part IV and Final Provisions regulating procedures for signature, ratification, acceptance, approval and accession are featuring Part V. While the Convention should be understood as binding international legal instrument subject to ratification, the conciliation mechanism concerning its interpretation or application is of optional character. Thus, the *Optional Protocol* which has been annexed to the Convention should be considered as a separate instrument that States Parties to the Convention can decide to ratify or not.

Conclusion

Transforming the UNWTO *Global Code of Ethics* into an international convention represents a major step forward in ensuring that tourism development becomes a force for future preserving of natural and cultural resources in the world. While the written documents show clearly that the UNWTO Members States are in favor of this objective, their actual commitment will be tested in the legalization process of the Convention. If ratified by the majority of the UNWTO Member States, this Convention will be an example of how the tourism sector can lead in promoting a more inclusive and fairer world development model.

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