

Avni Islami, MA¹

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**LEGJISLACIONI MBI TURIZMIN DHE MIKPRITJA NË
REPUBLIKËN E KOSOVËS**

**ЗАКОНОДАВСТВОТО ЗА ТУРИЗАМ И
ГОСТОПРИМСТВОТО ВО РЕПУБЛИКА КОСОВО**

**THE LEGISLATIVE ON TOURISM AND HOSPITALITY IN THE
REPUBLIC OF KOSOVO**

Abstract

Having in mind the positive effects that tourism produces and the need for a modern legal regulation, from the early beginning, the theory and legal practice, are reflected by the difficulty of providing a precise designation of the right for tourism and ultimately, we all agree with the meaning and its contents.

Specific legal relations in tourism are also studied within the framework of business law. The area we talk about studies these relationships as specific that governs certain economic services in the area of trade, flows both domestically and internationally. In order to study the legal rules that are regulating socio-economic relations in the field of tourism, in particular, from the aspect of business law and international business law, we separate legal norms and we treat those norms as "*lex specialis*", which become a subject of special study of a new legal discipline.

The treatment of tourism as a legal discipline rather than as a branch of science is justified by the fact that it is studied as a circular

¹ PhD Candidate, MSc Avni Islami, Kolegj BIZNESI, Prishtina, e-mail: avni.islami50@gmail.com

system of norms that are identified by the derivative method, which implies regulating a certain field of social relations.

Keywords: tourism, development, legal regulation, tourism law, Kosovo.

Introduction

Having in mind the positive effects that tourism produces and the need for a modern legal regulation, from the early beginning, the theory and legal practice, are being reflected by the difficulty of providing a precise designation of the right for tourism and ultimately, we all agree with the meaning and its contents².

This difficulty is because the tourism and its dynamic development greatly change its position in society, which consequently has problems defining its meaning in the legal plan. The problem is further complicated when it is known that tourism has an international character and for designating the name from the legal aspect, it should be studied in conjunction with the local public legal regulation (state intervention measures).

The international character of tourism imposes the need to derive a uniform international qualitative legislation so that it can gain a clear picture of the complexity of this subject and of the problem of theoretical and legal meaning by providing arguments for the reasonableness of existence and the irreconcilability of meaning of the right to tourism.

Specific legal relations in tourism are also studied within the framework of business law. The area we speak about studies these relationships as specific that governs certain economic services in the area of trade flows both domestically and internationally. In order to study the legal rules that are regulating socio-economic relations in the field of tourism, in particular, from the aspect of business law and international business law, we separate legal norms and we treat those norms as “lex specialis”, which become a subject of special study of a new legal discipline.

The treatment of tourism law as a legal discipline rather than as a branch of science is justified by the fact that it is studied as a circular

²Krasniqi A., (2003), “E drejta në turizëm dhe hoteleri”, Universiteti i Prishtinës, Shkolla e biznesit Pejë, Prishtinë, f.11

system of norms that are identified by the derivative method, which implies regulating a certain field of social relations.

The tourism law, as stated above, regulates tourism-legal relations, which are characterized by their actions, not only on the national, but also international level. It should be acknowledged that these relationships are subjects of study in the framework of some other legal and economic sciences, but the right to tourism as a discipline of law is still developing³.

1. Purpose and scope of the research

There are good, non-discriminatory, but not fully implemented laws in Kosovo. Lack of political will and inefficiency of law enforcement mechanisms are the main cause of the bad state of legislation in the field of tourism in this country.

Law enforcement institutions, including the courts and other executives of the law (the inspectorate, the police, etc.) have an irreplaceable role, as are the business and the community or the individual, who together must have moral, social and legal responsibility, for all activities that affect the development of tourism and hotels in one place.

The purpose of this scientific paper is to become familiar with the role and importance of legislation in the field of tourism in Kosovo, as well as the advantages and disadvantages that exist in that legislation.

The scope of this paper is the presentation of the basic legal framework in the field of tourism and hospitality in Kosovo, its implementation, changes and additions. In fact, through a critical analysis of legislation in Kosovo, we will give some recommendations and conclusions in the end.

2. Research Methodology

The fulfillment of the objectives set out in this research paper is based on the combination of specific research methods, we usually use the inductive method (from individualization to generalization, where conclusions emerge from the existing facts and premises, but verify the data and operationalize the concrete concepts) as well as the deductive method (researching from general facts to the individual facts).

³Ibid, f.12

Primary and secondary data, respectively laws and bylaws adopted by the Assembly of the Republic of Kosovo, will be used in chronological order and will be analyzed the most important aspects to confirm the real situation in the system about legal relations in tourism. Based on these data we will try to build appropriate conclusions and recommendations.

The paper's research is largely based on desk research, while some research has been done on the field (field research), but also on the Internet as a medium containing many data.

3. The main features of the tourism law

The tourism law means all legal norms that regulate the legal position of certain companies working in the field of tourism and hospitality and that are linking the entities authorized by the law. This definition shows that the subject of tourism law is considered the legal regulation economic relations that are created, changed or abolished in the field of tourism.

Given the fact that tourism has had a significant impact on the creation of many legal provisions in the field of economic and non-economic activity, the above definition can only be used as a general definition or as a marginalized one.

Tourism development, on one hand, and its regulation by many other legal branches, directly affects the need for legal regulation of these specific relationships on the other hand. The distribution of legal provisions regulating social relations in tourism, based on the competencies of the various bodies that they carry, indicates the lack of vertical linking of these provisions, as is the case with other branches of law (criminal law, civil law, etc.).

This is a strong argument for those theorists who challenge the position of tourist laws as a whole of the legal-normative system. For the dynamic development and quality tourism and the provision of modern legislation that will guarantee the process of this development, we believe that the lack of vertical linkage of legal provisions is not an argument that could deny tourism legislation only because it is in the competence of different legal entities in the form of different types of legal provisions.

Tourism law is a conglomerate of economic ties and relations that the theory of law places as a personal task to classify and systematize

legal provisions relating to tourism, identifying and determining the specifics of tourism law.

Such systematization requires the incorporation of tradition, culture and business practices in order to construct a real system of tourism law. Elements of that system make what law and law theory consistently require from legislative institutions and practices, which would contribute to determining the autonomy of tourism law.

Such a serious and study worth approach, which deserves the tourism law, is based on the perspective and role played by this scientific discipline, starting from the specialization of tourist activities and continuing as a dynamic process that requires automatic adjustment but which is based on quality.

First, we must admit that the theory of tourism law will not only deal with certain legal relations in tourism. Expanding the theoretical study of these relations is because it is impossible to reach an understanding of the right of tourism without certain elements, which in research processes can only be achieved by the application of sociological research methods for the purpose of explanation sociological and special phenomena in the field of tourism.

These methods provide effective access to social circumstances that have an impact on the appearance of certain legal norms and their legal or economic content. The aim is to explain the causes and conditions that influence the emergence of these legal or tourism norms and prove their impact on the tourism phenomenon.

After explaining the socio-economic content of tourism, it is rightfully to continue with the explanation of the legal norms and the reasonableness of the structure and their specifics.

Tourism law, due to the intensive development of tourism, today is considered as a special legal discipline. Within this discipline is the study of legal norms that have created the specifics of tourism, the position of tour operators, the organization of these entities and the legal norms that regulate not only the relations where the entities operate together, but wider, i.e. including all those relations that tourism is creating.

The concept explained above, with regard to the scope and the meaning of tourism law, allows the theory of tourism law to more easily determine the boundaries of this law with other juridical sciences within the legal system.

The closest definition of the scope of tourism law study can be achieved through the application of certain methods which will help to determine the regularity of the scope and the understanding of the tourism rights in order to reinforce the fact that this discipline is independent and based on the special research methods of legal norms in the field of tourism.

4. Regulation of tourism and hospitality activity in the Republic of Kosovo

Tourism development as a whole, namely the development of tourism and hospitality, is one of the basic factors for the development of the whole economy of a country. Tourism development has several factors of a different nature: economic, structural, environmental, political and legal.

One of the most important issues in this part is, of course, the legal regulation of the matter through laws or by-laws adopted by the country or to be adopted in the future, because the official regulation of these activities is very important. Laws regulating tourism activity, together with other laws related to tourism and hospitality and indirectly affecting them, represent a legal basis for the development, management and operation of tourism.

As part of a comprehensive tourism development planning process, its consideration and the evaluation procedures for relevant laws and regulations, or, if they do not exist, then it is needed to be written and implemented. The tourism and hospitality business in Kosovo is regulated through these laws and by-laws:

4.1. Law on Hotel and Tourist Activities

The basic law that regulated hotel and tourism activity was the Law No. 2004/16 on "Hotel and Tourism Activity". This law was consisted of VI parts with 117 articles. The first two sections refer to tourism, the third section on hotel activity and the last three on inspections and final provisions⁴.

This Law governed the manner and conditions for conduct of tourist and hotel activities and tourism supervision and inspection

⁴ Official Gazette of the Provisional Self-government in Kosovo, UNMIK/REG/2005/6, February 2005, p. 1

terms⁵. The tourist activities, for purposes of this Law, shall be the services of travel agencies, tour guide, tourist animator, tourist representative, services in skiing terrains, rural tourism (in villages), youth tourism, hunting, congressional and other forms of tourism⁶.

Hotel activities, for purposes of this Law, shall be the preparation of food, preparation and delivery of alcoholic and soft drinks as well as accommodation services. As hotel activities are classified, the activities and businesses closely connected and like take-away food, (for consumption during transport, on manifestations, etc.) and catering⁷.

The tourist activities may be exercised by the enterprises and other legal entities and entrepreneurs, which meet the requirements for developing such activities as set forth by the legal provisions of this law, and duly registered subjects for development of the said activity. Individuals may also perform specific services, in accordance with the provisions of this law and by-laws issued thereof.

For the purposes of this Law, the following terms shall have the following meanings:

a) Passenger is the buyer or the person who agrees to buy the tourist package arrangement, the tourist travel or tourist services,

b) Tourist Package Arrangements (randomly traveling) are predefined combinations, containing at least two different services, included in the total predefined cost, of duration of at least 24 hours, or involving at least one overnight stay, or accommodation respectively,

c) Excursion Program is a combination of at least two services, of duration less than 24 hours and not involving overnight stay, or accommodation respectively,

d) The Travel Agency, Tour-Operator, is a travel agency organizing tourist package arrangement, and traveling packages, either directly or through its agents/intermediaries,

e) Travel Agency – subagent, is a travel agency selling or buying the package arrangement prepared by the organizer of the travel or performing other mediation services, as set out in Article 10 hereof.

According to Article 10 of this Law, travel agencies perform the following services:

⁵ Article 1, Law on Hotel and Tourist Activities of Kosovo

⁶ Article 2, Law on Hotel and Tourist Activities of Kosovo

⁷ Article 3, Law on Hotel and Tourist Activities of Kosovo

- a) Organization, sale and implementation of package arrangement programs,
- b) Organization, sale and implementation of excursion programs,
- c) Sale and mediation of hotel and tourist services,
- d) Mediation in delivery of travel services and accommodation as well as related services,
- e) Reception and transport of passengers (transfer, transport),
- f) Booking and other services related to lodging establishments,
- g) Sale of and mediation in sale of tickets and reservations for any transport means,
- h) Representation of any tourist agency, foreign or domestic, in the travel destination,
- i) Provision of tourist information and promotional material,
- j) Mediation in issuance of travel documents, visas and other necessary documentation for customs clearance and for stay in foreign countries, hunting and fishing permits, as well as other required documentation for organization and implementation of various forms of tourism,
- k) Organization and mediation in the delivery of services in the rural tourism, health, sports, congressional and other forms of tourism,
- l) Organization of services of tourist companions, and other assistance provided to the tourists (to and from the tourist destination),
- m) Booking, purchase and sale of tickets for any kinds of shows, museums, etc., as well as sale of goods related to travel (sandy items required for travel, souvenirs, tourist publications, etc.),
- n) Organization and delivery of services related to the use of credit cards and tourist checks, services related to currency exchange, in accordance with specific provisions,
- o) Mediation in delivery of security services for passengers and luggage,
- p) Organizing charter transport,
- q) Provision of rent-a-car services.

Article 12 of this Law states that depending on the types of services performed, the agencies may be divided into Travel agency – tour operators, and Travel agency – intermediary (or agents). The Ministry in charge of tourism affairs shall define the minimal technical requirements to be met by the travel agencies described in the Paragraph 1 above, as well as the modalities of service delivery. The Ministry in

charge of tourism affairs verifies the compliance of minimal requirements with technical equipment, workers; environment and health protection and collateral conditions defined in this Law and respective provisions and shall issue a work permit (license) to the agencies.

Tourist agencies for performing the activity must have a license to perform the tourist activity. The body of the state administration responsible for the affairs of the tourism sector shall issue the license. Licensing travel agencies shall file a request with the licensor by indicating the applicant's firm and head office and the type of license required.

The request of the travel agencies for issuance of license under Article 14 herein shall include:

- a) Name of the firm and the head-office location of the travel agency,
- b) License Registration Decision-Act from competent authority on Business Registration,
- c) The proposed type of travel agency,
- d) Data on compliance with minimal technical requirements, suitable business premises and appropriate equipment, guarantees (escrow arrangements) and other facilities and requirements,
- e) Proof indicating the right to use the above stated premises,
- f) Data on the head of the travel agency office and his records/certificates/documentation, in accordance with law, if the travel agency performs services directly for the service recipients (clients).

A significant aspect of the travel agency's activities is the program of the tourist arrangement, because in the program we have data⁸:

- a) The title of the tour operator,
- b) The date of issuance of the permit,
- c) The start and end date of the tour and the periods of dates, if the tour is partial,
- d) Data on the kind of transport and features of the vehicles used,
- e) Data on the type and location of the establishment where the passengers will be hosted, its category in accordance with the applicable

⁸ Article 20, Law on Hotel and Tourist Activities of Kosovo

provisions of the country of destination, the standards level, as well as the type and manner of services rendered in the establishment,

f) The total cost of the tour and services included, as well as rates of any fees and compensations for specific services, which are not included in the travel cost,

g) Minimal number of passengers, if that is a requirement for the conduct of tour, the deadline for notice to the passengers, if it is canceled the tour. The tour operator must make the passengers aware of the general conditions and terms of the travel as well as its program.

This Law regulates the issue of the services provided by tourist guides⁹, so, the tour guide services shall, in view of this law, be considered the accompaniment of a group of travelers or an individual, in accordance with the pre-define program, in order to explain the natural curiosities, cultural, historical or ethnographical heritage as well as other events both within and outside the country.

The tour guide services are not deemed the professional explanations, advise or information by the professional expert within the business premises of their employment (museum, gallery, national park, etc.), by the travel agency expert accompanying the tourist group from place to place, the accompanier in the mountains, caves, hunting or fishing, as well as the excursion or picnic accompanier.

What can be noted in this Law is that there are many types of tourist guides and an article of the law reserves all of them, so according to this Law there are¹⁰:

- tourist accompanier services
- tourist animator services
- tourist representative services (agent)
- tourist services in skiing terrains
- tourist services in the rural tourism
- youth tourist services
- hunting tourism services
- congressional tourism services
- rent-a-car services
- tourist services and other forms of tourism

⁹ Article 27, Law on Hotel and Tourist Activities of Kosovo

¹⁰ Articles 33-50, Law on Hotel and Tourist Activities of Kosovo

From article 51 to article 85 of this Law we are talking about catering activity, therefore we will try to briefly explain the most important parts of this Law. This Law regulates the ways and conditions by which the legal entities and private persons can perform the hotel or catering activity.

Determined by Article 51 of this Law, hotel activities can be conducted/implemented by all companies, juridical persons and all entrepreneurs that fulfill the conditions determined for conduction of this activity, determined by this Law¹¹.

Exceptionally to Article 52 hereof, hotel placement and accommodation services according to this Law can be done by public institutions administering national and natural parks Kosovo declared as such by Kosovo Parliament.

The Scouts League of Kosovo and youth associations may deliver hotel and accommodation services in youth tourist facilities for its members as well as other members of international associations of youth tourism.

Exceptionally to Article 52 hereof, the institutions dealing with museums or theatres, social welfare institutes for elderly and disabled, may perform hotel services of the following types: bistro, confectionery, cafes, bars, etc. in accordance with the conditions required under this Law on Hotel Activities, in the premises where they develop their primary activity.

Hotel education institutions, students boarding and similar can exercise hotel services according to this Law. Institutions referring to above this Article, can provide hotel and accommodation services if they match all terms and requirements of youth standard hostels mentioned in this Law.

Individuals, who are duly registered for conduct of such activity, may also perform accommodation and hotel services, in accordance with the provisions of this Law and other by-laws issued thereof. Legal entities and individuals shall report such hotel services to the appropriate authority of the local administration, detailing the location of the establishment, thus the place in which the services are performed, in order to enable the authority to proceed with inclusion in the registry of hotel services for legal entities and individuals¹².

During the conduct of hotel activities, the hotel manager shall:

¹¹ Article 52, Law on Hotel and Tourist Activities of Kosovo

¹² Article 55, Law on Hotel and Tourist Activities of Kosovo

a) Display in conspicuous places at the entrance of the hotel, a sign indicating the type and category of the hotel, as stipulated by the decision of the appropriate authority of the local administration or the Ministry in charge of tourism,

b) Display in conspicuous places at the hotel entrance, notice of working hours, which shall be in accordance with the stipulated working hours for that establishment,

c) Define the house rules for the hotel establishment and publish it in the reception, while excerpts of the same shall be displayed at every room and apartment,

d) Define the rates of food items, beverages and specific food and drink services, and deliver the services to the specified quality and quantity and pursuant to the rates. The manager shall, at the request of guests, produce the rates for inspection,

e) Publish in a visible place, and in a manner, which is comprehensible to the guests, the prices of different services and shall abide by the published prices. The price list shall also indicate any accommodation (stay) tax fees, if such fees are provided by law,

f) Produce a sufficient number of copies of the price list,

g) Issue receipts to the guests for any delivered service, which shall contain the date, type, quantity and price of the service,

h) Abide by the specified working hours,

i) Send the rates for inspection and approval to the Ministry in charge of tourism, and the approved rates shall be applied beginning with the following day,

j) Maintain a Book of Guests accommodated in the establishment,

k) Maintain a book of complaints, in compliance with the manner specified by the law for specific establishment. The complaint and the answer shall, in the course of three days, be sent to the inspection of tourism of the Ministry in charge of tourism,

l) Insure the guests from any consequences of damage arising in the building,

m) To offer services to all clients at the same rate and conditions

n) To ensure and maintain all necessary files, documents, bill, certificates and similar for all items used in items of hotel services and processing according to provisions which determine the products quality,

o) Keep the evidence on supply and sales (accounting register) according to accounting provisions and standards,

p) To display in an open environment the license and work/business permit (or license).

The hotel activities shall be developed at the purpose-built business premises, arranged and equipped for conduct of hotel services (hereafter: hotel establishment). Hotel activities may be exercised in business premises, in an environment or space in conjunction with some other activity, if adequate conditions for conduct of hotel activities have been met.

According to Article 65, Hotel establishments, in view of this Law, shall be accommodation facilities (hostels) as well as food and drinks facilities and shall be classified into seven groups:

a) Hotels: a hotel, a tourist village, a village of apartment, motel, boarding house, etc.

b) Camps and other types of hotel establishment used for accommodation, such as camp, rooms on lease, apartments, youth hotel-hostels, alpine houses, vacation houses, (hostels) etc.

c) Restaurants: restaurants, taverns, national restaurants, milk restaurants, cafés, pizzeria, kebab shops, national kitchens, pie () shops, etc.

d) Bars: bars, nightclubs, disco-bars, etc.

e) Buffeters: buffeters, breweries, bistros, etc.

f) Cafés: cafés, café-bars, café-confectioneries, etc.

g) Canteens and catering.

The Ministry in charge of tourism shall, in accordance with the provisions, define the minimum of services to be provided by each type of hotel establishment. The Ministry in charge of tourism affairs shall, by a separate legal act, define the types of hotel establishment used for accommodation, which shall undergo categorization as well as categories, elements and categorization criteria, and the modality to be applied during the said exercise.

The category of the hotel establishment shall be defined by the act issued by the Ministry in charge of tourism, at the request of the hotel establishment. The hotel establishment under Paragraph 1 above shall commence its work only after being assigned a category by the appropriate authority.

The act of assigning the category of the hotel establishment shall be approved in the course of 30 days, upon submission of request for categorization. There may not be any appeals against such acts; however, the party may launch an administrative dispute. At the entrance of every establishment, there must be a sign indicating the type and the assigned category to the establishment. The Ministry in charge of tourism affairs shall maintain the register of categorized hotel establishments.

Hotel establishments used for accommodation shall be categorized depending on their arrangements, equipment, maintenance services and other similar elements and criteria of categorization. The sign used for categorization of a hotel establishment shall be the star. The act on assigning a specific category to a hotel establishment shall be effective for a period of 5 years. The act shall be displayed in every facility, which is assigned a category.

Some specific hotel services may be delivered by means of a mobile facility, which shall not be deemed as a hotel establishment (according to Article 74), subject to meeting the specified conditions, except for unique (special) locations, which are of a special importance in the tourist offer. The facility under this article is the facility that may be dislocated from one site to another, by either self-powered means or by towing.

The Ministry in charge of tourism shall define the technical requirements applicable to the facility, the type and the manner of service delivery in such facilities. The competent authority of the local administration shall verify the compliance with the requirements as set out in this Article. The competent authority of the local administration shall define the sites where such services may be provided.

Exceptionally, hotel services may be delivered under a tent, in the benches, etc., subject to technical requirements, except for unique locations of special importance to the tourist offer. The conditions shall be defined by the competent authority of the local administration, which shall also verify compliance with the legal acts adopted in line with this article. The competent authority of the local administration shall define what beverages, food or juices may be served in the establishments referring to the Law.

Camping, in view of this Law, shall be accommodation under tent, camp-house, camp-trailer and under other equipment for lodging in the open area, the location of which shall be defined by the appropriate authority of the local administration. Camping may be

arranged only in organized camps i.e. camping equipment shall not be erected at the locations other than areas defined for such purposes in accordance with this law.

Organized camps, in view of this Law, shall be the camps fully meeting the requirements as set out in the legal acts of categorizing hotel establishments for lodging (organized camps). Exceptionally, camping outside such confines may be allowed during any sports, cultural, artistic or similar manifestations, in especially dedicated places for that, in line with the provisions of this Law and any by-laws issued thereof.

The appropriate authority of the local administration shall govern the place and time of manifestations under this law. Lodging of scouts in open camping areas shall not be deemed camping.

Subject to provisions set out in this Law as well as other legal acts, an individual may: rent rooms, apartments or vacation houses, to which he is the owner, co-owner or the possessor of the right to use, amounting to no more than 10 rooms or 20 beds, organize camping at his land, for no more than 5 units i.e. 20 guests simultaneously. An individual may provide breakfast, half-board or all-inclusive arrangements only for persons renting rooms, apartments or vacations houses.

In order for the individuals to perform hotel services in their home businesses, the facilities shall meet the minimal technical requirements for the given category. The Ministry in charge of tourism shall define the minimal technical requirements for the given category, elements and criteria of categorization, and the manner of categorization of establishments. The provisions, which define the procedure for verification of compliance with minimal requirements for categorization of hotel establishments, shall be applied also to persons delivering services in their home businesses.

Physical persons delivering services shall:

- a) Publish in conspicuous place a sign indicating the type and category of the facility, determined by the decision of the appropriate authority,
- b) Display visibly at the entrance of the facility or nearby, the list of services it performs,
- c) Define the rates of food items, beverages and other separate services. If such services are delivered at the request of a customer, the rates applicable to that service shall be presented for inspection to the customer,

- d) Publish in conspicuous places the cost of services it performs and abide by such costs,
- e) Issue invoices to costumers containing the date, type, quantity and the cost of each service. In the cases of accommodation, the invoice shall indicate the fees related to accommodation, if applicable,
- f) Register the guests,
- g) Forward the rates for approval to the inspection of tourism of the appropriate Ministry, at the latest one week before their implementation.

The Ministry in charge on tourism affairs shall, by by-laws, define the form and the contents of the form for guest registration.

During the delivery of services, an individual may receive assistance from members of his family home business. An individual delivering service may not be an employer nor shall employ non-family members in his home business. In this case, the members of the family home business shall meet the sanitary and health requirements for work in hotel establishments, as defined by separate legal acts.

Rural households provide services for renting rooms and apartments, whose owner or holder of the right to use is a member of the village household, up to 10 rooms, or 20 beds. The services can be issued if the minimum technical requirements are met.

In rural households, hot and cold dishes, drinks and portions can be prepared and served mainly from their own production for up to 50 people (picnics) at the same time. In order to improve the quality of the catering offer, in rural households, the visitors (people staying in rural households) can prepare meals, drinks and potions for their own needs.

The work of the inspection supervision is carried out by inspectors from the competent ministry for affairs in the field of tourism, while the authorized inspectors of the municipality perform the activities of the inspection supervision of the operators of the catering activity registered in the register of the municipality.

4.2. Law on Tourism and Touristic Services

With the adoption of the Law No. 03-L / 168 on “Tourism and Touristic Services” in 2010¹³, the Law on Tourism and Hospitality

¹³ Official Gazette of the Republic of Kosovo/Pristina: Year V / no. 66 / 17 March 2010, p.1

Activity from 2004 was abolished. The new law was intended to define the principles, rules and responsibilities of persons in organizing, functioning and offering tourism services in compliance with standards of services in the field of tourism.

This law regulates relations between public institutions, natural and legal persons, domestic or foreign, who practice tourist activities, and it defines the rights and obligations of the subjects participating in these activities, in compliance with the standards provided in this Law, defines the ways of promoting the Republic of Kosovo as a touristic country, as well as other issues related to the field of tourism¹⁴.

Unlike the old Law, new terms are introduced in this Law:

- 1.1. “Ministry” - the Ministry for Trade and Industry.
- 1.2. “Minister” - Minister of the Ministry for Trade and Industry.
- 1.3. “Touristic activity” – any activity or service offered by legalized facilities in the field of
Tourism and hotels.
- 1.4. “Touristic place” – place or establishment with natural or artificial resources, which has the capacity to attract tourists and offers conditions for development of touristic activity.
- 1.5. “Tourist guide” - natural person authorized to accompany tourists and provide them information on historical, cultural and other values according to the program or on visitor’s interest.
- 1.6. “Accommodating unit” - the establishment that offers sleeping accommodation services.
- 1.7. “Hotel” - a building with no less than six (6) rooms available for accommodation of client including food and sleeping.
- 1.8. “Motel” - a building designed mainly for resting and stopping of motorized persons, supplying with food, beverages and other services. Buildings are built outside of inhabitable areas, near automobile roads and besides accommodation offer these additional services.
- 1.9. “Touristic village” - a structure organized in the form of a village, with nearby touristic resources, classified in accordance with the adopted standards for development of tourism and which enjoys certain privileges under the provisions of this Law.
- 1.10. “Camps” - open areas where accommodation is set up in tents, camp houses and camp

¹⁴ Article 1, Law on Tourism and Touristic Services in Kosovo

Trailers.

1.11. "Pension" - a service at hotel premises which includes food and beverage services.

1.12. "Touristic complex" - complex of buildings grouped as apartments, villas, studios, small two-floor buildings, which offer clients accommodation and auxiliary services.

1.13. "Owner of accommodation units" - a person, who owns, is an authorized owner or leaseholder of an accommodating unit.

1.14. "Non-accommodating unit" - hotel subjects offering food and beverage services but no accommodation.

1.15. "Touristic package" - pre-prepared combination, when sold or offered for sale with an all-inclusive price and when the service covers a period longer than twenty-four hours or includes night accommodation, of not less than two of the following: Transportation, accommodation, and other touristic services that are not related to transportation or shelter and which are considered as an important proportion of the package.

1.16. "Touristic point" - a long-term established destination open for public entertainment, amusement, rest, special interest, education, several or all of these, and which attracts daily visitors or tourists.

1.17. "Restaurant" - a building that offers food-supplying services with main objective to sell food for consumption outside or inside of its premises.

1.18. "Touristic services" - the services offered to tourists by touristic subjects.

1.19. "Touristic subjects" - are natural or legal persons practicing touristic activities registered in accordance to the law in force.

1.20. "Tourism" - the activities of persons traveling and staying to places outside of their usual environment, not longer than one (1) consecutive year, for entertainment purposes, work or other reasons that are not connected to practicing any activity.

1.21. "Tourist" - a natural person as visitor or user of touristic services who stays at least one overnight in a touristic place.

1.22. "Excursionist" - a visitor that travels for touristic purposes, without spending the night at the visiting place.

1.23. "Hotel activity" - preparation of food, servicing alcoholic and non-alcoholic beverages and accommodation services.

1.24. "Traveler" - the person that purchases or agrees to purchase a touristic package arrangement, touristic tour or touristic services.

1.25. “Excursion program” - combination of at least two (2) offered services, which last less than twenty four (24) hours and do not include staying overnight or accommodation.

1.26. “Organizing touristic agency” - a touristic agency that organizes the touristic package arrangement and travel packages either directly or through its intermediates/agents.

1.27. “Intermediating touristic agency” - a touristic agency which sells or purchases package arrangements drafted by the organizer of the tour or which offers other intermediary services as provided for under this Law.

1.28. “Committee” – Committee for reviewing the appeals.

1.29. “License” - the right to practice touristic activities.

This Law contains the previous legal solutions, i.e. the issues related to:

- the providers of tourism activity,
- travel agencies and their obligations.

On the other hand, the provisions related to all types of tourist guides were amended, and with the new solution of the Law, the tourist guides are classified in:

- tourist guides,
- tourist animators,
- tourist companions.

In the part of catering activity, the new law stipulates provisions that regulate the categorization of the accommodation facilities, that is, the number of stars for each category of 1-5 stars is foreseen, the competent authorities that perform categorization and other conditions that are needed for categorization.

The new Law abolished all provisions concerning catering facilities for food, types of facilities, working conditions, etc. Therefore, in the new legal solution, there is no room for a more detailed arrangement of catering facilities for food.

This Law stipulates that the inspection supervision of the entities in the field of tourism and catering should be performed by the state market inspectorate, which is different from the provision from the old

Law where the inspection was carried out by inspectors from the competent ministry.

Already in the new Law penal measures, fines in monetary amounts are envisaged, in case the legal provisions are violated, and the amount of the fine depends on and varies from the cases of how the law is not respected, both for legal entities and for the natural and responsible persons in legal entities.

This Law consisted of 42 members, and it was adopted by the Assembly of the Republic of Kosovo on 11 February 2010, which was to enter into force 15 days from the date of its publication in the Official Gazette.

4.3. Law on Tourism

The new Law on Tourism (04/L-176) revokes the previous Law on Tourism and Touristic Services from 2010, it is a smaller law comparing to the previous one, but with certain new provisions that regulate special conditions¹⁵.

The purpose, the field of action and the basic concepts in the new Law are the same as the previous Law (Article 1 to Article 4), and already in Article 5 a new category of “tasks and obligations of the respective organizational units in tourism” is mentioned, which refers specifically to the competent Ministry of Tourism Affairs.

Within the organizational units in the tourism, there is an opportunity for all individuals and legal entities to register voluntarily in order to carry out the activity of tourism and catering. This specifies the conditions for registration and other necessary conditions, but also the option to delete the registered subjects from the register in case of violation of the legal provisions.

Already in Article 8 of this Law, the competent ministry, in cooperation with the newly established Kosovo Tourism Commission, creates a system for categorization of accommodation facilities, according to international standards. The categorization is maintained by the ministry responsible for tourism, which is actually a catalog of registered accommodation facilities on the territory of Kosovo.

From Article 13 to Article 19, the new Law lists legal provisions that are similar to the old Law, which refer to:

¹⁵ Official Gazette of the Republic of Kosovo / Pristina: no. 14 / 2013, May 2013, p.1

- the performance of the touristic activity,
- tourist packages,
- travel program within the tourist package,
- other conditions of the tourist package,
- the travel agreement in the tourist package,
- the obligations of the customers of the tourist package,
- misunderstandings between consumers (customers).

Article 20 of this Law states the creation of the Tourism Council of Kosovo, upon proposal of the Government of Kosovo. This Council's aim is to propose policies and plans for tourism development and its promotion, giving recommendations and proposals to the competent ministry, as well as the development of standards and the implementation of the Code of Ethics for tourism for registered tourism entities.

The Council of Tourism consists of seven members: one representative from the competent ministry, three representatives from the Government and three representatives from tourist associations, municipalities and independent experts.

This Law is comprised of 23 articles, and it was adopted by the Assembly of the Republic of Kosovo on 11 April 2013, a law that is still in force, entered into force 15 days from the day of its publication in the Official Gazette, and the penultimate article concerns the repeal of the previous Law no.03 / L-168 of 2010.

Conclusions

All countries, regardless of the level of economic development, tend to develop tourism due to numerous positive impacts. In general, it contributes to economic growth and development, promoting international understanding and peace, improving living standards, stimulating local trade and industry, protecting cultural heritage and the like.

Thus, one of the most important factors that defines and channelizes tourism development is tourism legislation. It is a conscious activity of the country, that is, the society in the field of tourism, by taking various legal measures and activities for achieving the planned goals and tasks.

The implementation of a balanced legislation that is in line with the wider developing economic policy of the country can often be

lacking due to ambiguously defined development priorities, goals and strategies.

Laws regulating tourism activity, together with other laws that have links with tourism and catering and indirectly affect their development, represent a legal basis for the development, management and operation of tourism.

As part of the comprehensive process of tourism development planning, the procedure for reviewing and evaluating relevant laws and regulations is considered, or, if they do not exist, then their drafting is to be approached.

Many countries have tourism legislation tailored to their specific needs, but for those who do not yet or are in the process of preparation, the United Nations World Tourism Organization (UNWTO) offers a variety of models that can serve as a direction or an example for their preparation.

The whole issue in the field of tourism legislation stands in the lack of legal acts that would regulate tourism and catering activities more closely. Just for reminding, today in Kosovo there is only one law, the Law on Tourism in Kosovo, which does not meet the modern needs of this activity.

Reviewed by:

Prof dr. Afrim Osmani

Prof dr. Qebir Avziu

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