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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**



TOURISM DEVELOPMENT AND EVOLUTION OF TOURISM RELATED RULES*

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Abstract

From historical and comparative law perspective, the emergence, development and legal regulation of tourism (tourist activities) greatly depends on the degree of development and organization of certain society. In the earliest stage, tourist activity was rare, and there were no special rules governing the relationship between providers and users of tourist services. Therefore, in the absence of special rules, this relationship was subject to customary law and general rules of civil law. The increase in the number of users of tourist services and their subordination in relation to traders - service providers, has imposed the need for greater legal protection of tourists, both during the journey, as well as in the place of temporary residence. The aim of this paper is to identify the origins of tourism related rules in order to determine why and how these rules have been developed, retained, amended, supplemented, or rejected. In addition, the paper will provide an overview of the development of tourism worldwide, in Serbia and at the EU level.

Key words: *tourism, historical development, legal rules, tourist activity, tourist services, tourist operators.*

JEL classification: Z32

Introductory remarks

People have been traveling since the earliest ages. The travels analogous to tourist movements nowadays existed in ancient civilizations and were undertaken for the purpose of education, leisure, entertainment, trade and other reasons (Gyr, 2010, para. 4). Tourism related travel triggered the development of hospitality law rules, and emergence of various service providers, tourist services and tourist products. These categories have

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gradually evolved into their current form. The aim of this paper is to look for the origins of tourism related rules in order to determine why and how these rules have been created, developed, retained, amended, supplemented, or rejected.

From the historical and a comparative perspective, an appearance, development and legal regulation of tourism (tourist activities) depend on the degree of development of a society. However, regardless of the different dynamics of its development *in concreto*, some common factors and regularities may be noticed that influenced the development of tourism worldwide, in Serbia and in European Union.

Tourism development worldwide

The written historical sources refer to Sumerians, the first inhabitants of Mesopotamia as beginners of the travel era² 4000 years BC (Spasić, 2013, p. 6). Then, travels opened the way for the appearance and development of hospitality activities. The earliest forms of lodging facilities appeared in Babylonia, Assyria, Palestine and Persia, known as caravansaries, inns, taverns, pubs and relais for officials.³ Service users of accommodation, food and beverages in these facilities, apart from the native population, were merchants and travelers on the way between the old China and India and the ancient nations of southern Europe on the itinerary known as the "Silk Road".⁴

2 Around 2050 BC in the area of Mesopotamia the first paved roads were built and one such road was built between the cities of Ur and Nippur, enabling travelers to cross the distance of about 100 miles more efficiently, and to go from one city to another and back in a single day (McIntosh et al, 1995, pp. 30-33).

3 In the Code of Hammurabi (enacted around 1750 BC), which had exceptionally class character because it primarily protected the interests of the ruling class, certain hospitality related provisions can be found, aimed to protect ruler himself, and the value of money. Thus, in a par. 109 says that if conspirators meet in the house of a tavern-keeper, and these conspirators are not captured and delivered to the court, the tavern-keeper shall be put to death. Or, in a par. 108 states that if a tavern-keeper (feminine) does not accept corn according to gross weight in payment of drink, but takes money, and the price of the drink is less than that of the corn, she shall be convicted and thrown into the water (Yale Law School – Lillian Goldman Law Library, paras. 108, 109).

4 Besides "Silk road" from China to the Black Sea, for the purpose of trade, other traffic routes also developed, such as "Amber Road" from the Baltic to the Mediterranean, and "Salt Road" from Hadramaut to Arabia and Asia Minor (Petrić, 2003, p. 5).

In an ancient Egyptian civilization, it is assumed that the first tourist trip was undertaken by the Egyptian queen Hatshepsut in 1480 BC, visiting the land of Punt and Deit El Bahari temple in Luxor, and the display of the journey itself remained recorded on the walls of the temple in the form of relief (Spasić, 2013, p. 7).⁵

In ancient Greece, trips to sacred places (Delphi and Delos) and to medicinal baths (Epidaurum and Euboea) were practiced (ibidem). In this regard, the first government bodies (*proxenos*) were formed in the Greek cities whose job was to help foreigners during their stay. Foreigners had special protection because it was believed they were protected by god Zeus, and therefore hospitality was significantly developed (*hospitality*) in the form of kindness of each individual towards foreigner (*hospitality privata*), as well as in the form of kindness and attention in public places (*hospitality publica*).⁶ There were strict laws against the exploitation of foreigners, theft of passengers, unsanitary conditions, depravity, poor quality of hospitality services, and also regulations regarding the currency exchange. In order to ensure safe travel, ancient Greeks concluded "agreements on friendly visits." These agreements bound the parties to offer to each other reciprocal accommodation that included food and lodging. In general, these contracts were mostly concluded by merchants and officials who were able to provide decent accommodation to the visitor and also to protect visitors and goods in their possession (Cristea, 2012, p. 178). The conclusion of the contract was accompanied by a certain symbolic actions - by breaking the object into two parts, while each party kept their part. That object was called *sumbolon* (*symbol*) and can be considered the precursor of vouchers or of a reservation agreement, which occurred a few centuries later (Cristea, 2012, p. 179). This practice ensured that acquired contract right was transferable and inheritable. Breach of the contract was considered sacrilege and it was

5 About the undertaken tourist journeys from that time testify other records on the walls of Egyptian temples. One such record that was left on the wall of the temple associated with Djoser pyramid at Giza dates from 1244 BC and says: "Hadnakhte, scribe of the treasury, came to make an excursion and amuse himself on the west of the Memphis, together with his brother, Panakhti, scribe of vizier" (Casson, 1994, p. 32).

6 In this regard, in Athens and Corinth, the largest commercial and port city of ancient Greece, hospitality was developed. Among the various lodging facilities were differentiated: *prytaneion* (facility run by the state), *xenodochium* (buildings with a courtyard surrounded by porches and a high level of hygiene), special accommodation facilities such as *lesche* (public shelter), *katagogion* (guest house), as well as special facilities for food and drinks *kapeleion*, *thermopolium* and *inns* (Bunja, 2006, p. 8).

ominously, and a person who violates the contract terms would find himself in a disfavor of gods.

When it comes to the ancient Rome, the thing that the Romans were known for and by which they contributed to tourism development, was the construction of high quality roads during that time.⁷ That encouraged the construction of restaurants along the Roman roads. In the beginning they were simple sleepover inns, while food and drink passengers carried. Later, rooms were reconstructed along with the lodging in which the food and beverage services were provided. Apart from the road, a maritime transport was also developed. Bearing in mind that goods on ships, inns and stables were frequently stolen, the rules of classical Roman law predicted objective liability of the carriers, innkeepers and owners of the stables for the things of their guests or passengers. The aforementioned people were responsible regardless of fault for each loss and damage of things entrusted to them, unless it occurred due to force majeure (Šarac & Lučić, p. 177). That responsibility was called *custodia* and it was regulated by *Edict nautae, caupones, stabularii* (ship operators, innkeepers and owners of stables).⁸ As a basis for their responsibility, initially an agreement between ship owners, inns and stables and their customers served, known as *Receptum nautarum, cauponum et stabulariorum*. It was one of the most important informal agreements (*pacta praetoria*) protected by Praetorian complaints, by which ship operators/innkeepers/ owners of stables were taking responsibility for any damage or destruction of things entered into the aforementioned objects, unless they proved that the damage was the result of force majeure. In case of the damage, the injured party was entitled to a special complaint - *actio de recepto* (Ivošević, 1974, p. 14). Later, the liability of these persons was assumed even without any formal agreement, just on the

7 According to the theoretical sources, in the period around the 300 AD there was a road network with a length of 90 000 kilometers of main roads and 200 000 kilometers of secondary and rural roads. The famous motto: "All roads lead to Rome", testifies how significant the Roman road network really was. Better quality of roads significantly contributed to a better flow of people and services, which ultimately led to the development of tourism (Gyr, 2010, para. 6; The Contribution of the Ancient Roman Empire to Tourism Development and Lessons for Ghana's Tourism Hospitality Industry).

8 The Roman Edict states: "Ait Praetor: nautae, caupones, stabularii quod cuiusque salvum fore reciperint nisi restituent in eos iudicium dabo" i.e. "The Praetor announces: I will grant an action against shipmasters, innkeepers, and stable keepers if they fail to restore to any person any property of which they have undertaken for safekeeping," Dig IV 1X Fr.1 (Ulpian on the Edict).

basis of the presence of guests and the luggage in their facilities. In addition to contractual liability, there was a strict liability of these persons *in duplum*,⁹ for theft and damages that the subordinated persons committed to the things of passengers/guests (on that way praetor protected travelers who were not familiar with the circumstances and people in foreign places) (Zimmerman, 1996, p. 517; Story, 1844, p. 590; Šarac & Lučić, pp. 231, 245). This is still the basis of hotelkeepers' liability in most European States and other States which have adopted the Civilian Legal Tradition, including Mainland Europe, Central and South America, Francophone Caribbean and Africa, Mozambique, Angola, Vietnam, Laos, Cambodia (Downes, 2004, p. 14).¹⁰

The Romans took over the custom from the ancient Greeks that was in effect for *symbolon*, but it was significantly improved and used, not only when it comes to the conclusion of contracts between individuals, but also for town fraternization by the conclusion of hospitality contracts. That way, all full-rights citizens of fraternized towns were guaranteed accommodation and hospitality, in accordance with the long-term relationship of hospitality (*hospitium*) between the two cities.¹¹ However, Romans treated visitors with the due diligence, regardless of the hospitality contracts. Visitors were given a bronze badge, known as *Tessera hospitalis*, which ensured privileged treatment to its users (Cristea, 2012, p. 180). In ancient Rome, even a guide service existed in

9 *Actio furti damni et adversus nautas coupons stabularios* was the claim based on which the ship operators, innkeepers and owners of stables, regardless of their guilt, needed to reimburse to travelers and guests double value of the things that they were stolen or damaged by the members of their staff (Jaramaz Reskušić & Krka, 2007, p. 160).

10 Among the countries of Common Law Tradition (England, Wales, Ireland, Canada, USA, Malta, Israel, India, Japan, Singapore, Hong Kong, Australia and New Zealand), similar protection mechanisms were developed based on "custom of the realm" and "public trust" (Downes, 2004, p. 14).

11 The Laws and customs governing travel and hospitality in the Jewish, Christian and Islamic worlds have their roots in the story of Sodom and Gomorrah. This is recounted in the Qur'an at Surat Houd Chapter 12 verses 77-83. Those towns were punished for their inhospitality to, and abuse of, travellers. In other parts of the same chapter of the Qur'an there is a call to admire and enjoy creation (the natural world) and a condemnation of the abuse of travellers. Apart from that, ancient rules and customs in relation to hospitality can be found in Buddhist Codification of the Law, including the Ten Pious Acts, known as *Lhachoc Gyewa Chu* (including charity and benevolence), and the sixteen virtuous acts of social piety, known as *Michoe Tsangma Chudrug* (Downes, 2007, p. 1).

rudimentary forms. Visitors were able to engage specialized guides known as *perigeta* or *exigeta*, whose task was to show the most important sights (ibidem). The most popular and most complete travel guide from this period was written by a Greek *Pausanias*, in 170 BC, entitled "A guide to Greece", which was primarily addressed to the Romans who wanted to visit Greece (ibid., p. 181).

After the fall of the Western Roman Empire (476 AD) and almost a millennial stagnation in the development of human society and travel in general, in the early Middle Ages, the volume of journeys gradually began to increase. Thus, in the 15th century emerged the first 'organizers' of the journeys providing intermediary services for pilgrims who traveled to visit holy places (Spasić, 2013, p. 8).

During the 17th and 18th centuries, the journeys of young bourgeoisie became more numerous in order to acquire new skills, get acquainted with cultural and historical values, as well as for fun and entertainment. Later, merchants, doctors, bankers and a number of other professionals (artists, teachers, etc) engaged themselves into those journeys. Journeys lasted for several months and were known as the *Grand Tour* (ibidem; Gyr, para. 5; Towner, 1985, pp. 297-333). In this regard, since 1672, in France were issued guidelines for foreigners who were traveling through the country, with itineraries for short and long journeys (Sušić, 1986, p. 19).

Rapid economic progress in Europe, as a result of technical achievements, particularly in the area of industry and trade, also caused major changes in the organization and implementation of the journeys. Therefore, from the mid-19th century one can talk about the beginnings of organized tourism. Technical and organizational preconditions for massive journeys were created in that time. The first organized journey is associated with the name Thomas Cook. He organized the transport of 570 passengers, who, in 1841, participated in a congress.¹² Cook proposed to the railways his service in organization and a better utilization of the means of transport in addition to providing favorable transport prices. He rented the whole composition and organized the transport of passengers. For participants he provided tea and festive music, and the price per person was one shilling. Having achieved good business success, Cook founded the travel

¹² By the year 1897, Thomas Cook reached the figure of 20,000 tourists annually (Poon, 1993, p. 31).

agency 'Thomas Cook and Son' in 1845, which, due to the growth of interest in this kind of travel, rapidly developed. Yet in 1851, he organized a visit to the World Exhibition in London, in 1864, the first journey from England to Switzerland, in 1869, the first journey outside Europe to Egypt, and in 1871 he organized the first journey around the world (Spasić, 2013, pp. 9-12; Cristea, 2012, p. 183). His name is associated with the introduction of "circular", in 1874, a product that preceded to the introduction and popularization of traveler's checks in 1891, for which American Express was credited for. He founded his first commercial bank in 1879.

In the mid-20th century, after the Second World War, the stage of modern tourism began with the rapid development and growth. Traffic, infrastructural, technological,¹³ legal, social and other economic¹⁴ conditions were created at that time for its expansion (development of air

13 The development of the information society and communication technologies led to substantial changes in the manner of performance of the tourist activities, i.e., the way in which holders of tourist activities convey information, in order to simplify the use of tourist services (Singh, 2008, p. 13). Initially, the consumers received information on the possibilities of vacation through various forms of advertising (print media, radio and television, travel organizers, travel agencies, tourist information centers), but only in direct contact with the tour operator or travel agency they could conclude the contract. The advent of computerized reservation systems, led to the information revolution. Almost all airlines, travel organizers, travel agencies and hoteliers, operate through computerized reservation systems. A new qualitative step forward was made with the appearance of the internet, which enabled visitors (all interested parties) to have all the relevant information regarding local tourism products and services (accommodation, tourist attractions, events) in one place. In this way, instead of direct visit to the business premises of the tour operator or travel agency, one can reach all the necessary information from home, with the possibility of organizing independent journey or vacation. With further technological development, the internet access is enabled not only through computers, but also through portable devices (mobile phones, tablets, etc.), by which consumers are given the opportunity to organize their journeys "on the go", through the access of the relevant internet sites or specialized mobile applications.

14 Mass tourism affected the economic development in many areas, which, apart from the natural amenities, had no other development opportunities. Therefore, it contributed to the better living standard by generating jobs to local residents, development of domestic industries, private accommodation and the like. Also, mass tourism had an impact on the development of environmental infrastructure (roads, water supply, sewerage, telephone network), which enabled the development of tourist infrastructure (ski resorts, beaches, outdoor and indoor sports and recreation facilities, tourist information centers, centers for accommodation of tourists and visitors, rest areas along the highways, etc.) and other supporting facilities (shopping centers, sports facilities, museums).

transport,¹⁵ usage of credit cards, traveler's checks, the emergence of computerized reservation systems, mass production, marketing, flexible working hours, paid vacation) and emergence of the so-called mass tourism. This term is usually used to denote great participation of pre-planned and unified package arrangements organized by a travel agency.¹⁶

The development of mass tourism was accompanied by the adoption of different legal regulations at the international level, governing travel contracts (International Convention on the Travel Contracts from 1970), transport (Athens Convention relating to the Carriage of Passengers and their Luggage by Sea from 2002, Montreal Convention for the Unification of Certain Rules for International Carriage by Air from 1999, Warsaw Convention for the Unification of Certain Rules Relating to International Carriage by Air from 1929, Tokyo Convention on Offences and certain other Acts committed on Board Aircraft from 1963, Convention concerning International Carriage by Rail from 1980), accommodation (Paris Convention on the Liability of Hotel-keepers concerning the Property of their Guests from 1962), and other tourism related issues.

Tourism development in Serbia

The origins of tourism in Serbia date back somewhere between the establishment of The Founding Donors' Association of the Medicinal Hot

15 The milestone in the development of tourism was the development of air transport - planes of higher capacity brought closer the Mediterranean destinations to European countries with the intermediary role of tour operators who made available and accessible many other distant destinations by offering package arrangements (Sezgin & Yolalm, 2012).

16 For the accommodation of tourists, large hotels and even entire resorts (combination of hotels, suites, camps) were built. Coastal and mountain tourism were accompanied by the development of other types of tourism such as: health tourism, spa tourism, rural tourism, conference tourism, eco-tourism, sports and recreational tourism, adventure tourism and even so-called space tourism nowadays.

Mineral Water in Vrnjci, in July 1868,¹⁷ the construction of the railway Belgrade - Niš in 1884 and the mid-nineteenth century, when the excursions around Belgrade became common (by scenic train that circled to Rakovica, Kneževac and Resnik; by rented boat to Kostolac, Gradište, Umka, Obrenovac, Smederevo). Until the beginning of the World War I, the best known forms of tourism were developed, such as: organized trips to the world fairs and exhibitions (Paris 1900, London 1907); departures to the seaside (in the nineteenth century the most common destination was Abacija, current Opatija) and spas; group tours to the Slavic states. At the turn of the nineteenth to the twentieth century, the first foreign tourists arrived in Belgrade, mostly on a peregrination to the Orient (Lazić, 2015, p. 38).

According to the available data, the first guidebook about Belgrade was written in 1896, and in 1936 Belgrade, with the other specific tourist, climatic and spa places, was declared a tourist destination. The first domestic tourist agency Putnik, was founded on June 24, 1923 in Belgrade under the auspices of the Ministry of Trade and Industry and Transport,¹⁸ and in 1927 it was already admitted to the Association of big tourist organizations, headquartered in Vienna, with about twenty largest tourist organizations in Europe. With the opening of the first Belgrade Fair in the autumn of 1937, event tourism rapidly developed, given that the regular spring and autumn fairs recorded visit from 80,000 to 250,000 visitors in the former Belgrade with about 300,000 inhabitants. During the 1930's of the last century, the first international exhibitions were organized in Belgrade by the *Association Cvijeta Zuzorić* and the Museum of Prince Pavle, which attracted a large number of guests and thereby contributed to the development of so-called cultural tourism.

17 An essential contribution to the development of tourism in Serbia gave Prince Milos Obrenovic, when he sent to Vienna water samples from several spa springs for analysis in ancient 1837. That was the first step towards the establishment of spas, not only as a health resorts, but also as popular places for recreation and vacation. In the nineteenth century popular spas were Vrnjačka, Arandjelovačka, Ribarska, Brestovačka and Sokobanja, and among them Vrnjačka stood out. This is supported by the fact that in the period between the two world wars (1928) 675,400 overnight stays were recorded in Vrnjačka Banja, so that before the Second World War that number increased to nearly one million overnight stays, as Belgrade, Dubrovnik and Bled accomplished together, the three most visited cities in the Kingdom of Yugoslavia (Penava & Matušić, p. 62; Lazić, 2015, p. 46).

18 Although founded in Belgrade, the first ticket office started to work in Sarajevo on September 1, 1923 and a month afterwards in Belgrade and Zagreb (Lazić, 2015, p. 41).

In the period before the World War I, several regulations in the field of tourism were issued: The Regulations of keeping order in the mineral waters (Statistical Office of the Republic of Serbia, 2013, p. 218), were adopted in 1888; 1914 in Serbia the Act on spas, thermal and warm waters was adopted,¹⁹ and in 1920 the Rulebook of the same name. In the time interval between the two World Wars, a Regulation on the promotion of tourism and the Regulation on proclamation of tourist places in 1936 were adopted with a list of 18 cities of the Kingdom of Yugoslavia, classified according to the autonomous provinces in touristic,

19 The Act stipulated that all mineral and hot spring waters were in state ownership, operated and managed by the Minister of Internal Affairs, through the Sanitary Department. In the case that mineral or hot water existed or was found on private property, the Government had the right to purchase the property concerned and the surrounding properties by free agreement or by expropriation at the expense of the sanitary budget. Government had an exclusive right to exploit mineral and hot water in the form of a spa or in any other form, but that right, under the conditions prescribed by the law, could be given to other bodies or persons at a certain time. The law allowed to raise the living quarters of owners in the broader spa region without the approval of the Ministry of Internal Affairs. For the habitation of spa visitors, only facilities built according to the plans approved by the Minister of Internal Affairs could be used, which were inspected at the beginning of the spa season by the sanitary police commission and established to be in order for apartments. Renting out of buildings in the narrower or broader spa region that were not hygienic or were intended only for living of owners, was sanctioned by a fine from 50 to 250 dinars and by closing the building. The Law also contained provisions concerning the protection of the environment. Thus, in the narrow spa region deforestation was prohibited, except with the approval of the spa administration in order to beautify the spa itself. In the broader spa region, and on the area of two kilometers from the narrower region, forests could be cut only with the approval of the Minister of Internal Affairs, after the hearing of the Minister of National Economy. Within the whole area it was forbidden to let the cattle, especially goats to graze and damage the forest. Anyone who acted otherwise, would be punished by the police authorities of the respective county in which the spa is located with 10 to 100 dinars in favor of the Medical Fund. Each spa was in legal terms an integral part of the respective municipality and had special arrangements. A part of the arrangement also was a permanent spa administration whose main duty was: ensuring that all spa activities were done on time; making proposals for the improvement of the spa to the Minister of Internal Affairs; taking care of order in the spa during the spa season; doing all activities in accordance with the provisions of the Act and the Regulations. Finally, the Act precisely specified what belonged to the spa revenue: revenue from state assets (taverns, restaurants, residence buildings, etc); revenues from treatment tolls; revenues under special laws and regulations as a butchery and store rent and other revenues under that or any other law; revenues from charges for the use of facilities that belonged to the state (baths, massages, etc); revenues from fines and other unplanned revenues (Zakon o banjama, mineralnim i toplim izvorima [The Law on Spas, Mineral and Hot Water Springs], <http://www.vrnjacka-banja.co.rs/zakon-o-banjama-mineralnim-i-toplim-vodama-iz-1914-g/>)

climatic and spa places (Lazić, 2015, p. 39). Within the Chamber of Commerce, the Department of Tourism was formed in 1931 and in 1936, the document, which defined the tourist policy, was adopted.

After the Second World War, tourist and hospitality industry was at first regulated by federal regulations. In 1965 the Basic Law on the Hospitality Industry was adopted, according to which all other relevant rules and regulations were based (Off. Journal of the SFRY, no. 8/65, 10/65, 15 and 30/68). By the adoption of the constitutional amendments from 1971 regulation of that industry was entrusted to the republics and provinces. In the Federal Republic of Serbia in 1973 the Law on the Hospitality Industry was adopted (Off. Gazette of SRS, no. 49/71, 24/73, 51/77, 24/85 and 32/90), and a year later, the Law on the Hospitality Industry and Hospitality Services Performed by the Working People (Off. Gazette of SRS, no. 4/1974), which was out of particular importance for the regulation of tourist and commercial activity performed independently and by citizens' resources. In addition, many other laws and bylaws regulating different aspects of tourist and hospitality industry (regulations, rules of procedure, resolutions, decisions, etc) were also adopted.

After several amendments to the Law on Hospitality Industry (Off. Gazette of FRS, no. 24/73, 51/77, 24/85 and 32/90), the Law on the Conditions for the Implementation of Tourist Guides and Tourist Companions (Off. Gazette of FRS, no. 10/78, 45/84, 24/85 and 6/69) and the Law on Camping (Off. Gazette of FRS, no. 20/69 and 24/85), the provisions of the above mentioned acts ceased to be valid by the adoption of the new Tourism Act of 1994 (Off. Gazette of RS, no. 35/94, 38/94 and 48/99). With the provisions of the Tourism Act of 1994, the basic conditions for the development of tourism were created through the integrated planning, system of tourism development incentives, budget fund for tourism development and tourist organizations system. Nevertheless, in order to raise competitiveness and attractiveness of tourist products, taking into account the world experiences, it was necessary to improve development mechanisms. That was done by passing the Tourism Act from 2005 (Off. Gazette no. 45/05), which established the Tourism Development Agency. During its adoption, it was acted upon the recommendations of the World Trade Organization (the provision of the previous law stipulating that international travel agencies can carry out group tourist trips in the Republic of Serbia through the tour organizer was deleted) and the recommendations of the EU Accession Office (regarding the need to harmonize the provisions related to

categorization of hospitality facilities with the practice of EU member states). Likewise, the list of persons who were exempted from paying the tax was specified, the list of activities that could be performed was extended on activities that were common in tourist traffic, which were in the function of journey. Intermediary agency was exempted from the obligation to have director of the office, certain legal provisions were specified in order to ensure greater protection of service users and penalty provisions were coordinated with the substantive provisions of the law.

The new Tourism Act (Off. Gazette of RS, no. 36/09, 88/10, 99/11 – other law, 93/2012 and 84/15) was passed only four years after the previous one. The need for harmonization of the domestic regulations with the respective rules of the World Trade Organization and the European Union was emphasized as a justification for such a quick change of the law. The provisions of the Act in one part relied on the decisions from the previous one, in terms of incentives and promotion of tourism, and in terms of regulating activities in tourism. On the other hand, with the Act of 2009 a number of innovations were introduced. In the planning area of tourism was thereby established a clear hierarchy of planning documents (Tourism Development Strategy of the Republic of Serbia, Strategic master plan, Strategic marketing plan, program development of tourist products, tourism development program and the program of promotional activities). In terms of space, this law defined the categories of tourist area, holiday and tourist places, as well as preferred tourist destinations. Furthermore, the Act increased the volume of data to be recorded. Serbian Business Registers Agency runs the Registry of tourism aimed at keeping the travel agencies records (travel organizers and agents), tourist places, hoteliers, categorized and uncategorized hospitality facilities, categorized and uncategorized nautical and hunting tourism, service providers of hunting tourist activities, tourist guides, local tourist guides, travel companions, companies that provide car rental services, home craft service providers and service providers in rural tourist households. Perhaps the most important innovation of that Act was related to the conditions for licensing of tourist agencies. In comparison with the former Act, which among other necessary conditions for obtaining license (proof of registration, at least one qualified employee, determined general travel conditions, non-existence of formal obstacles such as bankruptcy or temporary ban on the performance of professional activities), required tourist agency to provide either an insurance policy for each tourist trip, or insurance policy/secured funding/bank guarantee in the minimal amount determined by law (59), the Act of 2009,

simplified the insurance procedure by the introduction of the common liability insurance policy covering the liability arising out of the performance of professional activities (art. 53). In addition, with the Act of 2009 provisions, it was stipulated that the license of travel agencies was valid for three years instead of five years according to the previous law (see art. 58. para. 3. of Tourism Act from 2005 and art. 51. para. 2. of Tourism Act from 2009).

With the latest amendments to the current Act, the legislator specified the obligations of intermediary tourist agencies, prescribed duty to provide travel guarantees for each contracted travel arrangement, coordinated respective provisions of Tourism Act and Consumer Protection Act regarding travelers claims, aligned penalty provisions of Tourism Act with the new Law on Offences in the way that certain violations of the Act are sanctioned with the penalties in a fixed amount in order penalty warrant to be issued, which enables a more efficient fine collection at a lower cost for the state and the offender. In order to cope with the grey economy in tourism, the state has decided to give more powers to the tourist inspectors who would be able to write penalty charges, while the competence of the inspections is partially shifted from republic to the local level, enabling municipalities to take control over the business activities of tourist operators on their territory.

In addition to the Tourism Act, the status issues in the field of tourism are also regulated by the Law on Spas (Off. Gazette of RS, no. 80/92 and 67/93 - other act), the Law on Public Ski Resorts (Off. Gazette of RS, no. 46/2006), the Law on Environmental Protection (Off. Gazette of RS, no. 135/04, 36/09, 36/09 – other act, 72/09 – other act and 43/11 - decision of the CC), the Law on National Parks (Off. Gazette of RS, no. 39/93, 44/93 - correction, 53/93, 67/93, 48/94, 101/05 – other act and 36/09 - other act), the Law on Cultural Property (Off. Gazette of RS, no. 71/94, 52/11 - other act and 99/11 - other act). On the other hand, the rules governing the legal relations of tourist operators are contained in the Law on Obligations (Off. Journal of SFRY no. 29/78, 39/85, 45/89 - decision and CCY 57/89, Off. Journal of FRY, no. 31/93 and Off. Journal of SME, no. 1/2003 - Constitutional Charter) and the Consumer Protection Act (Off. Gazette of RS, no. 62/14). The Law on Obligations contains provisions on organized travel contract (art. 859-879), intermediary travel contract (art. 880-884) and allotment contract (art. 885-896), while the Consumer

Protection Act regulates package tour contract (art. 93-109) and timeshare contract (art. 110-122) for the purpose of protection of consumer rights.²⁰

Tourism development in European Union

Tourism represents the third largest factor in the EU economy, and despite the economic crisis, it is anticipated this sector will have even greater contribution towards increasing of employment rates in the EU in the future, and thus to economic development and social cohesion. At the EU level, tourism, as a term, was firstly mentioned in 1992 in art 3. para. 1 point t. of the Maastricht's Treaty in which the measures Community needs to undertake in order to create a common market and economic and monetary union are exhaustively listed, including the measures in the field of energy, civil protection and tourism.²¹ The provisions relating to the tourism are contained in the text of the current Lisbon Treaty and the Treaty on the Functioning of the EU, but these provisions do not substantially alter the scope of powers of the EU authorities in the field of tourism, because the tourism is not recognized as an independent policy.²² Therefore, the EU activities in this area can only complement the activities of the Member States and any harmonization is excluded.

EU priorities in the tourist industry, defined in the Lisbon Treaty and in the strategy Europe 2020 are reflected in stimulating investments, staff

20 The emergence of time-sharing in practice, followed by its legislative drafting, was accompanied by a dynamic process of development. During this development process, time-sharing has gradually evolved from a contract with precisely defined contract elements (period of use, duration of the contract, type of units) to a flexible tourist product, which includes a significant number of services and considerable number of stakeholders (Mićović, 2015a; Mićović, 2015b).

21 Prior to that, the European institutions adopted general (framework) policy guidelines on tourism, that is to say, the legal norms regulated by this sector. The European Council in 1984 recognized the importance of tourism for the integration of European area and invited the European Commission to make proposals towards the development of this field. The European Commission contributed through the adoption of several documents that defined the general guidelines for the development of tourism.

22 In the Art. 2E of the Lisbon Treaty, the EU competence was extended to "support, coordination or supplement of the activities of the Member States' in the field of tourism. In Chapter XXI, a special article 176B was added which provided that the Union complements the activities of Member States in the tourism sector, in particular through promoting the competitiveness of Union enterprises in that sector. With that intention, the Union's activities aim to: a) encourage the creation of an environment conducive to the development of entrepreneurship in the tourism sector and b) promote cooperation among the Member States, particularly the exchange of good practice.

education, the development of information technology and the improvement of business conditions. Direct cooperation with national authorities in the tourism sector helps to improve staff education and training and to use the potential of the tourism sector for employment in the most efficient manner, as well as to create conditions for the work and the effective functioning of small and medium-sized enterprises, which will be able to keep employees even during the off-season for training. The EU is particularly committed to the idea of building awareness of the necessity of short-term and long-term sustainable development as well as for a better professional training and emphasizing of the own cultural heritage for tourist purposes (Paunović, 2014, p. 69).

In order to create a common EU tourist market at the local, regional and national level, the legislation, procedures, methods and everything that can encourage greater involvement of capital is gradually developing, i.e., private and public investment in tourism. Many EU policies and measures have a direct impact on tourist activities, and some of them are: better connection of all tourism policy makers and EU initiatives in this sector; strengthening the role of the Advisory Committee in tourism; promotion of better interaction with the tourist industry and other interested groups (through the organization of annual trade fairs and tourist forums); incitement of interaction between different actors and destinations in tourism and promotion of their partnerships; networking services and necessary support towards functioning of measures and activities through the specialized bodies and centers related to the tourist industry which exist at national and/or regional level in most of the Member States; a special procedure that Member States, regional authorities and the tourism industry have for the effective use of financial and non-financial instruments for their needs; European Commission and EU Member States encourage the introduction of a common satellite accounts in tourism (Tourism Satellite Accounts - TSA); promotion of sustainable development of tourism in Europe (according to Agenda 21) in order to protect natural resources, protection of environment and use of renewable energy sources in the tourist policy, increase in the number of participants in the tourist business, encouragement of the corporate social liability and control of the implementation of provisions on sustainable tourist development; depending on the needs for development, European (national, regional and local) authorities promote and support the production of documents of general social and economic interest, provide technical cooperation; the determination and application of methods and

the means necessary to control the quality of tourist destinations and services.²³

Within the EU, a number of regulations are adopted that are directly or indirectly related to tourism. Among the regulations that are directly related to tourism, the Directive 2015/2302/EU on package travel and linked travel arrangements stands out (OJ L 326, 11.12.2015), which replaced Directive 90/314/EC on package travel, package holidays and package tours (OJ L 158, 23/06/1990), as well as Directive 2008/122/EC on the protection of consumers in respect of certain aspects of timeshare, long-term holiday products resale and exchange contracts (OJ L 33, 3.2.2009).²⁴

Conclusion

For a proper understanding of a modern law one needs to be familiar with the origin of its rules and institutions, form in which they have been received, why and how they have been developed, retained, changed, adapted or rejected (Zimmerman, 1996, p. viii).

In respect of that, the origins of rules and customs in relation to hospitality and tourism can be found in the Hammurabi's Code; ancient edict *nautae caupones stabularii*, of the Romans and the Civilian tradition; the concepts of *public trust* and *custom of the realm*, in the developing Common Law; the precepts and duties of hospitality in Jewish and Islamic Law; the Buddhist Codification of the Law, including the Ten

23 At the EU level, a number of institutions (organizations), significant for the development of tourism, were formed, including in particular: the European Travel Commission - ETC (Tourist Organization of Serbia is a full member of ETC starting from October 3, 2006); European association of hotels, restaurants and cafés (HOTREC); European Travel and Tourism Advisory Group (ETAG); The European Travel Agent's and Tour Operators' Associations (ECTAA); European Federation of Rural Tourism (EuroGites).

24 Legal regulations in relation to time-sharing, both at the EU and national level, have been changed for two main reasons: one is to translate business practice into legal rules, and the other, more important for the protection of consumers is to restrict or exclude the impact of (unfair) business practice on the formation of the legal relationship between trader and consumer, as well as to prevent the usage of unfair contract terms (Miladinovic & Mićović, 2015). Since time-sharing is a typical cross-border consumer contract, the question of jurisdiction and applicable law is of particular importance for the procedural protection of consumers (Mićović, 2014).

Pious Acts, known as *Lhachoc Gyewa Chu* (including charity and benevolence), and the sixteen virtuous acts of social piety, known as *Michoe Tsangma Chudrug* (Downes, 2007, p. 1).

As the initial tourist activity was rare, there were no specific rules that would regulate the relationship between providers and users of tourist services, but the general rules of the civil law applied instead. Increase in the number of users of tourist services and their subordination in relation to the economic entities - service providers (development of tourism industry led to the appearance of the various entities, such as travel agencies, specialized in conducting tourist activities), imposed the need for the stronger legal protection of tourists, both during the journey and in the place of temporary residence (Dragašević, 1990, p. 10). With that aim, states took over the initiative not only to regulate the mutual relations between business entities and the users of their services (by laying down rules on liability for the proper performance of the contract, the rules on the safety of passengers and their luggage, etc), but also to define the legal framework and conditions for conducting these activities (systems of licenses/registrations/ approvals), and, finally, to adopt rules which would ensure compliance with professional duties and other standards (ibidem, p. 10).

However, globalisation and the increased movement of people for tourism and recreational purposes in recent years triggered the need for the adoption of respective travel and tourism rules at the international and EU level. In order to create coherent legal framework, national travel and tourism rules need to be harmonized with the relevant international norms. That means, inter alia, that Serbia needs to include rules from recently adopted Directive 2015/2302/EU on package travel and linked travel arrangements, in order to ensure stronger protection of tourists (travelers).

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