

## Tourism and the 'rule of law'

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### Abstract

This paper focuses on the principle of the rule of law, in combination with the phenomenon of tourism that is not explicitly recognized by the vast majority of formal constitutions. However, the right to tourism is a universal one, related to the third generation fundamental rights, such as sustainable development. Besides, there is a branch of tourism law, which is a non-autonomous new system of rules.

**Keywords:** International tourism, justice tourism, norms, Social Rule of Law, sustainable development

### Introduction: A legal approach to tourism

Tourism consists of a leisurely journey and visiting places that are different from the tourists' place of permanent activity. It is about a complex phenomenon (involving leisure, particularly holidays, travelling and usually sightseeing) that has become massive, and this has been the case especially since World War II. Specific forms of tourism, exemplified by cultural tourism (Hunt, 1991), and also popular. The last decades have witnessed a large number of studies that have been produced on the special topic of tourism activities with emphasis on the internal movements of tourism.

However, legal scientific research on the nature of tourism rules is not fully extended yet. Besides, hospitality and tourism related businesses managers' are required not only to understand the day to day operation of their company but also the legal aspects of hospitality and tourism management as such (Ververi, Maniatis, 2015). This is one of the reasons why it is considered useful to examine the profile of sets of various rules and norms, to which tourism is often submitted. The proposition of this article is that the principle of 'rule of law' promotes the status of tourism to a very large extent.

### The rule of law principle

This rule of law principle has to do with the perception of Justice and is strongly related to the issue of human rights. Although national Constitutions do not usually tend to incorporate a definition of this legal tool, it is about a state officially submitted to legal rules, relating to the entirety of its activity concerning tourism. The activity of the administrative organs depends on the legal dispositions that prevail and should be complied with where required.

This principle has intensive bonds with jurisprudence, let alone with the constitutional one. It is to point out that the consecration of the rule of law principle results from various elements in national Constitutions, such as *inter alia* the following ones:

*a. An extended list of fundamental rights*

It is about particular civil and political rights, such as equality and the free development of personality,

*b. The principle of separation of state powers*

The name most associated with this doctrine is without doubt that of Baron Montesquieu. Of course, the French author did not invent this rule but he contributed new ideas to the doctrine, mainly in relation to the judiciary. Nowadays, this principle is considered extremely intrinsic to constitutionalism and is therefore emblematic for the Constitutions.

*c. The judicial control of the constitutionality of law dispositions*

If judges constitute the third power, equal to the legislative and the executive one's upon the aforementioned doctrine of separation of powers, they also enact an important role as constitutional judges. They have acquired by themselves this competence, because of the necessity to put an end to legislative dispositions that infringe rules and principles of the Constitution, as was the case in the emergence of this type of control in Greek history. As already mentioned, the principle of rule of law has been the product of jurisprudence and practice, rather than of explicit consecration in the constitutional and legislative levels. In some legal orders, after the World War II Constitutional Tribunals have been institutionalized and provided with an elevated prestige.

*d. The judicial control of legality of administrative acts*

Judges are enabled to control the legality of the administrative acts, normative or not. This competence belongs especially to the Council of State and the rest TO administrative tribunals. In other words, the principle of legality of administrative action is ensured by this crucial intervention of the judiciary.

*e. The permanence of public servants*

Public servants are endowed with the institutional guarantee of permanence of public servants. The term 'institutional guarantee' has to do with the consecration and the protection of an institution, in legal terms. This tool of the constitutional law theory has been produced in Germany, before World War II. So, it is much newer than the classical tool of 'fundamental rights', to which it is quite similar. An 'institutional guarantee' implicates a 'privilege' for individuals as parts of the protected institution. For instance, the permanence of public servants has to do essentially with the professionalism and the perfection of Public Administration, although it is directly positive for its own members. Just the opposite, a fundamental right, particularly a civil liberty, has to do with the relationship between the subject and the content of the right, without aiming at enhancing an institution either of public or of private nature. The 'institutional guarantees' constitute a more general and powerful mechanism of constitutional guarantees for state powers and social structures.

The rule of law has a double content, namely a formal dimension and a material one. On the one hand, it has to do with a formal approach to the operation of state powers, fully submitted to the laws in vigor. In this context, it has to do mainly with the principle of legality of administrative action, the administrative acts included. This conformity of public servants, themselves enjoying permanence as already signaled, with the legality doctrine protects society from serious breach of human rights. The opposite model is called 'police state', a term denoting a government that

makes use of power arbitrarily through the power of the police force, and more generally, of its armed forces.

The second aspect of the rule of law principle, has to do with a really honest approach to the laws of the land. People do not deserve a formalistic treatment but rather an approach fitting in with the real Justice. In other words, sometimes some rules may be proved to be unjust and the state should pay respect to human rights which are then perceived to be in danger.

### **The principle of social rule of law**

In comparative law, rule of law is in a process of gradual legal consecration. For instance, in the Greek legal order, par. 1 of article 25 which has been revised since 2001 and for the first time in the constitutional history of Greece, this principle has been explicitly incorporated into the formal Constitution. So, subsection a of par.1 states the following: *“The rights of man as an individual and as a member of the society and the principle of social rule of law, are under the guarantee of the State. All state organs are obliged to ensure their unhindered and effective exercise”*.

This emphasizes that this subsection was simultaneously enhanced by the insertion of two separate general fundamental principles of the Constitution, which were not explicitly consecrated, at least in a form of a general clause. Indeed, welfare state is also an important principle, consecrated in various articles of the Constitution, in the form of social fundamental rights and obligations. Social rights are considered globally as the rights of a second generation, along with economic rights, in the framework of the history of fundamental rights. They were dynamically introduced to the historical stage in the interwar period, namely after the end of World War I and prior to World War II.

Civil and political rights constitute the content of the first generation and began to be institutionalized mainly from the eighteenth century onwards, whilst there are two different approaches as is the case for the third generation. The third generation is based on the principle of “fraternity” and is exemplified by rights of the environment, to development, to peace, to the common heritage of mankind etc. In the Greek constitution, there are two rights exemplifying the rights of third generation These are the right to environment, explicitly previewed in par. 1 of article 24, and the right to sustainable development, according to subsection b of par. 1 of article 24 and of subsection a of par. 1 of article 106 (Chrysogonos, 2006). However, the third generation constitutional rights are not alone, as there are other important rights, such as the universal right to participate in the Information Society, mainly via Internet applications. This modern mass media right was added in 2001, through the introduction of the par. 2 of article 5A and is particularly conducive to upgrading of tourism activities. Even the right to peace could be implied by the disposition of par. 2 of article 2 on the mission of Greece to consolidate peace and promote tourism.

If the matter of third generation rights, it is somewhat unclear and has to do mainly with public international law. Without doubt new constitutional rights have emerged, relevant to the environment and the sustainable development principle, as is the case of the list of rights, adopted in 2004 in the French legal order.

Clearly there is a great importance attached to the double explicit introduction of the social rule of law in the Greek Constitution. What is particularly interesting, is that legal theory still mentions the two parts of this unified principle in a traditional and rather conservative way, as two separate principles. Just the opposite, the welfare state, as a result of state interventionism for the support of people and also for their

fundamental needs, has been institutionalized and this was mainly after World War II. It enhances the content of the older principle of rule of law.

Indeed, private individuals are endowed with legal – and not merely ethical rights- to work, residence etc., even though as a general rule no claims introducing judicial protection result. So, the formal dimension of the rule of law has been enriched with fundamental rights, even in case the constitution adopts techniques of consecration like the ‘inverse’ formulation, consisting of the states obligation regarding special care on the matter. Besides, the material dimension is also a concern, given that the welfare mission of the state, particularly towards the poor people and the private individuals with special needs, fits in with the ideal of social justice. Last but not least, through this modernization this dimension is also promoted indirectly, namely, as for the traditional content of laws. The principle of equity, for the use of the competent public authorities, exemplifies this concept of the rule of law.

### **The environmental approach to the principle of social rule of law**

Modern legal systems, particularly involving the environment in its entirety, tend to take a more synthetic and dynamic approach. For instance, the Greek Constitution has explicitly adopted the clause of social rule of law, even though it avoided making use of this technique, as it did for the introduction of sustainability issues. As already implied, the principle of sustainability has been institutionalized in a separate way, in article 24 and not in an explicit combination with the right to development. So, sustainable development, either in the form of a third generation right or as a general fundamental principle, results from legal theory and not formally, as a consecrated concept, from the Constitution as such

Even the environment is essentially a synthetic notion, having to do not only with the natural environment but also with the cultural one, according to the formulation of article 24 par. 1 of the Constitution. Given that sustainability includes the notions of ‘heritage’ and ‘tradition’, already protected in article 24 before the introduction of the new legal tool, it could be considered as the dynamic and enhanced version of these archetype tools. In other words, it is a principle of global content, having in its nucleus the older tool of ‘heritage’, deserving a sustainable development aspect along with the right to tourism.

This synthetic approach is to combine with the universal character of the right to the environment. Indeed, the environmental goods belong to society and should be transferred to the next generations, as a heritage. Everybody is endowed with the right to enjoy the environment and, according to the revision of subsection b of par. 1 of article 24 of the Greek Constitution in 2001, and to protect it. This holistic concept is also important, given the time parameters for protection of the environment to be formalised.

As consecrated, explicitly or implicitly in modern Constitutions, the state obligation to protect both aspects of the environment does not only have a repressive form. There are at least the following kinds of protection, in a wide sense of the term that are important to note:

- a. Spacious (and urban) planning,
- b. Preservation,
- c. Prevention or preventive action,
- d. Repression.

This scale puts the stress on the prevention in its various aspects, from planning to the preventive action against existent dangers against the method of repression. 'Therapy' is not easy to achieve and may cost a lot, particularly when we consider the European Union law which has seriously promoted the methodology of prevention, mainly with the introduction of the mechanism of environmental impact study. Anyway, the explicit consecration of the principle of preventive protection of nature and manmade goods, as in the Greek Constitution, constitutes a good legal base for the recognition of its newer "relative", the principle of preservation. Preservation has to do with the state care against dangers that are not certain yet. The impossibility of the current level of the sciences to confirm the existence of dangers for public health and environmental goods should no more be complacently handled. Just the opposite is needed. The principle of preservation has a constitutional status, for instance according to the Greek jurisprudence, and implicates the special obligation of the competent public authorities to take all the appropriate measures in such matters. So, preservation without doubt results from the principle of supremacy of prevention against repression. It is about an important legal weapon of people and NGO's against development that seems environmentally unfriendly, as it is the case of nuclear plants.

### **The right to tourism and its political dimension**

Tourism has to do with the liberty of moving from place to place, without any bans imposed by states. So, it is intrinsically connected with civil fundamental rights, like the freedom of motion. It has been noticed in a convincing way, especially in French theory, that the law on the matter is older than it seems to be. It can find its own origins in the regulation of the liberty to go and to come from one place to another. Since people have the possibility of travelling, this question has emerged (Jégouzo, 2012). That is why the right to tourism activity is primarily classified into the field of public law rather than that of private law. It is strictly connected with constitutional law, rather than the other branches of public law, the administrative one is important, because travelling for entertainment purposes is a matter of principle.

The World Tourism Organization (WTO) has created the Global Code of Ethics for Tourism, which was based on a resolution adopted by its General Assembly in 1999. This text accomplishes very important deontological and pedagogical functions worldwide. In the Preamble the members of this international organization declare that they are firmly convinced that, provided that a certain number of rules are observed, responsible and sustainable tourism is by no means incompatible with the growing liberalization of the conditions governing trade in services and under whose aegis the enterprises of this sector operates and that it is possible to reconcile in this sector, each of the economy and ecology, environment and development, openness to international trade and protection of social and cultural identities. So, although not explicitly, the Preamble is based on the principle of rule of law, as consecrated in both national and international legal orders. It is also to underscore that it adopts the method of syncretism, by composing synthetic principles and rights, as alluded to above, for the profile of the third generation guarantees relevant to the environment.

The most important of the 10 articles of this code regulates the right to tourism.

According to par. 1, *'The prospect of direct and personal access to the discovery and enjoyment of the planet's resources constitutes a right equally open to all the world's inhabitants; the increasingly extensive participation in national and international tourism should be regarded as one of the best possible expressions of the sustained growth of free time, and obstacles should not be placed in its way'*

It is to put the stress on the intention to recognize a right to free time, strictly connected with potential tourism projects. In other words, the third generation rights include also the modern possibility of appropriate enjoyment of leisure, as confirmed by par. 2; *'The universal right to tourism must be regarded as the corollary of the right to rest and leisure, including reasonable limitation of working hours and periodic holidays with pay, guaranteed by Article 24 of the Universal Declaration of Human Rights and Article 7.d of the International Covenant on Economic, Social and Cultural Rights'*.

The right to tourism has already been consecrated in national legal orders as a social fundamental right, namely implicating the role of the state as a donator to potential tourists, and exemplifying the social rule of law. This concept is adopted in par. 3, as follows: *'Social tourism and in particular associative tourism, which facilitates widespread access to leisure, travel and holidays, should be developed with the support of the public authorities'*. It is completed in par 4, which defines that *'Family, youth, student and senior tourism and tourism for people with disabilities, should be encouraged and facilitated'*.

Furthermore, the fundamental right to tourism also has an intrinsic political dimension, implicating liberalism and potentially democracy. Authoritarian regimes have the tendency to ban this activity for their own nationals, mainly because they do not want to give them the opportunity to leave a country permanently. As a general rule, they do allow the entry of foreigners as tourists, in spite of the fact that an eventual osmosis between these tourists and the local population is likely to cause, even indirectly, destabilization of the host regime. That is why the aforementioned Code is endowed with an article on liberty of tourist movements. According article 8.1, tourists and visitors should benefit, in compliance with international and national legislation (term implying the rule of law principle), from the liberty to move within their countries and also from one State to another.

Antidemocratic governments may manifest a special interest on tourism activities, like the dictatorship of Prime Minister John Metaxas. This political regime, established in Greece on 4<sup>th</sup> August 1936, innovated within government, by creating a Ministry on Press and Tourism. The irony of the history is that two generations of governors passed by, until the resuming of the institutionalization of these autonomous Ministries, this time being separated one from the other (within a democratic government). Clearly then, modernization is not always connected with democratization.

A few years after the beginning of the twentieth century, some European countries, such as France and Greece, adopted the first rules establishing rudimental organizations for tourism, within Public Administration. So, tourism was no more just a fundamental right, implicitly consecrated in national Constitutions, but also an official competence of public agents.

### **The guideline rules of spacious planning and sustainable development**

In the last few decades, a new trend has been introduced in various national legal orders. It is about adopting legal texts of a more general and global focus, being long-term state projects. For instance, since 1975 the Greek Constitution has previewed, in article 79 par. 8, that the programs on economic and social development are approved by the Plenum of the Parliament, as a law defines.

In 2008, the Parliament voted for the first time a spacious planning program for the integral territory of Greece, called 'National Framework on Spacious Planning and

Sustainable Development'. This project does not refer merely to spacious planning, which has been previewed as a competence of the state since the adoption of the Constitution in 1975 and has been correlated to the principle of preventive protection of the environment, as already mentioned. It refers also to the newer principle of sustainable development.

After the adoption of this general framework in 2008, some specific similar frameworks per branch of national economy have been adopted. This is the case for tourism development, initially in 2009 and afterwards in 2013. On an international scale, in 1997 tourism adopted the objective of sustainable development, after the Special Assembly of the United Nations, known as 'RioPlusFive' (Aiello, Ferri, 2015). Besides, article 3 of the aforementioned Code of the World Tourism Organization regulates tourism as a factor of sustainable development.

However, the project adopted in December 2013 is no more in vogue, by virtue of decision 3632/2015 of the Council of State. The supreme administrative court of Greece judged that this administrative act was illegal, given that it was based on an obligatory opinion and was not legally produced in the decision-making procedures. The interesting element of this case is that society was divided in two opposing parties representing the two contending components of the principle of sustainable development. The first group of participants aimed at protecting the environment through annulling the framework whilst an association supported the maintenance of this act, essentially to ensure the right to development as held by tourism enterprises.

Tourism is endowed with a specialized long-term project that has a legally binding and a politically guiding character, inspiring the mission of policymakers and facilitating the jurisprudence of tribunals. So, it is then all about of a new generation of rules, being quite flexible and dynamic. This mechanism has been geared to promote particularly the principle and the right of sustainable development. Space planning and the protection of the environment by state are submitted to public law, which has been significantly modernized in this way. If a century ago states adopted the initial administrative structures to cope with tourism (organizational changes), nowadays there is a second set of rules establishing policymaking guidelines (strategic management changes).

### **Tourism law as a transversal specific branch of law**

Tourism is submitted to many rules of private law (civil law, commercial law, labour law, intellectual property law). This dependence on legislation for private individuals and legal persons under private law is exemplified by contracting between, on the one hand, hotel companies and other tourism companies and, on the other hand, customers and other stakeholders. Private law is by nature mainly a legislation on contracts, a thus a contracts law, whilst administrative law is mainly connected with (unilateral) administrative acts, such as regulations, permits and sanctions.

We need to clarify that both private and administrative laws exemplify the phenomenon of law relevant to estates (in Spanish "estamental") (Parada, 1994). Indeed, commercial law is the branch regulating the merchant professional class, Labour law has been created to protect, in a specialized manner, the legal position of employees whilst administrative law regulates the status of the military and civil servants. Of course, civil law is the general branch of private law, having to do with the personal and material relations of all persons and even administrative law is relevant to public services users. In a similar way, tourism law has been geared mainly to protect the entire society enjoying the right to tourism, although it also has a

particular professional interest for the entrepreneurs involved in the tourism industry market and their employees.

French legal theory denies the parallel of tourism law to a *millefeuille*. If the pastry of France has as its motto this sweet, being not only delicious but also famous on an international scale, rules on tourism are not considered as a legislative *millefeuille*. This concept is based on the fact that the country, is on this matter, the first and only state to date, to adopt a 'Tourism Code'(Jégouzo, 2012). The expression of 'French cooking' has already been used in another scientific context. It refers to the particular legal framework on the use of nuclear energy in France, in opposition to the framework of other states (Rolina, 2011).

Mainly after World War II, states created their own body of rules on this 'democratized' mass activity. Some of these rules belong to public Law (i.e. an *ad hoc* unit within a Ministry or a self-existent legal entity under public law, Tourism Police etc.) while the rest are classified into private law, as already stated.

Nowadays, the legislation on tourism is regarded as a specific branch of law, and it is not merely 'legislation'. However, it is to show that it is a transversal discipline, like cultural law, environmental law etc. In other words, it has not reached the status of an autonomous branch, exemplified by the aforementioned public law in the strictest sense (constitutional law and administrative law). Criminal law, being a part of public law in the wider sense, constitutes another clear case of this category whilst civil law and commercial law are also included in the same category.

Tourism law is characterized by legal theory as a transversal discipline and not an autonomous branch because it has not acquired interpretative self-sufficiency yet. In other words, it cannot cover its needs in interpretation, mainly in the case of legislative vacuums, by itself. So, it is led to borrow the available common legal tools from the autonomous and much older branches, for instance administrative law. It is also important to say that there is a significant interaction between tourism law and other specific heteronomous branches. For instance, tourism law has recently been endowed with the sponsorship contract institution, following the model of cultural sponsorship contracts, in the Greek legal order (Maniatis, 2015).

## **A. Literature discussion on norms**

Literature has been recently endowed with the PhD thesis 'The normativity in law' (Brunet, 2011). This monograph focuses on norms in comparison with the term 'law rules, which was in use, almost always, up to World War II. Only later, because of the formulation adopted by Kelsen in his essays translated in French, the use of words '*norme-normatif-normativité*' emerged, instead of this term (Pierrat, 2007). The newer expression was used mainly to imply that the law includes abstract and coercive rules of juridical nature. It is indicative that the French Constitutional Council in its judgement of 21.4.2005 made use of the following phrase: '*the law aims to provide rules, and must subsequently be coated with a normative significance*'.

In conclusion, the term 'rule' seems to have a more general and thus a more flexible sense. Anyway, the alternative 'norm' is common in management and other social sciences. In the framework of the current analysis, it is going to be used mainly to point out the non-judicial norms of the socio-economic context of tourism. However, it will be also used to describe the totality of rules, which are by nature either unofficial (not judicial) or judicial.

Various norms have been generated by society in the field of tourism and may be based on accurate data or be social stereotypes. These unofficial rules have often a socio-economic content like the following ones:

1. *The tourist, it's the other!*

There is a traditional opposition between 'traveller' and 'tourist', which remains very strong: The word 'traveller' has a positive profile whilst the word 'tourist' has a bad reputation and is considered *inter alia* a lazy person 'killing his time'. It is about a diachronic stereotype having to do with an opposition of social classes. Before the emergence of massive tourism, travels were the privilege of only the upper classes. The adoption of laws on paid days of off-duty enabled working people to enjoy regular holidays and led the upper classes to virtually demonize tourism (Vainopoulos, 2009; Mercier, 2009).

2. *'Cultural tourists spend substantially more than standard tourists do'.*

It is generally agreed that the income coming from the specific form of cultural tourism is much higher than the one relevant to conventional tourism. This perception is convincing, given that cultural tourists are likely to have a relatively high intellectual and economic level.

3. *'One's own cultural identity is solidified, by observing the exotic other identity'.*

Travelling abroad, particularly to exotic destinations, contributes to one's self-conscience and so enacts an important pedagogical role. Anyway, in certain destinations, mainly in those of the most underprivileged countries, the residents get to become servants of the tourists and this creates resentment between the local population and the visitors. Thus, tourism establishes the bases of a new form of colonialism, based on the foreign dependency (Doxey, 1975). Governments should find a means of managing, if not maybe completely eradicating, the problems relevant to the cultural identity of the host countries. This is particularly the case in which tourism-related problems impact on the socio-cultural values of the society or on the environment (Budowski, 1976). According to par. 1 of article 2 of the aforementioned Code of WTO, *'Tourism, the activity most frequently associated with rest and relaxation, sport and access to culture and nature, should be planned and practised as a privileged means of individual and collective fulfilment; when practised with a sufficiently open mind, it is an irreplaceable factor of self-education, mutual tolerance and for learning about the legitimate differences between people and cultures and their diversity'.*

## **The relationship of tourism norms to tourism law**

Literature suggests that indigenous culture should be preserved through specific tourism legislation (Atherton, 1998). This datum constitutes a crucial example of the intrinsic complementarity between social norms and legal rules relevant to tourism activities, particularly on an international scale.

Besides this case of complementarity, it results in a common identity, an identical nature, of cultural and juridical norms, exemplified by their political nature. It has been pointed out that tourism may lead to a new form of colonialism, based on the foreign dependency. In this sociopolitical framework, hosts are servants but also opponent to 'sovereign' foreign tourists. In a similar way, in constitutional terms, the fundamental civil right to tourism is not merely a civil right but also a political one, among human rights against the state power. This complex status is valid, in spite of

the fact that a tourist is, as a general rule, a non-political subject in the political context of the foreign country that he is visiting.

This reference to the political nature of tourism norms is comparable with the concept on potential agents of state diplomacy. Nowadays, according to the political culture in many countries, besides conventional diplomacy operated by professional diplomats, international relationships should be promoted by alternative dynamic forms of 'diplomacy'. For instance, this modern approach encourages officers of the armed forces to enact the role of informal diplomats in defense and security international affairs. Another form of alternative diplomacy has to do with archeological excavations, being in operation in foreign countries, and with other similar international exchanges. So, people travelling for entertainment should not be considered as 'tourists' of a rather apolitical status (anyway downgraded against respectful 'travelers', according to the aforementioned non-judicial norm) but they should be encouraged to act as cosmopolitan citizens, comparable with the informal organs of alternative diplomacy. Of course, alternative tourism, a contestation movement opposed to the conventional type of mass tourism, is exemplified by the model of the tourist participating actively in the social activities, like archeological excavations.

### **Justice Tourism**

It has been suggested that alternative tourism could become '*the tourism in the promotion of a new order*' (Lanfant and Graburn, 1992) and justice tourism is considered as a best example. Justice tourism is a relatively new notion, which emerged in theory from the theorization of the ethics of tourism, which has appeared in recent times. For instance, justice tourism is described as 'both ethical and equitable', with the following attributes:

- Builds solidarity between visitors and those visited;
- Promotes mutual understanding and relationships based on equity, sharing and respect;
- Supports self-sufficiency and self-determination of local communities;
- Maximizes local economic, cultural and social benefits (Scheyens, 2002).

An interesting example of justice tourism is the Community Leadership Program organized by the Australian NGO Oxfam Australia (formerly called Community Aid Abroad), which takes participants on an extended tour of India to learn about community development and to return to Australia committed to contribute to community development. Its vision statement reads: '*The vision for the Community Leadership Program not only encompasses a combination of workshops and project visits overseas but is hopefully an ongoing process of building effective community involvement in Australia around issues of human rights, international justice and sustainable development. To this end, participants will be encouraged to give some voluntary time in the 12 months following their return to become involved in locally based social justice issues*'. A distinguishing feature of this program is the underlying ethos that people from developed countries can learn from the sound community development practices by people in developing countries. In fact, some specific examples of justice tourism, like this program, indicate that the global change required is not only helping the poor in the developing countries achieve better standards of development, but also changing how the privileged in the developed countries live their lives by suggesting ways they might re-orient their consumer and market-driven lifestyles. Relatively recent developments consist of the alignment of the justice tourism movement with the global justice movement through the annual

gatherings of global civil society groups within the World Social Forum, which has been convened since 2001. The formation of the Tourism Interventions Group, with its collaboration with the social justice movement meeting under the auspices of the Forum, shows that justice tourism aims for a fundamental transformation of the contemporary global order. While the agendas of justice tourism and larger justice movement may sound utopian, in fact relevant transformations can be seen underway. For instance, Argentina saw market relations disintegrate as a result of the 2001 economic crisis and Argentinians turned to worker-run cooperatives, barter arrangements and community solidarity networks to survive (Higgins-Desbiolles, 2008). Even if justice tourism is related to radical transformation and to revolution for a humanistic globalization, as a general rule it has to do with the material dimension of the rule of law.

### **Conclusion: The right to tourism within sustainable and social rule of law**

The paper hypothesis that the principle of rule of law promotes the status of tourism and this has been fully confirmed, but with the addition of crucial parameters. Indeed, the principle of rule of law tends to be seen as a dynamic whole, along with the principle of welfare state and second generation fundamental rights.

Key concerns of the current era are how to secure ecological sustainability and the universal right to tourism, given that the globalization has been conducive to economic crises worldwide and to political instability particularly in authoritarian and undeveloped countries. In this context, the principle of social rule of state is still actual and deserves enhancement through its formal correlation with modern legal tools, such as the third generation right to the environment and the principle of sustainable development. The fundamental right to tourism, although explicitly non-existent in the Greek constitution and the vast majority of other formal Constitutions, is a genuine fundamental right, having not only a civil dimension consisting in the freedom of movement but also a slightly political one and a social one. The more interesting development consists in the recent emergence of various rights of a newer generation, which are intensively interrelated. Tourism is thus suggested to be considered mainly as a third generation right, in intrinsic relationship with the environment. In other words, the rather vague constitutional formulations on a right either to the environment or to the protection of the environment, includes or at least implies the right to enjoy the various aspects of the natural and cultural environment as a traveller and as a tourist. Of course, it is important to consecrate explicitly also the right of appropriate enjoyment of the free time, which includes the specific right to tourism.

Last but not least, the principle of rule of law could be promoted to a triple doctrine level. This innovative tool in constitutional terms includes, at first, the principle of law in its traditional separate version, relevant mainly to individual and political rights and to institutional guarantees. It is also connected with the initially separate principle of social state and should be correlated to sustainable development. In this framework, it results as a concept on sustainable and social rule of law, namely as a crucial meeting point of rights of the three generations.

It is recommended that researchers promote the research on the relationship between tourism law, drastically developed in its centuries long history, and the rest of the relevant norms, because of their strong relationship and their complementarity. Legal regulations constitute a political material, open to the social perceptions and unofficial norms. Of course, non-judicial norms may be transformed into official norms or, at least, inspire the legislator. For instance, the term 'tourist' itself should

no more be a taboo, in either both levels of law and / or social norms. This approach should focus even on contestation movements and social norms that have not been adopted yet by the current legal system, such as, for example, the notion of Justice Tourism.

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