

The protection of environment in tourism legislation***La protection de l'environnement dans la législation touristique*******Dr. AISSA Zahia******University of Boumerdes******z.aissa@univ-boumerdes.dz***

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Abstract:

The tourism sector in many countries is an important source for the national economy through the hard currency it generates with the important flows of tourist groups, and the practice of tourism activity is subject to an important legal system. Many countries tried to control this sector for the benefit of the state, considering tourism as a positive source for it.

Tourism may pose a threat to the environment through the massive influxes of tourist groups, in various forms such as pollution of tourist sites, greater exploitation of energy, exploitation of areas and real estate to implement tourism projects at the expense of the environment, all these data led countries to include in their tourism legislation guarantees intended to protect the environment, and the source of those guarantees are multiples including national and international ones, which states adopt in their constitutions and legislations to protect the environment. This research comes to explain the guarantees of environmental protection in tourism legislation.

Keywords: Environment, law, tourism, hostel, travel agency.

Abstract:

Le secteur du tourisme dans de nombreux pays est une source importante pour l'économie nationale grâce à la devise forte qu'il génère avec les flux importants de groupes touristiques, et la pratique de l'activité touristique est soumise à un régime juridique important qui en est une source positive.

Le tourisme peut constituer une menace pour l'environnement à travers les afflux massifs de groupes touristiques, sous diverses formes telles que la pollution des sites touristiques, une plus grande exploitation de l'énergie, l'exploitation des territoires et de l'immobilier pour mettre en œuvre des projets touristiques au détriment de l'environnement, toutes ces

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données ont conduit les pays à inclure dans leur législation touristique des garanties destinées à protéger l'environnement, et la source de ces garanties sont nombreuses, notamment nationales et internationales, que les États ont adoptés dans leurs constitutions et dans leur législation pour protéger l'environnement. cette recherche vient éclaircir les garanties de protection de l'environnement dans la législation touristique

Keywords: environnement, loi, tourisme, hôtel, agence de voyages.

Introduction:

The tourism sector in many countries is an important source for the national economy through the hard currency it generates with the important flows of tourist groups, and the practice of tourism activity is subject to an important legal system. Many countries tried to control this sector for the benefit of the state, considering tourism as a positive source for it, which may at the same time pose a threat to it in many areas, including the environmental field.

And because protecting the environment is a definite necessity closely linked to the fate of humanity, the international community has made efforts, within several consecutive conferences, to enact important international conventions aimed at protecting the environment for a better life, and most national legislation has adopted within its strategy mechanisms to protect its environment.

As mentioned previously, tourism may pose a threat to the environment through the huge influxes of tourist groups, in various forms such as contamination of tourist sites, greater exploitation of energy, exploitation of spaces and real estate to implement tourism projects at the expense of the environment, all these data led countries to include in their tourism legislation legal guarantees intended to protect The environment, and the source of these safeguards are multiple, including national, state-specific and international, which states have developed by adopting international mechanisms in their constitutions and in their legislation to protect the environment.

The focus of this study is related to environmental protection guarantees in tourism legislation, and through what was discussed, the following problem can be raised:

What are the guarantees for environmental protection in tourism legislation?

To answer this problem, the following axes will be discussed:

1: An overview of the risks of tourism to the environment.

2: Mechanisms for activating environmental protection in tourism legislation.

Conclusion

An evaluation looks at the effectiveness of national mechanisms to ensure environmental protection in the tourism field, along with making some suggestions to enhance this protection.

1: An overview of the risks of tourism to the environment.

By referring to the statistics provided by the World Tourism Organization, it becomes clear to us directly that the tourism sector is in continuous growth at the global level, which has a direct impact on the growth of tourism at the local level¹.

On the other hand, responding to this demand by providing these capabilities may require the impact, whether directly or indirectly, on the environment in which tourism is practiced, so that tourism turns from an important economic source that benefits countries in various fields to a source of multiple risks, including the risks associated with the environment.

If we wanted to count the total number of cases that pose a risk of tourism to the environment, we would have concluded these basic elements:

The risks of tourism to the air environment, the risks of tourism on natural resources, the risks of tourists to environmental pollution.

A - Tourism risks to the air environment

Perhaps one of the most prominent risks resulting from tourism in the environmental field is the impact on the quality of inhaled air through the means of transport exploited to ensure the transportation of tourists from the residence to the intended tourist areas, whether it is related to air, land or sea transport, including Airplanes, cars, buses, ships and other means of transportation secrete chemical and toxic gases that inevitably affect air quality and result in environmental damage. Scientific studies have proven that they also have an impact on climate change².

B - Tourism risks to natural resources

The risks of tourism also extend to the enormous natural resources that are employed in order to respond to the requirements of tourists. Perhaps one of the most important resources exploited in this area, and in large part, is water resources, as water is one of the most important natural resources exploited in the tourism field, especially from The party of the

hotel establishments, whether it is related to the personal use of water by the customers, or in terms of using the water for the purposes of daily cleaning of rooms and its consequences in terms of mattresses and blankets, bearing in mind that this cleaning is related to the degree of classification of the hotel establishments.

In addition, investment in the tourism field requires the provision of significant areas of land designated for this purpose, and inevitably, this expansion through the construction of hotel establishments to cover the demand for accommodation will inevitably affect the natural environment, especially if the matter is not studied and legally framed to avoid random expansion that may affect even agricultural lands Or it affects the tourist sites and loses their natural beauty³.

C - Risks of tourists on environmental pollution

one of the most prominent remnants of tourism, which has a direct impact on environmental pollution, is the remnants of hotel establishments of unsuitable water, especially if the hotel site is located in an area that is not prepared for construction, and this has been examined in many cases by hotel establishments located close to the beaches.

In addition to that, the inappropriate behavior in many cases on the part of tourists has greatly affected the deterioration of the tourist areas, whether in terms of the remnants that tourists leave in those areas or in terms of damaging the tourist sites in various ways.

2: mechanisms for activating environmental protection in tourism legislation

By referring to the entirety of the national legislation related to tourism, it becomes clear to us that the legislature of most countries has not neglected the inclusion of the issue of environmental protection in the tourism legislation, in recognition of the need to integrate the issue in the sector, and in order for it to be exploited in a framework through which it avoids breaching the principles on which the environment is based.

The Algerian legislator has included these principles within Article 3 of Law No. 03-10 of July 19, 2003, related to environmental protection within the framework of sustainable development, which mainly consisted in the principle of preserving biological diversity, the principle of non-degradation of natural resources, the principle of substitution, the principle of inclusion, the principle of preventive activity. And correction of environmental damage with priority at the source, the principle of

precaution, the principle of the polluter motive, the principle of information and participation⁴.

The Algerian legislator has realized the importance of including the issue of the environment in the tourism legislation in the areas organized by the sector, whether it is related to the topic of sustainable development and tourism, tourism real estate, hotels, tourism and travel agencies, and other laws related to tourism and will be highlighted through some texts in this axis. Either directly or indirectly, occupied by the environment in the tourism field.

A - Environmental protection and sustainable development of tourism

The topic of sustainable development for tourism is considered one of the most prominent issues related to the topic of the environment, and this is evidenced by Law 03-01 of February 17, 2003 related to sustainable development for tourism, which is clarified through the sum of the goals that it came up with that aim to create an appropriate and stimulating environment among its goals. It is essential to contribute to protecting the environment, improving the standard of living, and valuing natural, cultural and historical capabilities⁵.

The same law defines sustainable development as a development model in which options and development opportunities that preserve the environment, natural resources and cultural wealth for future generations are included. This law is considered a qualitative leap through the consolidation of the relationship between tourism and the environment.⁶

B - The relationship of tourism real estate to the environment

Investment in the tourism field calls for allocating an important real estate base for the completion of tourism projects, but the Algerian legislator, aware that this investment can only be within a legalized framework, subject tourism investments to special and strict controls in terms of designating the property designated for tourism projects with the necessity of its presence in a site tourist.

The law has created a special commission to define real estate destined for tourism according to accurate studies, and also linked the completion of tourism projects to the necessity of preparing the region for this, as it is not possible to complete any tourism project in an area that has not been prepared for this realization of tourism projects.

When we talk about tourism real estate in Algeria, the idea of areas for tourism expansion is being raised with it. The Algerian legislator

defined in Article 2 of Law No. 03/03 of 02/17/2003 ⁷regarding expansion areas and tourist sites in these areas, as it stated: In the following terms:

Areas of tourism expansion:

Every area or extension of the region that has natural, cultural, human and creative characteristics or characteristics suitable for tourism, is qualified to establish or develop a tourism facility, and can be used to develop one or more types of cost-effective tourism.

Tourist site:

Every landscape or site that has a tourist attraction because of its picturesque appearance, or what it contains in terms of wonders, natural peculiarities, or structures constructed on it, is recognized for its historical, artistic, mythological or cultural importance, whose originality must be valued and preserved from damage and extinction by nature or human.

A protected area:

A part of an expansion area or a tourist site that is not buildable and requires special protection in order to preserve its natural, archaeological or cultural qualifications.

The issue of the environment was raised within the law 03/03 through its fourth article, which emphasized that the state prepares strategies and programs for the purpose of encouraging the development and protection of expansion areas and tourist sites that would have positive effects on the national economy, emphasizing the role that tourism plays in the economic field, With the emphasis that the development and preparation of tourist expansion areas and tourist sites must be in conformity with the legislation related to the protection of the environment and the coast and the protection of classified cultural heritage.⁸.

It should be noted that the buildable tourism property is formed according to Article 20 of Law 03/03 from the lands designated for this purpose in the tourism development plan and includes lands belonging to public and private national properties, and those belonging to private ones.

It shall be part of the tourism development plan, and Executive Decree No. 07/86 dated 03/11/2007 specified the modalities for preparing and preparing the tourism development plan for expansion areas and tourist sites ⁹ the second article of it stipulates that: "In the concept of this decree of the tourism development plan, it is meant the set of general rules for the

preparation and use of a tourist expansion area, the specifications for reconstruction and construction, as well as the applied easements regarding the use and protection of property and real estate built according to the tourist character of the site.”

The preparation of the plan shall be by a decision of the Minister in charge of tourism for each specific, authorized and regularly classified tourism expansion area, and the director of tourism in the concerned state is assigned regionally under the authority of the governor and in consultation with the National Agency for Tourism Development.

The studies office legally certified and qualified in the field of tourism preparation is to prepare the tourism preparation scheme in compulsory consultation with a group of public administrations and decentralized interests of the state, including housing and urbanization, culture, territorial preparation and the environment¹⁰ therefore, the preparation of the region is linked to consultation with the body in charge of the environment¹¹.

The tourism development plan includes a report explaining the status of the tourism expansion area for which the plan was prepared and announcing the measures decided to evaluate, prepare and manage them. Among the most important topics it includes, for example, the tourist real estate advantages located in the tourist areas that are rich in these areas, knowing that these data encourage more to bring heads Funds for the establishment of private hotel establishments to receive tourist delegations, knowing that an agency called the National Agency for Tourism Development was established with several powers with regard to lands located in tourist areas intended for the realization of tourist facilities, and that was pursuant to Executive Decree No. 98/70 of Shawwal 24, 1418 Corresponding to February 21, 1998¹².

C- The relationship of the hotel business, tourism and travel agencies with the environment

The hotel business was regulated by Law 99/01 of January 6, 1999, as well as a set of executive decrees, most of which were issued in 2000¹³ and Article 46 of the aforementioned law stipulates that the construction of hotel establishments is subject to a set of conditions before granting a license to exploit them, the most important of which is the compulsory approval of plans for a construction project, modification, configuration, or even demolition of a hotel establishment by the concerned authorities and the matter relates to the approval of the committee charged with approving Hotel establishments building plans.

Any person who fails to comply with this condition is subject to punishment and may expose its owner to penalties of a fine ranging between 50,000 and 100,000 DZD, with imprisonment from one month to six months, or one of the two penalties.

May the inclusion of such a condition has multiple reasons, including those related to environmental protection, which can be deduced from the article. 17 of Executive Decree 06/325 of September 18, 2006, which defines the rules for building and preparing hotel establishments¹⁴ And which stated in its content that every building or establishment of a hotel establishment whose location or size causes damage to the environment that can be stopped, prevented, or subjected to special procedures. May the legislator's inclusion of this procedure is aimed at protecting the environment.

As for tourism and travel agencies, it was defined in Article 3 of Law No. 99-06 of April 04, 1999¹⁵ As every commercial establishment, whether a natural or legal person, that carries out a permanent tourism activity represented in the direct or indirect sale of individual or group trips and stays and all kinds of services associated with it.

Among the general duties that fall on the exploiters of tourism agencies and travels to respect the environment and preserve the tourist areas and sites that are visited.

Conclusion

The issue of environmental protection is closely linked with tourism, so we cannot talk about the success of a tourism sector without a sound environment, and at the same time there cannot be a healthy environment without the contribution of the tourism sector in protecting it, and on this basis many countries sought to include their tourism legislation. It guarantees the protection of the environment despite the huge tourism inflows.

Looking at all the legal texts regulating the tourism sector, it is evident from the first glance that the Algerian legislator has given great importance to the environment in tourism legislation, and it remains that ensuring the application of these texts is closely linked with the subject of oversight, to ensure the effectiveness of these texts.

In addition, environmental awareness in the tourism field is necessary to reach the goals set forth by the texts, and therefore to ensure the protection of the environment in the tourism field, all dealers in the tourism sector must be involved to achieve this goal by raising awareness first, as previously mentioned, to employ the most effective means,

techniques and strategies for practicing tourism and hotel activities in line with Environmental protection, tightening in the control field in a way that makes adherence to environmental rules a certain matter.

In addition to that, employing specialists in the environmental field has become a necessary matter, and therefore the inclusion of specialized training in the field of tourism environment will inevitably contribute to the inclusion of specialists in a field that needs such competencies.

In the end, it remains that protecting the environment is everyone's responsibility, involving several parties. Therefore, concerted efforts jointly are the most effective way to ensure a healthy life.

References:

¹ As example and before the Corona Pandemic The UNWTO World Tourism Barometer, Press Release. N° PR No.: 17003 17 Janvier 20 17 , « La demande de tourisme international est restée forte en 2016 malgré les difficultés. Selon le dernier Baromètre OMT du tourisme mondial, les arrivées de touristes internationaux ont augmenté de 3,9% pour atteindre un total de 1 milliard 235 millions. En 2016, le nombre de touristes (visiteurs qui passent la nuit) ayant réalisé un voyage international a progressé de quelque 46 millions par rapport à 2015 ». <http://www2.unwto.org/fr/press-release/2017-01-17/demande-continue-de-tourisme-international-malgre-les-difficultes>

PR N°:16008 18janvier 2016, Record d'arrivées de touristes internationaux en 2015, à 1,2 milliard, en hausse de 4 % , <http://media.unwto.org/fr>

² Several international agreements have been concluded aimed at protecting the environment from pollution, and Algeria has ratified many of them, the most prominent of which are:

Presidential Decree No. 16-262 signed on October 13, 2016 includes the ratification of the Paris Agreement on Climate Change, adopted in Paris on December 12, 2016. Official Journal No. 60 dated 13 October 2016, page 3.

Presidential Decree No. 07-94 signed on March 19, 2007 ratifying the amendment to the Montreal Protocol on Substances that Deplete the Ozone Layer, adopted in Beijing on December 3, 1999, Official Journal No. 19 dated March 21, 2007, page 7.

Presidential Decree No. 163-95 signed on June 06, 1995, containing the ratification of the Convention on Biological Diversity signed in Rio de Janeiro, June 5, 199, Official Journal No. 32 of June 14, 1995, p.

Presidential Decree No. 16-262 signed on October 13, 2016 includes the ratification of the Paris Agreement on Climate Change, adopted in Paris on December 12, 2016. Official Journal No. 60 dated 13 October 2016, page 3.

³ This point will be detailed in the second axis.

⁴ Law No. 03-10 of 19 Jumada Al-Ula in 1424 corresponding to July 19, 2003 related to the protection of the environment in the context of sustainable development, Official Journal of the Republic of Algeria No. 43, dated 28 Jumada al-Awwal 1424 corresponding to July 20, 2003, p. 6.

⁵ Law 01-03 of 16 Dhu al-Hijjah 1423 corresponding to February 17, 2003 related to sustainable development of tourism, Official Journal of the Republic of Algeria No. 11 of Dhul-Hijjah 18 of 1423 corresponding to February 19, 2003, p. 4.

⁶ Article 3 of the same law.

⁷ Law No. 03/03 of Dhu al-Hijjah 16 of 1423, corresponding to 02/17/2003, relating to areas of expansion and tourist sites? Official Journal of the Republic of Algeria No. 11 dated 02/19/2003 p. 14 onwards.

⁸ Among the most prominent texts related to the environment and its protection are: Law No. 02-02 signed on February 05, 2002, relating to the protection and valuation of the coast, Law No. 04-03 signed on June 23, 2004, relating to the protection of mountain areas in the context of sustainable development, Law No. 04-20 signed on 25 December 2004 related to the prevention of major hazards and the management of disasters in the context of sustainable development. Law No. 06-07 signed on May 13, 2007 related to the management, protection and development of green spaces. Law No. 11-02 signed on February 17, 2011 related to protected areas in the framework of sustainable development Law 98-04 of Safar 20, 1419, corresponding to June 15, 1998, relating to the protection of cultural heritage, Official Journal of the Republic of Algeria No. 44, p. 3 and beyond.

⁹ Executive Decree No. 07/86 of Safar 21, 1428 corresponding to March 11, 2007 specifying the modalities for preparing the tourism development plan for expansion areas and tourist sites, Official Journal of the Republic of Algeria No. 17 dated 03/14/2007.

¹⁰ See the ninth article of the same decree.

¹¹ The Director of Tourism, in coordination with the heads of the concerned municipal people's councils, organizes consultation sessions in the various stages of preparing the plan with the various relevant bodies until the draft plan is approved by the deliberations of one or several popular councils of the concerned state.

After that, the governor informs the public services that were consulted when preparing the plan in accordance with Article 9 of Executive Decree No. 07-86 mentioned above to express opinions and observations regarding this, bearing in mind that failure to respond within the 30-day period constitutes acceptance of the draft scheme. The proposal of the Director of Tourism for the concerned state and a copy of it is communicated to the Minister in Charge of Tourism, after which the People's State Council approves the tourism development plan after undergoing public investigation within a period of 60 sixty days after recording all the notes in a special record numbered and indicated by the governor and signed and closed from The party of the investigating governor, with the writing of a verified report for that, the record is sent to the governor within fifteen days to express his opinion, and the governor issues his opinion after receiving the file within fifteen days as well, and in the event that the deadlines expire without any response, the governor is considered to have agreed to it.

Accordingly, the People's State Council considers the tourism development plan passed above in the investigation record, the investigation closing record, the results of the investigating governor, as well as the governor's opinion, the last procedure for sending the entire file to the minister in charge of tourism.

¹² Executive Decree No. 98/70 of Shawwal 24, 1418 corresponding to February 21, 1998 includes the establishment of the National Agency for Tourism Development and the definition of its Basic Law. Official Journal of the Republic of Algeria No. 11 of March 01, 1998. It was placed under the tutelage of the Minister in charge of Tourism and according to the first article of the decree, the agency is considered a public institution Of an industrial and commercial character, it enjoys a moral personality and

financial independence, and is subject to the rules applied to the administration in its relations with the state and is considered a trade in its relations with others. The headquarters of the agency shall be Algiers, and it may change its headquarters to any other place by a decision of the Minister in charge of tourism. The agency is one of the main bodies qualified for the management, development, rational exploitation and protection of tourism real estate, and thus it is an essential tool to embody the national policy for the development of tourism and urban preparation. It also undertakes the development of areas of tourism expansion, and takes care of placing prepared real estate vessels at the disposal of tourism investors and dealers by selling the concession in accordance with the book of conditions and laws in effect, as well as exercising the right of pre-emption or expropriation of tourism real estate and this will be covered in the second section.

¹³ It should be noted that the construction and exploitation of hotel establishments is subject to a set of legal texts, including: Law 99/01 of 19 Ramadan 1419 corresponding to January 6, 1999 defines the rules relating to hotels, Official Journal of the Republic of Algeria for Ramadan 23 1419 corresponding to January 10 1999 Executive Decree No. 2000/130 of Rabi` al-Awwal 8, 1421, corresponding to June 11, 2000, relates to the classification of hotel establishments.

¹⁴ Executive Decree No. 06-325 of Shaaban 25, 1427 corresponding to September 18, 2006 defines the rules for building and equipping hotel establishments, Official Journal of the Republic of Algeria dated Shaaban 27, 1427 corresponding to September 20, 2006, p. 14.

¹⁵ Law No. 06-99 of 18 Dhu al-Hijjah 1419 corresponding to April 4, 1999, defines the rules governing the activities of the Tourism and Travel Agency, Official Journal of the Republic of Algeria No. 24 of April 7, 1999.