

KONSTANTIN
PRESLAVSKY
UNIVERSITY
SHUMEN



ШУМЕНСКИ УНИВЕРСИТЕТ
“ЕПИСКОП КОНСТАНТИН ПРЕСЛАВСКИ”

VI Научна конференция с международно участие
ГЕОГРАФИЯ,
РЕГИОНАЛНО РАЗВИТИЕ И ТУРИЗЪМ
Посветена на 60-годишнината от началото на обучението
по география във висшето образование в Шумен

8 – 10 ноември 2024

СБОРНИК С РЕЗЮМЕТА

VI Scientific conference with international participation
GEOGRAPHY,
REGIONAL DEVELOPMENT AND TOURISM
Dedicated to the 60th anniversary of the beginning of training
in geography in higher education in Shumen

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BOOK OF ABSTRACTS

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Abstract

The tourism economy needs innovative enterprises, which are able to fully align their strategy and structure as well as notice the demands of the tourism market and make innovation changes. There is a need for developed information systems in tourism marketing in these enterprises as they can communicate with all relevant stakeholders who have access to the economy and society.

Strategic marketing provides the necessary combination between a tourism enterprise and the environment in which it operates. Companies that incorporate the theory and practice of strategic marketing into their business strategy encourage an increase in the speed of change in their approach to the customer. This means that innovation and adaptability are the main features of the strategic marketing of tourism companies. An innovative enterprise presupposes a management willing and able to initiate, support and implement changes of a creative nature. Without effective management and leadership, changes and innovations necessary to overcome the economic crisis cannot be expected.

ПРЕДИЗВИКАТЕЛСТВА В ТУРИЗМА – МЕДИАЦИЯТА КАТО НОВ НАЧИН ЗА РЕШАВАНЕ НА СПОРНИ ОТНОШЕНИЯ В ТУРИЗМА

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Ключови думи: туризъм, спорни отношения, характерни видове, медиация

Резюме

Противоречията в съвременния свят стават все по-сложни – от една страна, са глобализацията и прогресът на технологиите, а от друга – необходимостта от увеличаване на икономическия растеж на всяка страна. Използвайки предимствата, туризмът се превръща в един от водещите отрасли в икономиките на много страни. Подобна позиция води до възникването на голям брой спорни отношения между участниците в този бранш. Тези отношения могат да имат социокултурен, социодемографски, инфраструктурен, екопространствен и икономически характер. Спорни въпроси могат да възникнат между държавата и туристическите дружества, местните общности и туристическите дружества, служителите на туристическите дружества и туристическите дружества, потребителите на различни услуги в туризма – потребители и фирми, които предоставят услугите. Самото естество на туристическата дейност води до необходимостта от бързо, ефективно, ефективно и евтино разрешаване на спорните отношения. Медиацията като нов

начин за разрешаване на подобни спорове има голямо предимство пред съдебния процес. Медиацията е бърза, по-евтина и гъвкава процедура, точно това, което е необходимо при разрешаване на спорни отношения в туристическия бранш. Медиацията е процес, ръководен от медиатор, при който на първо място са интересите на заинтересованите страни, а не фактите и доказателствата. Резултатът от процеса на медиация е споразумение и две доволни страни.

Целта на настоящия доклад е да подчертае приложимостта и предимствата на процедурата по медиация като алтернативен начин за разрешаване на спорове, възникващи в туристическата индустрия.

CHALLENGES IN TOURISM-MEDIATION AS A NEW WAY OF SOLVING DISPUTES IN TOURISM

Svetlana Popova, Cane Koteski

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Key words: *tourism, contentious relations, character types, mediation*

Abstract

Contradictions in the modern world are more and more complex. On the one hand, globalization and the progress of technologies, and on the other hand, the need to increase the economic growth of each country. Using the advantages of the modern world, tourism is becoming one of the leading branches in the economies of many countries. Such a position leads to the emergence of a large number of disputed relations between the parties involved in this branch. Those disputed relations may have a socio-cultural, socio-demographic, infrastructural, eco-spatial, and economic character. Disputed issues may arise between the state and tourism companies, local communities and tourism companies, employees of tourism companies and tourism companies, users of various services in tourism—consumers and companies that provide the services. The very nature of the tourism activity leads to the need for quick, efficient, effective, and cheap resolution of disputed relations. Mediation as a new way of resolving such disputes has a great advantage over the court process. Mediation is a fast, cheaper, and flexible procedure, exactly what is needed in the resolution of disputed relations in the tourism industry. Mediation is a process led by a mediator in which the interests of the interested parties come first, not the facts and evidence. The result of the mediation process is an agreement and two satisfied parties.

The purpose of this paper is to highlight the applicability and advantages of the mediation procedure as an alternative way of resolving disputes that arise in the tourism industry.

CHALLENGES IN TOURISM-MEDIATION AS A NEW WAY OF SOLVING DISPUTES IN TOURISM

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Abstract

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Key words: tourism, contentious relations, character types, mediation.

Introduction

Relationships in the modern world are becoming more complex. Globalization and advances in technology, the need to increase the economic growth of each country and the well-being of citizens, lead to phenomena that did not exist in the past or were not so developed. Issues of overtourism, the interests of tourism and hospitality companies, the needs of local communities, increasing awareness of environmental protection, demographic issues, the

interests of tourism and hospitality employees, and the individual interests of consumers are increasingly the focus of the interests of all involved. Taking advantage of the modern world, tourism and hospitality is becoming one of the leading industries in the economies of many countries. Such a position leads to the emergence of a number of contentious relations between the parties involved in those relations. These disputed relationships can be socio-cultural, socio-demographic, infrastructural, eco-spatial, and economic in nature. Contentious issues may arise between the state and tourism and hospitality companies, local communities and tourism and hospitality companies, employees of tourism and hospitality companies and companies, users of various services in tourism and hospitality – consumers and service providers.

The increase in technical and economic opportunities for human mobility has actualized the issue of overtourism (or pre-tourism), i.e. the carrying capacity of a tourist destination. On the one hand, not to jeopardize the social and environmental environment and the rights of the domiciled population, and on the other hand, not to restrict tourists from visiting certain destinations. Domiciled populations suffer consequences concerning their lifestyle, access to institutions, companies or tourism and hospitality facilities. There is a transformation of cities and districts, excessive conversion of dwellings into rental facilities for tourists, traffic is hampered, the price of housing, cultural and recreational facilities, museums, catering services is increasing, the environment is polluted, public space is usurped with urban equipment, and the issue of safety arises.

As a result, local communities react and disputes arise between them and the state, between the local community and tourism and hospitality companies, between companies and the state. Tourism and hospitality companies carry out a wide range of activities that create relationships between companies, between companies and suppliers, between companies and customers-users of services or consumers, between companies and employees. The very nature of tourism and hospitality as an activity contains a contradiction. The interest of the companies – the business, the interest of the customers, the interest of the local communities. Services offered by tourism and hospitality companies are related to accommodation, catering, passenger transportation, package deals. Short-term disputes require fast, efficient, and cost-effective resolution.

The very nature of the tourism and hospitality industry leads to the need for a quick, efficient, effective and inexpensive resolution of disputes. Participants in such disputes are looking for new ways of resolving disputes that will suit their interests. This is where mediation finds its place as an alternative method of dispute resolution.

What is Mediation, Mediator, Mediation Procedure

Mediation is an out-of-court procedure, an alternative method of dispute resolution. Mediation is a form of settlement of disputes between two or more parties to a dispute, allowing them to settle the dispute by means of conciliation, mediated by a neutral third party, with the possibility of reaching a mutually acceptable written agreement. Mediation is a voluntary form of dispute resolution. The parties decide for themselves whether to resolve their dispute through mediation. The parties to the dispute participate in the proceedings in person, choosing the mediator to conduct the mediation process. Mediation is a procedure characterized by dynamism and structure, it is an interactive process where the mediator assists the parties to the mediation procedure to resolve their dispute in the most efficient and satisfactory way for both parties.

In mediation, the parties to the dispute are guaranteed confidentiality (in mediation process the public is excluded), equality of the parties, impartiality of the mediator in relation to the parties and in relation to the subject matter of the dispute, availability of information,

equality (the parties to the dispute have equal opportunities to participate in the mediation procedure), fairness (the mediator is obliged to encourage the parties to cooperate in the proceedings and provide information about the Fair Dispute Resolution), Efficiency and Economy. Mediation is so flexible that it transcends national, historical, cultural, legal norms and systemic differences, and is therefore suitable for the application of dispute resolution to a wide variety of types.

Mediation as an alternative method of resolving disputes has a major advantage over litigation. Mediation is a fast, cheaper, more reliable and flexible procedure, which is exactly what is needed in resolving disputes in the tourism and hospitality industry, and in particular disputes arising between tourism and hospitality service providers and their customers-consumers. Usually, these disputes are the result of a short-lived relationship between the parties and require a quick resolution.

It is precisely this nature of disputes that places mediation as the most appropriate way to resolve these disputes, rather than litigation. Mediation is a mediator-led process that focuses on the interests of the parties concerned rather than the facts and evidence. The result of the mediation process is a settlement and two satisfied parties. The parties to the proceedings discuss, negotiate and, with the help of the mediator, try to resolve their dispute in a manner acceptable to both parties. Mediation not only resolves the dispute, but more importantly resolves the relationship between the parties. The parties to the mediation process have control over what they gain or lose if they enter into an agreement. This means that an agreement in mediation process is concluded only if both parties agree and accept the agreed solutions. Both sides are satisfied, we have a Win-Win situation, not like in court, one wins and the other loses. Such an agreed solution is highly likely to be respected and implemented by both sides. Therefore, we say that in the mediation procedure, the focus is placed on the interests and needs of the parties.

These specifics of the mediation procedure beg the question of what and who is a mediator? A mediator is a natural person who assists the parties to a dispute through discussion and negotiation to reach a common resolution of the dispute. The mediator does not propose solutions, he only facilitates the process of discussion and negotiation, helps the parties to the dispute to understand the needs and interests of the other party, and eventually come to a mutually acceptable solution. A mediator is a person who is licensed to perform mediation. With the specific skills that mediators have, they facilitate the negotiation process. The mediator has a key role in relaxing the strained relations between the parties to the dispute, improving, reducing tensions, and advancing their relationship. Therefore, his skills in leading the mediation process are very important. The mediator must gain the trust of both parties to the dispute for the mediation process to be successful. The mediation process is carried out in several stages. These stages have their significance in the gradual approach to a final successful resolution of the dispute.

In the first stage, the mediator introduces the parties to the very meaning of the mediation procedure, the principles of mediation, the role of the mediator, his/her powers, the legal basis for conducting mediation process and the legal consequences of the settlement in the proceedings.

The next stage is the research phase in which the mediation process formally begins. Submit a request to conduct mediation process, submit to the opposing party, accept to participate in this procedure. This is followed by the third stage of negotiation where the mediator helps the parties to discuss, negotiate, understand the needs and interests of the other

party, they propose solutions, and a role reversal can be done to understand the other party's views.

And the last fourth stage, that is the stage when the procedure ends. Either it is successfully completed and a settlement is concluded, or it is terminated because no settlement has been reached.

Important documents supporting the ADR - European Regulation

The European Union strongly supports alternative dispute resolution. To this end, the European Union adopted Directive 2008/52 EC, which deals with certain aspects of mediation in civil and commercial disputes. In order to ensure better business conditions, the legal validity of agreements reached in mediation procedures, and their enforceability, the European Union by adopting this Directive obliged the Member States to implement it in their legislation. In May 2013, the European Union adopted Directive 2013/11/EC which created the conditions for the legal regulation and implementation of dispute resolution through mediation as an alternative method of dispute resolution.

This directive is particularly important for the category of consumers and disputes between consumers and traders, as it promotes alternative dispute resolution through mediation. The other purpose of this directive is to promote certification processes for mediators and procedures for regular monitoring of their work. These processes should ensure transparency, accessibility, fairness, timeliness, effectiveness, expertise, legality and impartiality, thereby improving the credibility and legitimacy of mediators in the eyes of traders and consumers. These documents reaffirm the European Union's commitment to promoting the use of alternative dispute resolution. This will have several positive effects. Reducing the pressure on the courts from the large number of court cases, increasing the efficiency, timeliness and quality of decisions made, reducing the possibility of corrupt actions in the proceedings.

Law on Mediation in the Republic of North Macedonia

The legislator, recognizing the current trends and ways of resolving disputes, their advantages and benefits, in 2006 adopted the Law on Mediation ("Official Gazette of the Republic of Macedonia" No. 60/2006). This law regulates and promotes the concept of alternative dispute resolution through mediation. This law has undergone several amendments and additions, and in 2021. a new Law on Mediation ("Official Gazette of the Republic of North Macedonia" No. 294/2021) has been adopted.

This Law regulates the general rules, norms and principles regarding the mediation procedure: what is mediation, mediator, principles of mediation procedure, which are mediated disputes, mediation procedure, deadlines for initiation and completion of mediation process, conditions for licensing mediators, organization of mediators and other relevant mediation issues.

Analysis of data on registered mediation procedures

Exploring the application of mediation as a tool for resolving disputes in tourism and hospitality, we have come to striking information, that there are neither official nor unofficial statistics. Namely, in the Register of Conducted Mediation Procedures, there is no special category for disputes in tourism and hospitality resolved in the mediation procedure. All

disputes in this area are subsumed under the general categories of consumer disputes, labor disputes, or commercial disputes. Therefore, no analysis can be made of the use of mediation as an alternative way of resolving disputes in the field of tourism and hospitality. There is no data on whether and how many disputes have been litigated in court or alternative process relating to disputed issues relating to overtourism, disputes between tourism and hospitality companies and local communities, disputes over the issue of increasing traffic with an increase in tourism and hospitality activities, environmental protection, demographic issues, individual disputes relating to reservations and accommodation issues, cancellation of flights, damage to luggage, damages incurred during the trip, services rendered regarding the quality of the food offered.

The only data we were able to analyze was the number of complaints submitted by consumers who were users of tourism or catering services that the Consumer Organization had published in its Annual Reports. Thus, analysing those reports, it is seen that consumer complaints in the part of services provided in tourism and hospitality to the Consumer Organisation are on the rise. Complaints relate to problems with travel agencies, usually changes in the part of the arrangement offered by the agencies, canceled travel arrangements, and lack of satisfaction with the services received. This data can only tell us that in the tourism and hospitality industry there are complaints, disgruntled consumers, but we do not know whether a dispute has arisen that may have been resolved in alternative dispute resolution process or litigation.

This shows that there is a need to carry out activities in the direction of promoting mediation, familiarizing the management and employees of companies with the advantages of mediation, acquainting consumers with the opportunities provided by mediation, research and analysis of the type and height of disputes in order to identify the main problems and indicate ways to resolve them.

Conclusion

Tourism and hospitality is an activity that is constantly growing. The business relations that arise in this specific activity are characterized by a huge number of transactions, a large number of involved users of services, the need for quick resolution of disputes. Mediation, as an alternative method of dispute resolution, allows the parties to the dispute to find a solution that is satisfactory to both parties with the help of the mediator, as a neutral mediator. Mediation offers fast, efficient, effective, confidential and cheaper dispute resolution than litigation because mediation as a dispute resolution process has a completely different approach to dispute resolution than litigation. A mediator helps to resolve the dispute between the parties to the dispute while maintaining good relations between them. Travel and hospitality companies need to recognize what their true interests are, and what are the interests of their customers. Dispute resolution through mediation is the right tool for resolving these disputes because it promotes cooperation, understanding of the needs and interests of the parties, overcoming differences in a constructive way.

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