

# Contents

<i>Preface</i> .....	X
----------------------	---

## **Part I     The Sources of Tourism Law and the principle of sustainable industry**

<b>1     An introduction to sustainable tourism .....</b>	<b>3</b>
1.1    Definition of tourism.....	3
1.1.1    Tourism, movement and leisure.....	3
1.2    Tourism, movement and leisure .....	4
1.2.1    The periods of tourism .....	4
1.2.2    ICT and tourism .....	6
1.2.3    Tourism and virtual reality.....	7
1.2.4    Tourism in the society of uncertainty .....	7
1.3    Peculiarities of tourism from the legal point of view.....	10
1.3.1    Tourism is a global phenomenon .....	10
1.3.2    Tourism is a non-stop phenomenon .....	11
1.3.3    Tourism needs to be sustainable.....	11
<b>2     National and International Law. The importance of cooperation.....</b>	<b>13</b>
2.1    National Political Governance and Tourism .....	13
2.1.1    National tourism law .....	13
2.2    European Law .....	15
2.2.1    Tourism in EU Law .....	15
2.2.2    The role of the EU Court of Justice and the im- portance of uniformation of law in tourism.....	16
2.2.3    The role of European Directives in tourism con- tract law.....	17
2.3    International law .....	18
2.3.1    International cooperation and tourism.....	18
2.3.2    International contract law.....	19

2.3.3	UNWTO towards a sustainable tourism.....	20
2.4	Consumers' protection .....	23
2.4.1	Consumers' legal protection.....	23
2.4.2	Customers' care.....	24
<b>3</b>	<b>Customary Law.....</b>	<b>27</b>
3.1	Customary law and legal order .....	27
3.1.1.	Definitions.....	27
3.1.2	General customary law and international customary law.....	28
3.2	Customary law in tourism sector.....	28
3.2.1	Some examples .....	28
3.2.2	Customary law and sustainable development .....	29
<b>4</b>	<b>Private Autonomy.....</b>	<b>31</b>
4.1	Private autonomy across countries.....	31
4.1.1.	A comparative approach to contract .....	31
4.1.2.	National law in international contracts.....	32
4.2	Key points in writing a contract .....	33
4.2.1	Identification of the standard performance .....	33
4.2.2	Dealing the agreement.....	34
4.2.3	Limits to freedom of contract.....	35
4.3	Judicial intervention in contractual matters .....	35
4.3.1	Illegal and unfair contracts.....	35
4.3.2	Damage in case of breach of contract .....	36
4.4	Tourism contracts.....	37
4.4.1	B2B and B2C contracts .....	37
4.4.2	Sustainable contracts .....	38
<b>5</b>	<b>The Worldwide Concept of Sustainability and Tourism.....</b>	<b>41</b>
5.1	Sustainability and tourism.....	41
5.1.1	The environmental and social impact of tourism .....	41
5.1.2	The concepts of sustainability .....	42
5.1.3	The concept of sustainability in UN actions .....	43
5.2	Defining sustainability in tourism sector .....	44
5.2.1	The environmental and social impact of tourism .....	44
5.2.2	Is sustainability an unfocused concept? .....	46

Contents	VII
----------	-----

5.2.3 Measuring sustainability .....	47
5.2.4 Some examples of sustainable tourism .....	50
5.3 The role of courts and scholars .....	53
5.3.1 Courts, Scholars and sources of law.....	53
5.3.2 Scholars, Courts and sustainability .....	55

## **Part II Consumer contracts and tourism**

<b>6 Consumer Contracts and sustainability .....</b>	<b>57</b>
6.1 Consumer contracts and sustainability.....	57
6.1.1 Sustainable consumer.....	57
6.1.2 Consumers and tourism.....	60
6.1.3 Why do consumers need protection? .....	62
6.2 Standard contracts and consumers' autonomy .....	64
6.2.1 Consumers' choice .....	64
6.2.2 Consumers' protection against unfair terms.....	64
6.2.3 Many of the consumers' rights remain unfulfilled.....	67
6.3 Consumers protection law remedies .....	68
6.3.1 Different remedies.....	68
6.3.2 Consumers protection and punitive damages .....	69
<b>7 Hospitality Industry and contracts .....</b>	<b>71</b>
7.1 Hospitality industry market .....	71
7.1.1 Tradition and innovation in hospitality industry .....	71
7.1.2 Food&Beverage .....	74
7.1.3 Sustainable hospitality .....	75
7.2 The hotel accommodation contract .....	78
7.2.1 Content of hotel contract .....	78
7.2.2 Green hotel .....	79
7.2.3 Breach of hotel contract .....	81
7.2.4 Hotel-keepers' liability.....	82
7.2.5 Hotel contract vs tourist lease contract.....	84
7.3 Sharing economy and tourism.....	85
7.3.1 Timeshare and tourism .....	85
7.3.2 Timeshare in Eu Directives .....	86
7.3.3 Home-exchange and tourism.....	88

<b>8 Travel contracts and sustainable mobility.....</b>	<b>91</b>
8.1 Transport law .....	91
8.1.1. Transport law and consumers' protection .....	91
8.1.2 Transportation contract .....	92
8.2 European and International transport laws.....	93
8.2.1 Maritime transportation law .....	93
8.2.2 Air transportation .....	98
8.2.3 Rail transportation.....	100
8.3 Sustainable mobility.....	101
8.3.1 Sustainable mobility.....	101
8.3.2 Sustainable transport and travel .....	102
<b>9 Mass. Travel Contracts .....</b>	<b>105</b>
9.1 Inclusive tour .....	105
9.1.1 From Thomas Cook's idea to mass tourism.....	105
9.1.2 Regulation of mass tourism.....	106
9.2 International law .....	106
9.2.1 International Convention on Travel Contracts .....	106
9.2.2 General Obligation on the tour organizer and on the traveller.....	107
9.2.3 General obligation on the intermediary.....	109
9.3 Travel package and European Union Law .....	110
9.3.1 The first Directive on Travel Package.....	110
9.3.2 The new Directive.....	110
9.4 Loss of enjoyment of the holiday .....	115
9.4.1 Non-material damage in case of travel contract.....	115
9.4.2 Ruined holiday damage according the new Directive.....	116
9.4.3 One of the leading case on ruined holiday damage.....	118
9.4.4 Non material damage and green tourism services.....	119
<b>10 Unfair commercial practices in tourism market.....</b>	<b>121</b>
10.1 Marketing strategies .....	121
10.1.1. Marketing in brief .....	121
10.1.2 DAGMAR model.....	123
10.1.3 Commercial practices.....	124
10.2 Best Commercial practices.....	125

Contents	IX
10.2.1 Illegal and unfair advertising .....	125
10.2.2 Unfair commercial practices in Eu law .....	128
10.2.3 Unfair commercial practices and unfair terms .....	131
10.2.4 Some Cases .....	133
10.2.5 Environmental claims and green claims.....	140
<b>Part III Tourism Industry Business Contracts and sustainability policies</b>	
<b>11 Tourism industry business contracts .....</b>	<b>145</b>
11.1 Tourism industry and business contracts .....	145
11.1.1 B2B in tourism market.....	145
11.1.2 Long terms contracts and resilience clauses.....	149
11.2 Business contract law and competition law .....	154
11.2.1 Unfair terms, unfair competition in B2B contracts ....	154
11.2.2 Some cases .....	156
<b>12 Tourism Industry Contracts and Structural Formulas: Management and Ownership.....</b>	<b>161</b>
12.1 Business's legal structures .....	161
12.1.1 Business ownership, partnership, corporation.....	161
12.2 Hotel lease.....	162
12.2.1 Contents of lease contract .....	162
12.2.2 Lease, management, franchising .....	164
12.3 Hotel Franchising.....	165
12.3.1 Franchising contents .....	165
12.3.2 Green Franchising .....	168
12.4 Management contract.....	170
12.4.1 Management contents .....	170
12.4.2 Management as example of collaborative contracts....	174
<b>13 Conclusions .....</b>	<b>179</b>
13.1 Contract as source of tourism law .....	179
13.1.1 Private Autonomy and regulation of tourism activity.....	179
13.1.2 The distinction between B2B and B2C contracts.....	180

13.2 Tourism Contracts and levers to sustainability .....	182
13.2.1. Contracts as levers.....	182
13.3 Contracts 2.0 toward sustainable tourism .....	183
13.3.1 Smart contracts.....	183
13.3.2 Smart contracts in tourism sector.....	184
13.3.3 Smart and sustainable tourism contracts .....	185
<i>Bibliography</i> .....	187