

ACTIVE, ENVIRONMENTAL TOURISM: A NECESSARY INVOLVEMENT. LEGAL ASPECTS

Pilar Juana García Saura
Universidad de Murcia

New modalities of tourism based on the natural environment have been shown to be a potential catalyst for sustainable development. A lack of relevant legislation to ensure conservation of the natural environment, to protect consumers from risks inherent to practice of sports and to foster a minimum business structure is the main problem facing the future of this sector.

Public Administration intervention in this type of nature based tourism is justified since it is responsible for the common good and because of the market's inability, according to official texts by the European Environment Bodies, to ensure sustainable development along the lines of the new sustainability ethics focused on human development.

The active tourism sector, whose activities take place in the countryside, has a huge responsibility towards the natural environment. It is worth recalling that it is the values of the natural areas that are the main attraction for these tourist flows, so their conservation should be of prime concern for those benefiting from the growth of tourism. Undeniably, some tourist and sporting activities will have strong negative impacts on nature. But it must also be considered that the impact of such activities will vary depending on other factors, such as the number of people practising them, their environment awareness and the area's carrying capacity. So it seems convenient to regulate businesses offering such types of activity for three reasons: to conserve the environment and biodiversity; to protect the users; to create quality businesses.

Although these new, nature tourism modalities may be considered as motors of sustainable development in some populations, the total absence of any legislation to guarantee conservation of the environment and protection of consumers from the risks inherent to the practice of such sports, as well as the convenience of guaranteeing the necessary business structure, are a must for the future of this type of tourism.

The businesses in question are constantly growing and demand regulation of the activities, for they are aware that this is the guarantee that their activities will continue in the future. Law has an important role to play in this aspect, through regulating the use of resources, protecting the environment and the consumer and ensuring sustainable tourism. Despite the growth of this type of tourism, there is no getting away from the fact that its attention and regulation in our country is scant.

Protection of the biodiversity and of natural areas is a key issue in developing this type of tourism. The current loss of biodiversity is something that needs to be checked for it is resource that we must conserve if we wish to maintain a useful capital that is able to meet our future needs. It is necessary to establish measures of protection for ecosystems and species. We have to foster and preserve the fragile balance of biological diversity. The fight must be fought on several fronts. Ecosystems and species suffer from air, water and soil pollution due to the intensity or excessiveness of many economic activities, among them tourism. It has been shown that the impacts of tourism are felt not only in the territorial sphere but also in biodiversity, and this is especially so in Spain, which means that environmental issues are today of huge importance.

The coincidence of tourist interests and interest in conserving biodiversity is an inescapable fact. Thus, there is a need to join forces in order to achieve compatibility between the two factors. In this way the protected environment will become a primary tourist resource. This will only be achieved through tight links between tourist and environmental policies. Rather than policies driven mainly by economic criteria, today new modalities are being incorporated that protect and preserve the environment.

The Spanish Strategy for the conservation and sustainable development of Biological Diversity, passed in December 1998, established a general framework for national policy for the conservation and sustained use of biological diversity. To do so, a diagnosis was made of the current state of the biodiversity; the processes responsible for its deterioration were identified as were the productive sectors that were causing it. The tourist sector was one of these.

Only eleven of the Autonomous Communities of Spain have implemented any strict regulations for active tourism: Andalusia, Aragon, Asturias, Cantabria, Castile-La Mancha, Castile and Leon, Catalonia, Galicia, La Rioja, Navarre and Murcia.

In the development of rulings on active tourism we can see that the most often repeated argument in favour is that regarding increased levels and greater safety amongst those practising sports – which is quite logical given the serious problems that began to appear when practising high risk sports. Other arguments of weight were: to raise the quality of the active tourism businesses and services; to protect the rights of the consumers and the businesses and, more particularly, the rights of consumers practising such activities.

Over the last decade, and specifically since 2003, there has been a growing awareness of environmental issues and of the need to bring in legislation regarding activities performed in the natural environments.

As key practical issues to be addressed by suitable regulation of Active Tourism we propose the following: the compulsory setting up of a Communication Protocol directed not only at the Customer but also to the Worker; the need for a general and a specific Environment Plan for each activity that entails management of resources, which should identify possible sensitive areas in the routes and determine potential carrying capacity of the area in which the activities are to be realized, the declaration of the responsibility of the Technical Management to oversee compliance with both plans, not merely that regarding the environmental regulations in force in each case. Furthermore, the need to foster cooperation and collaboration among Public Administrations must be stressed.

This cooperation and collaboration could be incorporated via joint rulings from the local government office for tourism and the office for environmental affairs in order to determine the environmental conditions to which the practice of active tourism activities should be bound for them to be compatible with the protection of the environment, wildlife, biological cycles and natural habitats, as well as that of the social and cultural mediums.

