
CHINESE CORONAVIRUS:

State of Play, 5th February 2020

Briefing for ETC Members

We are closely following the outbreak of coronavirus in China and hope that the active measures taken by the Chinese authorities and governments worldwide will prevent the spread of infection and avoid the lasting socio-economic impact on the tourism industry in Europe and globally.

Travel ban in China:

- As part of efforts to contain the spread of a novel coronavirus in China, the Chinese Ministry of Culture and Tourism has issued on 24 January a notice addressed to all travel agencies established in China on the prevention and control of pneumonia caused by the new coronavirus, instructing them to fully suspend domestic and outbound tourism business until further notice ([see the document](#)).
- The Chinese government has banned all group tours from China starting 27 January as well as travel agencies in China are temporarily suspending group trips and "air tickets + hotel" products. All the tours scheduled before that date have departed to their destinations and could continue their travel programs according to the plan.
- However, the ban does not affect free independent travellers who have purchased flight and hotel products separately through an OTA or other travel agents.
- Following this decision, China Association of Travel Services issued an open letter calling for preferential terms for Chinese tourists having to cancel or defer their travel ([see the document](#)).
- All travellers leaving or entering China are required to undergo a health check.

Global outbound destinations response:

- Throughout the past two weeks, an increasing number of destinations have restricted arrival of travellers from China. Russia, Mongolia, North Korea and Taiwan have closed their borders with China. The US placed a ban on all foreign travellers from China, while US citizens travelling from China would be placed under quarantine. Israel is prohibiting the entry of flights from China, and any travellers arriving from China will be placed in solitary confinement for 14 days. Australia and New Zealand have also banned incoming foreign travellers from China, while Singapore is refusing entry to anyone who has been in China within the past 14 days.
- Airports around the globe have installed health screening for Chinese travellers.

- International carriers are suspending air connection with mainland China (including British Airways, Lufthansa, SWISS, Austrian Airlines, KLM, Finnair, Air France and Lot Airlines).
- Russia is suspending railway services between China and Russia, except for trains that run directly between Beijing and Moscow.

Information from the European Commission on the EU applicable (and future) rules in relation to the coronavirus outbreak:

- **Open letter of the 'China Association of Travel Services'**

The open letter is calling for preferential treatment for Chinese travellers having to cancel or postpone their trips. The European Commission takes note that many airlines and other operators are offering free of charge cancellation/rescheduling. This 'gesture of goodwill' is a commercial decision that each company has to take for itself. It is not for the European Commission to intervene in such decisions.

- **2018 EU Package Travel Directive (PTD)**

Consumer rights and obligations of EU tour operators/retailers.

Article 12.2 and 3 provides that:

"2. Notwithstanding paragraph 1, the traveller shall have the right to terminate the package travel contract before the start of the package without paying any termination fee in the event of unavoidable and extraordinary circumstances occurring at the place of destination or its immediate vicinity and significantly affecting the performance of the package, or which significantly affect the carriage of passengers to the destination. In the event of termination of the package travel contract under this paragraph, the traveller shall be entitled to a full refund of any payments made for the package, but shall not be entitled to additional compensation".

3. The organiser may terminate the package travel contract and provide the traveller with a full refund of any payments made for the package, but shall not be liable for additional compensation, if:

[...]

(b) the organiser is prevented from performing the contract because of unavoidable and extraordinary circumstances and notifies the traveller of the termination of the contract without undue delay before the start of the package".

The PTD does not apply to contractual/ business to business relationships. It only applies to relationships between organisers/retailers and travellers.

The PTD also applies to organisers/traders facilitating 'linked travel arrangement' ("LTA"):

- when they are established in the EU
- when established in third country, they sell or offer for sale packages/linked travel

arrangements in a Member States/EEA or direct their activities to the Member States. In such cases, the retailer established in a MS/EEA is the one subject to the obligations regarding performance of the packages and insolvency of package/LTA; except if the retailer can demonstrate that the organiser comply with these obligations. (art. 20 of the PTD).

- **EU Regulation on platform-to-business relations (P2B) - Entry into force on 12 July 2020**

The EU Regulation on promoting fairness and transparency for business users of online intermediation services (2019/1150) provides that if the situation of “Forced Circumstance” is defined in the terms and conditions of the contract between the platform and the services provider, and it does specify the issue of reimbursement, the Regulation should in principle be complied with. If it is not specified, the platform is free to change its T&C, but would have to give at least 15 days’ notice to the accommodation service providers. This notice period may be waived if the platform has to comply with a “legal or regulatory obligation” (Article 3(4)(a)). Other reasons to waive the notice period do not seem to apply to the situation, such as set out in Article 3(4)(b), which refers narrowly to the need to “address an unforeseen and imminent danger”, but only linked to fraud, malware, spam data breaches or other cybersecurity risks.