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REAL ESTATE, PLANNING AND TOURISM

Coronavirus: Measures for the tourism sector

On 11 March 2020, the World Health Organization declared a public health emergency of international concern (PHEIC) following the spread of SARS-CoV2 (Coronavirus) and the disease it causes, Covid-19.

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"On 24 April, a set of measures came in to force with the aim of striking a balance between the financial sustainability of economic operators and the rights of consumers. The measures focus, in particular, on the cancellation of reservations in tourism developments and local lodging establishments."

A state of emergency was declared in Portugal by Decree of the President of the Republic 14-A/2020 of 18 March and this was renewed by Decree of the President of the Republic 20-A/2020 of 17 April. Following this declaration, exceptional and temporary measures have been adopted in relation to the COVID-19 pandemic.

In this context, Decree-Law 17/2020 of 23 April was approved and came into force on 24 April 2020, and it sets out a series of measures to mitigate the negative impact on the tourism sector. The Decree-Law establishes measures concerning (i) package holidays organised by travel and tourism agencies, (ii) the cancellation of reservations in tourism developments and local lodging establishments, and (iii) the relationships between travel and tourism agencies, tourism entertainment operators, tourism developments and local lodging establishments.

The aim of these measures is to strike a balance between the financial sustainability of economic operators and the rights of consumer which, despite the current context, cannot be suppressed or eliminated. The measures also include special protection for travellers / guests who are unemployed, who will be able to request the reimbursement of all amounts spent, until 30 September 2020.

(i) Trips organised by travel and tourism agencies

When travel packages, as organised by travel and tourism agencies, to take place between 13 March and 30 September 2020 do not take place or are cancelled due to the Covid-19 pandemic, to comply with the Legal Framework for the Access and Exercise of the Travel and Tourism Agencies Activity, travellers have the right to choose between:

- A voucher for the same amount as paid by the traveller, that is valid until 31 December 2021.
 - i) The voucher will be issued to the bearer and it can be freely transferred;
 - ii) If the voucher is used to take the same trip, albeit on a different date, the insurance that was hired at the time of purchase of the initial travel package will be maintained; and
 - iii) If the voucher is not used by 31 December 2021, the traveller is entitled to a reimbursement to be paid within 14 days.

or

- Rescheduling of the trip up to 31 December 2021 (if rescheduling does not take place by 31 December 2021, the traveller is also entitled to a reimbursement, to be paid within 14 days);

Any failure by travel and tourism agencies to ensure these rights will grant travellers the right to trigger the travel and tourism guarantee fund.

In his context, special reference is made to travellers who are unemployed. Until 30 September 2020, these travellers can request the reimbursement of all amounts spent, which must be paid within 14 days.

(ii) Cancellation of reservations in hotels/resorts and local accommodation establishments

Reservations in tourism developments and local lodging establishments in Portugal, with or without complementary services, made directly by the guest through online platforms, or through travel and tourism agencies (provided they are not considered to be travel packages), for the period from 13 March to 30 September 2020, which do not take place or are cancelled due to the declaration of a state of emergency in the country of origin or in Portugal, or even due to the closure of borders as a result of the Covid-19 outbreak, when booked as non-reimbursable, will entitle the guests the right to choose between:

- o A voucher for the same amount as paid by the guest, that is valid until 31 December 2021.
 - i) The voucher will be issued to the bearer and it can be freely transferred;
 - ii) The voucher can be used by the person who also presents it as the initial payment for services of higher value according to the availability of the tourism development or the local lodging establishment, and on the conditions applicable on the new dates;
 - iii) If the voucher is not used by 31 December 2021, the guest is entitled to a reimbursement, to be paid within 14 days.

or

- o Rescheduling of the accommodation reservation up to 31 December 2021 – by agreement between the guest and the tourism development or the local lodging establishment.
 - i) The rescheduling can only be done directly with the tourism development or local lodging establishment;
 - ii) If rescheduling is not done by 31 December 2021 due to lack of agreement, the guest is entitled to reimbursement of the amount that was paid by the date of cancellation of booking, to be paid within 14 days;
 - iii) If rescheduling is to a date on which the applicable rate is lower than the amount of the initial reservation, the difference must be used to pay for other services of hotel/resort or local accommodation establishment, and it is not returned to the guest if they do not use it.

The guest will have the right to a refund, within 14 days, of the amount paid by the date of cancellation of the reservation, if it is not rescheduled or the voucher is not used before 31 December 2021.

"If rescheduling is not done by 31 December 2021 due to lack of agreement, the guest is entitled to reimbursement of the amount that was paid by the date of cancellation of booking."

The right to the voucher or to the rescheduling of the accommodation reservation in the above terms is not applicable to refundable reservations. In these cases, the rules of cancellation of the hotels/resort or local accommodation establishments will apply, as provided for in the respective legal systems.

In this context, special reference is made to travellers who are unemployed. Until 30 September 2020, these travellers can ask for the reimbursement of all amounts spent and this must be paid within 14 days.

(iii) Relationships between travel and tourism agencies, tourist entertainment operators, and hotels/resorts and local accommodation establishments

Reservations in hotels/resorts and local accommodation in Portugal, for the period from 13 March to 30 September 2020, made by travel and tourism agencies or tourism entertainment operators, whether Portuguese or international, operating in Portugal, which do not take place or are cancelled due to a state of emergency in the country of origin or in Portugal, or even due to the closure of borders as a result of Covid-19 pandemic, in the form of non-repayment of amounts paid, give these operators the right to a credit of the amount not used.

The credit must be used to settle the costs of any other reservation of services at the same tourism development or the same local accommodation establishment, on a date set by the travel and tourism agency, or by the tourist entertainment operator, based on the availability of accommodation services, up to 31 December 2021.

"The credit must be used to settle the costs of any other reservation of services at the same tourism development or the same local accommodation establishment."

If the tourism development or local accommodation establishment does not have availability for multiple dates requested by the travel and tourism agency or the tourist entertainment operator up to 31 December 2021, the travel and tourism agency or the tourist entertainment operator can require the return of credit which must be done within 14 days.

If the travel and tourism agency or the tourist entertainment operator cannot make a new reservation for the accommodation service in the hotel/resort or the local accommodation establishment located in Portugal up to 31 December 2021, the value of the deposit must be refunded within 14 days of this date. ■