

## **CORONAVIRUS OVERCOMING THE DIFFICULTIES**

# **COMPREHENSIVE FRENCH AID MEASURES FOR THE TOURISM INDUSTRY AT THE TIME OF COVID-19 EMERGENCY. DO ALL BENEFIT EXCEPT THE CONSUMER?**

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In his speech of April 13, 2020 French President Emmanuel Macron had promised a specific plan for the rescue of tourism, classified as a "*national priority*", in the hard times of the Covid-19 emergency. Indeed, the tourism industry weighs 7.4% of French GNP, employs around two million people and makes it possible to considerably reduce the French trade deficit.

Following an interministerial tourism committee meeting, on Thursday, May 14, 2020 Prime Minister Edouard Philippe unveiled a massive recovery plan representing a budget commitment worth 18 billion euros.

The State's investment effort will be led by the Banque des Territoires and Bpifrance<sup>1</sup>, which formalized a joint tourism recovery plan for more than three billion euros in financings between today and 2023, in the form of loans and equity investments.

The main drivers of the plan are the following:

- use of the part-time work formulas («*activité partielle*»)<sup>2</sup> for the undertakings of the sector until the end of 2020;
- access, until the end of September 2020, to the solidarity fund for SMEs<sup>3</sup> set up by the State, accessible to sectoral undertakings with up to 20 employees and to 2 million euros in turnover;

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<sup>1</sup> A financing and business development organization, Bpifrance is a financial company that does not have a banking license. Its resources come mainly from the (private) financial markets, its capital is held by the Caisse des Dépôts et Consignations and the State. It is in particular responsible for supporting small and medium-sized companies, and innovative companies in support of public policies of the State and the Regions. The Banque des Territoires is the financial branch of the Caisse des Dépôts et Consignations. Created in 2018, it is a bank for financing and investing in projects at a local level.

<sup>2</sup> System provided for in articles L5122-1 to L5122-5 of the Labor Code, allowing companies facing temporary economic difficulties to reduce the activity of their employees. Employees affected by a loss of wages due to the reduction of their working hours must be compensated by a partial activity indemnity paid by the employer but financed by the State.

<sup>3</sup> Order n. 2020-317 of March 25, 2020 establishing a solidarity fund for companies particularly affected by the consequences of the Covid-19 epidemic, JORF n°0074 March 26, 2020; Decree n. 2020-371 of March 30, 2020 on the solidarity fund for companies affected by the economic consequences of the epidemic of covid-19, JORF n°0078 March 31, 2020.

- doubling of the daily spending limit of the tickets-restaurants<sup>4</sup> and possibility to use them during weekends and public holidays, until the end of 2020;
- extension of the use of holiday vouchers (« *Chèques-Vacances* »)<sup>5</sup>, granted to low-income salaried people, especially those most exposed during the peak of the epidemic.

However, the Government made no move on VAT, whose rate tourism professionals hoped to see lowered to 5.5% (from 20% currently) to "support demand".

The undertakings of the tourism sector will also benefit from other emergency measures like any other company, such as the postponement or the cancellation of charges and mechanism of loans guaranteed by the State. The Government moreover implemented an exceptional system of State guarantees making it possible for the banking system to support the financing of companies, up to 300 billion euros's worth<sup>6</sup>.

Until December 31, 2020, undertakings of all sizes, regardless of their legal form, will be able to apply to their regular bank for a government-guaranteed loan to support their cash flow.

A Decree of May 6, 2020<sup>7</sup> of the Ministry of Economy and Finance, furthermore extended the list of qualifying beneficiaries of this system to certain civil real estate companies ("*sociétés civiles immobilières*"), to companies that have been in financial difficulty since January 1, 2020, and to loans granted through crowdfunding platforms.

This loan may represent up to 3 months of 2019 turnover. No repayment will be required in the first year and the borrower will be entitled to choose to pace of amortization of the loan over a maximum period of five years.

Banks are committed to examining all requests made to them and provide a prompt response. They are supposed to massively distribute, at cost price, government-guaranteed loans to promptly relieve the cash flow needs of businesses and professionals.

Such measures are in line with the Communication from the European Commission on that subject of May 13, 2020<sup>8</sup>. To help the regions most severely affected by the COVID-19crisis, the Commission recommends that Member States should develop comprehensive recovery strategies based on existing specialisations and territorial strategies under cohesion policies. Such strategies should, in a first stage, support firms of the tourism sector and related services in re-launch operations through better access to financing.

This Communication is accompanied by a "package" that provides reassurances and clarity for people and a pathway to recovery for tourism and transport, to ensure that the EU retains its position as world leader for sustainable and innovative tourism.

<sup>4</sup> A decree yet to be published should modify the daily spending limit of restaurant vouchers for purchases in supermarkets, local shops and weekly meals to € 95, once a week, against € 19 per day currently (articles L3262-1 to L3262-3 e R.3262-1 to R.3262-11 of the Labor Code).

<sup>5</sup>Payment vouchers reserved for holidays and leisure activities paid in part by the employer and in part by the employee (articles L411-1 to L411-12 and R411-1 to R411-8 of the Tourism Code).

<sup>6</sup> Decree of March 23, 2020 granting the State guarantee to credit institutions and finance companies in application of article 4 of Law No. 2020-289 of March 23, 2020 of amended finance law for 2020, JORF n. 0072 of March 24, 2020.

<sup>7</sup> Decree of May 6, 2020 amending the Decree of March 23, 2020 granting the State guarantee to credit institutions and finance companies in application of article 6 of Law No. 2020-289 of amended finance law for 2020, JORF n°0112 May 7, 2020.

<sup>8</sup> Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the regions "*tourism and transport in 2020 and beyond*", May 13, 2020.

In particular, the package contains a Recommendation on vouchers offered to passengers and travellers as an alternative to reimbursement for cancelled package travel and transport services in the context of the COVID-19 pandemic<sup>9</sup>, by which the Commission aims at ensuring that vouchers for passengers and travellers becomes a viable and attractive alternative to reimbursement without an immediate overburden for undertakings already in difficulty.

The voucher alternative had already been implemented in France by Order 2020-315 of March 25, 2020, whose Article 1 Section II) provides that the professional may offer a voucher instead of the reimbursement of payments received as a derogation from the provisions of the last sentence of Section II of article L. 211-14 of the tourism code and the first sentence of Section III of the same article, both providing the remedy of full reimbursement of payments made instead. The Order specifies in Section III) that, in case the voucher option is chosen, the professional must propose a new package to the consumer, at the latest within three months from the notification of cancellation. To provide incentives for passengers and travellers to accept vouchers instead of reimbursement, vouchers will be valid for a period of eighteen months, the substitute package must be "*identical or equivalent*" to that provided for by the cancelled contract and its price must not be higher than that of the package provided by the cancelled contract<sup>10</sup>.

However, in his speech of May 14, 2020, the Prime Minister declared that the French "*can take their reservations [for the summer holidays]*", stressing that "*the actors of tourism and of the hotel industry are committed to ensuring that they will be fully reimbursed in the event that the evolution of the epidemic would not make it possible to go on vacation.*" A way to recall that, in accordance with the European Union legal framework in force, if consumers choose to be reimbursed instead of receiving a voucher, professionals are after all required to grant their request.

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Il presente articolo ha esclusivamente finalità informative e non costituisce parere legale.

*This article is exclusively for information purposes, and should not be considered as legal advice.*




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<sup>9</sup> Recommendation on vouchers offered to passengers and travellers as an alternative to reimbursement for cancelled package travel and transport services in the context of the COVID-19 pandemic, C(2020) 3125, May 13, 2020

<sup>10</sup> For further detail on Order 2020-315 of March 25, 2020, see our previous contribution

<https://www.dejalex.com/2020/04/coronavirus-cancellation-of-travel-packages-and-the-balancing-of-remedies-to-keep-the-tourism-industry-alive-in-italy-and-france/>

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