



D-0121-01-JL

## **UNWTO Draft Convention on the Protection of Tourists and on the Rights and Obligations of Tourism Service Providers**

### **Recommendations for the assistance to International Tourists in Emergency Situations - Comments from Observers**

#### **Background**

HOTREC has been invited to participate as an Observer in the UNWTO Committee for the development of an International Code for the Protection of Tourists ("ICPT Committee").

The mandate of the Committee is to draw from the work produced by the Organization - mainly the 2017 "[draft Convention on the Protection of Tourists and on the Rights and Obligations of Tourism Service Providers](#)" – and to develop a proposal for an International Code for the Protection of Tourists that includes minimum standards for the assistance to tourists in emergency situations and harmonizes consumer rights of tourists in the post-COVID-19 scenario.

Relevant stakeholders, including Affiliate Members, International Organizations, both governmental and non-governmental, have been invited to participate in the Committee as Observers to provide relevant inputs and expertise during the public discussions of the Committee and ensure a fair and balanced distribution of responsibilities among all stakeholders. Observers were invited to present their organization and initial views during the [2<sup>nd</sup> meeting of the ICPT Committee which took place on 26 November 2020](#).

The mandate of the ICPT Committee is to firstly review and deliberate on the "[Recommendations for the assistance to International Tourists in Emergency Situations](#)" with a view to potentially including them as a Chapter of the draft Convention. These Recommendations have been recently developed by UNWTO Secretariat with a view to support governments and the private sector in their efforts for international tourism recovery, while guaranteeing an appropriate degree of protection of international tourists in the event of an emergency situation.

**Observers, including HOTREC, are requested to provide their detailed written suggestions and comments to the UNWTO Recommendations by 18 January 2021. HOTREC is therefore opening the floor to its Member Organisations for feedback on these Recommendations. Please provide your comments in writing to the HOTREC secretariat by 14 January 2021 EOB in order to ensure that they are conveyed to the UNWTO in due time.**

It should be noted that the Recommendations are established as guidelines. The text of the Recommendations specifies that: "*These recommendations apply to Members States, all tourists and tourism services providers. Nevertheless, given the different realities and regulatory frameworks of both national governments and tourism authorities to take action, it is appreciated that these recommendations are not applicable in all cases. They aim to guide policy action to mitigate the impact of the crisis and accelerate recovery through the restoration of tourists' confidence in the capacity of tourism stakeholders to protect them and assist them in emergency situations ensuring that no one is left behind.*"

## How to provide feedback

Comments received from ICPT Committee Observers will be compiled by the Secretariat and provided to the Members with a view to discussing them during the examination of the Recommendations at the next meeting of the Committee which will be held on 28th January 2021.

**The UNWTO has provided a Word table as a template for the provision of feedback (see Annex 2). Please note that comments must consist of specific proposals to amend the text of the Recommendations (drafting proposals - see Annex 1) and NOT of general remarks on their content or structure.**

Members of the Committee have already submitted their written comments and proposals to the Recommendations to the Secretariat, and these are currently being discussed at its private sessions under the agenda item “Examination of the Recommendations”.

## Overview of draft requirements for accommodation service providers and definitions under the draft Recommendations

### Specific recommendations for tourism accommodation providers

The Recommendations largely set out provisions to guide the actions of the host country, country of origin and third countries when dealing with emergency situations, in particular regarding prevention (III.III)1), information ((III.III)2) and repatriation (III.III)4). HOTREC however draws attention to recommendations outlined under point III. III)3) – Recommendations on Assistance – which include specific provisions for accommodation service providers.

#### **Under point III.III)3:**

*“3. Ensure that the accommodation service providers cooperate with the relevant authorities of the host country in emergency situations, providing whenever possible:*

- (a) Information concerning the tourist’s identity, health condition and location;*
- (b) The consequences of the emergency situation on the provision of accommodation service by the provider;*
- (c) Information of how aid might be offered;*
- (d) Information on state of health and well-being of the tourists; and*
- (e) Information on how tourists might be contacted and removed from difficulty, emergency or danger and repatriated.”*

HOTREC’s initial view is that that such information provision requirements are appropriate.

#### **Under point III.III)4:**

*4. The country where the contract is concluded (whether the host country or the country of origin) should ensure that tourist contracts provide insurance schemes and guarantee systems which cover the risks resulting from emergency situations, including pandemic events, both with reference to assistance and repatriation, and with reference to cancellations and reimbursements.*

HOTREC would welcome any comments from Members addressing this point on insurance and guarantee scheme requirements.

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**Under point III.III)4:**

*5. Take the necessary measures to ensure that in case of unavoidable and extraordinary circumstances or emergency situations, the accommodation service provider displays fair and ethical behaviour and should not increase the room rates for the sole reason of the unavoidable and extraordinary circumstances or the emergency situation for the extra nights spent by the tourists.*

While HOTREC appreciates the specific counterexample regarding 'fair and ethical behaviour', the notion of 'fair and ethical' behaviour is possibly too broad and vague. As such it may be worthwhile to request the deletion of the words '*displays fair and ethical behaviour and*'.

**Under point III.III)4:**

*6. Take the necessary measures to ensure that in case of unavoidable and extraordinary circumstances or emergency situations jeopardising the performance of the contract, either by preventing the tourist from physically reaching the place where the accommodation service is to be provided, or by preventing the accommodation service provider from fulfilling its contractual obligations, the accommodation service provider does not request cancellation fees.*

HOTREC understands cancellation fees as additional fees which could be charged by an accommodation service provider to process a cancellation request. Further clarity may however be required to ensure that this provision does not prevent accommodation service providers from refusing to reimburse a booking if the booking was purchased as 'non-refundable or cancellable'. As such HOTREC would suggest rephrasing: '*the accommodation provider does not request additional cancellation fees*'.

Definitions:

The draft Recommendations Introduction (section I.) provides for definitions of the following:

- **"Tourist"** is to be understood as a person taking a trip which includes an overnight stay to a main destination outside his/her usual environment, for less than a year, for any main purpose (business, leisure or other personal purpose) other than to be employed by a resident entity in the country or place visited.
- **"Emergency situations"** is to be understood as unusual, extraordinary or unforeseeable circumstances, whether natural or man-made, beyond the control of the host country, that have resulted in the need for assistance on a large scale.
- **"Unavoidable and extraordinary circumstances"** is to be understood as a situation beyond the control of the party who invokes such a situation and the consequences of which could not have been avoided even if all reasonable measures had been taken.
- **"Tourism service provider"** is to be understood as any natural person or any legal person (irrespective of whether privately or publicly owned) who sells, offers to sell, supplies or undertakes to supply a tourism service to the tourist.

HOTREC would welcome proposals from Members regarding these definitions.

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