



## PRESS RELEASE

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### **Confirmation of the suspension of the order of the mayor of Nice temporarily banning seasonal rentals in his municipality**

**The Conseil d'État's urgent applications judge ruled that, in the absence of an overriding reason linked to specific local circumstances, the ban on seasonal rentals by the mayor of Nice from 6 to 20 February 2021 seriously and manifestly illegally infringed the right to property and the freedom of trade and industry.**

By a decree of 25 January 2021, the mayor of Nice prohibited seasonal rentals by individuals during the period from 6 to 20 February 2021, in order to prevent the spread of the COVID-19 virus. When the matter was referred to the Union of Tourist Rental Professionals (UPLT), the urgent applications judge of the Nice administrative court suspended this order on 8 February 2021. The municipality of Nice has appealed to the Conseil d'État's urgent applications judge.

#### **Mayors can only take additional measures to combat the epidemic if circumstances specific to their municipality require it**

As the urgent applications judge has already had occasion to point out<sup>1</sup>, the emergency law of 23 March 2020 entrusted the State with the responsibility of enacting general or individual measures to combat the COVID-19 pandemic, with a view, in particular, to ensuring their coherence and effectiveness throughout the territory and to adapting them depending on how the situation develops.

In the context of the state of health emergency, while mayors can contribute to the proper implementation of measures decided by the State in their municipality, they cannot, on their own initiative, take other measures to combat the health emergency. This is only the case if compelling reasons linked to local circumstances make such measures indispensable, and on condition that they do not compromise the coherence and effectiveness of those taken by the State authorities.

#### **In the absence of specific local circumstances, the order of the mayor of Nice is not justified**

The urgent applications judge recalled the circumstances cited by the municipality, notably the more unfavourable situation of the Alpes-Maritimes department in terms of the number of positive cases of the virus, as well as the large proportion of elderly people in Nice.

However, the judge found that there was no indication that there would be a significant influx of tourists to Nice during the period covered by the ban, particularly in view of the winter season and the postponement of festivities linked to carnivals, and that the ban on tourist rentals would be likely to have a significant impact on the spread of the virus.

Furthermore, the judge found that the municipality did not justify the difference in treatment it was creating between rentals and hotels, which were still allowed to open.

Lastly, the judge concluded that the municipality did not justify that the specificities of the health situation in the local area required a ban on tourist rentals, even though such a measure had not

been deemed appropriate either by the Prefect of Alpes-Maritimes or by the mayors of neighbouring municipalities.

Consequently, the Conseil d'État's urgent applications judge ruled that the ban decided by the mayor of Nice seriously and manifestly infringed the right to property and the freedom of trade and industry, and confirmed its urgent suspension.

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