

Dnro  
TRAFICOM/549039/05.00.12.00/2020  
15 January 2021

Ref.  
Opinions of the Finnish Institute for Health  
and Welfare 8 and 15 January 2021

**Decision regarding a temporary ban on passenger air services to Finland from the United Kingdom of Great Britain and Northern Ireland, the Republic of Ireland and the Republic of South Africa from 18 January 2021 to 25 January 2021**

**Decision**

The Finnish Transport and Communications Agency has decided to impose a temporary ban on passenger air services to Finland from the United Kingdom of Great Britain and Northern Ireland, the Republic of Ireland and the Republic of South Africa during the period from 10:00 a.m. UTC on 18 January 2021 to 9:59 a.m. UTC on 25 January 2021. The decision does not concern overflights, technical intermediate stops, ferry flights with own crew, state aviation, ambulance flights or cargo flights.

As it is not in the public interest to delay the entry into force of this Decision, it shall be implemented immediately.

**Grounds for the decision**

*Background*

The Finnish Transport and Communications Agency has received from the Finnish Institute for Health and Welfare (THL) an opinion dated 15 January 2021, which makes reference to its opinion of 8 January and states the following:

*The reasons given in justification of the suspension of air services between Finland and the United Kingdom, Ireland and South Africa in the opinion issued by the Institute on 8 January 2021 have not substantially changed. The variant of the coronavirus detected in these countries, whose potential for transmission is currently estimated to be higher than that of previously identified variants, has continued to spread and a number of cases have already been reported among travellers arriving in Finland.*

*While health security measures at airports have been reinforced, it is not yet possible to fully assess the seriousness of the threat posed by the variant with regard to the spread of the virus in Finland or the capability of the measures to minimise that threat. The Government is scheduled to discuss possible new travel restrictions and other additional measures related to the virus variant on Friday 22 January.*

*THL considers that it is necessary to continue the suspension of passenger air services between Finland and the aforementioned countries at least until more information is available on the implementation of these measures.*

On 15 January 2021, the Agency also received an opinion issued by the Ministry for Foreign Affairs, in which the Ministry expresses particular concern with regard to

minors who are Finnish citizens or permanent residents in Finland. Any future decisions should not prevent the return to Finland of persons who are Finnish citizens or permanent residents in Finland. This is particularly important in the case of minors and other vulnerable persons. The Ministry for Foreign Affairs proposes that the relevant public authorities cooperate in order to rapidly establish, in accordance with legal and health security requirements as well as those set out by THL, a procedure that would allow Finnish citizens and permanent residents to return to Finland from the concerned countries, including via direct flight connections. The Ministry does not support the continuation of restrictions insofar as they prevent the return to Finland of persons who are Finnish citizens or permanent residents in Finland.

The Ministry has also expressed its concern with regard to the impact on foreign trade and the security of supply.

The Finnish Transport and Communications Agency notes that it is not competent to address the right of entry of individual persons or groups, as its competences relate to the operation of transport services at a more general level. Furthermore, the Agency may not impose such conditions on the operation of transport services that would give operators a role comparable to that of a public authority in the context of assessing a person's or group's right of entry. The Finnish Transport and Communications Agency is, to the extent permitted by the means available to it, prepared to assist in finding appropriate solutions in order to repatriate persons belonging to special groups.

With regard to the evaluation of the health security impact of the measures, the Finnish Transport and Communications Agency relies on the expert assessment made by THL. With this Decision, the Finnish Transport and Communications Agency suspends passenger air services in accordance with the proposal put forward by THL.

#### *Legal basis for air services*

Air traffic between Finland and the United Kingdom of Great Britain and Northern Ireland is governed by the Trade and Cooperation Agreement concluded between the European Union and the European Atomic Energy Community and the United Kingdom of Great Britain and Northern Ireland, which has not yet entered into force but is applied on a provisional basis.

Air traffic between Finland and the Republic of Ireland is governed by Regulation (EC) No 1008/2008 of the European Parliament and of the Council on common rules for the operation of air services in the Community (hereinafter "Air Services Regulation").

Air traffic between Finland and South Africa is based on the negotiations conducted in 2018 regarding an Air Services Agreement and on a draft text thereof, which is not in force but whose principles are applied within the scope of the parties' national laws and regulations. Finnair has been designated as Finland's airline for the operation of air services between Finland and South Africa. There are currently no direct connections between Finland and South Africa.

#### *Description of the applicable legislation and agreements*

The Trade and Cooperation Agreement between the European Union and the United Kingdom of Great Britain and Northern Ireland was reached on 24 December 2020. While the procedures for the implementation of the Agreement have not yet been completed, it has been applied on a provisional basis as of 1

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January 2021. Article AIRTRN.3, paragraph 6 of the Agreement specifies that traffic rights may be limited if this is required for reasons of health protection.

The negotiations between Finland and South Africa regarding the Air Services Agreement were conducted on 11 December 2018. A Memorandum of Understanding was drawn up on the basis of the discussions, with the draft text of the Agreement annexed to it. In accordance with the Memorandum of Understanding, the principles of the draft Agreement are applied in the context of air services between Finland and South Africa within the scope of the parties' national laws and regulations, with the exception of issues that were left open following the negotiations.

Air traffic between Finland and the Republic of Ireland is governed by the Air Services Regulation. Pursuant to Article 21 of the Regulation, a Member State may refuse, limit or impose conditions on the exercise of traffic rights to deal with sudden problems of short duration resulting from unforeseeable and unavoidable circumstances. Such action shall respect the principles of proportionality and transparency and shall be based on objective and non-discriminatory criteria.

Pursuant to section 3(3) of the Aviation Act (864/2014), the Finnish Transport and Communications Agency shall act as the aviation authority referred to in international transport agreements concluded by Finland. Under section 167 of that Act, the Finnish Transport and Communications Agency may, for reasons of public order and safety, prohibit an aircraft from departing, order it to land, require identification, assign a heading or flight altitude or otherwise intercept an aircraft in flight.

Section 123 of the Act on Transport Services (320/2017) lays down provisions on scheduled air services between Finland and third countries. Pursuant to subsection 2, the Finnish Transport and Communications Agency establishes, where necessary, the tariffs, capacity, schedules and other conditions concerning the air services.

### **Provisions and agreements applied**

Act on Transport Services (320/2017), sections 123 and 256  
Aviation Act (864/2014), sections 3(3) and 181  
Act on the Finnish Transport and Communications Agency (935/2018), section 2(1)  
Trade and Cooperation Agreement between the European Union and the European Atomic Energy Community, of the One Part, and the United Kingdom of Great Britain and Northern Ireland, of the Other Part (published in OJEU L 444, 31 December 2020); Article AIRTRN.3  
Memorandum of Understanding between the Governments of Finland and South Africa, 11 December 2018  
Administrative Procedure Act (434/2003), section 49 f

### **Enquiries**

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This document has been signed electronically. Finnish Transport and Communications Agency (Traficom), 15 January 2021. The authenticity of the signatures can be verified using document reader software that supports electronic signatures or by contacting the Traficom Registry.

**C.C.**

European Commission, Member States of the European Union, and the United Kingdom  
Ministry of Transport and Communications of Finland  
Ministry for Foreign Affairs of Finland  
Ministry of Social Affairs and Health of Finland  
Finnish Institute for Health and Welfare

**Annex**

Instructions for filing a claim for a revised decision