

Decision 13/2017
Travel Agency Commissioner - Area 2

Andreas Körösi
P.O. Box 5245
S-102 45 Stockholm, Sweden

Applicant: *ELYASSMEEN Travel*
IATA Code # 79-2 1239 4
Sudan

Respondent: International Air Transport Association (IATA)
King Abdullah II Street, Al Shaab Roundabout
Business Park, Building GH8
P.O. Box 940587
Amman 11194 Jordan

NOTE:

This summarized decision is being posted as the Parties have received it. Occasional requests for clarification are not posted. However, should any Stakeholder requests it, a copy of such clarification will be sent to her/him.

Decision:

Elyassmeen Travel asked for a review as a result of IATA's request to amend its Bank Guarantee ("BG") to the **minimum** required US\$ 87,000.00 mandated by the Sudanese Local Financial Criteria ("LFC").

When the BG, based on the annual financial assessment in 2016, was submitted the US\$ 87,000.00 corresponded, **in local currency**, to SDG 494,160.00. According to IATA's view, this SDG amount, taking "today's" currency exchange rate into account, only corresponds to approximately US\$ 75,000.00, and, thus, the requirement to amend and increase it.

Considering the total monthly sales of *Elyassmeen Travel*, it is obvious that there is no risk for prejudiced collection of BSP Participating Airlines' funds, so the sole issue at hand in this case, is if IATA's SOP (Standard Operational Procedure) "*to amend randomly*" is in compliance with Resolutions and local law.

After having considered all statements, it is hereby decided as follows:

When LFC requests for a BG is to be calculated in another currency other than the local one:

According to this Commissioner, a BG has to be "valid throughout the regular financial evaluation period", except when there is a substantial **sudden change**, (e.g. devaluation or revaluation) of currencies involved. As already stated, this "change" has to go both ways. Meaning, as in this case, that should it be instead of an increase, a decrease in the US\$ value against SDG, the Agent is "entitled" to amend the BG in its favour.

Following the "daily currency exchange rate" and, consequently, increasing or decreasing a BG "randomly" is not viable.

Decision:

IATA (even though following IATA's SOP) has no legal grounds to ask **Elyassmeen Travel**, with a BG valid until October 2017, to amend the BG before the regular time for renewal.

This Decision is effective as of today.

Decided in Stockholm, on March 27th, 2017.

Andreas Körösi
Travel Agency Commissioner
IATA-Area 2

In accordance with Res 820e § 2.10 any Party may ask for an interpretation or correction of any error in computation, any clerical or typographical error, or any error or omission of a similar nature which the Party may find relevant to this decision. The time frame for these types of requests will be maximum 15 calendar days after receipt of this decision. Meaning as soon as possible and **not later than April 11th, 2017.**

Please also be advised that, unless I receive written notice from either one of you **before** the above mentioned date this decision will be published in the Travel Agency Commissioner's secure web site, provided no requests for clarification, interpretation or corrections have been granted by this Commissioner, in which case the final decision will be posted right after that.

Please note that if after having asked for and obtained clarification or correction any Party still considers aggrieved by this decision, as per Resolution 820e §4, the Party has the right to seek review by Arbitration in accordance with the provisions of Resolution 824 §14.

Please let me know if any of the Parties requires a signed hard copy of this decision and I will send one once the time for "interpretation or correction" has elapsed.