

## Decision 15/2017 Travel Agency Commissioner - Area 2

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**Applicant: *Aluss Travel Agency***  
IATA Code # 79-2 1035 3  
Sudan

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

#### Background:

***Aluss Travel Agency*** asked for a review as a result of IATA's request to amend its Bank Guarantee ("BG") to the **minimum required of 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.

***Aluss Travel Agency*** has to submit its annual Financial Statements not later than 30<sup>th</sup> April 2017. After evaluation, the correct level of BG, (not less than US\$ 87,000.00), will be communicated to ***Aluss Travel Agency***.

Unless IATA sees immediate risk for prejudiced collection of Member Airlines' funds, the issue at hand is if IATA's SOP (Standard Operational Procedure) to amend a BG randomly to match the "**current**" exchange rate between SDG and US\$, is in compliance with the Resolutions and local law.

Analysis:

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

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

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. This "amendment" has to go both ways. Meaning, that should there is instead of an increase, a decrease in the "LFC requested currency" value against "local currency" value, the Agent has to have the right to amend the submitted BG in its own favour.

Following the "daily currency exchange rate" and, consequently, increasing or decreasing a BG "randomly" is not viable. If IATA deems it necessary to the Sudanese, **or any other market**, then this should be explicitly stated in that country's LFC.

Conclusion:

IATA (even though following IATA's SOP) has no legal grounds to ask **Aluss Travel Agency's** to renew the BG until the existing BG expires, meaning a new BG has to be in place not later than **11<sup>th</sup> of June 2017**.

**This Decision is effective as of today.**

Decided in Stockholm, on April 9<sup>th</sup>, 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 24<sup>th</sup>, 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.