

Decision 26/2018
Travel Agency Commissioner - Area 2

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

Applicant: *Global Flights International* ("the Agent")
IATA Code # 91-2 4003
United Kingdom

Respondent: International Air Transport Association (IATA)
Torre Europa
Paseo de la Castellana, número 95
28046 Madrid, Spain

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.

Considerations and Decision:

Global Flights was defaulted due to "non-Payment" on 16 February 2018 and again on 16 May 2018. Settlement was done "immediately" after having been aware of the delay.

The 24 hours late payments have been contributed to "human errors", mainly contributed to a change from monthly remittance (through direct debit) to weekly remittance with manually handling the payments.

The late payment in February was for £ 2,716 with approximately £ 68,000 available in the Agents' account. May Irregularity was about "a mix-up of dates" and also paid within 24 hours and evidence has been provided that the account was funded well above the amount which should have been settled the day before.

Considering the 25 years "clean record" and that at no time Airlines' funds have been at risk, I do consider these Irregularities being "excusable human errors" where the consequences are not "in parity with the irregularity committed" and decide as follows:

- The Irregularity served in February shall be expunged from the Agent's records
- The Irregularity served in May shall stay on the Agent's records
- All reinstatement requirements solely due to the default shall be revoked.
- The Agent is to be reinstated as soon as possible.

This Decision is effective as of today.

Decided in Stockholm, on May 23rd, 2018

Andreas Körösi
Travel Agency Commissioner
IATA-Area 2

In accordance with Resolution 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 June 7th, 2018.**

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.

CLARIFICATION
RENDERED ON MAY 29TH, 2018

Dear Ms. Dovgan and concerned IATA team,

Since your response is to a formal TAC Decision I will treat it as a request for clarification.

I fully agree that IATA's stance is in line with Resolutions' text, but having stated that, this Office totally disagrees with IATA's view when also other existing Resolutions are to be considered.

The Decision 26 / 2018, as indicated in its text, was "*a summarized decision*", meaning **not all relevant facts nor all Resolutions supporting the decision were quoted.**

Even though not in full compliance with all Resolutions, since payment was 24 hours late, as I see it, IATA at no point has provided evidence or claimed that BSP Participating Airlines' funds were at risk, so what is the rationality behind a request for financial security from an Agent with 25 years of impeccable compliance when at no time Airlines' funds were at risk?

ESPECIALLY since PACONF decided to implement the new Resolution 812, based on the intentions that Irregularities leading to the severe consequence of facing € 900.000 as Financial Security **have to be the result of a *bona fide* "credit risk event"**.

The **ONLY** reason why the second Irregularity is upheld is because this Office wants to send a strong message to ***Global Flights*** to "immediately get its house in order" and ensure that they do understand the serenity about late remittance.

Disregarding for a moment the intentions of NewGen Resolution 812, and without the need to quote additional current Resolutions' text, the provision of Resolution 818g "A" § 1.7(a) supports this Decision.

"Freely" translated:

- the evidence shows that the Agent had taken the required steps to do the transfer, but due to this "*extraneous factor*" (**human error**) the funds did not reach IATA's account on time;
- enough funds were available on the Agent's account, and, **mainly**
- the "small" amount clearly confirms the character of an "extraneous" factor, outside the Agent's willingness nor awareness. Consequently, as I

see it, an Agent will not deliberately place its business in jeopardy for £ 2,716 when having £ 68,000 in its account on Remittance Date.

Even though not in line with IATA's SOP, I also consider that IATA could have shown a more lenient (customer oriented) approach by invoking the rules for "minor error".

I hope this clarifies and by that I do confirm that my original decision stands.

Respectfully yours,

Andreas Körösi
Travel Agency Commissioner
IATA-Area 2