

Decision 39/2018

Travel Agency Commissioner - Area 2

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

Applicant: *ELTA Travel HRG*
IATA Code # 10-2 0992 0
Cameroun

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.

Background

Elta Travel HRG was defaulted on August 5th for not having remitted in full. The mismatch **was less than 0,5%** of the total and settled immediately after notification by IATA. The "human error" mismatch is contributed to a mixed-up in invoices.

Since this was the second "Irregularity" recorded within 12 months, *Elta Travel* was immediately defaulted and Member Airlines notified.

When asking for review and Interlocutory Relief, *Elta Travel* presented evidence that the Irregularity applied in April 2018, and obviously still being on its records, should have been expunged based on the evidence they had presented already in April to IATA.

IATA had not accepted the "*bona fide* bank error letter" provided by the Agent's BGFI Bank since it did not follow IATA's template.

Considerations and Decision

Not only does this Commissioner deem the "late payment" in August 2018, which represents less than 1 % of the total, being an acceptable human error but I also accept the evidence provided by *Elta Travel HRG* as sufficient to prove that **the "delay" was beyond its reasonable control.**

This is based on the "SWIFT" document presented by the bank, which confirms that **the transfer actually was done with value date 02 April 2018.**

The Notification itself is proof that the account was sufficiently funded to execute the payment order.

Thus, regardless of the reason behind the delay, meaning might it had been on GBFI Bank, on CITI Bank (IATA's bank), or the "payment systems" side, the evidence on file clearly shows, without doubt, that the cause for such delay was outside the reasonable control of *Elta Travel* HRG.

Based on the above, it is decided as follows:

- **The Notice of Irregularity dated 05 April has to be withdrawn and expunged from the Agents records.**

This Decision is effective as of today.

Decided in Stockholm, on September 8, 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 23 September 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.