

**Decision 28 / 2019**  
**Travel Agency Commissioner - Area 2**

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

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**Applicant: *Qiblah Travel & Tourism***  
IATA Code # 42-2 1053  
Kuwait

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

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**NOTE:**

Both Parties are hereby advised that this is a summarised decision based on the findings of the case. Below considerations and the decision itself are based on the written statements submitted by both Parties, since according to my judgement, as allowed in Resolution 820e § 2.3, I do not see the need for an Oral Hearing.

**Background**

*Qiblah Travel & Tourism* deposited 3 checks with IATA's clearing Bank (National Bank of Kuwait). The funds were not credit to IATA's account on Due Date and, consequently, IATA issued an Irregularity (IRR) to the Agent.

*Qiblah Travel & Tourism* asked this Office to review the case and, based on the evidence provided, order IATA to remove the IRR and its consequences.

**Considerations**

*Qiblah Travel & Tourism* has provided evidence of cash deposit directly to IATA's clearing bank early on Due Date. To ask for a formal Bank statement from the

Agents Bank is obviously not relevant. The Agent has also demonstrated that there were enough funds in their account to cover the amount to be remitted.

After having contacted IATA's clearing Bank, IATA was told that the delay was: "*due to a verbal request of the Agent not to same day process the deposited checks.*" This allegation has emphatically been refuted by *Qiblah Travel & Tourism*.

After lengthy email exchanges where IATA's Bank could not, or did not, want to also provide that allegation in writing, IATA on its own decided to follow the principle of "*in dubio pro reo*", and asked this Commissioner to confirm same via a formal Decision.

### **Decision**

*Qiblah Travel & Tourism* has provided evidence, issued by IATA's Bank, of having properly stamped cheques on Due Date as received for payment for the current Remittance Period.

The principle of allowing the Agent the benefit of the doubt when there is no solid evidence of the contrary to the credible evidence presented by the Agent is strongly supported by this Office thus;

- **It is hereby decided that the IRR, and its consequences, has to be withdrawn and stricken from *Qiblah Travel & Tourism's* records.**

This Decision is effective as of today.

Decided in Stockholm, on September 15, 2019

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 September 30, 2019**.

After having received a clarification of this decision, if any Party still feel aggrieved by the decision, within 30 days after the date of the clarified decision, the Party has the right to seek a review of the decision by the **majority of the three Commissioners**, as stated in § 2.10 of Resolution 820e.

Lastly, if after having asked for and obtained the review by the majority of the Commissioners, as per Resolution 820e § 4, the Party has the right to seek, within 30 days after the majority decision, a review by **Arbitration** in accordance with the provisions of Resolution 824 § 4.

Please also be advised that, unless I receive written notice from either one of you **before September 30, 2019**, this decision will be published in the Travel Agency Commissioner's secure web site.