

DECISION OF THE JOINT COMMITTEE OF THE CENTRAL EUROPEAN FREE TRADE AGREEMENT

No. 4/2024

on the Prevention of Unjustified Geo-blocking

Adopted on 9 October 2024

Chapter I

General Provisions

Article 1

Objectives

1. With this Decision, the Parties commit to prevent unjustified geo-blocking and other forms of discrimination based, directly or indirectly, on the Party of which the customer is a natural person, or the customer's place of residence or place of establishment.
2. Therefore, this Decision seeks to harmonise the legal framework concerning the prevention of unjustified discriminatory practices in the Parties.

Article 2

Scope of the Decision

1. The provisions under this Decision shall not apply to purely internal situations, where all the relevant elements of the transaction are confined within one single Party.
2. This Decision shall not apply to:
 - a. non-economic services of general interest;
 - b. financial services;
 - c. electronic communications services and networks, and associated facilities and services;
 - d. services in the field of transport, including port services;
 - e. services of temporary work agencies;
 - f. healthcare services whether or not they are provided via healthcare facilities, and regardless of the ways in which they are organised and financed at Party level or whether they are public or private;
 - g. audiovisual services, including cinematographic services, whatever their mode of production, distribution and transmission, and radio broadcasting;

- h. gambling activities which involve wagering a stake with pecuniary value in games of chance, including lotteries, gambling in casinos and betting transactions;
 - i. activities which are connected, even occasionally, with the exercise of official authority;
 - j. social services relating to social housing, childcare and support of families and persons permanently or temporarily in need which are provided by the Party, by providers mandated by the Party or by charities recognised as such by the Party;
 - k. private security services; and
 - l. services provided by notaries and bailiffs, who are appointed by an official act of a Party.
3. This Decision shall be without prejudice to and shall not apply to the field of taxation.
 4. This Decision shall not affect rules applicable in the field of copyright and neighbouring rights.
 5. This Decision shall only apply among the Parties.

Article 3

Definitions

1. For the purposes of this Decision, the following definitions shall apply:
 - (1) 'Party': a Party to the Central European Free Trade Agreement (CEFTA);
 - (2) 'electronically supplied services': services, which are delivered over the internet or an electronic network and the nature of which renders their supply essentially automated and involving minimal human intervention, and impossible to ensure in the absence of information technology;
 - (3) 'interchange fee': a fee paid for each transaction directly or indirectly (i.e., through a third party) between the issuer and the acquirer involved in a card-based payment transaction. The net compensation or other agreed remuneration is considered to be part of the interchange fee; whereas:
 - a. 'net compensation': the total net amount of payments, rebates or incentives received by an issuer from the payment card scheme, the acquirer or any other intermediary in relation to card-based payment transactions or related activities;
 - i. 'issuer': a payment service provider contracting to provide a payer with a payment instrument to initiate and process the payer's card-based payment transactions;
 - ii. 'acquirer': a payment service provider contracting with a payee to accept and process card-based payment transactions, which result in a transfer of funds to the payee;
 - iii. 'payment card scheme': a single set of rules, practices, standards and/or implementation guidelines for the execution of card-based payment transactions and which is separated from any infrastructure or payment

system that supports its operation and includes any specific decision-making body, organisation, or entity accountable for the functioning of the scheme;

- b. 'card-based payment transaction': a service based on a payment card scheme's infrastructure and business rules to make a payment transaction by means of any card, telecommunication, digital or information technology device or software if this results in a debit or a credit card transaction. Card-based payment transactions exclude transactions based on other kinds of payment services;
 - c. 'payment transaction': an act, initiated by the payer or on his behalf or by the payee, of placing, transferring, or withdrawing funds, irrespective of any underlying obligations between the payer and the payee; and:
 - i. 'payee': a natural or legal person, who is the intended recipient of funds that have been the subject of a payment transaction;
 - ii. 'payer': a natural or legal person, who holds a payment account and allows a payment order from that payment account, or, where there is no payment account, a natural or legal person, who gives a payment order;
 - iii. 'payment order': an instruction by a payer or payee to its payment service provider requesting the execution of a payment transaction;
- (4) 'payment brand': any material or digital name, term, sign, symbol, or combination thereof capable of denoting under which payment card scheme card-based payment transactions are carried out;
- (5) 'payment service':
- a. services enabling cash to be placed on a payment account, as well as all the operations required for operating a payment account;
 - b. services enabling cash withdrawals from a payment account, as well as all the operations required for operating a payment account;
 - c. execution of payment transactions, including transfers of funds on a payment account with the user's payment service provider or with another payment service provider:
 - i. execution of direct debits, including one-off direct debits;
 - ii. execution of payment transactions through a payment card or a similar device;
 - iii. execution of credit transfers, including standing orders;
 - d. execution of payment transactions, where the funds are covered by a credit line for a payment service user:
 - i. execution of direct debits, including one-off direct debits;
 - ii. execution of payment transactions through a payment card or a similar device;
 - iii. execution of credit transfers, including standing orders;
 - e. issuing of payment instruments and/or acquiring of payment transactions;

- f. money remittance;
 - g. payment initiation services;
 - h. account information services;
- (6) 'payment account': an account held in the name of one or more payment service users that is used for the execution of payment transactions;
 - (7) 'payment instrument': any personalised device(s) and/or set of procedures agreed between the payment service user and the payment service provider and used in order to initiate a payment order;
 - (8) 'direct debit': a payment service for debiting a payer's payment account, where a payment transaction is initiated by the payee on the basis of the consent given by the payer to the payee, to the payee's payment service provider or to the payer's own payment service provider;
 - (9) 'credit transfer': a payment service for crediting a payee's payment account with a payment transaction or a series of payment transactions from a payer's payment account by the payment service provider which holds the payer's payment account, based on an instruction given by the payer;
 - (10) 'consumer': any natural person of a Party, who is acting for purposes that are outside his or her trade, business, craft, or profession;
 - (11) 'customer': a consumer who is a natural person of a Party, or has his or hers place of residence in a Party, or an undertaking, which has its place of establishment in a Party, and receives a service or purchases a good, or seeks to do so, within a Party, for the sole purpose of end use;
 - (12) 'general conditions of access': all terms, conditions and other information, including net sale prices, regulating the access of customers to goods or services offered for sale by a trader, which are set, applied, and made available to the public at large by or on behalf of the trader and which apply in the absence of an individually negotiated agreement between the trader and the customer;
 - (13) 'goods': any tangible movable item, with the exception of items sold by way of execution or otherwise by authority of laws, regulations, and administrative provisions;
 - (14) 'online interface': any software, including a website or a part thereof and applications, including mobile applications, operated by or on behalf of a trader, which serves to give customers access to the trader's goods or services with a view to engaging in a transaction with respect to those goods or services;
 - (15) 'service': any self-employed economic activity, normally provided for remuneration, in so far as it is not governed by provisions relating to freedom of movement for goods, capital and persons; in particular: activities of an industrial character; activities of a commercial character; activities of craftsmen; and activities of the professions;
 - (16) 'trader' means any natural person or any legal person, irrespective of whether privately or publicly owned, who is acting, including through any other person acting in the name or on behalf of the trader, for purposes relating to the trade, business, craft or profession of the trader.

Article 4

Non-discrimination Principle

1. Parties shall ensure that customers are not made subject to discriminatory requirements based on the Parties of which the customers are natural persons, or the customers' place of residence or place of establishment.
2. Parties shall ensure that the general conditions of access to goods or services, which are made available to the public at large by a trader, do not contain discriminatory provisions relating to the Party of which the customers are natural persons, or the customers' place of residence or place of establishment, but without precluding the possibility of providing for differences in the conditions of access where those differences are directly justified by objective criteria.

Chapter II

Special Provisions

Article 5

Access to Online Interfaces

1. Parties shall ensure that traders are prohibited from:
 - a. blocking or limiting a customer's access to the trader's online interface, through the use of technological measures or otherwise, for reasons related to the Party of which the customer is a natural person, or the customer's place of residence or place of establishment in a Party;
 - b. redirecting a customer, for reasons related to the Party of which the customer is a natural person, or the customer's place of residence or place of establishment in a Party, to a version of the trader's online interface that is different from the online interface to which the customer initially sought access, by virtue of its layout, use of language or other characteristics that make it specific to customers, who are natural persons of a particular Party, or to customers with a particular place of residence or place of establishment in a Party, unless the customer has explicitly consented to such redirection.
2. Parties shall ensure that, in the event of redirection with the customer's explicit consent, the traders shall be obliged to keep the version of the trader's online interface to which the customer initially sought access easily accessible to that customer.
3. Parties shall take into consideration that the prohibitions under Paragraph 1 of this Article shall not apply where the blocking or limitation of access, or the redirection is necessary in order to ensure compliance with a requirement laid down in the laws, regulations, and administrative provisions of a Party in accordance with CEFTA, as well as any and all Joint Committee Decisions adopted and based on it, to which the trader's activities are subject.

4. In the instances under Paragraph 3, Parties undertake to oblige traders to provide a clear and specific explanation to customers regarding the reasons why the blocking or limitation of access, or the redirection is necessary in order to ensure such compliance. That explanation shall be given in the language of the online interface that the customer initially sought to access.

Article 6

Access to Goods or Services

1. Parties shall ensure that traders are prohibited from applying different general conditions of access to goods or services for reasons related to the Party of which the customer is a natural person, or the customer's place of residence or place of establishment in a Party, where the customer seeks to:
 - a. buy goods from a trader and either those goods are delivered to a location in a Party to which the trader offers delivery in the general conditions of access, or those goods are collected at a location agreed upon between the trader and the customer in a Party in which the trader offers such an option in the general conditions of access;
 - b. receive electronically supplied services from the trader, other than services the main feature of which is the provision of access to, and use of copyright protected works or other protected subject matter, including the selling of copyright protected works or protected subject matter in an intangible form;
 - c. receive services from a trader, other than electronically supplied services, in a physical location within the Party where the trader operates.
2. Parties shall ensure that the prohibitions under Paragraph 1 shall not prevent traders from offering general conditions of access, including net sale prices, which differ between Parties or within a Party and which are offered to customers on a specific territory or to specific groups of customers on a non-discriminatory basis.
3. Parties shall undertake to explicitly provide that mere compliance with the prohibitions under Paragraph 1 does not, in itself, mean that a trader is under an obligation to comply with non-contractual legal requirements in a given Party relating to the respective goods and services of the Party of the customer or to inform customers about those requirements.
4. Parties shall ensure that the prohibitions under Paragraph 1, item "b", shall not apply to traders that are exempted from valued added tax (VAT) under the laws, regulations, and administrative provisions of the Party to which the trader's operation is subject.
5. Parties undertake to take into consideration that the prohibitions under Paragraph 1 shall not apply in so far as a specific provision laid down in the laws, regulations, and administrative provisions of a Party and in accordance with CEFTA, as well as any and all decisions made thereunder, to which the trader's activities are subject, prevents the trader from selling the goods or providing the services to certain customers or to customers in certain territories.
6. Parties undertake to take into consideration that, with respect to the sale of goods, the prohibitions under Paragraph 1 shall not prevent traders from applying different prices to customers in certain

geographic markets in so far as they are required to do so under the laws, regulations, and administrative provisions of a Party and in accordance with CEFTA, as well as any and all agreements thereunder.

Article 7

Non-Discrimination for Reasons Related to Payment

1. Parties shall ensure that traders are prohibited from applying, within the range of means of payment accepted by the trader, for reasons related to the Party of which the customer is a natural person, or the customer's place of residence or place of establishment in a Party, the location of the payment account, the place of establishment of the payment service provider or the place of issue of the payment instrument in a Party, different conditions for a payment transaction, where:
 - a. the payment transaction is made through an electronic transaction by credit transfer, direct debit or a card-based payment instrument within the same payment brand and category;
 - b. authentication requirements as per the requirements of the laws, regulations, and administrative provisions of the Party to which the trader's operation is subject, including the relevant agreements with other Parties; and
 - c. the payment transactions are in a currency that the trader accepts.
2. Parties undertake to take into consideration that, where justified by objective reasons, the prohibition under Paragraph 1 shall not prevent the trader from withholding the delivery of the goods or the provision of the service, until the trader has received confirmation that the payment transaction has been properly initiated.
3. Parties shall ensure that the prohibition under Paragraph 1 shall not prevent the trader from requesting charges for the use of a card-based payment instrument for which interchange fees are not regulated under the laws, regulations, and administrative provisions of the Party to which the trader's operation is subject and as long as the Party's laws, regulations, and administrative provisions allow the trader to request such charges. Charges available for such a request shall not exceed the direct costs borne by the trader for the use of the payment instrument.
4. Parties shall ensure that the prohibition under Paragraph 1 shall not apply to situations where the payment transaction cannot be completed due to the absence of technical possibility, the lack of interoperability between payment systems, or any other objective technical or technological reason attributable to the particular payment systems, payment services, or payment instruments.

Article 8

Enforcement

Each of the Parties undertakes to:

- a. designate a body or bodies responsible for adequate and effective enforcement of this Decision;
- b. lay down rules setting out effective, proportionate, and dissuasive measures applicable to infringements of this Decision and to ensure that they are implemented.

Article 9

Assistance to Consumers

1. Each of the Parties undertakes to designate a body or bodies responsible for providing practical assistance to consumers in the case of a dispute between a consumer and a trader arising from the Decision.
2. The provision of practical assistance within the meaning of Paragraph 1 shall be interpreted as carrying out activities by a respective designated body or bodies within their already existing and established competences and functions pursuant to Party laws, regulations, and administrative provisions.

Article 10

Inter-Party Communication and Cooperation

1. Each of the Parties undertakes to:
 - a. communicate to the Subcommittee on Trade in Services the measures adopted to implement this Decision;
 - b. to cooperate with other Parties through the Contact Point for Services and otherwise with respect to the application of this Decision. More specifically, the Parties shall endeavour to, as quickly as possible, and in conformity with Party laws, regulations, and administrative provisions, provide the assistance and information requested by other Parties, including by appropriate electronic means;
 - c. Each Party shall ensure prompt response through the Contact Point for Services to all requests by another Party for specific information on any of its measures of general application in the field of consumer protection, including aspects related to this Decision;
 - d. to encourage the communication to the Subcommittee on Trade in Services of any significant administrative or judicial decisions taken within a Party regarding disputes relating to this Decision.
2. Parties shall ensure necessary resources for the application of this Decision.

Chapter III

Final Provisions

Article 11

Entry into force

The Decision will enter into force two years upon its adoption.

Adopted in Belgrade, on 9 October 2024 in the presence of representatives of all CEFTA Parties.