

FAQ on the implementation of the Geoblocking Regulation

FOR MEMBERS ONLY

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Introduction

The Geoblocking Regulation (EU) 2018/302 prohibits discrimination against consumers and, in limited cases, against businesses, based on their nationality, place of residence or establishment when they buy goods or services.

The Regulation is relevant for online traders selling goods in any EU Member State as they will no longer be able to refuse a sale based on the customer's nationality or location. Although the Regulation does not oblige traders to deliver goods or services in other countries, it requires that customers from other EU countries are able to buy goods under the same terms as local customers and prohibits requirements like a local place of residence, local bank account or payment methods, and online redirection or IP address blocking.

The Regulation will be applicable as of 3 December 2018.

Traders shall take certain measures to ensure compliance ahead of this date. This FAQ is aimed at explaining some of the provisions of the Geoblocking Regulation relevant for the retail and wholesale sector. It is focused on the sale of goods.

This FAQ does not substitute legal advice. If companies have any legal questions or concerns, they should seek professional legal advice.

Full Reference:

Regulation (EU) 2018/302 of 28 February 2018 on addressing unjustified geo-blocking and other forms of discrimination based on customers' nationality, place of residence or place of establishment within the internal market and amending Regulations (EC) No 2006/2004 and (EU) 2017/2394 and Directive 2009/22/EC.

The Regulation is available [here](#).

Key rules

Customers



Must be able to access and browse any web-shop they want

- > If customers are automatically redirected they need to explicitly consent.



Must be able to buy any good or service on any EU website irrespective of their nationality, place of residence, or establishment

- > All consumers (natural persons) - **B2C sales**
- > Some businesses - **B2B sales** - only when they buy goods/services for their own end-use.



Have the same rights as local customers

- > Customers (from a different EU country than the trader) have the right to buy at the same price and conditions that is offered to local customers.



Must be able to pay by any payment means offered on the particular website they visit

- > Where the trader has a suspicion of fraud, advanced payment may be required.

Traders



Must not refuse to sell to customers based on their nationality, place of residence, or establishment

- > Traders must offer the same sale conditions as to local customers



Are not forced to deliver outside their delivery area

- > Traders should clearly inform about the delivery restrictions



Are free to charge different prices on websites in different countries and in different sales channels

- > Customers pay the VAT of the country where the initial delivery took place.
- > Traders shall not automatically change prices based on the customer's location or IP address.



Are free to offer payment means according to their choice

- > Traders must not reject those means of payments based on the location of the customer or a bank.



Have no obligation to ensure that the good is legal and fit for the customer's country (composition, label, safety)

- > Traders have no obligation to inform customers about different product legal requirements.



Are not bound by the prohibition of passive sales by the suppliers

- > Traders may not refuse a sale, even if their agreements with the suppliers impose such a prohibition.

This is a high-level overview of the key rules. It is deliberately simple and does not capture all the details and caveats. Please consult the Regulation and the questions and answers below for further details.

Website set-ups needed for compliance with the Geoblocking Regulation

Allowing access to a website

You cannot block access to shopping websites, apps and other online interfaces based on IP address or other factors connected to customer's nationality or geographical location (e.g. address, postcode or GPS coordinates).

You can deny access where access is not permitted because of specific national law. In such cases, you need to provide explanations.

Redirecting

You are not allowed to automatically redirect a customer from one version of an online shop to another version without customer's explicit consent.

If you redirect with customer's consent, you must provide him or her with the possibility to return easily to the website the customer originally sought.

The consent can be saved (e.g. in the customer's personal account on your website), so when the same situation with the same customer occurs again, you do not have to ask him again and you can immediately redirect. You must provide ways for the customer to withdraw the consent at any time.

Completing order forms

You should design a website or an app in a way to allow all EU customers to easily complete their orders.

This means, for example, for billing address and contact details, etc. a customer must be able to fill in the details in any format (zip code, phone number, country etc.).

For delivery address you may still use address formats that are exclusively fit for countries where you deliver.

Charging prices

Do not (automatically) change conditions, prices and product offers within one specific web shop based on the IP address, place of residence, a certain payment means, or the like.

Accepting payments

Make sure that if you allow certain means of payment (e.g. credit cards of a specific brand) you technically accept this means of payment from all customers (e.g. you accept credit cards of a particular brand issued anywhere in the EU). Do not automatically decline credit or debit cards, or other means of payment (which you allow on your website) from certain countries.

This is a high-level overview of the key rules. It is deliberately simple and does not capture all the details and caveats. Please consult the Regulation and the questions and answers below for further details.

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27. What measures can I take to reduce the risk of fraud in cross-border transactions?
28. Can I perform automated fraud checks?
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Product compliance

30. Am I liable for selling products cross-border that are not legal for sale in the customer's country?
31. May I refuse to sell certain goods?
32. Do I have to check if a good that I sell is fit for the consumer's market?
33. Am I liable when selling products cross-border that are or may not be labelled correctly?
34. Can a customer demand user manuals or other documentation and product description in their language?

Returns and customer complaints

35. If the customer returns the good (right to withdraw within 14 days) who pays for the shipping costs?
36. In case I offered free returns do I have to reimburse all the shipping costs? Also those to the final destination of the customer?
37. When does the 14-day period for right of withdrawal begin?
38. How will I know when the good has arrived at the consumer's final destination?
39. If the customer returns the product because of a defect (consumer terminates the contract due to lack of conformity) who pays for the shipping costs?
40. Who is responsible if the good is damaged on the way to the consumer?

Customer services

41. Can customers demand customer service (hotline) in their language?
42. In which language should I handle customer queries and complaints?
43. What customer service should I provide to customers living in countries where I normally do not pursue commercial activities (do not deliver)?

Resale of goods and agreements with suppliers

44. Do I have to sell goods when an agreement with my supplier limits my sales just to the territory that we have agreed on?
45. Will I need to make any changes in my agreements with suppliers?

Enforcement and sanctions

46. From which day do the new obligations apply? When do I risk to be sanctioned?
47. What sanctions or penalties do I risk if I do not comply with the Regulation?
48. Which authority will enforce the Regulation?

Answers

Scope and general requirements

1. What exactly does this Regulation require or prohibit? Changes compared to now?

The Regulation creates an obligation for traders to sell to any customer in the EEA under the same conditions as a local customer, **but not to deliver**. Generally, all EU customers must have full and equal access to goods or services. (Article 4, Recital 28).

So far, based on objective reasons, it was possible to block customers from accessing online shops and refuse to sell to them. With these new rules, all EU customers should be able to:

- > Have **full and equal access** to any of the different goods or services offered irrespective of their nationality, place of residence, or establishment.
- > **Buy goods** under exactly the same conditions – including price, conditions for delivery, etc. – as local customers who live in a Member State where the trader already pursues economic activity and delivers (“Shop like a local”).

The ban of discriminatory practices only applies to general terms and conditions of sale publicly available on your website.

Furthermore, there can still be different versions of the website, meaning different shops with different prices/conditions/offers – e.g. directed at different countries – but all EU customers must be able to buy products from all versions of the shop.

2. What are the new risks due to the fact that I cannot refuse a sale to anyone?

The main risk is that in certain situations you may be regarded as targeting the customer’s country. Targeting is an informal term and means pursuing active economic activities or directing your activities (marketing) to a country where the consumer resides but where you have no intention to be active. Until now you could shield yourself from these risks by refusing to sell to customers residing in certain EU countries.

These risks are quite high, because in general, pursuing economic activity or directing activities in such a country entails:

- > You having to apply the relevant consumer protection laws of the consumer’s country,
- > You having to apply other non-consumer protection rules relevant in the consumer’s country, such as on product composition and labelling,
- > You having to pay VAT in the customer’s country,
- > You being sued in the consumer’s country.

There is no legally clear definition of what pursuing economic activity or directing activities involves. This is always a case-by-case assessment. Therefore, this FAQ does not provide any definitive answer in this regard. There is European case law, which provides some clarification, see case Alpenhof, joined cases C-585/08 and C-144/09; and case Emrek, C-218/12.

When you comply with the Regulation and just allow access to your website, sell to customers, or accept payments – this alone is not likely to put you in a position of targeting the customer’s country, but it cannot be excluded with 100% certainty.

Often things will not be clear. For example, if you do one of the things listed below as a result of your compliance, you might be considered as targeting your activity to a customer’s country. The list below is only illustrative. A case-by-case analysis will always be needed.

Regarding customer service	<ul style="list-style-type: none"> > You set up a general hotline in a language of a country that you have so far not targeted. <ul style="list-style-type: none"> ○ If you respond to customer queries or complaints occasionally in their own language you are not likely to risk this being seen as you targeting the consumer’s country. However, this may depend on the situation (e.g. frequency). > If you set up a customer service for customers beyond your usual target area.
Regarding delivery	<ul style="list-style-type: none"> > Delivering to a customer outside the delivery area stated on your website or general terms and conditions > Not delivering, but providing on the website a link to a delivery operator which delivers to customer’s country > Helping to arrange the delivery before the purchase is completed.

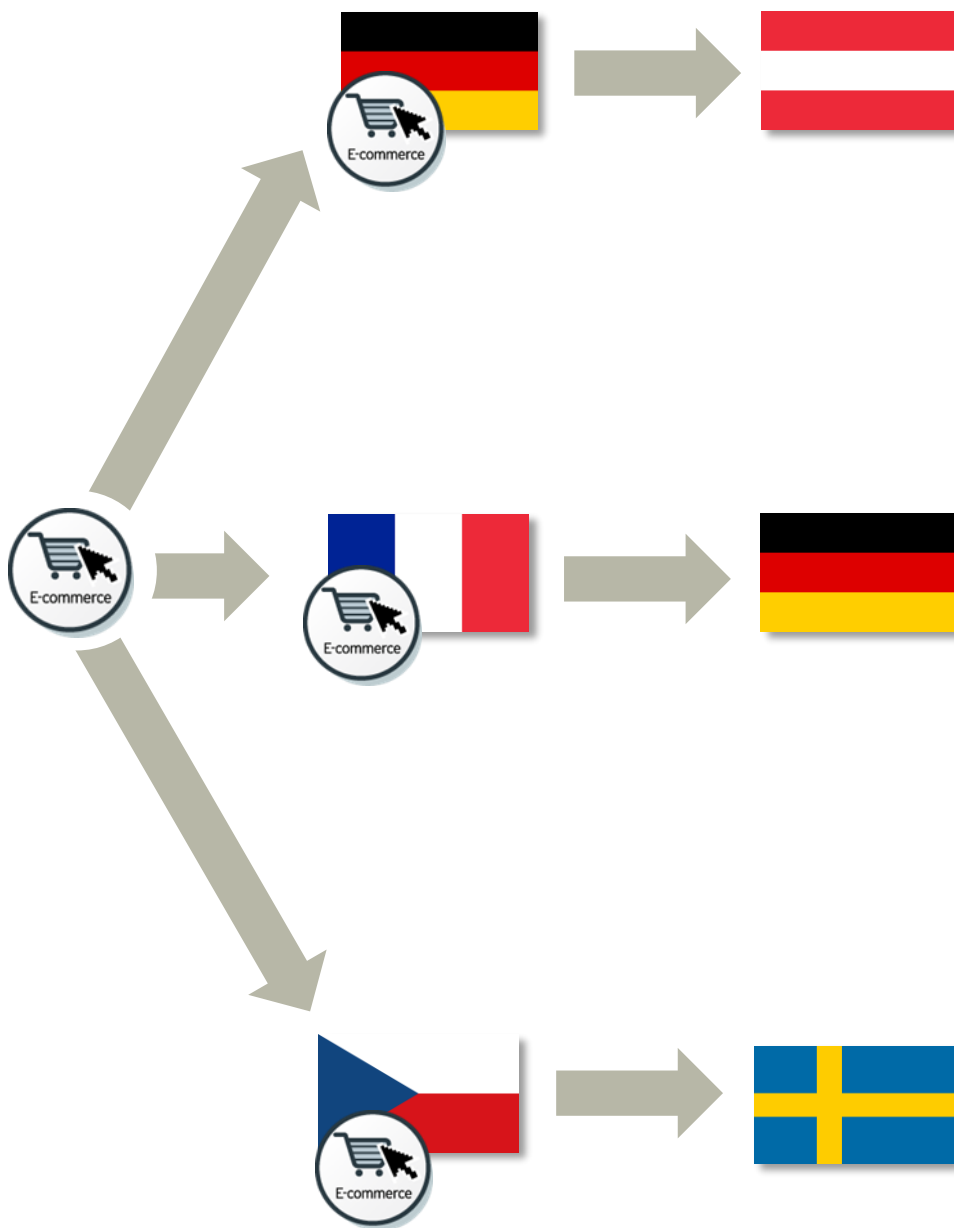
Example

You have websites in five countries (Spain, the UK, France, Germany, and Italy). These web shops market and deliver to customers within these countries. You must allow customers from any other European country to access, browse and buy from these websites. You do not need to deliver outside these five markets. Depending on where the sale takes place you will apply Spanish, UK, French, German, or Italian laws. However, depending on how you organise concrete sales, communicate with customers, deliver, etc. you might risk that your activities will be regarded as targeting customer’s market outside these five indicated countries.

3. A simplified overview of the Regulation's scenarios

This is a simplified overview of how the Regulation might work in practice. You will need to consider specific modalities applicable to you.

You sell online and offline to consumers in Germany, France and the Czech Republic via *website.de*, *website.fr*, *website.cz*. You do not advertise your web shop and do not undertake any specific actions to sell to consumers beyond those 3 markets. You deliver to all these 3 countries but **not** to others. The Regulation has little impact on how you organise your sales in Germany, France and the Czech Republic. However, it has impact on sales made to customers from other countries. Below are some examples.



Obligation to sell

- > An Austrian customer wants to buy from *website.de*.
- > You must allow him to access, browse and buy from the *website.de*.

Delivery

- > You are not obliged to deliver in Austria.

Which law applies?

- > In general, German law applies. But based on how you approach Austrian customers the court might consider that you have targeted them, thus Austrian law applies. Mere use of German language is not automatic with targeting but other factors (use of Austrian phone number for customer services, etc.) might play a role.

Obligation to sell

- > A German customer wants to buy on *website.fr*.
- > You must allow him to access, browse and buy from the *website.fr* even if he could buy the same thing on *website.de*.

Delivery

- > Despite you have a website in Germany – you are not obliged to deliver to Germany from a French web-shop.
- > You may limit delivery within France.

Obligation to sell

- > A Swedish customer wants to buy from *website.cz* website.
- > You must allow him to access, browse and buy from the *website.cz*.

Delivery

- > You are not obliged to deliver in Sweden.
- > The customer must indicate a delivery address in the Czech Republic (or in France or Germany – depends on how you organize it).

4. Does the Regulation cover online and offline sales?

The Regulation does not make a difference and applies to all sales channels, whether offline or online. However, in practice many of its provisions apply only to online. For example, the ban on blocking access to an online interface (i.e. website) only applies to web-shops.

The general principle is full and equal access by any consumer to any product or service. This means that all customers should be treated the same no matter nationality, place of residence, or establishment they have.

Example

When a French customer wants to buy a sofa in a Spanish brick-and-mortar or online store the sale cannot be refused (no matter whether the customer currently lives in France or Spain). However, if the Spanish store only offers delivery within Spain, the French customer can only get the sofa delivered to, e.g. the border and has to organise the rest of the delivery into France by himself.

5. What types of goods and services does the Regulation cover? Which digital content is covered?

In general, the Regulation covers the sale of all types of goods. There is no explicit exemption for any specific category of goods. The sale of certain goods, such as alcohol, plants and pets might be restricted in certain countries.

The Regulation also covers electronically supplied services, other than copyrighted services. This includes for example cloud services, data warehousing, website hosting and the provision of firewalls, use of search engines and internet directories.

The Regulation does not cover audio-visual services, such as streaming or downloading of movies. It also does not cover copyrighted service, such as music or games.

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6. Are online traders established in third countries subject to the Regulation?

Yes. Traders established in third countries outside the EU but operating within the EU are covered by the Regulation, even if they pursue commercial activities only in one country. Also, online marketplaces established outside the EU but selling to the EU customers are covered (Recital 13).

Example

A US website targeting the UK market and delivering only within the UK must not block customers from other EU/EEA countries wishing to access the website. It must sell to all EU/EEA customers. However, it is not obliged to deliver outside the UK.

7. Does the Regulation cover sales only to consumers or also to businesses? Do I have the same or different obligations?

The Regulation covers sales to customers which includes consumers (B2C) and to a limited extent also businesses (B2B) (Recital 16).

B2B sales are covered only to the extent that the business customer purchases the good or service for their own end-use. Thus, sales to businesses are only covered as long as the business only uses the good or the service and does not resell, transform, process, rent or subcontract it. All the obligations in terms of non-discrimination based on nationality, place of residence, or establishment, are the same as those in the sales to consumers. However, business customers do not have the same rights as consumers in terms of guarantees or the right to withdraw (which is not regulated in this Regulation). These rights, if at all, are regulated by the commercial agreement between the trader and the business customer.

Example

A sale of a stapler, furniture, or baking machines and appliances to a bakery would be covered, because the bakery will only use it for its own needs.
A sale of flour to a bakery would not be covered, as it would be used for baking goods for resale.

8. Do I have to sell to all customers in Europe?

According to the Regulation you must sell to a customer who is a consumer who is a **national** of, or has his or her place of residence in, a Member State, or an undertaking which has its **place of establishment in a Member State**, and receives a service or purchases a good, or seeks to do so, **within the Union**, for the sole purpose of end use.

This means that the Regulation covers sales within all 28 EU Member States and EEA (Norway, Iceland and Liechtenstein). This means you have to sell - but not to deliver - to all customers (B2C and B2B) buying within the EU/EEA. You have to treat customers from Norway, Iceland and Liechtenstein as if they were EU customers. In practice, you must not refuse to sell to any EEA national residing anywhere in the EEA.

Sales to customers from other European countries or third countries outside the EEA are not covered by this Regulation. For example this Regulation does not apply to Switzerland.

In practice it might be difficult to know the nationality or the location of customers. The Regulation does not require you to check this.

In any case, you are not obliged to deliver outside your normal delivery area. However, if you deliver or help organise the delivery, this might have implications on VAT obligations, and application of customer law (consumer protection and product legislation), (see question 2). You might need to seek specific legal advice.

Example

You must not refuse a sale to a Norwegian customer living in Norway and buying on a Swedish website.
You may refuse a sale to a Swiss customer living in Switzerland and buying on a Danish website

9. *What about the UK?*

So far UK customers are covered and you must comply with the Regulation when selling to UK consumers or out from the UK most probably also during the transition period to end-2020. The final details of the Brexit deal will decide whether and in which shape the Regulation still applies.

10. *Do these rules apply only when I sell cross-border or also domestically?*

It does not matter if you sell cross-border or only within one country today. The Regulation means that you have to sell (but not deliver) to customers from all over the EU.

However, the Regulation excludes situations that are purely internal to a Member State i.e. the trader, the customer, the place of delivery, the payment means, etc. are all from the same Member State. In such a case a customer cannot derive any rights from this Regulation.

11. *Which rules do I have to apply: my law or the law of customer's country?*

The Geoblocking Regulation does not change anything in this respect. The question of which law applies to the contracts for the sale of goods and other contracts is regulated in Regulation 593/2008 of 17 June 2008 on the law applicable to contractual obligations (Rome I Regulation).

- > If you sell to a **customer who is a consumer (B2C)** your law will apply, unless you pursue commercial activities in the consumer's country or direct such activities, for example by marketing your goods or services in the consumer's country or delivering to consumer's country. For more details see Article 6.2. of the Rome I Regulation.
- > If you sell to a **customer who is another business (B2B)** you can either agree on the law applicable (Article 3 of the Rome I Regulation) or if you have not made any choice about specific law your law will apply (Article 4 of the Rome I Regulation). You may also want to check the UN-Convention on the international sale of goods for further details on remedies.

12. *To whom does the Regulation apply? Who is a trader?*

The trader is any natural or legal person who is acting for purpose relating to the trade, business, craft or profession.

The trader in the context of the Regulation is a company established in a particular country and not as a parent company with subsidiaries established in several countries. In other words each establishment will be regarded as a trader.

Example

A company headquartered in Finland has several establishments across the EU. Each country operates its own website offering the delivery within this country only. The Finnish parent company cannot be deemed as pursuing overall commercial activities across the EU. This means that **company.fr**, pursues commercial activities in France, **company.de** in Germany and **company.nl** in the Netherlands so each company in its respective country but not across other countries.

13. What exactly is an online interface? Are all websites and apps covered?

An online interface is a website and applications, mobile applications operated by the trader, which serves to give customers access to the goods and service with a view to engage in a transaction.

This means that purely informative websites, where goods and services are presented but customers cannot buy, are not covered. These websites can automatically reroute or prevent access.

However, if you provide links on such information websites to other websites (for example national websites of a global shop) where consumers can buy, you may not block access to such an information website or automatically reroute. This means that comparison websites are covered and must not block access or reroute.

14. In which country do I declare and pay VAT?

The Regulation does not change where you deliver goods. You pay VAT according to the rules of the country where the delivery takes place. There is no need to register for VAT in the Member State of the customer (Recital 23).

Example

A trader is only present and active in Germany. Now, a customer from Denmark buys a product from him online but picks it up in Germany. As with any simple offline sale, German VAT applies and has to be declared in Germany. There is no need to register for VAT in the Member State of the customer (in this case: Denmark) (Recital 23).

15. What exactly are the technical changes I need to implement in the website?

Regarding access to a website

- > First of all you cannot block access to shopping website(s) – e.g. based on IP addresses or other factors connected to nationality or geographical location (e.g. address, postcode or GPS coordinates).
- > Customers must have full and equal access (Article 3, Recital 18) – unless it is legally required to prohibit the access or sale because of a specific national law (Article 3.3, Recital 18 & 21). In such case you must clearly explain the reasons for blocking, limiting the access or redirection. You should be clear and informative. It is not sufficient to say that the access or rerouting is due to legal requirements. You are not obliged to go as far as quoting the relevant law. For example, you may say that access is blocked due to copyrights.
- > In the same way, you must also make sure that all other “online interfaces”, i.e. shopping apps, are accessible and usable for customers from all over the EU (Recital 18).

Example

You sell fireworks online. In country B it is prohibited to offer fireworks to consumers. Hence, you are allowed to block the access for consumers from that specific country. Also just limiting access or redirecting customers might be allowed in this case. If you do so, you need to provide a clear and specific explanation to the customer e.g. referring to “specific security regulations in country XYZ” (in the language of the shop the customer initially sought access to).

Regarding the possibility to complete the order

Quite probably. A website or an app cannot be designed in a way that it restricts certain EU customers to easily complete their orders in practice. All online forms have to be compatible with placing an order from anywhere in the EU. This means:

- > For completing the **billing address, or contact details** the online form may not be designed in a way to only allow billing addresses from one or a few countries – e.g. via a limited list of countries in a drop down or post codes with only four digits (Recital 19) any website form must be country neutral and accept foreign billing addresses. A technical adaptation might be needed so that addresses from all EU countries can be filled in.
- > The same applies to **contact details**, such as phone numbers. You cannot design the form to only accept phone numbers with specific country codes.
- > For **the delivery address** (if you restrict the delivery to certain countries) you may still use address formats and limited list of countries as fit for those countries where you deliver.
- > For accepting **payments**: The website also needs to provide forms that accept the means of payment that are normally accepted from any Member State. For example, if you accept credit cards, you must allow to fill in the details of any SEPA issued card.
- > **Conditions, prices and product offers** within one specific web shop cannot (automatically) change based on the IP address, a delivery address, a certain payment means or the like. However, you can still have different shops, with different prices/conditions/offers - maybe directed at different countries (Article 4.2., Recital 27) – but all EU customers must be able to buy products from all versions of your shop.

Regarding redirecting customers

- > You are not allowed to redirect a customer from one version of your online shop to another without explicit consent. The consumer must always have the possibility to return to the shop he originally sought (Recital 18).
- > The consent can be saved (e.g. in the customer’s personal account on your website), so when the same situation with the same customer occurs again, you do not have to ask him again and you can immediately redirect him. The customer has the right to withdraw consent at any time (Recital 20).

Regarding payments

You have to make sure – as a general principle – that - if you accept a certain payment means - you have to accept it from all over the EU in your online shop. A web shop is not allowed to automatically decline credit cards from certain countries. While technical adaptations are most likely necessary, there are exemptions from this general principle (see questions 26-29).

Delivery

16. Do I have to deliver to all customers across the EU?

No. You are free to decide whether, where and under which conditions you want to deliver the goods you sell. You only have to avoid different treatment of EU customers when doing so (Recital 28). In the table below (question 18) see risks related to delivery.

Example

You only deliver within Italy. A customer from Austria wants to buy a product from you. You have to grant him that sale, but he has to name a delivery address within Italy where he picks up the product. It can also be a pick up point, e.g. in one of your stores in Italy close to the Austrian border.

17. Do I have to organise pick up points for foreign customers?

No, there is no obligation to set up pick up points or a pick up possibility for any kind of domestic or foreign customer. Only in case your terms and conditions state the possibility to make use of pick up points (e.g.: “All products bought online can also be picked up in all of our stores all over Poland”) you can agree with a certain customer on a specific pick up point.

18. Can I recommend a shipping company to a customer or help customer with organising the delivery? What do I risk?

The Regulation requires you to sell but does not require you to deliver everywhere in the EU.

It is up to you do decide to deliver to customers beyond your usual delivery area or help the customers organise the delivery. You may want to do it out of good customer service.

Depending on how you do it, you might run into a risk that your actions will be deemed as pursuing commercial activities in the customer’s country (see question 2 for details). This means:

1. You have to apply non-contractual rules relevant in the customer’s country, such as concerning product composition and labelling.
2. You have to pay VAT in the customer’s country.

When you sell to consumers (B2C sales)

3. You have to apply the relevant consumer protection laws in the consumer’s country.
4. You risk being sued in the consumer’s country.

What do you do concerning the delivery?	You risk being seen as targeting the customer’s country
You do not deliver yourself but: > You advertise on your website a delivery company that delivers to the customer’s country. > You provide a link to the delivery operator(s). > You provide other tips and recommendations regarding delivery to the consumer’s country.	Yes

<p>Before the purchase is completed:</p> <ul style="list-style-type: none"> > You make certain ad hoc arrangements with the customer to suggest a delivery company, e.g. as part of email exchange with the customer before he buys. 	<p>Yes</p>
<p>After the purchase is completed you organise the delivery yourself.</p>	<p>Yes</p>
<p>After the purchase is completed you suggest a delivery company to the customer.</p>	<p>Depends – risk that customer country’s law applies</p> <ul style="list-style-type: none"> > To minimise the risk you should ensure that this is a one-off service provided on an exceptional basis. You should not do it regularly or as a general arrangement. > However, you cannot fully exclude the risk that in case of a dispute before a court, the court looks into all of your activities related to this and similar sales, and decides that you have been targeting the consumer’s market. <p>Yes – regarding VAT</p> <ul style="list-style-type: none"> > You will need to pay VAT in the customer’s country as any activity related to organising the delivery (even in the broad sense) falls under the VAT rules of country of destination.

19. What are my obligations if the customer organises transport himself?

You are only obliged to send the good to an address indicated by the customer in the country/countries in which you offer delivery. It is up to the customer to organise the delivery to the final destination from that point.

20. Can I restrict my activity and delivery to specific regions within a country (only big cities, no islands, etc.)?

Yes, you are free to decide where to deliver within one country. You can decide only to deliver products to certain cities, within certain areas, or to exclude distant regions such as islands, which is often the case for food and fresh products. While you can limit your delivery area you must give all customers from over the EU the possibility to buy products from you in a non-discriminatory way and get them delivered within this specific area.

Remember that, in accordance with the Consumer Rights Directive (Article 8.3), e-commerce websites must clearly indicate, at the latest at the beginning of the ordering process, whether any delivery restrictions apply.

Example

If you deliver groceries only within a specific city you may continue to do so.

Access to a website or an app

21. Can I redirect the customer from one domain of a website to another?

Under the Geoblocking Regulation it is not allowed to block access to online interfaces and redirect to other online interfaces for reasons related to the nationality, place of residence or place of establishment of a customer.

In practice, this means that you cannot automatically redirect the customer from one national website to another website. You are obliged to give access to your website to all consumers that want to browse your website.

You must give the consumer the choice whether he wants to stay on the website or be redirected. You need explicit consent of the customer for redirection. If the consumer has made a choice, you can set this choice as a preferred default for that customer (so no need to ask for explicit consent each time the customer visits the same website), but the original version sought after should always remain easily accessible (Article 3.2., Recital 20). The customer has the right to withdraw the consent at any time (Recital 20).

If the redirection of a customer is being done in order to comply with a special EU or national law requirement, automatic redirection is allowed. The customer has to be informed on why this redirection is taking place in the language of the online interface he/she was trying to access (Recital 21).

Example

You have a Belgian and a Dutch version of your shop. A customer with an IP-address from Belgium wants to access the Dutch domain of the website (**website.nl**). If you want to direct him to the Belgian shop with tailor-made offers for him he has to agree, e.g. by ticking a box in a pop up. You can ask him/her in following question: Do you want to browse **website.nl** or do you want to go to **website.be**?

For **logged-in customers** you may save the consent in the customer's profile.

For **non-logged-in customers** you may rely on cookies or other technologies to save such consent, but the Regulation is not specific on this. You must follow the relevant privacy laws (the ePrivacy Directive and soon the ePrivacy Regulation, and the General Data Protection Regulation; see EuroCommerce separate guide).

22. Do my shopping apps need to be available in the app stores of all EU countries?

The basic principle is that all EU customers must have full and equal access to your online interfaces, which includes shopping apps (Article 3, Recital 18). That means they must be able to download and use your app in and from any EU country.

If a trader provides a shopping app in one country, the Regulation does not require that the trader makes 28 versions of this app available for each and every EU country in the national app stores. Rather the Regulation requires the app store providers to allow access by a customer to the app offered by the trader in its national app stores.

Example

In case your shopping app is only available on the Swedish version of an app store and this Swedish version cannot be used/accessed in Finland, Finnish users cannot have access to your shopping app and are discriminated according to the Regulation. However it is the responsibility of the app store to allow such access, rather than your obligation to develop a Finnish app.

Prices

23. Can I have different prices on different websites across the EU or different prices online and offline?

Yes, you may still charge different prices in different points of sale, or make specific offers. The Regulation merely says that you may not use unequal conditions based on nationality, place of residence, or establishment.

However, if the customer wishes to make a purchase from a cheaper website you must allow the consumer (or customer?) to buy at the price on that website. There may be also different offer for people living in a particular region or city or a specific group of customers.

The use of price differentiation and other differences in sales conditions based on a customer's nationality or place of residence is permitted if there is an (objective) justification for doing so. For example the obligation to use the equal sales conditions does not apply, if EU or national legislation prevent this, e.g. in the case of the sale of books based on national book prices.

Example

You sell a good on the Italian website (**website.it**) for 70 EUR. The Austrian version of the website (**website.at**) sells exactly the same good but for 95 EUR. The Austrian consumer must be able to buy the cheaper good from the Italian website. However, the Italian shop does not have the obligation to deliver to Austria.

24. Can I have a sale, promotion or other type of price campaign on only one of my e-commerce websites?

Yes, as long as it applies to everyone making a purchase from that website.

The Regulation only requires that anyone must be able to buy on any website. This means that whenever there is a sale or a special offer it must be available to any customer, irrespective of their nationality, place of residence or where they are based. You can have promotions and sales running in different countries and different websites but you must allow everyone to buy at the price you would charge consumer where you pursue your commercial activities. You must follow relevant national requirements regarding sales and promotions (for example when you can organise a sale).

Example

For example, you may have Mother's Day promotion on the second Sunday of May in the UK and Italy, and on 26 May in Poland. You must allow anyone in the EU to buy at the special price offered to customers in Poland for 26 May (but you are not obliged to deliver outside of Poland).

Payments

25. What type of payment categories do I have to offer?

In general, you are free to offer whatever payment means you want to offer. The Regulation does not oblige you, for example, to accept credit cards. If you have not done this so far, you do not have to do it now. However, if you accept credit cards, you have to accept them from all customers from all EU countries in a non-discriminatory way. This means you may no longer base acceptance on the basis of a customer's nationality, place of residence, or establishment or on the basis of the location of that customer's payment service provider or bank account. This principle also applies to other payment methods (credit transfer & direct debit).

Example

- > If you accept Maestro as a means of payment must therefore also accept foreign Maestro (debit) cards.
- > If you accept Visa credit card you are not obliged to also accept MasterCard (or American Express) payments.
- > Likewise, if you accept a credit card payment from MasterCard, you do not have to accept a debit card payment from MasterCard (or Visa or American Express) and vice versa.
- > If you accept a debit card (for example from Visa only) you are not obliged to accept a credit card of Visa.
- > You must not accept payments with a credit card issued in France, but reject payments with a credit card issued in Poland.
- > You must not set limitations that, for example, customers paying with Latvian card can only pay sums up to 50 Euro.

26. Under which circumstances am I allowed to refuse a payment upon invoice or via direct debit for certain consumers?

If accepting a payment upon invoice requires you to enter into a new or modified contract with a payment initiation service provider, you may refuse a payment upon invoice for customers in cross-border transactions.

In addition, in situations where there are no other means available to reduce the risk of a customer's default, including in particular difficulties related to assessing the creditworthiness of the customer, you are allowed to withhold the shipment of the good until you have received the money on your account or a proof of payment from the customer or his bank.

In case of direct debit, you can even explicitly request a prepayment via credit transfer before you deliver the good (within the area of your delivery). This difference in treatment, however, can be based only on objective and well-justified reasons, such as the impossibility of assessing the customer's creditworthiness (e.g. because he is from a country where no customer

creditworthiness checks are offered or you do not make use of such a service because normally you do not sell to customers from this country).

27. *What measures can I take to reduce the risk of fraud in cross-border transactions?*

If customer authentication requirements are not fulfilled, you may deny the payment.

As an alternative to strong customer authentication, for low risk transactions, the payment provider that you use can also choose to execute or refuse a payment following a transaction risk analysis. The payment service provider may combine certain risk-based factors in order to determine whether a specific payment should be allowed without strong customer authentication.¹

28. *Can I perform automated fraud checks?*

Yes, you may use automated strong customer authentication or real-time transaction risk analysis (for low risk transactions).

29. *Can I request the customer to fill in the social security number/national personal number in order to process a payment transaction?*

Yes, you may request the customer to fill in a social security number/national personal number and thus discriminate compared with other customers if the absence of such information has the effect that it requires you to enter into a new or modified contact with the payment initiation service provider in order to process a cross-border payment. This is a specific issue, applicable only in some countries.

Since retail financial services are excluded from the Regulation, the payment initiation service provider requiring the customer to submit social security number/national personal number is not geo-blocking in the meaning of this Regulation.

Product compliance

30. *Am I liable for selling products cross-border that are not legal for sale in the customer's country?*

No. The fact that you must not refuse a sale does not mean you must comply with certain legal requirements of the customer's country. This means, you have no obligation to check and ensure that the good meets technical or safety requirements, that it is labelled in accordance with the rules of the consumer's country, etc. (Article 4.3).

You are also not obliged to inform customers about these requirements (Article 4.3).

As long as you are not active on a certain EU market there is no requirement to be aware of whether or not a product is legal or has any specific requirements fit for the country where the consumer resides. You are not liable for product compliance if the product ends up being used in another country and may not work there properly, which is basically the same case when a foreign customer buys a product in your brick-and-mortar store.

¹ http://ec.europa.eu/finance/docs/level-2-measures/psd2-rts-2017-7782_en.pdf

In some countries the (online) sale of certain products (e.g. alcohol, tobacco products, fireworks, etc.) might be restricted or might depend on specific labelling or information requirements. You do not have to know or fulfil these country specific rules and requirements when you are forced by the Regulation to sell to a customer of one of these countries (Article 4.3, Recital 29).

You have to follow the relevant product rules only when you pursue commercial activity or direct such activity to a specific country, meaning you are active on this market anyway.

31. May I refuse to sell certain goods?

You may refuse to sell certain goods if there is a specific national or EU law which prohibits you to sell certain goods (Article 4.5).

Example

You sell fireworks online. In country B it is prohibited to offer fireworks to consumers. Hence, you are allowed to block the access for consumers from that specific country. Also just limiting the access or redirecting customers might be allowed in this case. If you do so, you need to provide a clear and specific explanation to the customer (in the language of the shop the customer initially sought access to).

32. Do I have to check if a good that I sell is fit for the consumer's market?

No. You may sell goods that are specifically fit for only one or few markets where you pursue commercial activities. This may be because of the special composition of the good, or special technical requirements (such as a plug) or weather conditions in which the product's performance is the best, etc.). In such cases, you do not need to but it is advised to add a statement like "This product is meant for use only in country X". It may help avoid customer frustration and limit complaints.

Example

A certain type of paint that is equipped for use in 'wet' countries but not suitable for use in countries with higher temperatures and more sun.

33. Am I liable when selling products cross-border that are or may not be labelled correctly?

No. You have no obligation to check and ensure that the good is labelled in accordance with the rules or the consumer's country, etc. This is the same situation as if a foreign customer bought a good in your brick-and-mortar shop and took it back home (Article 4.3, Recital 29).

34. Can a customer demand user manuals or other documentation and product description in their language?

Not if you have not pursued commercial activities (targeted the customers) in that Member State.

Returns and customer complaints

35. If the customer returns the good (right to withdraw within 14 days) who pays for the shipping costs?

The Geoblocking Regulation does not change anything in this respect (Recital 28).

In accordance with the Consumer Rights Directive 2011/83 (CRD):

- > If you say nothing about the shipping costs for the returned goods on your website, you will have to bear these costs.
- > If you have said on the website that returns are not free and consumers pay for the returns, consumers must pay for these costs. It is recommended to spell this out in clear and transparent manner. Hiding it in the terms and conditions might be deemed unfair to consumers.

These are statutory rules which apply only when you sell to a consumer (natural person) – and not to a business. You might want to think about contractual arrangements when you sell to a customer who is a business.

36. In case I offered free returns do I have to reimburse all the shipping costs? Also those to the final destination of the customer?

The Geoblocking Regulation does not change anything in this respect (Recital 28).

The trader has to reimburse all payments received from the consumer, including, if applicable, the costs of delivery (Article 13 CRD). In the context of the Geoblocking Regulation, this means that you have only to reimburse those costs of delivery that have been borne by the consumer to the initial place of delivery in the country where you deliver. It does not cover costs from the “trader’s country” to the final destination or vice versa.

If you offer free returns you should make it clear in your terms and conditions that it only covers costs from the original place of delivery.

These are statutory rules, which apply only when you sell to a consumer (natural person) – and not to a business. You might want to think about contractual arrangements when you sell to a customer who is a business.

37. When does the 14-day period for right of withdrawal begin?

The Geoblocking Regulation does not change anything in this respect.

The right of withdrawal begins at the time the goods are delivered at the place where the consumer has asked the goods to be delivered. This is regulated in the Consumer Rights Directive.

In accordance with the Consumer Rights Directive (CRD), the withdrawal period starts running on the day on which the consumer or a third party other than the carrier and indicated by the consumer acquires physical possession of the good, or in case of multiple goods ordered by the consumer, from the day the consumer acquires possession of the last good.

38. How will I know when the good has arrived at the consumer's final destination?

You may not be able to have this information as the consumer will be organizing the transport to his Member State on his own.

39. If the customer returns the product because of a defect (consumer terminates the contract due to lack of conformity) who pays for the shipping costs?

The Geoblocking Regulation does not change anything in this respect.

In accordance with the Sales Directive 44/1999:

- > If there is a lack of conformity you must pay for the shipping costs from and to the place where the product was finally brought to. This means that the consumer must first pay the shipping costs when returning the goods for you to examine. If you find that there is a lack of conformity you must reimburse the consumer his shipping costs.
- > If the lack of conformity has not been established the consumer must pay for shipping costs. This means that the consumer must first pay the shipping costs when returning the goods for you to examine. If you find that there was no lack of conformity the consumer is not entitled to reimbursement.
- > For goods that are installed (e.g. tiles, a dishwasher) the seller is (according to case law, Case C-65/09 and C-87/09 (Weber/Putz) in principle obliged to remove the defective goods and to install the non-defective goods again, even if the installation was not subject of the contract, but performed by the consumer or a third party. The Geoblocking Regulation does not introduce any new rules here. However, the Regulation clarifies that the agreed place of delivery which would be within the territory of the traders' Member State would also be the place of fulfilment for the remedies (repair, replacement etc.) in the case of non-conformity. This would mean that the consumer himself would be obliged to bear the costs of transport to the initial agreed place of delivery.

These are statutory rules, which apply only when you sell to a consumer (natural person) – and not to a business. There might be some general statutory rules in your country laws for the B2B contracts. However, you also might want to think about contractual arrangements when you sell to a customer who is a business.

40. Who is responsible if the good is damaged on the way to the consumer?

You bear the risk for any accidental damage in transport to the delivery place indicated by the consumer, either at the delivery address or a pick up point you have proposed on the website. You are not liable for any damage that has occurred once the good has been picked up from this delivery point either by the customer or by a transport company arranged by the customer.

Customer services

41. Can customers demand customer service (hotline) in their language?

No. You do not need to provide customer services such as hotlines in the customer's language or any other specific assistance to customers located in markets that you do not target. You may handle consumer queries in the language in which you operate (Article 1.6).

If you respond to customer queries or complaints in their own language you are not likely to risk that this would be seen that you target the consumer's country. However, this may depend on a particular situation and other activities you undertake to provide customer service. (Article 1.6). If you set up a general hotline in a language of a country that you have so far not targeted this might be taken as a sign that you target this market. Thus you will need to comply with the consumer protection and other rules of that market.

42. In which language should I handle customer queries and complaints?

In the language in which you usually handle complaints. You are not obliged to use customer's language. You may communicate in the language of the consumer on a one off basis. However, bear in mind that if you offer additional services (depending on what they are) you may be seen as targeting the customer's market.

43. What customer service should I provide to customers living in countries where I normally do not pursue commercial activities (do not deliver)?

You have no obligation to offer any special customer service arrangements beyond access to your usual customer service contact points. However, you must allow access to the services that you offer to local / domestic consumers – as if the foreign customers were domestic.

If you set up a customer service for customers beyond your usual target area this might be taken as a sign that you are actively targeting that market. Thus you will need to comply with the consumer protection and other rules of that market.

Example

You offer free maintenance within a year after purchase for washing machines that you sell. You are not forced to offer this service to any potential customer in the EU. However, you might want to clarify in your terms and conditions that the service is only available to customers in certain areas.

Resale of goods and agreements with suppliers

44. Do I have to sell goods when an agreement with my supplier limits my sales just to the territory that we have agreed on?

If your agreement with the supplier stipulates that you must not sell goods to consumers located beyond the agreed territory, in other words where the agreement imposes restrictions on passive sales, this provision is void (Article 6.2). You may not invoke the agreement to refuse a sale.

Example

You sell bicycles online in Germany. The producer has bound you to pursue your commercial activities, i.e. promote, sell and deliver the bikes only in Germany, while another reseller has been appointed to sell to customers in Austria. The producer has imposed a restriction that you must not sell the bikes to customers buying from Austria – even if you do not undertake any activities to promote your shop in Austria and these customers just found that your website sells the bikes cheaper than the Austrian reseller. In such case you cannot refuse a sale. The restriction in your supplier contract is null and void. The rest of the contract is still valid, though.

45. Will I need to make any changes in my agreements with suppliers?

There are no specific requirements, but you may need to reassess trading terms, logistics and distribution operations if those are geared to specific countries. Sales terms may also have to be updated.

Enforcement and sanctions

46. From which day do the new obligations apply? When do I risk to be sanctioned?

The Regulation applies as of 3 December 2018.

47. What sanctions or penalties do I risk if I do not comply with the Regulation?

The Regulation does not indicate specific sanctions. This will be a national matter. Member States will decide on the sanctions for violations. The European Commission will keep an overview of the relevant sanctions and enforcement measures.

48. Which authority will enforce the Regulation?

It is up to each Member State to designate a body or bodies responsible for the enforcement (Article 7).

Currently there is a list of enforcement authorities competent to enforce the Services Directive 2006/123/EC, which is a basis for the Geoblocking Regulation, is included in the European Commission guidance SWD(2012) 146. The list is available [here](#). Member States may decide to keep the same enforcement authorities or appoint new ones.

As of 17 January 2020, if a violation of the Regulation affected consumers in at least two other Member States this would be deemed as a widespread infringement for which the relevant enforcement authorities from the countries concerned would conduct a coordinated enforcement action. For further details check Regulation (EU) 2017/2394 of 12 December 2017 on cooperation between national authorities responsible for the enforcement of consumer protection laws and repealing Regulation (EC) No 2006/2004 (**CPC Regulation**), available [here](#).



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