



Media relations
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Press Release

regarding judgment B-5972/2023 of 28 February 2024

Visa debit cards: No precautionary measure

The Federal Administrative Court has ruled that the Competition Commission was right to reject Visa's application for a precautionary measure with regard to interchange fees for debit cards.

reject Visa's application for a precautionary measure with regard to interchange fees for debit cards.

Interchange fees are charges on credit and debit card transactions which are paid to card issuers and are ultimately borne by merchants. At the end of June 2023, the Competition Commission (COMCO) opened an investigation into consumer and company debit cards licensed by Visa because the latter was planning to introduce fees that were somewhat higher than the level deemed appropriate by the COMCO Secretariat.

At the end of August 2023, Visa applied to COMCO requesting that, as a precautionary measure in the interests of legal certainty, it immediately declare "permissible" for the duration of the investigation the new rule on debit card interchange fees which it had introduced on 1 July 2023. On 25 September 2023, COMCO rejected the application on the grounds that the requested precautionary measure infringed the Cartel Act. Visa challenged this interim ruling before the Federal Administrative Court (FAC), requesting that the order in question be issued immediately.

Exemption from the risk of sanctions contrary to the Cartel Act

The FAC takes the view that the sole purpose of the application is to exempt Visa from the risk of sanctions for the duration of the investigation. However, the exemption from sanctions sought by Visa in its private interest is contrary to the sanctions system under the Cartel Act. This system provides that undertakings like Visa which implement a notified behaviour must bear the corresponding risk of sanctions. The Court holds that the COMCO Secretariat's preliminary assessment offers adequate legal certainty. The FAC rejects the appeal submitted by Visa on these grounds.

This judgment may be appealed to the Federal Supreme Court.

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About the Federal Administrative Court

Located in St. Gallen, the Federal Administrative Court (FAC) was established in 2007.

With its staff of 351 employees (296.1 FTE) and its 73 judges (65 FTE) it is the largest federal court in Switzerland. The Federal Administrative Court has jurisdiction to hear appeals against decisions rendered by Swiss federal administrative authorities. In specific matters, the FAC may grant review on decisions rendered by cantonal authorities.

Recourse actions are also reviewed by the Court. The FAC is composed of six divisions. It renders an average of 6,500 judgments every year.