

EFTA COURT

Request for an Advisory Opinion from the EFTA Court by Fürstlicher Oberster Gerichtshof, Liechtenstein, dated 9 July 2015, in the Case of Franz-Josef Hagedorn v Vienna-Life Lebensversicherung AG

(Case E-15/15)

A request has been made to the EFTA Court by a letter dated 9 July 2015 from Fürstlicher Oberster Gerichtshof, Liechtenstein (The Supreme Court, Liechtenstein), which was received at the Court Registry on 9 July 2015, for an Advisory Opinion in the case of Franz-Josef Hagedorn v Vienna-Life Lebensversicherung AG, on the following questions:

1. Is Article 36(2) of Directive 2002/83/EC of the European Parliament and of the Council of 5 November 2002 concerning life assurance to be interpreted as meaning that the duties to provide information referred to therein and in Annex III(A)(a)(11) and (a)(12) and (B)(b)(2) for unit-linked life assurance policies must also be fulfilled in the case where a person who, by a legal transaction, acquires a unit-linked life assurance policy from another person with the consent of the assurer through the transfer of the contract ('second-hand policies')?

In the event that the Court answers the first question in the affirmative, the following additional questions are asked:

2.(a) Is Article 36(2) of Directive 2002/83/EC concerning life assurance to be interpreted as meaning that in the event that a unit-linked life assurance policy is acquired by a legal transaction, only general information must be provided to the new policy holder or is the assurance company also required to provide the new policy holder with information specifically regarding the assurance product to be acquired by him, in particular regarding any differences between the investor or risk profiles of the existing policy holder and of the transferee?

In the event that Question 2(a) is answered in the negative, the following question is asked:

2.(b) Is specific information to be given to the transferee of the contract regarding the assurance product to be acquired by him where the existing policy holder is an undertaking, while the transferee of the contract is a natural person or a consumer?

In the event that Question 2(b) is answered in the negative, the following question is asked:

2.(c) Is specific information to be given to the transferee of the contract regarding the assurance product to be acquired by him where the transferor of the policy dispensed with information regarding the assurance product in question, for example because he did not disclose to the assurance company the information necessary in order to assess his own risk or investor profile?

3. Are the provisions concerning the assurer's obligations under Annex III(B)(b)(2) of Directive 2002/83/EC concerning life assurance effectively transposed into national law even if national law provides, in Annex 4(II)(2) of the Versicherungsaufsichtsgesetz (Law on insurance supervision), in the case of unit-linked assurance policies, that during the term of an assurance contract information must be provided on the units underlying the assurance policy and the nature of the assets contained therein only where the changes in the information provided stem from 'amendments of the law' but not also 'in the event of a change in the policy conditions' (Annex III(B)(b)(2) to Directive 2002/83/EC)?