

EFTA COURT

Request for an Advisory Opinion from the EFTA Court by the Princely Court of Appeal dated 24 September 2025 in the case of KB v Land Liechtenstein

(Case E-18/25)

A request has been made to the EFTA Court dated 24 September 2025 from the Princely Court of Appeal (*Fürstliches Obergericht*), which was received at the Court Registry on 30 September 2025, for an Advisory Opinion in the case of KB v Land Liechtenstein, on the following questions:

Question 1

Must it be presumed as a result of the Advisory Opinion given by judgment of the EFTA Court of 4 July 2023 in Case E-11/22 that the adoption of Article 23(5)(b) of the Tax Act in the version of State Law Gazette 2014 No 344 by the Liechtenstein legislature constituted a sufficiently serious breach of Article 4 EEA and/or Article 28 EEA which, if the other conditions are satisfied, entails State liability?

alternatively:

Must the Advisory Opinion mentioned be understood to mean that, where compensation for the loss and damage resulting from the higher rate of taxation is sought by means of State liability by a person affected in the same way as the applicant in the main proceedings, national courts are precluded from verifying the EEA law conditions for State liability, in particular, the requirement of a sufficiently serious breach of a rule of law, and, if necessary, making a negative finding?

Question 2

If it follows from the Advisory Opinion given by judgment of the Court of 4 July 2024 in Case E-11/22 that national courts must presume that the EEA law conditions for State liability, in particular a sufficiently serious breach of Article 4 EEA and/or Article 28 EEA, are met:

Is it compatible with the principle of EEA State liability that compensation for the loss and damage resulting from the higher rate

of taxation may be refused under national law nonetheless because the person concerned

- (a) breached his obligation resulting from Article 11(2) of the Act of 22 September 1996 on State Liability (AHG) to submit a prior written request to the public entity against which he wishes to assert the claim for compensation for recognition of the claim for compensation?**
- (b) contrary to Article 5(1) of the Act of 22 September 1996 on State Liability (AHG), did not challenge the tax assessment of the Fiscal Authority with the legal remedies available to him under national law?**