

COURT PROCEEDINGS

EFTA COURT

Request for an Advisory Opinion from the EFTA Court by Fürstlicher Oberster Gerichtshof in the case of Liti-Link AG v LGT Bank AG**(Case E-14/20)**

(2021/C 39/06)

A request has been made to the EFTA Court dated 4 September 2020 from *Fürstlicher Oberster Gerichtshof* (Princely Supreme Court), which was received at the Court Registry on 16 September 2020, for an Advisory Opinion in the case of *Liti-Link AG v LGT Bank AG* on the following questions:

1. Must the final paragraph of Article 26 of Implementing Directive 2006/73/EC according to which the essential terms of the arrangements relating to the fee, commission or non-monetary benefit may be disclosed in summary form, be interpreted as meaning that the disclosure of benefits can be in summary form and general in content?

If the Court answers the first question in the affirmative, the following supplementary question is asked:

- 1.1. Must the final paragraph of Article 26 of Implementing Directive 2006/73/EC according to which the essential terms of the arrangements relating to the fee, commission or non-monetary benefit may be disclosed in summary form be interpreted as meaning that the disclosure of benefits can be in summary form and general in content, for example, in general or other pre-formulated terms and conditions of business or must the disclosure be made individually for each client or each category of clients?

In addition, the following further questions are referred:

2. Is there a correct disclosure within the meaning of point (b)(i) of Article 26 of Implementing Directive 2006/73/EC if the investment firm merely notifies the client that benefits may be provided to it by third parties or must the investment firm clearly indicate whether and when such benefits are provided?
 3. Is there a correct disclosure within the meaning of point (b)(i) of Article 26 of Implementing Directive 2006/73/EC if the investment firm notifies the client that the amount of the benefit provided by the third party depends on the product and consists of a percentage of the management fees charged for the product concerned, a percentage discount on the issue price or a percentage of the issue price or must the investment firm prior to the provision of the investment or ancillary service concerned disclose to the client at least bands concerning the fees, commissions and benefits received by it?
 4. Are the conditions laid down in Article 26 of Implementing Directive 2006/73/EC for a disclosure of benefits in summary form, namely that the investment firm undertakes to disclose further details at the request of the client and that it honours that undertaking, fulfilled if, in relation to transactions already made, the investment firm undertakes merely to disclose to the client further details for the twelve months preceding the request?
 5. Must a Member State, pursuant to the EEA Agreement, accord horizontal direct effect to an implementing directive that is not correctly transposed, specifically, Implementing Directive 2006/73/EC?
 6. Must Article 26 of Implementing Directive 2006/73/EC be interpreted in such a way that rights of banking clients against a bank may be derived from it?
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