



## Reports of Cases

JUDGMENT OF THE COURT (First Chamber)

29 September 2022\*

(Reference for a preliminary ruling – Freedom of establishment and freedom to provide services – Single market in insurance – Directive 2002/92/EC – Definition of ‘insurance intermediary’ – Activity of ‘insurance mediation’ – Directive (EU) 2016/97 – Activity of ‘distribution of insurance’ – Scope of those directives – Membership of a group insurance policy – Assignment of rights under the insurance contract – Insurance benefits in the event of sickness or accident abroad – Remuneration paid by the member in consideration for the insurance cover acquired – Consumer protection – Equal treatment of insurance intermediaries)

In Case C-633/20,

REQUEST for a preliminary ruling under Article 267 TFEU from the Bundesgerichtshof (Federal Court of Justice, Germany), made by decision of 15 October 2020, received at the Court on 25 November 2020, in the proceedings

**Bundesverband der Verbraucherzentralen und Verbraucherverbände –  
Verbraucherzentrale Bundesverband eV**

v

**TC Medical Air Ambulance Agency GmbH,**

THE COURT (First Chamber),

composed of A. Arabadjiev, President of the Chamber, K. Lenaerts, President of the Court, acting as a Judge of the First Chamber, L. Bay Larsen (Rapporteur), Vice-President of the Court, P.G. Xuereb and A. Kumin, Judges,

Advocate General: M. Szpunar,

Registrar: M. Krausenböck, Administrator,

having regard to the written procedure and further to the hearing on 12 January 2022,

after considering the observations submitted on behalf of:

– the Bundesverband der Verbraucherzentralen und Verbraucherverbände –  
Verbraucherzentrale Bundesverband eV, by J. Kummer and P. Wassermann, Rechtsanwälte,

\* Language of the case: German.

- TC Medical Air Ambulance Agency GmbH, by B. Ackermann, Rechtsanwältin,
- the German Government, by J. Möller and P.-L. Krüger, acting as Agents,
- the Czech Government, by J. Očková, M. Smolek and J. Vláčil, acting as Agents,
- the Italian Government, by G. Palmieri, acting as Agent, and by F. Subrani, avvocatessa dello Stato,
- the European Commission, by D. Triantafyllou and H. Tserepa-Lacombe, acting as Agents,

after hearing the Opinion of the Advocate General at the sitting on 24 March 2022,

gives the following

### **Judgment**

- 1 The request for a preliminary ruling concerns the interpretation of Article 2(3) and (5) of Directive 2002/92/EC of the European Parliament and of the Council of 9 December 2002 on insurance mediation (OJ 2003 L 9, p. 3), as amended by Directive 2014/65/EU of the European Parliament and of the Council of 15 May 2014 (OJ 2014 L 173, p. 349) ('Directive 2002/92'), and of Article 2(1)(1), (3) and (8) of Directive (EU) 2016/97 of the European Parliament and of the Council of 20 January 2016 on the distribution of insurance (OJ 2016 L 26, p. 19), as amended by Directive (EU) 2018/411 of the European Parliament and of the Council of 14 March 2018 (OJ 2018 L 76, p. 28) ('Directive 2016/97').
- 2 The request has been made in proceedings between the Bundesverband der Verbraucherzentralen und Verbraucherverbände – Verbraucherzentrale Bundesverband eV (Federal Union of Consumer Organisations and Associations, Germany) and TC Medical Air Ambulance Agency GmbH concerning the alleged activity of insurance mediation carried out by TC Medical Air Ambulance Agency GmbH without authorisation.

### **Legal context**

#### ***European Union law***

##### *Directive 2002/92*

- 3 Recitals 8, 9 and 11 of Directive 2002/92 state:

'(8) The coordination of national provisions on professional requirements and registration of persons taking up and pursuing the activity of insurance mediation can therefore contribute both to the completion of the single market for financial services and to the enhancement of customer protection in this field.'

(9) Various types of persons or institutions, such as agents, brokers and “bancassurance” operators, can distribute insurance products. Equality of treatment between operators and customer protection requires that all these persons or institutions be covered by this Directive.

...

(11) The Directive should apply to persons whose activity consists in providing insurance mediation services to third parties for remuneration, which may be pecuniary or take some other form of agreed economic benefit tied to performance.’

4 Article 1 of that directive, entitled ‘Scope’, provides in paragraph 1 thereof:

‘This Directive lays down rules for the taking-up and pursuit of the activities of insurance and reinsurance mediation by natural and legal persons which are established in a Member State or which wish to become established there.’

5 Article 2 of that directive, entitled ‘Definitions’, provides:

‘For the purposes of this Directive:

...

3. “insurance mediation” means the activities of introducing, proposing or carrying out other work preparatory to the conclusion of contracts of insurance, or of concluding such contracts, or of assisting in the administration and performance of such contracts, in particular in the event of a claim.

With the exception of Chapter III A of this Directive, those activities, when undertaken by an insurance undertaking or an employee of an insurance undertaking who is acting under the responsibility of the insurance undertaking shall not be considered to be insurance mediation or insurance distribution.

...

...

5. “insurance intermediary” means any natural or legal person who, for remuneration, takes up or pursues insurance mediation;

...’

6 The first subparagraph of Article 3(1) of that directive provides:

‘Insurance and reinsurance intermediaries shall be registered with a competent authority as defined in Article 7(2), in their home Member State.’

*Directive 2016/97*

7 Recitals 5 to 7, 10 and 16 of Directive 2016/97 state:

- '(5) Various types of persons or institutions ... can distribute insurance products. Equality of treatment between operators and customer protection requires that all those persons or institutions be covered by this Directive.
- (6) Consumers should benefit from the same level of protection despite the differences between distribution channels. In order to guarantee that the same level of protection applies and that the consumer can benefit from comparable standards, in particular in the area of the disclosure of information, a level playing field between distributors is essential.
- (7) The application of Directive [2002/92] has shown that a number of provisions require further precision with a view to facilitating the exercise of insurance distribution and that the protection of consumers requires an extension of the scope of that Directive to all sales of insurance products. ...

...

- (10) ... It is appropriate ... to strengthen the confidence of customers and to make regulatory treatment of the distribution of insurance products more uniform in order to ensure an adequate level of customer protection across the [European] Union. The level of consumer protection should be raised in relation to Directive [2002/92] in order to reduce the need for varying national measures. ...

...

- (16) This Directive should ensure that the same level of consumer protection applies and that all consumers can benefit from comparable standards. This Directive should promote a level playing field and competition on equal terms between intermediaries, whether or not they are tied to an insurance undertaking. There is a benefit to customers if insurance products are distributed through different channels and through intermediaries with different forms of cooperation with insurance undertakings, provided that they are required to apply similar rules on consumer protection. Such concerns should be taken into account by the Member States in the implementation of this Directive.'

8 Article 1(1) of that directive provides as follows:

'This Directive lays down rules concerning the taking-up and pursuit of the activities of insurance and reinsurance distribution in the Union.'

9 Article 2(1) of that directive provides:

'For the purposes of this Directive:

- (1) "insurance distribution" means the activities of advising on, proposing, or carrying out other work preparatory to the conclusion of contracts of insurance, of concluding such contracts, or of assisting in the administration and performance of such contracts, in particular in the event of a claim, including the provision of information concerning one or more insurance contracts in accordance with criteria selected by customers through a website or other media

and the compilation of an insurance product ranking list, including price and product comparison, or a discount on the price of an insurance contract, when the customer is able to directly or indirectly conclude an insurance contract using a website or other media;

...

- (3) “insurance intermediary” means any natural or legal person, other than an insurance or reinsurance undertaking or their employees and other than an ancillary insurance intermediary, who, for remuneration, takes up or pursues the activity of insurance distribution;

...

- (8) “insurance distributor” means any insurance intermediary, ancillary insurance intermediary or insurance undertaking;

- (9) “remuneration” means any commission, fee, charge or other payment, including an economic benefit of any kind or any other financial or non-financial advantage or incentive offered or given in respect of insurance distribution activities;

...’

- 10 Article 3(1) of the same directive provides:

‘Insurance, reinsurance, and ancillary insurance intermediaries shall be registered with a competent authority in their home Member State.

...’

- 11 Article 44 of Directive 2016/97 states:

‘Directive [2002/92], as amended by the Directives listed in Part A of Annex II to this Directive, is repealed with effect from 1 October 2018, without prejudice to the obligations of the Member States relating to the time limits for the transposition into national law of the Directives set out in Part B of Annex II to this Directive.

References to the repealed Directive shall be construed as references to this Directive and shall be read in accordance with the correlation table set out in Annex III.’

### ***German law***

- 12 Paragraph 34d(1) of the Gewerbeordnung (Code governing the exercise of artisanal, commercial and industrial profession; ‘the GewO’), in the version applicable to the facts in the main proceedings, provided that anyone who intended to act as a professional intermediary, as an insurance broker or insurance agent, with a view to the conclusion of insurance contracts (insurance intermediary) was required to obtain a licence from the competent chamber of commerce and industry, which was to indicate whether it was issued to an insurance broker or insurance agent.

- 13 According to the first sentence of Paragraph 34d(1) of the GewO, in the version applicable from 23 February 2018, ‘any person who wishes to act as an intermediary on a professional basis with a view to the conclusion of insurance or reinsurance contracts (insurance intermediary) must obtain a licence from the competent chamber of commerce and industry’.
- 14 Points 1 and 2 of the second sentence of Paragraph 34d(1) of the GewO, in the version applicable from 23 February 2018, state that an insurance intermediary is ‘any person who, acting as an insurance agent for one or more insurance companies or as an insurance agent, is responsible for acting as an insurance intermediary or for the conclusion of insurance contracts or who, acting as an insurance broker, is engaged in the mediation or conclusion of insurance contracts on behalf of the principal without being instructed to do so by an insurance agent’.
- 15 Pursuant to Paragraph 34d, in the versions applicable both before and after 23 February 2018, a person who has obtained a licence under Paragraph 34d of the GewO must be entered in the register of intermediaries.

### **The dispute in the main proceedings and the question referred for a preliminary ruling**

- 16 The defendant in the main proceedings entrusts advertising companies with the task of offering consumers, by way of door-to-door sales, membership of a collective insurance scheme in return for a fee.
- 17 To that end, it subscribed to a group insurance policy with W. Versicherungs-AG comprising coverage in the event of sickness or accident abroad and coverage for repatriation costs incurred abroad and in national territory.
- 18 The defendant in the main proceedings, which, it is established, acts as the policyholder, pays the premiums due to the insurance company.
- 19 Moreover, it has a contractual relationship with F. r. AG, a company which, using its medical staff and an aircraft, provides, in return for a fee, benefits consisting of, first, organising and carrying out repatriation in the event of sickness or accident abroad and, second, the organisation of a call centre.
- 20 The customers of the defendant in the main proceedings who have joined the group insurance subscribed to by the defendant make a payment and obtain, in return, the right to various benefits in the event of sickness or accident abroad, which include reimbursement of costs relating to medical care and ambulance transport, the organisation and provision of the relevant transport and the management of a call centre.
- 21 The insurance benefits guaranteed to the customers of the defendant in the main proceedings are provided, inter alia, by means of claims which it assigns to those customers.
- 22 As is apparent from the order for reference, the purpose of the activity of the defendant in the main proceedings is not to conclude an insurance contract, but rather to enable consumers to join the group insurance policy to which it has subscribed and to provide them with the opportunity to receive the benefits covered by that insurance.

- 23 Neither the defendant in the main proceedings nor the advertising companies which it uses holds the licence provided for under national law to carry out the activity of insurance mediation.
- 24 Considering that the activity of the defendant in the main proceedings corresponds to that of an insurance intermediary and must, on that basis, be the subject of such a licence, the applicant in the main proceedings brought an action before the Landgericht Koblenz (Regional Court, Koblenz, Germany) seeking to have that activity ceased.
- 25 That court upheld that action.
- 26 The defendant in the main proceedings brought an appeal against the decision of the Landgericht Koblenz (Regional Court, Koblenz) before the Oberlandesgericht Koblenz (Higher Regional Court, Koblenz, Germany), which annulled that decision, finding that it could not be classified as an ‘insurance intermediary’ within the meaning of Paragraph 34d(1) of the GewO, in the versions applicable to the facts in the main proceedings.
- 27 Hearing an appeal on a point of law, the referring court, the Bundesgerichtshof (Federal Court of Justice, Germany), considers that the outcome of the dispute in the main proceedings depends on whether the defendant in the main proceedings must be classified as an ‘insurance intermediary’ within the meaning of Directives 2002/92 and 2016/97.
- 28 In those circumstances the Bundesgerichtshof (Federal Court of Justice) decided to stay the proceedings and to refer the following question to the Court for a preliminary ruling:

‘Is an undertaking which maintains, as the policyholder, foreign travel medical insurance and insurance [covering] foreign and domestic repatriation costs as a group insurance policy for its customers with an insurance undertaking, distributes to customers memberships entitling them to claim insurance benefits in the event of illness or accident abroad and receives a fee from recruited members for the insurance cover purchased an insurance intermediary within the meaning of Article 2(3) and (5) of Directive 2002/92/EC and Article 2(1)(1), (3) and (8) of Directive (EU) 2016/97?’

### **Consideration of the question referred**

- 29 By its question, the referring court asks, in essence, whether Article 2(3) and (5) of Directive 2002/92 and Article 2(1)(1), (3) and (8) of Directive 2016/97 must be interpreted as meaning that the concept of ‘insurance intermediary’ and, therefore, that of a ‘distributor of insurance products’, within the meaning of those provisions, covers a legal person whose activity consists in offering its customers membership on a voluntary basis, in return for a payment that it receives from them, of a group insurance policy to which it has subscribed previously, where that membership entitles those customers to insurance benefits in the event, in particular of sickness or accident abroad.
- 30 As a preliminary point, it should be noted, as is apparent from the first paragraph of Article 44 of Directive 2016/97, that Directive 2002/92 was repealed with effect from 1 October 2018. Nevertheless, it is apparent from the order for reference that, in order to rule on the application for cessation of the activity of the defendant in the main proceedings, the referring court must

examine that activity in the light of both the provisions of EU law in force at the time of the facts in the main proceedings and those in force at the time when that court rules on that application. It follows that the question referred must be examined in the light of the two directives.

- 31 As is apparent from Article 1(1) of Directive 2002/92 and Article 1(1) of Directive 2016/97, those directives lay down rules for the taking-up, respectively, of the activities of insurance and reinsurance mediation and the activities of the distribution of insurance and reinsurance, as well as their pursuit in the European Union.
- 32 The activity of ‘insurance mediation’ is defined in the first subparagraph of Article 2(3) of Directive 2002/92 as being the activities of introducing, proposing or carrying out other work preparatory to the conclusion of contracts of insurance, or of concluding such contracts, or of assisting in the administration and performance of such contracts, in particular in the event of a claim.
- 33 Furthermore, Article 2(5) of that directive defines an insurance intermediary as any natural or legal person who, for remuneration, takes up or pursues insurance mediation.
- 34 According to recital 11 of that directive, that remuneration may be pecuniary or take some other form of agreed economic benefit tied to performance.
- 35 Directive 2016/97 defines the concept of ‘insurance distribution’ in Article 2(1)(1) as the activities of advising on, proposing, or carrying out other work preparatory to the conclusion of contracts of insurance, of concluding such contracts, or of assisting in the administration and performance of such contracts, in particular in the event of a claim.
- 36 The concept of ‘insurance intermediary’ is defined, in Article 2(1)(3) of that directive, as referring to any natural or legal person, other than an insurance or reinsurance undertaking or their employees and other than an ancillary insurance intermediary, who, for remuneration, takes up or pursues the activity of insurance distribution.
- 37 The ‘insurance distributor’ is defined in Article 2(1)(8) of that directive as ‘any insurance intermediary, ancillary insurance intermediary or insurance undertaking’.
- 38 The concept of ‘remuneration’ is defined in Article 2(1)(9) of Directive 2016/97 as any commission, fee, charge or other payment, including an economic benefit of any kind or any other financial or non-financial advantage or incentive offered or given in respect of insurance distribution activities.
- 39 In order to determine whether a legal person such as the defendant in the main proceedings falls within the definition of ‘insurance intermediary’ and, therefore, that of ‘insurance distributor’ within the meaning of Article 2(5) of Directive 2002/92 and Article 2(1)(3) and (8) of Directive 2016/97, in that it carries out the activities listed in the first subparagraph of Article 2(3) of the first directive and in Article 2(1)(1) of the second directive, it is necessary to consider not only the wording of those provisions but also the context in which they occur and the objectives pursued by the rules of which they are part (see, to that effect, judgment of 31 May 2018, *Länsförsäkringar Sak Försäkringsaktiebolag and Others*, C-542/16, EU:C:2018:369, paragraph 39).



- 40 With regard to the wording of Article 2(5) of Directive 2002/92 and of Article 2(1)(3) of Directive 2016/97, it must be noted, first, that insurance intermediary is defined as a person who, ‘for remuneration’, takes up or pursues the activity of insurance mediation or insurance distribution and, second, that the concept of ‘insurance intermediary’ is defined by reference to the activities of insurance intermediation and insurance distribution respectively, as specified in Article 2(3) of Directive 2002/92 and Article 2(1)(1) of Directive 2016/97.
- 41 In a situation such as that at issue in the main proceedings, the condition relating to the existence of remuneration must be regarded as satisfied where every membership of a customer of the legal person which subscribed to the group insurance policy with the insurance company and which pays, on that basis, the insurance premiums to that company, gives rise to a payment to that legal person. In the present case, the defendant in the main proceedings thus contributes, in return for such remuneration, to the acquisition by third parties, namely its customers, of the insurance cover provided for by the contract it concluded with an insurance company. The prospect of that remuneration constitutes, for a legal person such as the defendant in the main proceedings, an economic interest of its own, distinct from the interest of the members in obtaining insurance cover under the contract in question, which is such as to encourage it, in view of the optional nature of joining that contract, to gain a large number of members, as is clear in the present case from the fact that the defendant in the main proceedings uses advertising companies offering such membership by means of door-to-door sales.
- 42 In view of the broad interpretation of the concept of ‘remuneration’ which follows both from recital 11 of Directive 2002/92 and from Article 2(1)(9) of Directive 2016/97, it is irrelevant that the payment, with each membership to the group insurance policy, to the legal person which subscribed to that contract with the insurance company is made by the members in return for rights to the insurance benefits transferred to them by that person, and not by the insurer in the form, for example, of a commission. Moreover, that fact does not call into question that person’s own economic interest in the broadest possible membership of its customers to that contract so that those various payments finance, or exceed, the amount of the premiums which it itself pays to the insurer under the same contract.
- 43 As regards the activities to which the definitions of the concept of ‘insurance intermediary’ in Article 2(5) of Directive 2002/92 and Article 2(1)(3) of Directive 2016/97 refer, the Court has already held that it follows from the fact that the activities listed in those provisions are presented as alternatives that each of them constitutes, on its own, an insurance mediation activity. Furthermore, the Court has stated that those activities are formulated in broad terms and that, in particular, they consist not only in the presentation and the proposal of insurance contracts, but also in the performance of other work preparatory to the conclusion of such contracts, and the nature of the preparatory work referred to is not limited in any way whatsoever (see, to that effect, judgment of 31 May 2018, *Länsförsäkringar Sak Försäkringsaktiebolag and Others*, C-542/16, EU:C:2018:369, paragraphs 37 and 53).
- 44 Although the wording of Article 2(3) and (5) of Directive 2002/92 and that of Article 2(1)(1) and (3) of Directive 2016/97 do not expressly mention an activity such as that covered by the question referred, the definitions contained in those provisions must be read as encompassing such an activity.
- 45 It is immaterial in that regard, as the German Government and the European Commission have pointed out, in particular, that the legal person carrying out an activity such as that at issue in the main proceedings does not seek the conclusion of insurance contracts by which policyholders

intend to obtain insurance cover from an insurer in return for the payment of premiums, but voluntary membership on the part of its own customers, in return for a payment made to it, of a group insurance policy to which it subscribed previously with an insurer for the purposes of supplying those customers with such coverage. Such an activity is comparable to the paid activity of an insurance agent or a distributor of insurance products which seeks the conclusion, by policyholders, of insurance contracts with an insurer whose object is to cover certain risks in return for the payment of an insurance premium.

- 46 Similarly, the fact that the legal person engaging in an activity such as that at issue in the main proceedings is itself a party, as policyholder to the group insurance policy which it intends to encourage its customers to join, is not decisive. Just as the status of insurance distributor, under Article 2(1)(8) of Directive 2016/97, incompatible with that of an insurer, the status of insurance intermediary and, therefore, of insurance distributor is not incompatible with that of a policyholder (see, to that effect, judgment of 24 February 2022, *A and Others* (*'Unit-linked' assurance contracts*), C-143/20 and C-213/20, EU:C:2022:118, paragraphs 87 and 88).
- 47 As regards the context of the provisions subject to interpretation, it follows from recital 9 of Directive 2002/92 and recital 5 of Directive 2016/97 that insurance products may be distributed by different types of persons or organisations and that, in order to ensure equal treatment between operators and consumer protection, it is necessary that all those persons or organisations are covered by those directives.
- 48 Moreover, as is reflected in recital 7 thereof, Directive 2016/97, having regard to the inaccuracies which vitiated a certain number of provisions of Directive 2002/92, extended the scope of that directive to all sales of insurance products.
- 49 As stated in recitals 6 and 16 of Directive 2016/97, consumers should benefit from the same level of protection despite the differences between the distribution channels. As is also reflected in recital 16 of that directive, there is a benefit to consumers if insurance products are distributed through different channels and through intermediaries with different forms of cooperation with insurance undertakings, provided that they are required to apply similar rules on consumer protection, for reasons also relating to the need to establish a level playing field in respect of competition between all insurance intermediaries and insurance distributors.
- 50 Having regard to that context, and to what has been stated in paragraphs 41, 42, 45 and 46 above, the definitions contained in Article 2(3) and (5) of Directive 2002/92 and in Article 2(1)(1), (3) and (8), of Directive 2016/97 must be interpreted as encompassing a legal person who engages in an activity such as that at issue in the main proceedings.
- 51 Finally, such an interpretation is consistent with the objectives pursued by those directives.
- 52 In that regard, as is reflected, in essence, in recitals 8 and 9 of Directive 2002/92, that directive aims, inter alia, to ensure equal treatment between all categories of insurance intermediaries and to enhance customer protection in the field of insurance (see, to that effect, judgment of 17 October 2013, *EEAE and Others*, C-555/11, EU:C:2013:668, paragraphs 27 and 29). Those objectives are pursued, and enhanced, by Directive 2016/97, as is apparent, in particular, from recitals 5, 7, 10 and 16 thereof.

- 53 The inclusion within the scope of those directives of persons operating on the insurance market on the basis of an economic model such as that mentioned in the question referred is such as to favour the attainment of those two objectives.
- 54 First, the inclusion within that scope of such persons, whose activity is, as is apparent from paragraphs 41, 42 and 45 above, akin to insurance mediation or insurance distribution, within the meaning of those directives, prevents any undermining of the objective of ensuring equal treatment between all categories of intermediaries and distributors of insurance products, as set out in the recitals of the directives referred to in paragraph 52 above.
- 55 Thus, in so far as the activities mentioned in the preceding paragraph are comparable in nature, the authorisation and registration obligations laid down by Directive 2002/92 and Directive 2016/97, which seek in particular to guarantee that insurance intermediaries have the necessary reliability and expertise in respect of insurance mediation and advice, must apply in the same way to economic operators who pursue those activities.
- 56 Second, to include, within the scope of Directives 2002/92 and 2016/97, legal persons whose activity corresponds to that raised in the question referred, thus requiring them to comply with the rules laid down by those directives, contributes to the objective of enhancing consumer protection in the field of insurance.
- 57 As the Advocate General observed in points 83 and 84 of his Opinion, in order to ensure that the activity of an insurance intermediary guarantees an adequate level of consumer protection, that intermediary is required, in accordance with those directives, to comply with, inter alia, a set of professional, financial and organisational requirements, rules of conduct such as those aimed at preventing the risk of a conflict of interest arising from any links between that intermediary and a given insurer, and with obligations to inform and advise those consumers.
- 58 However, as the applicant in the main proceedings maintained, that requirement to protect consumers is just as important with regard to a legal person which encourages them, through an economic model such as that at issue in the main proceedings, to join a group insurance policy to which it subscribed with an insurer, as with regard to an insurance intermediary or a distributor of insurance products whose activity seeks the direct conclusion of insurance contracts by such consumers.
- 59 In the light of the foregoing considerations, the answer to the question referred is that Article 2(3) and (5) of Directive 2002/92 and Article 2(1)(1), (3) and (8) of Directive 2016/97 must be interpreted as meaning that the concept of ‘insurance intermediary’ and, therefore, that of ‘insurance distributor’, within the meaning of those provisions, covers a legal person whose activity consists in offering its customers membership on a voluntary basis in return for payment which it receives from them, of a group insurance policy to which it has subscribed previously with an insurance company, where that membership entitles those customers to insurance benefits in the event, in particular, of sickness or accident abroad.

### **Costs**

- 60 Since these proceedings are, for the parties to the main proceedings, a step in the action pending before the national court, the decision on costs is a matter for that court. Costs incurred in submitting observations to the Court, other than the costs of those parties, are not recoverable.

On those grounds, the Court (First Chamber) hereby rules:

**Article 2(3) and (5) of Directive 2002/92/EC of the European Parliament and of the Council of 9 December 2002 on insurance mediation, as amended by Directive 2014/65/EU of the European Parliament and of the Council of 15 May 2014, and of Article 2(1)(1), (3) and (8) of Directive (EU) 2016/97 of the European Parliament and of the Council of 20 January 2016, on the distribution of insurance, as amended by Directive (EU) 2018/411 of the European Parliament and of the Council of 14 March 2018,**

**must be interpreted as meaning that the concept of ‘insurance intermediary’ and, therefore, that of ‘insurance distributor’, within the meaning of those provisions, covers a legal person whose activity consists in offering its customers membership on a voluntary basis, in return for payment which it receives from them, of a group insurance policy to which it has subscribed previously with an insurance company, where that membership entitles those customers to insurance benefits in the event, in particular, of sickness or accident abroad.**

[Signatures]