

Quddiem l-Arbitru għas-Servizzi Finanzjarji

Każ Nru. 116/2024, 117/2024 u 118/2024

AO; BO u CO ('l-Ilmentaturi')

vs

MAPFRE MSV LIFE p.l.c. (C 15722)

('il-Fornitur tas-Servizz')

Seduta tal-10 ta' Jannar 2025

L-Arbitru,

Preliminari:

Permezz ta' verbal¹ tat-28 t'Ottubru 2024, minhabba li jirrizulta li l-każi 116/2024, 117/2024 u 118/2024 huma identiċi, bil-permess tal-aħwa Ilmentaturi u, *ai termini* ta' Art. 30 tal-Kap. 555 tal-Liġijiet ta' Malta, il-każi jinstemgħu flimkien u dak li jgħodd għal wieħed, jgħodd għall-oħrajn. Il-fatti jkunu l-istess u japplikaw għat-tliet każi u, għalhekk, tingħata wkoll deċiżjoni waħda.

Ra l-ilmenti,² fejn l-Ilmentaturi jissottomettu li meta huma flimkien xtraw il-poloż ilmentati fis-sena 1999, il-*quotation* ipprovduta lilhom mill-Fornitur tas-Servizz kienet turi biss figura waħda bħala l-*maturity value*, li huma jhossu li ġew imqarrqa b'dan kollu għax dan tal-aħħar messu pprezentalthom kwotazzjoni b'firxa ta' *estimated maturity values* li jiddependu fuq ir-rati tal-interessi mogħtija fuq l-ammonti mfaddla.

Huma saħqu li minkejja li jifhmu li r-rati tal-interessi setgħu jitilgħu u anke jinżlu, jinsistu li l-valur ikkwotat lilhom kien wieħed ċar meta, fuq kollox, il-*maturity*

¹ P. 77 (Każ Nru. 116/2024)

² P. 1 - 6 u dokumenti annessi (Każ Nru. 116/2024, 117/2024 u 118/2024)

value offrut lilhom mal-maturità tal-polza lanqas biss jammonta għal 50% ta' dak ikkwotat.

L-Ilmentaturi ammettew li kull sena huma kienu jirċievu l-*statements* mibgħuta lilhom mill-Fornitur tas-Servizz, liema *statements* kienu juru r-rata tal-interessi applikabbli; iżda, meta f'punt minnhom staqsew x'jigri f'każ li jiddeċiedu li jwaqqfu l-poloż tagħhom, ġew infurmati li huma kienu ser jtilfu ammont sostanzjali minn dak li kienu faddlu, filwaqt li lanqas ikunu intitolati għall-*bonus* finali. Minhabba f'hekk, huma jhossu li ma kellhomx għażla oħra.

Barra minn hekk, anke skoprew li waqt li l-poloż tagħhom kienu investiti f'*guaranteed with profits fund*, poloż oħrajn mibjugħa wara l-1999 u anke taħt isem differenti, ġew mogħtija rati ogħla, u li dan mhuwiex ġust u anke huwa diskriminatorju.

L-Ilmentaturi jhossu li meta klijent jidhōl għal kuntratt fit-tul, ma jkollux għażliet oħrajn u dan minhabba li jekk wieħed jiddeċiedi li jwaqqaf il-polza, jitlef il-flus, u jekk iħallas il-pagamenti kollha hekk kif dovuti minnu, xorta waħda l-pagament li jigi offrut lilu ma jkunx dak mistenni, fattur li huwa bla dubju skandaluż.

Għaldaqstant, l-Ilmentaturi qed jitolbu li tal-inqas jingħataw ammont li jigi nofs l-istima pprezentata lilhom fl-1999 u l-ammont offut lilhom mal-maturità – “*Half way is the original estimate of Lm10,524³ = €24,514⁴ + maturity of €10,414⁵ calculated at 50% = €17,464⁶.*”⁷

Ra t-twegiba⁸ tal-Fornitur tas-Servizz:

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1. *MAPFRE MSV Life plc (“MMSV”)* refers to the allegation made by the complainant that the maturity value of the policy in question numbered 49384 of nature Endowment Assurance with Profits including Funeral

³ Lm 10,397 – Każ ASF 117/2024 u Każ ASF 118/2024

⁴ €24,218 – Każ ASF 117/2024 u Każ ASF 118/2024

⁵ €10,287 – Każ ASF 117/2024 u Każ ASF 118/2024

⁶ €17,252 – Każ ASF 117/2024 u Każ ASF 118/2024

⁷ P. 3 (Każ ASF 116/2024)

⁸ P. 59 (Każ Nru: ASF 116/2024) – It-twegibiet għat-tlett ilmenti huma identiċi, għajr ovvjament għall-ismijiet ikkwotati, in-numru tal-polza u l-ammonti relattivi. Qed tiġi hawn ritrodotta t-twegiba għall-ilment f'isem Ilmentatur b'numru ta' referenza ASF 116/2024. Minkejja li qed tiġi uzata biss il-kelma '*complainant*', din tirreferi wkoll għall-Ilmentaturi ta' każijiet ASF 117/2024 u ASF 118/2024.

Expenses (“the Policy”) was not equivalent to the maturity value which was indicated by MMSV when the Policy was sold to the complainant. Consequently, the complainant is requesting the Honourable Arbiter to order MMSV to pay the complainant Euro 17,464 including the Maturity Value of the Policy which has amounted to Euro 10,414.13 and which amount MMSV was in a position to pay upon the maturity of the Policy.

In this regard, MMSV is of the view that the claimant’s request is unfounded and therefore, the complainant is not entitled to receive any compensation in addition to the maturity value as is going to be explained in further detail hereunder.

- 2. In the first place, the estimated maturity values are based on estimates shown in two quotations (fol. 13 and another attached herewith and marked as Dok. MSV 1). The quotations in question contained the words Estimated Maturity Value including Reversionary Bonus and Estimated Maturity Value including Reversionary and Terminal Bonuses. The quotation also included the following wording: “The quotation provided is for illustration only and does not confer any rights”. Therefore, none of the figures which were indicated in the quotation as “estimated” could be said to have been guaranteed.*
- 3. The estimated maturity value shown in the quotations in question were calculated using the bonus rates that were being declared by MMSV at the time that the Policy was being sold. **The estimated maturity values shown in the quotations were not guaranteed because they were based on the investment conditions and circumstances at the time.** At the time, the value of the investments was much higher than it is today. In fact, the rate used to calculate the estimated maturity value as shown in the quotations, was that of 6.75% for reversionary bonuses and 2% for terminal bonuses, which rates had remained constant until the year 1998 and then increased slightly in 1999 to 7% for reversionary bonuses and started to decrease from the year 2000. The most important factor that affects bonus rates is the underlying investment performance and in recent years the investment returns internationally were lower. **In the light of the above, the quotations in question were in fact correct because they were issued according to the circumstances at the time and therefore MMSV had acted in good faith.***

4. *Furthermore, it must be stated that in the quotation dated 5th May 1999 (Dok. MSV1) there was a distinction between estimated maturity value including reversionary bonuses in the amount of Lm7,554 (Euro 17,596.08) and estimated maturity value including reversionary and terminal bonuses in the amount of Lm 10,524 (Euro 24,514.32). The fact that the quotation (Dok. MSV1) presented to the complainant indicated two estimated maturity values, the value of which are substantially far apart from each other, further confirms that there was an investment element to the Policy and that the estimates being claimed by the complainant could not have been guaranteed and therefore, MMSV was already indicating that if the circumstances in the investment market had remained constant, the Policy could have matured either at a value of Lm7,554 (Euro 17,596.08) or at the higher value of Lm 10,524 (Euro 24,514.32). It is clear that the complainant cannot claim that the quotations were not conditional because there were in fact the words “estimated” and “illustration” as well as the words “if any” next to the words “estimated maturity value including reversionary and terminal bonuses”.*
5. *The complainant was also presented with notes together with the quotations (attached herewith and marked as Dok. MSV2). In fact, the quotation (fol. 13) provides that “IMPORTANT NOTES OVERLEAF: PLEASE READ CAREFULLY THESE RULES BEFORE ACCEPTING AND SIGNING THIS QUOTATION ... I confirm that I have read and understood the Important Notes to this quotation and that the Representative has fully explained the notes overleaf to me and I am satisfied with the policy illustrated and its explanation.” Said notes delve into the meaning of “Reversionary Bonuses” and “Terminal Bonus”. The said notes also explain that the Policy was participating in the Company’s “distribution of its profits by means of an allocation of an Annual Bonuses declared from time to time ... The rates of Reversionary Bonuses, once declared, are guaranteed to be paid at maturity or on prior death of the Life Assured.” The IMPORTANT NOTES also state that “These are expressed as a percentage of the Policy Account which is made of all the investment premia paid plus accrued daily interest”. In addition, the notes also provide that “The Estimated Maturity Values shown overleaf have been calculated using bonus rates declared by the Company at the previous year end.” The complainant was also informed that “Depending on the performance of the company, bonus rates may go down as well as up”.*

Therefore, these notes explained that there was an element of investment to the Policy and that it was not obligatory for MMSV to declare reversionary bonuses every year but that it was in its discretion to do so.

Therefore, the amount that was indicated in the quotation as estimated maturity value including reversionary bonus was not guaranteed because one needed to wait at the end of every year in order to confirm whether MMSV was going to declare a reversionary bonus for the previous year and if in the affirmative at what rate and it was only at that time that the complainant could have been certain how the value of the Policy Account of his Policy was increasing over the years. This is so, because as was explained in the notes, it was only those bonuses which were declared by MMSV from time to time were in fact guaranteed to be paid to the complainant.

6. In fact, the Life Policy Schedule of the Policy (fol. 39), provides that “In respect of each premium paid, Lm 117.48 shall be credited to the Policy Account which will be increased by the bonuses which **may** be declared by the Company from time to time.” This continues to support what was provided for in the notes above-mentioned in relation to the fact that MMSV was not obliged to declare reversionary bonuses every year but once declared then they were guaranteed to be paid to the policyholder. This also explains that the investment premium, which as at the date of the maturity of the Policy had amounted to Euro 6,841.24 was in fact also guaranteed to be paid upon maturity or on prior death of the life assured and this in addition to the bonuses which would have been declared by MMSV during the term of the Policy. This was not the case with other investments, such as those known as the unit linked policies where the payments of no amounts were guaranteed. Therefore, MMSV adhered to its obligations under the Policy because the Maturity value of the Policy exceeded the investment premium that was paid by the complainant by an additional Euro 3,572.89 which amount represents the bonuses that have been declared by MMSV during the term of the Policy.
7. The notes that formed part of the quotation above-mentioned also provided that “Whilst the purpose of these notes is to **guide** the policyholders and prospective policyholders the **benefit provided by the Policy are conferred by the Policy document ... In the case of conflict of meaning between this quotation and the Policy document, the Policy document shall prevail.**” **This**

meant that the complainant could not treat the quotation as a stand-alone document but had to be read and understood in the light of the notes that formed part of the quotation and more importantly in the light of the terms and conditions of the policy document (also presented with the claim).

8. In so far as the Terminal Bonus is concerned, the notes forming part of the quotation, provided that: “Depending on its profit experience, the Company may, after the Policy’s TENTH year decide to allocate from time to time a Terminal Bonus in addition to the other declared bonuses ... as they depend materially on the investment performance at the time of the claim, they may be reduced or even withdrawn altogether.” Therefore, the amount being indicated in the quotation as “estimated maturity value including reversionary and terminal bonus was likewise not guaranteed because MMSV had the discretion not to pay a terminal bonus.
9. Furthermore, on 25th April 1999, the complainant also signed a document known as "Product Information" (attached herewith and marked as Dok.MSV3) which explained among many things how policy bonuses are calculated and paid. This document explains that “With Profits policies **may** earn Reversionary and Terminal Bonuses.”

The method of calculation is as follows:-

“Reversionary Bonuses are calculated daily as a percentage of the Investment Premium whilst Terminal Bonuses, **if declared at the option of the Company**, are normally expressed as a percentage of the Policy Account or as a nominal amount after payment of the ten full years’ premium.

A Terminal Bonus if declared is payable on policies that become claims by maturity or death, but not surrender.

The rate of bonus if declared will depend upon the performance of the Company and the investment market both locally and overseas.

When presenting you with the Company’s official written quotation for the Estimated Maturity value we have based our calculations solely on current bonus rates.

Please note that past performance is not necessarily a guide to future performance. Once Reversionary Bonuses are declared they are guaranteed.

The policy document (Fol. 38 – 53) and in particular the policy schedule (Fol. 39) also states that bonuses were not mandatory, but it was within the MSV's discretion to declare or not to declare such bonuses. This is another reason why the estimated maturity value of the policy in question indicated in the estimate was not guaranteed but was only an estimate and only the sum assured was guaranteed.

10. *Therefore, at the moment that the Policy was being sold, MMSV had provided the complainant with sufficient information about the Policy, including the fact that part of it was an investment and what the eventual maturity value shall be made up of and how said amount was calculated. **Notwithstanding, the complainant is merely basing his claim on the quotations without putting them in the context of all the other documents also provided to the complainant when the Policy was being sold to the Assured and every year thereafter as shall be explained hereunder.***
11. *MMSV continued to act in good faith even after the Policy was issued in favour of the complainant until the maturity thereof because it always managed the MSV With Profits Fund in the best interest of the policyholders including the complainant. Said Fund has been managed not only subject to the scrutiny of MMSV's executive management and investment committees, but also subject to the scrutiny of the independent actuary director of Willis Towers Watson and of the Malta Financial Services Authority. The performance of the said Fund is entirely and always subject to the changes and shifts that take place in the value of the investment markets in which MMSV invests the investment premium of its policyholders. The investment returns can go down as well as up and therefore past performance is not necessarily a guide to the future. Therefore, the difference between the estimated maturity values shown in the quotations and the maturity value is merely reflective of the shift in the performance of the investment markets during the term of the Policy.*

12. *Notwithstanding the fact that the maturity value could not be equivalent to any one of the estimated maturity values indicated in the quotations due to the said shift in the performance of the market investments, the investment part of the Policy still rendered a good return when compared to other similar investments that were available during the term of the Policy despite the fact that the return was made while there were three financial crisis, besides the fact that during the year 2018, the classes of assets around the world had registered a negative income and when the Policy matured the investment markets had been substantially negatively impacted as a result of the COVID 19. In fact, the complainant made a gain in the amount of Euro 3,572.89 after deducting the maturity value from the investment premium that was paid by the complainant and this represents a rate of return-on-investment premium amounting to 3.09% and a rate of return (gross of 15% withholding tax) on investment premium amounting to 3.64%.*
13. *It also needs to be emphasised that the maturity value of the Policy is tax free and that this benefit is not applicable in other forms of regular savings where the complainant would have been otherwise obliged to pay taxes from his return.*
14. *During the term of the Policy, MMSV always kept the complainant informed about the value of the Policy Account of his Policy and how said value was increasing every year and about the bonuses that were being declared by MMSV, which bonuses were being credited to the Policy Account of the Policy. This information was communicated to the complainant by MMSV by sending to him, on a yearly basis, a Bonus Statement together with the so-called Important Notes. As from 2001, MMSV had also started sending to the complainant, every year, a Media Release (copies of the bonus statements are attached with the complaint and marked Fol. 17 and Fol.31, and a further bonus statement, together with copies of some Important Notes and Media Releases are being attached to this reply and marked as Dok. MSV 4). Therefore, the complainant was fully aware of what bonuses were being declared and of the value of the Policy over the years. Apart from the use of the terms "Estimated" and "illustration" used in the quotations which are self-explanatory, the Important Notes forming part of the Bonus Statements above-mentioned as well as the media releases have repeatedly*

made it clear that the bonus rates were not guaranteed and that they depended on the performance of the underlying investments, and therefore, said investments could go up as well as down. Therefore, the values of the Estimated Maturity Value including Reversionary Bonus and Estimated Maturity Value including Reversionary and Terminal Bonuses indicated in the quotations could be varied depending on the performance of the investments during the term of the Policy.

- 15. Apart from the investment element to the Policy, the same Policy also provided a guaranteed life cover over the complainant's life, such that MMSV was obliged to pay the sum assured, in the amount of Lm 2,707 (Euro 6,305.61) to the heirs of the complainant in the case of their demise at any time that the Policy was in force. The said life cover had a price and has been completely ignored by the complainant and not normally available under other forms of regular savings. In fact, the only amount mentioned in the Life Policy Schedule was the sum assured in the amount of Lm 2,707 (Euro 6,305.61), and no amounts containing the word 'Estimate' in the quotation were mentioned on this Schedule, which further shows that therefore according to the agreement between the parties the estimate maturity value including reversionary bonus and the estimate maturity value including reversionary bonus and terminal bonus were never guaranteed. In fact, in the quotation (fol. 13), there is provided what is guaranteed, which is Lm 2,707 was the "Guaranteed Minimum Amount payable on first death during the policy term – Sum Assured (or the value of the policy account including Reversionary Bonus and Terminal Bonus (**if any**) if greater)".*
- 16. The Policy (fol. 38 – 53) provides that "The Company hereby agrees to pay either the death Benefit or the maturity value, whichever is the earlier" (fol. 37). "Death Benefit" is defined as "the greater of either the Sum Assured or Policy Account calculated on the next day immediately following the date the Company receives written notification of the death of the Life Assured" and "Maturity Value" as "the value of the Policy Account calculated on the maturity date of this policy" (fol. 48). Therefore, MMSV clearly adhered to its obligations under the Policy, as opposed to what is being alleged, because it has offered the value of the Policy Account of the Policy as at the date of the maturity thereof.*

17. *MMSV maintains that the Policy was sold in accordance with the regulations that were applicable at the time when the Policy was being sold. In fact, the complainant was presented with the Statutory Notice that was issued in accordance with the provisions of the Life Insurance (Statutory Notice) Regulations, 1989 and was in fact signed by them (a copy of which is being attached herewith and marked as Dok. MSV 5). The Statutory Notice set out several warnings including the right of the complainant to withdraw from purchasing the Policy and the manner to do so. This Notice was intended to give policyholders the right to withdraw from the transaction when the policyholder may have second thoughts about the policy or was somehow pressurized to purchase the policy. However, in this case, the complainant did not exercise any of the said rights set out in the Notice and consequently agreed to proceed with the Policy.*
18. *Finally, MMSV maintains that it has always adhered to its obligations under the Policy and therefore, it should not be ordered to pay any compensation other than the final maturity value or any expenses that may be incurred in relation to this procedure because it has been instituted for no valid reason, as shall also be proved during the course of these proceedings.*

With reservation for any further pleas.”

Seduti

Fl-ewwel seduta tat-28 t'Ottubru 2024, xehed l-Ilmentatur ta' Każ ASF 116/2024 li, bil-permess tal-Ilmentaturi l-oħra, tkellem f'isem it-tlett aħwa Ilmentaturi:

“Ngħid li qed nitkellmu fuq dan il-każ tal-life insurance li għandna li għadu kif għalaq f'Mejju li għadda; rigward il-life insurance li konna għamilna fi żmien.

Ngħid li meta għamilniha konna aħna t-tlieta; kienet saret laqgħa waħda għal kulhadd.

Nixtieq nagħmel xi ftit punti:

L-ewwel punt li xtaqt nagħmel hu li aħna ddizappuntati bil-kbir għaliex aħna xtrajna din il-polza biex nieħdu €25,000. Dan kien it-target tagħna għax aħna kieku ma konniex ser nersqu biex nixtru din il-polza.

It-tieni punt hu li jekk is-somma li semmejna fil-bidu kienet biss stima, din tista' tvarja xi ftit matul is-snin iżda mhux aktar minn 50% kif ġara f'dan il-każ.

Li kieku xi ħadd infurmana li kien ser ikun hemm varjazzjoni daqshekk kbira - lilna ħadd ma kellimna - żgur li ma konniex nixtru din il-polza. Konna nsibu alternattiva oħra fis-suq. Aħna xtrajna din il-polza għaliex dejjem kellna l-ħsieb li nieħdu dan l-ammont u mhux biss li dawn kienu ċifri ta' stima biss.

Punt ieħor hu li ma jistax ikun li l-investimenti internazzjonali kollha marru ħażin tul is-snin tal-polza għax kieku falliet id-dinja. Bilfors li kien hemm investimenti li marru tajjeb u mhux kollha ħżiena kif qed isemmi s-Sinjur. Mela, allura, għalfejn flusna ġew investiti f'investimenti li marru ħażin?

Ngħid li jekk sar żball jew kien hemm għażla ħażina fl-investment m'għandniex inbatu aħna. L-istess kumpanija tal-assikurazzjoni tiftaħar kull sena bil-profitti li tagħmel – miljuni kbar – kif qalu fl-ittri li bagħtulna li sar qligħ kbir minnhom dawn.

Nistaqsi, minn fejn ġew dawn il-profitti? Mela l-investment tal-MSV mar tajjeb u, allura, tagħna biss mar ħażin?

Nifhmu li l-polza kienet tinkludi koperta fuq il-ħajja li kienet pjuttost somma miżera. Għidli inti x'ser jagħmlu ta' warajna jekk niġu neqsin b'€2,700 (€6,300)? Iżda aħna xtrajna l-polza mhux għal dan il-għan imma għax l-MSV dejjem qalulna li meta tagħlaq il-polza nieħdu €25,000.

Ngħid li jekk vera l-kumpanija tal-assikurazzjoni taf x'inhil tagħmel, żgur li kienet taf minn ħafna qabel li l-polza ma kinitx ser trendi. Dan kien inkwetanti mill-bidu tagħha u mela għalfejn ma bagħtux għalina biex jiftħulna għajnejna b'dak li kien qed jiġri?

Il-kumpanija tal-assikurazzjoni qed issostni li l-polza kellha ritorn tajjeb fl-ammont tal-maturità u ngħid li dan mhuwiex minnu. Mhux qed jingħata kas tal-effett tal-inflazzjoni tul is-snin fuq din l-istess somma.

L-aħħar punt li xtaqt insemmi hu li aħna – u din nemfasizzaha - żammejna l-parti tagħna tal-ftehim tul il-25 sena sħaħ; li dejjem ħallasna regolarment u fil-pront dak kollu li kien mitlub lilna. Għaliex issa, li wasalna fl-aħħar, il-kumpanija ser tiġi bil-meraqq biex nieħdu l-flus li ħaaqna?

Nixtieq nippreżenta kopji tal-bonuses ta' kull sena (li nizzilt mill-internet) li l-MSV ippruvat tagħti lil ħaddieħor mentri lilna kienu b'rati aktar baxxi minn

ħaddieħor, fosthom, l-2019 li regolarment kulħadd ħa 2.3%; u aħna li għamilna l-polza fi żmien antik, ħadna 1.5% biss. Għaliex din id-differenza?

Hawnhekk qed nippreżenta kopja mit-Times li turi d-differenza fil-bonuses u anke kopja min-Newsbook li kollha juru, sena wara l-oħra, li aħna, min għamel l-insurance antika, hemm varjazzjoni fil-perċentaġġi tal-bonus. Dan għaliex? Mela aħna mhux bħal ħaddieħor?”⁹

Fil-kontroezami, l-Ilmentatur stqarr li:

“Naqbel li l-poloz inbiegħu lilna 25 sena ilu fl-1999.

Mistoqsi niftakarx dak kollu li spjegali min bieġħli l-polza 25 sena ilu, jekk niftakarx xi spjegali kelma b’kelma, ngħid li naħseb dak ħadd ma jista’ jgħidu, la jien, la ħuti u lanqas ħadd. Ngħid li ħadd ma jista’ jiftakar, nimmagina, ta’ 25 sena ilu! Aħna m’aħniex qed nitkellmu fuq ġurnata.

Qed jingħad li mhux qed neskludi li stajt insejt xi dettalji fuq l-ispegazzjoni tal-polza minħabba li għadda dan iż-żmien.

Aħna ngħidu, għidniha mill-bidu nett u nibqgħu ngħiduha, li aħna xtrajna din il-polza dejjem għaliex kien hemm €25,000.

Mistoqsi naqbilx li stajt insejt xi dettall kif ġie spjegat lili dan il-prodott finanzjarju, ngħid li le.

Qed jingħad li allura niftakar kollox avolja għaddew 25 sena. Ngħid li le, jien mhux qed ngħid hekk. Qed ngħid li ħadd ma jista’ jgħid inkluż aħna fid-dinja li tiftakar dak ta’ 25 sena ilu.

Qed jingħad li mill-ilment u mix-xhieda li għadni kif tajt, jien konxju li l-Estimated Maturity Value jista’ jvarja ’l fuq jew ’l isfel.

Ngħid li iva, imma mhux li jvarja aktar minn 50%.

Mistoqsi jekk inix nilmenta għax l-MSV ma mxiex b’mod tajjeb biżżejjed, jiġifieri ippretendejt aktar profitt, ngħid dażgur 100%.

Qed jingħad li jiena konxju li dawn ma kinux garantiti imma qed nilmenta li nippretendi aktar milli ħadt.

⁹ P. 77 – P. 79 (Każ ASF 116/2024)

Ngħid li aħna għalhekk xtrajniha l-polza. Ngħid li l-percentaġġi jistgħu ivarjaw imma mhux dak l-ammont li ġejna offruti, inqas min-nofs tal-€25,000.

Qed niġi referut għad-dokumenti li huma l-Quotation (paġna 13 tal-proċess), il-Product Information (Dok. MSV3), l-Important Notes (li kienu oriġinarjament fuq wara tal-Quotation) (Dok. MSV 2) u l-Statutory Notice (Dok. MSV 4) – kollha datati 25 t'April 1999.

Nikkonferma li fuq dawn id-dokumenti hemm il-firma tiegħi.

Mistoqsi kif qed nippretendi Estimated Maturity Value ta' €24,514 meta fid-dokumenti li ngħatajt hemm ċar li

'The quotation provided is for illustration only and does not confer any rights;'
fl-Important Notes hemm miktub,

'The Estimated Maturity Values shown overleaf have been calculated using the bonus rates declared by the Company at the previous year end. Depending on the performance of the Company, bonus rates may go down as well as up;'

u fil-Product Information hemm paragrafu sħiħ fit-tieni paġna tiegħu fuq il-Policy Bonuses li jgħid

'The rate of bonus earned will depend upon the performance of the Company and the investment market both locally and overseas.'

Nerġa' ngħid dak li għidt, li aħna xtrajna din il-polza biex nieħdu dak l-ammont li semmejt. Dan ser nibqa' nsostni fuqu li aħna żammejna ma' dawk il-pagamenti.

Ngħid li iva, dawn id-dokumenti kienu għandi.

Mistoqsi dawn id-dokumenti qrajthomx, ngħid li ma niftakarx x'għamilt 25 sena ilu.

Mistoqsi meta r-rappreżentant tani l-ispjega tal-polza kontx konxju li parti mill-polza kienet investiment u li l-MSV kienet ser tgħaddili l-qligħ minn dawk l-investimenti, ngħid li le.

Mistoqsi meta xtrajt il-polza ridtx nagħmel investiment riskjuż jew ridtx ingemma', ngħid li ridt ingemma'. Ngħid li aħna xtrajna din il-polza – u ħuti aktar minni – biex meta nispiċċaw bil-pensjoni, nieħdu din is-somma. Kieku konna nixtru xi ħaġa oħra. Mhux ninvestu l-flus fejn jidher ċar li m'hemm xejn garantit. Kollha huma stimi.

Ngħid li le, ma ridtx nirriskja l-kapital tiegħi.

Mistoqsija aħniex konxji li għamilna gwadann ta' bejn wieħed u ieħor €3,500 b'rate of return on investment premium ta' 3.09% u rate of return (gross of 15% withholding tax) on investment premium ta' 3.64%, ngħid li iva.¹⁰

Għall-mistoqsijiet tal-Arbitru, l-Ilmentaturi xehedu li:

"Mistoqsija min għamel il-kuntatt biex tinxtara l-polza, ngħidu li aħna għandna l-karozzi mas-Sur England u waqt li konna qed nitkellmu miegħu semmielna l-insurance għax kien rappreżentant tal-Middlesea Insurance.

Mistoqsija kemm-il laqgħa saret, ngħidu li ma niftakrux.

Mistoqsija kemm damet il-laqgħa fejn ġew iffirmati d-dokumenti, ngħidu li damet ftit. Hames minuti? Ma niftakrux eżatt kemm damet din il-laqgħa.¹¹

Ġie ppreżentat l-Affidavit¹² ta' Victor Farrugia bħala Chief Operations Officer tal-MSV, li dan sostanzjalment jirrepeti dak li kien diġà ntqal fit-twegiba għall-ilment sottomessa mill-Fornitur tas-Servizz.

Fit-tieni seduta tat-3 ta' Diċembru 2024, is-Sur Farrugia ħalef l-Affidavit tiegħu, filwaqt li l-Ilmentaturi ddikjaraw¹³ li m'għandhomx mistoqsijiet x'jagħmlulu dwar dan.

Hawn Dr Jeanine Mallia Schembri, il-persuna li qed tassisti lill-istess Victor Farrugia f'dan il-ment, staqsietu dwar dokumenti li ġew ippreżentati mill-Ilmentaturi li jagħmlu referenza għall-fatt li fis-sena 2019, kienu tħallsu ċertu bonus rates fuq poloz, iżda l-Endowment Policies inħarġu b'bonus rates differenti minn poloz oħra, u staqsiet jekk tistax tingħata spjegazzjoni għal din id-differenza bejn prodott u ieħor.

Victor Farrugia irrisponda li:

"Ngħid li hija l-prattika tal-kumpanija li tiddikjara bonuses differenti fuq kategoriji ta' prodotti differenti għal diversi raġunijiet imma, fosthom, hija li mhux kull prodott fih l-istess livell ta' spejjeż, allura, l-kumpanija b'mod generali tipprova tilhaq dak li jissejjaħ distribuzzjoni ekwa bejn il-klijenti. Allura, trid tiegħu dawn il-fatturi in kunsiderazzjoni.

¹⁰ P. 79 - P. 81 (Każ ASF 116/2024)

¹¹ P. 81 (Każ ASF 116/2024)

¹² P. 90 - P. 96 (Każ ASF 116/2024)

¹³ P. 97

Ukoll, li l-kumpanija taddotta dak li jissejjaħ intergenerational subsidy fuq il-prodotti jiġifieri l-kumpanija tipprova illi ġenerazzjonijiet differenti ta' klijenti jibbenefikaw bl-istess mod mill-investment tagħhom li jfisser li min forsi kien involut fil-fond numru ta' żmien ilu fejn ir-rati kienu aktar għoljin, mela wieħed irid iwieżen lill-ieħor biex ikun hemm kemm jista' jkun distribuzzjoni ekwa bejn ġenerazzjonijiet differenti ta' klijenti.

Mistoqsi mill-Arbitru jekk dan nagħmluhx skont ir-regolamenti, ngħid li l-MFSA żgur huma aware minnhom għax l-MFSA ikunu qed jagħmlu supervision. Ngħid li żgur mhijiex kontra r-regolamenti u huwa l-metodu sugġerit mill-attwarji barranin li fost affarijiet oħra, xogħolhom hu illi jiċcertifikaw li hemm distribuzzjoni ekwa.

Id-declaration tal-bonus hija fid-diskrezzjoni tal-kumpanija jiġifieri l-kundizzjonijiet tal-polza ma jorbtux lill-kumpanija li ssir xi bonus declaration partikolari. Però hija waħda mill-prinċipji bażiċi li l-attwarji jimplimentaw illi meta jkun hemm il-bonus declaration ikun hemm a just distribution amongst policy holders.

Irrid nispjega li l-proċess tal-bonus declaration mhux xi haġa li tagħmlu l-kumpanija u r-regolatur ma jkunx direttament involut, imma bir-regoli, l-MFSA qabbdu attwarju barrani li, fost ir-responsabbiltajiet tiegħu, jiċcertifika li t-tqassim tal-qligħ lill-klijenti qed isir b'mod ġust u ekwu. Allura, l-attwarju qisu external auditor, xi ftit jew wisq, imma speċjalizzat fl-area tal-With Profits u jiċcertifika li t-tqassim tal-qligħ qed isir b'mod ekwu.”¹⁴

F'din l-istess seduta, xehed ukoll Peter England, il-persuna li bieġhet il-poloż ilmentati lill-Ilmentaturi. Qal li:

“Mistoqsi bieġhejtx il-poloż numri 49383, 49384 u 49382 tal-Endowment With Profits tal-MSV lill-aħwa Ilmentaturi, ngħid li m'għandix il-poloż quddiem biex nikkonferma imma ngħid li, iva, bieġhejt poloż lill-aħwa Ilmentaturi ħamsa u għoxrin sena ilu.

Ngħid li bieġhejt il-poloż ħamsa u għoxrin sena ilu u jidhirli li ltqajna darbtejn mill-inqas. Jekk tkellimna drabi oħrajn informalment ma nafx. Naf li kellhom interess fil-prodott u bdejna nitkellmu fuqu. Konna ħriġna stima kwazi identika lil tliet min-nies fl-istess ħin. Ngħid li kwazi identika għax Ilmentatur ta każ ASF 116/2024 hu ta' età iżgħar minn hutu u, allura, kien kwazi l-istess.

¹⁴ P. 97 - P. 98 (Każ ASF 116/2024)

Niftakar li kont spjegajtilhom il-mod kif taħdem il-polza, kif is-savings jidhlu fl-account, kif għandhom ammont garantit f'każ ta' mewt u kif jirċievu statement kull sena li jindika l-ammont li qed jiġi investit u l-imgħax li jkun ingħata mill-MSV Life.

Mhux faċli ngħid kemm kienu jdumu dawn il-laqqgħat. Jista' jkun li tkellimna aktar minn darbtejn. Ngħid li diffiċli ngħid taħt ġurament, imma ngħid li trid aktar ħin sew minn ħames minuti. Trid aktar ħin sew u naħseb li d-diskussjoni saret aktar minn darba waħda biex huma bdew jogħmodu l-idea biex jidhlu għaliha. Preċiż, preċiż ma nistax inkun.

Nikkonferma l-firma tiegħi fuq il-Life Assurance Quotation (paġna 12 tal-file ta' ASF 118/2024), fuq il-Product Information (MSV 3) u fuq l-Avviz Statutorju (MSV 5). Qed niġi muri wkoll l-Important Notes li jkunu fuq wara tal-Quotation (MSV 2).

Ngħid li dawn id-dokumenti nkun tajthom lill-klijenti. Bla dubju, dak kien joħroġ in triplicate, self-carbonised paper – niftakar bl-ament għax kien minn tal-bidu – kien ikun hemm kopja għalihom, kopja għaliha u kopja għall-MSV Life.

Ngħid li hu essenzjali f'kull meeting fuq il-Life, li bniedem jispjega l-mod ta' kif taħdem il-polza, kif tinbena, il-varjazzjonijiet li jkun hemm, meta tirċievi l-istatements, x'inhu garantit. Ngħid li hu parti mir-requirement normali tal-bejgħ tal-Life Policy.

Ngħid li jiena ma nistax inwiegħed somma li mhux ser inħallasha jiena. Inkun spjegajt kif jinbena l-valur.

Ngħid li ma kienx hemm okkażjoni fejn jien stajt għamilt pressjoni biex inbiegħ il-polza; min irid jaħdem miegħi, jaħdem, u min ma jridx jaħdem miegħi ma nippressa lil ħadd jiena.

Dwar l-ispjega li nkun tajt fuq l-Avviz Statutorju, ngħid li qiegħed taħt ġurament u ma niftakarx eżatt xi spjegajtilhom, però, n-norma hija li nispijega għalxiex ikunu qed jiffirmaw u jekk riedu jirtiraw mill-polza setgħu jirtiraw – ma nafx jekk inbidlitx - minn ħmistax għal tletin ġurnata jew bil-kontra; naf li minn dak iż-żmien kien hemm tibdil imma kien hemm timeframe li kellna nispijegaw.

Ngħid li ma stajtx ngħidilhom kemm seta' jvarja l-ammont. Ma stajtx nagħtihom perċentaġġ kemm seta' jvarja. Ngħid li dak iż-żmien ma naħsibx li

kelli esperjenza biżżejjed biex inkun nista' nikkummenta b'dak il-mod. L-MSV Life dak iż-żmien kienet għadha fil-bidu u ma kienx hemm biżżejjed esperjenza. Li tista' tvarja r-rata tal-imgħax m'għandix dubju li nkun għidtha. M'għandix dubju li nkun spjegajt malli jircievu l-istatement xi jkun garantit; imma li nkun semmejt xi perċentaġġi ta' 30%, 50%,70%, ngħid li lanqas qatt f'ħajti.

Ngħid li għidtilhom 100% li ser jieħdu Lm10,000, ma naħsibx għax mhux jiena qed noħroġ il-flus, allura, ma nistax nagħti garanzija jiena. Però, hija indikazzjoni li ħarġet fil-quotation li nkun tajthom kif dak iż-żmien bil-mod kif kienu joħorġu l-istatements. Ngħid li garanzija le li ser jieħdu l-Lm10,000, però, li tista' tvarja r-rata tal-imgħax żgur li nkun għidtha. Hi x'inho, il-quotation qed tindika figura waħda għax dik kienet il-prassi dak iż-żmien.

Ngħid li qiegħed taħt għurament u ma nistax ngħid eżatt xi spjegajtilhom ħamsa u għoxrin sena ilu, però, hija n-norma li nispejga li jekk iżommu l-polza sal-aħħar, jista' jkun hemm ammont addizzjonali skont il-performance tal-kumpanija fl-aħħar sena tagħha.

Mistoqsi mill-Arbitru kontx inbiegħ dawn il-poloż regolari, ngħid li iva. Mistoqsi kontx liċenzjat, ngħid li iva.

L-Arbitru jgħid li fil-Life Assurance Quotations maħruġa għal dawn il-każijiet, hemm figura waħda inkluż it-Terminal Bonus u mistoqsi hemmx raġuni għalfejn ma segwejtx il-prassi li nikkwota żewġ figuri: waħda mingħajr it-Terminal Bonus u l-oħra bit-Terminal Bonus, ngħid li rajtha fil-file meta sirt naf bl-arbitraġġ imma għalfejn saret hekk m'għandi l-ebda idea. In-norma hija li jkollok ir-Reversionary Bonus u t-Terminal u jingħaqqdu flimkien, imma għalfejn huma neqsin f'dawn id-dokumenti, m'għandi l-ebda idea.”¹⁵

Fil-kontroezami, Peter England kompli li:

“Qed niġi referut għall-istima li tajthom ħamsa u għoxrin sena ilu u qed jingħad li fuqha hemm stima b'xenarju wieħed mentri fuq stimi oħra hemm tliet xenarji b'figuri differenti.”¹⁶

Għal dan, wieġeb Victor Farrugia, fejn qal li:

“Ngħid li dawn il-quotations kemm ta' qabel l-2000 u anke ta' wara l-2000, meta nagħtuhom inkunu qed nobdu l-liġi, jiġifieri skont ir-regolamenti li jkun hemm fis-seħħ aħna nimxu mar-regolamenti. Jidher li r-regolamenti kienu

¹⁵ P. 98 - P. 100 (Każ ASF 116/2024)

¹⁶ P. 100 (Każ ASF 116/2024)

hekk u aħna obdejnihom, u llum il-ġurnata qisna qed inbatu l-konsegwenzi tagħhom. Imma kieku m'għamilnihomx dakinhar kienet tiġi l-MFSA u twaħħalna xi multa. Imma huwa preċiż għalhekk għax inbidlu r-regoli.

Mistoqsi jekk dawn il-poloż li ħarġu bi tliet quotations qed igawdu minn aktar vantaġġi mill-poloż li ħarġu bi quotation waħda, ngħid li kollha jibbenefikaw mill-qliġ li jsir mill-fund li nsejnhulu With Profits, jiġifieri dan hemm fond li ta' qabel l-2000 u anke ta' wara l-2000, kollha jiġu investiti f'dan il-fond, jiġu immanigjati bl-istess mod, imbagħad, id-dikjarazzjoni tal-bonus skont kif spjegajt qabel. Imma m'hemmx benefiċċji aħjar tal-polza – qed nitkellem fir-rigward tal-bonus għax jista' jkun hemm spejjeż differenti marbutin mal-polza – imma fir-rigward tal-bonus m'hemmx benefiċċju aħjar ta' qabel is-sena 2000 u ta' wara s-sena 2000.

Irrid ngħid li kemm stima waħda u kemm tliet stimi huma kollha stimi, jiġifieri, l-ebda minnhom m'għandek garanzija li waħda minnhom ser tapplika jew le. Bi tlieta forsi hija aktar ċara u forsi aktar intuittiva. Imma m'hemmx benefiċċji aħjar ta' qabel jew ta' wara l-2000.”¹⁷

Sottomissjonijiet Finali

Fl-aħħar seduta, l-Ilmentaturi ddikjaraw¹⁸ li mhumiex ser jipprezentaw nota ta' sottomissjonijiet finali għax ser jistrieħu fuq l-evidenza tagħhom.

Mill-banda l-oħra, il-Fornitur tas-Servizz ipprezenta s-sottomissjonijiet¹⁹ finali tiegħu fejn sostanzjalment qalu dak li kien diġà ntqal fir-risposta u fix-xhieda waqt is-seduti.

L-Arbitru

Ra l-atti kollha tal-każ

Jikkunsidra:

FIL-MERTU

L-Arbitru jrid jiddeċiedi l-każ b'referenza għal dak li, fil-fehma tiegħu, huwa ekwu, ġust u raġonevoli fiċ-ċirkostanzi partikolari u merti sostantivi tal-każ.²⁰

¹⁷ P. 100 – P. 101 (Każ ASF 116/2024)

¹⁸ P. 101 (Każ ASF 116/2024)

¹⁹ P. 104 - P. 106 (Każ ASF 116/2024)

²⁰ Kap. 555, Art. 19(3)(b)

Il-punt kruċjali f'dawn l-ilmenti jitratta l-ammont li l-Ilmentaturi ġew offruti mal-maturità tal-poloż rispettivi tagħhom, liema ammont kien ferm inqas minn dak li originarjament kienu qablu dwaru ħamsa u għoxrin sena ilu u li qiegħed ukoll innizzel fil-kwotazzjoni pprezentata lilhom.

L-Arbitru jrid imur għall-waqt li kienu qed jinbiegħu dawn il-poloż ilmentati, x'ġie mwiegħed lill-Ilmentaturi u x'eventwalment ġie mogħti jew offrut lilhom mal-maturità. Irid jara wkoll kif sar il-bejgħ tal-prodotti ilmentati u, fuq kollox, jekk dawn laħqux *'l-aspettattivi raġonevoli u legittimi tal-konsumaturi u dan b'referenza għaż-żmien meta jkun allegat li jkunu seħħew il-fatti li jkunu taw lok għall-ilment.'*

L-Arbitru jsib ċertu diffikultà biex jifhem jekk dan kienx każ fejn is-*salesperson* li b'mod imprudenti emfasizza s-sabiħ u ma kienx kawt biżżejjed biex jispjega sew id-differenza bejn dak li kien garantit u dak li kien stmat, jew inkella kienx każ fejn l-Ilmentaturi fehmu dak li riedu jifhem u ma kinux insidjużi biżżejjed biex jagħtu importanza anke l-aspetti mhux garantiti tal-*quotation*, avolja dawn ġew spjegati.

Fl-istess waqt, l-Arbitru ma jistax ma jinnotax li spjegazzjoni dwar il-mod kif taħdem il-polza, partikolarment dwar il-*bonuses* u kif dawn jiġu allokat, ġiet anke mogħtija lill-Ilmentaturi f'dokumenti oħra, partikolarment f'dokument titolat *'Product Information'*, li kopja tiegħu ġiet sottomessa mill-Fornitur tas-Servizz, u li dan ġie iffirmit mill-Ilmentaturi stess.

Biex tintlaħaq il-figura kkwotata jrid isir *'compounding'* b'rata għolja li għalkemm kienet fattibbli sas-sena 1999, ma kinitx xi ħaġa li setgħet tiġi sostnuta u garantita għal 25 sena sħaħ. Anke persuna mhux tant intiża fil-finanzi tifhem li mhux floku tassumi li dawn ir-rati kienu ser jibqgħu f'dak il-livell għal 25 sena speċjalment peress li l-kontribuzzjonijiet kienu mifruxa fuq 25 sena u mhux xi *'lump sum investment'* li tista' tiġi investita mill-ewwel biex torbot ir-rati tal-imgħax għal żmien twil. Dan appartni li dak iż-żmien, *bonds* għal terminu twil fil-Lira Maltija ma kinux jeżist.

L-Arbitru jixtieq jindirizza l-argument li tqajjem fil-proċess li l-varjanza ta' aktar minn 50% bejn l-oġġla ċifra fil-kwotazzjoni u l-ammont finalment offrut meta mmaturat il-polza, ma jistax jaqa' fil-parametri raġonevoli ta' xi tfigisser stima.

L-Arbitru jhoss li stima trid tinftiehem skont iċ-ċirkostanzi tal-każ. Jekk wieħed iġib stima dwar servizz jew xogħol li jista' jiġi esegwit fi ftit żmien, allura, wieħed jifhem li l-istima ma tvarjax wisq. Imma fuq perjodu ta' 25 sena, stima tiegħu

tifsira differenti għax hadd ma jista' jbassar x'ser ikunu ċ-ċirkostanzi fuq perjodu daqstant twil.

Min-naħa l-oħra, l-Arbitru jhoss li l-Fornitur tas-Servizz messu kien aktar kawt fil-kwotazzjonijiet li joħroġ u flok waħda messu ħareġ *spectrum* ta' kwotazzjonijiet maħduma b'rati differenti għax fuq perjodu ta' 25 sena xejn ma jibqa' stabbli. Fil-fatt, ingħad li wara s-sena 2000, bdew joħroġu tliet kwotazzjonijiet u mhux waħda, u dan kien jgħin biex il-klijent jifhem li ma kien hemm xejn garantit għal 25 sena.

Għalhekk għar-raġunijiet kollha mogħtija aktar 'il fuq f'din id-deċiżjoni, l-Arbitru jiddeċiedi li l-ilment huwa wieħed ġust, ekwu u raġonevoli, u ser jilqgħu limitament sakemm dan huwa kompatibbli ma' din id-deċiżjoni.

Kumpens

F'dan il-każ, l-Arbitru qed jagħti rimedju għaliex iħoss li l-aspettattivi tal-Ilmentaturi, sal-limitu ta' fejn kienu legittimi, ma ġewx milfuqa. L-aspettattivi tagħhom kienu li mal-maturità tal-polza kienu ser jirċievu s-somma ta' madwar €24,000 li, iżda, fid-data tal-maturità, ġew offruti ferm inqas.

Bħala rimedju huma talbu li tal-anqas jingħataw bejn €17,464 u €17,262 għal kull polza. Iżda, ma jistax jingħad li l-aspettattivi tal-Ilmentaturi kienu kompletament legittimi.

L-Arbitru jrid jasal għal kumpens li jrid ikun ibbażat fuq ġustizzja ekwitattiva kif huwa sanzjonat li jagħmel espressament permezz tal-Artikoli 19(3)(b) u 26 tal-Kap. 555 tal-Liġijiet ta' Malta. Filwaqt li jara wkoll li dan l-ammont ikun raġonevoli, ma jistax ikun preċiż minħabba li hemm diversi fatturi li jridu jiġu ikkunsidrati. Ma ġiet ippreżentata l-ebda prova li dak iż-żmien l-Ilmentaturi kellhom xi għażla għajr polza bħal dik ilmentata jew inkella kont bankarju b'rati inqas. Għaldaqstant, l-Ilmentaturi ma ġabux prova li ġarrbu xi tip ta' *opportunity loss*.

Fuq kollox, mingħajr preġudizzju għal dak dikjarat hawn fuq, l-Arbitru ma jhossx li permezz ta' din il-polza wieħed kellu x'jitlef. Apparti l-element ta' kopertura fuq il-ħajja, l-Ilmentaturi kellhom iċ-ċans li jikkontribwixxu għat-tfaddil permezz ta' din l-istess polza u dan billi jħallsu ammont żgħir kull sena.

Barra minn hekk, meta l-Arbitru ħares lejn l-andament kumplessiv tal-polza, ra li r-rendiment tagħha kien ta' 3.64%²¹ li, fiċ-ċirkostanzi kollha, ma kienx wieħed ħażin u, għalhekk, dan għandu wkoll jigi ikkunsidrat fi sfond fejn il-kapital tal-investment kien sostanzjalment garantit. Tul-il-25 sena tal-polza, l-imghaxijiet nizlu tant li r-rati ta' depożiti fil-banek bla riskju kienu baxxi wkoll. Dan apparti li l-poloż kellhom benefiċċju ta' kopertura fuq ħajjithom li beda mill-ewwel ġurnata tal-polza.

Għalhekk, meta qies iċ-ċirkostanzi kollha tal-każ, l-Arbitru wasal għad-deċiżjoni li mhux ekwu li jilqa' t-talba sħiħa tal-Ilmentaturi u jiddeċiedi li s-somma xierqa li għandha tingħatalhom bħala kumpens hija dik ta' **€1,500** għal kull polza b'zieda ma' dak li diġà ġie offrut lilhom.

Għaldaqstant, ai termini tal-Artikolu 26(3)(c)(iv) tal-Kap. 555 tal-Liġijiet ta' Malta, l-Arbitru qed jordna lil MAPFRE MSV LIFE p.l.c. tħallas lill l-Ilmentaturi kif ġej:

- **ASF 116/2024 - €1,500 b'zieda mal-ammont offrut ta' €10,414.13 għall-ammont kumplessiv ta' €11,914.13 (ħdax-il elf, disa' mija u erbatax punt wieħed tlieta ewro).**
- **ASF 117/2024 - €1,500 b'zieda mal-ammont offrut ta' €10,287.41 għall-ammont kumplessiv ta' €11,787.41 (ħdax-il elf, seba' mija u sebgħa u tmenin punt erbgħa wieħed ewro).**
- **ASF 118/2024 - €1,500 b'zieda mal-ammont offrut ta' €10,287.41 għall-ammont kumplessiv ta' €11,787.41 (ħdax-il elf, seba' mija u sebgħa u tmenin punt erbgħa wieħed ewro).**

Il-kumpens għandu jithallas fi żmien ħamest ijiem ta' xogħol mid-data ta' din id-deċiżjoni. Jekk dan ma jsirx, il-ħlas għandu mbagħad isir bl-imghax ta' 3.15%²² fis-sena mill-iskadenza tal-ħamest ijiem sad-data tal-ħlas effettiv.

L-ispejjeż ta' dan il-każ huma għall-Fornitur tas-Servizz.

²¹ P. 95 (ASF 116/2024)

²² Ekwivalenti għall-MRO rate tal Bank Ċentrali Ewropew

Alfred Mifsud

Arbitru għas-Servizzi Finanzjarji

Nota ta' Informazzjoni relatata mad-Deciżjoni tal-Arbitru

Dritt ta' Appell

Id-Deciżjoni tal-Arbitru legalment torbot lill-partijiet, hliet għad-dritt ta' appell regolat bl-artikolu 27 tal-Att Dwar l-Arbitru għas-Servizzi Finanzjarji (Kap. 555) ('l-Att'), magħmul quddiem il-Qorti tal-Appell (Kompetenza Inferjuri) fi żmien 20 (għoxrin) ġurnata mid-data tan-notifika tad-Deciżjoni jew, fil-każ li ssir talba għal kjarifika jew korrezzjoni tad-Deciżjoni skont artikolu 26(4) tal-Att, mid-data tan-notifika ta' dik l-interpretazzjoni jew il-kjarifika jew il-korrezzjoni hekk kif provdut taht l-artikolu 27(3) tal-Att.

Kull talba għal kjarifika tal-kumpens jew talba għall-korrezzjoni ta' xi żbalji fil-komputazzjoni jew klerikali jew żbalji tipografici jew żbalji simili mitluba skont artikolu 26(4) tal-Att, għandhom ikunu magħmula mal-Arbitru, b'notifika lill-parti l-oħra, fi żmien 15 (hmistax)-il ġurnata min-notifika tad-Deciżjoni skont l-artikolu msemmi.

Skont il-prattika stabbilita, d-Deciżjoni tal-Arbitru tkun tidher fis-sit elettroniku tal-Uffiċċju tal-Arbitru għas-Servizzi Finanzjarji wara li jiskadi l-perjodu tal-appell. Dettalji personali tal-Ilmentaturi jkunu anonimizati skont artikolu 11(1)(f) tal-Att.

L-Ispejjeż tal-Proċeduri

Skont l-artikolu 26(3)(d) tal-Att dwar l-Arbitru għas-Servizzi Finanzjarji (Kap. 555) ('l-Att'), l-Arbitru ddecieda min għandu jhallas l-ispejjeż tal-proċeduri u f'liema proporzjon, skont iċ-ċirkostanzi partikolari tal-każ.

L-ispejjeż tal-proċeduri mhumiex limitati għall-pagament tal-ispejjeż applikabbli fuq ilment magħmul mal-Uffiċċju tal-Arbitru għas-Servizzi Finanzjarji (preżentament Ewro25), imma jistgħu wkoll jinkludu kull pagament raġonevolment u legalment applikabbli ta' spejjeż professjonali u legali mħallsa mill-Ilmentaturi, limitati għal atti pprezentati matul il-każ. Tali spejjeż professjonali m'għandhomx jinkludu spejjeż ġudizzjarji jew hlasijiet oħra kontingenti magħmula barra l-proċeduri tal-każ.

L-ammont ta' tariffi u spejjeż rigward servizzi professjonali jew ta' konsultazzjoni mogħtija lill-konsumaturi relatati mat-talbiet jew proċeduri taht l-Att, li jistgħu

legalment u raġonevolment jintalbu bħala parti mill-ispejjeż tal-proċeduri, mhumiex speċifikati fid-dispożizzjonijiet preżenti tal-Att. L-Arbitru jistenna iżda li tali tariffi u spejjeż għandhom jirriflettu t-tariffi u spejjeż hekk kif stipulati u applikabbli għal proċeduri magħmula fil-Qorti Ċivili ta' Malta fil-Kodiċi ta' Organizzazzjoni u Proċedura Ċivili.