Quddiem l-Arbitru għas-Servizzi Finanzjarji

Każ ASF 075/2026 u ASF 076/2026

EA u OA (risp.)

('l-Ilmentaturi')

vs

MAPFRE MSV Life p.l.c. (C-15722)

('il-Fornitur tas-Servizz')

Seduta 30 ta' Ottubru 2026

L-Arbitru,

Ra l-ilmenti,[1] fejn l-Ilmentaturi ssottomettew illi ma jaqblux mas-somom li qed jiġu offruti lilhom mal-maturità taż-żewġ poloz tagħhom, u dan minħabba li wara tletin sena, dawn huma ferm 'il bogħod minn dawk li kienu ġew indikati lilhom mir-rappreżentant tal-Fornitur tas-Servizz.

L-Ilmentaturi t-tnejn esprimew id-diżappunt tagħhom għaliex il-wegħdiet li sarulhom fil-bidu ma ntlaħqux fl-aħħar tal-polza. Jgħidu li kieku r-rappreżentant ma kienx wiegħedhom Lm28,315 (ekwivalenti għal madwar €65,956.21) u Lm26,704 (ekwivalenti għal madwar €62,203.58), ma kinux jaċċettaw li jixtru l-poloz.

Wara tletin sena jħallsu l-*premium*, il-valuri mal-maturità huma €24,358.05 u €23,046.26, rispettivament.

Għaldaqstant, huma qed jitolbu li jingħataw is-somom li ġew miftehma oriġinarjament u, ċioè, €65,956.21 u €62,203.58.[2]

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[1] P. 1 - 6, bid-dokumenti addizzjonali, p. 7 - 67 ta' ASF 075/2026; u p. 1 - 6, bid-dokumenti addizzjonali, p. 7 - 84 ta' ASF 076/2026

[2] P. 3 ta' ASF 075/2026 u p. 3 ta' ASF 076/2026

Ra t-tweġiba tal-Fornitur tas-Servizz fl-ilment tal-ASF 075/2026[3]

"*Reply of MAPFRE MSV Life p.l.c. in terms of Chapter 555 of the Laws of Malta*

1. *MAPFRE MSV Life plc ("MMSV") refers to the allegation made by the complainant that the maturity value of the policy in question numbered 26824 of the nature Comprehensive Endowment Policy with Sum Assured ("the Policy") was not equivalent to the estimated maturity value including reversionary and terminal bonus 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 amount of €65,956.21.*

2. *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.*

3. *In the first place, the amount being requested by the complainant is based on estimates shown in the quotation, which was provided by the complainant (fol.013), together with this complaint. Therefore, none of the figures which were indicated in the quotation as "estimated'' could be said to have been guaranteed.*

4. *The estimated maturity values 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.*** *Such estimates were calculated using the bonus rates declared by the Company at the previous year end. Such bonus rates can go down as well as up, depending on the company's performance. At the time, the bonus rate was much higher than it is today, with a rate of 6.75% between 1996–1998 and 7% in 1999, which started to decrease as from 2000 onwards with minor fluctuations throughout. The most important factor that affects bonus rates is the underlying investment performance and in recent years the investment returns internationally were lower.* ***This shows that the quotation provided was indeed correct as it was issued***

[3] P. 73-84

according to the circumstances at the time, therefore, MMSV had acted in good faith.

5. *The amount of LM18,877 that was indicated in the quotation as ''Estimated Maturity Value Including Reversionary Bonus'' was not guaranteed because one needed to wait until the finalisation of the bonus declaration process 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.*

6. *With regards to the ''Terminal Bonus'', this bonus is also dependent on the profit made by the Company, whereas it can be decided that after the end of the Policy's TENTH year and ten years full premia have been paid, from time to time a Terminal Bonus is allocated. Therefore, the amount being indicated in the quotations as "Estimated Maturity Value Including Reversionary and Terminal bonuses" of LM28,315 was likewise not guaranteed since it was highly volatile. This was also explained in the definitions section of the policy account statement provided yearly (as per example shown in MSV DOC 1), whereby it is stated that "It is highly dependent on the investment performance of the MAPFRE MSV With-profits Fund and MAPFRE MSV Life p.l.c is under no obligation to pay a Final Bonus, meaning that this is not guaranteed."*

7. *In fact, the Life Policy Schedule of the Policy (fol.020) provides that ''In respect of each premium paid, LM16.32 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 above-mentioned notes 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 policyholders.*

8. *Furthermore, the only amount mentioned in the Life Policy Schedule (fol.020) was the sum assured of LM5,610.00, and no amounts containing the word 'Estimate' in the quotation were mentioned on this Schedule, which further shows that according to the agreement between the parties the Estimated maturity value including reversionary bonus and the estimated maturity value including reversionary bonus and terminal bonus were never guaranteed.*

9. *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 including that the bonus rates may go up or down as expressly shown in the quotations and the other documentation which was given by the Company.* ***Notwithstanding, the complainant is merely basing the claim on estimated maturity values without putting them in the context of all the documents provided to the complainant when the Policy was being sold and every year thereafter as shall be explained hereunder.***

10. *MMSV continued to act in good faith even after the Policy was issued in favor 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. In fact, the 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.* ***Therefore, the difference between the estimated maturity values shown in the quotation and the maturity value is merely reflective of the shift in the performance of the investment markets during the term of the Policy.***

11. *Notwithstanding the fact that the maturity value could not be equivalent to the estimated maturity values indicated in the quotations due to the said shift in the performance of the market, 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 crises. In fact, the complainant made a gain in the amount of €10,699.04 after deducting the investment premium that was paid by the complainant from the maturity value, and this represents a rate of return-on-investment premium amounting to 3.53% and a rate of return (gross of 15% withholding tax) on investment premium amounting to 4.16%.*

12. *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.*

13. *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 him, on a yearly basis, a Policy Account 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 Policy Account statements are attached with the complaint and marked fol.037-fol.059). 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 term "Estimated" which was conditional in the quotations which is self-explanatory, the Important Notes (MSV DOC 1) forming part of the Policy Account Statements mentioned above 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 quotation could be varied depending on the performance of the investments during the term of the Policy. In addition, the complainant appears to have been satisfied with the performance of the policy over the years. As indicated in the questionnaire completed in 2016 (MSV DOC 2 – 3), the complainant stated that's he would "extremely likely" recommend MSV Life to a friend or colleague and stated that he "he has nothing to complain about" after 20 years had elapsed from the start of the policy.*

14. *Furthermore, it needs to be noted that apart from the investment element, the Policy also provided a guaranteed life cover during the duration of the Policy. This amount was guaranteed to be paid upon death, in fact it is referred to as the 'Sum Assured' on the Policy Schedule (fol.020) with an amount of LM5,610.00. Another characteristic of this*

policy is that the investment premium, which as at the date of the maturity of the Policy had amounted to €13,638.41 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 unit-linked policies where no amounts were guaranteed.

15. *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 €10,699.04, which amount represents the bonuses that have been declared by MMSV during the term of the Policy. Thus, despite the reduction in bonus rates over time, the policy in question was still a valuable investment because in addition to the tax-free "Maturity Value", the policy in question was not only an investment but also provided cover on the complainant's life.*

16. *As explained, MMSV has met all its contractual obligations, because the quotation did not guarantee the estimated maturity values, but the estimated maturity values were only an indication of the potential performance of the policy which could vary in the future.*

17. *It is clear that the Policy does not guarantee payment of the estimated maturity values but guarantees that the **maturity value** is paid in the event that the life assured is still living when the policy matures. The maturity value according to the Estimated Maturity letter issued one month in advance of the maturity date (fol.061) states that ''The Maturity Value shown here is illustrative and may be different if the bonus rates change or if the interest rate on premium/policy loans changes or if any outstanding premiums due remain unpaid'' This implies that no estimate could crystallise the value that would be paid to the complainant on the maturity date of the policy in question because that value could only be realised on the date of maturity of the policy. Therefore, naturally the figures indicated on the quotations could not be guaranteed because the maturity value continues to change until the maturity date of the policy and therefore the Company observed its obligations according to the policy in question.*

18. *In addition, the complainant was also provided with an Illustrative Maturity Value letter in 2016 (MSV DOC 5-6) which is 20 years into the*

policy term. The letter sent shows three different Illustrative Maturity Values including Reversionary Bonuses of €23,225, €24,237 and €25,291 and Illustrative Maturity Values including Reversionary Bonuses and Terminal Bonuses of €23,225, €25,448 and €27,820 based on three different assumed bonus rates of 3%, 3.5% and 4% respectively. When comparing the letters to the quotation (fol.013), which was issued back in 1996, it is evident that the company provides estimates based on the financial conditions at the time. In fact The Illustrative Maturity Value Letter states the ''Investment returns can go up as as well as down and therefore past performance is not necessarily a guide to the future." It is not possible to predict what the bonus rates will be in the future and they may be higher or lower than what they are today.

19. *The statement by the complainant in the online complaint (fol.003) stating that "Jien irrid is somma oriġinali miftehma…" has no basis, since the complainant signed the quotation showing estimated values and not an agreement showing a promised maturity value. In fact, the bonuses declared by the Company, including the Terminal Bonuses are never guaranteed and are calculated according to the current bonus rates at the time of the quotation. Terminal Bonuses can also be reduced or even withdrawn in times of drastically low investment performance, which is known to have happened in the past. The Company has always managed the MSV With Profits fund in the best interest of its policyholders as explained earlier. On the contrary, even though the investment returns were decreasing, the Company always declared bonuses at its discretion. This implies that unlike what happens with other volatile investments, which can also not have the capital guaranteed element, smoothing ensures that in periods of low investment returns, MMSV may still be able to declare a positive Reversionary Bonus Rate. Moreover, the Company provided the complainant with yearly statements, providing information on the performance on the policy.*

20. *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 complainants were presented with the Statutory Notice (MSV DOC 4) that was issued in compliance with the provisions of the Life Insurance (Statutory Notice) Regulations, 1989. 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 allegedly pressured to purchase the policy. However, in this case, the complainants did not exercise any of the said rights set out in the Notice and consequently agreed to proceed with the Policy.

21. *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."

Ra t-tweġiba tal-Fornitur tas-Servizz fl-ilment tal-ASF 076/2026[4]

"*Reply of MAPFRE MSV Life p.l.c. in terms of Chapter 555 of the Laws of Malta*

1. *MAPFRE MSV Life plc ("MMSV") refers to the allegation made by the complainants that the maturity value of the policy in question numbered 26586 of the nature Comprehensive Endowment Policy with Sum Assured ("the Policy") was not equivalent to the estimated maturity value including reversionary and terminal bonus which was indicated by MMSV when the Policy was sold to the complainants. Consequently, the complainants are requesting the Honourable Arbiter to order MMSV to pay the amount of €62,203.58.*

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

3. *In the first place, the amount being requested by the complainants is based on estimates shown in the quotation, which was provided by the complainants (fol.013), together with this complaint. Therefore, none of*

[4] P. 90 - 99

the figures which were indicated in the quotation as "estimated'' could be said to have been guaranteed.

4. *The estimated maturity values shown in the quotation 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.*** *Such estimates were calculated using the bonus rates declared by the Company at the previous year end. Such bonus rates can go down as well as up, depending on the company's performance. At the time, the bonus rate was much higher than it is today, with a rate of 6.75% between 1996–1998 and 7% in 1999, which started to decrease as from 2000 onwards with minor fluctuations throughout. The most important factor that affects bonus rates is the underlying investment performance and in recent years the investment returns internationally were lower.* ***This shows that the quotation provided was indeed correct as it was issued according to the circumstances at the time, therefore, MMSV had acted in good faith.***

5. *The amount of LM17,803 that was indicated in the quotation as ''Estimated Maturity Value Including Reversionary Bonus'' was not guaranteed because one needed to wait until the finalisation of the bonus declaration process 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.*

6. *With regards to the ''Terminal Bonus'', this bonus is also dependent on the profit made by the Company, whereas it can be decided that after the end of the Policy's TENTH year and ten years full premia have been paid, from time to time a Terminal Bonus is allocated. Therefore, the amount being indicated in the quotations as "Estimated Maturity Value Including Reversionary and Terminal bonuses" of LM26,704 was likewise not guaranteed since it was highly volatile. This was also explained in the definitions section of the policy account statement provided yearly (as per example shown in MSV DOC 1), whereby it is stated that "It is highly dependent on the investment performance of the MAPFRE MSV With-*

profits Fund and MAPFRE MSV Life p.l.c is under no obligation to pay a Final Bonus, meaning that this is not guaranteed."

7. *In fact, the Life Policy Schedule of the Policy (fol.020) provides that ''In respect of each premium paid, LM46.16 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 above-mentioned notes 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 policyholders.*

8. *Furthermore, the only amount mentioned in the Life Policy Schedule (fol.020) was the sum assured of LM5,415.00, and no amounts containing the word 'Estimate' in the quotation were mentioned on this Schedule, which further shows that according to the agreement between the parties the Estimated maturity value including reversionary bonus and the estimated maturity value including reversionary bonus and terminal bonus were never guaranteed.*

9. *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 including that the bonus rates may go up or down as expressly shown in the quotations and the other documentation which was given by the Company.* ***Notwithstanding, the complainants are merely basing the claim on estimated maturity values without putting them in the context of all the documents provided to the complainant when the Policy was being sold and every year thereafter as shall be explained hereunder.***

10. *MMSV continued to act in good faith even after the Policy was issued in favor 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. In fact, the 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. ***Therefore, the difference between the estimated maturity values shown in the quotation and the maturity value is merely reflective of the shift in the performance of the investment markets during the term of the Policy.***

11. *Notwithstanding the fact that the maturity value could not be equivalent to the estimated maturity values indicated in the quotations due to the said shift in the performance of the market, 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 crises. In fact, the complainant made a gain in the amount of €10,143.86 after deducting the investment premium that was paid by the complainant from the maturity value, and this represents a rate of return-on-investment premium amounting to 3.59% and a rate of return (gross of 15% withholding tax) on investment premium amounting to 4.23%.*

12. *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.*

13. *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 him, on a yearly basis, a Policy Account 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 Policy Account statements are attached with the complaint and marked fol.037-fol.063). 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 term "Estimated" which was conditional in the quotations which is self-explanatory, the Important Notes (MSV DOC 1) forming part of the Policy Account Statements mentioned above 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 quotation could be varied depending on the performance of the investments during the term of the Policy.

14. *Furthermore, it needs to be noted that apart from the investment element, the Policy also provided a guaranteed life cover during the duration of the Policy. This amount was guaranteed to be paid upon death, in fact it is referred to as the 'Sum Assured' on the Policy Schedule (fol.020) with an amount of LM5,415.00. Another characteristic of this policy is that the investment premium, which as at the date of the maturity of the Policy had amounted to €12,902.40 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 unit-linked policies where no amounts were guaranteed.*

15. *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 €10,143.86, which amount represents the bonuses that have been declared by MMSV during the term of the Policy. Thus, despite the reduction in bonus rates over time, the policy in question was still a valuable investment because in addition to the tax-free "Maturity Value", the policy in question was not only an investment but also provided cover on the complainant's life.*

16. *As explained, MMSV has met all its contractual obligations, because the quotation did not guarantee the estimated maturity values, but the estimated maturity values were only an indication of the potential performance of the policy which could vary in the future.*

17. *It is clear that the Policy does not guarantee payment of the estimated maturity values but guarantees that the **maturity value** is paid in the event that the life assured is still living when the policy matures. The maturity value according to the Estimated Maturity letter issued one month in advance of the maturity date (fol.065) states that ''The Maturity Value shown here is illustrative and may be different if the bonus rates change or if the interest rate on premium/policy loans changes or if any*

outstanding premiums due remain unpaid'' This implies that no estimate could crystallise the value that would be paid to the complainant on the maturity date of the policy in question because that value could only be realised on the date of maturity of the policy. Therefore, naturally the figures indicated on the quotations could not be guaranteed because the maturity value continues to change until the maturity date of the policy and therefore the Company observed its obligations according to the policy in question.

18. *In addition, the complainant was also provided with an Illustrative Maturity Value letter in 2016 (MSV DOC 2-3) which is 20 years into the policy term. The letter sent shows three different Illustrative Maturity Values including Reversionary Bonuses of €21,955, €22,910 and €23,905 and Illustrative Maturity Values including Reversionary Bonuses and Terminal Bonuses of €21,955, €24,055 and €26,295 based on three different assumed bonus rates of 3%, 3.5% and 4% respectively. When comparing the letters to the quotation (fol.013), which was issued back in 1996, it is evident that the company provides estimates based on the financial conditions at the time. In fact the Illustrative Maturity Value Letter states the ''Investment returns can go up as as well as down and therefore past performance is not necessarily a guide to the future." It is not possible to predict what the bonus rates will be in the future and they may be higher or lower than what they are today.*

19. *The statement by the complainant in the online complaint (fol.003) stating that "Aħna rridu is-somma oriġinali miftehma…" has no basis, since the complainants signed the quotation showing estimated values and not an agreement showing a promised maturity value. In fact, the bonuses declared by the Company, including the Terminal Bonuses are never guaranteed and are calculated according to the current bonus rates at the time of the quotation. Terminal Bonuses can also be reduced or even withdrawn in times of drastically low investment performance, which is known to have happened in the past. The Company has always managed the MSV With Profits fund in the best interest of its policyholders as explained earlier. On the contrary, even though the investment returns were decreasing, the Company always declared bonuses at its discretion. This implies that unlike what happens with other volatile investments, which can also not have the capital guaranteed element, smoothing ensures that in periods of low investment returns,*

MMSV may still be able to declare a positive Reversionary Bonus Rate. Moreover, the Company provided the complainants with yearly statements, providing information on the performance on the policy.

20. *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 complainants were presented with the Statutory Notice (MSV DOC 4) that was issued in compliance with the provisions of the Life Insurance (Statutory Notice) Regulations, 1989. 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 allegedly pressured to purchase the policy. However, in this case, the complainants did not exercise any of the said rights set out in the Notice and consequently agreed to proceed with the Policy.*

21. *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-2 ta' Ġunju 2026, l-Arbitru spjega li peress li dawn iż-żewġ poloz huma identiċi, inbiegħu viċin xulxin mill-istess rappreżentant lill-Ilmentaturi li huma koppja miżżewġa, l-Arbitru kien ser jisma' ż-żewġ ilmenti flimkien u x-xhieda tkun tapplika għaż-żewġ ilmenti.

L-Ilmentatriċi, mhux assistita, xehdet is-segwenti:

"***Ngħid li meta konna għamilna l-polza konna għadna żgħar. Konna naħdmu ma nafx kemm-il part-time jien u r-raġel biex inkomplu mal-post.***

U dak iż-żmien kienu ċemplulna tal-Middlesea biex iħajjruna nagħmlu din il polza. U barra minn hekk kienu offrewlna leaflet tal-Baby Bond li

fih jispjegalek li din qed tagħmilha int biex 'il quddiem, tkun tista' tgħin lil uliedek biex jixtru dar, biex jixtru karozza, biex jagħmlu t-tieġ.

Ngħid li dan, Chris Cachia, kien ċemplilna biex jiġi jkellimna d-dar u aċċettajna.

Ngħid li aħna ma konniex nafuh lil Chris Cachia. Kienu ċemplulna bħala Middlesea. Dan kien agent tal-Middlesea.

Dan kien ġie d-dar u qalilna li din l-insurance attractive ħafna. Ngħid li kulma baqali tiegħu hi din il-karta bil-'Middlesea With Compliments, Chris Cachia and Associate.'

L-Arbitru jgħid li l-ewwel polza saret fit-18 ta' Diċembru 1995. Ngħid li saret qabel għax wara li ffirmajna l-karti u tajtu xi l-ewwel pagamenti, reġgħu ċempluli tal-Middlesea, il-kumpanija, u qaluli li riedu jiġu jkellmuni.U jiena ovvjament għidtilhom, 'Ejjew.'

U ġie xi ħadd ieħor, ma niftakarx min kien, u qalli li dak beda jgħaġġibhom għax kien qalilna li ser jagħtina Lm98,000 wara tletin sena. U qalli li dik iċ-ċifra ma tistax tkun, ma kinitx possibbli, qattali l-karti quddiemi u għamilli karti ġodda. U l-karti ġodda huma dawn li għandna issa quddiemna.

Ngħid li l-kuntratt fuq din il-polza kien sar. Kollox kien sar u bdejt inħallas ukoll. Imbagħad, kienu ġew tal-Middlesea u qattghuli l-karti.U jien ma żammejt xejn.

Ngħid li jiena għandi żewġ kuntratti hawn quddiemi. In-nofs ta' fuq kemm inħallas jien u n-nofs ta' taħt hija tal-insurance. In-nofs ta' fuq ili tletin sena nżommu. Qatt ma ġie xahar, avolja mhux dejjem kienet easy b'żewġt itfal li nħallas, imma dejjem ħallast. Meta nsemmi n-nofs inkun qed nitkellem fuq il-quotation.

Jien iffirmajt il-karti tagħhom. Jiena żammejt mal-ftehim li għamilna imma huma ma żammewhx.

Aħna qed nitolbu biex ningħataw is-somma li hawn miktuba hawn ta' Lm28,315 li jiġu €65,956.21 u l-oħra ta' Lm26,704 li jiġu €62,203.58.

Qed nitolbu dawn l-ammonti, l-ogħla ammonti, għax hekk wegħduna.

Mistoqsija mill-Arbitru min kien ġie d-dar u spjegalna dawn il-figuri u li ħajjarna nixtruhom u li mbagħad ħarġet il-polza fuqhom, ngħid li bi Chris Cachia bdejna.

Ngħid li dam il-meeting għax aħna ma konna nafu xejn u qagħad jispjegalna. Fil fatt, tant ħajjarna u tant kien tajjeb f'xogħlu, li flok waħda għamilna tnejn. Mistoqsija x'fhimt mill-ispjegazzjoni li tana, ngħid li fhimt li wara tletin sena ser nieħdu din iċ-ċifra. Iva, ngħid li tana garanzija li ser nieħdu din is-somma kollha."[5]

Taħt kontroeżami, hija wieġbet is-segwenti:

"***Qed niġu referuti għal paġna 13, il-quotation, li kienet magħmula fuq [bint l-Ilmentaturi].***

Mistoqsija xi spjega tana fuq dawn il-figuri differenti li hawn fuq il-quotation, ngħid li xejn ma qalli fuq il-figuri differenti. Hu li qalli kien li wara tletin sena ser nieħu l-aħħar somma.

Mistoqsija x'qalli fuq il-figura Lm5,415, ngħid li xejn.

Qed jingħad li jiena xehedt li l-meeting dam minħabba l-ispjegazzjoni.

Ngħid li dan tletin sena ilu u ma niftakarx kelma b'kelma x'intqal, però, niftakar li għamilhieli sabiħa għax flok waħda għamilna tnejn. Ngħid li qatt ma semmieli li stajt nieħu dawn.

Mistoqsija xi spjegali fuq is-somma ta' Lm17,803, ngħid li ma spjegali xejn fuq din lanqas.

Hu qalli, waħda milli niftakar, li dak iż-żmien, il-flus li ser nagħti fix-xahar li għal dak iż-żmien kienu flus, fi żmien għoxrin sena ser ikunu inqas fil-valur.

Nikkonferma li kulma qalli kien fuq is-somma ta' Lm26,704.

Ngħid li dik kienet suppost għal 25 sena imma tant għamilhielna sabiħa l-istorja, li meta qalilna jekk iżżidu ħames snin oħra, ser tieħdu somma akbar, u żidna ħames snin oħra. Dak iż-żmien, awtomatikament, kienu jagħmlu għal 25 sena.

[5] P. 100 - 102

Mistoqsija kienx spjegalna li għandna somma garantita f'każ ta' mewt bħala Life Cover, ngħid li dik iva, hija miktuba. Li jekk jiġi nieqes ir-raġel, jitħallas il-funeral. Iva dik imniżżla.

Ngħidu li ma qalilniex li din is-somma tal-Life Cover hija Lm5,415. Lilna qalulna li jagħtuna somma flus għall-funeral. Hu semmielna biss il-funeral.

Nikkonferma li aħna ridna li l-premiums li konna nħallsu kull sena ma nitilfuhomx imma neħduhom lura. Fil-fatt, jiena ma nidħolx f'shares, lanqas għandi shares.

Mistoqsija naqblux li aħna ma ridniex nieħdu riskju iżda nagħmlu gwadann fuqu, ngħid eżatt. Dak kien l-iskop tagħna.

Qed jingħad li aħna għamilna gwadann ta' €10,143, jiġifieri gross rate of return ta' 4.23% fuq il-polza.

Ngħid li iva, naqblu imma xorta mhix l-istess somma li ftehemna aħna.

Mistoqsija naqblux li matul iż-żmien konna qed niġu infurmati li ma konniex ser nirċievu dak l-ammont li hemm fil-quotation, ngħid li ma kinitx is-somma li ftehemna għax kienet estimated.

Mistoqsija naqblux li l-quotation minn dejjem kienet estimated, ngħid li l-quotation ma ffirmajtha ma' ħadd, il-kuntratt kien il-ftehim.

Qed jingħad li estimated ma tfissirx garanzija u mistoqsija kif dħalt għaliha, ngħid li estimated tfisser bejn wieħed u ieħor. Għidli kif it-€23,000 li offrejtulna intom tista' tiġi bejn wieħed u ieħor tas-€62,000?

Ngħid li fuq l-istatements li kont nirċievi every now and then, kont naraha dik is somma imma ngħid li dik ma kinitx is-somma li ftehemna fuqha. U xi tridni nagħmel, noqgħod inċempel kull darba li dik ma kinitx is-somma?

Qed jingħad li estimated mhijiex garanzija. Jien ġejt mistoqsija x'qalli hu. Hu qalli li garantita li neħodha din. Naf li hemm miktub estimated u jien għalija estimated tiġi bejn wieħed u ieħor.

Mistoqsija kemm jiġi għalija bejn wieħed u ieħor, ngħid forsi differenza ta' €5,000."[6]

Fit-tieni seduta tal-20 ta' Lulju 2026, deher is-Sur Victor Farrugia għall-Fornitur tas-Servizz assistit minn Dr Veronica Grixti. Is-Sur Farrugia kkonferma bil-ġurament ir-risposti tal-Fornitur tas-Servizz għaż-żewġ każijiet.

Il-Fornitur tas-Servizz ressaq lis-Sur Chris Cachia li xehed is-segwenti taħt ġurament:

"***Qed niġi muri l-Proposal Forms (Doc. 15/16) taż-żewġ każijiet u nikkonferma li dik hija l-handwriting tiegħi fuq iż-żewġ Proposal Forms u nikkonferma l-firma tiegħi.***

Qed niġi muri l-Avviżi Statutorji (Doc. 4) taż-żewġ każijiet u nikkonferma l-firma tiegħi fuq dawn l-avviżi.

Ngħid li mill-memorja, għax issa għaddew xi tletin sena, konna nispjegaw li dan hu investiment li għandek life assurance garantita u, mbagħad, inti tgawdi mill-investimenti li tagħmel il-kumpanija. Kull sena l-kumpanija tiddikjara r-Reversionary Bonuses li jiġu ddikjarati fl-aħħar tas-sena, imbagħad, fl-aħħar tal polza, il-kumpanija tiddikjara Terminal Bonus. It-Terminal Bonus jista' jiġi ddikjarat ammont minn xejn għal ammont li tiddeċiedi l-kumpanija skont il-profitti li tkun għamlet.

Ngħid li kien ikollna l-laptop magħna. Konna naħdmu, nikkopjaw minn fuq il-laptop; indaħħlu l-età tal-persuna; jekk niftakar sew, in-next birthday, joħorġu l-figuri, imbagħad, naħseb dak iż-żmien konna nikkopjaw il-figuri għal fuq il-quotation għax aktar tard kien ikollna portable printers u konna nipprintjawhom mis-sistema stess.

Ngħid li jien ikun spjegajt fuq il-figuri li jkunu bbażati fuq il-profitti li tiddikjara l-kumpanija. Nispjegaw li s-Sum Assured tkun garantita. L-ewwel figura hija r-Reversionary Bonus li tiġi ddikjarata fl-aħħar tas-sena, kif għidt fil-bidu. U fl-aħħar għandek ir-Reversionary plus it-Terminal Bonuses. Kont nispjega li t-Terminal Bonus jista' jingħata u jista' ma jingħatax.

[6] P. 102 - 103

Rigward l-Estimated Maturity Value, ngħid li ħadd ma jista' jiggarantixxi xi ħaġa fil-futur ħlief is-Sum Assured. Kont nispjega li l-kumpanija tagħmel ħilitha biex tlaħħaq il-figuri li qed tagħti imma dawn ikunu bbażati fuq il-performance li tagħmel is-sena ta' qabel, u tiddikjara l-profitt wara li tgħaddi s-sena.

Ngħid li qatt ma ggarantejt it-Terminal Bonus.

Ngħid li jiena ma stajtx nagħti indikazzjoni b'kemm seta' jvarja dan l-ammont. Ngħid li hu diffiċli għax jiddependi fuq il-profitti li tkun qed tagħmel il-kumpanija. Kif jista' jkun li tagħmel polza għal għoxrin jew tletin sena, u tkun taf x'ser tagħmel il-kumpanija għoxrin jew tletin sena oħra.

Ngħid li ħafna mill-appuntamenti, konna nċemplu u konna mmorru fid-djar tan nies.

Ngħid li dan il-każ ma niftakrux u lil din il-koppja mhux qed nagħrafha.

Ngħid li jien kont għamilt ħafna snin inbiegħ. Naħseb għamilt over ten years. Ma niftakarx eżatt.

Ngħid li on average kont nagħmel tlett appuntamenti kuljum. Kont niltaqa' mal familji u kont nispjega diversi affarijiet kuljum.

Ngħid li dan il-każ ma niftakrux partikolarment."[7]

Taħt kontroeżami, huwa wieġeb is-segwenti:

"***Mistoqsi għadnix naħdem bħala aġent mal-kumpanija, ngħid li ili żmien li spiċċajt.***

Ngħid li ili xi għoxrin sena li waqaft minn dan ix-xogħol.

Qed jingħad li meta l-Ilmentaturi għamlu l-ftehim miegħi, jiena għidtilhom li ser jieħdu Lm95.000 biex inħajjarhom jixtru l-polza. Imbagħad, kienet ġiet persuna oħra li qaltilhom li jiena tajthom informazzjoni ħażina u li l-kumpanija kienet keċċietni.

[7] P. 104 - 105

L-Arbitru jgħid li quddiemu għandu żewġ poloz li saru fl-1995 u li huma ffirmati, kif għadu kif ġie stabbilit, mis-Sur Chris Cachia u li l-quotation ta' fuqhom ġiet ippreżentata mal-ilment.

L-Arbitru jispjega li jekk l-Ilmentaturi qed jgħidu li s-Sur Chris Cachia ma kienx il-persuna li biegħetilhom il-poloz li tagħhom l-Arbitru għandu d-dokumenti, allura, inutli li jistaqsi lilu la ma kienx hu il-persuna li biegħ il-poloz.

L-Arbitru jgħid li hu lil min biegħ il-poloz irid ikellem."[8]

L-Ilmentatriċi wriet karta lill-Arbitru u qalet:

"***Ngħid li fuq din il-polza li qed jgħid li hawn il-firma tiegħu, m'hawn l-ebda ċifra. Din il-karta l-istess waħda li għamlilna hu. Din ma qattagħilniex it-tieni wieħed li ġie għax m'hawnx ċifra fuqha. It-tieni Sinjur qattalna li kien hemm iċ-ċifra fuqha.***

Mistoqsija mill-Arbitru min kien it-tieni Sinjur, ngħid jien lil dan niftakar. Kien ġie u tant kien ħajjarna li minn waħda, għamilna tnejn.

Ħa ngħid fejn hu l-iżball. Aħna konna ftehemna miegħu biex nagħmlu l-policy tar raġel, il-life assurance. U konna bdejna nagħmlu l-insurance ta' dan. Meta ġie u beda jħajjarna, għamilna l-Baby Bond ukoll. Issa, l-Baby Bond tagħlaq qabel l-insurance ta' dan.

Il-Baby Bond għalqet f'Diċembru u l-insurance ta' dan għalqet f'Jannar. Li din jiena ma nistax nifhimha għax aħna l-ewwel m'għamilna kienet l-insurance ta' dan.

Ngħid li dawn ġraw tletin sena ilu. Eżatt kif ġraw l-affarijiet jien m'għandix eżatti. M'għandix filmat. Imma jiena niftakar li kien ġie s-Sur Cachia u għad għandi l-karta tiegħu (visiting card).

L-Arbitru jintervjeni biex jgħid li dawn iż-żewġ każijiet huma mibnijin fuq żewġ quotations. Il-figuri fil-quotations qegħdin.

L-Arbitru jistaqsi jekk is-Sinjura hix qed tgħid li l-quotations li fuqhom mibni dan il-każ mhuwiex il-quotation li ta s-Sur Cachia.

[8] P. 105-106

Ngħid li l-quotation li konna ftehemna fil-bidu, hija parti mill-istorja.

L-Arbitru jispjega li każ tal-Ilmentaturi huwa mibni fuq din il-quotation. U jekk l-Ilmentatriċi qed tgħid li s-Sur Cachia ma kienx il-bniedem li ħareġ dawn il-quotations, mela inutli li l-Arbitru jkompli jitkellem mas-Sur Cachia.

L-Ilmentaturi komplew isostnu li s-Sur Cachia kien ħareġ il-quotation oriġinali ta' Lm95,000, u l-quotation li hemm fl-ilment ħariġha persuna oħra li kien qatta' l-quotation oriġinali.

Għaldaqstant, l-Arbitru jistaqsi lill-Fornitur tas-Servizz biex jara jekk hemmx evidenza li l-quotation in kwistjoni inħarġitx minn xi ħadd ieħor.

Is-Sur Victor Farrugia u Dr Veronica Grixti jsostnu li r-records tal-kumpanija juru li l-polza inħarġet minn Chris Cachia. L-Arbitru jistaqsi lis-Sur Cachia jekk kienx bagħat hu lil xi ħadd ieħor."[9]

Is-Sur Chris Cachia wieġeb:

"***Ngħid li jien l-ewwel darba li qed nisma' b'din is-sitwazzjoni. Ngħid li jien ma nafx fuqiex qed jgħidu, li ġie xi ħadd ieħor.***

Mistoqsi mill-Arbitru wara l-1995 kemm domt naħdem fuq dan ix-xogħol, ngħid li niftakar li għamilt xi 10 to 12 years. Ma nafx eżatt is-sena meta spiċċajt. Ngħid li bdejt mal-Middlesea, imbagħad, l-MSV.

Li ma nistax nifhem, il-quotation li tajt lill-Ilmentaturi jekk jiftakrux li kkopja mil laptop.

[L-Ilmentatriċi] tgħid li tiftakar li kont ġejt bil-laptop."[10]

Is-Sur Victor Farrugia spjega illi:

"***Normalment jinħarġu żewġ quotations. Waħda handwritten u l-quotation li għandna tidher li ħarġet mill-uffiċċju. Imma dik proċedura biex wieħed jikkonferma l-quotation li tkun ħarġet qabel.***"[11]

[9] P. 106 - 107
[10] P. 107
[11] *Ibid*.

Fit-22 ta' Settembru 2026, l-Arbitru rċieva *affidavit* mingħand is-Sur Victor Farrugia fejn iddikjara u ħalef bil-ġurament is-segwenti:

"***1. Fil-kapaċità tiegħi ta' rappreżentant ta' Chief Officer Complaints ta' MAPFRE MSV Life plc (MMSV) niddikjara illi filwaqt li MMSV tistrieħ fuq ir-risposta tagħha u tikkunsidraha bħala parti mill-provi tagħha, tixtieq tispjega l-kwistjoni li tqajmet mill-ilmentaturi waqt is-seduta tal-20 ta' Lulju 2026 dwar l-allegazzjoni li Chris Cachia ma kienx il-persuna li biegħ il-poloz lilhom.***

2. Mill-indaġni li għamilt mar-rekords tal-MMSV irriżulta li l-polza 26824 f'isem [l-Ilmentatur] u l-polza bin-numru 26586 f'isem [l-Ilmentaturi], inbiegħu minn Chris Cachia kif ġia ġie ikkonfermat minni stess waqt l-aħħar seduta u kif jirriżulta mid-dokumentazzjoni ppreżentata fl-ilment 75/2026 u 76/2026, cioe kif jirriżulta milll-proposal Forms: fol. 15, 16 fiż-żewġ ilmenti u l-Avviżi Statutorji: Dok. 4 fiż-żewġ ilmenti u ukoll għax l-istess rappreżentant tħallas l-ammont dovut lilu mill-MMSV fuq dawn iż-żewġ poloz."[12]

Fit-tielet seduta tat-23 ta' Settembru, l-Arbitru qal li ra wkoll l-*email* tal-Ilmentaturi[13] fejn fis-sustanza qalu li ma jeskludux illi s-Sur Cachia kien it-tieni wieħed u mhux l-ewwel wieħed, però, xorta jsostnu li kien hemm xi ħadd ieħor li qatta' jew injora dak li kien inkiteb qabel u sar arranġament ġdid.

Sottomissjonijiet Finali

Il-partijiet sostnew il-pożizzjoni tagħhom kif diġà spjegaw fl-ilment, fir-risposta u waqt ix-xiedha li taw fis-seduti.

Sema' lill-partijiet.

Ra l-atti kollha tal-każ.

Jikkunsidra:

FIL-MERTU

[12] P. 109
[13] P. 110

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.[14]

Il-punt kruċjali f'dan l-ilment jittratta l-ammont offrut lill-Ilmentaturi mal-maturità tal-polza, liema ammont ivarja sostanzjalment minn dak allegatament miftiehem.

L-Arbitru jrid imur għall-waqt li kienet qed tinbiegħ il-polza ilmentata, x'ġie mwiegħed lill-Ilmentaturi, u x'eventwalment ġie mogħti jew offrut lilhom mal-maturità. Irid jara wkoll kif sar il-bejgħ tal-prodott ilmentat u, fuq kollox, jekk dan laħaqx *'l-aspettattivi raġonevoli u leġittimi tal-konsumaturi u dan b'referenza għaż-żmien meta jkun allegat li jkunu seħħew il-fatti li jkunu taw lok għal-ilment.'*[15]

Ir-rappreżentant tal-Fornitur tas-Servizz iddikjara li, għalkemm huwa ma jiftakarx min kienu l-Ilmentaturi jew il-każ tagħhom x'kien, il-proċedura li kien jimxi magħha u l-ispjegazzjoni li kien jagħti waqt il-laqgħat kienu regolari u, għaldaqstant, l-istess mal-klijenti kollha. Il-verżjoni tar-rappreżentant, minkejja li hija waħda ġenerali, hija wkoll pjuttost dettaljata u l-Arbitru ma jara l-ebda raġuni għalfejn m'għandhiex tkun kredibbli.

Mill-banda l-oħra, għandu jiġi analizzat x'wassal lill-Ilmentaturi sabiex jisħqu fuq l-verżjoni tagħhom – jekk kienx hemm xi *misselling* min-naħa tar-rappreżentant jew jekk din hijiex xi forma ta' memorja selettiva min-naħa tal-Ilmentaturi li qed jiftakru jew jiddikjaraw biss dak li jaqblilhom.

L-Ilmentatriċi spjegat li r-rappreżentant tal-Fornitur tas-Servizz "***kien ċemplilna biex jiġi jkellimna d-dar u aċċettajna*** ... ***Kienu ċemplulna bħala Middlesea. Dan kien aġent tal-Middlesea***."[16]

Qalet li "***dam il-meeting għax aħna ma konna nafu xejn u qagħad jispjegalna. Fil fatt, tant ħajjarna u tant kien tajjeb f'xogħlu, li flok waħda għamilna tnejn.***"[17]

[14] Att dwar l-Arbitru għas-Servizzi Finanzjarji, Kapitolu 555 tal-Liġijiet ta' Malta, Artikolu 19(3)(b).
[15] ibid Artikolu 19(3)(c).
[16] P. 101
[17] P. 102

Matul ix-xhieda tagħha, l-Ilmentatriċi tinsisti li ċertu ammonti kienu ġew imwiegħda lilhom: "***ftehim***",[18] "***kuntratti***",[19] "***għax hekk wegħduna***",[20] u "***tana garanzija li ser nieħdu din is-somma kollha***",[21] u "***Hu li qalli kien li wara tletin sena ser nieħu l-aħħar somma***."[22] Iżda fl-istess ħin ammettiet li "... ***dan tletin sena ilu u ma niftakarx kelma b'kelma x'intqal***",[23] "***Ngħid li dawn ġraw tletin sena ilu. Eżatt kif ġraw l-affarijiet jien m'għandix eżatti***,"[24] u "***Hu qalli li garantita li neħodha din***."[25]

Min-naħa l-oħra, fix-xhieda tiegħu, ir-rappreżentant tal-Fornitur tas-Servizz stqarr illi: "***Rigward l-Estimated Maturity Value, ngħid li ħadd ma jista' jiggarantixxi xi ħaġa fil-futur ħlief is-Sum Assured***"[26] u "***Ngħid li qatt ma ggarantejt it-Terminal Bonus. Ngħid li jiena ma stajtx nagħti indikazzjoni b'kemm seta' jvarja dan l-ammont***".[27]

L-Arbitru nnota wkoll li tqajmet il-kwistjoni waqt it-tieni seduta dwar min kienet il-persuna li biegħet il-poloz in kwistjoni lill-Ilmentaturi. Mill-evidenza ppreżentata lilu, l-Arbitru jistrieħ fuq il-verżjoni tal-Fornitur tas-Servizz u, ċioè, li kien is-Sur Chris Cachia, stante li l-firma tiegħu tidher fuq iż-żewġ *Proposal Forms* u l-fatt li hu kien irċieva l-ħlas dovut lilu fuqhom mill-Fornitur tas-Servizz.[28]

In vista ta' dawn iż-żewġ verżjonijiet diametrikament opposti ta' x'intqal eżatt dwar is-somom li kellhom jew ma kellhomx jieħdu l-Ilmentaturi mal-maturità tal-polza, l-Arbitru jkollu jistrieħ fuq id-dokumenti u, ċioè, x'hemm miktub bl-iswed fuq l-abjad. Minkejja li l-Ilmentaturi baqgħu jsostnu sal-aħħar li s-somom ta' Lm28,315 u Lm26,704 ġew imwiegħda lilhom, huma ma ressqu l-ebda prova ta' dan bil-miktub.

Filwaqt li favur il-Fornitur tas-Servizz hemm il-kwotazzjonijiet u d-dokumenti annessi magħhom li b'mod ċar iwissu li s-somom huma biss indikazzjonijiet u '*estimates*'. Barra minn hekk, l-Ilmentaturi kellhom *cooling-off period* ta' ħmistax-

[18] P. 101
[19] *Ibid.*
[20] *Ibid.*
[21] P. 102
[22] *Ibid.*
[23] *Ibid*.
[24] P. 106
[25] P. 103
[26] P. 105
[27] *Ibid.*
[28] P. 109

il jum[29] minn meta ffirmaw il-poloz biex jaqraw id-dokumenti, jerġgħu jaħsbuha u, jekk hemm bżonn, ikellmu lil xi ħadd tal-fiduċja tagħhom.

Inoltre, l-Ilmentaturi huma konxji li l-polza għamlet qligħ ta' 4.23% u ammettew li ma ridux investiment riskjuż: "***Mistoqsija naqblux li aħna ma ridniex nieħdu riskju iżda nagħmlu gwadann fuqu, ngħid eżatt. Dak kien l-iskop tagħna.***"[30] L-Ilmentatriċi qalet ukoll li "***Naf li hemm miktub estimated u jien għalija estimated tiġi bejn wieħed u ieħor***."[31]

Huwa evidenti li l-Ilmentaturi mhumiex kuntenti bir-ritorn li għandhom mill-poloz, iżda fl-istess waqt, ma ppreżentaw l-ebda prova li dak iż-żmien kellhom xi għażla differenti għajr polza bħal dik ilmentata jew inkella kont bankarju b'rati inqas. B'hekk, l-Ilmentaturi naqsu milli jippreżentaw xi tip ta' prova li huma ġarrbu xi tip ta' *opportunity loss* minħabba li ddeċidew li jixtru l-polza offruta abbażi tal-informazzjoni mogħtija lilhom dak iż-żmien.

Madankollu, l-Arbitru josserva li abbażi tal-informazzjoni li l-Ilmentaturi kellhom fil-mument tal-bejgħ, huwa evidenti li qed iressqu dan l-ilment minħabba l-fatt li l-ammonti offruti lilhom mal-maturità huma ferm inqas minn dak li kienu qed jistennew li jirċievu. **Fil-fatt hija ammettiet li kienet taf li l-figuri kkwotati kienu *'estimated'* iżda sostniet li *'estimated'* kienet tfisser bejn wieħed w'ieħor u dan għaliha kien ifisser *'forsi differenza ta' €5,000'*[32].** Dan jikkontradixxi l-asserzjoni li kienu mwegħda li l-ogħla ammont ikkwotat kien garantit**.**

Biex tintlaħaq il-figura kkwotata jrid isir '*compounding*' b'rata għolja li għalkemm kienet fattibbli fl-1995 u 1996, ma kinitx xi ħaġa li setgħet tiġi sostnuta u garantita għal tletin sena sħaħ. Għalhekk, għandu jiġi kkunsidrat il-fatt li anke persuna li mhijiex daqstant intiża fil-finanzi xorta tifhem li mhuwiex f'loku li tassumi li dawn ir-rati kienu ser jibqgħu f'dak il-livell għal tletin sena, speċjalment peress li l-kontribuzzjonijiet kienu mifruxa fuq medda ta' tletin sena, għall-kuntrarju ta' '*lump sum investment*' li tiġi nvestita mill-ewwel biex b'hekk torbot ir-rati tal-imgħax għal tul ta' żmien.

L-Arbitru jifhem li polza bħal din taħdem bil-mod kif spjegat mill-Fornitur tas-Servizz fit-tweġibiet għall-ilment tiegħu u mhuwiex qed jiddeċiedi mod ieħor.

[29] P. 82 ta' ASF 075/2026 u p. 99 ta' ASF 076/2026
[30] P. 103
[31] *Ibid*.
[32] P. 103

Iżda minkejja dan, iħoss li l-Fornitur tas-Servizz seta' kien iżjed kawt fil-kwotazzjonijiet li ta. Minflok stima waħda, missu ħareġ '*spectrum*' sabiex tkun ċara f'moħħ il-klijent li xejn mhuwa garantit li ser jibqa' stabbli fuq perjodu ta' tletin sena u li minħabba f'hekk, is-somma finali jaf tvarja. Fil-fatt, eventwalment bdew joħorġu tliet stimi minflok waħda.

Għaldaqstant, 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 limitatament sakemm 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 leġittimi, ma ġewx milħuqa. L-aspettattivi tagħhom kienu li, mal-maturità tal-polza, kienu ser jirċievu minn tal-inqas is-somom ta' €65,956.21 u €62,203.58, iżda fid-data tal-maturità ġew offruti ferm inqas minn hekk. Però, ma jistax jingħad li l-aspettattivi tal-Ilmentaturi kienu leġittimi għal kollox.

L-Arbitru jrid jasal għal kumpens ibbażat fuq ġustizzja ekwitattiva kif huwa espressament meħtieġ li jagħmel skont l-Artikoli 19(3)(b) u 26 tal-Kapitolu 555 tal-Liġijiet ta' Malta. Għalkemm huwa jrid jaċċerta li dan l-ammont ikun raġonevoli, huwa diffiċli li jkun preċiż stante d-diversi fatturi li jridu jittieħdu in konsiderazzjoni.

L-ewwel nett, l-ammonti offruti lill-Ilmentaturi mal-maturità tal-polza ma kinux viċin dawk oriġinarjament ikkwotati lilhom, u fl-ebda ħin ma ddikjaraw li f'dak iż-żmien meta xtraw il-polza setgħu kkunsidraw tipi ta' investimenti jew tfaddil simili ieħor. M'għamlux hekk għaliex ir-ritorn li kien ikun ikkwotat lilhom aktarx kien se jkun inqas minn dak ikkwotat f'dawn il-poloz. Fl-istess waqt, iżda, l-Arbitru jqis ukoll li kien il-Fornitur tas-Servizz li avviċina lill-Ilmentaturi sabiex ibigħilhom il-poloz.

Fuq kollox, mingħajr preġudizzju għal dak iddikjarat hawn fuq, l-Arbitru ma jarax li l-Ilmentaturi għamlu telf minn dawn il-poloz. Dan għaliex minn polza minnhom, mit-total ta' €15,094.80 fi *premium* imħallsa matul tletin sena, kellhom qligħ ta' €9,263.25, filwaqt li mill-polza l-oħra, mit-total ta' €13,976.40 fi *premium*

imħallsa, huma kellhom qligħ ta' €9,069.86. Dawn apparti l-element ta' kopertura fuq il-ħajja.

Għalhekk, meta qies iċ-ċirkostanzi kollha tal-każ, l-Arbitru wasal għal deċiżjoni li ma jkunx ekwu li jilqa' t-talba sħiħa tal-Ilmentaturi, u minflok jiddeċiedi li s-somma xierqa li għandha tingħatalhom bħala kumpens fuq iż-żewġ poloz hija dik ta' **€7,110.69.**

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-Ilmentaturi s-somma ta' €7,110.69 (sebat elef, mija u għaxar ewro punt sitta disgħa) b'żieda mas-somma totali diġà offruta lilhom miż-żewġ poloz, ċioè, mas-somma ta' €47,404.31[33] u, għalhekk, tħallashom is-somma kumplessiva ta' €54,515.00.

B'imgħax ta' 2.65%[34] minn ħamest ijiem tax-xogħol wara d-data ta' din id-deċiżjoni sad-data tal-ħlas effettiv.

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

Alfred Mifsud
Arbitru għas-Servizzi Finanzjarji

<u>Nota ta' Informazzjoni relatata mad-Deċiżjoni tal-Arbitru</u>

Dritt ta' Appell

Id-Deċiżjoni tal-Arbitru legalment torbot lill-partijiet, salv id-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 għoxrin (20) ġurnata mid-data tan-notifika tad-Deċiżjoni jew, fil-każ li ssir talba għal kjarifika jew korrezzjoni tad-Deċiżjoni skont l-Artikolu 26(4) tal-Att, mid-data tan-notifika ta' dik l-interpretazzjoni jew il-kjarifika jew il-korrezzjoni hekk kif provdut taħt l-Artikolu 27(3) tal-Att.

[33] P. 8 ta' ASF 075/2026 u p. 8 ta' ASF 076/2026
[34] Rata kurrenti MRO (*Main Refinancing Operations)* tal-Bank Ċentrali Ewropew

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

Skont il-prattika stabbilita, id-Deċiżjoni tal-Arbitru tkun tidher fis-sit elettroniku tal-Uffiċċju tal-Arbitru għas-Servizzi Finanzjarji. Dettalji personali tal-ilmentatur/i jkunu anonimizzati skont l-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 ddeċieda min għandu jħallas l-ispejjeż tal-proċeduri u f'liema proporzjon skont iċ-ċirkostanzi partikolari tal-każ.

L-ispejjeż tal-proċeduri jistgħu wkoll jinkludu kull pagament raġonevolment u legalment applikabbli ta' spejjeż professjonali u legali mħallsa mill-Ilmentatur, limitati għal atti ppreżentati matul il-każ. Tali spejjeż professjonali m'għandhomx jinkludu spejjeż ġudizzjarji jew ħlasijiet oħra kontinġenti 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 taħt 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 (Kap. 12).