

EFTA COURT

Request for an Advisory Opinion from the EFTA Court by the Princely Supreme Court in the case of Rainer Silbernagl v Universität Liechtenstein

(Case E-5/25)

A request has been made to the EFTA Court by the Princely Supreme Court (*Fürstlicher Oberster Gerichtshof*), which was received at the Court Registry on 11 April 2025, for an Advisory Opinion in the case of *Rainer Silbernagl v Universität Liechtenstein* (*University of Liechtenstein*), on the following questions:

- 1. Must the second sentence of Article 38(3) of the GDPR be interpreted as meaning that it precludes a national provision such as, in the present case, Article 7(4) of the Data Protection Act, according to which a data protection officer employed by a public body may only be dismissed by the public body with just cause, in particular, where circumstances exist in the presence of which continuation of the employment relationship can, on good faith grounds, no longer be reasonably expected, even if the data protection officer precisely does not perform his function or does not perform it correctly?**
- 2. Must the second sentence of Article 38(3) of the GDPR as worded in German be interpreted as meaning that the term “dismissed” [in German “abberufen”] includes also an (ordinary) termination of the employment contract by the employer of the data protection officer if, as a result, the employment contract basis and thus the factual possibility of exercising the activity of data protection officer ceases to exist?**
- 3. Does the protective purpose of the second sentence of Article 38(3) of the GDPR, that is to say, safeguarding the functional independence of the data protection officer, require an interpretation of this provision and corresponding national rules serving the same protective purpose, such as Article 7(3) and (4) of the Data Protection Act, to mean that a dismissal which is effected contrary to these rules entails that the dismissal is void and that the employment relationship between the employer and data protection officer as such remains intact?**