



C/2026/1631

12.3.2026

**JUDGMENT OF THE COURT**

**of 28 November 2025**

**in Case E-8/25**

**Aréas Dommages v Gable Insurance AG in Konkurs**

*(Directive 2009/138/EC (Solvency II) – Article 268(1)(g) – Article 275(1) – Insurance claims – Privileged status –  
Statutory subrogation – National insolvency proceedings)*

(C/2026/1631)

In Case E-8/25, *Aréas Dommages v Gable Insurance AG in Konkurs* – REQUEST to the Court under Article 34 of the Agreement between the EFTA States on the Establishment of a Surveillance Authority and a Court of Justice by the Princely Court of Appeal (*Fürstliches Obergericht*), concerning the interpretation of Articles 268(1)(g) and 275(1) of Directive 2009/138/EC of the European Parliament and of the Council of 25 November 2009 on the taking-up and pursuit of the business of Insurance and Reinsurance (Solvency II), the Court, composed of Páll Hreinsson, President (Judge-Rapporteur), Bernd Hammermann and Michael Reiertsen, Judges, gave judgment on 28 November 2025, the operative part of which is as follows:

1. Article 275(1) of Directive 2009/138/EC of the European Parliament and of the Council of 25 November 2009 on the taking-up and pursuit of the business of Insurance and Reinsurance (Solvency II) must be interpreted such that the transfer of an insurance claim within the meaning of Article 268(1)(g) to another party by way of statutory subrogation in circumstances such as those at issue in the national proceedings cannot alter its privileged status in insolvency proceedings.
2. Legal costs incurred in the assertion of an ‘insurance claim’ constitute a separate claim which falls outside the definition of an ‘insurance claim’ within the meaning of Article 268(1)(g) of the Directive insofar as the right to recover such legal costs does not arise directly on the basis of an insurance contract.