

**Operative part of the judgment**

The Court:

1. Dismisses the appeal;
2. Orders Mr Ralph Pethke to bear his own costs and pay those incurred by the European Union Intellectual Property Office (EUIPO).

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<sup>(1)</sup> OJ C 337, 7.10.2019.

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**Judgment of the Court (First Chamber) of 12 November 2020 (request for a preliminary ruling from the Sofiyski rayonen sad — Bulgaria) — Bulstrad Vienna Insurance Group AD v Olympic Insurance Company Ltd**

(Case C-427/19) <sup>(1)</sup>

*(Reference for a preliminary ruling — Directive 2009/138/EC — Article 274 — Law applicable to winding-up proceedings with regard to insurance undertakings — Withdrawal of the authorisation of an insurance company — Appointment of a provisional liquidator — Concept of ‘decision to open winding-up proceedings with regard to an insurance undertaking’ — Absence of a court decision to open winding-up proceedings in the home Member State — Stay of court proceedings with regard to the insurance undertaking concerned in Member States other than its home Member State)*

(2021/C 19/08)

Language of the case: Bulgarian

**Referring court**

Sofiyski rayonen sad

**Parties to the main proceedings**

*Applicant:* Bulstrad Vienna Insurance Group AD

*Defendant:* Olympic Insurance Company Ltd

**Operative part of the judgment**

1. Article 274 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), as amended by Directive 2013/58/EU of the European Parliament and of the Council of 11 December 2013, must be interpreted as meaning that a decision of the competent authority to withdraw the authorisation of the insurance undertaking concerned and to appoint a provisional liquidator cannot constitute a ‘decision to open winding-up proceedings with regard to an insurance undertaking’ within the meaning of that article, unless the law of the home Member State of that insurance undertaking provides either that that provisional liquidator is empowered to realise the assets of that insurance undertaking and distribute the proceeds among its creditors or that the withdrawal of the authorisation of that insurance undertaking has the effect of opening automatically the winding-up proceedings, without a separate authority being required to adopt a formal decision to that end.
2. Article 274 of Directive 2009/138, as amended by Directive 2013/58, must be interpreted as meaning that, if the conditions required for a decision to withdraw the authorisation of an insurance undertaking and to appoint a provisional liquidator for that undertaking to constitute a ‘decision to open winding-up proceedings with regard to an insurance undertaking’, within the meaning of that article, are not met, Article 274 does not oblige the courts of other Member States to apply the law of the home Member State of the insurance undertaking concerned, which law provides for the stay of all court proceedings that have been opened with regard to such an undertaking.

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<sup>(1)</sup> OJ C 288, 26.8.2019.