judgment

In name of the King

AMSTERDAM DISTRICT COURT

section for private law

Casenumber / docket number: C/13/658270 / HA ZA 18-1236

Judgment of 23 June 2021

in the matter of

the legal person governed by foreign law
NATIONAL BANK OF KAZAKHSTAN,
established in Almaty (Kazakhstan),
claimant,
lawyer: first A.W.P. Marsman, then M.A. Leijten, and now A.K. Zirar, Amsterdam,

against

1. **ANATOLIE STATI,**
residing in Chisinau (Moldova),
2. **GABRIEL STATI,**
residing in Chisinau (Moldova),
3. the Moldovan legal entity
ASCOM GROUP S.A.,
established in Chisinau (Moldova),
4. the Gibraltar legal entity
TERRA RAF TRANS TRAIDING LTD.,
established in Gibraltar (United Kingdom),
defendants,
lawyer: first G.J. Meijer, then K.J. Krzeminski, and now M. van de Hel- Koedoot in Amsterdam.

The parties will hereinafter be referred to as NBK and Stati et al.

1. The procedure

1.1. The further course of the proceedings is apparent from:
- the judgment on the procedural issue of 18 March 2020 and the (procedural) documents mentioned therein;
- the statement of defence, with supporting documents;
- the interim judgment of 23 September 2020, in which an oral hearing was ordered;
- the record of the hearing, held on 17 March 2021, and the (procedural) documents referred to therein;
- the letter of 29 April 2021 from Mr Van de Hel-Koedoot, the letter of 4 May 2021 from Mr Zirar, the letter of 5 May 2021 from Mr Van de Hel-Koedoot and the letter of 5 May 2021 from Mr Zirar, with comments on the record of the hearing and reactions to those comments respectively.

1.2. Finally, it was determined that a judgment would follow.

2. The facts

NBK

2.1. NBK is the central bank of the Republic of Kazakhstan (referred to as Kazakhstan).

2.2. The statutory tasks of NBK include the management of the *National Fund* established by Kazakhstan.

2.3. As part of the performance of its assigned task, NBK entered into a *Global Custody Agreement* (GCA) on 24 December 2001 with (the legal predecessor of) Bank of New York Mellon SA/NV (BNYM), established in Brussels (Belgium). NBK maintains cash and securities accounts with BNYM.

Stati et al.

2.4. Anatolie Stati and Gabriel Stati are father and son. Ascom Group S.A. and Terra Raf Trans Traiding Ltd. are affiliated with them. Stati et al. have invested very substantial amounts in (inter alia) oil fields in Kazakhstan and believe that Kazakhstan has unlawfully appropriated these investments. Stati et al. have instituted foreign arbitration proceedings against Kazakhstan in this respect.

Arbitral Awards

2.5. By foreign arbitral award of 19 December 2013, Kazakhstan was ordered to pay Stati et al. a principal amount of USD 497,685,101. In a foreign arbitral award of 17 January 2014, Kazakhstan was ordered to pay Stati et al. EUR 802,103.24 in arbitration costs. The arbitral awards are not subject to appeal. The competent court in Stockholm (Sweden) dismissed Kazakhstan's application to have the arbitral awards set aside up to the highest level. Kazakhstan has not complied with the arbitral awards.

Dutch attachment attempt 2014

2.6. In April 2014, Stati et al. applied to the interim relief judge of this court for leave to levy a conservatory attachment against Kazakhstan in respect of a large number of banks and companies, including BNYM. On 3 April 2014, the interim relief judge granted Stati et al. (provisional) leave to levy the attachment. It was stipulated that the attachment may not be levied before seven days have elapsed after the Minister of - at the time - Security and Justice (hereinafter referred to as: the Minister) would have been informed by the bailiff, pursuant to Section 3a of the Dutch Bailiffs Act (Gdw), of the intention to levy the attachment, unless the Minister has already informed Stati et al. within that period that, in his opinion, the attachment is not contrary to the obligations of the Dutch State under international law (in whole or in part).

2.7. On 14 April 2014, the Minister issued a notice within the meaning of Article 3a of the Gdw, which - in short - means that levying the attachment is contrary to the international law obligations of the Dutch State. Only if it is established that the assets are not intended for public purposes can immunity from execution be denied. That this is the case, however, has not been made plausible, according to the Minister's notice.

2.8. Subsequently, Stati et al. claimed that the Minister's notice should be lifted in interim relief proceedings. The interim relief judge of the District Court of The Hague and the Court of Appeal of The Hague rejected the claim of Stati et al. In its judgment of 14 October 2016, the

Supreme Court rejected the appeal lodged by Stati et al. To this end, it considered - according to the version published on www.rechtspraak.nl with number ECLI:NL:HR:2016:2371, in which Stati et al. are referred to as N.N. c.s. and Kazakhstan as a foreign state:

3. Evaluation of the plea

3.1 In cassation, the following can be assumed.
(…)

3.2 N.N. et al. claimed in these interim relief proceedings that the notice given by the Minister should be lifted. The court in interim relief proceedings denied this claim.

3.3 The Court of Appeal has upheld the judgment of the interim relief judge. For that purpose it considered as follows. The State's responsibility lies primarily in the fulfilment of its obligations towards [foreign State] under international law, and not in the fulfilment of [foreign State's] obligations under the arbitral award, in which proceedings the State was, moreover, not a party. Immunity from execution is not absolute and cannot be invoked if it is established that the goods of the foreign State are not intended for a governmental function and are used for commercial purposes. The latter is also reflected in the United Nations Convention on the Immunity from Jurisdiction of States and their Property of 2 November 2004 (hereinafter: UN Convention), which codifies customary international law in respect of immunity from jurisdiction and from execution, and the limits thereof. (para. 9)
It does not follow from [foreign State's] acceptance of the Energy Charter that [foreign State] has waived its right to immunity from enforcement. The Energy Charter relates only to measures to be taken by the Contracting State in its territory. This obligation cannot be invoked against the State, which was after all not a party to the arbitration proceedings, (ground 10) N.N. c.s. have not stated sufficient facts indicating that the intended objects of attachment are intended for purposes other than public purposes (ground 11).

3.4.1 The plea is, first of all, directed against the Court's finding that it was for N.N. et al. to establish facts indicating that the intended seizure objects were intended for purposes other than public use.

3.4.2 Pursuant to art. 13a of the AB Act, the enforceability in the Netherlands of both conservatory and enforcement measures is limited by public international law in the sense that such measures are excluded, unless and insofar as there is a case as referred to in art. 19 parts a-c UN Convention (HR 30 September 2016, ECLI:NL:HR:2016:2236, section 3.4.8).
It is in line with the purpose of the immunity from execution - which is to respect the sovereignty of foreign states - to take as a starting point that the property of foreign states is not subject to attachment or execution unless and insofar as it has been established that it is destined for a purpose that is not incompatible with that purpose. This is in line with Article 19 part c of the UN Convention, which on this point can be regarded as a rule of customary international law. It is also in line with the stated scope of the immunity from execution that foreign states are not obliged to provide information showing that their property is destined for a purpose that precludes attachment and execution. (Paragraph 3.5.2 of the judgment of 30 September 2016)
It is consistent with the foregoing that the burden to assert facts and the burden of proof in respect of the attachability and enforceability rests on the creditor who attaches or wishes to attach the foreign State's assets and that, even if the foreign State does not appear in court, it must always be established that the assets in question are attachable. The creditor will therefore always have to provide information on the basis of which it can be established that the goods are used or intended to be used by the foreign State for, in short, purposes other than public purposes. (Paragraph 3.5.3 of the judgment of 30 September 2016)

3.4.3 It follows from the considerations in 3.4.2 that the court of appeal has assumed a correct interpretation of the law. The complaint therefore fails.

3.5.1 The plea also complains that the Court of Appeal wrongly rejected the appeal of N.N. c.s. regarding the Energy Charter.

3.5.2 This complaint also fails. As set out in (...) the Opinion of the Advocate General, contrary to what N.N. c.s. submits, the Energy Charter does not contain any provision which can be construed as a waiver of immunity from execution by [foreign State],

3.6 The other complaints of the plea cannot lead to cassation either. This requires no further substantiation in view of section 81, subsection 1, of the Judiciary Organisation Act, since these complaints do not require legal issues to be answered in the interests of the unity of law or the development of the law.

Dutch and Belgian attachments 2017

2.9. By application of 30 August 2017 (received at the court registry on 31 August 2017),

Stati et al. applied to the interim relief judge of this Court, insofar as relevant here, for leave to levy a conservatory attachment against, inter alia, Kazakhstan, including the *National Fund* of Kazakhstan, under the offices of BNYM in the Netherlands, Belgium, the United Kingdom and Kazakhstan.

The petition reads, in so far as it is relevant here:

Introduction

(. . .)

Attachment of foreign state assets

14. Stati et al. are aware of the fact that they are applying for leave to attach assets against a foreign State (Kazakhstan), which enjoys immunity from execution in respect of assets intended for public use. That immunity from execution does not, however, prevent the granting of the present application for leave for conservatory attachment. In that regard, Stati et al. point out the following.

Previous attachment request (l April 2014)

15. Following the Arbitral Award, Stati et al. applied earlier - on 1 April 2014 - for leave to levy a conservatory (third party) attachment at the interim relief judge of the District Court of Amsterdam.

16. Subsequently, on 3 April 2014, in response to this application, the said interim relief judge granted provisional leave to levy a conservatory attachment in the amount of USD 520,000,000 (...).

17. In its order, the interim relief judge considered that, among other things:

"It is up to the bailiff to judge whether the execution of the order received may be in conflict with the obligations of the State under international law."

18. The granting of leave was then (nonetheless) subject to the condition that the attachment could not be effected before seven days had elapsed after the Minister of Security and Justice had been informed by the bailiff of the intention to levy the attachment, pursuant to Section 3a of the Bailiffs Act (Gdw), unless, within the seven days, the Minister had already informed the bailiff that, in his opinion, the attachment was not contrary to obligations under international law.

(...)

20. On 14 April 2014, the Minister of Justice and Security issued a notification within the meaning of Article 3a Gdw (the "**Notification**"; **Production 5**). The Notification states, inter alia:

"I consider this official act (...) contrary to the international law obligations of the Dutch State (...). (...) Only if it is established that the assets are not destined for public purposes can immunity from execution be denied. However, the fact that the assets are not intended for public purposes has not been made plausible by Ascom c.s. (Stati c.s.; *District Court)*."

21. Stati et al. brought interim relief proceedings against the Dutch State in respect of the Notification. In these proceedings, Stati et al. mainly relied on the fact that it is not for Stati et al. to establish facts indicating that the intended attachment objects are intended for - in short - non-public purposes and that Kazakhstan has waived immunity from execution under the Energy Charter.

22. The interim relief judge of the District Court of The Hague and the Court of Appeal of The Hague rejected the claim of Stati et al. On 14 October 2016, the Supreme Court subsequently rendered judgment in these interim relief proceedings. In its judgment (published anonymously as *NJ* 2017, 192), the Supreme Court stated, inter alia:

"Pursuant to art. 13a of the AB Act, the enforceability in the Netherlands of both conservatory and enforcement measures is limited by public international law in the sense that such measures are excluded, unless and insofar as there is a case as referred to in art. 19 parts a-c UN Convention (HR 30 September 2016, ECLI:NL:HR:2016:2236, section 3.4.8).

It is consistent with the foregoing that the burden to assert facts and the burden of proof in respect of the attachability and enforceability rests on the creditor who attaches or wishes to attach the foreign State's assets and that, even if the foreign State does not appear in court, it must always be established that the assets in question are attachable. The creditor will therefore always have to provide information on the basis of which it can be established that the goods are used or intended to be used by the foreign State for, in short, purposes other than public purposes."

23. However, as set out below, the foregoing does not preclude the granting of the present application for leave to levy conservatory attachment.

Current application for leave for attachment (30 August 2017)

24. Stati et al. point out that the validity of the Arbitral Award and the Supplementary Arbitral Award has now been fully confirmed in the Swedish annulment proceedings after the earlier attachment application (dated 1 April 2014) was filed (...).

25. Furthermore, the present application for leave for attachment concerns, for the most part, other attachment objects than those mentioned in the earlier application for leave (dated 1 April 2014) (...).

26. Finally, Stati et al. specifically examined the determination of the non-public use or non-public destination of the intended objects of attachment (...). Stati et al. are nevertheless of the opinion that this determination should not be an issue in the context of granting leave for attachment, as Stati et al. will now explain (...).

The interim relief judge should not already consider whether immunity from enforcement exists

(...)

Attachment objects

40. Stati et al. request leave to attach the following assets. Stati et al. wish to emphasise that the non-public purpose or intended purpose (and the possibility of proving this) of these assets was specifically taken into account when selecting these assets, as will also be discussed below.

Assets in National Fund of the Republic of Kazakhstan (NFRK) as part of Kazakhstan

47. It should be noted that the NFRK is not a separate legal entity but a fund wholly owned by the state (Kazakhstan). More specifically, the NFRK's activities are carried out by the Ministry of Finance of Kazakhstan and it has no legal personality.

(...)

50. The Bank of New York Mellon SA/NV ("**BNY Mellon**") acts as the *global custodian* for the NFRK on the basis of which Kazakhstan must have to BNY Mellon in relation to the assets in the NFRK held by BNY Mellon for the NFRK as a part of Kazakhstan.

51. BNY Mellon is a Belgian entity, but is registered with the Chamber of Commerce in Amsterdam (...). As such, BNY Mellon has residence in the Netherlands (Amsterdam) on the basis of Article 1:10 in conjunction with Article 1:14 of the Dutch Civil Code and can be the subject of attachments.

52. The funds in the NFRK are held in two separate portfolios, the *'Stabilisation Fund'* and the *'Savings Fund'* (...). The (immediate) purpose of the *Savings Fund* is (purely commercial) *"to increase the return on assets in the long term".*

53. External managers - not the Ministry of Finance of Kazakhstan - manage (the securities portfolio of) the *Savings Fund* of the NFRK:

(...).

54. The use of the assets in the *Savings Fund* − to earn a commercial return on said assets −is a non-public, commercial use. Furthermore, there is no intention to make (immediate) use of the monies in the *Savings Fund* for any purpose other than a non-public, commercial purpose. This follows from the fact that the *"savings portfolio's assets are invested with a view to maximizing long-term returns.* "(...).

55. In the light of the foregoing, Stati et al. request leave to attach:

i. THE BANK OF NEW YORK MELLON SA/NV, having its registered office in Brussels, Belgium and principal place of business in (...), Amsterdam

and, in addition to the Dutch branches, in particular the following branches (...):

a. The Bank of New York Mellon SA/NV
(…)
1000 Brussels Belgium

b. The Bank of New York Mellon SA/NV

(…)
Astana 10000 Kazakhstan

c. THE BANK OF NEW YORK MELLON SA/NV
(…)
London, EC4V 4LA United Kingdom

56. to the extent that they relate to (parts of) *the Savings Fund:*

i. all claims held by Kazakhstan (including NFRK) on BNY Mellon; and

ii. all claims that Kazakhstan (including the NFRK) will acquire directly against BNY Mellon as a result of a pre-existing legal relationship; and

iii. All items belonging to Kazakhstan (including the NFRK) - other than registered property - held by BNY Mellon (in whatever capacity);

iv. all money and/or monetary assets held (in whatever capacity) by BNY Mellon for Kazakhstan (including the NFRK) and/or to be acquired; and

v. all securities, securities depositories, units in securities depositories or collective deposits held and/or administered by BNY Mellon on behalf of and/or for the account of Kazakhstan (including the NFRK).

2.10. By order of 8 September 2017, the interim relief judge of this court, insofar as this is relevant here, (only) granted Stati et al. leave to levy conservatory attachment against Kazakhstan under the Dutch office of BNYM. To this end, in so far as relevant here, it has considered:

3.1. The applicants' right of action is, for the time being, summarily sound. The question is, however, whether the requested attachment is compatible with the international law obligations of the Dutch State.

3.2. It follows from the Supreme Court's ruling of 30 September 2016 (...) that state property with a public purpose cannot be subject to forced execution. It follows from the same judgment that the creditor who attaches or wishes to attach will have to state and make it plausible that and to what extent the monies and assets to be attached are also capable of being subjected to attachment and enforcement. This is only the case if:

a. the State has agreed to the attachment.
b. the State has designated or reserved property for the satisfaction of the claim; or
c. it has been established that the properties are particularly used or intended for use by the State for other than non-commercial public purposes.

3.3. The cases under a. and b. are explicitly not at issue here. Before leave is granted at this time, therefore, it should at least be (summarily) plausible that the case is of the type referred to under c. The applicants have therefore been given the opportunity to clarify / substantiate in an amended petition that the seized objects are not used or intended for public purposes.

3.4. With regard to the objects of seizure referred to in paragraphs (...) 55 and 56 (third party attachment under The Bank of New York Mellon SA/NV) (...) of the (amended) application, it is as yet (summarily) plausible that these objects of seizure are not used or intended for public purposes, and that this is therefore a case of the type referred to in 3.2(c). Therefore, leave may be granted in respect of these objects of attachment, without prejudice to the bailiff's statutory obligations or the possibility of the Minister giving notice.

3.5. However, with respect to the attachments referred to in paragraphs 55 and 56 (attachment under The bank of New York Mellon SA/NV), the following applies. An attachment under a foreign bank established in the Netherlands is possible in principle, so that the requested attachment under the branch of The bank of New York Mellon SA/NV in Amsterdam will be granted. However, under paragraph 55 under a, b and c, it is also requested to be allowed to attach to the branches of the aforementioned bank in Brussels (Belgium), Astana (Kazakhstan) and London (United Kingdom), whereby reference is made to the attachment syllabus on page 50 for reasons of justification. However, in view of the territorial effect of the conservatory attachment, a leave for attachment in principle only applies to assets located in the Netherlands or to monetary claims that are payable in the Netherlands. In the Netherlands, therefore, only these items can be the object of (third party) attachment. If an applicant wishes to ensure that a third party attachment under a bank - if recognised abroad - also covers assets held at a bank branch established abroad, the applicant must indicate in the application for a third party attachment in which country and at which branch the debtor's assets are held (...). However, this does not apply to this application, in which the bank is established in Belgium and the Dutch branch, as the foreign branch, is the third party attachee. Nor does the application contain a request for leave to attach on the basis of the recast EEX Regulation or a European bank attachment, listed on page 50 of the attachment syllabus. All things considered,

leave to attach will not be granted under the non-Dutch bank branches referred to in paragraph 55 under a, b, and c.

2.11. Stati et al. on 14 September 2017 levied a conservatory attachment under the Dutch office of BNYM against Kazakhstan.

2.12. In an e-mail message dated 19 September 2017, an official of the Ministry of Justice and Security announced on behalf of the Minister that he saw no reason to issue a notification as referred to in Article 3a of the Gdw.

2.13. By application of 26 September 2017, Stati et al. applied to the Amsterdam Court of Appeal for recognition and leave to enforce the arbitral awards in the Netherlands.

2.14. By application dated 29 September 2017, Stati et al. applied to the attachment judge at the court of first instance of Brussels (Belgium) for leave to levy a conservatory attachment against Kazakhstan, including the *National Fund* of Kazakhstan, under the Belgian office of BNYM.

2.15. By order of 11 October 2017, the attachment judge at the court of first instance of Brussels (Belgium) granted such leave to Stati et al.

2.16. By letter dated 12 October 2017, the Dutch office of BNYM wrote to (the lawyers of) Stati et al., in so far as relevant here:

Enclosed please find the third party's notification regarding the conservatory attachment of assets of (i) The Republic of Kazakhstan and (ii) The National Fund of the Republic of Kazakhstan.

The Dutch branch of The Bank of New York Mellon SA/NV has no legal relationship with those entities, does not carry out any administration for those entities and, at the time of the attachment, had nothing to claim from those entities nor anything to recover from them.

2.17. On 13 October 2017, Stati et al. levied a conservatory attachment against Kazakhstan under the Belgian office of BNYM. Kazakhstan lodged a third-party defence against this attachment with the Belgian court.

2.18. By letter of 18 October 2017, the lawyer for Stati et al. disputed the contents of the statement of (the Dutch office of) BNYM.

2.19. By letter dated 31 October 2017, BNYM's Belgian office wrote to the Belgian bailiffs, as far as it is concerned:

We refer to the writ of attachment issued on 13 October 2017 at the request of Mr Stati Anatolie, Mr Stati Gabriel, Ascom Group SA and Terra Raf Trans Traiding LTD (the "**Creditors**") in respect of the assets of the Republic of Kazakhstan (...), including the National Fund of the Republic of Kazakhstan (the "**National Fund**") (...).

In accordance with Articles 1452 and 1453 of the Judicial Code, The Bank of New York Mellon SA, (...) with registered office at (...) Brussels, Belgium (hereinafter "**BNYM**"), hereby makes a declaration of third-party debtor.

Although (a predecessor of) BNYM has entered into a *global custody agreement* dated 24 December 2001 ("**Global Custody Agreement**") with the National Bank of Kazakhstan (the "**NBK**"), a *state entity* of the Republic of Kazakhstan, (...). BNYM cannot fully exclude that the Republic of Kazakhstan (including the National Fund) has or will have claims against BNYM or that BNYM holds assets from or for the Republic of Kazakhstan (including the National Fund), which are the subject of the conservatory attachment, in view of its contractual relationship with NBK, and the uncertain legal relationship between NBK and the Republic of Kazakhstan.

Under the **Global Custody Agreement**, the Bank holds "**certain securities of the National Fund** *and Cash on behalf of [NBK] as custodian and banker respectively" (loosely translated: "**bepaalde effecten van het Nationale Fonds** en contanten voor rekening van [de NBK] respectievelijk als bewaarnemer en bankier".* (emphasis added).

In addition, BNYM currently understands that under the laws of Kazakhstan, NBK is not competent to own assets not

owned by the Republic of Kazakhstan, although NBK has the authority to hold, use and dispose of National Fund assets pursuant to an agreement between NBK and the Republic of Kazakhstan with the government as beneficiary. BNYM has been informed that this applies notwithstanding the fact that NBK has its own legal personality under the laws of the Republic of Kazakhstan, has the power to act in legal proceedings and can hold assets and liabilities that are separate from the Republic of Kazakhstan, for example assets of parties other than the Republic of Kazakhstan.

A comprehensive list of assets held pursuant to the Global Custody Agreement, as of 13 October 2017, is attached in Annex 1. These assets are monies and securities held in cash and securities accounts at BNYM's London branch totalling approximately USD 22 billion (...).

In view of these uncertainties, BNYM will consider the assets listed in Annex 1 to be frozen in accordance with the attachment. However, BNYM believes that the potential rights of the Republic of Kazakhstan over these assets should be determined by the Creditors, the Republic of Kazakhstan and NBK (through an agreement or in court proceedings).

A copy of this declaration shall be sent to NBK.

2.20. By letter dated 1 November 2017, the Dutch office of BNYM wrote to (the lawyer of) Stati et al., as far as relevant here:

We refer to your letter dated 18 October 2017 in which, on behalf of Anatolie Stati, Gabriel Stati, Ascom Group SA and Terra Raf Trans Traiding Ltd (the "**Creditors**"), you request a supplementary declaration from The Bank of New York Mellon SA/NV ("**BNYM**") in respect of the conservatory attachment made on 14 September 2017 against The Republic of Kazakhstan (National Fund of the Republic of Kazakhstan).

As a preliminary remark, we understand that only claims and items of the Republic of Kazakhstan are subject to attachment by the Creditors if and to the extent that they relate to (the *"Savings Fund")* of the *"National Fund of the Republic of Kazakhstan"* ("**National Fund**"). (...). We further note that all assets of the Republic of Kazakhstan that are used or intended to be used for non-commercial governmental purposes are excluded from the operation of the attachment pursuant to the notice contained in the attachment writ.

Upon receipt of your letter dated 18 October 2017, we conducted a further investigation which resulted in the following preliminary findings.

Although (a legal predecessor of) BNYM has entered into a '*global custody agreement*' dated *24* December 2001 ("**Global Custody Agreement**") with the National Bank of Kazakhstan (...) as counterparty, which is a '*state entity*' of the Republic of Kazakhstan, BNYM cannot completely exclude the possibility that the Republic of Kazakhstan (including the National Fund) may have claims against it or will obtain claims against BNYM or that BNYM holds assets from or for the Republic of Kazakhstan (including the National Fund), which are subject to the conservatory attachment, in view of its contractual relationship with NBK and the uncertainties regarding the legal relationship between NBK and the Republic of Kazakhstan.

Under the Global Custody Agreement, BNYM holds *"certain securities of the National Fund and Cash on behalf of [At* NBK] *as custodian and banker respectively". (loosely translated: "bepaalde effecten van het Nationale Fonds en contanten voor rekening van [de NBK] respectievelijk als bewaarnemer en bankier".* (emphasis added).

In addition, BNYM for now understands that under the laws of the Republic of Kazakhstan, NBK does not have the authority to own assets that are not owned by the Republic of Kazakhstan, although NBK has the authority to hold, use and dispose of National Fund assets pursuant to an agreement between NBK and the Republic of Kazakhstan with the government as the beneficiary. BNYM has been informed that this applies despite the fact that NBK has its own legal personality under the laws of the Republic of Kazakhstan, has the power to act in legal proceedings and can hold assets and liabilities that are separate from the Republic of Kazakhstan, including from parties other than the Republic of Kazakhstan.

BNYM refers to the statement sent yesterday to the Belgian bailiff in the context of the conservatory attachment levied there (**Annex**), which explains that in light of these uncertainties, BNYM will retain the assets listed in Annex I to that letter. However, BNYM believes that the potential rights of the Republic of Kazakhstan in respect of these assets will have to be determined by the Creditors, the Republic of Kazakhstan and/or NBK (through an agreement between these parties or in court proceedings).

Finally, BNYM is not in a position to determine what part of these assets are used or intended to be used for non-commercial public purposes.

2.21. In a judgment in interim relief proceedings dated 23 January 2018, delivered in the case between NBK as plaintiff, Kazakhstan as party joined to NBK, (the Belgian office of) BNYM as intervening party and Stati et al. as defendants, the interim relief judge of this court, so far as

relevant here, considered and ruled:

5. The court's assessment (...)

5.1 NBK has not based its request to have the attachment lifted on the argument that Stati's claim is summarily unsound and that the attachment should be lifted for that reason (see Article 705(2) DCCP). The most important ground for lifting of the attachment is, according to NBK, that Stati has wrongly attached claims of NBK against BNYM, and that these claims constitute assets which cannot provide recourse for creditors of the Republic of Kazakhstan. In this regard, NBK refers to Article 720 DCCP in connection with 475 DCCP, in which it is held that a third-party attachment can only concern claims which the judgment debtor has against third-parties. According to NBK, the "judgment debtor" in this regard is the Republic of Kazakhstan, not NBK.

5.2 The contractual relationship between NBK and BNYM is governed by the GCA, which was entered into in 2011 (see 2.19). The GCA is governed by English law (see Article 26 of the GCA), which was not disputed at the hearing by Stati's attorneys. On 20 October 2005, the (competent) English court (in the case of AIG Capital Partners Inc. v the Republic of Kazakhstan) has ruled on the question how the GCA needs to be interpreted. In that case, the English court has answered the question whether the Republic of Kazakhstan has rights against BNYM which follow from the GCA, in the negative. In paragraph 31 of that judgment, the following has been observed:
The fact that the RoK holds the ultimate beneficial interest in the National Fund and thereby has a beneficial interest in the Cash Accounts held by AAMGS (predecessor BNYM, interim relief judge) on behalf of NBK does not, in my view, mean that there is a debt due or accruing due to the RoK in respect of these accounts. The RoK has no contractual rights against AAMGS either under the GCA or otherwise. There is no relationship of debtor and creditor between them. The fact that the RoK may, ultimately, have a beneficial interest in the money represented in the Cash Accounts cannot, in my view, create such relationship.

5.3 The case cited here contains a judgment about the legal relationship between the parties involved in that case, including the Republic of Kazakhstan, NBK and BNYM. Even though Stati was not involved in that case as a party, this does not detract from the fact that in these summary proceedings the interpretation given by the (competent) English court about that legal relationship, which is governed by English law, is provisionally followed. The arbitral award which forms the foundation of Stati's claim has been rendered between him and the Republic of Kazakhstan. The current attachment is levied on a claim of NBK against a third party, AAMGS/BNYM. In the consideration cited before under 5.2 it has been ruled that, according to English law, the fact that the Republic of Kazakhstan may possibly be the ultimate beneficiary of this claim does not mean or entail that the Republic of Kazakhstan also qualifies as a creditor of AAMGS/BNYM. It is for this reason that Stati, as it provisionally seems, cannot levy an attachment on that claim for his claim against the Republic of Kazakhstan. For that reason alone, the claim to lift the attachment can be granted.

5.4 In addition, NBK has rightly argued that Stati in his attachment request of 30 August 2017 has acted in violation of its duty to be truthful as laid down in Article 21 DCCP. The attachment request of 2014 also regarded, as has been admitted at the hearing, the current claim of NBK on AAMGS/BNYM. It is established that this attachment attempt has failed (see before at 2.6). Stati should have explicitly mentioned this in the current attachment application. This is in line with the fact that in the Attachment Syllabus, which can be characterized as *soft law/best practice*, it is also noted in the context of Article 21 DCCP that previously submitted attachment applications need to be mentioned.

5.5 That requirement has not been met in the present attachment application. The formulation under number 25 of that application ("Furthermore, the present request for leave for attachment largely relates to other goods to be attached than those listed in the previous request for leave for attachment (of 1 April 2014)") does not contain this explicit mention, but can rather be characterized as concealing. Because an attachment application is assessed by the interim relief judge *ex parte*, strict requirements must be imposed on the correctness and completeness of the information that is provided to him by the requesting party. Stati has not met these high requirements.

5.6 The defence that was raised by Stati in this regard does not change this. The fact that the judgments of the Supreme Court of 2016 (the so-called "autumn judgments") were rendered after the attachment application of 2014 and that the criteria which the Supreme Court developed in the context of state immunity concerning the obligation to furnish facts and burden of proof were not yet known in 2014, does not detract from the foregoing. The alleged fact that Stati's current lawyers only received the attachment application of 2014 one day before the hearing in these summary proceedings (because of a dispute between Stati and his former attorney), does not change this because it is a circumstance which should be attributed to Stati. The circumstance that the interim relief judge did not reject the requested leave in 2014 and that the attachment was at the time (nevertheless) not levied as a consequence of the minister's notification on the basis of Article 3a Bailiffs Act, also does not entail that the foregoing conclusions no longer hold. This circumstance concerns, after all, a different issue than what we are concerned with here, namely the quality of the information which may be expected from someone who is asking leave for levying an attachment on the same object for the second time.

5.7 In light of this, the other of NBK's grounds for lifting the attachment do not need to be discussed.

(…)

5.9 Finally, Stati has requested that the judgment, should it grant the requested claims, is not given immediate enforceability. This cannot be, because NBK has a self-evident and urgent interest in having the attachment at hand lifted, which has after all 'frozen' a sum of around EUR 22 billion.

7. The decision

The interim relief judge

(…)

7.1 lifts the attachments levied on property under BNY Mellon insofar as these attachments extend to (i) assets which form part of the National Fund, (ii) bank accounts and securities ac-counts in the name of NBK, (iii) claims on the basis of the GCA and monies and securities held on the basis of the GCA, or (iv) other assets of NBK;

(…)

7.6. declares this judgment to be provisionally enforceable (...).

The District Court notes that the interim relief judge assumed a 'frozen' amount of (approximately) EUR 22 billion (see its judgment, under 5.9). In the present proceedings, the parties speak of (approximately) USD 22 billion (see also the sixth paragraph of the letter of 31 October 2017 from BNYM's Belgian office).

2.22. Stati et al. appealed against that judgment, but did not pursue the appeal (as yet).

2.23. By order of 25 May 2018, made in the case between Kazakhstan as plaintiff in third-party proceedings, Stati et al. as defendants in third-party proceedings, as well as NBK and the Belgian office of BNYM as voluntary intervening parties, the attachment judge at the Brussels Court of First Instance, to the extent relevant here, considered and ruled:

1. DESCRIPTION OF THE CLAIMS AND OF THE DEFENCE

1.1. The Republic of KAZAKHSTAN, hereinafter referred to as **KAZAKHSTAN,** is lodging a third-party challenge to the enabling order of 11 October 2017.

(…)

KAZACHSTAN seeks the revocation of this order and the lifting of the conservatory third party attachment levied pursuant to this order on 13 October 2017.

(…)

3. ASSESSMENT

3.1. the arguments of KAZAKHSTAN

(…)

3.1.4. lack of legal relationship with third-party debtor

1. With its fourth plea KAZAKHSTAN submits that there is no legal relationship between itself and the third-party debtor and that the third-party debtor also has no repayment obligation towards Kazakhstan.

(…)

In the present case, the attachment judge can only establish that the attachment that has been authorised has an object indeed. After all, the third party's notification determines the object of the attachment. (...)

The debtor may contest the third party's notification before the attachment judge. But this objection then concerns the third party's debt and must be referred to the judge in main proceedings (section 1456, second paragraph, Judicial Code). (...)

This competent court is, as KAZAKHSTAN itself states, the English court which must apply its national substantive law.

Consequently, KAZAKHSTAN's fourth plea in law fails completely, both in fact and in law.

(. . .)

3.2. the resources of NBK

The four arguments relied upon by NBK in support of its claims were also raised by KAZAKHSTAN and answered and rejected above (...).

3.3. the claims of BNYM

The third party attachee BNYM seeks a declaration that it has correctly executed the third party attachment and that it is released towards NBK and KAZACHSTAN.

Both claims relate to the object of the attachment, mainly the existence or non-existence of a debt owed by BNYM to KAZAKHSTAN. KAZAKHSTAN disputes the existence of this debt.

This dispute cannot and should not be settled by the attachment judge but only by the judge in main proceedings. This judge in main proceedings is (...) the English judge who will apply his national substantive law.

3.4. limitation of the object of the attachment

According to the third-party debtor's statement, the object of the attachment is approximately USD 22 billion, in other words a multiple of its causes.

The STATI parties expressly agree to limit the object of the attachment to its causes. They estimate these causes today, including interest, at the amount of USD 530 million.

(. . .)

FOR THESE REASONS THE ATTACHMENT JUDGE,

(…)

Declares the claims of the Republic of Kazakhstan, the National Bank of the Republic of KAZAKHSTAN and The Bank of New York Mellon admissible but unfounded;

Limits the subject of the conservatory third party attachment of 13 October 2017 to the amount of USD 530 million (...).

2.24. On 31 May 2018, the assets seized in custody from BNYM's Belgian office were released, save for a cash account balance of USD 530 million.

2.25. By decision of 14 July 2020, the Amsterdam Court of Appeal recognized the arbitral awards rendered between Stati et al. and Kazakhstan and granted leave for enforcement in the Netherlands. The request of Stati et al. was, as far as currently relevant, rejected by the court of appeal as far as it was directed against the *National Fund.*

3. The dispute

3.1. NBK claims, after reduction of the claim, that the court should in a judgment, provisionally enforceable as far as legally possible,

(a) declare that each of Stati et al. acted unlawfully vis-à-vis NBK;

(b) order Stati et al. (jointly and severally) to pay to NBK the amount of:

(i) USD 112,446,313, or alternatively an amount to be reasonably determined by the court, to be increased by the statutory interest as referred to in Section 6:119 of the Dutch Civil Code (DCC) as of 31 May 2018, or alternatively a date to be reasonably determined by the court;

(ii) USD 5,581.57, or alternatively an amount to be reasonably determined by the court, to be

increased by the statutory interest as referred to in Section 6:119 of the Dutch Civil Code as of 6 December 2017, or alternatively to be reasonably determined by the court;

(iii) the full actual legal costs incurred and still to be incurred by NBK in connection with the attachment of Stati et al., including the costs of lifting the attachment and the costs of the present proceedings (the lawyers' fees, the costs of the proceedings, other costs and disbursements and the usual costs of arrears included (both without and with service), plus the statutory interest as referred to in Section 6:119 of the Dutch Civil Code as from fourteen days after the date of the judgment.

3.2. In summary, NBK bases these claims on the fact that Stati et al. have levied (and maintained) two unlawful conservatory attachments on its accounts with BNYM and that it has suffered damage as a result.
NBK relies on the judgment of 23 January 2018 of the interim relief judge of this court lifting the Dutch attachment. According to NBK, it follows from that judgment that Stati et al. should not have levied the attachment. Stati et al., however, maintained the Belgian attachment unabated. It was only after the Belgian court's order of 25 May 2018 (in which the Belgian attachment was "limited" for the largest part), namely on 31 May 2018, that the goods seized by Stati c.s. under BNYM were released, save for a cash account balance of USD 530 million.
NBK continues that as a result of all this, it was unable to dispose of its balances with BNYM during the period from 1 November 2017 to 31 May 2018. These balances amounted to USD 22 billion in total. Half of these, USD 11 billion, were securities.
Finally, NBK submits that, as a result of the unlawful seizures, it incurred significant costs, suffered significant losses and missed significant returns during the period in question.

3.3. Stati et al. put forward a defence. They argue that the claims of NBK should be dismissed, with an order that NBK should pay the costs of the proceedings (including the subsequent costs), increased by statutory interest.

3.4. The (further) arguments on both sides will be dealt with below, within the framework of the court's assessment.

4. The court's assessment

4.1. Stati et al. have substantial claims against Kazakhstan under the arbitral awards. Kazakhstan is not a party to the present proceedings, but it appears from the documents before the court that Kazakhstan asserts to have good reasons not to comply with these claims and that Stati et al. dispute the arguments used by Kazakhstan to that end.

4.2. Seeking to enforce their claims, Stati et al. first levied the Dutch conservatory attachment and then the Belgian conservatory attachment. It should be noted that these are two legal facts that, although related, are independent. NBK considers the two seizures to be part of one and the same strategy of Stati et al., aimed at pressurizing Kazakhstan. Be that as it may, the Belgian attachment is not an automatic legal consequence of the Dutch attachment. Stati et al. had to take separate steps for the Belgian attachment. In this respect, reference is also made to what the interim relief judge considered in the order of 8 September 2017, under 3.5, about the territorial effect of the attachment.

4.3. The remark made above is all the more important because the Dutch court must refrain from passing judgment on the (possible) delictual obligations between NBK and Stati et al. arising from the Belgian attachment. This follows from both the Brussels I-bis Regulation and Section 1 of Title 1 of Book 1 of the (Dutch) Code of Civil Procedure (DCCP). In particular, reference is made to article 7, opening words and point 2, of the Brussels I-bis Regulation and article 6, opening words and under e, DCCP.

4.4. This lack of jurisdiction of the Dutch court does not exclude that in the assessment of the (possible) obligations between NBK and Stati et al. in connection with the Dutch attachment on account of tort, the Belgian attachment may be involved in a factual sense, as follows from 4.9 et seq. below.

4.5. The parties assume in their pleadings that such delictual obligations should be judged according to Dutch law. Also in view of article 4 of the Rome II Regulation and title 14 of Book 10 of the Dutch Civil Code, the District Court sees no reason to judge otherwise in this matter of its own motion.

4.6. Stati et al. rightly argue that in this case there is no ill-founded attachment leading to strict liability. The standard to be applied is, as they rightly argue, that of abuse of power within the meaning of article 3:13 of the DCC. Paragraph 1 of that article stipulates that the person to whom a power accrues, cannot invoke it insofar as he abuses it. Paragraph 2 of that article stipulates, insofar as relevant here, that a power can be abused if, taking into account the disproportion between the interest in exercising it and the interest that is damaged by it, one could not reasonably have decided to exercise it.
As mentioned above under 4.1, Stati et al. have substantial amounts to claim from Kazakhstan under the arbitral awards and Kazakhstan is not paying these amounts. Under these circumstances Stati et al. were free, in principle, to levy a conservatory attachment against Kazakhstan in the Netherlands, pending recognition and leave to enforce of the arbitral awards in the Netherlands. On the basis of article 700 DCCP, to this end they first had to apply to the interim relief judge. Without that leave, no conservatory attachment.
Article 21 DCCP (which is part of the section on General principles for proceedings) applies also to such requests: "Parties are obliged to present the facts that are relevant for the decision, completely and truthfully". This applies all the more since the interim relief judge will assess the request *ex parte* (i.e. without hearing Kazakhstan and, for that matter, NBK) and decide "after summary consideration" (Article 700 (2) DCCP). Stati et al. have not complied with this obligation. It is not disputed that the claims in question, of NBK against BNYM, were the subject of the conservatory attachment intended by Stati et al. in 2014, which at the time failed in view of the Minister's notice based on immunity from execution. Stati et al. did not correctly and fully inform the interim relief judge about this in 2017. In their application, they stated that their application "for the most part relates to objects of attachment other than those mentioned in the earlier application for attachment (dated 1 April 2014)" (number 25). In doing so, they referred to paragraph 40 and following of the application. Those paragraphs list the objects of attachment. The section "Assets at National Fund of Kazakhstan (NFRK) as part of Kazakhstan" (numbers 47 to 56) makes no mention of the status of those assets in light of the 2014 perils. However, this violation of Article 21 DCC does not yet constitute abuse of power within the meaning of Article 3:13 of the Dutch Civil Code. For the latter, the bar is higher. There would have been an abuse of power, for instance, if Stati et al. had knowingly and deliberately misled the court in interim relief proceedings. This far-reaching qualification finds no support in the facts. In their application for leave, Stati et al. dealt extensively with the history leading up to the application and explained why, according to them, this history did not stand in the way of the attachment sought by them. Also in view of the nature and magnitude of their dispute with Kazakhstan, they cannot be blamed for having made a selection from the available information and documents. It has not become apparent that Stati et al. were aware or should have been aware of the disproportion between, on the one hand, their interest in presenting the facts in this manner and, on the other hand, NBK's interest in a more comprehensive presentation (in particular the submission of the attachment order of 2014). Furthermore, since it has not been argued or shown that Stati et al. were aware, at the time of their application for leave, of the contents of the GCA and/or of the decision of 20 October 2005 of the English court - which boils down to the fact that Kazakhstan is not a creditor of BNYM - it cannot be held that Stati et al. abused their powers either.

4.7. In addition, the Dutch attachment did not result in the alleged damage. This follows from the following.

a. A conservatory attachment does not, in itself, cause any damage to the seized good or to the seized party, but is a legal condition of that good that continues for a certain period of time and can cause damage during that time. In this respect, one can think, for example, of the returns NBK alleges to have missed.

b. Stati et al. have levied both the Dutch and the Belgian attachment. There is therefore only one party causing the damage.

c. It is not disputed that the Dutch and Belgian attachment covered the same NBK assets at BNYM.

4.8. NBK argues (primarily) that it suffered damage as a result of the Dutch attachment in the period from 1 November 2017 to 31 May 2018. As the parties have also acknowledged, given the successive events in the Netherlands and Belgium, this argument raises questions of causality.

4.9. In so far as relevant here, the following happened successively during that period.

a. The Dutch attachment was levied on 14 September 2017.

b. The Belgian attachment was levied on 13 October 2017.

c. The notification of third-party attachment regarding the Belgian attachment was issued on 31 October 2017.

d. The (further) notification of third-party attachment regarding the Dutch attachment was issued on 1 November 2017.

e. The Dutch attachment was lifted on 23 January 2018.

f. The Belgian attachment was "limited" on 25 May 2018.

g. On 31 May 2018, the assets seized by Stall et al. under BNYM were released, save for a cash account balance of USD 530 million.

4.10. The Dutch attachment, the first attachment, has had a 'blocking effect' from the outset. In this respect, reference is first of all made to article 475 (1) DCCP. In this respect, reference is also made to article 476a (1) DCCP. The latter provision explicitly distinguishes between the levying of the attachment (an act of the attaching party) and the notification of the claims and goods affected by the attachment (an act of the third party attachee). The Dutch attachment lasted until 23 January 2018. From 13 October 2017 to 23 January 2018, the Dutch and Belgian attachments ran concurrently. The latter attachment then continued unchanged until 25 May 2018.

4.11. NBK is not claiming compensation for any damage (possibly) suffered in the period from 14 September 2017 to 1 November 2017.

4.12. The Dutch attachment can only have caused damage in the period up to 23 January 2018. NBK's reliance on the judgment of the Supreme Court of 7 December 2001, ECLI:NL:HR:2001:AB2795 (Gemeente Leeuwarden/Los) fails in any event as far as the period from 23 January 2018 to 31 May 2018 is concerned. That judgment concerned (possible) continuing damages that were the result of both the first cause and the subsequent second cause. In the present case, this has in any case no(t) (longer) been the case since 23 January 2018,

because the first cause had disappeared and therefore cannot have caused any continuing damage any longer. From 23 January 2018 onwards, there is no longer a concurrent cause. Because NBK does not claim compensation for damages over the period before 1 November 2017 and because the Dutch attachment can only have caused damage in the period up to 23 January 2018, only the period of 1 November 2017 to 23 January 2018 is relevant for the assessment.

4.13. The parties have argued extensively about the period from 13 October 2017 to 23 January 2018, the period of concurrence of the two attachments. NBK, arguing that also the Belgian attachment was unlawful, invoked the judgment in Gemeente Leeuwarden/Los to argue that Stati et al. were also liable for the loss suffered during that period. Stati et al., relying on HR 2 February 1990, ECLI:NL:HR:1990:AB78.97 (Vermaat/Staat der Nederlanden), argue that the Belgian attachment is lawful and comes at NBK's risk (and therefore breaks the chain of causality).

4.14. There is no need to decide upon this issue in the present debate. The reasoning is as follows.

4.15. NBK claims, (also) for the period from 1 November 2017 to 23 January 2018, (i) compensation for missed returns on the share portfolio (writ of summons, paragraph 5.2) and (ii) compensation in respect of uncompleted securities transactions (writ of summons, paragraph 5.3). See subsections (b)(i) and (b)(ii), respectively, of the claim.

4.16. Re (i). NBK argues that a comparison should be made between the situation in which it actually found itself as a result of the attachment and the (hypothetical) situation in which it would have found itself had the attachment not been levied and maintained. In exhibit 46 to the writ of summons, it compares the *actual return* with the *benchmark return* (i.e. the Morgan Stanley Capital International (MSCI) World Index) over the period of 31 October 2017 to 31 May 2018 for this purpose. That exhibit therefore quantifies the *unrealised return equity portfolio* over that entire period. However, that exhibit also shows that NBK did not suffer any loss in the period of 31 October 2017 to 31 January 2018, and thus not in the period of 1 November 2017 to 23 January 2018 that is relevant for the assessment of the claim. After all, against *benchmark returns* of 2.22% (30 November 2017), 1.38% (31 December 2017) and 5.30% (31 January 2018) stand *actual returns* of 2.35%, 1.60% and 5.08% respectively, a difference of 0.13% in favour of the actual returns. Prior to the hearing, NBK submitted as exhibit 59 an *Expert Report of Mr Thomas Notenboom and Mr David Dearman (17 February 2021).* Stati et al. have objected to this. NBK has not argued that this report shows damage for the period up to 31 January 2018 after all. The report is therefore not relevant to the decision. There is therefore no need to decide on its admissibility. Nor is there any reason to give Stati et al. the opportunity to respond in writing.

4.17. Re (ii). Stati et al. put forward a defence in their statement of defence. NBK did not subsequently refute this defence, although it would have been up to NBK to do so. NBK has therefore not fulfilled its obligation to furnish facts. This (alleged) damages component will therefore be disregarded.

4.18. Subsection (b)(iii) of the claim is denied in view of the case law of the Supreme Court, which holds that sections 237 up to and including 240 DCCP deviate from the starting point that he who commits an unlawful act towards another which is imputable to him (such as the attaching party towards the attachee by wrongfully levying an attachment) is obliged to fully compensate the damage suffered by the other as a result. See HR 12 June 2015, ECLI:NL:HR:2015:1600 (Plaintiff v Rabobank). Reimbursement of the full actual legal costs incurred and yet to be incurred by NBK in connection with the attachment of Stati et al. would only be justified if the latter acted unlawfully or abused their powers by putting up a defence against NBK's claim to lift the attachment or damages claim. That this is the case, has not been argued nor shown.

4.19. It follows from the foregoing that the claim should be rejected.

4.20. NBK, as the (largely) unsuccessful party, shall be ordered to pay the legal costs incurred by Stati et al. These are estimated at EUR 3,946.00 for court fees and EUR 7,998.00 (two points, rate VIII) for lawyer's fees, in total EUR 11,944.00. The claimed statutory interest is allowable.

4.21. The subsequent costs claimed with statutory interest are allowable in the manner to be stated in the decision. The claimed costs of service, translation, courier and registered postage cannot be estimated at present.

5. The decision

The court:

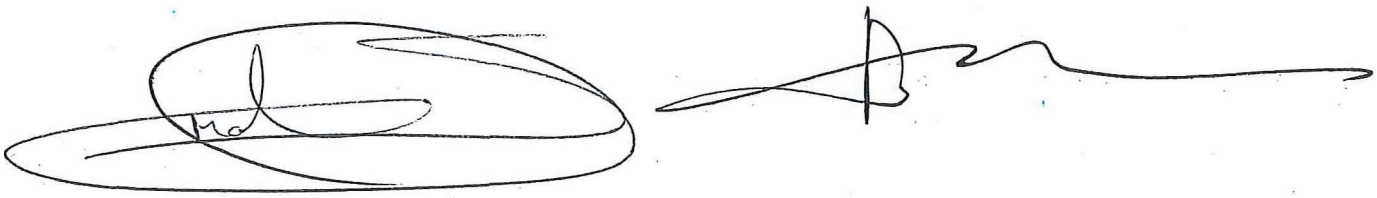
5.1. dismisses the claim;

5.2. orders NBK to pay the costs of the proceedings, estimated on the part of Stati et al. at EUR 11,944 up to the present judgment, plus statutory interest as referred to in Section 6:119 DCC as from fourteen days after the present date;

5.3. orders NBK to pay the costs incurred after this judgment, estimated at (i) EUR 163 for lawyer's fees, to be increased by the statutory interest as referred to in Section 6:119 BW as from fourteen days after today, and, on the condition that NBK has not complied with the judgment within fourteen days after notice was given and subsequently service of the judgment was effected, on (ii) EUR 85 for lawyer's fees and the costs of serving the notice of the judgment, both amounts to be increased by the statutory interest as referred to in Section 6:119 BW as from fourteen days after service;

5.4. declares these orders to pay the costs provisionally enforceable.

This judgment was rendered by N.C.H. Blankevoort, R.H.C. van Harmelen and M.C.H. Broesterhuizen, Judges, assisted by A.A.J. Wissink, Registrar, and was pronounced in public on 23 jnni 2021.



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