judgment in from de Koning

AMSTERDAM DISTRICT COURT

section for private law

Casenutnmer / roll number: C/13/658270 / HA ZA 18-1236

Judgment of 23 June 2021

in the case 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. **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 procedure is apparent from:
- the incidental judgment of 18 March 2020 and the (procedural) documents mentioned therein;
- the form of order sought by the appellant, with supporting documents;
- the interlocutory judgment of 23 September 2020, in which an oral procedure 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 minutes or reactions to those comments.

1.2. Finally, judgment was given.

2. The facts

The NBK

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

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

2.3. As part of the performance of its assigned task, the 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). The NBK maintains cash and securities accounts with BNYM.

Stati c.s.

2.4. Anatolia 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. USD 497,685,101 in principal. 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.

Paging to Dutch fittings 2014

2.6. In April 2014, Stati et al. applied to the Interim Injunction Judge of this Court for leave to make a prejudgment attachment against Kazakhstan in respect of a large number of banks and companies, including BNYM. On 3 April.2014, the judge in preliminary relief proceedings granted Stati c.s. (provisional) leave to execute the attachment. It was hereby stipulated that the attachment may not be levied before seven days have elapsed since 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 an attachment, unless the Minister has already informed Stati c.s. 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 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 in preliminary relief proceedings that the Minister's notice should be lifted. The judge in preliminary relief proceedings 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 c.s. are referred to as N.N. c.s. and Kazakhstan as a foreign state

3. Evaluation of the remedy

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

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

3.3 1 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 I plead, first of all, 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 precautionary and executory 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 of proof 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 the foreign State can be enforced.

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. to 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 fittings 2017

2.9. By application of 30 August 2017 (received at the Registry on 31 August 2017), Stati et al. applied to the Interim Injunction Judge of this Court, insofar as beer is concerned, for leave to levy a prejudgment 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 authorisation to serve a protective order. 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 impose a prejudgment attachment (garnishee attachment) on the interim relief judge of the District Court of Amsterdam.

16. Subsequently, on 3 April 2014, in response to this application, the said Interim Injunction Judge granted provisional leave to levy a prejudgment attachment in the amount of USD 520,000,000 (...).

17. In its order, the Interim Injunction Judge overlooked, among other things:

"It is up to the deunciator 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 since the Minister of Security and Justice had been informed by the bailiff of the intention to make an attachment, pursuant to Section 3a of the Bailiffs Act (Gdvv), 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 (outer) 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 interlocutory 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 seizure objects are intended for - in short - non-public purposes and that Kazakhstan has waived immunity from execution under the Energy Charter.

22. The judge in preliminary relief proceedings 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 preliminary relief proceedings. In its judgment (published anonymously as *NJ2017*. 192), the Supreme Court stated, inter alia:

"Pursuant to art. 13a Wet AB, the enforceability in the Netherlands of both precautionary and executory measures is limited by public international law in the sense that such measures are excluded unless and to the extent that 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 foregoing that the burden of proof 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 goods and that, even if the foreign State fails to appear in court, it must always be established that the goods in question are attachable. The creditor will therefore always have to provide information from which it can be ascertained that the goods are being used or intended by the foreign State for, in short, purposes other than public use.

23. However, as set out below, the foregoing does not preclude the granting of the present application for precautionary attachment.

Current application 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 to attach concerns, for the most part, other objects of attachment than those mentioned in the earlier application for leave to attach (dated 1 April 2014) (...).

26. Finally, Stati et al. made specific enquiries into the determination of the non-public use or non-public destination of the intended objects of attachment (...). Stati et al. are also of the opinion that this determination should not be an issue in the context of granting leave to attach, as Stati et al. will now explain (...).

The judge in preliminary relief proceedings should not already be considering whether immunity from enforcement exists

(. . .)

Attachment objects

40. Stati c.s. request leave to attach the following assets. Stati c.s. 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.

(…)
C/13/658270/HAZA 18-1236 23 June2021

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

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 access to BNY Mellon in relation to the assets in the NFRK held by BNY Mellon for the NFRK as a wholly-owned subsidiary 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 BVV 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 the5nv/ngj *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 theNFRK) - 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 theNFRK) 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 granted Stati et al. (only) leave to make a prejudgment attachment against Kazakhstan under the Dutch office of BNYM, insofar as this is relevant to beer. To this end, in so far as relevant to the litigation, it has prevailed:

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 is not 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 liable to attachment and execution. 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 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 (garnishment under The Bank of New York Mellon SA/NV) (...) of the (amended) petition, 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 (garnishment 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. In the Netherlands, therefore, only these items can be seized or garnished. If an applicant wishes to ensure that a garnishment order issued by a bank - if recognised abroad - also covers assets held at a bank branch established abroad, the applicant must indicate in the application for a garnishment order 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 distraining party. 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-resident 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 against 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 in Brussels (Belgium) for leave to levy a prejudgment attachment against Kazakhstan, including the *National Fund* of Kazakhstan, under the Belgian office of BNYM.

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

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

Enclosed please find the garnishment declaration regarding the preservation of assets of (i) The Republic of Kazakhstan and (11) 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. lodged a prejudgment attachment against Kazakhstan at 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 garnishment 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 precautionary attachment. in view of its contractual relationship with the NBK. and the uncertain legal relationship between the 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 [the NBK] as custodian and banker respectively".* (emphasis added).

In addition, BNYM currently understands that under the Kazakhstan vvets, the NBK is not competent to own assets not owned by the Republic of Kazakhstan, although the NBK has the authority to hold, use and dispose of National Fund assets pursuant to an agreement between the NBK and the Republic of Kazakhstan with the government as beneficiary. BNYM has been informed that this applies notwithstanding the fact that the 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 Biilage 1. These assets are monies and securities held in cash and securities accounts at BNYM's Condense 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 garnishment. 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 the NBK (by agreement or in court proceedings).

A copy of this declaration shall be sent to the NBK.

2.20. By letter dated 1 November 2017, the Dutch office of BNYM wrote to (the lawyer of) Stati c.s., 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 prejudgment 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 garnishment 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 garnishment pursuant to the notice contained in the garnishment notice.

Upon receipt of your letter dated 18 October 2017, we conducted 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 (including the National Fund), BNYM cannot completely exclude the possibility that the Republic of Kazakhstan (including the National Fund) may have claims against it.) (the "NBK"), which is a *state entity* of the Republic of Kazakhstan, BNYM cannot fully exclude that the Republic of Kazakhstan (including the National Fund) has 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 a prejudgment attachment, in view of its contractual relationship with the NBK and the uncertainties regarding the legal relationship between the 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"* (emphasis added).

In addition, BNYM understands that under the laws of the Republic of Kazakhstan, the NBK does not have the authority to own assets that are not owned by the Republic of Kazakhstan, although the NBK has the authority to hold, use and dispose of National Fund assets pursuant to an agreement between the NBK and the Republic of Kazakhstan with the government as the beneficiary. BNYM has been informed that this applies despite the fact that the 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 attachment fBiilageh filed there, which explained 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 the NBK (by 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. By order for interim relief 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, prevailed and ruled:

5. The assessment (...)

5.1. The NBK did not base its claim for relief from the attachment on the fact that the defectiveness of Stati's right of action has been summarily demonstrated and that this should lead to the lifting of the attachment (see article 705 paragraph 2 of the Code of Civil Procedure). The main ground for lifting the attachment, according to the NBK, is that Stati has wrongfully attached rights of action of the NBK on BNYM and that these are assets which cannot be recovered by creditors of the Republic of Kazakhstan. The NBK refers in this respect to Section 720 in conjunction with Section 475 of the Dutch Code of Civil Procedure, which stipulates that a garnishment may only relate to claims that the creditor may have against third parties. According to the NBK, the "enforcer" in this context is the Republic of Kazakhstan, not the NBK.

5.2. The contractual relationship between the NBK and BNYM is governed by the GCA concluded in 2001 (...). The GCA is governed by English law (...), which was not disputed by Stati's counsel at the hearing. On 20 October 2005, the (competent) English court (in the case A1G Capital Partners Inc. v. Republic of Kazakhstan) ruled on the question of how the GCA should be interpreted. In that ruling, the English court answered the question of whether the Republic of Kazakhstan has rights against BNYM arising from the GCA in the negative. Paragraph 31 of that judgment states the following:
The fact that the RoK (the Republic of Kazakhstan, Sr.) *holds the ultimate beneficial interest in the National Fund and thereby has a beneficial interest in the Cash Accounts held by AAMGS* (the legal predecessor of BNYM, Sr.) *on behalf of the 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 judgment quoted here contains a judgment on the legal relationship between the parties involved in that judgment, including the Republic of Kazakhstan, the NBK and BNYM. Stati has not been involved as a party to this award, but that does not mean that in these interim proceedings the interpretation of that legal relationship, to which English law applies, as given by the (competent) English court, is followed for the time being. The arbitration award from which Stati derives his claim was made between him and the Republic of Kazakhstan.
The attachment at issue is in respect of a claim which the NBK has against a third party, AAMGS/BNYM. In the case referred to in 5.2 above, it was ruled that under English law, the fact that the Republic of Kazakhstan may be the ultimate interested party in this claim does not mean or entail that it is also to be regarded as a creditor of AAMGS/BNYM. Therefore, it appears that Stati is entitled to rely on

that claim, nor can he attach his claim against the Republic of Kazakhstan. On this ground alone, the claim for relief from attachment is admissible.

5.4. In addition, the NBK rightly argued that Stati, in the besiagest of 30 August 2017, acted contrary to the duty of truth included in Article 21 of the Dutch Code of Civil Procedure. The besiagest lodged in 2014 also related to the NBK's current claim against AAMGS/BNYM, as was acknowledged during the hearing. It is an established fact that this attachment failed (...). Stati should have explicitly mentioned this in the besiagestion in question. This is in line with the fact that the attachment syllabus, which is to be regarded as *soft law/best practice*, also stipulates within the framework of Article 21 of the Dutch Code of Civil Procedure that previously submitted attachment petitions must be mentioned.

5.5. This requirement has not been met in the besiagest. The wording under paragraph 25 (...)' does not contain this explicit statement, but can rather be regarded as concealing it. Because an application for besiąg is assessed *ex parte* by the judge in preliminary relief proceedings, high standards should be set for the accuracy and completeness of the information provided by the applicant. Stati has not satisfied those high standards.

5.6. Stati's defence in this context does not alter this. The fact that the judgments of the Supreme Court rendered in 2016 (the so-called herfstar judgments) date from after the besiagest of 2014 and that the criteria developed by the Supreme Court in the context of state immunity concerning the burden of proof and the duty to investigate did not yet exist in 2014, does not alter the foregoing. The alleged fact that Stati's current counsel only became aware of the 2014 besiagest (due to a dispute between Stati and his former counsel) one day before the hearing in these preliminary relief proceedings does not alter the fact that this is a circumstance for which Stati is responsible. Also the circumstance that the judge in preliminary relief proceedings did not refuse the requested leave in 2014 and that the attachment was not made at the time (despite this) as a result of the notice given by the Minister pursuant to Section 3a Gdw. does not mean that a different view should be taken of the above. After all, this circumstance concerns a different question than the one at issue here, namely the quality of the provision of information that may be expected of someone who applies for leave to attach the same object for the second time.

5.7. In this state of affairs, the other grounds put forward by the NBK for lifting the attachment do not require discussion.
(…)

5.9 Finally, Stati requested that any judgment granting the injunction not be declared provisionally enforceable. This is out of the question because the NBK has a self-evident and urgent interest in the lifting of the attachment in question, which has 'frozen' an amount of approximately EUR 22 billion.).

7. The decision

The interim relief judge

(…)
7.1. lift on the attachments made by Stati under BNYM, insofar as these attachments extend to (i) assets forming part of the National Fund, (ii) bank accounts and securities accounts in the name of the NBK, (iii) claims under the GCA and monies and securities held under the GCA, and (iv) other assets of the NBK,

(…)

7.6. declares this judgment to be provisionally enforceable to the extent that (...).

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 interveners, the attachment judge at the Brussels Court of First Instance, to the extent relevant here, prevailed and ruled:

1. DESCRIPTION OF THE CLAIMS AND OF THE SPRING

1.1. The Republic of KAZAKHSTAN, hereinafter referred to as **KAZAKHSTAN,** is lodging a third-party challenge to the enabling order of 11 October2017.

(…)

KAZACHSTAN seeks the revocation of this order and the lifting of the garnishment order made pursuant to this order on 13 October 2017.

(…)

3. ASSESSMENT

3.1. the means of KAZAKHSTAN

(…)

3.1.4. lack of legal relationship with third-party debtor

1. By its fourth plea KAZACHSTAN submits that there is no legal relationship between itself and the third-party debtor and that the third-party debtor also has no obligation to make restitution to it.

(…)

In the present case, the judge of attachments can only establish that the garnishment that has been authorised is indeed subjective. The garnishee's declaration determines the purpose of the attachment. (...)

The debtor may contest the third party's statement before the judge of attachments. But this objection then concerns the third party's debt and must be referred to the judge of the substance (section 1456, second paragraph, Judicial Code). (...)

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

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

(…)

3.2. the resources of NBK

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

3.3. the claims of BNYM

The garnishee BNYM seeks a declaration that it has correctly executed the precautionary garnishment and that it is released from liability towards NBK and KAZACHSTAN.

Both claims relate to the subject matter of the attachment, namely the existence or non-existence of a debt owed by BNYM to KAZACHSTAN. KAZACHSTAN disputes the existence of this debt.

This dispute cannot and should not be settled by the judge of attachments but only by the judge of the substance. This judge on the merits 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 subject 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 precautionary garnishment 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, apart from a cash account balance of USD 530 million, were released.

2.25. By order of 14 July 2020, the Amsterdam Court of Appeal dismissed the appeal between Stati
c. s. 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 is directed against the *National Fund*.

3. The dispute

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

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

(b) Order Stati c.s. (jointly and severally) to pay to the NBK the amount of:

(i) USD 112,446,313, or at least an amount to be reasonably determined by the court, to be increased by the fatal interest as referred to in Section 6:119 of the Dutch Civil Code (BW) as of 3 1 May 2018, or at least a date to be reasonably determined by the court;

(ii) USD 5,581.57, or at least 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 at least a date to be reasonably determined by the court;

(iii) the full actual legal costs incurred by the NBK and still to be incurred 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 (both without and with

(including service), plus the statutory interest as referred to in Section 6:119 of the Dutch Civil Code from fourteen days after the date of the judgment.

3.2. In summary, the NBK bases this argument on the fact that Stati et al. have laid (and maintained) two unlawful prejudgment attachments on its accounts with BNYM and that it has suffered damage as a result.
The NBK relies on the judgment of 23 January 2018 of the interim relief judge of this court lifting the Dutch attachment. According to it, it follows from that judgment that Stati et al. should not have levied an attachment. Stati et al., however, maintained the Belgian attachment. It was only after the Belgian court's order of 25 May 2018 (in which the Belgian attachment was "limited" for the most part), namely on 31 May 2018, that the goods seized by Stati c.s. from BNYM, except for a cash account balance of USD 530 million, were released.
The 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, the NBK submits that, as a result of the unlawful seizures, it incurred significant costs, suffered significant losses and lost significant returns during the period in question.

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

3.4. The (further) reciprocal assertions will be dealt with below, within the framework of the assessment.

4. The rating

4.1. Stati et al. have substantial claims against Kazakhstan under the arbitration awards. Kazakhstan is not a party to these proceedings, but it appears from the documents before the court that Kazakhstan has 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 his claims, Stati et al. first lodged the Dutch precautionary attachment and then the Belgian precautionary attachment. It should be noted that these are two legal acts that, although related, are independent. The NBK considers the two seizures to be part of one and the same strategy of Stati et al. 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 connection, reference is also made to what the judge in preliminary relief proceedings 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 the NBK and Stati et al. from the Belgian attachment. This follows from both the Brussels Ibis Regulation and Section 1 of Title 1 of Book 1 of the

(Dutch) Code of Civil Procedure (Rv). In particular, the! reference is made to article 7 opening words and point 2 of the Brussels I Regulation and article 6 opening words and under e of the Dutch Code of Civil Procedure.

4.4. This lack of jurisdiction of the Dutch court does not exclude that in the assessment of the (possible) obligations between the NBK and Stati et al. on account of unlawful act relating to the Dutch attachment, the Belgian attachment in the factual sense is also involved, as shown below under 4.9 et seq.

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 I 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 question of an unfounded attachment leading to risk liability. The standard to be applied is, as they rightly argue, that of abuse of power within the meaning of Section 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 permission to enforce the arbitral awards in the Netherlands. On the basis of article 700 of the Dutch Code of Civil Procedure, they first had to apply to the judge in preliminary relief proceedings for leave to do so. Without that leave, no prejudgment attachment.
Also for such requests, article 21 of the Dutch Code of Civil Procedure (which is part of the section on General Principles of Procedure) applies: "Parties are obliged to present the facts that are relevant for the decision, completely and truthfully". This applies all the more since the judge in preliminary relief proceedings will assess the request *ex parte* (i.e. without hearing Kazakhstan and, for that matter, the NBK) and decide "after summary consideration" (Section 700 (2) Rv). Stati et al. have not complied with this obligation. It is not disputed that in 2014 the NBK's claims against BNYM in question were the subject of the precautionary attachment intended by Stati et al. at the time, which at the time failed on the Minister's notice based on immunity from execution. Stati et al. did not correctly and fully inform the judge in preliminary relief proceedings 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). 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 the light of the 2014 perils. However, this violation of Article 21 of the Dutch Code of Civil Procedure 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 a misuse of power, for instance, if Stati et al. had knowingly informed the court in preliminary relief proceedings that they would be taking action.

deluded. This far-reaching qualification finds no support in the facts. In their application for leave to appeal, Stati et al. dealt extensively with the past history and explained why, according to them, that past history did not stand in the way of the attachment sought by them. Also in view of the nature and extent of the 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 his 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. misused their powers either.

4.7. In addition, the Dutch attachment did not result in the alleged damage. The following is the reason for that.

a. A prejudgment 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 the latter case, one can think, for example, of the lost returns alleged by the NBK.

b. Stati et al. have seized both the Dutch and the Belgian assets. There is therefore only one party responsible for the damage.

c. It is not disputed that the Dutch and Belgian seizures affected 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 made on 14 September 2017.

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

c. The declaration of garnishment regarding the Belgian attachment was issued on 31 October 2017.

d. The (further) declaration of garnishment regarding the Dutch attachment was issued on 1 November 2017.

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

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

g. On 3 1 May 2018, the assets seized by Stall et al. under BNYM, except for a cash account balance of USD 530 million, were released.

4.10. The Dutch attachment, the first attachment, has had a 'blocking effect' from the outset. In this connection, reference is made first of all to article 475 (1) of the Code of Civil Procedure. In this connection, reference is also made to article 476a paragraph 1 of the Code of Civil Procedure. The latter provision explicitly distinguishes between the establishment of the attachment (an act of the distraining party) and the declaration of the claims and goods affected by the attachment (an act of the third party distrained). 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 suffered in the period from 14 September 2017 to 1 November 2017.

4.12. The Dutch attachment can then only have caused damage in the period up to 23 January 2018. In any case, to that extent NBK's reliance - as far as the period from 23 January 2018 to 31 May 2018 is concerned - on the judgment of the Supreme Court of 7 December 2001, ECLI:NL:HR:2001:AB2795 (Gemeente Leenwarden/Los) fails. That judgment concerned (possible) continuing damage as a result of both the first cause and the later second cause. In the present case, this has in any case not been the case since 23 January 2018, because the first cause has disappeared and the DNS cannot have caused any continuing damage. From 23 January 2018 onwards, there is no longer a concurrent cause. Because NBK does not claim compensation for damage for 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 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. The NBK, arguing that the Belgian attachment was also unlawful, invoked the judgment in Gemeente Leenwarden/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, in their opinion, the lawful Belgian attachment is at NBK's risk (and therefore breaks the chain of causality).

4.14. There is no need to decide on this in this debate. The reasoning is as follows.

4.15. The NBK claims (also) for the period from 1 November 2017 to 23 January 2018 (i) compensation for lost return 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). The 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 imposed and enforced. In prod. 46 to the writ of summons, it compares the *actual return* with the *benchmark* for this purpose.

return (i.e. the Morgan Stanley Capital International (MSCI) World Index) over the period 31 October 2017 to 31 May 2018. That production therefore quantifies the *unrealised return equity portfolio* over that entire period. However, that production also shows that NBK did not suffer any loss in the period 3 1 October 2017 to 31 January 2018, and thus not in the period 1 November 2017 to 23 January 2018 that is relevant for the assessment of the claim. Against *benchmark returns* of 2.22% (30 November 2017),
1.38% (31 December 2017) and 5.30% (31 January 2018) stand for *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, the NBK submitted as production 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 claimed that this report (as yet) shows damage for the period up to 31 January 2018. 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. The NBK did not subsequently refute this defence, although it should have done so. The NBK has therefore not fulfilled its burden of proof. This (alleged) item of damage will therefore be passed over.

4.18. Subsection (b)(iii) of the claim runs counter to the case law of the Supreme Court, which holds that sections 237 to 240 of the Dutch Code of Civil Procedure deviate from the starting point that he who commits an unlawful act towards another which is imputable to him (such as the distraining party towards the distrained party by wrongfully laying 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 the NBK in connection with the attachment of Stati et al. would only be justified if the latter acted unlawfully or misused their powers by conducting a defence against the NBK's claim to lift the attachment or claim for compensation. 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. The 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 attorney 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 judgment. The claimed costs of service, translation, courier and registered postage cannot be estimated at present.

5. The decision

The court:

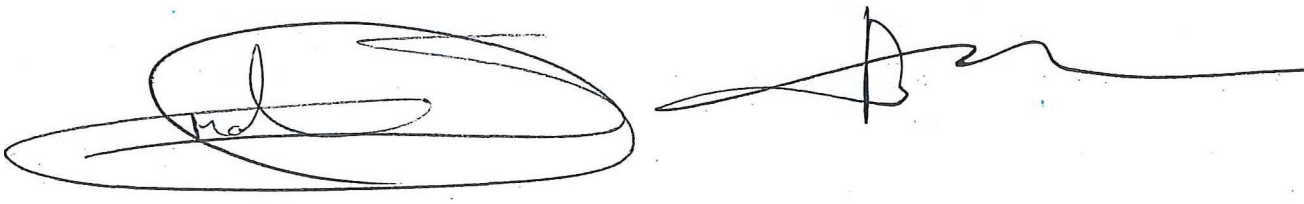
5.1.. Dismisses the application;

5.2. order 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 of the Dutch Civil Code as from fourteen days after the present date;

5.3. Order the NBK to pay the costs incurred after this judgment, estimated at (i) EUR 163.00 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 the 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 85.00 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.



UITGEGEVEN VOOR GROSSE
De griffier van de
rechtbank Amsterdam