

INTERNATIONAL CENTRE FOR SETTLEMENT OF INVESTMENT DISPUTES

PETERIS PILDEGOVICS AND SIA NORTH STAR

(Applicants on Annulment)

and

KINGDOM OF NORWAY

(Respondent on Annulment)

**ICSID Case No. ARB/20/11
Annulment Proceeding**

**PROCEDURAL ORDER NO. 2
Decision on the Respondent's Request for Security for Costs**

Members of the ad hoc Committee

Ms. Lucinda A. Low, President of the *ad hoc* Committee
Prof. Andrea K. Bjorklund, Member of the *ad hoc* Committee
Prof. Dr. Maxi Scherer, Member of the *ad hoc* Committee

Secretary of the ad hoc Committee

Ms. Leah W. Njoroge

20 December 2024

TABLE OF CONTENTS

I.	PROCEDURAL BACKGROUND.....	1
II.	THE PARTIES' REQUESTS FOR RELIEF.....	1
	A. The Respondent's Request for Relief.....	1
	B. The Applicants' Request for Relief.....	1
III.	THE PARTIES' POSITIONS.....	2
	A. The Respondent's Position.....	2
	(1) The Applicants are Impecunious and Will Not Be Able to Satisfy a Costs Award	3
	(2) Exceptional Circumstances Exist that Justify Granting Security for Costs	4
	B. The Applicants' Position	5
	(1) The Committee Lacks the Power to Grant the Request as Framed	6
	(2) Conditions to Grant Security for Costs are Not Met.....	7
	(3) No Security for Costs Order Could Be Granted Under Article 44 of the ICSID Convention.....	10
	(4) The Committee Should Reapportion the Costs of the Security for Costs Application.....	11
IV.	ANALYSIS.....	13
V.	DECISION.....	14

I. PROCEDURAL BACKGROUND

1. On 8 November 2024, pursuant to the briefing schedule established by the *ad hoc* Committee (the “**Committee**”) on 29 October 2024, the Kingdom of Norway (“**Norway**,” or the “**Respondent**”), filed a request for security for costs (the “**Request**”), together with: Exhibits R-0202 and R-0203, and R-0461 through R-0464; and Legal Authorities RL-0275 through RL-0282.
2. On 18 November 2024, Peteris Pildegovics (“**Mr. Pildegovics**”) and SIA North Star (“**North Star**”) (together, the “**Applicants**”), filed a response to the Request, including a request for re-apportionment of costs (the “**Response**”), together with: Exhibits A-0139 through A-0142; and Legal Authorities AL-0017 through AL-0025.

II. THE PARTIES’ REQUESTS FOR RELIEF

A. THE RESPONDENT’S REQUEST FOR RELIEF

3. In its Request, the Respondent requests that the Tribunal “[o]rder the Applicants to deposit USD 1,000,000 into an escrow account or provide the same sum as an unconditional and irrevocable bank guarantee within 14 days of the *ad hoc* Committee’s Order, as well as its costs in respect of this Request for Security for Costs.”¹

B. THE APPLICANTS’ REQUEST FOR RELIEF

4. In their Response, the Applicants submit and request:
 - *That the ad hoc Committee hold that it does not have the power to make an order for security for costs as requested by Respondent;*
 - *That the ad hoc Committee otherwise reject the Respondent’s request for security for costs;*
 - *That the ad hoc Committee re-apportion costs advances in the following manner:*

¹ Request, para. 25.

That the Committee order Respondent to immediately advance USD 50,000 for the costs of the proceedings in order to pay for the consideration of its application for security for costs. The payment must be made prior to any decision of the Committee on this application, or else the Committee will not issue any decision on Respondent's security for costs application.

In any decision on security for costs, the Committee is asked to further re-apportion future cost advances made by ICSID so that the Respondent participate in any further advances to cover the time spent by the Committee to decide the security for costs application for which the Respondent has not yet contributed at that time.²

III. THE PARTIES' POSITIONS

A. THE RESPONDENT'S POSITION

5. The Respondent requests security for costs for its costs in these annulment proceedings and for the interest due under the Award dated 22 December 2023.³
6. The Respondent bases its request on the Tribunal's alleged authority to recommend provisional measures under Article 47 of the ICSID Convention and Rule 39(1) of the ICSID Arbitration Rules,⁴ which it argues is binding, despite the use of the word "recommend" in these provisions.⁵
7. The Respondent requests these measures to ensure reimbursement of its costs if it emerges successful in these annulment proceedings as well as payment of interest on the Award,

² Response, para. 64.

³ Request, para. 1.

⁴ Request, para. 3.

⁵ Request, para. 4, citing *RSM Production Corporation v. Saint Lucia*, ICSID Case No. ARB/12/10, Decision on Saint Lucia's Request for Security for Costs, 13 August 2014 ("**RSM v. Saint Lucia, Decision on Security for Costs**") (RL-0275), para. 49; *Eugene Kazmin v. Republic of Latvia*, ICSID Case No. ARB/17/5, Procedural Order No. 6 (Decision on the Respondent's Application for Security for Costs), 13 April 2020 ("**Kazmin v. Latvia**") (RL-0277), para. 68.

which it notes will continue to accrue during the course of these proceedings.⁶ It does not request security for the principal of the Award. In the Request, the Respondent makes two main points: (1) the Applicants are impecunious and will not be able to satisfy a costs award in these proceedings; and (2) exceptional circumstances exist that justify granting security for costs.

(1) The Applicants are Impecunious and Will Not Be Able to Satisfy a Costs Award

8. The Respondent argues that the Applicants are impecunious and will be unable to satisfy any adverse costs award made against them. The Respondent supports this claim with the following points.
9. First, the Respondent states that the Applicants have repeatedly delayed payments requested by ICSID, leading to a suspension of these annulment proceedings.⁷ According to the Respondent, this demonstrates the Applicants' inability or unwillingness to satisfy an adverse costs order.⁸
10. Second, according to the Respondent, North Star's ongoing bankruptcy proceedings in Latvia have revealed considerable liabilities of "[REDACTED]"⁹ In this respect, the Respondent points out that North Star is, by its own admission, unable to pay its creditors, including Norway.¹⁰ Further, the Respondent argues that North Star's assets and revenues are insufficient to cover any potential costs award, citing the sale of two of North Star's vessels for scrap [REDACTED]
[REDACTED] which were previously identified as North Star's sources of revenue.¹¹

⁶ Request, para. 5.

⁷ Request, para. 7.

⁸ Request, para. 8, referring to *RSM v. Saint Lucia*, Decision on Security for Costs (RL-0275), para. 81.

⁹ Request, para. 9.

¹⁰ Request, para. 10.

¹¹ Request, paras. 11-12.

11. Third, the Respondent contends that it is not responsible for the Applicants' financial difficulties, highlighting that the Applicants previously claimed to have substantial resources.¹² The Respondent also claims, as held in the Award, that the Russian ban on snow crab harvesting, rather than the Respondent's actions, caused the Applicants' present financial position, and that those findings are not subject to appeal.¹³
12. Fourth, the Respondent states that the Applicants have not paid the costs order in the Award or the accruing interest, further demonstrating their inability to meet financial obligations.¹⁴
13. In light of the above, without security, the Respondent argues that it will be impossible to execute and enforce any adverse costs award against the Applicants.¹⁵

(2) Exceptional Circumstances Exist that Justify Granting Security for Costs

14. The Respondent states that exceptional circumstances exist to justify granting security for costs, even though impecuniosity alone might be enough.¹⁶ The Respondent argues that the measures it seeks are (to the extent such requirements apply) necessary, urgent, and proportional to preserve its rights.¹⁷ The Respondent further explains why these factors are present in this case.
15. Necessity: The Respondent states that granting the security is necessary to prevent the potential uselessness of any future costs award in its favor.¹⁸ According to the Respondent, without the security, it risks losing the financial benefits of prevailing in the annulment proceedings, as the Applicants may be unable to pay.¹⁹

¹² Request, para. 13.

¹³ Request, paras. 14-15.

¹⁴ Request, para. 16.

¹⁵ Request, para. 17.

¹⁶ Request, para. 19, referring to *Kazmin v. Latvia (RL-0277)*, para. 28.

¹⁷ Request, para. 20.

¹⁸ Request, para. 21.

¹⁹ Request, para. 21.

16. Urgency: In the Respondent's view, there is no separate requirement of urgency, and if there were, it would be satisfied in this case.²⁰ The Respondent states that the urgency of the situation is emphasized due to the Applicants' financial difficulties, the ongoing bankruptcy proceedings in Latvia and the fact that Mr. Pildegovics has not submitted evidence of his ability to satisfy an eventual costs order.²¹ The Respondent's position is that the Applicants' financial situation is likely to worsen, given the sale of North Star's assets, making it difficult to enforce any future costs award if security is not granted immediately.²²
17. Proportionality: The Respondent seeks USD 1,000,000 in security, which it claims is significantly less than the average costs incurred by respondent states in annulment proceedings.²³ The Respondent contends the following facts remain relevant to the question of proportionality and the need for an order for Security for Costs in the amount sought by Norway: (i) the Respondent has an Award, and the Applicants owe unpaid sums, with interest continuing to accrue with the passage of time; (ii) the Respondent could accept a bank guarantee if escrow is not possible; (iii) the security is needed due to the extensive grounds for annulment requested which may require substantial reopening of the case; and (iv) the Applicants do not deny that Norway could repay any wrongfully paid sums and the Respondent reconfirms its ability to do so, balancing against the unpaid Award and further public expenditure.²⁴

B. THE APPLICANTS' POSITION

18. The Applicants state that the Respondent's request for security for costs should be denied for several reasons. The Applicants argue that (1) the Committee lacks the power to grant

²⁰ Request, para. 22, referring to *Dirk Herzig as Insolvency Administrator over the Assets of Unionmatex Industrieranlagen GmbH v. Turkmenistan*, ICSID Case No. ARB/18/35, Decision on the Respondent's Request for Security for Costs and the Claimant's Request for Security for Claim, 27 January 2020 ("*Dirk Herzig v. Turkmenistan*") (AL-0024 / RL-0276), para. 67.

²¹ Request, paras. 22.1-22.2.

²² Request, para. 22.3.

²³ Request, para. 23.

²⁴ Request, para. 24.

such a request under Article 47 of the ICSID Convention or Rule 39 of the ICSID Arbitration Rules; (2) the conditions for granting security for costs as a provisional measure are not met; and (3) the Respondent has not properly requested security under Article 44 of the Convention. The Applicants also request the re-apportionment of advances so that any decision on security for costs is paid for by the Respondent.²⁵

(1) The Committee Lacks the Power to Grant the Request as Framed

19. The Applicants argue that this Committee lacks the power to grant the Respondent's request for security for costs as framed, specifically as a provisional measure under Article 47 of the ICSID Convention or Rule 39 of the ICSID Arbitration Rules, since an *ad hoc* Committee cannot grant a provisional measure under those provisions.²⁶ According to the Applicants, Article 52(4) of the ICSID Convention states that Articles 41-45, 48, 49, 53, and 54, as well as Chapters VI and VII, apply *mutatis mutandis* to proceedings before the Committee, but Article 47, which deals with provisional measures, is not included in this list.²⁷
20. The Applicants state that *Schreuer's Commentary on the ICSID Convention* (Third Edition, Volume 2 (2022)) confirms that the *travaux préparatoires* to the Convention indicate that *ad hoc* committees were deliberately not authorized to adopt provisional measures. The Preliminary Draft of the Convention initially included this possibility, but it was removed in subsequent drafts.²⁸ The Applicants contend that the *ad hoc* Committee in *von Pezold v. Zimbabwe* acknowledged that the omission of Article 47 from the list of relevant provisions in Article 52(4) suggests that the power to recommend provisional measures was intentionally excluded.²⁹ Additionally, *Schreuer's Commentary* (Second Edition (2009))

²⁵ Response, paras. 1-3.

²⁶ Response, paras. 4-6.

²⁷ Response, paras. 7-8.

²⁸ Response, para. 9, citing S. Schill *et al.* (eds.), *Schreuer's Commentary on the ICSID Convention*, Volume II (2022) (excerpt) (AL-0017), p. 1398, para. 684.

²⁹ Response, para. 10, citing *Bernhard von Pezold and others v. Republic of Zimbabwe and Border Timbers Limited and others v. Republic of Zimbabwe*, ICSID Case Nos. ARB/10/15 and ARB/10/25, Decision on the Applicant's Application for Provisional Measures, 17 March 2016 (AL-0019), para. 30.

notes that the drafters of the Convention saw the powers established by Article 52(5) (stay of enforcement) as the *lex specialis* of provisional measures for *ad hoc* Committees, while generally excluding other types of provisional measures.³⁰ Furthermore, the Applicants argue that Rule 39 of the ICSID Arbitration Rules, which is referenced by the Respondent, cannot be used to justify a security for costs order as a provisional measure by an annulment committee.³¹ While Rule 53 of the ICSID Arbitration Rules states that the rules apply *mutatis mutandis* to annulment proceedings, it is the Applicants' submission that no ICSID *ad hoc* committee has ever held that Rule 39 applies to a stand-alone request for security for costs.³²

21. According to the Applicants, the Committee should dismiss the Respondent's application on the sole basis that it lacks the power to issue security for costs as a provisional measure under Article 47 of the ICSID Convention or Rule 39 of the ICSID Arbitration Rules.³³

(2) Conditions to Grant Security for Costs are Not Met

22. The Applicants argue that even if the Committee had the power to grant security for costs as a provisional measure under Article 47 of the ICSID Convention or Rule 39 of the ICSID Arbitration Rules, the conditions for such an order are not met.³⁴ The Applicants argue that the Respondent fails to meet the following four requirements:
23. Right to Protect: The Applicants argue that the Respondent has no right to protect, as the right to costs is contingent and the costs practice in annulment proceedings makes the argument for a "right" to costs for a respondent unlikely.³⁵ Referring to ICSID's Background Paper on Annulment of March 2024, the Applicants say the publication shows that in the majority of cases where annulment applications are rejected, *ad hoc* committees

³⁰ Response, paras. 10-11.

³¹ Response, para. 13.

³² Response, para. 13.

³³ Response, para. 14.

³⁴ Response, para. 15.

³⁵ Response, paras. 17-19.

have ruled that each party should bear its own costs.³⁶ They also point out that in some cases, the costs of the annulment proceedings are shared equally between the parties, even when the application is accepted in whole or in part.³⁷

24. Exceptional Circumstances: The Applicants argue that there are no “exceptional circumstances” justifying security for costs.³⁸ They argue that the Respondent’s invocation of the Applicants’ delay in paying advances and their alleged impecuniosity do not constitute exceptional circumstances.³⁹ The Applicants argue that the Respondent’s reliance on *RSM v. Saint Lucia* is inapposite and that at least one *ad hoc* committee has found that delay in paying advances alone does not create exceptional circumstances.⁴⁰ The Applicants also argue that the Respondent’s attempts to draw conclusions from North Star’s financial situation do not change the fact that mere financial difficulty or impecuniosity is not, in itself, an exceptional circumstance.⁴¹ The Applicants further argue that the Respondent’s actions are the direct and proximate cause of the Applicants’ financial woes.⁴² The Applicants claim that exceptional circumstances usually exist where there has been some form of improper behavior by the party against whom the order is sought, as was the case in *RSM v. Saint Lucia* and that situation is not comparable to the present one.⁴³ In *Kazmin v. Latvia* the claimant faced money laundering allegations⁴⁴ and in *Attila Dogan v. Oman*, which was not cited by the Respondent, the claimant’s investment was tainted with allegations of fraud.⁴⁵ The Applicants also state that in *Dirk Herzig v.*

³⁶ Response, para. 20; ICSID, “Updated Background Paper on Annulment,” March 2024 (**AL-0007**).

³⁷ Response, para. 20. The Applicants’ submission erroneously says “rejected” rather than “accepted” in referring to this statistic.

³⁸ Response, para. 24.

³⁹ Response, para. 25.

⁴⁰ Response, para. 25.

⁴¹ Response, paras. 26-27.

⁴² Response, para. 28.

⁴³ Response, para. 29.

⁴⁴ Response, para. 29, referring to *Kazmin v. Latvia* (**RL-0277**), para. 28.

⁴⁵ Response, para. 29, referring to A. Ross, “Annulment Committee Challenged in Case Against Oman,” *Global Arbitration Review*, 18 October 2023 (**A-0140**).

Turkmenistan, relied on by the Respondent, the order for security was later revoked because it was impossible for the claimant to obtain the type of security required.⁴⁶

25. Necessity and Proportionality: The Applicants argue that the security required by the Respondent is neither necessary nor proportionate.⁴⁷ To support this assertion, the Applicants reference the Committee's finding in the Decision on Stay of Enforcement of 7 November 2024 (paragraph 78) and state that allowing the Respondent to enforce a costs award of EUR 1.4 million would likely threaten the Applicants' access to justice.⁴⁸ According to the Applicants, the current request for security for costs has even more potential to threaten the Applicants' right of access to justice, as failure to post such security could lead to the termination of the proceedings without a decision.⁴⁹ Further, the Applicants argue that the request is unnecessary because the Decision on Stay of Enforcement has already decided the same issue, Mr. Pildegovics has provided an undertaking to pay adverse costs and the legal protection proceedings in Latvia are the place to establish a payment plan with respect to North Star's various obligations.⁵⁰ They argue that granting the order sought would interfere with these ongoing protection proceedings and it would be premature to judge North Star's financial situation.⁵¹
26. Timeliness and Urgency: The Applicants argue that the application is neither timely nor urgent.⁵² The Applicants contend that the Respondent knew about the annulment application since its registration on 27 February 2024, yet only requested security for costs on 8 November 2024, after eight months.⁵³ According to the Applicants, even if the Respondent's earlier correspondence of 10 October 2024 was considered a request for

⁴⁶ Response, para. 30, referring to *Dirk Herzig v. Turkmenistan* (AL-0024 / RL-0276), para. 57.

⁴⁷ Response, para. 32.

⁴⁸ Response, paras. 33-34.

⁴⁹ Response, para. 35.

⁵⁰ Response, para. 37.

⁵¹ Response, para. 37.

⁵² Response, para. 38.

⁵³ Response, para. 39.

security, it was still made seven months after the annulment application and six months after the Committee was constituted.⁵⁴

(3) No Security for Costs Order Could Be Granted Under Article 44 of the ICSID Convention

27. The Applicants argue that while there is authority suggesting that a security for costs order could be granted under an *ad hoc* committee's general powers to organize and protect the integrity of proceedings under Article 44 of the ICSID Convention, this is not the basis on which the security for costs order is sought in this case; therefore, in the Applicants' submission, no order under that provision can be granted.⁵⁵ The Applicants contend that "a request under Article 44 would have to be made on the basis that, absent such an order, there would be a threat to the integrity of the proceedings."⁵⁶ In the Applicants' view, this would not be about protecting the Respondent's rights but about protecting the integrity of these annulment proceedings.⁵⁷ In support of this assertion, the Applicants consider *Commerce Group v. El Salvador* to be relevant, where the *ad hoc* committee held that the exercise of an international tribunal's inherent powers to safeguard the integrity of the proceedings is an extraordinary control and is to be resorted to only in compelling circumstances.⁵⁸ The Applicants state no abuse or serious misconduct by them has occurred and none has been alleged.⁵⁹ In the Applicants' view, had the Respondent based the Request on the Committee's power to protect the integrity of the proceedings – which it has not – such a request could not, in any event, succeed.⁶⁰

⁵⁴ Response, para. 39.

⁵⁵ Response, para. 40.

⁵⁶ Response, para. 41.

⁵⁷ Response, para. 41.

⁵⁸ Response, para. 42, citing *Commerce Group Corp. and San Sebastian Gold Mines, Inc. v. Republic of El Salvador*, ICSID Case No. ARB/09/17, Decision on El Salvador's Application for Security for Costs, 20 September 2012 (AL-0025), paras. 44-45.

⁵⁹ Response, para. 43.

⁶⁰ Response, para. 43.

(4) The Committee Should Reapportion the Costs of the Security for Costs Application

28. The Applicants request that the Committee re-apportion the cost advances so that the Respondent pays for any decision on security for costs. Specifically, the Applicants ask the Committee to order the Respondent to immediately advance USD 50,000 to cover the costs of the proceedings related to the consideration of the Request, and that this payment should be made before any decision by the Committee.⁶¹ The Applicants argue that the Committee should not spend time on the Respondent's application until the Respondent has contributed to the advances for the current proceedings.⁶² Additionally, the Applicants seek a re-apportionment of future cost advances made by ICSID, ensuring that the Respondent participates in any further advances to cover the Committee's time spent deciding the security for costs application.⁶³
29. The Applicants assert that the Committee has the authority to re-apportion cost advances under Regulation 15 of the ICSID Administrative and Financial Regulations.⁶⁴ According to the Applicants, Regulation 15 permits an *ad hoc* committee to order a different division of calls for funds than the usual principle that the applicant in annulment proceedings pays 100% of the requested advances.⁶⁵ The Applicants reference the ICSID website, which confirms that the applicant typically pays the full amount unless the committee orders or the parties agree otherwise.⁶⁶
30. The Applicants provide examples of this power being exercised in at least two ICSID arbitration cases: *BSG Resources v. Guinea* and *RSM v. Saint Lucia*.⁶⁷ In *BSG Resources*

⁶¹ Response, para. 44.

⁶² Response, para. 45.

⁶³ Response, para. 45.

⁶⁴ Response, para. 46.

⁶⁵ Response, para. 49.

⁶⁶ Response, para. 50.

⁶⁷ Response, para. 51, referring to *BSG Resources Limited v. Republic of Guinea*, ICSID Case No. ARB/14/22, Procedural Order No. 3, Respondent's Request for Provisional Measures, 25 November 2015 ("*BSG Resources v. Guinea*") (AL-0020); *RSM Production Corporation v. Saint Lucia*, ICSID Case No. 12/10, Decision on Saint Lucia's

v. Guinea, the tribunal re-apportioned the advances on a 75%-25% basis, with 75% borne by the claimant, due to the exceptional economic circumstances affecting Guinea, specifically the Ebola crisis.⁶⁸ In *RSM v. Saint Lucia*, the re-apportionment was based on the claimant's history of lack of or delayed payment in other ICSID proceedings, which raised substantial doubt about the claimant's willingness or ability to pay any award of such expenses.⁶⁹

31. The Applicants argue that there is "good cause" for them not to bear the cost of the Request.⁷⁰ First, the Applicants contend that without a re-apportionment of advances, they will have to bear the cost of the Committee's time to consider the security for costs application, which will adversely affect their right of access to justice.⁷¹ Second, the Applicants believe that while they could be expected to bear the costs of some procedural applications made by the Respondent, this should not be the case in this situation where the application may be seen as an attempt to deplete the Applicants' strained resources.⁷² Third, the Applicants maintain that preventing their annulment application from being heard would contradict the Respondent's invocation of EU law to justify the termination of the BIT, while avoiding the consequences of EU law when it comes to ensuring the Applicants' right of access to justice.⁷³ Thus, the Applicants argue that if the Respondent wants its security for costs application heard in this annulment proceeding, it should advance the costs for the Committee to decide on the Request, especially since the application is likely to impede the Applicants' access to justice and, in their opinion, the Committee lacks the power to grant the measures requested.⁷⁴

Request for Provisional Measures, 12 December 2013 ("*RSM v. Saint Lucia, Decision on Provisional Measures*") (AL-0023).

⁶⁸ Response, paras. 53-54, citing *BSG Resources v. Guinea* (AL-0020), paras. 63-64.

⁶⁹ Response, para. 54, citing *RSM v. Saint Lucia, Decision on Provisional Measures* (AL-0023), paras. 49-50, 74.

⁷⁰ Response, para. 55.

⁷¹ Response, para. 56.

⁷² Response, para. 57.

⁷³ Response, para. 62.

⁷⁴ Response, para. 63.

IV. ANALYSIS

32. The Committee has carefully considered the arguments put forward by both Parties in relation to the Request as well as the Applicants' reapportionment request.
33. The Committee has serious doubts as to whether Article 47 of the ICSID Convention and/or Rule 39 of the 2006 ICSID Arbitration Rules, which govern these proceedings, give it the authority to grant the security requested by the Respondent. Conversely, the Committee is not persuaded that it does not have the authority to do so under Article 44 of the Convention, despite the fact that the Request is grounded only in Article 47 and Rule 39.
34. But the Committee does not need to reach these issues, given that it does not consider that the facts and circumstances put forward by the Respondent justify granting the Request. While there can be no doubt that the Applicants have encountered financial difficulties, that one of the Applicants is under judicial protection due to its financial difficulties, and that the Applicants have delayed advancing costs requested by the Centre in these proceedings, those facts alone do not justify granting the Request. This is particularly the case given that one of the Applicants, Mr. Pildegovics, has already provided an undertaking, on a joint and several basis, in response to the Committee's Decision on the Request for a Continuation of the Stay of Enforcement of the Award, which covers the costs of these proceedings as well as interest accrued on the Award.⁷⁵ The Committee also notes the pending judicial restructuring and the obligation of the other Applicant, North Star, to seek to reach an agreement with its creditors regarding a plan that, if reached, would likely affect its financial situation. As it did in its Decision on the Request for a Continuation of the Stay of Enforcement, the Committee⁷⁶ also notes the potential effect of ordering security for costs on the Applicants' access to justice if it were to order the measures requested by the Respondent. Even the Respondent's request for a bank guarantee as an alternative to an escrow would likely require significant collateral to be posted by one or both Applicants. Particularly with the pending judicial process involving

⁷⁵ Undertaking of Mr. Peteris Pildegovics dated 14 November 2024.

⁷⁶ Decision on Stay of Enforcement, 7 November 2024, para. 78.

Applicant North Star, this would represent a significant financial obligation which in the Committee's view requires a very strong showing of necessity, which has not been made.

35. The Committee is cognizant of not prejudging the merits of the Application for Annulment, and expressly disclaims reliance on any arguments advanced by the Applicants regarding causation of their present financial difficulties.
36. Accordingly, the Committee does not consider that the facts and circumstances justify the requested security for costs, or that the measures requested are necessary, urgent, reasonable or proportional.
37. As to the Applicants' request for reapportionment of the costs of the proceedings, the Committee considers that the facts and circumstances do not justify this relief, either. As the Applicants' submission demonstrates, reappointment of costs by an annulment committee is a highly unusual step that in this Committee's view requires a very strong showing of cause. The Applicants criticize the Request as "half baked", and made only to drive up the costs of these proceedings. While that may be its view, the Committee has not seen evidence of bad faith or ill-motive in the making of the Request, and appreciates that a sovereign may feel it has an obligation to demonstrate to its people that it has made appropriate efforts to assure payment of monies owed it. Moreover, it is not reasonable for an applicant seeking annulment to expect that a respondent will not request measures that may require the time and attention of the committee during the course of the proceedings. Accordingly, the request for reapportionment is denied.
38. The denial of the Respondent's request for security for costs as well as the denial of the request for reapportionment are without prejudice to either Party's rights going forward. The Committee cautions, however, that such requests should only be made on the basis of materially changed facts and circumstances and taking into account the appropriate standard of decision.

V. DECISION

39. For the reasons set forth above, the Committee decides as follows:

Peteris Pildegovics and SIA North Star v. Kingdom of Norway
(ICSID Case No. ARB/20/11)
Annulment Proceeding
Procedural Order No. 2

- a. The Respondent's request for Security for Costs is denied.
- b. The Applicants' request for reapportionment of cost advanced by it in these proceedings is denied.
- c. The Committee reserves any decision on costs associated with these requests to a later stage of the proceedings.

On behalf of the *ad hoc* Committee,

[signed]

Ms. Lucinda A. Low
President of the *ad hoc* Committee
Date: 20 December 2024