



Neutral Citation Number: [2025] EWHC 304 (Comm)

Case No: CL-2023-000401

IN THE HIGH COURT OF JUSTICE
KING'S BENCH DIVISION
BUSINESS AND PROPERTY COURTS OF ENGLAND AND WALES
COMMERCIAL COURT

Royal Courts of Justice, Rolls Building
Fetter Lane, London, EC4A 1NL

Date: 14 February 2025

Before :

MR JUSTICE BRIGHT

Between :

- (1) ZIYAVUDIN MAGOMEDOV
- (2) SGS UNIVERSAL INVESTMENT HOLDINGS LIMITED
- (3) INTIMERE HOLDINGS LIMITED
- (4) HELLICORP INVESTMENTS LTD
- (5) SIAN PARTICIPATION CORP. (IN LIQUIDATION)
- (6) MAPLE RIDGE LIMITED
- (7) WIREFLY INVESTMENTS LIMITED
- (8) SMARTILICIOUS CONSULTING LIMITED
- (9) ENVIARTIA CONSULTING LIMITED
- (10) PORT-PETROVSK LIMITED

Claimants

- and -

- (1) TPG GROUP HOLDINGS (SBS), LP
- (2) TPG PARTNERS VI, LP
- (3) TPG FOF VI SPV, LP
- (4) TPG PARTNERS VI-AIV, LP
- (5) TPG VI MANAGEMENT, LLC
- (6) TPG ADVISORS VI, INC
- (7) TPG ADVISORS VI-AIV, INC
- (8) DOMIDIAS LIMITED
- (9) HALIMEDA INTERNATIONAL LIMITED
- (10) LEYLA MAMMAD ZADE
- (11) MIKHAIL RABINOVICH

Defendants

- (12) **ERMENOSSA INVESTMENTS LIMITED**
- (13) **KONSTANTIN KUZOVKOV**
- (14) **FELIX LP**
- (15) **ANDREY SEVERILOV**
- (16) **KATINA PAPANIKOLAOU**
- (17) **STATE ATOMIC ENERGY CORPORATION
ROSATOM**
- (18) **DP WORLD RUSSIA FZCO**
- (19) **PJSC FAR-EASTERN SHIPPING COMPANY**
- (20) **PJSC TRANSNEFT**
- (21) **MARK GARBER**
- (22) **GARBER HANNAM & PARTNERS LLC**

Seladore Legal Ltd for the Claimants
Sebastian Isaac KC and Tom Foxton (instructed by Herbert Smith Freehills LLP) for the First to Seventh Defendants
Donald Lilly (instructed by Cooke, Young & Keidan LLP) for the Eighth and Fifteenth Defendants
Colleen Hanley (instructed by CANDEY Ltd) for the Ninth Defendant
Leona Powell and Marlana Valles (instructed by Fox Williams LLP) for the Tenth Defendant
David Caplan (instructed by Fieldfisher LLP) for the Eleventh, Twelfth and Fourteenth Defendants
Peter Head (instructed by Mishcon De Reya LLP) for the Thirteenth Defendant
Tim Chelmick (instructed by PCB Byrne LLP) for the Seventeenth Defendant
James Nadin (instructed by Quinn Emanuel Urquhart and Sullivan UK LLP) for the Eighteenth Defendant
David Mumford KC and James Mitchell (instructed by Quillon Law LLP) for the Nineteenth Defendant
Tom Ford and Oliver Goldstein (instructed by Curtis, Mallet-Prevost, Colt & Mosle LLP) for the Twentieth Defendant
Richard Power (instructed by Gresham Legal) for the Twenty-First and Twenty-Second Defendants

Hearing date: 17 January 2025

Approved Judgment

This judgment was handed down remotely at 10:30am on 14/02/25 by circulation to the parties' representatives by e-mail and by release to the National Archives.

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Mr Justice Bright:

1. This judgment follows the judgment that I handed down on 17 January 2025 on the substantive merits of the various Defendants’ applications for summary judgment and/or challenging the jurisdiction of the court. I then heard submissions on consequential matters including costs. I dealt with most of those matters in the order that I made on that day. However, while I indicated that I would make interim costs orders in favour of the successful Defendants, I did not resolve the terms of those interim costs orders, pending further submissions. Those further submissions have now been completed in writing.
2. Agreement has been reached between the Claimants and the Ninth Defendant (“Halimeda”), the Tenth Defendant (“Ms Mammad Zade”), the Eleventh Defendant (“Mr Rabinovich”), the Twelfth Defendant (“Ermenossa”), the Thirteenth Defendant (“Mr Kuzovkov”), the Fifteenth Defendant (“Mr Severilov”) and the Seventeenth Defendant (“ROSATOM”).
3. There remain issues to be determined between the Claimants and the First to Seventh Defendants (“TPG”), the Eighth Defendant (“Domidias”), the Fourteenth Defendant (“Felix”), the Eighteenth Defendant (“DP World”), the Nineteenth Defendant (“FESCO”), the Twentieth Defendant (“Transneft”), the Twenty-First Defendant (“Mr Garber”) and the Twenty-Second Defendant (“GHP”). Those issues are (i) the quantum of interim payments (including whether there should be any interim payment to Felix and to Mr Garber and GHP) and (ii) the timing of any payments to be made in excess of the security sums held by the Claimants’ solicitors, Seladore Legal Limited.
4. It is well established that assessing the quantum of an interim costs order does not require the court to establish the irreducible minimum. The court should estimate the likely level of recovery, subject to an appropriate margin to allow for error. The court very often goes about the task by applying a percentage reduction to the costs actually incurred by the

successful party. However, in any given case, the court's approach will reflect the circumstances of the particular case.

5. In this case, one relevant feature was the fact that the sums at stake were extremely large, even by the standards of this court. Another was that the hearing was unusually lengthy and the issues were numerous and intricate, by the standards of the average hearing on summary judgment/jurisdiction.
6. These points alone made it inevitable that the costs incurred would be very substantial. So, therefore, must be the sums ordered as interim costs.
7. It is also noteworthy that there was a lengthy hearing in May 2024 on security for costs, for which most of the Defendants provided estimates of the costs they expected to incur at the hearing, which were then the subject of some discussion and analysis before I ordered the quantum of security to be provided in relation to each relevant Defendant. This gave rise to a debate between the parties, following my judgment, as to the relevance of the parties' estimates in May 2024, and the sums that I said should be secured. The Claimants argued that the May 2024 exercise should be treated as akin to costs budgeting. Most of the Defendants argued that the May 2024 exercise was irrelevant and should be ignored.
8. My view on this is that the May 2024 exercise was not carried out as a costs budgeting exercise and it would be wrong to treat it as if it had been. If a party under-estimated or over-estimated in May 2024, this cannot affect the quantum of what would otherwise, objectively, be a reasonable sum to have incurred as costs by January 2025. Furthermore, as often happens, there were a number of developments in the litigation, which could not have been anticipated in May 2024 and which led to there being additional issues and/or additional evidential areas that required investigation. I therefore do not regard it as surprising that some Defendants incurred significantly more costs than they had estimated

8 months earlier. Nevertheless, the earlier estimates provide at least a rudimentary cross-check.

9. Several of the parties made detailed points on the respective schedules – for example, by reference to the guideline hourly rates set out in the White Book for the purposes of summary assessment, by reference to the number of counsel involved at various stages and by reference to other specific elements. I found some of these points useful, but I do not consider it necessary to descend to the same level of detail in this judgment. I do note, however, that the guideline hourly rates are not used in detailed assessments, and that this litigation is, furthermore, of a kind that may be thought to justify rates above even the highest guideline bands.
10. My general approach is to begin with the costs actually incurred by each Defendant; to consider this both by reference to that Defendant's estimate, in May 2024, and by reference to the significance of the role played by that Defendant at the hearing and in the litigation more broadly; to deduct the appropriate percentage, if I have already ruled that the Defendant should not recover 100% of its costs; then to apply 70% if awarded costs on the indemnity basis and 60% if on the standard basis. I consider that these percentages, applied as I have described, should allow a sufficient margin of error.
11. This is inevitably broadbrush. However, that is unavoidable in this context. The quantum of the interim payment must be reasonable, but it does not have to be precisely correct. Indeed, it is not expected to be precisely correct. Determining the correct figure can only be achieved by detailed assessment. At that stage, if the interim payment turns out to have been excessive, the party that overpaid will be entitled to reimbursement. The incorporation of a healthy margin of error, before arriving at the figure for the interim payment, should make this unlikely, but the principle is important.

12. In the case of TPG, the costs actually incurred are said to be £2,309,022.17. The TPG Defendants' estimate in May 2024 was £1,826,786. The overshoot represents about 25% of that estimate. This is significant, but not so significant as to affect my general approach. TPG were important Defendants with an important and pervasive role in the case alleged by the Claimants so it does not surprise me that their costs were very substantial and greater than those of several other Defendants. TPG were awarded 100% of their costs on the indemnity basis. The amount of their interim payment is £1,616,315.52.
13. In the case of Domidias, the costs actually incurred are said to be just over £800,000. However, for payment on account purposes, Domidias relies on a figure of £726,364. Domidias's estimate in May 2024 was £799,191. I do not regard the difference as significant, and I do not regard the total figure as remarkable in the context of this case. Domidias was awarded 100% of its costs on the indemnity basis. The amount of its interim payment is £508,454.
14. In the case of Felix, the costs actually incurred are said to be £301,833. Felix did not seek security for costs in May 2024, so there is no estimate or sum awarded as security with which any comparison can be made. Felix was represented with two other Defendants who had much more significant roles – Mr Rabinovich and Ermenossa. Their costs were much greater, but agreement has been reached on the sums to be awarded to them as interim payments. Unlike them, Felix was awarded 100% of its costs on the indemnity basis. Felix relies on a statement of costs signed by its solicitors confirming that Felix is liable to them for the total sum claimed, i.e. £301,833. I see no reason not to accept this. The amount of the interim payment to Felix is £211,283.
15. In the case of DP World, the costs actually incurred are said to be £2,512,372. DP World's estimate in May 2024 was £1,505,262. The overshoot represents about 66% of that estimate. This is not merely significant but remarkable. Furthermore, DP World's role at

the hearing was not as extensive as that of some other Defendants. In its reply submissions DP World explained how much of the excess relates to costs previously excluded, to unexpected developments, to counsel's fees and to disbursements, etc. However, the fact remains that DP World's costs are not merely much larger than the estimate, they are larger than most other Defendants, even though DP World's role in the case and at the hearing was not especially prominent. My starting point therefore is £1,850,000. DP World was awarded 100% of its costs on the standard basis. The amount of the interim payment to DP World is £1,110,000.

16. In the case of FESCO, the costs actually incurred are said to be £2,643,309. FESCO's estimate in May 2024 was £1,666,692. The overshoot represents about 60% of the estimate, which I again consider remarkable. FESCO had a significant role in the case alleged by the Claimants and at the hearing, but I still consider the total costs incurred surprising. I would have expected FESCO's costs to be somewhat lower than TPG's, albeit higher than those of (say) DP World. My starting point therefore is £2,000,000. FESCO was awarded 100% of its costs on the indemnity basis. The amount of the interim payment to FESCO is £1,400,000.

17. In the case of Transneft, the costs actually incurred are said to be £2,738,897. Transneft's estimate in May 2024 was £2,657,923. The difference is not significant. Transneft's role in the alleged conspiracy and at the hearing was probably more significant than that of any other Defendant. I therefore am not surprised by the quantum of the total costs incurred or by the fact that they were greater than those of any other party. Transneft was awarded 100% of its costs on the indemnity basis. The amount of the interim payment to Transneft is £1,917,228.

18. In the cases of Mr Garber and GHP, they were represented together and the costs actually incurred by both are said to be £1,095,375. The Claimants have complained that these costs

were not set out in a conventional, certified costs schedule. However, they were set out in a schedule that accompanied a letter signed by Mr Garber's and GHP's solicitors. I see no reason to doubt that this schedule accurately reflects the actual costs incurred. Mr Garber and GHP did not provide an estimate to the court in May 2024 (the quantum of security in their favour was agreed following negotiations, but that is a different matter). They were awarded 100% of their costs on the indemnity basis. The amount of the interim payment to them is £766,762.

19. The other matter to be resolved in relation to interim payments is the date on which such payments should be made. The Claimants have said that they do not have ready liquid funds to provide further cash in addition to the sums held by Seladore since May 2024 as security for costs, and have asked to be given three months.
20. It is not clear to me when the Claimants consider this period of three months should start. However, it is relevant to note that my draft judgment was circulated at 13:15 on 3 January 2025. Accordingly, the Claimants have known for approximately 1 ½ months that they faced the prospect of paying substantial costs; and it cannot have come as any surprise to them, any more than it has surprised me, that the costs incurred by the Defendants have in many cases substantially exceeded the sums estimated and awarded as security in May 2024. Accordingly, they should have been making plans for significant payments from no later than 3 January 2025.
21. Moreover, the Claimants already owe significant amounts in costs that have been awarded to various Defendants at various earlier points in the litigation, some of which have been outstanding for some time.
22. Precisely who is providing the funds for the Claimants' legal expenses, and from where, is unclear, as I noted in my judgment at [350] to [353]. For the purposes of the costs awards in the light of the judgment, the Claimants served the Tenth Witness Statement of Mr

Keillor of Seladore. This witness statement stated, on the basis of information given to Mr Keillor by Mr Daniyal Magomedov (the son of the First Claimant), that it remains the case that the Claimants are not prepared to reveal the names or locations of the entities that hold the funds that have provided funds for the litigation and hold the assets that (it is said) must now be liquidated in order to provide cash to fund interim payments. Nor does this witness statement provide any details as to those assets.

23. This vague, second-hand evidence is unsatisfactory. Furthermore, even if taken at face value, it confirms that the Defendants have no real prospect of enforcing a court order awarding costs in their favour against the Claimants themselves, and no ready way of enforcing against the funding entities whose details are being withheld.
24. Above all, the secrecy upon which the Claimants insist makes it impossible for the court to gauge not only the reality of the Claimants' asserted inability to pay promptly, but also the reasons why they failed to take account of the contingent need to do so.
25. In the circumstances I will allow a further 21 days from the date of this judgment, i.e. until 7 March 2025. This will have the effect of allowing the Claimants over two months from the date when my substantive judgment was circulated in draft. I consider this generous.