Neutral Citation Number: [2023] EWHC 3253 (Ch)

Case No: PT-2018-000247

IN THE HIGH COURT OF JUSTICE
BUSINESS AND PROPERTY COURTS OF ENGLAND AND WALES
PROPERTY, TRUSTS AND PROBATE LIST (ChD)

Rolls Building
Fetter Lane
London, EC4A 1NL

19 December 2023

Before :

MRS JUSTICE BACON

- -

Between :

(1) BRIGITA MORINA
(2) AB
(3) BC
(children, acting by their litigation friend, Brigita Morina)

Claimants

- and -

(1) ELENA NIKOLAYEVNA SCHERBAKOVA
(2) OLGA VLADIMIROVNA SCHERBAKOVA
(3) ALEXANDER SCHERBAKOV
(4) CD
(a child, acting by her litigation friend, Elena Buchen)
(5) CHAN SHEE KHOW
(6) WILLIAM JEREMY GORDON
(7) CATHERINE MAIREAD McALEAVEY
(the 6th and 7th Defendants acting as Joint Administrators pending suit of the Estate of Vladimir Alekseyevich Scherbakov, Deceased)

Defendants

- -

Hodge Malek KC, **James Potts** and **Sparsh Garg** (instructed by **Quinn Emanual Urquhart & Sullivan UK LLP**) for the **Claimants**
The **2nd and 3rd Defendants** appeared in person
Fiona Todd (instructed by **Gresham Legal**) for the **4th Defendant**
Oliver Jones (instructed by **Farrer & Co LLP**) for the **6th and 7th Defendants**

The **1st and 5th Defendants** did not appear and were not represented

Hearing dates: 20, 23–27, 30 October, 6–8 November 2023

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Approved Judgment

This judgment was handed down remotely at 10am on 19 December 2023 by circulation to the parties or their representatives by email and by release to the National Archives.

MRS JUSTICE BACON:

Introduction

1. This is the trial of a probate claim issued on 29 March 2018, concerning the estate of the late Vladimir Alekseyevich Scherbakov (**Vladimir**), a wealthy Russian businessman who died in Belgium on 10 June 2017. The claimants seek a grant of probate in solemn form of a copy of Vladimir's will dated 28 October 2015, drawn up and signed in London, governing his worldwide assets outside of Russia (the **2015 Will**), the original of that document having vanished in circumstances explained in this judgment. The 2015 Will replaced and revoked an earlier will made on 15 October 2014 (the **2014 Worldwide Will**). The claimants also seek declarations that Vladimir died domiciled in Russia, that his permanent residence at the date of death was England, and that the law of succession applicable to his worldwide moveables and English real property was therefore English law.

2. The three claimants are Brigita Morina (**Brigita**), Vladimir's fiancée prior to his death, and two minor children referred to in these proceedings as **AB** and **BC**. (I explain below the privacy orders made in relation to the minor children involved in this claim.) AB is the son of Brigita and Vladimir. BC is Ms Morina's son by a previous relationship, but who was treated by Vladimir as his son. Both AB and BC act in these proceedings by Brigita as their litigation friend. The claimants are, together, the main beneficiaries under the 2015 Will; Brigita is also named as co-executor of that will. Prior to the claimants' current solicitors Quinn Emanuel, the claimants were represented by Macfarlanes, McDermott Will & Emery, and Stewarts Law.

3. The first defendant, Elena Scherbakova (**Elena**) was Vladimir's wife. By the time of Vladimir's death he and Elena were divorced, but the date of their divorce is disputed. The second and third defendants, Olga Scherbakova (**Olga)** and Alexander Scherbakov (**Alexander)**, are Vladimir and Elena's children.

4. Elena, Olga and Alexander all initially participated actively in these proceedings, filing defences and counterclaims, and had legal representation. Elena is, however, now serving a prison sentence in Russia for attempted fraud arising from her claim to certain Russian assets after Vladimir's death. Since April 2021 Elena has not participated further in these proceedings, and in May 2022 she ceased instructing lawyers in this jurisdiction. Olga and Alexander have been represented by four successive sets of solicitors (Russell Cooke, Edwin Coe, Cooke Young & Keidan, and Fieldfisher) the last of which came off the record in August 2023. Since then Olga and Alexander have been acting as litigants in person.

5. The fourth defendant, **CD**, is the daughter of Brigita and Vladimir, who was born after the 2015 Will was executed. She is not a beneficiary under the will, but would be a beneficiary under intestacy, such that her interests in these proceedings are technically adverse to those of the claimants. She has therefore been separately represented and acts by a litigation friend, Ms Buchen. Her position in the claim is, however, essentially neutral, and her role at the trial was confined to identifying the issues and relevant law, together with some neutral observations on the evidence. She did not serve any evidence of her own, nor did her counsel cross-examine any of the claimants' witnesses.

6. The fifth defendant, **Mr Chan**, was Vladimir's business associate and (with Brigita) co-executor under the 2015 Will. He has not defended the probate claim and has stated that he does not wish to act as an executor under the will.

7. The sixth and seventh defendants, Mr Gordon and Ms McAleavey (together the **Interim Administrators**), are solicitors and partners of Farrer & Co, who have been appointed to act as interim administrators of Vladimir's English, British Virgin Islands (**BVI**) and Singapore estates pending the determination of the probate claim. At the pre-trial review, following directions sought by the Interim Administrators, it was ordered that they were not required to defend or otherwise participate in the trial of the probate claim. A representative from the solicitors of the Interim Administrators did, however, attend the trial, and on the last day of the hearing the Interim Administrators sent a letter to the court in response to submissions made by Olga on the previous day.

8. The claim was originally listed to be tried together with claim no. PT-2019-000932 (the **KPHL claim**) which concerns the ownership of the company Key Platinum Holdings Limited. Brigita is the sole claimant in that claim. The defendants are Elena, Olga, Alexander, AB and CD (who both act by Ms Buchen as their litigation friend) and the Interim Administrators. At the pre-trial review the KPHL claim was stayed pending the final determination of the probate claim.

9. The trial took place over the course of three weeks, during which I heard oral evidence from a number of factual witnesses for the claimants, as well as four experts for the claimants on a handwriting analysis of the 2015 Will, and issues of Belgian, Russian and Swiss law. On the first day of the trial, Olga and Alexander were cross-examined (pursuant to an order made at the pre-trial review) on specific issues relating to their knowledge of the whereabouts of the 2015 Will. Save for that sole issue, neither Olga nor Alexander gave evidence at the trial or called any witnesses or experts. Written and oral submissions were made by Mr Malek KC for the claimants, with brief submissions on specific issues by Mr Potts and Mr Garg. Ms Todd appeared for CD, and Olga and Alexander appeared in person.

10. It is important to emphasise at the outset that the events leading up to Vladimir's death and the litigation since then (not only in these proceedings, but also in proceedings in Belgium, Russia and the BVI) have been a personal tragedy for all members of Vladimir's family. Brigita, Olga and Alexander were all very distressed at times during the course of the trial, and the findings which I will go on to make should not undermine the fact that the trial required all three of them to relive events in their family history that were evidently deeply upsetting for them. It is very sad, for all parties, that this family dispute has come to trial rather than being settled out of court.

Witnesses of fact

Claimants' witnesses

11. Brigita Morina was the main witness for the claimants. She gave evidence about her relationship with Vladimir from 2009 onwards, their family life with her son BC and then their children AB and CD, the purchase of their family home in England, the circumstances in which the 2015 Will came to be executed, Vladimir's departure to Belgium in 2016 and subsequent residence there as a result of a Russian criminal investigation and his feared extradition if he remained in England, the events leading up

to Vladimir's death in 2017, and the circumstances in which the original 2015 Will was offered to her for (effectively) a ransom, leading to a Swiss criminal investigation which remains ongoing.

12. Brigita was cross-examined by Olga, in a manner that clearly revealed Olga's intense hostility towards her. At several points in her evidence Brigita became very upset, and it was clear that she found it difficult to talk about events that were extremely painful for her. Brigita nevertheless remained a dignified witness, whose responses to questions were measured and courteous throughout her cross-examination. Her account was clear, frank and supported by the contemporaneous documentary material. I consider that her evidence was entirely credible.

13. Brigita's account was supported by evidence from 14 witnesses of fact. Eight of those were cross-examined by Olga or Alexander (or in one case by both of them): Hans Hartwig, Lucien Masmejan, Stephane Looze, Konstantin Trapaidze, Elena Komissarova, Nina Orlova, Oxana Oreshina and Jessica Walther. Some of those witnesses gave evidence in French or Russian, as set out below.

14. Hans Hartwig is an English solicitor who prepared the 2015 Will for Vladimir, and witnessed its signature. His evidence set out Vladimir's instructions to him regarding the drafting of the will and the circumstances in which the will was signed. He was cross-examined briefly by Alexander. His oral evidence was consistent with his witness statement and was entirely credible.

15. Lucien Masmejan is a Swiss lawyer who acted for Brigita in the Swiss criminal investigation of the attempt to obtain money from Brigita for the original copy of the 2015 Will. Mr Masmejan was cross-examined at some length by Olga. His evidence was careful and entirely credible, clearly explaining what he did and did not remember, and the scope of his involvement in communications with the individuals who claimed to hold the original 2015 Will.

16. Stephane Looze worked as a concierge at the Steigenberger Wiltcher's Hotel in Brussels, where he met Vladimir in January 2016 shortly after Vladimir moved to Belgium. His witness statement was made in French and translated into English. At the hearing he was cross-examined by both Alexander and (briefly) Olga, and his answers were given in French and translated into English. He was a straightforward witness who described his relationship with Vladimir and the help which he gave Vladimir during the period in which Vladimir lived in Belgium, up to time of his death in 2017. None of his evidence was challenged by Olga and Alexander.

17. The next four witnesses (Mr Trapaidze, Ms Komissarova, Ms Orlova and Ms Oreshina) gave their evidence remotely from the offices of a law firm in Moscow. Their witness statements had been made in Russian and translated into English. They were cross-examined in Russian by Olga, and responded in Russian, with both the questions and responses translated into English by a translator in the courtroom.

18. Konstantin Trapaidze is a Russian lawyer who acted for Vladimir in the criminal investigation launched against Vladimir in Russia, which led to Vladimir's move to Belgium to avoid extradition. His evidence was entirely straightforward and was not challenged in any respect by Olga and Alexander. Rather, Olga's questions were directed at obtaining further details of the matters that were the subject of his evidence.

19. Elena Komissarova was Vladimir's personal assistant and later his agent in Russia from 2006 until he died. She gave evidence as to (in particular) the circumstances in which she had seen and obtained documents confirming Vladimir and Elena's divorce in 1991, and was cross-examined on this by Olga. Olga and Alexander maintain that those documents were fake. Ms Komissarova's account was, however, entirely credible and supported by the contemporaneous documentary material.

20. Nina Orlova is a pensioner and trained masseuse. She worked as Vladimir's personal masseuse in Moscow in 2011–12, and moved with him to London when he relocated there in 2013. Thereafter she lived and travelled with the family, accompanying Vladimir to Belgium when he moved there in 2016. She gave evidence about Vladimir and Brigita's relationship and family life, the move to Belgium, and Vladimir's state of mind in the months leading to his death in 2017. While she was cross-examined on these points by Olga, most of her account was not materially disputed. There were two issues on which, however, her oral evidence was somewhat ambiguous and not entirely consistent with her witness statement and the evidence of the other witnesses. The first issue was the question of where Brigita and her children were living in 2016. The second was the extent of Vladimir's alcohol addiction. Her evidence on those issues therefore needs to be considered in the light of the other material before me.

21. Oxana Oreshina was Vladimir's general legal counsel in Russia since 2011. In 2014 she became the general director of Omega Holding LLC, which was one of Vladimir's Russian companies, and in 2015 he transferred his shareholding to her, making her the sole shareholder. Elena's claim to an interest in that company led eventually to Elena's conviction for attempted fraud and imprisonment in Russia. Ms Oreshina gave evidence on this point, and (like Ms Komissarova) explained the circumstances in which she had seen or obtained documents confirming Vladimir and Elena's divorce in 1991. As with Ms Komissarova, the nature of those documents was challenged in her cross-examination by Olga. I consider Ms Oreshina's account in that regard to be credible and supported by the documentary material.

22. Jessica Walther is one of Brigita's closest friends, and is the godmother of CD. She knew Vladimir (through Brigita) and worked with both Vladimir and Brigita on various business activities since 2013. She gave evidence about her business relationship with Vladimir and Brigita, their family life, and Vladimir's state of mind and health during the last year of his life. Her cross-examination by Olga focused almost exclusively on her involvement in Vladimir and Brigita's business affairs. She was in my view an honest witness who clearly explained the scope of her role in Vladimir and Brigita's various businesses, and the limitations of her areas of responsibility during that time.

23. The remaining six witnesses, namely Juerg Koller, Camillo Limacher, Mariyam Junaid, Asmah Mohamed, Henrietta Barnes and Mikael Hofmann, were not cross-examined and their evidence was not disputed. In short summary:

    i) Juerg Koller is a Swiss-qualified solicitor who drafted a further will for Vladimir in 2016 (when Vladimir was living in Belgium) which in the event was not executed. He also gave evidence about further legal advice given to Vladimir, and the draft of a deed of gift and call option agreement, which were again not executed at the time.

ii) Camillo Limacher worked as a housekeeper and butler for Vladimir and Brigita during 2015 and 2016, mainly at their properties in Switzerland. He gave evidence about Vladimir and Brigita's family life, and his visits to see Vladimir in Belgium when Vladimir moved there in 2016.

iii) Mariyam Junaid has worked as Brigita's personal assistant since 2014. She described their relationship and family life, and Vladimir's state of mind in the months leading up to his death.

iv) Asmah Mohamed worked as a nanny for Vladimir and Brigita's children from 2013 to 2021. She described in some detail their family life, the relationship between Vladimir and Brigita, and the strain on the family when Vladimir moved to Belgium in 2016.

v) Henrietta Barnes worked as a private chef for Vladimir and Brigita from 2014 to 2020. She described their family life and her conversations with Vladimir regarding Elena, Olga and Alexander.

vi) Mikael Hofmann is a real estate agent and property developer, who met Vladimir in a business context in 2009 and maintained a friendship with him thereafter. He gave evidence regarding Vladimir and Brigita's relationship and his visits to see Vladimir after he moved to Belgium in 2016.

Defendants' witnesses

24. The only evidence which was given by Olga and Alexander concerned their knowledge of the whereabouts of the 2015 Will, and their relationship to the person eventually named as holding that will, Ms Khatouna Avdoyan. Following initial witness statements made in November 2018, further witness statements were provided in July 2023 pursuant to orders of the court (set out in more detail at §158 below), and Olga and Alexander were cross-examined on those witness statements on the first day of the trial. They did not, however, provide any witness evidence on any other matter in issue in these proceedings; nor did they rely on the evidence of any other witnesses of fact.

25. Olga Scherbakova was an argumentative witness, who repeatedly challenged the relevance of the questions in an attempt to avoid answering them. Her evidence on key issues was inconsistent with the documentary evidence or otherwise implausible. It became apparent that the explanations given in her witness statements as to her relationship with Ms Avdoyan were (at best) evasive and incomplete. When put to her that she, Elena and Alexander had obtained and suppressed the 2015 Will, she expressed shock and outrage, despite the fact that she must (from the pre-trial correspondence) have been well aware of the case that the claimants intended to advance in this regard. I consider Olga to be a dishonest witness who was willing to advance outlandish accusations against others in order to avoid giving a truthful explanation of her role in the events in question.

26. Alexander Scherbakov was a nervous and hesitant witness. His answers were barely audible, and he appeared to be struggling with the pressure of the first day of the trial (as set out below, Alexander was during the remainder of the trial able to both cross examine witnesses and make oral and written submissions to the court). His position was that he had found it very difficult to engage with any of the proceedings since the death of his

father, and had left the responsibility for the litigation largely to Elena and Olga. I accept this to a certain extent. When these proceedings commenced Alexander was 20 years old, and it would have been natural to rely on his mother and older sister. It remains the case, however, that he has throughout the litigation continued to approve and sign pleadings and witness statements, for which he would have been required to attend meetings with his lawyers. While he was no doubt very distressed by the death of his father, I was not convinced by the extent of his purported lack of recollection of key events since then, and consider it probable that at least some of his claimed memory failures were borne out of a desire to avoid difficult questions. As with Olga, it was also apparent that his witness evidence regarding Ms Avdoyan was evasive and incomplete. I do not, therefore, consider Alexander to be a credible or reliable witness.

Expert witnesses

27. The claimants relied on the evidence of four expert witnesses, all of whom were cross-examined by Olga or Alexander. As set out in more detail below, given my conclusions on the issue of domicile and the existence of the 2015 Will, I do not need to determine the issues of Russian, Belgian and Swiss law. Since, however, the relevant experts served comprehensive expert reports on those issues and were cross-examined, I will for completeness summarise the nature of their evidence and the extent to which it was challenged.

28. Ellen Radley is the principal forensic document examiner at The Radley Forensic Document Laboratory Limited. She was instructed to provide an independent review of a report given on 19 December 2022 by Ms Christine Navarro, a handwriting analysis expert, in circumstances where (as explained below) after providing her report Ms Navarro was unwilling to provide further evidence in these proceedings. Ms Radley was cross-examined by Olga, who challenged the conclusions she had reached. It was apparent that Ms Radley was a highly experienced and very knowledgeable witness, whose review of the Navarro report was careful and thorough. I unhesitatingly accept her conclusions.

29. Patrick Hofströssler is a member of the bars of Brussels and Antwerp, a partner at a Belgian law firm, and a guest professor and honorary fellow at the University of Brussels. He specialises in the area of estate law. His evidence addressed, as a matter of Belgian law, the governing law for succession for worldwide moveable assets; the status of Belgian court decisions regarding Vladimir's residence; the law regarding revocation of a will; the rules relating to registration at a particular address in Belgium; and certain issues regarding the entitlement of the married spouse to their deceased spouse's estate. He was an impressive and highly knowledgeable witness, who gave careful responses to the questions put to him by Alexander. Some of the questions put were difficult to understand; in those cases he sought to reframe the questions in terms which enabled him to give a meaningful answer. None of Mr Hofströssler's evidence was challenged by Alexander.

30. Drew Holiner practises as a barrister in London, and is also qualified at the Russian bar. His evidence addressed, as a matter of Russian law, the governing law for succession for worldwide moveable assets; and the law regarding revocation of a will. He was cross-examined only very briefly by Olga, who did not challenge any aspect of his evidence.

31. David Wallace Wilson is a partner at a Swiss law firm. For the purposes of the present proceedings, his evidence addressed the practice of indicating in a Swiss deed of gift whether the gift is *hors part* in relation to the donor's estate, and the meaning of those words. The remainder of his evidence addressed matters relevant only to the KPHL claim. Mr Wilson was cross-examined extremely briefly by Olga. She did not challenge his evidence, nor did she ask any specific questions about the *hors part* issue, saying that the evidence on this point was too complicated for her and Alexander.

32. Olga and Alexander instructed their own experts to consider the issues addressed by the claimants' expert witnesses. Their experts were Stephen Cosslett (on the issue of the Navarro report), Dr Alan-Laurent Verbeke (on the issues of Belgian law), William Butler (on Russian law) and Professor Sylvain Marchand (on Swiss law). Those experts prepared reports and (in the cases of the experts on Belgian, Russian and Swiss law) joint statements with the claimants' expert witnesses. Olga and Alexander did not proffer any of their experts for cross-examination at the trial; nor were the claimants' experts challenged on the points on which they disagreed with the experts for Olga and Alexander.

33. In those circumstances, in respect of the experts on Belgian, Russian and Swiss law, Mr Malek invited me to follow the approach set out in *Anderson v Lyotier* [2008] EWHC 2790(QB), §98, and to give the views of those experts less weight than if they had been called and their evidence had been tested at trial. I am satisfied that this would have been the appropriate approach to adopt in the circumstances. In the event, however, given my conclusions on other issues, I do not need to address this point.

34. The expert evidence put forward by Olga and Alexander on the Navarro report is rather different, since the issue of the existence of the 2015 Will is a central issue for me to decide, and on that point Mr Cosslett reached very similar conclusions to those of Ms Radley. Mr Malek therefore positively relied on Mr Cosslett's report, pursuant to CPR r. 35.11, in support of the claimants' position as to the existence of the 2015 Will.

Procedural matters

The position of Elena at the trial

35. Elena initially participated actively in these proceedings, and was represented by two successive law firms. She filed a defence and counterclaim, which has never been withdrawn. Her solicitors ceased acting for her in May 2022, since when she has not participated at all in the proceedings. Olga claimed that she was unable to do so due to her incarceration in Russia, and expressed in vehement terms her objections to the fact that Elena continued to be referred to in these proceedings.

36. I do not accept Olga's objections. Elena chose to defend the claim actively from the outset (by contrast with, for example, the position of the fifth defendant Mr Chan). She could at any stage have withdrawn her opposition to the claim, but has not done so. She has been represented in proceedings in relation to Vladimir's estate in both Russia and Belgium since her detention in 2021, including at hearings in 2021, 2022 and 2023, and as recently as July 2023 Elena filed a witness statement in a Belgian claim initiated by her in 2020. Olga also confirmed that she (Olga) has a power of attorney to act on behalf of Elena in the litigations in all jurisdictions. Olga could, therefore, have instructed solicitors on behalf of Elena in these proceedings.

37. In Olga's opening submissions she contended that Elena was not participating because of lack of funds. There is, however, no evidence before me to corroborate that claim, and it is inherently improbable given the vast wealth which it appears that Vladimir transferred to Elena during his lifetime (which I will discuss further below). Rather revealingly, in her closing submissions Olga changed her tune, saying that she could not comment on Elena's financial situation, and argued instead that there was no point in Elena wasting her resources on Brigita's "circus". She said that although she held a power of attorney for Elena,

> "that doesn't mean that I have to spend her money on Brigita Morina's claims. I have her Belgian house to manage, I have other things to manage for her, her tax situations, and, either way, how do we know what Elena did with all this money that Mr Malek is claiming that she received? We don't. maybe she spent it. Maybe she transferred it elsewhere and it's stuck somewhere in a foreign country …"

38. I do not consider it to be remotely credible that Olga is managing Elena's property and tax affairs without any knowledge of Elena's sources of finance. Her protestations were, in my judgment, simply obfuscation. It is clear that Elena has simply chosen not to continue participating in these proceedings, rather than being prevented from doing so.

The position of Olga and Alexander at the trial

39. Olga and Alexander have likewise participated actively in the proceedings, and were represented by four successive sets of solicitors. They have only recently become litigants in person since the last of their solicitors, Fieldfisher, came off the record in August 2023. Their claim is that they lack funds to secure representation. It appears, however, that they like Elena were given vast wealth by Vladimir during his lifetime. There is no evidence before me to explain how all of that could have vanished. Indeed, Olga expressly refused to provide a full explanation of this, saying that most of the properties gifted to them by Vladimir had been sold, and "whatever the money was used for is nobody's business". She also accepted that she and Alexander continued to own property in Belgium, but protested that they shouldn't have to sell any of that to finance the legal proceedings.

40. It is notable, however, that Olga and Alexander continue to be represented in the (extensive) ongoing proceedings in Belgium, the BVI and Russia. Olga said that in other jurisdictions their legal costs are lower. That may be the case, but their legal costs in this jurisdiction no doubt reflect the fact that they have chosen to fight the claim tooth and nail throughout these proceedings, without conceding any of the points advanced in their pleadings.

41. Olga repeatedly claimed that she and Alexander had been dragged by Brigita into these proceedings against their will. She may have convinced herself of that, but it is a narrative that has no bearing on reality. As with Elena, Olga and Alexander have chosen to defend these proceedings since the claim was brought. They have contested (and continue to contest) a large part of the claimants' factual case, including as to the existence of the 2015 Will, and have chosen to instruct their own experts to advance their position. Those decisions come with costs consequences, which they must have appreciated. Olga and Alexander are intelligent, well-educated and articulate, and I do not accept their repeated submissions that they did not understand the legal process in which they were engaging

or the decisions taken by their lawyers in the course of that process. Nor do I accept their claims that their lawyers withheld information from them. It may be that they have now decided that the costs of obtaining legal representation at trial outweigh the likely gains to them of doing so. That is, however, their own decision.

42. Whatever their reasons for that decision, there is no doubt that it must have been a very stressful and intimidating experience for Olga and Alexander to appear as litigants in person at the trial. I also accept that they found some parts of the submissions and evidence of the claimants – particularly on the technical issues of Russian, Belgian and Swiss law – difficult to understand. In terms of the trial procedure, however, I consider their claims of lack of understanding to have been exaggerated. Olga claimed, for example, that she and Alexander did not know that they were supposed to file witness evidence on any issues other than their knowledge of the whereabouts of the 2015 Will. The agreed deadline for filing trial witness statements was, however, 23 June 2023, a period in which Olga and Alexander were still represented by Fieldfisher. Two days before that deadline, Fieldfisher asked for an extension until 7 July, presumably on instructions, and the claimants' witness statements were served on that date. Olga claimed that no witness statements were ultimately prepared on their side due to lack of funds and their mounting debts to Fieldfisher. There is no evidence before me supporting that claim. But in any event, whatever the financial position, given that Fieldfisher were still instructed at that point, it is inconceivable that they did not discuss with Olga and Alexander the evidence that was to be provided by them for the trial. Olga and Alexander must, therefore, have been aware that witness statements were expected and should have been provided on all of the factual issues in the case which they wanted to pursue.

43. Olga also claimed that she and Alexander did not cross-examine Mr Hofmann because they did not know that they could cross-examine every witness. Again, however, the initial proposals for cross-examination of witnesses were sent by their solicitors Fieldfisher during July 2023, and those proposals included the cross-examination of Mr Hofmann. Olga and Alexander were then asked repeatedly, in the weeks leading up to the trial, to confirm which witnesses they wished to cross-examine and how much time they required. On 13 October 2023 Olga and Alexander provided a revised list of witnesses which did not include Mr Hofmann. On that basis the claimants asked for (and obtained from the court) permission not to call Mr Hofmann and the other witnesses who were not required for cross-examination. Olga and Alexander therefore had every opportunity to ask to cross-examine whichever of the claimants' witnesses they wished.

44. Olga and Alexander both apologised to the court for their lack of expertise in the presentation of their arguments and their cross-examination of the witnesses. As I have already noted, it was apparent (and understandable) that Olga and Alexander struggled with the evidence of foreign law. On the central factual issues, however, Olga and Alexander were able to and did question the relevant witnesses and put their case to those witnesses. They also provided both written and oral submissions to the court, with extensive references to the documents in the trial bundle. They asked for and were given extra time on various occasions to enable them to prepare those submissions. It was also striking that although their mother tongue is not English, the oral submissions of both Olga and Alexander were fluent and had evidently been very carefully written and prepared.

45. The problem with their submissions was not, therefore, a lack of skill in the presentation of their arguments or an inability to understand the factual material before the court;

rather, it was that the case they were advancing was implausible and overwhelmingly contradicted by the evidence.

Disclosure from Elena, Olga and Alexander

46. Elena has given no disclosure whatsoever in these proceedings, despite the fact that she could have been expected to have relevant documents such as emails and phone records – especially if, as she claims, she remained married to Vladimir until 2016 and only separated from him in June 2014.

47. As for Olga and Alexander, their disclosure has been woefully inadequate. They have not identified the locations where potentially relevant devices and documents were kept, save for asserting that various mobile devices were kept in Beirut, Lebanon and were damaged at an explosion at the Port of Beirut on 4 August 2020. As the claimants have, however, pointed out, the address given by Olga as her residential address in Beirut was outside the reported damage zone, and neither Olga nor Alexander have provided any evidence that any of their property was indeed damaged in that explosion. Nor has any explanation been provided of whether or not it is in fact possible for those mobile devices to be searched, notwithstanding any damage they have (allegedly) suffered.

48. In her opening submissions Olga sought to blame her solicitors, saying that she did provide evidence of damage to her property in the Beirut explosion to them, and "I just don't remember if they submitted it or not". Olga and Alexander made a similar claim in their closing submissions, asserting that they thought that their evidence had been submitted by their solicitors. The correspondence shows, however, that the claimants repeatedly pressed Olga and Alexander's solicitors on this issue, but received no evidence whatsoever that Olga and Alexander's property had been damaged (as claimed by them) in the Beirut explosion. It is not plausible that, in the face of repeated requests by the claimants, those solicitors would withhold evidence that had been provided to them by Olga and Alexander. The far more probable explanation is that Olga and Alexander simply did not provide any evidence to support their claims that their property in Beirut had been damaged.

49. Olga also claimed that all of her other mobile phones and tablet devices used between January 2014 and Vladimir's death were either lost or broken such that they could not be searched. Nor, apparently, have any of her more recent mobile phones been searched, notwithstanding the fact that the date range for disclosure relating to the issue of what happened to the 2015 Will runs up to the present day. Alexander has disclosed only two messages from Vladimir sent to him on one of his mobile phones, dating from 2015 and 2016. While he said that he had backed up data to an iCloud account, that iCloud account has not been searched, purportedly on the basis that access is dependent on regaining access to one of Alexander's email accounts which is said to be inaccessible.

50. None of Olga's email accounts said to have been in use between January 2014 and 2017 have been searched, with Olga claiming that she has lost the passwords to those accounts. No explanation has been provided of the steps taken to retrieve the relevant passwords. Olga refused to provide her current personal email addresses, and those have also not been searched. No disclosure has, therefore, been given from any of Olga's email accounts. Alexander's emails between 2014 and around 2018 accessible via a laptop belonging to him have apparently been searched, but nothing more recent has been searched. Alexander said that he was locked out of the primary email account which he

used until January 2022, but he has not provided any explanation of the steps taken to recover that account or why it is (supposedly) still inaccessible.

51. Apart from their general disclosure obligations, Olga and Alexander were ordered (at a hearing in July 2023) to provide specific disclosure of communications between them and Ms Avdoyan, named as holding the 2015 Will. No disclosure was provided. Olga's explanation for this, in cross-examination at the trial, was that all of her communications with Ms Avdoyan were by telephone; and that she never emailed her or sent text messages to her. In her opening submissions she claimed, in addition, that they did not have the funds to provide disclosure.

52. It is, in my judgment, wholly implausible that Olga and Alexander should have lost or broken all of their mobile devices from the relevant time periods, with no cloud backups available in respect of any of those devices, and should likewise have managed to lock themselves out of the email accounts which they used during those time periods. I also do not regard the explanations of the lack of disclosure of communications with Ms Avdoyan as credible. Their repeated denials and obfuscation are, I consider, either a persistent refusal to engage with the required disclosure processes, or a deliberate attempt to conceal information that would be damaging to their case.

53. There is also an issue regarding the disclosure of a repository of documents and devices consisting of, first, documents and devices which Vladimir deposited with a Belgian lawyer in 2016, and secondly, documents and devices found at Vladimir's house on his death, which were seized by the Belgian police. These devices include a number of mobile phones used by Vladimir. All of these are currently held by a Belgian notary, Mr Dirk Van Gerven.

54. Under the terms of the agreement governing his appointment, Mr Van Gerven can only release the materials with the consent of Olga and Alexander. In or around April 2023 the parties agreed a protocol under which external consultants would be instructed to image the Belgian devices and documents held by Mr Van Gerven, and on 16 May 2023 Fieldfisher wrote to Mr Van Gerven to seek his agreement to that process. Mr Van Gerven responded the next day confirming that he was content for the parties to proceed in that way, subject to (i) payment of €5000 by each of Olga/Alexander and Brigita to cover his costs, and (ii) confirmation from Olga/Alexander and Brigita's respective solicitors as to whether the consultants should be instructed to access certain documents that had been kept separate from the main body of the Belgian materials. No such confirmation was provided by Olga and Alexander, and the disclosure process therefore did not progress.

55. Olga and Alexander claimed at the hearing that the reason for not pursuing this matter was that they were not able to pay the €5000 required by Mr Van Gerven for his costs. In a letter to the court in response to that submission, the Interim Administrators said that if that was the reason, that had not been communicated to them, and that their understanding was that – for reasons unknown to them – Olga and Alexander had simply not instructed their Belgian counsel to provide the requested confirmation to Mr Van Gerven. In any event, the claim that Olga and Alexander were not able to fund a payment of €5000 in May 2023 is wholly implausible, in circumstances where they were able to produce £100,000 at relatively short notice only a few months later, on 27 July 2023, following the claimants' application for unless orders in relation to the non-payment of costs.

56. Olga and Alexander also claimed that they were willing and keen to assist with the disclosure of the documents held by Mr Van Gerven, and simply did not know how to proceed after Fieldfisher came off the record. Again, that is not credible given that the discussions regarding the documents held by Mr Van Gerven took place long before August 2023, when Fieldfisher ceased acting for Olga and Alexander. I do not, therefore, accept that Olga and Alexander's failure to agree to the conditions proposed by Mr Van Gerven was due to either their impecuniosity or their lack of legal representation. The far more probable explanation is that Olga and Alexander were simply unwilling to engage and cooperate with the proposals of Mr Van Gerven.

Adverse inferences

57. In light of the lack of evidence forthcoming from Elena, Olga and Alexander, and their failure to give any proper disclosure, the claimants invited me to draw adverse inferences against them in relation to the factual issues which are contested by those three defendants. As the Supreme Court confirmed in *Efobi v Royal Mail Group* [2021] UKSC 33, [2021] 1 WLR 3863, §41, the significance to be attached to the fact that a person has not given evidence will depend on the context and the particular circumstances.

58. Had it been necessary to do so, I would have adopted that approach. In the circumstances of the present case, I do not need to draw any specific adverse inferences. The position is that on the disputed factual issues there is extensive witness evidence from the witnesses for the claimants. As summarised above, subject only to a few exceptions, I consider that evidence to be reliable and supported by the documentary material before the court. There is, by contrast, no witness evidence from Elena, Olga or Alexander to support their case, save on the issue of the whereabouts of the 2015 Will.

59. Olga contended that the lack of witness evidence on their side did not undermine their case, because the position that she and Alexander advanced could be established on the basis of the material already in the trial bundle. For the reasons set out in more detail below, I do not accept that contention: the contemporaneous material overwhelmingly corroborates the claimants' case, and the submissions of Olga and Alexander on key points are inherently improbable in the light of the evidence as a whole. My findings can, therefore, be made simply on the basis of an assessment of the material before me.

The anonymity orders in respect of the minor children

60. Anonymity orders and directions in respect of the minor children (AB, BC and CD) were made on 7 March 2023, 25 April 2023, 15 May 2023 and 13 July 2023. At the pre-trial review on 26 July 2023 an order was made maintaining the anonymity of the minor children for the purposes of the pre-trial review and the trial documents. Those children have been named in earlier documents in these proceedings, and in proceedings in other jurisdictions. It was nevertheless considered appropriate to make the order in order to protect the children from interference with their Article 8 ECHR rights and welfare. As was the case in *JSC Bank v Pugachev* [2017] EWHC 1767 (Ch) (where reporting restrictions were imposed), the value lies in protecting the children from publicity accompanying material which is more readily available in this jurisdiction in the context of the trial.

61. Previous cases have considered the necessity of anonymity orders in the context of minor beneficiaries of trust funds (*V v T* [2014] EWHC 3432 (Ch) and *MN v OP* [2019] EWCA

Civ 679). Although the present case concerns the interests of the minor children (and others) in Vladimir's very large estate, the orders were not sought on that basis. Rather, they were sought (and made) on the basis of the very acrimonious nature of the litigation, and the tragic nature of the underlying facts concerning the circumstances of Vladimir's death. Absent such an order, there would be an increased risk of the children being exposed in an uncontrolled way (through their peer groups at school or elsewhere) to commentary in the press concerning the facts of Vladimir's death and the subsequent family dispute, giving rise to additional trauma to that which they have already undoubtedly suffered from the untimely death of their father. That risk was, in the event, highlighted by the significant press coverage of this case in the first days of the trial.

62. The order made at the pre-trial review did not, however, cover the terms of this judgment: the claimants did not pre-emptively seek orders extending to the present judgment, but proposed that this should be dealt with on hand-down of the judgment. It is therefore necessary to consider whether to maintain anonymity at this stage.

63. Following circulation of the draft judgment, the claimants and CD both submitted that the anonymity order should continue to cover this judgment, for the same reasons as set out above. I note that, perhaps inevitably, various of the witnesses referred to the children's names in their evidence at the trial. That does not, however, undermine the grounds for continued anonymisation of the children's names, to avoid easily accessible access to details which would risk considerable damage to their welfare. Olga and Alexander's claim that the press publicity of the trial was courted by Brigita is not supported by any evidence, and in any event does not address the paramount concern at issue which is the interests of the children. I am, moreover, satisfied that there is no public interest in the publication of the names of the children, in circumstances where the names of the principal parties to the proceedings are and will remain public information. The anonymisation of the names of the children therefore strikes an appropriate balance between their rights under Article 8 ECHR and the rights of the public and press to know about court proceedings, protected by Article 10 ECHR (see on this point comments at §20 of *XXX v Camden London Borough Council* [2020] EWCA Civ 1468). I will therefore continue the anonymity order for the purposes of this judgment and the hearing of any consequential issues.

The privacy orders in respect of the Swiss investigation

64. A privacy order in relation to the Swiss criminal investigation was first made by Deputy Master Teverson on 4 November 2021, on the application of the claimants. There were two reasons for the application. The first was the concern that disclosure of the negotiations with the person or persons holding the 2015 Will, and the Swiss investigation of the extortion attempt, could compromise the criminal investigation and the efforts to obtain the original of the 2015 Will. For that reason, the Swiss authorities insisted that the existence of their investigation should remain confidential, in order not to jeopardise their ongoing investigation. The second was a concern by Brigita for her and her family's physical safety if the person holding the 2015 Will were to become aware that the existence of the negotiations had been disclosed to this court.

65. Further privacy orders were made concerning the Swiss investigation and its subject matter on 9 February 2022 (in relation to the hearing of the CMC), 7 July 2023 (in relation to the hearing of that date) and 26 July 2023 (in relation to the pre-trial review and the subsequent trial).

66. By the start of the trial, however, the Swiss public prosecutor had confirmed that he no longer sought confidentiality in relation to the fact of the Swiss investigation. On that basis, at the outset of the trial, the claimants asked the court to revoke the privacy order made in that regard. Olga opposed that request but without giving any reasons. Alexander was neutral as to the request. Given the fundamental principle of open justice, embodied in the general rule in CPR r. 39.2(1) that hearings should be held in public, and the absence of any reason to continue the privacy order in respect of the Swiss investigation, I ordered that the privacy order relating to the trial should be revoked in that regard.

The anonymisation of Mr K

67. As a final matter, given the conclusions that I reach below as to the involvement of Olga and Alexander in the suppression of the 2015 Will, I consider that it is appropriate to make an order pursuant to CPR r. 39.2(4), anonymising a particular Swiss lawyer who has been accused by Olga and Alexander of being the person most likely to have obtained the will and to have used it to attempt to extort money from Brigita. For the reasons set out below, I consider this very serious allegation to be utterly fanciful and without any support whatsoever in the evidence before me. The nature of the allegation and the way in which it has been pursued at trial does, however, raise the question of the extent to which that individual should be identified in the judgment.

68. The principle of open justice applies not only to the hearing of court proceedings, but also to judgments given in public proceedings. It is entirely commonplace for a judgment to refer incidentally to individuals who are not parties to the proceedings and have not been called as witnesses, and this judgment does so. There is no general rule protecting the identity of such persons from disclosure in a judgment. On the contrary, the exception to the principle of open justice set out in CPR r. 39.2(4) applies only if the court considers non-disclosure to be necessary to secure the proper administration of justice and in order to protect the interests of the person in question. As Lord Sumption held in *Khuja v Times Newspapers* [2017] UKSC 49, [2019] AC 161, §14 (referring to the inherent power of the court to make non-disclosure orders), "necessity remains the touchstone" of the jurisdiction.

69. In the present case there are particular, very unusual, circumstances which make it necessary for the person who I will henceforth refer to as Mr K to be anonymised in this judgment. First, the allegation made against him of suppression of a will and attempted extortion is a very serious one, with the attempted extortion being the subject of an ongoing criminal investigation in Switzerland. In her closing submissions, Olga sought to say that she was not accusing Mr K of anything but "just making a connection". I do not accept that characterisation of the position that she had adopted during the trial. As set out in more detail below, Olga and Alexander's position during the trial was quite clearly that they considered Mr K to be behind the extortion attempt.

70. Secondly, that allegation was not ever pleaded by Elena, Olga or Alexander, nor referred to in any of their witness statements concerning this issue, nor was it referred to in Olga and Alexander's written submissions at the start of the trial. The first time it emerged was in Olga's cross-examination of Brigita on the fourth day of the trial, when it was put to her that Mr K was behind the extortion attempt, either on his own or together with Brigita. That allegation was then put to Mr Masmejan (and Mr K's role and involvement with Vladimir was also discussed with other witnesses) before featuring prominently in Olga and Alexander's written and oral closing submissions.

71. Thirdly, the lateness of the allegation meant that Mr K had no notice of it and was therefore unable to respond to it at the trial. Had it been pleaded, the claimants might well have sought to contact him to invite him to provide witness evidence for the trial. As matters stood, by the time the allegation was made the claimants were not in contact with Mr K, and he was therefore deprived of any opportunity to explain to the court the circumstances of his involvement with Vladimir, and the matters on which Olga and Alexander sought to rely.

72. I bear in mind that Mr K's name has been referred to in open court. There is, however, a material difference between references to an individual in the course of a trial, and reference to that person in a public judgment given at the end of the trial. Moreover, irrespective of the findings that I have made, the fact that such serious allegations have been made against Mr K, a Swiss lawyer with many years of experience, create the potential for considerable reputational damage. Having regard to all of these factors, I consider that anonymity is necessary for the proper administration of justice and to protect Mr K's interests.

73. In her closing submissions Olga contended that if Mr K was anonymised, then she and Alexander should also be anonymised, along with Ms Avdoyan. I do not accept that contention. Olga and Alexander are parties to proceedings which they have chosen to defend. They have had a full opportunity to contest the claims, by filing evidence (if they wished to do so) and making submissions. The fact that they dispute the claims is not a reason for non-disclosure of their identity. As regards Ms Avdoyan, Olga and Alexander have been aware since October 2021 that she was named as the person holding the 2015 Will, and Olga confirmed that she had discussed the allegations with Ms Avdoyan (either in late 2021 as she suggested in cross-examination, or at some later point as she said in her fourth witness statement). Ms Avdoyan was therefore on notice of what was being said about her involvement, and could have attended the trial to provide evidence of her position if she so wished. Her position is therefore different to that of Mr K, who was never given any notice of the allegations that were to be made about him at the trial, was not contacted by any of the parties (so far as the court is aware) during the course of the trial, and therefore had no opportunity to explain his position.

Factual background

Preliminary comments

74. The factual background is of considerable importance to the issues in these proceedings, and therefore needs to be set out in some detail. As explained above, save for the issue of the existence of the 2015 Will, my findings are based on the evidence given by Brigita and the witnesses for the claimants, together with the documentary material before the court. Where the claimants' account was disputed by Olga and Alexander, I will make findings based on the totality of the material before me. As regards the 2015 Will, the following narrative sets out the key events in the timeline, but my specific findings are addressed further below.

Vladimir's marriage to Elena and the 1990/1 Russian divorce

75. Vladimir was born on the island of Sakhalin in Russia. Initially, he worked for a fishing business in Sakhalin. After moving the headquarters of that business to Singapore, it appears that Vladimir started to invest in other businesses in Singapore. At some point

during this period Vladimir met Elena, and Olga was born in July 1989. A few weeks after Olga's birth, Vladimir and Elena were married in Russia. Vladimir had been previously married but did not have any children with his first wife.

76. The evidence before the court includes a copy of a Russian register entry dated 30 April 1991 recording the dissolution of Vladimir and Elena's marriage, listing as the grounds for dissolution a decision of the Shkotovskiy court of Primorsky Krai dated 23 October 1990. The register entry states that duplicate or copy certificates of the divorce were issued in 2008, 2015 and 2018, and the materials before me include the 2008 reissued certificate as well as a stamped copy of the register issued after Vladimir's death, in November 2019. The 1990 judgment states that the reason for the divorce was Vladimir's infidelity, and that Elena consented to the dissolution of the marriage.

77. Elena, Olga and Alexander dispute that Vladimir and Elena did in fact divorce in 1990/1, and contend that they did not get divorced until the Belgian divorce in 2016 which is described further below. Olga and Alexander could not, however, explain the numerous documents confirming the earlier Russian divorce, save to claim that they were fakes. It is, however, inherently improbable that the numerous different documents confirming the 1991 divorce would all be forgeries. The fact that Vladimir had been divorced long before the Belgian divorce in 2016 was, moreover, corroborated by the evidence of numerous witnesses, as well as contemporaneous documentary evidence. Even leaving aside Brigita's evidence that Vladimir introduced himself to her as being divorced:

    i) Ms Komissarova, who was Vladimir's personal assistant in Russia from 2006, and also represented Elena for various transactions in Russia, said that she had direct discussions confirming that they were divorced, and also saw the divorce certificate on multiple occasions. Those included, in particular, an occasion in 2015 when Elena asked her to obtain a duplicate of the 1991 divorce certificate from the relevant Russian registry office, giving her a power of attorney for that purpose. The power of attorney document specifically authorised Ms Komissarova to be Elena's representative to obtain, among other things, "divorce certificates".

    ii) Ms Oreshina also said that she saw duplicates of the divorce certificate, including the duplicate issued in 2008.

    iii) In 2010 Elena made a notarised statement in connection with a Russian property transaction, stating that she was not married. Ms Komissarova said in her evidence that she saw that notarised statement when she was assisting with collecting documents for that transaction. Ms Oreshina also said that she saw that statement in 2011.

    iv) Mr Hofmann, who was not called for cross-examination, said that he had met Vladimir in 2009 and remained friends with him thereafter, and that Vladimir had told him "early in our relationship" that he was divorced from Elena.

    v) Ms Orlova said that she had first met Vladimir in spring 2011 in Moscow, and that in around 2012 (when she was still in Moscow) Vladimir had told her that he was divorced, but that he and Elena had applied for Belgian citizenship as a married couple.

vi) In 2015 Vladimir's personal assistant in London sought advice from Vladimir's immigration lawyers in relation to the situation of an unnamed couple, which cannot have been anything other than a reference to Vladimir and Elena: see §92 below. That request referred to a divorce in Russia "about 15 yrs ago".

78. I consider in the light of that evidence that Vladimir and Elena were indeed divorced in Russia in 1990/1.

Scherbakov family moves to Singapore, Greece and Belgium

79. Notwithstanding Vladimir and Elena's divorce, it is common ground that in or around 1993/94 the family moved to Singapore together, where Alexander was born in 1998. The following year the family moved to Greece, having acquired Greek citizenship in 1997/8. The Greek citizenship of Vladimir, Elena and Olga was then revoked in 2001, on the grounds that the documents on the basis of which their citizenship was granted were forged. Thereafter the family moved to Belgium, registering as residents there in 2004. Appeals against the Greek citizenship revocation decisions were dismissed by the Greek Council of State in 2011.

80. Vladimir and Elena registered as residents of Tervuren, a suburb on the outskirts of Brussels, in 2005. Olga and Alexander claimed that Vladimir intended the move to Belgium to be permanent. Brigita's evidence was, however, that Vladimir had told her that they were forced to leave Greece at very short notice, and that Belgium was the first place that accepted them. There is no evidence that Vladimir had any particular ties to Belgium. Brigita's unchallenged evidence was that he never learned French, Flemish or German. It is also common ground that Vladimir's main business interests in the early 2000s remained in Russia and Singapore, and that he spent most of his time travelling there and elsewhere in the world, including Switzerland. His main commercial activity in Belgium appears to have been property development, including the acquisition of the castle Kasteel Ter Meeren which he intended to renovate. Alexander's own submission, in closing submissions, was that Vladimir was "biding his time" in order to obtain Belgian citizenship.

81. In October 2007, Vladimir, Elena and Olga finally obtained Belgian citizenship, on the basis of claims that they were of Greek nationality and had established their principal place of residence in Belgium for at least seven years (both of which claims were manifestly false). It also appears that Vladimir and Elena told Belgian authorities that they were married.

82. Once Vladimir had obtained Belgian citizenship, in Alexander's words, he "must have felt his freedom was now secure" and no longer needed to present himself as being resident in Belgium. It is no longer disputed that by some point in 2008 Vladimir had moved to Switzerland, where he obtained an "*authorisation de sejour sans activité lucrative*". By contrast with Olga and Alexander's pleaded case which denied that Vladimir was living in Switzerland in 2009 or thereafter, and claimed that he remained resident in Belgium, Alexander's oral closing submissions expressly asserted that Vladimir "was enamoured by Switzerland" and that he "went on to disregard his family completely and moved to Switzerland in late 2008." Vladimir went on to acquire a succession of properties in Switzerland, including a flat in Hermance, Geneva and then a house in Cologny, Geneva.

83. There is some suggestion in the evidence that Vladimir was in fact separated from Elena before 2008: in an email to his Swiss lawyers in April 2015, he said that he and Elena had lived separately for "more than 8 years", which would date their separation to some time in 2007.

Vladimir's relationship with Brigita

84. Brigita had since 2001 worked for high-end watch and jewellery businesses in Switzerland and Russia, establishing her own company in 2007. She had been married for around three years between 2001–2004, with that marriage ending in divorce. She later had a relationship with the father of BC. In the summer of 2009, when she was pregnant with BC, she met Vladimir at a dinner organised by the CEO of Delaneau, which was one of Brigita's clients. Vladimir attended the dinner with Olga and his Swiss lawyer, Mr K. The following day Brigita met Vladimir and Olga at the offices of Delaneau. A few weeks later Vladimir acquired Delaneau, and Brigita was invited to join the company as its commercial director.

85. Brigita's evidence was that from early in her professional relationship with Vladimir he had introduced himself as divorced, living alone in Cologny, and had said that he supported his ex-wife who lived in Belgium. In a 2009 declaration to the Swiss tax authority Vladimir said that he was separated from his wife, who was independent and domiciled in Belgium. By the time of BC's birth in October 2009 Brigita's relationship with BC's father had ended, and in late 2010 Vladimir and Brigita became a couple. Around this time, it appears that Vladimir was still travelling extensively, including regular visits to Russia and Singapore. Increasingly, however, Vladimir and Brigita stayed in London, where Vladimir had bought a flat in Pont Street in 2007. Brigita started to use Pont Street as her London base in 2011.

86. In 2012 Brigita and BC moved into Vladimir's house in Hermance, Switzerland. Vladimir by all accounts treated BC as his son, and BC regarded Vladimir as his father. Alexander continued to visit Vladimir and went on holiday with Vladimir, Brigita and BC. Brigita's evidence (not disputed by Alexander) was that she had a very good relationship with Alexander at that time. Vladimir had, however, become estranged from Olga, and (until Vladimir's death) the only time that Brigita had met Olga was at the Delaneau dinner when she first met Vladimir, and the meeting at the offices of Delaneau the following day. The evidence of Ms Junaid, Brigita's personal assistant, was that Vladimir had told her that Elena and Olga "only wanted money from him, and that was the only reason they ever contacted him".

Vladimir and Brigita's move to England

87. Brigita's evidence was that by the end of 2012, she and Vladimir had decided to move to England and raise their family there. Brigita applied for a nursery place for BC in London, giving their address as Pont Street and listing Vladimir as BC's father. In February 2013 Vladimir bought Granville House in Surrey as well as another nearby property, Summer Haze, which was the former home of The Beatles' drummer Ringo Starr. Vladimir and Brigita started to refurbish Granville House, living in London while the refurbishment was underway. Vladimir, Brigita and BC moved into Granville House in August 2013, and BC started nursery at a nearby school.

88. Brigita said that from that point England was their home and they had no intention of leaving. Her evidence was that Vladimir expressed an intention of investing further in properties in England, and suggested that he might eventually give up his business endeavours elsewhere. He set up an office in Belgrave Square, close to the Pont Street flat, and started to make significant investments in properties in England.

89. In 2013 Brigita became pregnant with AB, who was born in January 2014. The family went on holiday together several times during the course of 2014, and spent Christmas and New Year 2014/15 in their Swiss chalet, where they were joined by Alexander. Alexander returned to spend a holiday with Vladimir, Brigita and their children in February 2015. Later in the year, however, Alexander stopped visiting Vladimir and told Vladimir that he no longer wanted anything to do with him.

90. Olga and Alexander claim that Vladimir and Elena's marriage broke down only in June 2014 as a result of Elena finding out about Vladimir's relationship with Brigita. The claimants' evidence acknowledged that Vladimir and Elena had a major argument in or around the spring of 2014, after AB was born. Ms Mohamed said that Brigita had told her that Elena had tried to convince Vladimir to leave Brigita and return to her with AB, which Vladimir had refused to do. Brigita also gave an account of a major argument between Vladimir and Elena around this time. None of the evidence before me, however, suggests that Vladimir and Elena were living as a couple until 2014. On the contrary, as set out above, contemporaneous documents filed by both Vladimir and Elena long before that date stated that they were separated. That position was corroborated by numerous witnesses from outside the family. Brigita's evidence (which I have found to be reliable) was that she and Vladimir had been openly living as a couple since 2010.

91. In June 2015 Vladimir proposed to Brigita, and the following month they attended an initial appointment at Kensington and Chelsea Register Office. That required them to provide various documents, including any divorce or marriage dissolution documents. Brigita provided documentation from her divorce, and Vladimir provided the certificate of his 1991 divorce from Elena. They set a date for their wedding on 7 September 2015, and booked a venue in London. Brigita then discovered that she was pregnant with CD.

92. Shortly before the wedding date, however, Vladimir had concerns over the status of his divorce from Elena. Vladimir decided, therefore, to apply for a further formal "divorce" from Elena in Belgium, and the wedding was postponed until this could be resolved. On 17 August 2015 Maria Kazlovskaya, Vladimir's personal assistant at his Belgrave Square office, sent an email to his immigration lawyer in London asking this:

> "[I] have a couple that seek advice of Belgium lawyers with regard to their situation which is [as] follows: they have been married for many years in Russia and then got divorced about 15 yrs ago (she is Kazakh and he is Russian). Then they immigrated to Belgium and used their old marriage certificate there without letting the authorities know that it is no longer valid and they are in fact divorced. Now they are going through an official divorce procedure in Belgium and the question is: if divorce certificate from Russian will be presented to the authorities, is there any fine/punishment to follow?
>
> [P]lease forward to me [the response] from Belgium lawyer/solicitor with [regard] to this case".

93. That must, clearly, have been a request sent on behalf of Vladimir, seeking advice in relation to his attempt to formalise, in Belgium, his divorce to Elena prior to his marriage to Brigita. On 13 January 2016 Vladimir and Elena filed a petition for divorce by mutual consent in Belgium, and their divorce was pronounced by the Brussels Family Court on 12 May 2016.

Transfers of assets to Elena, Olga and Alexander

94. In connection with the Belgian divorce proceedings, Vladimir and Elena entered into a divorce agreement dated 10 November 2015, setting out the division of various of their assets, including real estate in Belgium, France, Greece and Singapore and shares in two Belgian companies. Under the agreement, all of the properties except one apartment in Singapore were assigned to Elena. Both Vladimir and Elena were, however, to retain their shares in the Belgian companies Kasteel Ter Meeren (which held the Kasteel Ter Meeren castle) and Vasland.

95. The documents before the court also include a set of photographs of what appears to be a document on a computer screen entitled "Inventory of assets and properties of the Scherbakov family: Proposal of division following discussion between VS and ES on August 27, 2014". Some of that document is not legible in the photographs, but it is apparent that the document addressed the proposed allocation of multiple properties and bank accounts in France, Russia, Germany, Greece, Belgium, Switzerland, Italy, the UK and Singapore, including bank accounts containing sums running into many millions of US dollars in the names of all four of Vladimir, Elena, Olga and Alexander.

96. Olga disputed, in general terms, the relevance and evidential weight to be given to the photographs of this document, and it is important to emphasise that the document was on its face described as a proposal rather than a final agreement between the Scherbakov family members. Olga and Alexander did not, however, contend that any specific aspects of the proposals listed in the document were not in fact implemented. Nor did they provide any evidence to dispute any of the assets listed as being held under their names and remaining owned by them, such as balances in bank accounts in their names, save for a bare denial that the assets transferred to them included bank accounts with balances of US$16.5m (Olga) and US$17m (Alexander). The evidence before the court neither confirms nor contradicts the existence and extent of those bank balances. There are, however, other documents before the court which confirm transactions involving multi-million dollar (or pound) sums to the benefit of Olga and Alexander at periods between 2011 and 2014.

97. At the very least, therefore, it appears from the evidence before the court that very substantial wealth was transferred by Vladimir and his companies to Elena, Olga and Alexander, in the form of real estate and cash sums in bank accounts, during the period from 2011 to around 2014/15. I do not need to make (and do not make) any findings as to the precise extent of that wealth.

The 2014 and 2015 Wills

98. It is apparent that in parallel with the steps taken by Vladimir to regularise his divorce to Elena and to allocate assets to Elena and his older children, he was also considering the question of provision for Brigita and his younger children (including BC).

99. In October 2014, Vladimir had drawn up two wills in Singapore. One of those addressed his "property of every kind in Russia" only (the **2014 Russian Will**). Elena was the executor of that will, and Alexander was the sole beneficiary.

100. The other will was the 2014 Worldwide Will. It addressed all of his property other than the property in Russia. It appointed Brigita and Mr Chan as joint executors, with Alexander as a substitute executor if necessary. The dispositions under that will were more complicated:

    i) Swiss assets, including properties, solely owned by Vladimir were to be given to AB, save that one property was to be given to BC.

    ii) Where Vladimir had opened Swiss joint bank accounts with Elena (described as his wife) and Alexander, the available money in those accounts was to be given to Alexander. Likewise, available money in joint accounts with Elena and Olga was to be given to Olga.

    iii) Where Vladimir had opened Swiss joint bank accounts with Brigita, he declared that 50% of the available money in those accounts was his, and that his share was to be given to AB.

    iv) Vladimir's shares in the Belgian companies Kasteel Ter Meeren and Vasland, and all monies held in bank accounts at a particular bank in France, were to be given to Alexander.

    v) Properties in Belgium, France and Singapore owned as joint tenants with Elena were, if Vladimir survived Elena, to be given in equal shares to Olga and Alexander.

    vi) Granville House and Vladimir's 50% share of Pont Street was to be given to AB.

    vii) All money in UK joint bank accounts held with Brigita was declared the property of Brigita, with no claim from his estate on those accounts.

    viii) Vladimir's shares in the BVI company Topmax Worldwide Limited were to be split between Brigita (30%), Alexander (30%), AB (30%) and BC (10%). His shares in another BVI company Maxsure Asia Limited were to be split between Brigita (25%), Alexander (50%) and AB (25%).

    ix) Vladimir's residual estate was to be split equally between Brigita, Alexander, Olga, AB and BC.

101. Both of the 2014 wills declared that Vladimir was domiciled in England and that the wills should be construed and take effect according to English law.

102. Mr Hartwig's evidence was that he was contacted in August 2015 by Ms Kazlovskaya to ask whether he could prepare a new will for Vladimir. He met Vladimir later that month at Vladimir's Belgrave Square office. At that meeting Vladimir showed Mr Hartwig a copy of his 2014 Worldwide Will which he then proceeded to mark up with amendments. Mr Hartwig said that Vladimir appeared to him to be "very clear in his mind whom he wanted to benefit under the 2015 Will", as his handwritten amendments were made without hesitation and "came across as deliberate and carefully considered". He said that

he was no longer married to Elena, and therefore struck out the references to her being his wife. In relation to Olga and Alexander, he struck out or reduced their entitlement under the will, saying that "I dealt with that", and he explained that his concern was to provide for the children that he had with Brigita. Vladimir also mentioned the 2014 Russian Will, which he said he did not want to revoke.

103. Mr Hartwig then drew up an amended will, which was sent to Vladimir (via Ms Kazlovskaya) in August 2015. On 28 October 2015 Mr Hartwig had a further meeting at the Belgrave Square office to review the new draft will. Vladimir mentioned at that meeting that he intended to marry Brigita. Mr Hartwig therefore inserted a manuscript clause into the will referring to this, so that the marriage would not revoke the will. Vladimir also reviewed and amended (with his own manuscript amendments) the allocation percentages in the will regarding his residual estate.

104. Mr Hartwig said that he discussed the clause with the declaration of domicile (which had been unchanged from the 2014 Worldwide Will) and suggested that it should be deleted. Vladimir was, however, insistent that the clause should be retained, saying that his domicile was in England.

105. The will was then dated, and Vladimir initialled the manuscript amendment inserted by Mr Hartwig. (The will also shows that Vladimir also initialled his own manuscript amendments to the residuary allocation percentages.) He then signed the will in the presence of Mr Hartwig and an employee of Vladimir who was invited to the meeting to act as the second witness. Vladimir made a photocopy of the will which he gave to Mr Hartwig for his records, and retained the original version.

106. The 2015 Will materially changed his previous dispositions. Specifically, by contrast with the 2014 Worldwide Will:

    i) Vladimir's monies held in bank accounts in France were to be given to AB, instead of to Alexander.

    ii) As regards the BVI companies, Alexander was no longer listed as a beneficiary of Vladimir's shares in Topmax Worldwide Limited. Instead, those shares were to be split between Brigita (40%), AB (30%) and BC (30%). Maxsure was no longer referred to (having been liquidated in January 2015). Instead Vladimir provided for his shares in a further company Aquarius Intertrade Limited to be split between Brigita (40%), AB (40%) and BC (20%).

    iii) Instead of splitting Vladimir's residual estate equally between Brigita, Olga, Alexander, AB and BC, the 2015 Will split the residual estate between Brigita (30%), AB (30%), BC (30%) and Alexander (10%), with no residual share being allocated to Olga.

107. Vladimir later contacted Mr Hartwig to ask him to provide a clean draft of the 2015 Will with a view to further amendments. Mr Hartwig did so in early November 2015. Vladimir did not, however, take the matter further at the time and Mr Hartwig was not aware of any further will being executed by Vladimir.

Vladimir's move to Belgium

108. At some point in late 2014, a Russian criminal investigation was launched into Vladimir and various of his Russian companies. During the course of 2015 Vladimir became increasingly concerned about the investigation, his physical safety, and the prospect of incarceration in Russia. He started drinking heavily, despite Brigita's protestations.

109. In the middle of the night of 11/12 January 2016, Vladimir received a phone call from Mr Trapaidze, his lawyer working on the Russian criminal investigation, informing Vladimir that he had been placed on an Interpol Red Notice in an attempt to procure his extradition to Russia. The following day Vladimir and Brigita had a meeting with Vladimir's immigration lawyer in London, who suggested that Vladimir could avoid extradition by moving to Belgium.

110. Vladimir left for Brussels later that day, and initially stayed at a hotel called The Hotel. It appears that a friend of Vladimir's, Dimitry Ermakov, then helped Vladimir to find more suitable accommodation, putting Vladimir in touch with Mr Looze who was working as a concierge at the Steigenberger Wiltcher's hotel. Vladimir then moved into a room at the Steigenberger Wiltcher's hotel for one or two months, before moving to a serviced apartment within the hotel. Mr Looze saw Vladimir every day while he was in the apartment. When, as described below, Vladimir moved into rented accommodation, Mr Looze continued to visit him frequently to assist with practical issues in the houses where Vladimir was staying.

111. At some point while Vladimir was staying at the Steigenberger Wiltcher's hotel he was joined by Ms Orlova to support him. She ended up remaining with Vladimir throughout his time in Belgium, punctuated by occasional return visits by her to England to help Brigita.

112. It is apparent that Vladimir was extremely concerned about his security. Mr Looze described an incident when, on Vladimir's move to the serviced apartment, Mr Looze had left for him a basket of fruit as a welcome gift. Vladimir did not, however, eat any of the fruit, explaining that he was afraid that it might have been poisoned. He was also concerned about meeting rooms being bugged, and usually insisted on communicating with Mr Looze on Telegram for security reasons. At a later stage, Vladimir registered himself as resident at a property owned by Mr Looze rather than the address where he was in fact living, in order to make it harder for third parties to find him.

113. CD was born in London in March 2016, with Brigita's friend Ms Walther attending the birth in place of Vladimir. Brigita and Vladimir had initially thought that the Russian investigation would be resolved fairly quickly, enabling Vladimir to return to England. When this did not happen, Brigita rented a house in Knokke where the family stayed together from June to August 2016, and where CD was baptised. Brigita then rented a house for Vladimir in Tervuren. Her evidence was that she and the three children spent most of their weekends and holidays there, and she also visited at least several times a month on weekdays. Ms Barnes, who worked as a chef for Brigita, corroborated that account, saying that Brigita and the children often travelled to Belgium to spend time with Vladimir there. Mr Looze also said that Brigita and the children visited Vladimir often. Ms Mohamed, the nanny for Brigita's children during that time, described accompanying Brigita and the children on visits to Vladimir during school holidays in 2016.

114. Ms Orlova's evidence on this point appeared to go further, and at one point in her cross-examination she suggested that Brigita and the children were living with Vladimir during 2016. I bear in mind, however, that she was giving evidence through a translator, which may have caused some imprecision or ambiguity in the English version relayed to the court. Her witness statement made clear that Brigita remained resident in England when Vladimir moved to Belgium. The overall evidence establishes that Brigita and the children did indeed remain living at the family home in England, but that they frequently visited Vladimir in Belgium.

115. The claimants' witnesses corroborated Brigita's account that the enforced separation from his family was extremely painful for Vladimir. Mr Limacher said that Vladimir "felt as though he was under house arrest". Mr Looze likewise said that Vladimir had told him that he felt like he was in a prison in Belgium, and that he "desperately wanted to be reunited with Brigitte and their kids". Ms Orlova's evidence was very similar.

116. As a result of the strain on Vladimir and the whole family, Brigita started to discuss with Vladimir the possibility of moving their family temporarily to Belgium at the end of 2016, in time for the children to start new schools in Belgium in January 2017. In anticipation of that move, Brigita bought a family house in Waterloo, close to the school she had chosen for AB and BC. Brigita's plans to move to Belgium were, however, put on hold because it transpired that such a move would mean that Brigita lost her UK resident/non-domiciled status, which would increase her tax liability.

117. Olga and Alexander claimed that their (and Elena's) relationship with Vladimir improved after Vladimir moved to Belgium in 2016, and that he frequently stayed at Elena's house in Tervuren in the first half of 2016, as well as "several times" in the last months of his life. They went so far as to say that Vladimir had chosen to go to Belgium because he wanted the support of Elena, and Olga contended that she saw Vladimir when he was visiting Elena.

118. These claims portrayed a rather rosier picture of the Scherbakov family relationships than is reflected in the evidence. Some text messages have been disclosed between Vladimir and Elena, in which Elena offered to assist Vladimir when he moved to Belgium in 2016, including offering for him to live at one or other of her properties in Tervuren, or to help him find suitable alternative accommodation. Other messages from 2016 indicate that there were ongoing discussions between them regarding financial matters. The messages suggest that Vladimir and Elena continued to stay in contact by text message and telephone, but that their relationship was practical rather than affectionate (in marked contrast to the messages between Vladimir and Brigita during the same period). Nothing in the contemporaneous evidence suggests that Vladimir ever did take up Elena's invitation to stay at any of her properties in Tervuren; on the contrary, the discussions between them made clear that Vladimir was looking for alternative accommodation for himself.

119. At the most, it seems that during the first half of 2016 Vladimir might occasionally have spent weekends at one of Elena's properties in Tervuren while she was away. Brigita's evidence was that he suggested doing so in May/June 2016, during the period in which he was living at the serviced apartment at the Steigenberger Wiltcher's hotel, before Brigita rented a house in Knokke for the family. The evidence as to whether Vladimir did in fact follow through with that suggestion is, however, inconclusive. Ms Orlova, who was with Vladimir in Belgium, said that she could only recall one occasion when he

visited Elena's house (accompanied by Ms Orlova), the purpose of the visit being to discuss the transfer of Kasteel Ter Meeren to Elena.

120. Ms Orlova said that Vladimir wanted absolutely nothing to do with Elena, but that she kept asking him for more money. In her oral evidence, she went so far as to say that Elena had sent Vladimir death threats related to her demands, in the form of "threats of a plot being bought for him at a cemetery if he doesn't give up what they asked him to give up". Olga claimed that Ms Orlova was exaggerating and giving false evidence on this point. It is difficult to see how Olga would have known the content of messages passing between Vladimir and Elena which have not ever been disclosed in these proceedings, relating to a time when Olga was not living with Elena. I do not, however, need to make any specific findings as to whether Elena did make such threats. It is sufficient to find that there is no evidence of any significant reconciliation between Vladimir and Elena after Vladimir's arrival in Belgium.

121. Nor is there anything whatsoever in the evidence to suggest any reconciliation between Vladimir and Olga or Alexander during that period. By January 2016 it appears that both Olga and Alexander were living in Paris (see further §297 below). In Olga and Alexander's written closing submissions, they claimed for the first time that they were residing outside Belgium for security reasons related to the Russian criminal investigation and its consequences for the family's safety, and that a joint decision was taken by the Scherbakov family that Olga and Alexander "would reside abroad until things would calm down" because of their fears of "an imminent threat to their own lives". That was a new claim never previously advanced in these proceedings, was not supported by any evidence whatsoever, and I do not accept it. A CV for Olga, in the materials before me, indicates that she attended universities in Paris from 2007 onwards, and Alexander's oral evidence was that he moved to Paris in 2015 "to finish high school" without any mention of this being for reasons connected to the Russian investigation. It is difficult to avoid the conclusion that Olga and Alexander's claim that they had left Belgium because of security concerns was concocted for the first time towards the end of the trial, in an attempt to explain away the indications that in fact both Olga and Alexander were completely estranged from their father during the last years of his life.

122. In particular, while Olga and Alexander may well have visited Elena in Tervuren (and one of the disclosed text messages from Elena refers to a prospective visit by Olga), there is no evidence that Olga or Alexander met or even contacted Vladimir at any time during the period from his arrival in Belgium on 12 January 2016 until Vladimir's death. The consistent account of the claimants' witnesses is that Vladimir did not see his older children during this period. Ms Orlova's evidence was that none of Elena, Olga or Alexander ever visited him while he was in Belgium. Mr Limacher, who visited Vladimir on several occasions at the Tervuren house, said that Vladimir had commented that Olga and Alexander never visited or called him, despite the fact that he lived only a few kilometres away from Elena. Mr Looze, who saw Vladimir very frequently throughout the time that he lived in Belgium, said that Vladimir had told him that he and Elena did not have a good relationship, and that he also did not have a relationship with his children from his previous marriage, who he had not seen for several years.

123. None of the disclosed text messages between Vladimir and his family members provide any evidence of any communications between Vladimir and either Olga or Alexander during that period. The last messages passing between Vladimir and either of his older children, as far as appears in the materials before me, were two text messages from

Vladimir to Alexander disclosed by Alexander from his mobile phone, reading "Hope you, Olga and her son OK Last night, Dad" (on 14 November 2015) and "Happy birthday" (on 6 January 2016) respectively. The disclosed document does not show any response sent by Alexander to either of those messages.

The 2016 draft will

124. Mr Koller said that he met Brigita and Vladimir in Knokke in July 2016, at Brigita's invitation. During that meeting, he discussed how Vladimir could protect Brigita and their children in the event that something happened to Vladimir as a result of the Russian investigation. Subsequently, on 24 September 2016, Mr Koller met Vladimir alone at the house in Tervuren, when he had a further discussion regarding Vladimir's will.

125. On that occasion, Vladimir said that his residual estate should be distributed equally between AB and CD. His express instructions were that Olga and Alexander should not be beneficiaries under the new draft will, because "they had already received their entitlement". Vladimir did not mention the existence of any previous will.

126. Mr Koller prepared a preliminary draft which he sent to Vladimir on 6 October 2016. Following Vladimir's instructions, Brigita was named as Vladimir's executor, and the residual estate was stated to be split equally between AB and CD. In relation to Olga and Alexander, the draft stated:

> "My two children from my divorced wife … shall not receive any of my estate. They did not stay in touch with me. They both received already enough assets and real estate from me during life time as advancement of inheritance."

127. The draft contained placeholders for specific legacies, as well as various comments and questions inserted by Mr Koller. Vladimir did not, however, progress the draft further with Mr Koller at their subsequent meetings.

Events leading to Vladimir's death

128. Vladimir's alcoholism and depression grew worse during 2016. By November 2016 Mr Hofmann's evidence was that Vladimir had become afraid that his mobile phone was bugged. Brigita was evidently extremely concerned, and sought to ensure that Vladimir was never alone. In addition to Ms Orlova, who continued to live with Vladimir, Brigita employed two housekeepers, who were between them supposed to be at the house each day. She organised alcohol addiction rehabilitation treatment for Vladimir, and also started seeing a therapist herself as a result of the strain which she was under. Her evidence was that although she loved Vladimir she was, with the encouragement of her therapist, no longer willing or able to ignore his controlling and narcissistic behaviour.

129. Following an initial improvement Vladimir decided to stop treatment in early 2017. In spring 2017, however, Vladimir relapsed. Ms Orlova in her evidence had tended to downplay Vladimir's alcohol problems in 2016, but she acknowledged that by around March 2017 he had lost control. Although Vladimir moved into the Waterloo house in April 2017, and Brigita appears to have helped him with that move, Brigita became frustrated and exhausted with her attempts to support him, and she and the children visited him less frequently after that point. She maintained, however, that she and her

children continued to talk to Vladimir regularly in telephone and video calls. Ms Mohamed also said, in her witness statement, that Brigita was speaking to Vladimir on the phone every day during that period, and that Brigita and Vladimir were "constantly in contact" by phone and messages, including photos and videos of the children.

130. In around April 2017 Vladimir was told that the Russian investigation was being dropped. Initially, according to Brigita, Vladimir was very happy about this, and Brigita booked a family holiday in Sardinia for July that year. Ms Junaid also said in her witness statement that Brigita had told her in around April that Vladimir was optimistic that his case would be closed and that he could not wait to be back in the UK with the family. The evidence of Mr Trapaidze, Vladimir's lawyer dealing with the Russian investigation, was that as a cautious man and experienced businessman, Vladimir was aware that he would need to wait for the case to be formally closed before he was removed from the Interpol list and would be able to travel again.

131. Brigita then visited Vladimir on 16 May 2017, without the children. Ms Orlova said that Brigita and Vladimir had a long discussion about how they would cope with the situation, and that her visit helped Vladimir for a short period. Text messages between Vladimir and Brigita immediately after Brigita left indicate that they both felt more optimistic about their situation. These messages are also inconsistent with Olga and Alexander's claim (which I discuss further below) that Vladimir and Brigita had separated by around Easter of that year:

> "[Brigita]: Thanks for today it was nice to talk together and we will get there together all will be fine xx
>
> [Vladimir]: Thanks for your optimism and support
> Cx
>
> [Brigita]: I will sign once I know your opinion and really happy to see you today take good care and will do everything I can and always keep you posted xxx"

132. Soon after Brigita left, however, it appears that Vladimir began drinking again. By the time of Brigita's next visit on 1 June 2017, Vladimir had significantly deteriorated. According to Brigita, he said that he did not believe the report that the investigation would be closed, and that various people had offered to get it closed but only in exchange for money or other services. Brigita described him as increasingly confused and tired. Her evidence was that she and Vladimir nevertheless continued to love each other and that she was heartbroken at his despair.

133. Brigita's account of her visit on 1 June 2017 was corroborated by the evidence of Ms Walther, who accompanied Brigita on that visit. Ms Walther said that by that stage Vladimir's alcohol addiction had taken over, and "Vladimir was not Vladimir anymore". Brigita was, according to Ms Walther, feeling very drained and under a lot of strain. She said that there was, however, "still a physical closeness" between Brigita and Vladimir, and that they were holding hands and "were still together as a couple as far as I could see".

134. The description given by Brigita and Ms Walther of Vladimir's mental state prior to his death was consistent with the evidence of Mr Looze, who said that in the period

approaching his death Vladimir "seemed to be barely a person" and it became difficult to have a normal conversation with him. According to Mr Looze, Brigita was trying to take care of Vladimir, but he continued to be stressed about the situation in Russia. On one occasion Vladimir asked Mr Looze to get medication for him that could only be obtained on prescription; Mr Looze refused. Vladimir's continued paranoia was evidenced by a text message sent to Brigita on 3 June 2017 saying "Hope you ok. Pls instal telegram on both phone. It easy to chat and encrypted calls".

135. Brigita last spoke to Vladimir on 8 June 2017, on a day when Vladimir had been visited by his Swiss lawyer, Mr K. Brigita said that Vladimir sounded very distressed. She tried to call Vladimir again on the evening of 8 June and morning of 9 June, but Vladimir did not pick up. Ms Orlova was away on holiday in Russia at the time (and had apparently been away since sometime in May); one of the two housekeepers was also away on holiday; and Brigita discovered that Vladimir had given the other housekeeper the day off. He had, therefore, been alone in the house since the departure of his lawyer on 8 June.

136. In the morning of 10 June 2017 Vladimir was found dead at the Waterloo house. Brigita was informed by the Belgian police, and immediately flew to Brussels with a friend to identify his body.

137. The formal order terminating the investigation against Vladimir was published by the Russian Interior Ministry on 23 June 2017.

Police reports following Vladimir's death

138. Brigita was interviewed by the Belgian police on 10 June 2017. She explained the history of Vladimir's alcoholism and the treatment he had been having for that. In relation to the period from early 2017, when Vladimir had decided to stop treatment, she said:

> "At that time, I told [Vladimir] that I accepted his decision but that if he started drinking again, I could no longer do anything for him and I could no longer help him. After that, he went through periods when he would drink, and periods when he would stay sober. He could not cope, he did not want to speak to me, and so I put a bit of pressure on him by saying I could no longer live like that. But he didn't want to know. He emotionally blackmailed and manipulated me constantly. He only cared about himself, he did not care about the rest of the family.
>
> At Easter we had a huge argument on that subject and I told him that I could not go on like this. He could see his children but I could not continue like that, and that I had made the decision to look after myself and the children. I lost a lot of weight over this situation and I no longer had the strength to help him.
>
> I came back to see him a week ago and he was really not doing well, he was really bad. I showed him videos of the children to try to make him react, but it didn't work. During my stay here, he told me that he had lost the will to live.

> I went back to England to be with the children but I stayed in telephone contact with him. I did not hear anything from him after Thursday. … He never replied to me. I spoke with him for the last time on 08/06/2017 at 13:24 for a few minutes. I called the same evening at around 23:23, but there was no response. I tried again several times on Friday, but got no response. The last time I tried on Friday was at 21:51, and there was still no response."

139. Brigita also called Elena on 10 June 2017 to tell her about Vladimir's death and to offer her condolences to Elena, Olga and Alexander. Brigita's account of the call was that Elena responded with a tirade of accusations and personal attacks on her.

140. On 12 and 13 June 2017 Elena, Olga and Alexander attended the Belgian police, and Olga made statements in which she claimed that Vladimir and Elena had only got divorced in 2016, and that the cause of their divorce was Vladimir's "extramarital affair" with Brigita. She claimed, however, that Vladimir and Brigita had never lived together and were in the process of separating. She referred to the telephone call between Brigita and Elena, claiming that Brigita "constantly apologised, said that she did not know my father had a wife and child". Olga also said that she had discovered that Vladimir had made a will in 2014 which bequeathed to Brigita and her children almost all of his property assets, and she suggested that Vladimir had been murdered, "probably" by Brigita or parties associated with her.

141. For the purposes of these proceedings nothing turns on the cause of Vladimir's death. I should nevertheless record that the claim that Vladimir was murdered was repeated by Olga and Alexander at numerous points in the trial, with Alexander also suggesting that Brigita was in some way involved. Brigita has, however, not ever been questioned as being a suspect in Vladimir's murder, and the autopsy determined the probable cause of his death as being suicide. Indeed, Olga and Alexander specifically pleaded in their defence and counterclaim that the most likely explanation for Vladimir's death was suicide. It was, therefore, inappropriate and unhelpful for Olga and Alexander to make the accusations which they did during the trial. They must, moreover, have been aware how deeply distressing it would be to Brigita for allegations of that nature to be aired in court.

142. I also note that Olga's other claims regarding Vladimir's relationship with Brigita were manifestly inaccurate, as Olga must have well known. Brigita could not possibly have told Elena that she did not know that Vladimir had a wife and child, given the evidence from not only Brigita but numerous other witnesses that it was well known that Elena was Vladimir's ex-wife, and given the fact (again corroborated by numerous witnesses) that Alexander went on holiday with Vladimir and Brigita on multiple occasions up to and including February 2015, and that Brigita had a very good relationship with him at that time. Elena, Olga and Alexander must also have all known, not least from Alexander's visits to Vladimir and Brigita, that far from being an "extramarital affair", Vladimir and Brigita were living together as a couple and had children together. Indeed, as set out at §90 above, Ms Mohamed's account was that the birth of AB led to a major row between Vladimir and Elena in which Vladimir refused to abandon Brigita to return to Elena. Olga's evidence to the police was indicative of her hostility towards Brigita and her denial of the extent of Vladimir's relationship with Brigita – a position that has been maintained in these proceedings.

143. On 4 July 2017 Brigita had a further meeting with the Belgian police, in the presence of her Belgian lawyer Philippe Maes, in which she said that she and Vladimir were "going through some difficulties but we had not broken up", and informed the police that her current relationship with Vladimir's ex-wife and children was not very good**.**

144. On the morning of the first day of closing submissions in the trial, I was sent by Olga and Alexander a copy of a further Belgian police report dated 12 July 2017, which recorded a telephone call to the police from an individual who claimed to be the chauffeur of Vladimir's friend Mr Ermakov. Mr Ermakov apparently wanted to meet the police to make a statement saying (among other things) that he believed Vladimir to have made a recent will which excluded Brigita from his inheritance, but that the will had disappeared. According to the police report, a meeting was then arranged but was subsequently cancelled by the chauffeur. Olga submitted that this report was crucial to their whole case since it demonstrated that there was a new will, for which a search should be made.

145. I did not consider it appropriate to introduce this document into evidence at the late stage at which it was produced. The report was not included in the trial bundle (which was settled at a time when Fieldfisher were still acting for Olga and Alexander), was not referred to in Olga and Alexander's opening submissions, was not put to any of the claimants' witnesses, and was not the subject of any witness evidence from Olga and Alexander. Nor did Olga and Alexander ever plead that Vladimir made a new will which excluded Brigita from inheritance under his estate. Their position has always been that Vladimir died intestate, and that his worldwide estate therefore falls to be distributed under the relevant rules on intestacy. It is far too late to seek, now, to advance an entirely new case that a new will was made which supersedes the 2015 Will, particularly on the basis of evidence that consists of no more than a police report of someone claiming to pass on information from a third party.

Belgian proceedings following Vladimir's death

146. In the immediate aftermath of Vladimir's death, there was a dispute as to who should be responsible for arranging Vladimir's burial. Brigita sought the release of Vladimir's body to her, with the intention of having it cremated and the ashes interred in England, Switzerland or Belgium. Elena, Olga and Alexander sought to have Vladimir buried in Russia according to the orthodox tradition.

147. This led to proceedings before the Justice of the Peace of the canton of Braine-l'Alleud, in which Olga and Alexander disputed Brigita's account of her relationship with Vladimir, and said that until September 2014 Vladimir had remained living with Elena in Tervuren, and that he had stayed only briefly in England thereafter before returning to Belgium as his primary domicile in January 2016. They contended that Brigita and Vladimir were effectively separated by the time Vladimir died. On 18 September 2017 the court handed down a judgment in which it found that Brigita's evidence (including witness statements from Ms Mohamed and Ms Barnes) was not sufficient to prove that she was the companion of the deceased in the months preceding his death such that she had a priority right in relation to the choice of burial method. The court therefore authorised Olga and Alexander to proceed with the burial of Vladimir in Russia. The Court of First Instance of Brabant Wallon dismissed Brigita's appeal on 28 April 2021. Brigita's appeal to the Belgian Court of Cassation was also dismissed on 28 June 2022.

148. Meanwhile in August 2017 Olga and Alexander obtained a European Certificate of Succession in Belgium, in respect of Vladimir's estate, claiming that Vladimir had died intestate and with only Olga and Alexander as his heirs. That certificate was withdrawn by the Brussels Family Court, on the application of Brigita (the **ECS proceedings**). Olga and Alexander's appeal against that decision was stayed in October 2019 pending the resolution of the Belgian administration claim referred to in the next paragraph.

149. In May 2018 Olga and Alexander applied to the Belgian courts seeking the appointment of an administrator of Vladimir's estate (the **Belgian administration claim**). Brigita challenged the jurisdiction of the Belgian courts, contending that the High Court was first seised of the domicile issue in the present proceedings. On 2 July 2019 the Brabant Wallon Family Court rejected the jurisdiction challenge, determined that Vladimir was (on the date of his death) habitually resident in Belgium as a matter of Belgian law, and transferred the proceedings to the Brussels Family Court to be joined with the ECS proceedings. That decision, in so far as it concerned Vladimir's habitual residence under Belgian law, was upheld by the Brussels Court of Appeal on 6 October 2022; Brigita has filed an appeal with the Belgian Court of Cassation, which is pending.

150. Given the potential for conflict between the Belgian administration claim and the present proceedings, the claimants threatened to bring an anti-suit injunction in relation to the Belgian claim. They agreed not to proceed with that on the basis of an agreement between the parties that the Belgian administration claim would be stayed in so far as it related to the 2015 Will, and that neither side would rely on the findings of the Belgian courts in the Belgian administration claim as binding the English court, whether by issue estoppel or otherwise.

151. In 2020 Elena brought a claim in Belgium against Brigita and Vladimir's estate in respect of assets said to have been omitted from the 2016 Belgian divorce settlement, and seeking the annulment of various donations made by Vladimir during his lifetime. That claim remains pending in the Belgian courts.

Other proceedings following Vladimir's death

152. In 2017 Elena brought a claim before the Kuntsevsky District Court, Moscow, against Brigita and Mr K, seeking to set aside two sale and purchase agreements which had been concluded in May 2015 in relation to various Moscow properties. The claim was dismissed, and Elena's appeals (to the Moscow City Court, the Russian Second Court of Cassation and the Russian Supreme Court) were refused.

153. Elena brought a further claim against Brigita before the Presnensky District Court, Moscow in 2020, for repayment of a purported debt pursuant to an alleged 2016 loan agreement. The court found that the loan agreement on which Elena relied contained a forgery of Brigita's signature. The claim was dismissed in full on appeal by the Moscow City Court, and an appeal to the Second Court of Cassation was also dismissed.

154. In 2018 Elena brought a claim in the Koptevsky District Court, Moscow, seeking to set aside Vladimir's 2015 transfer of shares in Omega Holding LLC to Ms Oreshina, relying on a purported "marriage contract" between her and Vladimir dated 2011, recording an agreement as to the division of assets between them. Ms Oreshina defended the claim on the basis (among other things) that Elena and Vladimir had been divorced in 1991, and she produced a copy of the 1991 divorce certificate. Thereafter, Elena ceased to

participate actively in the claim, and did not attend hearings for the claim. As a result the claim was dismissed summarily in February 2019.

155. Meanwhile Ms Oreshina filed a criminal complaint against Elena, contending that she had brought the proceedings regarding the Omega shares on the basis of false documents, and had concealed from the court the dissolution of her marriage to Vladimir in 1991. Elena was arrested and detained by the Russian authorities in March 2021, and in December 2022 she was convicted and sentenced to six years' imprisonment for attempted fraud, slightly reduced on appeal in 2023 to five years and 11 months.

156. Alexander filed his own claim, in January 2019, seeking to set aside both the transfer of the Omega shares to Ms Oreshina and a transfer of shares in another company to Ms Komissarova. His claim was dismissed by the Moscow City Court in December 2020.

157. Proceedings have also been brought in the BVI by Olga and Alexander in relation to the administration of Vladimir's estate in that jurisdiction. Those proceedings are ongoing.

The discovery of the 2015 Will

158. The existence and location of the 2014 Russian Will, the 2014 Worldwide Will, and the 2015 Will have been the subject of numerous witness statements from the parties as follows:

    i) the first and second witness statements of Brigita dated 14 May 2018 and 24 March 2022;

    ii) the first witness statements of Olga and Alexander dated 15 November 2018, and Elena dated 16 November 2018;

    iii) the third, fourth and fifth witness statements of Alexander dated 14, 21 and 31 July 2023;

    iv) the third and fourth witness statements of Olga dated 25 and 31 July 2023;

    v) the first and second witness statements of Justin Michaelson, a partner at Brigita's solicitors in these proceedings, Quinn Emanuel, dated 21 October 2021 and 1 February 2022;

    vi) the eighth witness statement of Mr Michaelson, dated 1 June 2023.

159. As already noted, Olga and Alexander were cross-examined on their witness statements on the first day of the trial.

160. It is common ground that the 2014 Russian Will is (or at least was) in the possession of Elena. Elena claims to have found this at her property in Tervuren, in September 2017, in the presence of Olga and Alexander. Olga and Alexander both denied being present when the 2014 Russian Will was found. In any event, the original of that will was eventually made available for inspection by Elena in January 2021 at the offices of the Belgian lawyers acting for Olga and Alexander.

161. The location of the original of the 2014 Worldwide Will is not known to the claimants. Brigita did, however, receive a copy in or around July 2017, which was said to have come

from the Belgian lawyers acting for Olga and Alexander. Olga and Alexander maintained that they had never seen the original of this will but had only ever had a copy. They gave conflicting accounts of how that copy had been obtained, suggesting that it was either sent by Mr Chan to Elena shortly after Vladimir's death, or was sent by Mr Chan to their family lawyer. Alexander, when cross-examined about this, eventually fell back on a claim that he simply didn't remember how the will had been obtained. One way or the other, however, Olga provided a copy of the 2014 Worldwide Will to the Belgian police on 12/13 June 2017.

162. As regards the 2015 Will, Brigita obtained a copy of this from Mr Hartwig, but was unable to locate the original. Elena, Olga and Alexander's position has always been that they have never seen the original of this document. That position was set out from the outset in their 2018 witness statements and repeated in January 2020 in responses to requests for further information.

163. On 16 July 2020 Brigita's London solicitor Ms Ziva Robertson, a partner at McDermott Will & Emery UK LLP, who was then instructed in relation to these proceedings, was contacted by a "Jacob Levy-Peeters" saying that:

> "I am writing to you because I have documents which could help your client Morina Brigita and resolve her inheritance case with the family Scherbakov
>
> Vladimir Scherbakov, his late companion of Brigita Morina, he gave me documents before his death (signed and written by V.S), these documents could change everything for Madame Morina.
>
> Her old law firm informed me that it is you who is in charge of this case. Please inform your client so that I can speak with her and give her the documents".

164. Following Ms Robertson's response on the same day, asking for further details, "Mr Levy-Peeters" replied on 19 July 2020:

> "The document in my possession is the last authentic will signed by Vladimir before his death. In his will, Ms. Morina is a total winner. V.S was a longtime friend (Russia).
>
> First of all, I would like us to agree in general terms by email under what conditions can we work together. Then my lawyer will get in touch with you directly.
>
> I know the importance of the business and the monetary value that it can bring to Mrs. Morina. Therefore I don't wish to work for nothing.
>
> I am open to any proposal."

165. The email concluded by noting that the writer had attempted to reach Brigita by telephone and email (giving a telephone number and email address), without a response.

166. In further correspondence during early August 2020, "Mr Levy-Peeters" sent Ms Robertson a copy of the signature page of the will said to be in his possession (which was

identical to the signature page of the copy of the 2015 Will), and said that his lawyer would be in touch "next week". It was not, however, until a month later that Ms Robertson was contacted by an "Avner Doukhan", claiming to be the lawyer of Mr Levy-Peeters. A call was then arranged between "Mr Doukhan" and Ms Robertson, which took place on 16 September 2020. In that call "Mr Doukhan" informed Ms Robertson that his client was prepared to hand over the original of the will in exchange for €35 million.

167. On 10 November 2020 "Mr Levy-Peeters" emailed Brigita directly, complaining that there had been no progress in the negotiations with her solicitors, and asked to talk to her on the phone and then potentially to meet in person. He then sent, on 16 November, a telephone number on which Brigita could call him. Brigita was in Switzerland at the time. She therefore instructed Mr Masmejan, who filed a criminal complaint on her behalf with the Swiss police. Thereafter, the negotiations between Brigita and the person claiming to hold the will were conducted in consultation with the Swiss police.

168. On 2 December 2020 Brigita sent an email to "Mr Levy-Peeters" asking for proof that the document in his possession was the original will, and not a copy. In response, "Mr Levy-Peeters" said that he could not send a scan of the document, but would allow it to be seen in person. The Swiss police then sent a response, through Brigita's email address, offering to meet with the lawyers for "Mr Levy-Peeters", and introducing Mr Masmejan as the contact person to set up that meeting.

169. On 15 January 2021 Mr Masmejan was contacted by an "Antoine Bintz", who sent an email (this time in French, the previous communications having been in English) proposing a telephone call. A call was then arranged for 22 January 2021. There were discussions in that call as to the amount of money that "Mr Levy-Peeters" would accept, with Mr Masmejan stating that Brigita was not able to pay the figure of €35 million requested. Mr Masmejan in cross-examination said that the caller did not have a Swiss accent, but rather sounded "like a French taxi driver in Paris", i.e. with "a very French accent".

170. A further call was arranged for 29 January 2021, which was recorded by the Swiss police. In that call Mr Masmejan was told that "Mr Bintz's" client considered €30 million to be the appropriate price for the will. Brigita, listening to the recording of the call, was unable to identify the caller. In further calls during February 2021 "Mr Bintz" and Mr Masmejan discussed the possibility of the will being inspected in Switzerland by a forensic expert. Mr Masmejan (at the suggestion of the Swiss police) proposed a payment in two instalments.

171. On 5 March 2021, a letter was sent by the claimants' solicitors to all of the parties to these proceedings, saying that they were instructed that Brigita and Elena had been in direct communication to discuss a possible settlement of the proceedings, and that Elena claimed to speak "for herself and her adult children". They proposed a "moratorium in respect of the proceedings in all jurisdictions" while those settlement discussions were ongoing. On the same day, "Mr Bintz" emailed Mr Masmejan rejecting the suggestion of a payment in two instalments, and proposing a single payment of 20 million CHF. Notably, in that email he also referred to the settlement discussions between Brigita and Elena:

> "Moreover, my client informs me that your client is simultaneously trying to find an exclusive agreement with Vladimir's first wife.

> I have the impression your client's file is going in 3 directions:
>
> 1st with the children from the first marriage;
>
> 2nd with the mother while excluding the children from the talks, and 3rd with my client where his stand has been changing for almost 1 year (your client).
>
> A compromise, an agreement cannot be found and implemented when you are trying to advance a single goal while playing on several boards."

172. The following day, 6 March 2021, the solicitors for Olga and Alexander rejected the offer of a moratorium, saying that the claimants were misinformed and Elena did *not* speak for their clients. Olga and Alexander's position was, the letter said, that they would only mediate if "adequate disclosure is provided". On the same day Brigita received another email from "Mr Levy-Peeters", expressing frustration at the speed of negotiations and referring to the mediation discussions between Brigita and Elena:

> "I heard that you will be meeting Elena soon to find common ground. Now, after a year, is there still any point in moving forward together or is it better to stop this procedure between you and me?
>
> …
>
> Let's not waste time and money with our advisors. Do you prefer to waste time and pay your lawyers (as for the past 4 years) and share the succession or would you like us to move forward quickly in the case and recover the succession and pay me what you owe me."

173. Brigita did not reply, and by late March 2021 "Mr Bintz" had handed over negotiations to Nikita Kouznetsov, a French *avocat* with an office in Paris. On 25 March Mr Kouznetsov emailed Mr Masmejan claiming that his clients were Vladimir's creditors and wanted Brigita to reimburse their losses.

174. On 29 March 2021 Elena was detained in Russia following the criminal complaint made by Ms Oreshina. Just over a week later, on 9 April 2021, "Mr Levy-Peeters" emailed Brigita informing her that Elena had been in prison in Russia for one week, having been arrested "in relation to Vladimir" at her hotel in Moscow.

175. During April and early May 2021 there were discussions between Mr Kouznetsov and Mr Masmejan as to the inspection of the will, with Mr Kouznetsov rejecting the suggestion of an inspection of the will in Switzerland, and proposing instead to hold the meeting in Paris on the basis that his clients were not willing to travel outside Paris with the will. It was agreed that an expert could attend the meeting. There was also, on 24 April, another direct email from Mr Levy-Peeters to Brigita, again complaining about the lack of progress in the dialogue between their respective lawyers, and saying:

> "Out of respect for Vladimir's wishes, I wanted to pass on the files/documents I have in my possession (as my counsel indicated to your lawyer, I have a lot of documents from Singapore, Italy, Russia etc.) and the testament.

> … I suggest that my lawyer get in touch with your lawyer who defends your interests in the United Kingdom Geoff Kertesz or your Russian lawyer Sergui Alimirzoev."

176. The claimants instructed Ms Navarro, a forensic science expert and former head of the handwriting analysis unit of the document department of the French National Gendarmerie Criminal Research Institute, to attend the meeting agreed with Mr Kouznetsov. It took place on 18 May 2021 at the office of Mr Kouznetsov in Paris. Ms Navarro was accompanied by her husband who was a former French police officer. At the meeting, as she described in her subsequent report, she met Mr Kouznetsov and another unknown man, who held the document said to be the will. He agreed to provide it for examination on condition that Ms Navarro did not reproduce any full copy of it in her report, and did not forward any scanned version to her client. Ms Navarro agreed, and she was then given the document to examine using the equipment which she described in her report. She examined the document for approximately two hours, and took a full scanned version of the document.

177. According to Mr Masmejan, after the meeting Ms Navarro called a senior associate at his firm to tell her that in her opinion the document she reviewed was indeed the original of the 2015 Will.

178. There were then negotiations between Mr Masmejan and Mr Kouznetsov as to the price to be paid by Brigita for the delivery of the will, the terms of the agreement to be signed by Brigita and Mr Kouznetsov's client, and the identity of that client. On 19 October 2021 Mr Kouznetsov provided Mr Masmejan with a draft agreement identifying Mr Kouznetsov's client as a "Ms Khatouna Avdoyan". The agreement recited (by way of background) that Ms Avdoyan had lent Vladimir $400,000 in 1992 at an annual rate of 30%, that in 2015 she and Vladimir had agreed that the total amount owing was €25 million, and that he had pledged her the will as collateral for repayment of the debt either by him or his heirs. The draft agreement, however, gave the date of the will as 15 October 2014, i.e. the date of the 2014 Worldwide Will and the 2014 Russian Will, rather than 28 October 2015, which was the date of the 2015 Will.

179. Two days later, on 21 October 2021, Mr Michaelson served his first witness statement, disclosing the attempts to extort money from Brigita in return for the 2015 Will, and the launch of the Swiss criminal investigation in that regard. The narrative set out in the witness statement included the fact that the draft agreement for the delivery of the will named Ms Avdoyan, commenting that Ms Morina had never heard of that person, and that it was not known whether or not that name was a pseudonym. The claimants sought permission to re-amend their particulars of claim to rely on the new facts, and also sought a privacy order in relation to the Swiss investigation.

180. A privacy order was made by Deputy Master Teverson on 4 November 2021, and in an order dated 15 February 2022 permission was given to the claimants to re-amend their particulars of claim. The re-amended particulars of claim were filed on 18 February 2022.

181. Meanwhile negotiations between Mr Masmejan and Mr Kouznetsov were ongoing, in which Mr Masmejan several times queried the incorrect date of the will given in the draft agreement, without a substantive response from Mr Kouznetsov. There were also discussions as to the place for the agreement to be signed (with Mr Kouznetsov proposing

Paris, and Mr Masmejan proposing Switzerland) and Brigita's ability to pay the amount agreed. On 27 January 2022 Mr Kouznetsov again sought proof of funds on the part of Brigita.

182. Mr Michaelson's second witness statement was then served on 1 February 2022, providing an update on the negotiations and repeating that Ms Morina had not ever heard of Ms Avdoyan, and that it was not known whether this was another pseudonym to disguise the identity of the real person behind the extortion attempt. Thereafter the negotiations between Mr Masmejan and Mr Kouznetsov ground to a halt, with no further communication from Mr Kouznetsov after his 27 January 2022 email.

183. Ms Navarro's report was finalised on 19 December 2022, confirming that in her opinion the document she saw and analysed on 18 May 2021 was the original 2015 Will. There was then correspondence between the solicitors for the claimants, the solicitors for Olga and Alexander, and Ms Navarro, as to the provision of the scanned copy of the will which Ms Navarro had taken at the inspection meeting in Paris. Ms Navarro did not respond to requests from either set of solicitors to provide that document, and has since then refused to cooperate with any of the parties to these proceedings. That is the reason why, for the purposes of this trial, further expert reports were obtained from Ms Radley and Mr Cosslett, commenting on the Navarro report.

The connection between Ms Avdoyan and the Scherbakov family

184. From the time that Mr Michaelson's first witness statement was served in October 2021, Olga and Alexander were aware that Ms Avdoyan had been named as the person holding the 2015 Will, and that Brigita said that she had never heard of that person (indeed did not even know if that name was a pseudonym or not). As explained below, Ms Avdoyan was in fact not only known to both Olga and Alexander, but was someone who was very close indeed to Olga's family. No steps were, however, taken by Olga or Alexander to notify the claimants that they knew the person said to be holding the will.

185. On 1 December 2022, a French company by the name of EOA SAS was incorporated, with Elena and Olga as 50/50 shareholders. Nina Berreby, Ms Avdoyan's daughter (also known as Nina Bakoev), was listed as the company president, but Olga's evidence was that Ms Avdoyan was in fact the president at that time.

186. A week later, on 8 December 2022, a further French company named Lalesh SCI was incorporated, with EOA and Ms Avdoyan as 50/50 shareholders, and Ms Avdoyan as the company president. In March 2023 Ms Avdoyan resigned as the company president of both Lalesh and EOA, and was replaced by Ms Berreby. Ms Berreby's address was listed as 10 rue Copernic, Paris, a Scherbakov family property which was assigned to Elena under the Belgian divorce agreement.

187. Olga claimed in her third witness statement that she no longer had any dealings with Lalesh, and that the company is "now controlled by Ms Avdoyan and other investors who I do not know". In Olga's cross-examination she again repeatedly refused to comment on the current shareholders of Lalesh, claiming that she did not know their identity. In fact, in April 2023 EOA transferred its shares in Lalesh to Ms Avdoyan and her son (a minor), who was said to be living with his father, David Bakoev, at 19 rue Paul Strauss, Paris. That house is another Scherbakov family property owned through the French company EOS SCI, whose shareholders and directors were originally Elena and Olga,

and are now Olga and Alexander. Since EOA's shareholders are Elena and Olga, and since Olga has said that she is managing Elena's affairs while Elena is in prison, Olga must have authorised the Lalesh share transfer. She also clearly does know who the new shareholders are, given that they are Ms Avdoyan and her son.

188. As a result of the company documents linking Ms Avdoyan to Elena and Olga, Mr Michaelson served his eighth witness statement on 1 June 2023 setting out the relevant corporate structures and the claimants' belief that Olga and Alexander had documents in their control relevant to the existence of the 2015 Will, which they had not disclosed. That witness statement was made in support of an application that Olga and Alexander should provide witness statements and disclosure regarding their knowledge of the 2015 Will and their connection to Ms Avdoyan.

189. That application was granted on 7 July 2023, leading to the filing of further witness statements by Alexander and Olga. Those witness statements revealed that Ms Avdoyan had been a close friend of Olga for some years, and was the godmother of Olga's oldest son. Alexander also admitted that he had known Ms Avdoyan for several years. Olga claimed, however, that Ms Avdoyan had told her that she had no knowledge of the existence or location of the 2015 Will and believed that her identity "must have been stolen".

Issues

Overarching issues for determination

190. It is common ground that Vladimir's estate within Russia is governed by the 2014 Russian Will, as to which no issues arise in these proceedings. The issues for these proceedings concern succession to Vladimir's worldwide estate outside Russia, which is not governed by the 2014 Russian Will.

191. The two overarching issues for determination in these proceedings are:

    i) Vladimir's domicile, and depending on that the applicable law of succession to Vladimir's worldwide estate outside Russia.

    ii) The validity and revocation of the 2015 Will.

192. Those issues then give rise to various contingent sub-issues which require some explanation.

Domicile and applicable law of succession

193. It is not in dispute that the question of succession to Vladimir's worldwide immovable assets will be governed by the laws of the countries where the relevant immovable assets are situated (*lex situs*). As a general rule, however, questions relating to succession to moveable assets are governed by the law of the deceased's domicile (*lex domicilii*): *Theobald on Wills* (19th ed, 2021), §2-011.

194. The pleaded case, the parties' submissions at trial and the evidence before the court raise three possibilities as to Vladimir's domicile at death:

i) The claimants' primary case is that Vladimir remained domiciled in Russia and did not acquire any other domicile – or that if he did, he later abandoned it. The claimants therefore say that Vladimir died a Russian domiciliary.

ii) Olga and Alexander contend that Vladimir died domiciled in Belgium.

iii) The third possibility, which neither party contends for but which the claimants accept is a conclusion open to me on the evidence, is that Vladimir acquired English domicile and retained that at the time of his death.

195. As to those possibilities, if Vladimir died domiciled in Russia, it is common ground that for moveable property Russian law applies the law of succession of the country of the deceased's "last place of residence" under Article 1224(1) of the Russian Civil Code. Under Article 20 of the Russian Civil Code this means the last place where the deceased permanently or predominantly[1] resided.

196. In that event issues will arise as to the interpretation of the concept of permanent or predominant residence, and the application of that to the facts of this case. The claimants' case is that Vladimir's last permanent or predominant place of residence was England. Olga and Alexander's case is that his last place of residence was Belgium.

197. If Vladimir died domiciled in Belgium, then it is common ground that any questions of succession will fall to be determined on the basis of the rules set out in Regulation (EU) 650/2012 on jurisdiction, applicable law, recognition and enforcement of decisions and acceptable and enforcement of authentic instruments in matters of succession and on the creation of a European Certificate of Succession [2012] OJ L201/107 (the **European Succession Regulation**).

198. In that event further issues will arise as to the interpretation of the relevant provisions of the European Succession Regulation, and the application of those to the facts of this case. The claimants' case is that the application of the European Succession Regulation leads to the result that the applicable law of succession is English law, on the grounds that Vladimir had his "habitual residence" in England at the time of his death, for the purposes of Article 21(1) of the European Succession Regulation. Olga and Alexander contend that the effect of applying the European Succession Regulation is that the applicable law of succession is Belgian law.

199. If Vladimir died domiciled in England, then the succession questions will fall to be decided under English law, which as set out further below does not apply the European Succession Regulation.

200. In summary therefore, the first question is where Vladimir was domiciled at the time of his death. Thereafter, if the answer to that question is either Russia or Belgium, further issues will arise as to the rules of succession in the relevant jurisdiction, and the application of those rules to the facts of the present case, with the opposing contentions being that the applicable law of succession should ultimately be found (both on Russian and Belgian law) to be either English law (the claimants' case) or Belgian law (Olga and Alexander's case). If, however, Vladimir died domiciled in England, then English law

[1] The Russian adjective преимущественно can be translated as both "predominantly" or "primarily", but it is not suggested by any party that anything of substance turns on this difference in translation.

will govern the succession to Vladimir's worldwide moveable estate, and no further issues of applicable law will arise.

201. It follows from the above analysis that, irrespective of whether Vladimir died domiciled in Russia, Belgium or England, the only two contenders for the applicable law of succession are Belgian law or English law.

202. Leaving aside the questions concerning the validity and revocation of the 2015 Will, which are considered below, three main further consequences flow from the decisions as to domicile and the law of succession:

    i) If Belgian succession law applies, then even if the 2015 Will is found to be valid and not revoked, Belgian law applies a forced heirship regime such that 75% of the estate (including *inter vivos* gifts made during Vladimir's lifetime, but minus his debts) will devolve to Vladimir's four biological children in equal shares, i.e. Olga, Alexander, AB and CD. The remaining 25% will devolve according to the 2015 Will. By contrast, if English succession law applies, the estate will devolve according to the 2015 Will, with no forced heirship regime (but subject to the next point on claims for reasonable financial provision).

    ii) Under s. 1 of the Inheritance (Provision for Family and Dependents) Act 1975, if Vladimir died domiciled in England then CD (and potentially others including Olga and Alexander) would have standing to make a claim for reasonable financial provision. This will, however, not arise if Vladimir did not die domiciled in England, even if the court finds that the relevant applicable law of succession (under the Russian Civil Code or the European Succession Regulation) is English law.

    iii) There will also necessarily be tax consequences, including in relation to inheritance tax, depending on the place of Vladimir's domicile at death.

203. I am not asked to determine any of these three matters in these proceedings. The Belgian forced heirship rules do, however, explain why Olga and Alexander contend in these proceedings that Belgian law governs the succession to Vladimir's worldwide moveable estate.

The will issues

204. Three main issues arise concerning the validity and revocation of the 2015 Will. Again, these involve some permutations depending on the question of where Vladimir was domiciled at death and at the time of alleged revocation of his will.

205. The first issue is whether the 2015 Will was validly made. It is common ground that the applicable law in this regard is English law.

206. The second issue is the applicable law governing the question of whether the 2015 Will was revoked. That will depend on the question of Vladimir's domicile at death and at the time of the alleged revocation. The analysis differs depending on whether Vladimir was domiciled in England, Russia or Belgium. Ultimately, however, as with the general question of the applicable law of succession, the only possible outcomes are that the applicable law is either English or Belgian law.

207. The third issue is whether the 2015 Will was indeed revoked, or deemed to have been revoked, under whichever of English or Belgian law applies to that question. That raises various sub-issues:

    i) Did the original 2015 Will exist at Vladimir's death, and what happened to it? This includes the question of whether it was suppressed by someone and if so by whom. The claimants contend that the original 2015 Will did exist and was suppressed by Elena, Olga and Alexander. Olga and Alexander deny all involvement in the suppression of the will.

    ii) If the claimants' contentions in relation to the first question are accepted, it will not be necessary to consider any further sub-issues. If the claimants' contentions are not accepted then it will then be necessary to consider a series of sub-issues relating to the question of whether (under English or Belgian law, as relevant) Vladimir should be presumed to have destroyed the 2015 Will with the intention to revoke it.

Vladimir's domicile

208. It is common ground that Vladimir's domicile of origin was Russia. He was born in Russia, had extensive business interests in Russia throughout his working life, remained registered with the Russian authorities as resident in Moscow, and owned numerous properties in Russia including in Moscow. The question is whether he acquired a different domicile of choice so as to displace his domicile of origin.

Relevant legal principles

209. In *Barlow Clowes v Henwood* [2008] EWCA Civ 577 §8, Arden LJ summarised the main principles as follows:

> "The following principles of law, which are derived from Dicey, Morris and Collins on *The Conflict of Laws* … are not in issue:
>
> (i) A person is, in general, domiciled in the country in which he is considered by English law to have his permanent home. A person may sometimes be domiciled in a country although he does not have his permanent home in it (Dicey, pages 122 to126).
>
> (ii) No person can be without a domicile (Dicey, page 126).
>
> (iii) No person can at the same time for the same purpose have more than one domicile (Dicey, pages 126 to 128).
>
> (iv) An existing domicile is presumed to continue until it is proved that a new domicile has been acquired (Dicey, pages 128 to 129).
>
> (v) Every person receives at birth a domicile of origin (Dicey, pages 130 to 133).

> (vi) Every independent person can acquire a domicile of choice by the combination of residence and an intention of permanent or indefinite residence, but not otherwise (Dicey, pages 133 to 138).
>
> (vii) Any circumstance that is evidence of a person's residence, or of his intention to reside permanently or indefinitely in a country, must be considered in determining whether he has acquired a domicile of choice (Dicey, pages 138 to143).
>
> (viii) In determining whether a person intends to reside permanently or indefinitely, the court may have regard to the motive for which residence was taken up, the fact that residence was not freely chosen, and the fact that residence was precarious (Dicey, pages 144 to151).
>
> (ix) A person abandons a domicile of choice in a country by ceasing to reside there and by ceasing to intend to reside there permanently, or indefinitely, and not otherwise (Dicey, pages 151 to153).
>
> (x) When a domicile of choice is abandoned, a new domicile of choice may be acquired, but, if it is not acquired, the domicile of origin revives (Dicey, pages 151 to 153)."

210. I have been referred to a number of further passages in *Barlow Clowes* as well as comments in various further authorities, in particular *Bell v Kennedy* (1868) LR 1 Sc & Div 307; *Huntly v Gaskell* [1906] AC 56; *Holliday v Musa* [2010] EWCA Civ 335, [2010] 2 FLR 702; and *CC v DD* [2014] EWHC 1307. I also note, more recently, the discussion in *Proles v Kohli* [2018] EWHC 767 (Ch). From these the following further principles may be drawn:

    i) A finding as to domicile requires a careful evaluation of all the facts: *Barlow Clowes* §16.

    ii) A person's domicile of origin is "tenacious" and "less easily shaken off" than a domicile of choice: *Huntly v Gaskell* pp. 66–7; *Barlow Clowes* §85. If they have not made up their mind where to settle permanently, they retain their domicile of origin: *Holliday v Musa* §23.

    iii) Acquisition of a domicile of choice will not be "lightly inferred": *CC v DD* §22. It requires both residence in the relevant jurisdiction, and an intention of permanent or indefinite residence there. That intention must be fixed and for the indefinite future. An intention to reside for an undetermined period of time but not permanently is not enough. What is required is for the person to have "a singular and distinctive relationship" with the country in which a domicile of choice is claimed, such that it is intended to be the person's ultimate home or the place where they would wish to spend their last days: *Barlow Clowes* §§10–15; *Holliday v Musa* §74.

    iv) That intention must be directed exclusively towards one country: an intention to settle in one of several countries is not sufficient: *Bell v Kennedy*.

v) Citizenship is not decisive. A person may acquire citizenship of a country without becoming domiciled there; and likewise a person may acquire a domicile of choice without being a naturalised citizen of the country in question: *Barlow Clowes* §18.

vi) Statements or declarations as to intentions, and declarations of domicile or residence for tax purposes, should not be relied upon *per se* without consideration of whether they are corroborated by the actions of the relevant person: *Barlow Clowes* §19, *Holliday v Musa* §§66, 69.

vii) It is relevant to consider where a person has their family life and emotional connections, as well as their other social ties and activities: *Holliday v Musa* §§23, 63, 71; *Proles v Kohli* §§114, 124–133.

viii) Ownership of property is a relevant factor: *Barlow Clowes* §65. This may not, however, carry much weight where a wealthy individual owns and spends time in multiple properties in different countries: *Huntly v Gaskell* pp. 67–8, 70–1. For the same reason the place where a person is registered as resident, under national legal provisions, is likely to carry limited weight where the evidence indicates that they have registered as resident in multiple jurisdictions.

ix) The length of time that a person spends in a particular place is not decisive. The more important factor is the quality of the person's residence: *Barlow Clowes* §§103–4.

211. With those considerations in mind, I turn to the parties' contentions as to whether Vladimir acquired and maintained a domicile of choice in Belgium or England, so as to displace his domicile of origin in Russia. It is appropriate to consider the matter chronologically.

Residence in Belgium during the 2000s

212. Elena, Olga and Alexander claim that Vladimir acquired a domicile of choice in Belgium by October 2007, when he and Elena both acquired Belgian citizenship. As set out above, however, citizenship of a country is not indicative of domicile in that country. While Olga and Alexander asserted that Vladimir intended the family's move to Belgium to be permanent, there is no witness evidence before me from them or Elena to corroborate that assertion.

213. Brigita's evidence was that Belgium was the first country that accepted the Scherbakov family after they were forced to leave Greece. Vladimir registered as resident in Belgium until 2014, and appears to have bought multiple properties in Belgium, either directly or through his various companies. But his claim to residence there appears to have been made with the objective of obtaining citizenship in a suitable country outside of Russia, and there is no evidence that Vladimir had a settled home or family life in Belgium during this period. On the contrary, it is common ground (as set out at §80 above) that Vladimir's main business interests at that time were in other countries, and that he spent most of his time travelling. It also appears from the evidence that Vladimir did not ever learn French, Flemish or German, the official languages of Belgium.

214. It is notable that once Vladimir did acquire Belgian citizenship, he did not solidify his connections with the country, but instead within a year had moved to Switzerland where

he obtained a residence permit (§81 above). That is entirely inconsistent with any suggestion that his intention was to make Belgium his permanent home.

215. I do not, therefore, find that Vladimir acquired a Belgian domicile of choice by 2007.

Residence in England in 2013–2016

216. The next question is whether Vladimir acquired an English domicile of choice between 2013 and 2016. The claimants' original pleaded case was that Vladimir did indeed acquire English domicile and maintained it until his death. That case was amended in November 2020 to plead that Vladimir died domiciled in Russia.

217. It is apparent from the claimants' evidence, however, that during the course of 2013–2015, England had become the centre of Vladimir's family and social life (and indeed the claimants positively contend that such a finding should be made). Brigita's evidence was that a decision was taken by the end of 2012 that she and Vladimir would move to England and raise their family there. Granville House was purchased as a home for the family, and refurbished for their use. They moved into the house in August 2013, and BC started to attend the nursery at a nearby school in September 2013.

218. As an interested party, Brigita's evidence should be treated with some caution. Her account is, however, corroborated by the evidence of numerous other witnesses for the claimants, who paint a wholly consistent picture of Vladimir and Brigita living together at Granville House as a family. Mr Limacher, their housekeeper/butler, said that he spent some time there training when he first started working for them, and returned to Granville House occasionally to cover for their usual housekeeper when he was away on holiday; his evidence was that Vladimir and Brigita were living together in Granville House and only stayed in their Swiss properties for holidays in their chalet or when travelling for business. Ms Junaid, Brigita's personal assistant, split her time between Granville House and the Belgrave Square office, and described the family as living mainly in Granville House, with some time spent at the London flat in Pont Street. Ms Mohamed, the nanny for Vladimir and Brigita's children, was told at her initial interview that Vladimir and Brigita intended to move to the UK. She also described Granville House as the family's main residence, and said that once AB was born both Vladimir and Brigita travelled much less frequently and "became much more settled into Granville House as their permanent family home". Ms Barnes, who worked as a chef at Granville House, described the house as Vladimir and Brigita's family home.

219. Brigita's evidence was that Vladimir liked living in England. Brigita said that she and Vladimir regarded England as their home, that they had no intention of leaving, and that she understood that Vladimir's intention was to refocus his business activities on England. To that end he established the Belgrave Square office with around 10 employees (according to Brigita) including Vladimir's personal assistant Ms Kazlovskaya. Vladimir also started to acquire a significant property portfolio in London, managed from the Belgrave Square office. One of those projects was Grosvenor Gardens House, a project with which Ms Walther was assisting Vladimir and Brigita at the time of Vladimir's death.

220. Vladimir spoke English, and Brigita's unchallenged evidence was that he started integrating into English culture, for example by going to the Royal Opera House and the Ascot races, watching rugby, taking golf lessons and reading English newspapers.

Vladimir also joined two clubs: The Arts Club at 40 Dover Street, London, and 5 Hertford Street in Mayfair. Brigita said that he held most of his business lunches at the clubs where he was a member.

221. Consistent with Brigita's account, Ms Orlova's evidence was that Vladimir was very happy in England and wanted to stay there. Ms Orlova had relocated from Moscow in 2013 to live with the family at Granville House, and then moved to Belgium to accompany Vladimir in 2016. She said that in 2016, after Vladimir had moved to Belgium, he told her that "when he and Brigita were grey and old, they would drink wine and watch their grandchildren play in England". She said that Vladimir "never planned to leave the new country he had adopted as his home", and that she was looking forward to spending the rest of her career there working for him. According to Ms Orlova, Vladimir was fond of England, its tax system and business environment, and he also liked its heritage including the monarchy.

222. Vladimir's formal statements of his residence and domicile in this period were inconsistent. The Belgian National Register shows Vladimir as being "principally resident" in England between October 2014 and January 2016. Vladimir also declared that he was domiciled in England in his 2014 Wills as well as the 2015 Will (with Mr Hartwig's evidence on the latter being set out above at §104 above). In December 2015 he executed a document under Swiss law for the donation of property to AB, which likewise stated that he was domiciled in England. On the other hand, in late 2012 Vladimir declared to the Swiss authorities that he was resident in Singapore (apparently for tax reasons), and he made similar declarations to the Belgian authorities in late 2014. He also maintained non-domiciled status in England for the purposes of his English taxation, and obtained tax advice on the basis that he was not domiciled in the UK, sometimes even stating that he was not resident in the UK.

223. Ms Todd said that this indicated that Vladimir's presence in any particular country was driven by the tax consequences. In somewhat similar vein, Alexander in his closing submissions contended that Vladimir's place of residency at any given time was wherever benefited him the most. I would modify those contentions: the evidence indicates that Vladimir's *stated* presence in any particular country was driven by the tax consequences. For that reason, consistent with the case-law referred to at §210.vi)vi) above, Vladimir's declarations of residence and domicile cannot be regarded as decisive.

224. What is relevant is the evidence as to his actions. As set out in the foregoing paragraphs, those presented a consistent picture of his intentions, which was somewhat different to his tax declarations. In my judgment, the evidence establishes that Vladimir did acquire that "singular and distinctive relationship" with England which is the hallmark of domicile. The consistent evidence is that during 2013–2016, before Vladimir moved to Belgium, England became the centre of his home and family life, and is where he wished to make his home for the indefinite future.

225. I have not been asked to determine precisely when in that timeframe Vladimir's English domicile of choice crystallised. In so far as it is or might become relevant, however, I consider that his English domicile crystallised by the summer of 2015, when Vladimir proposed to Brigita and made plans for their wedding. In my judgment, Vladimir's decision to marry Brigita cemented his intentions to make England his permanent home, with Brigita and his young family.

Residence in Belgium in 2016–17

226. Elena, Olga and Alexander's case is that if Vladimir lost his Belgian domicile of choice, he reacquired it when he returned to Belgium in January 2016. I have already found that Vladimir did not ever acquire a Belgian domicile of choice prior to 2007. Still less, in my judgment, did he abandon his English domicile and acquire a Belgian domicile of choice in 2016–17.

227. The summary at §8 of *Barlow Clowes* emphasises that the motive for which residence is taken up, and the fact that residence was not freely chosen, are relevant factors to take into account in determining whether a person intends to reside in a particular place permanently or indefinitely. An analogous case is *National Provincial Bank v Evans* [1947] Ch 695, where the court refused to find that a testator, a British man, had abandoned his Belgian domicile when he escaped to England in 1940 to avoid the risk of being detained by the Nazis. Wynn Parry J found at pp. 705–6 that

> "but for the incidence of the war there is no ground for suggesting that the testator would ever have left Belgium in the sense of giving up his permanent home there. It is clear to me from the evidence that when he left he did so with reluctance and under the pressure of circumstances. I do not regard him as really having had a free choice in the matter … he never intended to settle in England and … never had an opportunity of returning to Brussels."

228. The evidence before the court unambiguously establishes that Vladimir fled to Belgium in January 2016 solely to avoid the risk of extradition to Russia and possible incarceration there. The possibility (referred to by Olga and Alexander) that there might have been other countries where Vladimir could have gone does not change the fact that his motive for moving to Belgium was not to establish a home there, let alone a permanent home, but to avoid extradition.

229. The intended temporary nature of Vladimir's residence in Belgium is underscored by the fact that until June 2016 he lived in hotels and a serviced apartment within a hotel. Thereafter, he lived in a succession of houses (first a rented house in Knokke, then a rented house in Tervuren and finally from April 2017 in a house in Waterloo bought by Brigita), where Brigita and their children visited him. There is, however, no evidence that Vladimir regarded any of those houses as his permanent home, or intended to settle indefinitely in Belgium.

230. On the contrary, the consistent evidence was that Vladimir was extremely unhappy in Belgium and regarded his stay there as only temporary, until the Russian investigation was closed and he could return home to England. Ms Orlova said that she did not think that Vladimir had any affection for Belgium, and regarded it as a "prison" in which he was forced to stay until he could return to his family in England. Mr Limacher, who visited Vladimir several times at the Tervuren house, likewise said that Vladimir "felt as though he was under house arrest in Belgium", and was waiting for the Russian investigation to end to enable him to go back to England. Ms Junaid said that she was told by Brigita in April 2017 that Vladimir was optimistic that his case would be closed, and that he could not wait to be back in the UK with his family.

231. It does appear that towards the end of 2016, when it became clear that the Russian investigation was lasting longer than Vladimir had foreseen, he and Brigita started to

discuss the possibility of relocating the family to Belgium to be with him. It is clear, however, that this was only ever anticipated to be a temporary move, until Vladimir was able to return to the UK; and in the event that move did not happen and Brigita remained with the children in England.

232. Olga and Alexander relied on the fact that from Vladimir's arrival in Belgium in January 2016 until his death in June 2017 he spent 515 days in Belgium, whereas according to figures provided by Vladimir (or his Belgrave Square office) in 2016 he had only spent a total of 385 days in the UK between April 2014 and January 2016. The length of time that a person spends in a particular place, however, is not decisive: §210.ix) above. Rather, the critical question is the quality of the residence – and in that regard, the defining feature of Vladimir's residence in Belgium from January 2016 onwards was that it was a residence adopted by force of circumstances, in order to avoid extradition, rather than a residence adopted by choice and with a view to making Belgium his permanent home.

233. I do not accept the claims of Elena, Olga and Alexander that Brigita and Vladimir had separated as a couple prior to Vladimir's death. It is readily apparent from the facts set out above that Brigita and Vladimir had significant difficulties in their relationship during 2016–17, as a result of their enforced physical separation and Vladimir's alcoholism and depression. Brigita's own account was that by around Easter 2017 she had become exhausted and felt unable to continue to help him with his problems, as a result of which she and the children were visiting him less frequently. She was also (apparently as a result of her own therapy sessions) starting to acknowledge his negative and damaging behaviour. There is, however, no evidence that they had separated as a couple. On the contrary, Brigita visited Vladimir in mid-May 2017 and again on 1 June 2017, and her account, corroborated by that of Ms Walther who accompanied her on the June visit, was that she and Vladimir remained a couple who still loved each other despite the extreme strain that they were both under. In my judgment, there is no doubt on the basis of the evidence before me that Vladimir and Brigita remained a couple until Vladimir's death.

234. It is therefore very clear, in my judgment, that Vladimir did not intend Belgium to be his country of permanent or indefinite residence. He therefore did not acquire a domicile of choice there during his stay there from January 2016 until his death. Nor did Vladimir otherwise abandon his English domicile of choice during that period. The evidence was that throughout his enforced stay in Belgium he intended to return to his home and family in the UK as soon as he was able to do so.

The European Succession Regulation

235. At the hearing, Olga and Alexander contended that the issue of succession should be governed by the European Succession Regulation, which was addressed by the Brussels Court of Appeal in its judgment of 6 October 2022 in the Belgian administration claim.

236. It is common ground that the European Succession Regulation would, indeed, apply to the question of succession if Vladimir died domiciled in Belgium. It does not, however, apply if Vladimir died domiciled in England, because the UK chose not to adopt the Regulation while it was a Member State of the EU, and was therefore not bound by the Regulation. Recital (82) to the Regulation expressly recorded that the UK and Ireland "are not taking part in the adoption of this Regulation and are not bound by it or subject

to its application". That remains the position of the UK following its withdrawal from the EU.

237. As regards the judgment of the Brussels Court of Appeal, that addressed the question of Vladimir's habitual residence under the European Succession Regulation for the purposes of the question of whether the Belgian courts had jurisdiction to consider the Belgian administration claim filed by Olga and Alexander. Olga and Alexander did not, however, explain how that could be relevant (still less binding) on this court, in proceedings in which jurisdiction is not in issue, and where it follows from my findings above that Vladimir died domiciled in England such that the European Succession Regulation is not applicable.

238. The reliance by Olga and Alexander on the judgment of the Brussels Court of Appeal also failed to acknowledge the agreement reached between the parties that neither side would rely on the findings of the Belgian courts in the Belgian administration claim as binding the English court, whether by issue estoppel or otherwise. That position was proposed by Russell-Cooke (then solicitors to Olga and Alexander) in a letter of 15 November 2018, and was accepted by Macfarlanes (then solicitors to the claimants) in a letter of 17 December 2018.

239. Olga's only response to this was to claim that she didn't know what her lawyers had decided or why that agreement had been made, and that her lawyers "went a bit rogue at some point". I do not accept that submission. There was no evidence before me to suggest that the proposal put forward by her own solicitors was made without instructions from her and Alexander. That agreement was reached early on in these proceedings, and was the basis on which the claimants agreed not to pursue an anti-suit injunction in relation to the Belgian administration claim. Olga's attempt to disavow that agreement in her closing submissions is, I am afraid, yet another attempt to cast blame on others rather than accepting responsibility for her own litigation decisions.

240. Following that agreement, although Olga and Alexander's defence and counterclaim was amended three times (pursuant to orders dated November 2020, February 2022 and June 2022), at no point did Olga and Alexander seek to contend that the judgment of the Brussels Court of Appeal was determinative of the disputed issue of domicile in the present proceedings, or in any way precluded this court from reaching its own decision on domicile on the facts and evidence before the court.

241. The European Succession Regulation, and the judgment of the Brussels Court of Appeal applying that Regulation to the jurisdiction issue before it, are therefore irrelevant to the issue of the applicable law of succession if, as I have found, Vladimir died domiciled in England.

242. For completeness, I note that Olga and Alexander also relied in their closing submissions on the provisions of the Belgian-British agreement of 2 May 1934 on the reciprocal enforcement of judgments, which contains provisions concerning jurisdiction in cases concerning the administration of the estate of deceased persons. That agreement was considered by the Brussels Court of Appeal in its judgment of 6 October 2022, finding that its effect was to require reference to the European Succession Regulation for the purposes of determination of the jurisdiction of the English courts and the recognition of any judgment of the English courts in these proceedings.

243. Again, no issue regarding the 1934 agreement has been pleaded by any of the defendants in these proceedings, still less is there any pleaded issue regarding the recognition and enforcement of any judgment pursuant to that agreement. The reference to that agreement by the Brussels Court of Appeal, considering different issues to those which arise in these proceedings, therefore cannot assist Olga and Alexander.

Conclusions on domicile and the applicable law of succession

244. It follows from my findings above that Vladimir retained his Russian domicile of origin during the early 2000s, and did not at that stage acquire a Belgian domicile of choice. He did, however, acquire an English domicile of choice by (as I have found) the summer of 2015. I have also found that he did not abandon that domicile during his stay in Belgium in 2016–17. At the time of his death, therefore, Vladimir retained his English domicile. The applicable law of succession as regards Vladimir's worldwide moveable assets is therefore English law.

245. It is therefore not necessary for me to consider what the position would be if I had found that Vladimir died domiciled in Russia or Belgium. Nor is it appropriate for me to consider those issues in the alternative, because the answer to those questions would ultimately turn on questions of fact that would arise on the hypothesis that my factual conclusions set out above are wrong. That would require speculation as to an alternative hypothetical factual scenario, which would render any attempt to answer those questions meaningless.

246. The consequence is that I do not reach any conclusions as to the questions of how, under Russian law and Belgian law (the latter applying the European Succession Regulation) respectively, the applicable law of succession is to be determined. I am mindful that those questions have been the subject of considerable expert evidence. It is, however, apparent from the expert reports and the submissions of the claimants that both Russian law and the European Succession Regulation raise issues that are not entirely straightforward, particularly as to the way in which the relevant legal tests are applied where a person takes up residence in a country in order to avoid extradition from the country in which they were previously living. Those are issues that should be determined on the basis of concrete findings of fact. It would not be appropriate for me to attempt to determine those issues on the basis of speculation as to the facts which might be found if my primary conclusions are not correct.

Validity of the 2015 Will

247. As a matter of English law, under s. 1 of the Wills Act 1963, a will is formally valid "if its execution conformed to the internal law in force in the territory where it was executed". In so far as Belgian law is the relevant starting point, Article 75(1) of the European Succession Regulation provides that Member States which are contracting parties to the 1961 Hague Convention on the Conflicts of Laws Relating to the Form of Testamentary Dispositions shall continue to apply the provisions of that convention with regards to the formal validity of wills. Belgium is a contracting party to the 1961 Hague Convention, which provides in Article 1 that a will shall be formally valid if it complies with the internal law of the place where the testator made it. No party suggested that any other test of formal validity might be relevant in these proceedings.

248. Vladimir executed the 2015 Will at his Belgrave Square office. Under both English and Belgian law, therefore, the 2015 Will is formally valid if it is valid as a matter of English law. That was agreed between the claimants and the solicitors for Olga and Alexander in correspondence in January/February 2022.

249. As a matter of English law, formal validity of a will requires compliance with s. 9 of the Wills Act 1937, which provides:

> "No will shall be valid unless –
> (a) it is in writing and signed by the testator, or by some other person in his presence and by his direction; and
> (b) it appears that the testator intended by his signature to give effect to the will; and
> (c) the signature is made or acknowledged by the testator in the presence of two or more witnesses present at the same time; and
> (d) each witness either –
> (i) attests and signs the will; or
> (ii) acknowledges his signature,
> in the presence of the testator (but not necessarily in the presence of any other witness,
> but no form of attestation shall be necessary."

250. The evidence of Mr Hartwig was that Vladimir signed the will at the Belgrave Square office in the presence of Mr Hartwig and one of Vladimir's employees at the office. The two witnesses then both signed the will themselves, as shown by the copy of the will available to the court. Mr Hartwig also confirmed that he had no issue concerning Vladimir's testamentary capacity or understanding of the will. His evidence at the trial was that Vladimir was "entirely clear-minded, highly professional and very quick."

251. At the trial, Olga and Alexander disputed the validity of the will on the grounds which I understood to turn on essentially two contentions. The first was a dispute as to the formal validity of the will, relying on the fact that Mr Hartwig added a handwritten provision to the will, at clause 3A, stating: "This will is made in anticipation of my marriage to Brigita." That handwritten provision was signed by Vladimir and initialled by the two witnesses. Olga and Alexander contended that this handwritten provision invalidated the will, because it was not written by Vladimir himself and therefore may not have reflected his true intentions. They also objected to Vladimir's own manuscript amendments to the will, saying again that those may not have reflected his considered intentions.

252. I do not accept those submissions. Mr Hartwig explained the circumstances in which his handwritten amendment was made. His evidence was that when he took the typed will to Vladimir's office to be signed, Vladimir had mentioned that he intended to marry Brigita, and Mr Hartwig then added the manuscript clause into the will so that the marriage would not revoke the will. The alteration was therefore made before the will was executed by Vladimir, and formed part of the will as written. In case of any doubt, Vladimir's signature against the alteration, initialled also by the witnesses, confirmed that Vladimir intended that alteration to form part of his will. There can be no doubt as to Vladimir's testamentary intentions in that regard. The same is true for Vladimir's own manuscript amendments to the allocation percentages for his residuary estate, which were signed by Vladimir and likewise initialled by both of the witnesses.

253. Secondly, Olga and Alexander contended that Vladimir executed the 2015 Will under undue influence, on the basis of his dependence on Brigita during the last years of his life. That is, however, an entirely new and unpleaded allegation, which was not advanced at any time before the trial, and which is not supported by any evidence whatsoever. I unhesitatingly reject it.

254. The 2015 Will was therefore formally valid, and there are no other grounds to doubt its validity.

Alleged revocation of the 2015 Will

Applicable law

255. As set out above, the general principle is that rights in relation to Vladimir's worldwide immovable assets will be governed by the *lex situs*. The 2015 Will makes dispositions that include properties in England as well as other countries (including Switzerland). In so far as the 2015 Will concerns immovable property located in England, the judgment of Chitty J in *Re Caithness* (1890) 7 TLR 354, 355 indicates that English law will govern the question of revocation. Dicey, Morris & Collins on *The Conflict of Laws* suggests, however, that the position is not clear, and that the governing law should be the law of the testator's domicile at the date of the alleged act of revocation, rather than the *lex situs*.

256. On the facts of the present case the resolution of that question makes no difference to the analysis of immovable property located in England: English law will apply to the question of revocation whether the relevant law is the *lex situs* or the law of the place of Vladimir's domicile at the date of the alleged revocation, given my finding that Vladimir had acquired an English domicile of choice before he executed the 2015 Will, and did not thereafter abandon that domicile (whether in favour of Belgian domicile or otherwise).

257. I am not asked to determine what the applicable law is regarding the revocation of the 2015 Will in so far as it concerns immovable property situated outside of England. My analysis below, however, does consider the position in so far as (whether because of the *lex situs*, or because of a finding – contrary to my primary conclusions on domicile – that Vladimir died domiciled in Belgium) the applicable law is Belgian law.

258. As regards worldwide moveable assets, the question of applicable law depends on the law of the testator's domicile. There is no English authority on whether this should be the law of the testator's domicile at death, or the law of domicile at the date of the alleged act of revocation, as noted in *Theobald on Wills* §2-043. Again, however, given my finding that Vladimir acquired English domicile by before he made the 2015 Will and did not abandon it thereafter, nothing turns on that question as a matter of English law.

259. If Vladimir retained his Russian domicile of origin, such that Russian law *prima facie* governs the question of revocation of the will (so far as moveable assets are concerned) then the Russian law experts (Mr Holiner and Mr Butler) agree that under Article 1224(2) of the Russian Civil Code, the revocation of a will is governed by the law of the testator's "place of residence" at the time the will was allegedly revoked. The rival contentions as to Vladimir's place of residence at that time are England (the claimants' case) and Belgium (Olga and Alexander's case).

260. If Vladimir acquired a Belgian domicile of choice, or if he retained his Russian domicile but his place of residence at the relevant time was Belgium, then it will be necessary to consider Belgian law as to the revocation of a will. It does not appear to be in dispute between the Belgian law experts (Mr Hofströssler and Dr Verbeke) that it is necessary to consider, in that regard, the applicable law of succession under the European Succession Regulation. There is, however, a debate as to whether the decisive date for the determination of that question is the date on which the testator made the will or the date of the alleged revocation of the will. The experts' commentary on this issue is rather complex. Ultimately, however, the only outcome can be that the applicable law is either that of England or Belgium, since it is not contended by any party that the applicable law of succession could be that of any other country either when Vladimir made the 2015 Will or at any point thereafter.

261. It follows that, on my primary conclusions as to English domicile, English law applies to the questions of the alleged revocation of the 2015 Will. If my primary conclusions as to English domicile are not correct, then depending on the factual analysis and (in the case of Belgian law) the debate as to the relevant decisive time for assessment, questions of the revocation of the 2015 Will might be governed by either English or Belgian law. No outcome has been identified in which the law of any other state might be relevant in this regard. I will therefore consider the issues under both English and Belgian law.

Relevant legal principles

262. Leaving aside revocation as a result of marriage of the testator, the methods of revocation of a will under English law are set out in s. 20 of the Wills Act 1837 as follows:

> "No will or codicil, or any part thereof, shall be revoked otherwise than … by another will or codicil executed in manner herein-before required, or by some writing declaring an intention to revoke the same, and executed in the manner in which a will is herein-before required to be executed, or by the burning, tearing, or otherwise destroying the same by the testator, or by some person in his presence and by his direction, with the intention of revoking the same."

263. In principle, a will that has been lost or accidentally destroyed, either during the testator's lifetime or after his death, may still be admitted to probate if it can be shown that the will was duly executed, and what the contents of the will were (for example by relying on a copy of the will): see for example *Re Webb* [1964] 1 WLR 509, where the court found that the original of the will was destroyed when the premises of the solicitor of the testator were seriously damaged in the second world war, and admitted to probate a completed draft of the will which was found in the deceased's possessions.

264. However where a will is last traced into the testator's possession and is then not found after the testator's death after all reasonable search and inquiry, a presumption arises that the testator has destroyed it with the intention of revoking it. The burden of proving that the will was not destroyed with the intention of revocation is then on the party who seeks to rely on its contents: *Theobald on Wills* §7-058, citing (among other cases) *Welch v Phillips* (1836) 1 Moo. P.C. 299. The reason for that presumption, as explained in *Welch v Phillips*, is that a will is a document of considerable importance which, if the testator retains it, is likely to be kept securely, and as such is unlikely to be accidentally lost or

destroyed. If, therefore, the will is not found the inference can be drawn that the testator intended to destroy it.

265. That presumption is confined to a case where the evidence establishes that the will was last kept in the testator's possession. It does not arise where the court finds that the will was *not* in the testator's possession at their death, but was in the possession of a third party such as a solicitor: *Blyth v Sykes* [2019] EWHC 54 (Ch), [2019] WTLR 419, §34.

266. The question is whether that presumption arises if (as the claimants contend) the court finds that the will was in the possession of the testator, but is then discovered in the hands of a third party after the testator's death, thereafter being suppressed by that person (or someone else). Ms Todd's submission, on behalf of CD, was that in such a case the presumption arises but may be rebutted on the facts by the evidence. Mr Malek contended that if the will is found to have existed after the deceased's death, no presumption of revocation arises.

267. It is apparent from *Welch v Phillips* that the presumption of revocation arises in a situation where the court has concluded on the facts that the will was last in the possession of the testator but can no longer be found, such that the most likely explanation for the absence of the will is that the testator has destroyed it. The position is quite different if the evidence establishes that the will was last in the hands of a third party, either at the death of the testator (*Blyth v Sykes*) or after the testator's death, but is subsequently lost. In such a case the will self-evidently cannot be presumed to have been destroyed by the testator, and there can only be a finding of revocation if some other means of revocation (e.g. the execution of a later will) is established.

268. If Belgian law applies to the revocation of the will, the Belgian law experts agree that as a matter of Belgian law a party may rely on a copy of a will to prove that it was not revoked if they can establish four requirements, namely:

    i) That the will existed at the date of the deceased's death, and was formally valid.

    ii) The content of the will, which can be shown by reference to a copy.

    iii) That the original will has been lost due to chance/*force majeure*.

    iv) That the deceased did not know that the will was lost.

269. In relation to the third of those requirements, a 1985 commentary, "Schenkingen en testamenten (1970-1984). Overzicht van rechtspraak", TPR 1985, (539) 577-578, by Dillemans, Puelinckx-Coene, Pintens and Torfs, cited by Dr Verbeke, notes that "The destruction or suppression of the will by the heirs is deemed equivalent to a case of *force majeure*." The fourth requirement is explained in a 1999 judgment (Antwerpen 18 January 1999, AJT 2000-01, 1) on the basis that a testator who did know that the will was lost would be expected to draw up a new will if they stood by their testamentary intentions; failure to do so could then be regarded as tacit revocation of the will.

270. It follows that as a matter of both English and Belgian law the first question is to ask is whether the 2015 Will existed at the time of Vladimir's death. The next question, relevant to the requirements of Belgian law, is to consider the reason for the fact that the original 2015 Will cannot be provided to the court. In that context I will address the contentions

of the claimants and Olga/Alexander as to the suppression of the 2015 Will and the attempt to extort money from Brigita for the delivery up of that will.

Existence of the will at Vladimir's death

271. There can in my judgment be no serious doubt that the original of the 2015 Will existed at the time of and indeed after Vladimir's death, on the basis of the evidence of Ms Navarro, combined with the subsequent expert reports of Ms Radley and Mr Cosslett.

272. Ms Navarro's report set out a detailed description of the document that she examined at the offices of Mr Kouznetsov on 18 May 2021 (which she described as Document 1), and the equipment which she used to examine that document. She explained that her study was conducted according to a protocol that she used when assigned to the Document Department of the National Gendarmerie Criminal Research Institute, and which she still used as a private expert.

273. On the basis of that protocol, Ms Navarro carried out what she referred to as an "intrinsic examination" of Document 1 using the naked eye, under microscopic magnification, low-angled, lighting, transmitted light, and multiple light sources such as ultraviolet light, infrared and colour filters. The purpose of that examination was, she explained, to look for any evidence of falsification of the document, in particular by identifying the writing instrument used to create the document, examination of the paper's weight, searching for any traces present on the paper such as staple marks and perforations, searching for latent traces of treading to draw possible conclusions about the homogeneity of the sheets and the instruments used to create the document, searching for any traces of mechanical scraping or chemical washing to remove ink from the document, searching for differentiation of inks, searching for possible deleted information, and examination of any redacted or crossed out references. She used, for those purposes, a light table (for observation under transmitted lighting), a portable LED (for observation under low-angled lighting), a multi-spectral portable microscope, a filter wheel, and a handheld scanner.

274. Ms Navarro then carried out a comparative examination of Document 1 as against the pdf copy of the 2015 Will which she had been given (which she described as Document 2). She carried out that examination both in the offices of Mr Kouznetsov, and at her own office based on the scanned version of Document 1 which she had retained. She concluded that the text of Document 1 and that of the pdf copy of the 2015 Will were word for word identical; and that the handwriting and signatures on the two documents were exactly the same. She noted in particular that the pen marks on the two documents had exactly the same characteristics, such as inking defects.

275. Ms Navarro's report on these points included numerous photographs of various parts of the document she examined, which she compared with the relevant parts of the pdf copy of the 2015 Will. However, consistent with the agreement on the basis of which she had received Document 1, she did not reproduce in her report, or appended to her report, the full scanned version of Document 1 which she had taken.

276. Her conclusions were that:

    i) On the basis of her intrinsic examination, Document 1 was an original document, with no trace of falsification or modification.

ii) On the basis of her comparative examination, there was very strong evidence that Document 1 was the original version of the pdf copy of the 2015 Will. She stated that "I formally exclude that Document 1 can be a copy, even a very elaborate one, of Document 2."

iii) Her final opinion in section 4 of her report was that "Document 1 signed by Vladimir Alekseyevich Scherbakov, dated 28/10/2015, examined on 18 May 2021 at the office of Mr Nikita Kouznetsov, 47 avenue Hoche 75008 Paris, is indeed an original document that has no trace of fakery or falsification. Document 1 is the original version of Document 2."

277. Ms Radley and Mr Cosslett's reports were provided in the circumstances set out above, in which following production of Ms Navarro's report Ms Navarro did not cooperate further with any of the parties to these proceedings.

278. Ms Radley was asked to consider Ms Navarro's report and comment on whether the processes and equipment used by Ms Navarro to inspect the document were in line with standard practice in forensic document examination, whether Document 1 was an original of the 2015 Will, and whether it was possible to determine whether the pdf copy of the 2015 Will (i.e. Document 2) was a copy of Document 1. Her conclusions were that:

i) The equipment used by Ms Navarro was good quality, accurate, appropriate and commonly used for the examination of documents, and Ms Navarro's examination processes were appropriate and in accordance with standard practice in the field of forensic document examination.

ii) Without sight of Document 1, Ms Radley could not confirm all of Ms Navarro's findings, for example those relating to her examinations of the papers and inks, and whether the printed content of Document 1 and Document 2 was the same. But given the suitability of Ms Navarro's equipment and the approach detailed in her report, Ms Radley had no reason to doubt those findings.

iii) The photographs of sections of Document 1 included in Ms Navarro's report were taken at high magnification using a good quality digital microscope, and were photographs of inked writings made with a ballpoint pen.

iv) From her examination of the photographs of the handwritten entries on Document 1 within Ms Navarro's report, there was "conclusive evidence" to support the proposition that the entries on the pdf copy were copies of the corresponding entries on Document 1. In particular, Ms Navarro commented that "Not only do the lines of the written elements of the signatures/writings on both documents superimpose precisely, but areas of heavy and light pen pressure appear to correspond. Most importantly, pen malfunctions (which are commonly found in ballpoint pens) from the writing of entries on Document 1 are reproduced on Document 2. Such pen faults cannot be reproduced in any simulation (freehand copying) or tracing process."

279. Ms Radley confirmed her conclusions in her oral evidence, confirming that she had for the purposes of her report examined all of the photographs contained within Ms Navarro's reports.

280. Mr Cosslett, on whose evidence the claimants also rely, stated in his report that:

    i) The processes and equipment used by Ms Navarro were in accordance with standard practice in the field of forensic document examination. He did not believe that there were any additional tests that could have been carried out, under the circumstances under which she carried out her examination, unless she had a portable ESDA device (i.e. electrostatic detection apparatus, to reveal indented writing).

    ii) From the details within Ms Navarro's report, it appeared that the document she examined was an original and, where there were handwritten entries and signatures shown in her report, those were the originals of the entries present on the pdf copy of the 2015 Will.

    iii) He could not assess the accuracy of Ms Navarro's comments as to the identicality of the text of the two documents without images of the full original document examined by her.

    iv) Nevertheless Mr Cosslett stated that "On the basis of the images and information in her report, Ms Navarro's conclusion in the Expert Opinion, Section 4, does appear to be a logical conclusion."

281. Ms Navarro therefore concluded categorically that the document examined by her on 18 May 2021 was the original version of the pdf copy of the 2015 Will, and Mr Cosslett considered that on the basis of the information in Navarro's report, her conclusion was "logical". Ms Radley considered there to be "conclusive evidence" that the handwritten sections shown in the pdf copy were copies of the corresponding entries on the document examined by Ms Navarro.

282. Olga and Alexander's submissions on this evidence at the trial boiled down to four main points. The first was that no-one had confirmed to the court that they had seen the original 2015 Will after Vladimir's death. That is not correct. Ms Navarro's report was provided by her to the court for the purposes of these proceedings. It records her understanding of her duty to the court and states that she has read, understood and complied with the provisions of CPR Part 35 and its Practice Direction. Her report is therefore a report to the court. The fact that she has not been willing to attend court to be cross-examined is undoubtedly a factor to take into account in assessing the weight to be given to her report. In the present case, however, that is mitigated by the fact that two further independent experts have reviewed the Navarro report and provided their assessment of her methodology and conclusions, and Ms Radley attended the trial for cross-examination.

283. Olga and Alexander's second submission was that Ms Navarro's report only included fragments of the document she was examining (i.e. Document 1), the provenance of which it was impossible to discern. Ms Radley, however, disputed that point when put to her in cross-examination by Olga, explaining that it was possible to ascertain where the fragments depicted had been taken from, and therefore to conclude that the pdf version of the 2015 Will was a true copy of the handwritten entries from Document 1 reproduced in Ms Navarro's report.

284. The third objection was that Ms Navarro did not carry out any analysis of the age of the document she was examining. I do not, however, consider that this undermines the weight

to be given to Ms Navarro's report, given the conclusions which she reached and the analysis by both Ms Radley and Mr Cosslett of those conclusions. Notably, neither Ms Radley nor Mr Cosslett suggested that Ms Navarro's report was undermined by the fact that she had not analysed the age of the document; indeed Mr Cosslett's opinion (as noted above) was that the list of examinations which Ms Navarro carried out was "exhaustive (particularly in the circumstances under which the examination took place)" and he said that he did "not believe that any additional examination could have been expected".

285. Finally, Olga and Alexander objected that Ms Navarro's report was not finalised until December 2022, nineteen months after the inspection of the document in Paris. I have not been given any explanation of the time taken to produce the report. I do not, however, consider that the length of time between the inspection of the document and the production of the final report undermines the evidential weight of the Navarro report, given the very detailed content of that report, together with the accompanying images of the document taken from the scanned version which Ms Navarro retained.

286. I do not, therefore, consider that Olga and Alexander's submissions undermine the evidence set out in Ms Navarro's report and the subsequent expert reports of Ms Radley and Mr Cosslett. That evidence, taken together, admits of no other sensible conclusion than that the document examined by Ms Navarro was indeed the original of the 2015 Will.

The evidence regarding the suppression of the will

287. The next question is what conclusions may be drawn from the evidence as to what happened to the 2015 Will after Vladimir's death, and the identity of the person or persons involved in suppressing the will.

288. The first point to make is that nothing in the evidence allows any reliable conclusion to be drawn as to where the 2015 Will was located at the time of Vladimir's death. It is known that Vladimir used a safe at the Hotel Steigenberger at Brussels, and there was also a safe at the house in Waterloo. In addition, when Vladimir moved to the Waterloo house he entrusted Mr Looze with two bags of papers, saying that "his whole life was in there". Vladimir later sent a driver to take those papers to his lawyers' offices in Brussels. In those circumstances, and given Vladimir's known concerns about security, it is very probable that Vladimir kept his wills either somewhere safe within his control (e.g. in a safe within his house) or in the custody of a trusted representative, such as a friend or lawyer.

289. I also accept Mr Malek's submission that it is likely that the 2014 Russian Will and the 2014 Worldwide Will were kept together, given that they were drawn up at the same time and were complementary. It is therefore also likely that the 2015 English Will was stored with those documents. It is also inherently improbable that the wills, if they were kept together, would have been stored by Vladimir at Elena's house in Tervuren, given what is known about the state of Vladimir's relationship with Elena by the time that he made the 2014 Wills, and the fact that Brigita, AB and BC were major beneficiaries under the 2014 Worldwide Will and benefited even more significantly under the 2015 Will, to the detriment of Olga and Alexander.

290. It is, however, entirely unknown to the claimants where the wills were or might have been stored. Accordingly, other than finding that it is likely that the wills were stored

together and not at Elena's house, I do not reach any findings as to where the 2015 Will was or might have been located at the time of Vladimir's death.

291. The more important question is how the 2015 Will found its way to the hands of the anonymous individual who presented himself at Mr Kouznetsov's office on 18 May 2021. I consider that, on the basis of the evidence before the court, it can be inferred that Elena, Olga and Alexander were (at the very least) involved in the suppression of the will. The most important facts and matters which support this conclusion are the following (in broadly chronological order).

292. First, given the inherent probability that the 2015 Will was kept together with the 2014 Russian Will (and the 2014 Worldwide Will, if it was retained), it is relevant to consider the evidence as to when and where the 2014 Russian Will was found. Elena's account, given in correspondence from her solicitors in October 2020, was that she found that will in the safe at her house in Tervuren in or around September 2017, in the presence of Olga and Alexander. Both Olga and Alexander deny being present when the 2014 Russian Will was supposedly found by Elena. There is therefore not a consistent account, even as between Elena, Olga and Alexander, of when and where the 2014 Russian Will was found.

293. More importantly, however, it is inherently implausible that Elena would have waited until three months after Vladimir's death to open the safe in her own home in Belgium to look for his will. Olga's report to the Belgian police on 12/13 June 2017, set out above, shows that the family was already aware within days of Vladimir's death that Vladimir had made at least one will, and the 2014 Worldwide Will which was provided to the police at that time referred explicitly to a will of the same date made in respect of Vladimir's property in Russia. If Elena, Olga and Alexander did not already have the 2014 Russian Will, it is inconceivable that they would have sat around for months before looking for that in any potential safe storage location. Nor is it, in any event, likely that Vladimir would have stored any of his 2014 or 2015 Wills at Elena's house in Tervuren, for the reasons set out above.

294. The implausibility of Elena's account suggests, therefore, that Elena found the 2014 Russian Will somewhere other than in her house, and quite possibly earlier than she claimed. Given the likelihood that the wills were kept together, it is in my judgment probable that Elena came into possession of both the 2014 Russian Will and the 2015 Will at the same time and from the same source.

295. Second, it is apparent from the correspondence between the person or persons holding the 2015 Will and Brigita/Mr Masmejan that whoever was holding the will knew a lot about the litigation and the parties to the litigation, which only those parties (or those very close to them) could have known. In particular:

    i) The initial contact from "Mr Levy-Peeters" on 16 July 2020 was by email to Ms Robertson, a partner at McDermott Will & Emery. That firm had, however, only very recently come on the record as acting for Brigita and the other claimants, on 20 May 2020. The email from Mr Levy-Peeters claimed that Brigita's previous solicitors (Macfarlanes) had informed him that Ms Robertson was now dealing with the case. But there is no evidence of Mr Levy-Peeters ever making contact with Macfarlanes or indeed anyone else connected with Brigita prior to the 16 July email to Ms Robertson. As Mr Malek pointed out, while the parties to the litigation would

have been aware of the identity of Brigita's solicitors, that would not be known to any third party without access to the court file (or unless they had been told by one of the parties).

ii) The next email from "Mr Levy-Peeters" on 19 July 2020 referred to Brigita's Swiss phone number and personal email address. Again, that is information that would not have been held by a third party who Brigita did not know.

iii) On 5 and 6 March 2021 "Mr Bintz" and "Mr Levy-Peeters" sent separate emails referring to prospective settlement discussions between Brigita and Elena, in circumstances where it was only on 5 March that a letter had been sent by the claimants' solicitors to all of the parties referring to those settlement discussions. Olga and Alexander must have known about that correspondence, because their solicitors replied on their behalf the next day (a point which I will return to shortly). There is no evidence that anyone outside the parties to the litigation were or could have been aware of those settlement discussions. When asked about this correspondence in cross-examination, Olga gave evasive answers which (implausibly) denied any knowledge of any those discussions.

iv) An email from "Mr Levy-Peeters" to Brigita on 9 April 2021 referred to Elena's arrest in Russia, which had happened a little over a week earlier. Given that the other parties to the proceedings were only informed of this on 15 April, by Elena's solicitors, it is improbable that the sender of that email could have been anyone other than Olga and/or Alexander, or someone very close to them who was obtaining information directly from them.

v) The email from "Mr Levy-Peeters" to Brigita on 24 April 2021 again reveals that the sender knew the identity of both Brigita's English lawyer and her Russian lawyer, indicating that the sender was someone very closely connected with both these proceedings and proceedings against Brigita in Russia.

296. Third, it is striking that the two separate emails (from "Mr Bintz" and "Mr Levy-Peeters") sent on 5 and 6 March 2021, objecting to the settlement negotiations between Brigita and Elena, were sent at the same time as a letter from the solicitors for Olga and Alexander, rejecting the offer of a moratorium for settlement discussions, and saying that Elena did not speak for Olga and Alexander.

297. Fourth, when the 2015 Will was eventually inspected by Ms Navarro, that took place at the offices of Mr Kouznetsov in Paris on the basis that Mr Kouznetsov's clients were not willing to travel outside of Paris. While that fact alone does not implicate Elena, Olga or Alexander, it is relevant that Olga had substantial connections to Paris, where she had attended various universities from 2007, and where she, Alexander and Elena have continuing interests in several properties. Alexander moved to Paris to attend school there in 2015, and his evidence was that he was still living there in 2016 when he met Ms Avdoyan, who looked after Olga's son when Olga was working (discussed further below). Olga confirmed in her cross-examination that she was at the time living in Paris albeit travelling abroad frequently.

298. Both Olga and Alexander said that they moved to Beirut in around 2016/17, but there is no concrete evidence before me to corroborate those claims. It is, moreover, clear from letters from the Belgian tax authorities to Olga, dated 8 November 2021 and 16

November 2022, that Olga had provided contradictory and unreliable information as to her domicile. The first of those letters also noted that there was evidence indicating that Olga was living in Lebanon only from October 2019 onwards. I do not, however, need to establish exactly how long Olga and/or Alexander resided in Paris. The important point is simply that they had substantial connections there, and Elena also appears to retain property there, whereas none of the other parties to these proceedings are known to have any significant connections to Paris.

299. Olga and Alexander sought to argue, in their closing submissions, that whoever was behind the extortion attempt was based in Switzerland. There is, however, nothing at all to support that suggestion. Indeed, although in February 2021 there were discussions between Mr Masmejan and "Mr Bintz" about a possible inspection of the will in Switzerland, by April 2021 Mr Kouznetsov had rejected that proposal on the basis that his clients were based in Paris and were unwilling to travel with the document. Mr Masmejan's evidence was also that the person he spoke to who purported to be "Mr Bintz" spoke with a French rather than a Swiss accent. There are no other factors which link the person holding the 2015 Will with Switzerland.

300. Another claim which occasionally surfaced in Olga and Alexander's closing submissions was that the extortion attempt might have been an "inside job" from within Russia. It suffices to say that this claim was nothing more than wild speculation, without a shred of evidence in support.

301. Fifth, the person named by Mr Kouznetsov in the draft agreement for delivery up of the 2015 Will was Ms Avdoyan, who was entirely unknown to Brigita but who has subsequently been revealed as a very close friend of Olga, the godmother to Olga's oldest son, known also to Alexander and Elena, and who entered into a series of company transactions with Elena and Olga between December 2022 and mid-2023, as described at §§185–186 above. Those transactions also came to involve Ms Avdoyan's daughter, Ms Berreby, whose family appears to have resided in or otherwise used two addresses in Paris that are Scherbakov family properties.

302. Olga and Alexander claimed at the hearing that Ms Avdoyan had been the victim of identity theft, and had been "framed" as the extortionist. They were not, however, able to offer any explanation as to how either the claimants or an unconnected third party extortionist would have alighted on Ms Avdoyan to name in the draft agreement provided by Mr Kouznetsov, particularly in circumstances where it is apparent that the claimants had never previously heard of Ms Avdoyan and did not initially even know if that name was a pseudonym. Nor could Olga and Alexander explain why Mr Kouznetsov, a French *avocat*, would have been willing to name Ms Avdoyan as his client without verifying her identity.

303. Sixth, the draft agreement for delivery up of the 2015 Will specified 15 October 2014 as the date of the will, which was in fact the date of the 2014 Wills. The fact that this date was given (incorrectly) indicates that whoever was holding the 2015 Will was also in possession of at least a copy of one of the 2014 Wills. There is, however, no explanation as to how someone based in Paris could have been aware of the date of either of the 2014 Wills, unless they were either one of the parties, or very close to one of the parties.

304. Seventh, it is telling that after the service of Mr Michaelson's first witness statement in October 2021, Olga and Alexander did not reveal that they knew Ms Avdoyan. They only

did so in July 2023 when ordered to do so after the service of Mr Michaelson's eighth witness statement. Olga (again) sought to blame her solicitors, claiming that she had informed Edwin Coe that she knew Ms Avdoyan, and that her subsequent solicitors Fieldfisher were also aware of this. It is, however, highly improbable that two successive sets of solicitors would have advised Olga that it was acceptable for her not to disclose to the claimants her connection to Ms Avdoyan, if they had known about that connection.

305. Moreover, once the connection between Ms Avdoyan and the Scherbakov family was revealed, the explanations given by Olga and Alexander in their witness evidence and at the hearing were evasive and obfuscatory. I have already rejected Olga's claims that all of her communications with Ms Avdoyan were by telephone, such that she had no emails or text messages to disclose (§§51–52 above). Both Olga and Alexander also made other claims that were misleading or implausible. Alexander, for example, stated in his third witness statement that he had known Ms Avdoyan "for several years". Only in his fourth witness statement did he disclose that Ms Avdoyan was in fact the godmother of Olga's son. Olga confirmed this in her third witness statement, likewise saying that she had known Ms Avdoyan for "several years". By the time of Alexander's fifth witness statement, however, he revealed that he had first met Ms Avdoyan at Easter 2016. He explained at the trial that this was because he was living in Paris at the time, and had occasionally taken Olga's son to be looked after by Ms Avdoyan who was helping Olga with childcare. It is quite clear, therefore, that both Olga and Alexander had known Ms Avdoyan for far longer than the "several years" which they claimed in their witness statements.

306. Alexander said at the trial that he had regarded the fact that Ms Avdoyan was the godmother of Olga's son as an "irrelevant detail", which he had told Fieldfisher but which they had decided not to include in his witness statement. Again, I do not consider it credible that Fieldfisher would have decided to omit such a material fact from Alexander's witness statements, had they known it at the time. Indeed, it is telling that within a week of Alexander's third witness statement, his fourth witness statement did disclose that information, the inference being that he was told by his solicitors to provide this information once they discovered it.

307. Alexander's third witness statement was also remarkably opaque regarding his knowledge of and communications with Ms Berreby, saying merely that he was "aware" of her, without describing who she was; saying that he had not ever communicated with her; and claiming that he did not know whether Olga or Elena had communicated with her. Olga in her fourth witness statement likewise stated that she was "aware" of Ms Berreby, that she was the administrator of EOA and Lalesh, and that she had communicated with Ms Berreby on matters related to the companies.

308. At the trial, however, it was revealed in Olga's cross-examination that Ms Berreby is the daughter of Ms Avdoyan. Olga was very reluctant to disclose this, initially claiming (incorrectly) that Ms Avdoyan's children were not named in the court papers. Alexander confirmed in his cross-examination that he had met Ms Berreby when taking Olga's son to Ms Avdoyan's house (presumably in or around 2016), and that she had subsequently sent him at least one personal text message when he was going through a difficult time in his life, offering that he could stay at her house. It is also notable that for the corporate filings in relation to the company Lalesh, both Ms Berreby's address and the address of her son and his father were given as Scherbakov family properties in Paris. Olga and Alexander's witness statements were therefore materially misleading: it is clear that Ms

Berreby is, like her mother, a family friend of both Olga and Alexander, who both of them have known for many years.

309. It is difficult to see why Olga and Alexander would have been so reluctant to disclose their connections with Ms Avdoyan, both before and during the trial, if they genuinely had nothing whatsoever to do with the suppression of the 2015 Will and the naming of Ms Avdoyan as the person holding that will. Their evasiveness was not to their credit, and strongly suggested that they had something to hide.

310. The final factor pointing towards the involvement of Olga and Alexander is their allegation, made for the first time at the trial, that the person behind the extortion attempt was in fact Mr K, possibly together with Brigita herself. I address this separately in the next section. For present purposes, however, it suffices to say that the allegation was so utterly fanciful that it is difficult to understand why it would be made other than in a (hopeless) attempt to deflect attention from Olga and Alexander.

311. In addition to the factors set out above, the claimants relied on the fact that Olga and Alexander's solicitors have (presumably on instructions) repeatedly pressed the claimants for details of the Swiss investigation, since the time when they were informed of that in Mr Michaelson's first witness statement. Mr Malek contended that the court should infer that this information was sought so that Olga and Alexander could make decisions as to their strategy in these proceedings, if the investigation was continuing and was likely to reveal a link between them and whoever was holding the 2015 Will. I do not think that this is the inevitable inference to be drawn. If Olga and Alexander did genuinely have no involvement in the suppression of the 2015 Will, it is entirely understandable that they would nevertheless wish to be kept informed of an investigation seeking to trace the document.

312. The requests for information regarding the Swiss investigation do not, therefore, suggest complicity on the part of Olga and Alexander. Nevertheless, for the reasons set out above, the abundance of other evidence leads me to the clear conclusion that Elena, Olga and Alexander were all involved in the suppression of the 2015 Will.

Alleged involvement of Mr K and Brigita

313. As I have explained above, the allegations against Mr K were not pleaded by any of Elena, Olga or Alexander, nor referred to in any of their (multiple) witness statements concerning the existence of the 2015 Will, nor referred to in Olga and Alexander's written submissions at the start of the trial. On the fourth day of the trial, however, in Olga's opening submissions she said that either Brigita was behind the extortion attempt herself, or it was someone "closely linked to [Vladimir] who is trying to interfere with the estate for other nefarious reasons, which we shall be presenting in our closing arguments". She later said cryptically that:

> "we argue that Vladimir probably destroyed the English will himself. We have irrefutable evidence to provide this, and we will continue on this issue during the cross-examination of Brigita Morina. Brigita Morina has masked a very, very important detail that is crucial in changing the outcome of this whole entire case. The detail is the key to unlocking the final chapter in the will story and seeing the extortion claim from a completely different angle …"

314. There then followed Brigita's cross-examination by Olga, in which Olga suggested to Brigita that Mr K was behind the extortion attempt, on the basis that Vladimir owed him money for a property transaction; or alternatively that the extortion attempt was the product of Brigita herself acting together with Mr K. In Olga's cross-examination of Mr Masmejan, she put to him that the whole thing was a "scam", and that Brigita was perhaps "the victim of her own scam". Mr Masmejan responded (with some incredulity) that Brigita was indeed a victim, but of an extortion attempt.

315. Apart from establishing that Mr K spoke Russian, and knew Vladimir and (at least some of) his business dealings well, the centrepiece of the allegation against Mr K was a letter sent by him to Vladimir dated 15 May 2017. The letter was written in Russian and made various general complaints about Vladimir's attitude to Mr K. Specifically, however, Mr K objected to the fact that he had assisted Vladimir with a Russian property transaction in December 2016 and April 2017, for which Vladimir had promised him 10% of the sale price, which had not been paid. Mr K put the figure owing to him at $3.5 million, which he asked Vladimir to pay him by 31 May 2017. This may not have been Mr K's only correspondence with Vladimir on this matter: Mr Hofmann said that he visited Vladimir in Belgium in April 2016, during which time Vladimir showed him a letter from Mr K asking for money in connection with a transaction for a house in Russia.

316. It is common ground that after writing the May 2017 letter Mr K visited Vladimir at the house in Waterloo on 8 June 2017, two days before Vladimir's body was found. Mr K was therefore, apparently, the last person to see Vladimir alive. It is not known whether Vladimir ever paid Mr K the $3.5 million demanded. Mr Masmejan's evidence was, however, that after Vladimir's death Mr K had asked for payment of an invoice or two invoices amounting to less than CHF 200,000 in total; that his firm had said that they would look into it but never got back to Mr K; and that Mr K in turn never came back to them.

317. That series of events does not, however, provide any plausible motivation for Mr K to have been involved in the extortion attempt based on the 2015 Will. It is apparent from the May 2017 letter that Mr K was very unhappy with Vladimir and Vladimir's behaviour towards him. It is nevertheless highly improbable, to say the least, that a debt of some $3.5 million (on the basis of the May 2017 letter) or up to CHF 200,000 (on the basis of the invoices apparently submitted to Mr Masmejan's firm) would lead Mr K to attempt to extort €35 million from Brigita for delivery up of the 2015 Will, whatever his grudge against Vladimir may have been.

318. Nor is there any explanation as to how Mr K could have obtained the 2015 Will from Vladimir. There is no evidence suggesting that he ever had anything to do with Vladimir's testamentary documents, nor any reason why Vladimir would have given any of his wills to Mr K for safekeeping.

319. Nor could Olga and Alexander explain how, if Mr K was indeed the extortionist, he could have known of the existence of Ms Avdoyan, let alone the connection between her and Olga/Alexander. There was no suggestion that even Vladimir knew of Ms Avdoyan – not surprisingly, because she was (as is now clear) a friend of Olga from the time Olga lived in Paris, and Vladimir had been estranged from Olga for some years before he died. Nothing therefore explains how Mr K could conceivably have "framed" Ms Avdoyan by naming her as Mr Kouznetsov's client.

320. Nor is there any explanation for why, if Mr K was the person behind the extortion attempt, he would have instructed a Parisian lawyer with a Russian background (Mr Kouznetsov), engaged as a middleman the person with a Parisian-French accent purporting to be "Mr Bintz", and insisted on the inspection of the 2015 Will taking place in Paris. Mr K is, as previously noted, a Swiss lawyer and it is not suggested that he had any significant connection with Paris.

321. The other suggestion made by Olga, that Brigita was in some way involved in fabricating an extortion attempt directed at herself, in order to pursue a "personal vendetta" against the Scherbakov family, is completely nonsensical. As I have found, the evidence establishes that the document inspected by Ms Navarro in Paris was indeed the original 2015 Will. If Brigita held that document all along there is no coherent explanation of why she would have suppressed it, putting herself through the very considerable expense and emotional trauma of years of litigation to establish its existence and validity on the basis of an elaborate fantasy, contrived in order to besmirch Olga and Alexander. Nor is it remotely credible that Brigita would have concocted the extortion attempt as a "disguised large scale money transfer operation" as Olga and Alexander also suggested. Nor (as with Mr K) could Brigita have named Ms Avdoyan as the holder of the 2015 Will, given that it is quite apparent that she was entirely unaware of Ms Avdoyan's existence as a real person until the corporate connection was discovered in 2023.

322. I therefore unhesitatingly reject the claims by Olga and Alexander that Mr K and/or Brigita were involved in suppressing the 2015 Will.

Conclusions on the revocation of the 2015 Will

323. It follows from my findings above that the 2015 Will cannot be said to have been revoked, whether as a matter of English or Belgian law.

324. As a matter of English law, the analysis is straightforward: for the reasons set out above, the existence of the 2015 Will after Vladimir's death means that no presumption of revocation arises. The 2015 Will can only be found to have been revoked, therefore, if it has been expressly revoked in writing, or by the operation of a subsequent will. It is not contended by any of Elena, Olga or Alexander that any of those latter circumstances arise in this case, save for the reference in Olga and Alexander's closing submissions to the Belgian police report of 12 July 2017 concerning what purported to be evidence from Mr Ermakov regarding a possible new will. I have rejected that evidence for the reasons set out at §§144–145 above.

325. If Belgian law applies, the four requirements for reliance on a copy of a will set out at §268 are clearly established:

    i) The 2015 Will existed at the date of Vladimir's death, and was (as I have already found) formally valid.

    ii) The content of the 2015 Will is established by reference to the copy held by Mr Hartwig, which I have found to be a true copy of the original will.

    iii) The unavailability of the 2015 Will is undoubtedly due to *force majeure* in the form of the suppression of the will by someone claiming to be Ms Avdoyan, with the probable involvement (as I have found) of Elena, Olga and Alexander.

iv) In the circumstances, Vladimir did not and could not have known that the 2015 Will was lost. Indeed, there is no evidence that it *was* lost prior to his death.

326. In light of those findings, and the findings which I have also made as to Vladimir's domicile at death, it is neither necessary nor appropriate for me to consider the question of whether, if on the hypothesis that the 2015 Will has not been found, Vladimir should be presumed to have destroyed that will with the intention of revoking it. That question raises numerous sub-issues as to the facts of Vladimir's relationship with Brigita and Elena and his testamentary intentions. As with my conclusions on domicile and succession, it would not be appropriate or meaningful for me to speculate as to what facts might be found, in that regard, if my primary factual conclusions are not correct.

Overall conclusions

327. For the reasons set out above, my conclusions are as follows:

i) Vladimir did not at any stage acquire a Belgian domicile of choice. He did, however, acquire an English domicile of choice by the summer of 2015, and did not abandon that domicile of choice thereafter. Vladimir therefore died domiciled in England.

ii) It follows that succession to Vladimir's worldwide moveable assets is governed by English law.

iii) The 2015 Will was formally valid under English law which (it was common ground) is the relevant law to apply given that the will was executed in England.

iv) The 2015 Will existed at Vladimir's death and was the document examined by Ms Navarro in Paris on 18 May 2021.

v) Elena, Olga and Alexander were all involved in the suppression of the 2015 Will. I reject Olga and Alexander's claims that Mr K and/or Brigita were involved in suppressing the will.

vi) It follows from these findings that the 2015 Will cannot be said to have been revoked, whether as a matter of English law or (if my primary conclusion on domicile is incorrect) under Belgian law.

328. As a final point, a embargoed draft of this judgment was sent to the parties for corrections in the usual way. I received short lists of corrections from counsel for the claimants and CD, which I have taken into account in the final version of this judgment. Olga and Alexander sent the court a lengthy letter, accompanied by a 16-page table of amendments which they wished me to make to the judgment. None of those amendments related to typographical or similar errors. They were instead almost all objections to my characterisation or assessment of the witnesses, the evidence before me, or the submissions of the parties, or were complaints that the judgment did not refer to specific points of evidence which Olga and Alexander considered to be relevant. I do not consider it appropriate to make any of the amendments requested in this regard; they are (at best) matters for any appeal.