Potanin Court of Appeal decision opens door to 'limitless' divorce tourism

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The ongoing case of Potanin v Potanina has taken an 'unexpected' turn after the The Court of Appeal overturned a previous decision to dismiss an application for leave under Part III Matrimonial and Family Proceedings Act 1984

In its decision, the Court said Cohen J had 'erred' in dismissing Mrs Potanina's application for leave, overturning the decision and enabling her to pursue a Part III claim.

The decision 'cements' the UK's position as the divorce capital of the world said **Peter Burgess, partner at Burgess Mee**, adding the judgement would be welcome to those who felt they had been badly served by divorce proceedings abroad.

This is the latest decision in the long running Potanina v Potanin ([2024] UKSC 3) saga involving a Russian couple who had lived, married (1983) and divorced (2014) in Russia, before the wife relocated to London (2016), making a Part III application in 2019. In the course of the marriage the couple amassed a huge fortune, with Mr Potnanin now considered one of the wealthiest men in Russia.

Their divorce in Russia did not consider these assets when dividing the family's wealth and as a result Mrs Potanina received less than 1% of the wealth which had been built up during their long marriage.

In 2016 she moved to London and in 2019 began separate proceedings in the UK.

- **Jan 2019**: Cohen J granted Mrs Potanina leave to apply under Part III of the 1984 Act at a **without notice hearing**.
- **Feb 2019**: Mr Potanin applied to set aside the leave.
- **Nov 2019**: Cohen J set aside the leave and dismissed Mrs Potanina's renewed application. (*Potanina (FD2) [2019] EWHC 2956 (Fam)*)
- **Jan 2021**: Court of Appeal allowed Mrs Potanina's appeal in part, reinstating the original grant of leave but did not rule on the merits. (*Potanina (CA1) [2021] EWCA Civ 702*)
- **Jan 2024**: Supreme Court overturned the Court of Appeal's decision and remitted the matter back. (*Potanina (SC) [2024] UKSC 3*)
- **Sep 2025**: Court of Appeal (Moylan, Falk, Cobb LJJ) allowed Mrs Potanina's appeal, reinstated her leave, and directed the case to proceed in the Family Division.

The decision could open the floodgates to further so-called 'divorce tourism' suggested **Sital Fontenelle, Head of the Family Law team at Kingsley Napley LLP** who said it 'reinforces our reputation for being divorce capital of the world' and the UK will remain an 'attractive jurisdiction' for divorce cases.

It's a sentiment echoed by **Sean Hilton, Family Partner at Stevens & Bolton** who said

> *"This decision may now open the door to a raft of applications that have been waiting in the wings for clarity. It is clear this ruling will shape how we advise international clients going forward. While the procedure for these applications has been tightened, the court have made clear that if jurisdiction is established and there's a real prospect of success for a spouse with a meaningful connection to this country, claims may still proceed with a broad discretion afforded to Judges – perhaps supporting the view that England is the 'divorce capital of the world'."*

Jennifer Headon, Head of the International Family Law Team at Birketts LLP warned the decision could result the 'level of 'divorce tourism' in the courts of England and Wales by spouses dissatisfied with the outcome of litigation in courts of other jurisdictions could be limitless' as a result of the decision.

And with court capacity already stretched, **Sarah Jane Lenihan, Partner at Dawson Cornwell** decried the decision which she added was unexpected.

> *"The question now is whether it will open the door for others who have divorced overseas to seek a second bite at the cherry in England. Both parties were Russian and lived in Russia throughout their marriage. The wife may understandably have felt dissatisfied with the Russian settlement, but that alone should not make England the forum of choice. Our family courts are already stretched to capacity. However sympathetic one may be to her position, we cannot become the family court of the world."*

Others emphasised the 'fairness' of laws governing divorce and finance in England and Wales with **Jake Mitchell at Freeths** adding the recognition of the 'contribution of the homemaker and carer of the children as well as it recognises the breadwinner' was important to ensure spouses, however wealthy, get a fair outcome.

> *"When Natalia Potanina received her (comparatively) modest settlement from the Russian courts, it is no surprise that she sought a do-over in the UK. As family lawyers, we often call London the 'divorce capital of the world' – and this ruling shows why. The courts won't let unfair overseas settlements go unchallenged where there's a genuine link to England."*

Nick Gova, Head of Family Spector Constant & Williams concurred adding

> *"This case underlines why London is often called the divorce capital of the world. English courts are renowned for taking a generous approach to the financially weaker spouse, recognising not just financial but also non-financial contributions to a marriage. Critics sometimes describe this as 'divorce tourism', but in reality the court is simply applying principles of fairness where there is a genuine connection to this jurisdiction. The Court of Appeal's decision shows that even in cases involving international families and huge fortunes, England can provide a forum of last resort where a spouse feels they may not otherwise receive a fair share."*

Mrs Potanina was represented by Charles Howard KC, Deepak Nagpal KC and Jennifer Palmer, instructed by Frances Hughes, Bryan Jones and Sarah Walker of Hughes Fowler Carruthers. Commenting on the decision **Frances Hughes, Partner at Hughes Fowler Carruthers**, said

> *"The decision of the Court of Appeal is a second vindication of our client in making her application in 2019. Our client is grateful for the consideration given by the court to her case and is delighted that the Court of Appeal has recognised, for the second time, the merits of her application. She very much hopes that her case can now be resolved and can be concluded without further delay".*