



Judgment in *PJSC Tatneft v Bogolyubov and others* [2020] EWHC 2437(Comm)

Moulder J's judgment makes clear (subject to any appeal) that advice received by a foreign client from its foreign in-house lawyers is covered by legal advice privilege in the English courts. She also declined to decide the question by reference to the rules of foreign jurisdictions which distinguish between "advocates" and other types of lawyer.

The judgment usefully confirms a number of established principles:

- that whether legal advice privilege applies is a matter for English law, as the law of the forum
- that legal advice privilege extends to communications with an in-house lawyer (R. (*Jet2.com Ltd v Civil Aviation Authority* [2020] 2 WLR 1215), even though they only have one client



- that legal advice privilege covers advice given by foreign lawyers (as confirmed by the Supreme Court in *Prudential v Special Commission of Income Tax* [2013] UKSC 1

Moulder J rejected the applicants' further argument that in Russia (and other CIS jurisdictions), protection from the disclosure of legal advice applies only to communications with self-employed "advocates" admitted to the Bar. She also considered it unnecessary for the court to require evidence that the foreign lawyer is "appropriately qualified", or



that their conduct is subject to supervision by the foreign court. Instead, she preferred a "broader approach" which she considered to be consistent with *Prudential*, and held that the privilege also extends to legal advice from foreign in-house lawyers provided only that they are acting in their professional capacity.

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