

Russian museums are taking a risk in lending us their paintings. Let's hope they get them back

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If a company proves the Russian state owes it money, it is possible that a judge will grant a request to seize these artworks

It's excellent news that several Russian museums are allowing some of their most wonderful paintings to be exhibited at the Royal Academy of Arts next January. But I can't help thinking that they are entitled to feel a little apprehensive. They cannot be certain - yet - that the paintings will not fall foul of English law, and I'm not sure that anything can be done to fully allay their fears. The Russian nightmare is that they will be forced to leave some of the art behind, languishing in some vault while elaborate legal procedures take place to determine whether they can get them back. That would not improve Anglo-Russian relations.

I should make it clear from the beginning that these Russian masterpieces are not in any way to be compared to paintings, mainly belonging to Jews, looted or seized by the Nazis before and during the second world war. Those have been - and continue to be - the subject of bitter legal squabbles.

The Russian paintings potentially give rise to two separate legal issues. One is based on the fact that many of the works to be exhibited in London originally belonged to Sergei Shchukin, an important collector in the period up to 1917. After the revolution, the government nationalised his collection, since when it has belonged to the state. But Shchukin's grandson and heir, a French citizen, has made several attempts to reclaim those paintings that have been shown outside Russia. He failed in Paris, Los Angeles and Rome. I know nothing about him, but it is possible he may try again in London.

The second legal threat has nothing to do with the paintings as such, but with their status as valuable assets. To put it simply, as a general legal principle, if someone owes you money and hasn't paid up, you can seize his assets to cover the debt. It is said - I don't know if it's true - that certain British-based companies believe they have claims against the Russian state. If so, they may try to get hold of some of the paintings, to satisfy the debt. This was attempted in 2005 by a Geneva company when some paintings were in Switzerland. The claim ultimately failed, but not before the art was impounded, and retained by the Swiss authorities for some time.

Can nothing be done to prevent such legal assaults on the Russian exhibition? Here's where it gets legally messy. If we were already in late January 2008, things would be different. A law would be in force granting works of art that foreign states have lent to us "immunity from seizure". Matisse's dancing nudes would be safe from the horrors of litigation. But the law will not be retrospective. Until then, the Russians will have to rely on a letter of doubtful authority - and one which, I discovered, may not even have been sent yet.

Such a letter from the British government assures the Russian government that the paintings lent to the Royal Academy will, under English law, not be seized. The trouble is that the government cannot guarantee what it purports to promise. The letter, in effect, tells the Russians no more than that, in the government's opinion, the paintings are protected from seizure. But the courts can interpret the law differently. So it is possible - I'm not saying likely - that if a company comes to court and proves that the Russian state owes it money, a judge will grant a request to seize paintings, never mind what the government has said. The Russians, whether or not they have received that letter, know that they are taking a bit of a risk, in the interests of the viewing public. Fingers crossed they don't regret it.