The Moscow Times
30 YEARS
INDEPENDENT NEWS FROM RUSSIA

# Russia Angry Over U.S. Fining It for Not Returning Collection

By The Moscow Times

January 17, 2013

The Foreign Ministry criticized a U.S. judge's ruling that fines Russia $50,000 a day over the failure to return historic books and documents to a Jewish group.

Chief Judge Royce Lamberth of the U.S. District Court ruled Wednesday that Russia should pay the fine until it complies with his 2010 order and returns the collection to the Chabad-Lubavitch group, which is based in the Brooklyn borough of New York City. It includes tens of thousands of religious books and manuscripts, some hundreds of years old.

On Thursday, the Foreign Ministry called the ruling "an absolutely unlawful and provocative decision" and threatened a "tough response" if U.S authorities try to seize any Russian property.

Lamberth issued the order a week after a hearing in the case in which the Justice Department urged him not to issue the civil contempt fines. The department argued that fines won't help

resolve the dispute, would be counterproductive and would hurt U.S. foreign policy interests.

Chabad-Lubavitch had already convinced Lamberth that it has a valid claim to the books and manuscripts, which record the group's core teachings and traditions.

The judge earlier ruled that the records are unlawfully held by the Russian State Library and the Russian military archive, and in 2010, he ordered the Russian government to turn them over to the U.S. Embassy in Moscow or to Chabad's representative.

In a statement, the press office of the Russian Embassy in Washington said that the collections are part of the country's national heritage and that Russia doesn't consider Chabad the rightful owner. The embassy called the ruling a violation of the Foreign Sovereign Immunities Act, of international law and of Russian jurisdictional immunities.

A lawyer for Chabad, Seth Gerber, said the group will "seek to enforce the sanctions order by all legal means," including attempts to attach Russian property in the U.S., as authorized by the court and the Foreign Sovereign Immunities Act. Under that law, a sovereign nation is not immune to lawsuits in cases where property is taken in violation of international law.

There are two collections at issue: 12,000 religious books and manuscripts seized during the Bolshevik revolution and the Russian civil war nearly a century ago; and 25,000 pages of handwritten teachings and other writings of religious leaders stolen by Nazi Germany during World War II, then transferred by the Soviet Red Army as war booty to the Russian State Military Archive.

After Lamberth's earlier ruling, Russia completely halted the loan of its art treasures for exhibition in the United States for fear that they would be seized and held hostage in the court battle.

That is despite Chabad's assurance in court filings that it will not go after any art deemed culturally significant by the State Department, which is the case for major exhibitions. Such art is already protected from legal claims under the Immunity from Seizure Act.

Lamberth, who called that a "bogus issue" at last week's hearing, was less colloquial but equally dismissive in his ruling.

"The fears purportedly motivating Russia's moratorium were legally unfounded, as such items would be immune under federal law from attachment," he wrote.

Lamberth dismissed the government's contention that fines would be counterproductive. He said that an initial threat of such fines had prompted Russia's lawyers to meet face to face with Chabad to negotiate on the issue, although that didn't lead to a resolution. Lamberth said he wasn't convinced that fines would hurt U.S. diplomatic efforts to get the collections back.

Russia, he wrote, has "steadily resisted all legal and diplomatic efforts to compel them to return the collections for at least two decades ... and though the United States may indeed be 'committed to continuing these efforts,' it provides neither any information regarding its future plans, nor any other reason to believe that its new efforts will be more likely to succeed."

The Justice Department declined to comment on Lamberth's ruling.

The case has dragged on for eight years, and efforts to get the materials returned date back decades, involving presidential administrations and members of Congress of both parties.

"At the end of the day, all we want is our property back," said Rabbi Yosef Cunin of Chabad. "No amount of money can replace it. Our religious heritage is priceless."

Chabad-Lubavitch, a Hasidic movement within orthodox Judaism, was founded in the late 1700s in Eastern Europe and has been led through its history by seven "rebbes," who amassed the books and writings. The group was incorporated in New York City in 1940.

Original url:
https://www.themoscowtimes.com/2013/01/17/russia-angry-over-us-fining-it-for-not-returning-collection-a20715