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In Russia, jury verdict carries little weight

Double jeopardy safeguards are foreign concept

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MOSCOW — It might have been the end of Valery Zhak's ordeal: for the second time, a jury acquitted him of charges he hired a hit man to murder a developer in a property dispute.

But for the second time, prosecutors have appealed his acquittal and Zhak, a director of musicals on the Moscow stage, could face a third trial.

"Of course we thought it was over," the 66-year-old impresario said, surrounded by case files in his apartment. "A jury's verdict should be final."

But not in Russia, where there is no effective protection against double jeopardy. Here, juries that vote to acquit seldom have the last word.

Jury trials, banned by the Bolsheviks, were reintroduced in 1993 in a signature reform of the post-Soviet era. But legal experts say they have been weakened by a criminal-justice system compromised by politics, corruption and authorities who assume guilt.

Jury trials under siege

"The system has distorted and undermined jury trials," said Sergei Pashin, a retired federal judge who helped write the law reinstating them.

Jury trials are under siege, Pashin and others say, by authorities angered because jurors render not-guilty verdicts far more often than judges do. About two out of 10 defendants tried by juries are acquitted, compared with fewer than one in 100 tried by judges. (It takes seven votes on a 12-person jury to convict.)

Russian prosecutors "are not used to proving anything," said Karinna Moskalenko, a human rights lawyer. "Usually, they come to court and before they even open their mouths, the judge already agrees with them. They say, 'We say it is so, so it must be so' — and this does not work in a jury trial."

Only the most serious crimes warrant a jury, and only if defendants request one. And even then, prosecutors pressure them not to do so, said lawyer Viktor Parshutkin, who represents Zhak.

Lawyers say jurors blackmailed

They can tell defendants they'll get harsher sentences if convicted by a jury, or they can reduce

the charges to make defendants ineligible for trial by jury, Parshutkin said.

Last year, only 700 of 1.2 million criminal cases were tried by a jury.

Judges have long sided with the prosecution, beginning with giving prosecutors the upper hand in selecting jurors, turning them into "a toy in the hands of the authorities," said Pashin.

Some lawyers claim state security agencies regularly infiltrate juries with operatives who will vote to convict, or blackmail jurors into providing information that can be used to challenge acquittals. Juries are sometimes disbanded in midtrial, which attorneys suspect is a pretext for removing jurors likely to acquit.

Igor Sutyagin, an arms-control researcher accused of selling secrets to an alleged CIA front company, was hauled into court on treason charges. In midtrial, the jury was mysteriously dismissed and a second empaneled — one that included a former intelligence-agency employee. Sutyagin was convicted in 2004.

Rights advocates say Sutyagin, who was sentenced to 15 years, is one of several scientists wrongly accused of spying by Russian authorities under President Vladimir Putin, a KGB veteran.

The jury acquittal of Valentin Danilov, a physicist accused of espionage, was thrown out by the Supreme Court and he is serving a 14-year prison term after being convicted in his second trial.

Russia's high court tossed out almost three-quarters of jury acquittals in the first half of 2006, said Mara Polyakova, director of the Independent Council for Legal Expertise.

Zhak was arrested in August 2005 on charges of offering a hit man \$25,000 to kill the developer of his apartment building near the Tretyakov Gallery, in one of Moscow's priciest neighborhoods. His alleged motive was to gain control of commercial space in the building.

Zhak was acquitted and released in June 2006, but prosecutors won an appeal, claiming the judge had misdirected the jury.

After a second jury trial, Zhak was acquitted in April.

Zhak claimed he was framed because he fought for tenants' rights and had uncovered a shady real estate deal between his alleged target, Soyun Sadykov, and corrupt local officials. Sadykov, a leader of Russia's Azerbaijani community, claims the juries that acquitted Zhak were motivated by bias against his people, and that Zhak was able to "buy the jurors, the judge and walk free."

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