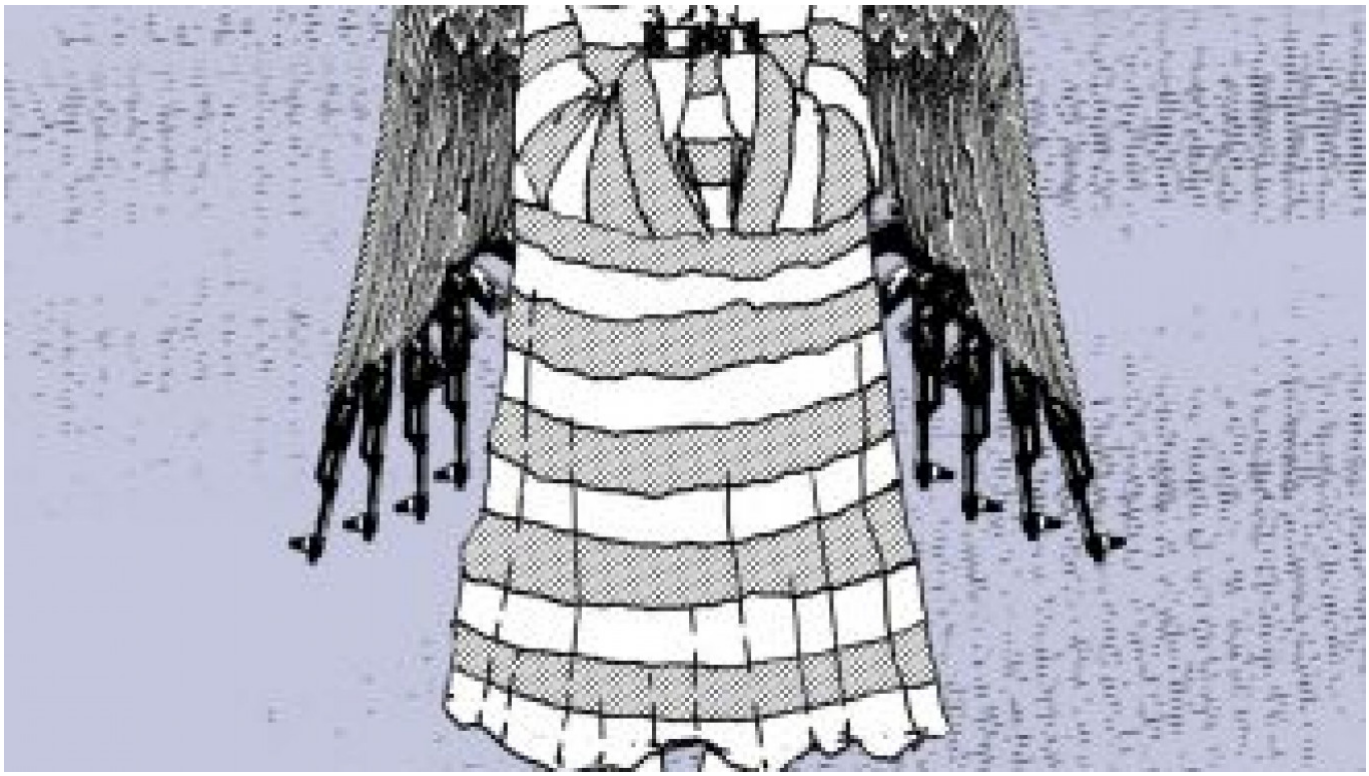
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Giving Russia the Bout

By Michael Bohm

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Viktor Bout was sentenced last week in New York to 25 years in prison on four conspiracy counts. The court ruled that Bout showed a serious intent to sell weapons, including surface-to-air missiles, to the Revolutionary Armed Forces of Columbia, or FARC, in a U.S. sting operation. Washington considers FARC a terrorist organization.

Judging by the Russian media, however, you would think that Bout was an innocent businessman who only sold civil airplanes and transported humanitarian aid to Africa. Bout told NTV in a telephone interview after the sentence was announced that the U.S. campaign against him was an "inquisition." The U.S. jury, many Russian commentators told us, was heavily influenced by the 2005 film "Lord of War" starring Nicolas Cage. Others claimed that the Bout conviction and sentencing was the latest anti-Russian act committed by the United States — another example of how everyday Americans, not just Republican presidential contender Mitt Romney, consider Russia "enemy No. 1."

For its part, the Foreign Ministry criticized the court's actions as biased and driven by political motives, presumably by the White House and State Department. United Russia Deputy Andrei Klimov, deputy chairman of the State Duma's International Affairs Committee, chimed in on

this theme, saying Bout's sentence was connected to the U.S. presidential election. Klimov's implication was clear: A tough stance against a notorious Russian arms trader would somehow help U.S. President Barack Obama in the polls — as if the Obama administration pressured the jury and judge to convict and sentence Bout.

But one of the largest myths disseminated by Russian media, politicians and political commentators is that Bout did not commit a crime by offering to sell weapons to undercover U.S. agents posing as FARC representatives.

"You can't convict for words only," said Albert Dayan, Bout's lawyer, referring to statements made by Bout to U.S. agents before his arrest in Thailand.

This false legal reading was eagerly repeated by Russian television journalists such as Alexei Pushkov, who is also head of the Duma Foreign Affairs Committee. Pushkov said on his "Postscriptum" program on TV Center last week that there was no corpus delicti in the Bout case.

But Bout, a known global weapons dealer who has been implicated in violating United Nations arms embargoes in several African countries, was arrested because he showed a serious intent to enter a conspiracy to sell weapons to FARC. For example, when a U.S. agent said he needed a ton of C-4 plastic explosives, Bout responded that he could supply five tons. According to the prosecution, Bout voluntarily offered 100 anti-aircraft missiles — a conspiracy count that alone carries a mandatory minimum 25-year prison term. Bout also explained to agents how he could disguise the weapons shipments as fruit and buy a small local bank to launder the money. These are not simply empty words but evidence of a clear conspiracy to sell weapons to a terrorist organization.

But no crime was committed, critics say. After all, Bout never actually sold anything. But the prosecutor proved to the jury that Bout had a heightened interest in selling weapons to a terrorist group — and even more weapons than the undercover agents actually sought.

In terms of legal principle, a conspiracy to sell illegal weapons differs little from a conspiracy to kill. After all, you don't have to actually kill a person to be arrested on murder conspiracy charges.

This is a basic legal principle that is by no means limited to the U.S. system. Russia also applies it in murder, embezzlement and various corruption cases, although arguably with less frequency. Take, for example, the 2009 case of Deputy Finance Minister Sergei Storchak. Undercover Russian agents carried out their own sting operation and arrested Storchak on charges of "attempted fraud." This conspiracy charge carried a five- to 10-year sentence if convicted. Although the case was ultimately dropped by the Investigative Committee, Storchak served 18 months in pretrial detention.

For some reason, few in Russia are asking the question: "Why didn't Bout simply say 'no' to the undercover agents?" If he had refused to sell weapons to them, there would have been no grounds for conspiracy charges. But, according to evidence presented by the prosecution, Bout traveled to Thailand for the express intent of negotiating a large, lucrative weapons deal with agents who Bout believed were from FARC. (At first, agents suggested meeting in Montenegro, Moldova, Armenia or Romania, but Bout replied, "It's not safe for me." Bout

finally agreed to meet in Thailand, a country that he had visited before and one that doesn't require a visa for Russians.)

It looks like the Kremlin will not let go of the Bout affair. The Foreign Ministry has pledged to make Bout a top-priority issue in U.S.-Russian relations, perhaps even threatening the "reset."

There is also a danger that the Russians could up the ante by charging an American in Russia with espionage or another serious crime and try to offer him in exchange for Bout. Interestingly, Pushkov may have hinted as much when he wrote on his Twitter account that in light of the Bout affair, Russia should prosecute Americans who commit criminal acts on Russian territory. But presumably, Russian authorities should prosecute crimes committed by anyone in Russia — regardless of citizenship or whether Bout remains in a U.S prison.

In the end, however, Obama, or any other U.S. president, is unlikely to agree to exchange Bout for anyone — at least in the next 10 years or so. The United States, which has sought Bout's arrest for years, spent a lot of time and effort in executing a skillful sting operation and is unlikely to give him up. This may leave Washington in a stalemate with Russia, which could hurt the reset.

Yet many in the United States said the same thing after former Yukos CEO Mikhail Khodorkovsky was sentenced in two criminal trials that were clearly biased and politically motivated — or after the state effectively expropriated Yukos, causing U.S. shareholders in the company millions of dollars in damages. Nonetheless, the reset continued — albeit in fits and starts — because, despite the occasional sharp demagoguery of politicians on both sides, there are still many shared economic and political interests between the countries. As long as this remains the case, the reset is bound to continue in one form or the other.

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