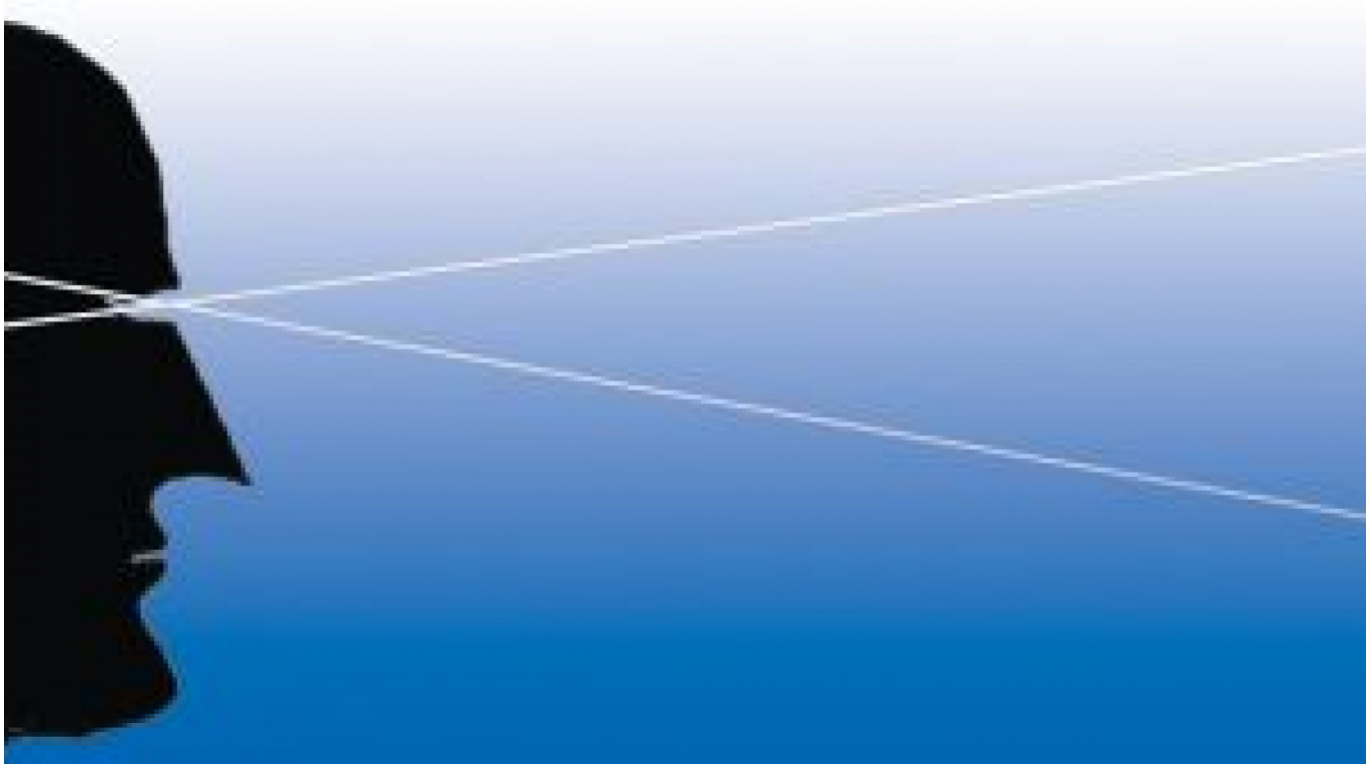
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Something Really Went Wrong in Navalny Case

By Georgy Bovt

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The verdict against opposition leader Alexei Navalny was completely predictable. Just like the court case against former Yukos CEO Mikhail Khodorkovsky, the prosecutor initially requested one year more than was finally sentenced. In this case, the prosecutor sought six years in prison, but Navalny was sentenced to five. It was unrealistic to hope for a suspended sentence. After all, if the authorities were not intent on putting Navalny behind bars, why did they restart a case that the very same Investigative Committee had only recently closed for lack of evidence of a crime?

Even the reaction to the verdict was predictable from the outset. Navalny's supporters were certain to view any negative verdict as a politically motivated command from the Kremlin. And his opponents were sure to argue that "thieves like Navalny should sit in jail." In general, most Russians view convictions of public figures as being politically motivated. With the complete lack of faith Russians have in the courts and justice system, that is exactly how this ruling was perceived.

Of course, the judge in the Navalny case could not have handed down any other sentence except guilty, given that the case had been reopened on direct orders from the Investigative Committee. The judge knew exactly how to rule.

But the big surprise was that the prosecutor filed a motion just minutes after the verdict was rendered to free Navalny until the appeals court rules on his conviction. This contradicts the popular theory that the Kremlin had ordered Navalny's release because it got concerned after protests that broke out in Moscow, St. Petersburg and 10 other cities. In fact, the prosecutor was simply following standard legal practice: A person convicted for an economic crime can remain free until the sentence is enforced or an appeal is filed.

But why were the authorities willing to selectively uphold this particular rule? After all, these motions — which are usually initiated by the defense, not the prosecution — are rarely approved by judges. The reason an exception was made in Navalny's case is that detaining him in prison would deprive incumbent Mayor Sergei Sobyanin the ability to claim that the Sept. 8 mayoral election was legitimate. Without Navalny, the race would be dismissed as another Kremlin-orchestrated election with fake opposition candidates. This is why Sobyanin personally intervened with municipal deputies from United Russia to ensure that Navalny gathered the 110 signatures he needed from to register as a candidate. Everyone understands that the "opposition" Liberal Democratic Party, Communist Party and A Just Russia are really marionettes of the Kremlin and that the candidate from Yabloko, Sergei Mitrokhin, is too weak to be considered a true rival. But Navalny's farcical trial and verdict have given him a few extra popularity points that he would never have earned on his own otherwise.

The verdict itself raises many questions. If Russia's legal system was based on the doctrine of precedence, any commercial transaction in which a middleman buys goods at one price and then resells them at a higher price would be subject to prosecution. But even without precedence law, the business community — and more important, the siloviki — are given a clear signal: If senior politicians want somebody's head, any business deal can be classified by judges as "illegal enrichment," "embezzlement" or "fraud" and prosecuted accordingly. Amid these politically driven show trials, any state campaign aimed at improving the investment climate in the country becomes meaningless.

At the same time, the case sent a different signal to the bureaucratic elite and society as a whole: If a prominent person stays out of politics, he can expect leniency from the authorities if he holds office or is a top executive at a state corporation, even if he commits serious crimes. For example, at almost the same time as the trial against Navalny was held, a former deputy prefect of Moscow was convicted for misappropriating 345 million rubles ($10.7 million), much higher than the 16 million rubles ($494,000) worth of timber that Navalny allegedly stole, according to the prosecution. What's more, the former deputy prefect received a suspended sentence, not the five-year sentence that Navalny will serve after his appeal is almost certain to be declined. And for months now the case has dragged on against Oboronservis that involves former Defense Minister Anatoly Serdyukov and his girlfriend, Yevgenia Vasilyeva. In that case, a much higher amount — billions of rubles — have allegedly been misappropriated. But the former defense minister has not even been named as a suspect in the case, and Vasilyeva — ostensibly under house arrest — has been spotted shopping in Moscow boutiques. The reason for this light treatment, of course, is that both Serdyukov and Vasilyeva were loyal to the ruling regime.

The speed with which the appeals court will render its decision on Navalny's conviction will depend on two competing political camps: Sobyanin's and that of his rivals who do not want Sobyanin to increase his prestige by winning in a relatively fair election. If the first camp has its way, the appeal process will be delayed long enough to allow Navalny to participate in the Sept. 8 election. If the second, more hawkish camp prevails, Navalny will be imprisoned prior to the election.

This rivalry between the two groups underscores the level of confusion in the Kremlin. It also forces President Vladimir Putin to choose between two politically undesirable options: Jailing Navalny prior to the mayoral election will weaken Sobyanin's position and discredit the entire race, but allowing the Navalny scandal to escalate will give him more votes than he would have received otherwise. At the same time, if Navalny gets more than 10 percent of the vote and the authorities jail him after the election, he will look even more like a political prisoner. To avoid that scenario, the authorities might have to falsify returns to ensure that Navalny wins no more than 3 percent of the vote, something they had wanted to avoid because heavy falsification could prompt more street protests.

Any way you look at it, the Kremlin has backed itself in a corner with the Navalny conviction. As one news anchor recently commented on live television when Russia's Proton rocket blew up after its launch: "Something's definitely gone wrong."

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