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GROUNDS FOR REVIEW OF COURT DECISIONS BASED ON THE JURY'S DECISION IN THE APPELLATE INSTANCE

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The subject of the paper is the procedural features and grounds for the appellate revision of the verdict, decided by the court with the participation of jurors.
The purpose of the article is to is to assess the effectiveness of the rules on the grounds for review of courts' decisions based on jury's verdict.
The description of methodology. The author uses formal-legal and comparative-legal methods during the scrutinize the text of the Criminal Procedure Code of the Russian Federation and international legislation. The court statistics is also analyzed.
The main results and scope of their application. The author gives a general description of the legal concepts of cassation and appeal, their similarities and differences. The paper suggests statistical indicators of the activity of the jury as a court of first instance, as well as statistical characteristics of the decisions of the Supreme Court of the Russian Federation as a court of appeal and as a court of cassation. A brief description of the rules of appeal proceedings, the types of appealed decisions, powers and limits of the rights of appeal are also characterized. It is proposed to analyze the grounds for repealing or changing the accusatory and acquittal decisions of courts with the participation of jurors, the interpretation of such grounds by higher courts through the resolution of specific criminal cases. Specific criminal cases examples are given, and foreign criminal procedure legislation is analyzed.
Conclusions. The author suggests to replace the grounds for cancellation or modification of both accusatory and acquittal decisions of courts based on the jury's decision with the grounds previously provided in art. 465 of the Code of Criminal Procedure of the RSFSR because of their clearer legal content.

1. **Introduction.** Federal Law of the Russian Federation No. 190-FZ of June 23, 2016. from June 1, 2018 It is proposed to expand the jurisdiction of the court with the participation of jurors at the expense of deliberate murder without aggravating and mitigating circumstances (Part 1 of Art. 105 of the Criminal Code of the Russian Federation), intentional grievous bodily harm, resulting in the death of the victim through negligence (Part 4 of Art. 111 of the Criminal Code of the Russian Federation) and several especially serious crimes (for example, Art. 277 of the Criminal Code of the Russian Federation), where it is impossible to impose the death penalty or life imprisonment (for example, against women or minors) with the transfer of this category of cases to the district level courts with verdict by six jurors. These changes will entail a significant increase in both the criminal cases considered in the first instance with the participation of jurors (up to about 13-14 thousand per year instead of a few hundred), and, naturally, the number of appeals and submissions on such sentences, which explains the relevance of the proposed study, the relevance of the analysis of the controversial grounds for a possible revision of court decisions with the participation of the jury on appeal.

Since January 1, 2013, the Federal Law No. 433-FZ has come into effect, providing introduction of a single appeal procedure for reviewing sentences and other decisions of courts of first instance in criminal cases (both with and without jurors) that have not entered into legal force

(previously, such a review was carried out in cassation). The subsequent possible review of both the accusatory and the acquittal decisions of the courts with the participation of jurors that entered into legal force is possible in the stages of the supervisory review proceedings (the Russian procedural legislation had a very interesting time period from July 1, 2002 to May 11, 2005, when art. 405 of the Code of Criminal Procedure of the Russian Federation completely prohibits a turn for the worse for the convicted person at this stage) and proceeding under newly discovered circumstances, which sometimes takes place in Russian judicial practice.

2. The concept of appeal and cassation. The Russian cassation (now preceded by the appeal) proceedings in the main categories of cases, which had been in effect until the specified period, represented criminal verification institutions of the judicial acts that did not enter into legal force, which combined elements of appeal and cassation, although in essence it was not an appeal nor cassation in the traditional understanding of these procedural institutions (until January 1, 2013, the lack of regulation of the procedure for researching new evidence, and also the inadmissibility of the new court decision, replacing the judicial act of first instance, without its cancellation and the transfer of the case to the new judicial review, the appeal itself took place only to verify the decisions taken by the magistrates .

The Federal Law of December 29, 2010 establishes a single appeal procedure for all courts of general jurisdiction for checking court decisions that have not entered into legal force in criminal cases. The courts of cassation are transformed into appeal with the preservation of the existing system of judicial system - the district court acts as an appeal instance for judicial acts of the magistrate; regional level courts - an appellate court for court decisions of district courts, as well as for reviewing intermediate court decisions made by courts of the same level; The Supreme Court of the Russian Federation is the appellate court for the judicial acts of the regional and equal courts, including for court decisions with the participation of jurors who have not entered into force.

The courts of appeal are vested with the following powers:

- check the court decisions in terms of factual and legal grounds with the issuance of a new judicial act completely replacing the decision of the court of first instance (except for the verdict on the basis of the jury's verdict);
- explore new evidence on the rules of production in the court of first instance, taking into account the peculiarities of the proceedings in the court of appeal;
- check the proceedings on the case in full and in respect of all convicts in the case in order to eliminate possible judicial errors;
- cancel the judicial act, adopted by the court of first instance, with the referral of the criminal case to a new court hearing in the same court or to the prosecutor if there are grounds provided by law (usually such a decision is made when the sentence is canceled, based on the jury verdict).

In the Federal Law of December 29, 2010 (Chapter 45.1 of the Code of Criminal Procedure referred to above) provides for detailed regulation of the procedure for appealing a judicial act on appeal and proceeding to an appellate court. In particular, issues related to the right of appeal are regulated, and court decisions to be appealed are listed. The order and terms of bringing appeals and requirements to them, the subject and terms of appeal proceedings, the procedure for consideration of a criminal case by the court of appeal, the grounds for cancellation or amendment of a judicial act, the limits of rights and types of decisions of the court of appeal , requirements for appeal decisions .

The characteristic features of the previous appeal (at present it is a type of supervisory review) until January 1, 2013. There are the next opportunity:

- appeal and review of the sentence not only from the point of view of violations of the rules of law, but also on the merits, on the issues of fact;
- the court of cassation to make the necessary changes to the sentence, both from the standpoint of fact and from the point of view of law, if this did not worsen the situation of the convicted person (the change of sentence could be based on additional materials and documents, including those that were not the subject of the court's investigation first instance).

- at the request of the party to directly examine the evidence according to the rules of the court of first instance, although this was mainly used to examine written evidence.

The court of cassation did not have the right to decide the sentence itself instead of the canceled one, or to make a direct decision worsening the situation of the convict. Even if the case was subject to such a violation of procedural law, which can be replenished in a court of second instance, for example, the necessary forensic psychiatric examination was not conducted, the cassation was also not entitled to conduct it without a new trial by the court of first instance.

The author does not quite agree with the categorical opinion of most modern researchers about the unsuitability of an appeal as a form of reviewing court decisions with the participation of jurors who have not entered into legal force [1, p. 11], at least due to the fact that the features of the modern appeal in relation to the revision of the decisions of the jury courts are almost identical with the cassation procedure for the revision of the decisions of those, which were valid until January 1, 2013.

Of course, a cassation and (or) supervisory review of such judicial acts and on the grounds of review of decisions that have entered into legal force seems more logical, more reasonable and more just, although the essence of the matter is not in terminology and, even, not in the content of the law, but in that the court of second instance is initially inclined to cancel the acquittal of the jury, which is not always facilitated by the not always unambiguous interpretation of the existing grounds for the cancellation of those, which allows, in essence, to cancel, in the opinion of the author, any “objectionable”, “not feasible figurative ", etc. the jury’s decision (although the jury’s effective decision on current grounds of appeal will be substantially more difficult to cancel).

From the point of view of ideal justice (if it is possible at all), a complete ban on the abolition of acquittals by jurors is necessary (this is the case in Anglo-Saxon law), except for the revision stage due to newly discovered circumstances, but to such fundamental changes the modern Russian state, modern Russian justice and modern Russian society are obviously not ready, and in some cases, the acquittal of the jury is extremely reasonable doubt, require at least attempt to cancel it on appeal or cassation. From the point of view of fair justice (such, perhaps, it is possible from the point of view of compliance with formal rules), the court decision with the jury (at least acquittal) should possibly be reversed or changed in appeal by the new jury, as provided for in France .

3. **Statistics of appeals against court decisions with the participation of jurors**. It should be said that, until recently, the number of appealed and protested sentences passed by the jury courts had a steady upward trend. If in 2000 The Court of Cassation, for example, reviewed 59 cases involving approximately 200 people; in 2002, 195 cases per 340 persons, in 2003. - 290 cases for 551 persons, in 2004. - 549 cases involving 1017 people, then in 2005. - 426 cases against 844 people (695 convicts, 148 acquitted, in relation to 1 person per definition). In 1994, for example, 42.9% of cassation complaints and protests (submissions) were satisfied. - more than 50% in 2000 - over 60%.

In 2004 jury trials justified 16%, in 2005 - 17, 6% of the number of persons in respect of whom jury made their decisions. In subsequent years, this figure will remain at about the same level: 2010 - 17%, 2011 - 15%, 2012 - 17%, 2013 - 760 people were convicted, 673 people were acquitted, 102 were acquitted, 2016 - 361 persons were convicted (85.7%), 60 were justified (14.3%), in 2017 448 persons convicted, 51 justified (10%).

Approximately half of acquittals of jury trials come into force (in 2000, for example, acquittals came into force in relation to approximately 7% of acquitted, 1999 - 8%, in 2017 the appeal canceled the decisions of the jury in respect of 35% of acquitted), the rest acquittals are canceled by the Court of Cassation (now - the Criminal Code for Criminal Cases) of the RF Supreme Court for protests (now - for submissions) of prosecutors and complaints of victims (and their representatives) with referral of cases to a new court hearing.

The more frequent cancellation of acquittals by jurors confirms their correlation with canceled accusatory decisions. In 2016 convictions against 9.14% of convicts and 56.67% of acquittees were canceled, in 2004 - in respect of 67 convicts and acquittals in respect of 84 people

(altogether SC IC acquittal sentences in respect of 151 people were canceled), sentences imposed on 83 persons, changed, in 2003. - in relation to 28 convicts (5%) and 34 acquitted (24%), in 2002 in relation to 5.9% of convicts and 32.4% of acquitted, in 2001. - 6.7% of convicts and 43% of acquitted, in 2000. - 10, 7% of convicts and 54, 9% of acquitted, in 1997. –16% of the accusatory and 48.6% of the acquittal, in 1996 - 20.6% of the accusatory and 30.7% of the acquittal.

Comparison of these figures suggests that in both in the 90s of the XX century and at the beginning of the XXI (in 2005, convictions were canceled for 101 convicts - 14, 5%, and acquittals for 72 people - 47 %, sentences for 65 convicts changed) acquittals in jury are canceled about 5 times more often than convictions.

For comparison, we point out that the Judicial Board of the Armed Forces of the Russian Federation in 2000. in the cassation (now appellate) procedure, the convictions of the courts without jurors against 553 convicts (5.9%), acquittals for 105 people (35, 4%) were canceled; indictments against 304 people (3.9%), acquittal against 151 people (45.8%), in 2005 - indictments against 345 convicts, and acquittal against 110 people. In 2013 306.7 thousand criminal cases were considered by the appellate instances, 4975 convictions were annulled (including 79 for rehabilitating reasons), and acquittals were issued in 394 cases, in 2016. 14,500 appeals and submissions were considered, 7,769 convictions were annulled, 18,361 convictions were amended, 829 acquittals were issued.

Modern statistics show a certain “equalization” of the above indicators of the jury, although this can be explained by indicating the number of convicts, and not the number of relevant criminal cases with a percentage ratio. Thus, for example, in the first half of 2010, 283 cases per 646 persons (539 convicts, 106 acquitted and one person recognized as subject to compulsory treatment) were examined in respect of decisions of courts with jury that had not entered into legal force. Canceled convictions with referral to a new judicial review in respect of 34 people, changed in relation to 24, acquittal decisions were canceled in respect of 24 persons.

For the second half of 2013, for example, on appeals and submissions to the decisions of the courts with the participation of jurors 244 cases were examined for 396 persons (332 convicted and 63 acquitted, canceled sentences for 19 convicted and for 14 acquitted, changed sentences for 27 convicted. In 2017, as it was mentioned that 448 people were convicted by jury trials, 51 persons (10%) were acquitted, the appeal overturned acquittal decisions against 18 persons (35%).

We have already noted that, in countries with the Anglo-Saxon system of law, the acquittal verdict is practically final and cannot be appealed by the prosecutor or anyone else. In the UK, for example, an appeal against an acquittal is possible only on a very narrow circle of grounds, for example, intimidation or pressure on a juror or a witness or a potential witness in the absence of which acquittal would not have been rendered. The indictment decision on the basis of the jury's verdict is subject to mandatory cancellation if the verdict is deprived of reasonable grounds, or not supported by the necessary evidence, or the issue of law is incorrectly resolved, or for any reason the interests of justice are violated [2, p. 219 - 223]. The appeal of the acquittal to the English court system was first secured by the Criminal Justice Act of 1972 and was essentially a request for clarifications of a purely legal nature. When an alternative verdict is filed in an appeal with a two-count indictment (for example, theft and concealment of stolen property), with an acquittal to the jury on the second charge, the appeal cannot replace this excuse with a second-look guilty verdict, even if the change seems correct [3, p. 525 - 526, 530 - 531].

In US litigation, both the judge in the court of first instance and the appellate court can only annul the indictment if it is not based on sufficient evidence. Perhaps this is due to the fact that over 90% of criminal cases in the United States end in plea bargaining (an agreement between the accused and the prosecution, according to which, in exchange for pleading guilty, the severity of the prosecution is reduced by retraining for a less serious crime or mitigation of punishment), from which it follows that in US jury trials only those cases are considered where the accused argue against the substance of the charge and does not admit his guilt [4, p. 174-175, 298-299 , 465- 468].

4. **The order of appeal**. The procedure for appealing, protesting, and verifying jury judgments and decisions of the jury in the Criminal Procedure Code of the RSFSR was not governed by the rules provided for in Section IV of this Code of Criminal Procedure with the

features established by Ch. 38 of the Criminal Procedure Code of the RSFSR (to the subject of appeal, the grounds for cancellation or amendment of judgments rendered in a jury trial, the consequences of the consideration of a complaint or protest).

Code of Criminal Procedure 2001 does not single out in a separate chapter the rules for appellate review of the decisions of the jury, i.e. Chapter 45.1, mentioned above, proposes a general procedure (rules) for such a review with some features for a jury trial.

We point out that the appeal of intermediate and final decisions in court with the participation of jurors are subject to the general rules of appeal on

- circle of persons entitled to appeal,
- notice of submissions and complaints,
- deadline for appeal,
- the procedure for restoring a missed period,
- suspension of execution of the sentence, resolution, determination,
- Judges decisions that cannot be appealed
- procedural deadlines for consideration of the case in the court of second instance,
- open consideration of the criminal case with the general exceptions provided by Art. 241 Code of Criminal Procedure, etc.

The subject of appeal in the appeal procedure (in accordance with part 3 of article 389. 2 of the Code of Criminal Procedure), for example, may be:

- jury convictions and acquittals, based on the jury verdict;
- the ruling of the presiding jury on the termination of the criminal case at the preliminary hearing and during the trial;
- rulings of the presiding judge on the return of the case to the prosecutor to remove obstacles to the hearing of the case in accordance with Art. 237 Code of Criminal Procedure;
- other rulings adopted on the basis of the results of the preliminary hearing, with the exception of, for example, rulings on the appointment of a court hearing in terms of determining the time, place and date of the hearing;
- court rulings made in resolving issues related to the execution of the sentence.

In particular, the following decisions are not subject to appeal on appeal:

1) the procedure for the study of evidence;
2) on the satisfaction or rejection of the petitions of the participants in the court proceedings (for example, decisions to exclude from the examination of evidence deemed inadmissible);
3) on measures to ensure order in the courtroom;
4) on the dissolution of the jury and the referral of the criminal case to a new trial by a different composition of the court from the preliminary hearing stage if the presiding judge disagrees with the accusatory verdict of the jury (part 5 of article 348 of the Code of Criminal Procedure) This is sometimes explained by the fact that the legislator probably took this position due to the fact that in this case the criminal proceedings do not end and, if necessary, the parties can exercise their right to appeal the court decision after a new review [5, p. 112].

5. Grounds for the revision of the accusatory decisions of the jury. As mentioned, the sentences and rulings handed down by the court with the participation of jurors in the regional, regional and equal court (at the level of the court of the Federation) are appealed to the Judicial Chamber of the RF Supreme Court (formerly the Court of Cassation), which considers complaints and submissions (before protests) composed of three professional judges. Appeals against decisions of district courts with jurors are proposed in the Investigations Committee on criminal cases of a court of the Federation (introduction of district appeal courts is unlikely to affect the quality of the appeal review itself and is unlikely to make the appeal procedure more convenient).

In France, for example, as it was said, the appeal is filed with the Court of Cassation of France, which determines which new assize court (such is the court, consisting of jurors and three professional judges, jointly deciding both the guilt of the defendant and the punishment) will consider the case consisting of 12 new jurors (instead of 9 during the initial hearing of the case) and

3 new magistrates (professional judges). A new conviction can be handed down if at least 10 members of the appeal decide that the person is guilty [6, p. 292 - 294].

The grounds for cancellation or amendment of the accusatory court decisions of the Russian jury on appeal are provided for by para. 2 - 4 Art. 389.15 (paragraphs 2 and 8 of Art. 389.17 of the Code of Criminal Procedure of the Russian Federation detail the essential violations of the criminal procedure law, which are unconditional grounds for repealing or changing the accusatory decision of the jury) and Part 1.1 of Art. 389.22 Code of Criminal Procedure.

P. 1 of Part 1 of Art. 465 of the Criminal Procedural Code of the RSFSR, for example, as another reason to cancel or change both the guilty and acquittal of the jury in the cassation (now appellate) procedure indicated unilateralism or incompleteness of the judicial investigation (unilateralism or incompleteness of the preliminary investigation the jury and, accordingly, for filing a complaint or protest was not, is not and cannot be due to the peculiarities of the jury trial) in exception of proceedings admissible evidence that can be essential to the outcome of the case; non-investigation of evidence essential for the outcome of the case, subject to mandatory investigation by direct indication of the law, for example, violation of the requirement of the law on the mandatory examination of an expert opinion, failure to clarify the circumstances that should be investigated by a judge's decision on the results of the preliminary hearing on the referral of the case for additional investigation, or the circumstances specified in the definition of the cassation instance that referred the case to a new judicial review; unjustified refusal to a party in the study of evidence that may be significant for the outcome of the case (for example, in obtaining documents); court studies of invalid evidence, if this could be significant for the outcome of the case, for example, the announcement in court of the testimony of the husband of the defendant, who was not explained by Art. 51 of the Constitution of the Russian Federation.which should be investigated by a judge's decision made on the basis of the results of the preliminary hearing on the referral of the case for additional investigation, or the circumstances specified in the definition of the cassation instance that referred the case to a new judicial review; unjustified refusal to a party in the study of evidence that may be significant for the outcome of the case (for example, in obtaining documents); court studies of invalid evidence, if this could be significant for the outcome of the case, for example, the announcement in court of the testimony of the husband of the defendant, who was not explained by Art. 51 of the Constitution of the Russian Federation which should be investigated by a judge's decision made on the basis of the results of the preliminary hearing on the referral of the case for additional investigation, or the circumstances specified in the definition of the cassation instance that referred the case to a new judicial review; unjustified refusal to a party in the study of evidence that may be significant for the outcome of the case (for example, in obtaining documents); court studies of invalid evidence, if this could be significant for the outcome of the case, for example, the announcement in court of the testimony of the husband of the defendant, who was not explained by Art. 51 of the Constitution of the Russian Federation or the circumstances specified in the definition of the cassation instance that transferred the case to a new judicial review; unjustified refusal to a party in the study of evidence that may be significant for the outcome of the case (for example, in obtaining documents); court studies of invalid evidence, if this could be significant for the outcome of the case, for example, the announcement in court of the testimony of the husband of the defendant, who was not explained by Art. 51 of the Constitution of the Russian Federation.or the circumstances specified in the definition of the cassation instance that transferred the case to a new judicial review; unjustified refusal to a party in the study of evidence that may be essential for the outcome of the case (for example, in obtaining documents); court studies of invalid evidence, if this could be significant for the outcome of the case, for example, the announcement in court of the testimony of the husband of the defendant, who was not explained by Art. 51 of the Constitution of the Russian Federation if this could be significant for the outcome of the case, for example, the announcement in court of the testimony of the husband of the defendant, who was not explained to Art. 51 of the Constitution of the Russian Federation if this could be significant for the outcome of the case, for example, the announcement in court of the testimony of the husband of the defendant, who was not explained to Art. 51 of the Constitution of the Russian Federation.

Code of Criminal Procedure of the Russian Federation instead of this basis for the cancellation or amendment of the decision for the courts without the participation of jurors in Art. 389.16 provides for a discrepancy between the conclusions of the court set out in the sentence and the actual circumstances of the case established by the court of first instance, for example, the conclusions of the court are not supported by the evidence reviewed at the court hearing or the court did not take into account circumstances that could significantly affect or affect its findings.

In accordance with the aforementioned articles of the Code of Criminal Procedure of the Russian Federation, for the decisions of the jury to the current grounds for repealing or changing convictions on the basis of the verdict of jury refers

1) significant violations of the criminal procedure law (perhaps this is the most common reason in judicial practice, this term was used in the Criminal Procedure Code of the RSFSR in Section 2, Part 1 of Art. 465), which, by depriving or limiting the criminal procedure guaranteed rights of participants in criminal proceedings, non-compliance with the judicial procedure or in any other way influenced or could influence the ruling of a lawful, reasonable and fair sentence. Part 1 of Art. 389. 17 of the Code of Criminal Procedure does not indicate a specific list of these (conditional) grounds.

Judging by the practice studied and observed, such violations may include, for example, failure to follow the procedure for reviewing petitions of the parties, incorrect formation of the jury, violation by the presiding judge of the principle of objectivity in pronouncing a parting word their assessment, the expression in any form of their opinion on the questions posed to the jury) in the timing of the parties 'statements about this, incorrect questioning by the jury, violation of the jury's order, presence in the deliberation room, in addition to the jury and reserve jurors, a study in the presence of jurors of inadmissible evidence, failure to give the defendant the opportunity to speak in the debates of the parties when discussing the implications of the jury's verdict. It is quite characteristic that examples of the presence of jurors in the deliberation room for three hours or less, (which is also a significant violation), when the answers to the questions were not accepted unanimously, but by majority of votes can be found, as in judicial practice of the 90s of the last century [7, c . 88], and the modern Russian judicial reality.

In one of the investigated criminal cases, for example, in the cassation (now appellate) instance in the consideration of private complaints, such violations as the removal of the question sheet outside the court building and the disclosure of the verdict before its official proclamation were confirmed, which resulted in the dissolution of the jury [8].

Of course, in practice, one should also be guided by an unconditional list of procedural material violations stipulated in p. 2 and 8 Art. 389. 17 Code of Criminal Procedure (the decision of the illegal composition of the jury and a violation of the secrecy of the jury meeting).

2) incorrect application of the criminal law (in accordance with paragraph 3 of part 1 of article 465 of the Criminal Procedure Code of the RSFSR - incorrect application of the law to the circumstances of the case, as established by a jury court), for example, violation of the requirements of the General Part of the Criminal Code of the Russian Federation when adding punishments when sentencing a conviction verdict jury with condescension.

3) the injustice of the sentence (the appointment of an unfair sentence under paragraph 3 of part 1 of article 465 of the Criminal Procedure Code of the RSFSR), for example, the appointment of a maximum sentence without aggravating circumstances.

4) inconsistency of the conviction and jury verdict, if such contradictions can not be resolved in the appeals instance.

In this regard, the author does not quite understand the opinion of S. A. Pashin that a jury conviction can be canceled only because of significant violations of the criminal procedure law and the inconsistency of the jury's conviction and conviction {9, p. 33]. It seems that the incorrect application of the criminal law is possible both in passing the jury's verdict itself, and in discussing the consequences of such a verdict, and in passing a sentence on the basis of the jury's verdict. The injustice of the sentence is possible in the overwhelming case when ruling for the reasons mentioned just above.

Turning to the experience of foreign countries, we indicate that, according to Art. 846-2 b Spain's Code of Appeal on appeal for a conviction or acquittal, decided on the basis of the jury's verdict, can be quashed on one of the following grounds:

1) the procedure or sentence contains a violation of the procedural rules and guarantees, which caused the lack of adequate protection, if objections were raised by the party regarding these violations. The declaration of such objections is not necessary if the violation in question relates to a violation of constitutional law;

2) the sentence violates the provisions of the law or the constitutional rights of the defendant in relation to the legal qualification of the act of the convicted person or the definition of punishment or in relation to security measures and civil liability;

3) the dissolution of the jury trial was required due to the absence of substantial evidence of the defendant's guilt, but this request was rejected by the presiding judge without giving any reasons;

4) was appointed, but the jury did not dissolve;

5) the presumption of innocence was violated due to the fact that the evidence examined at the hearing did not provide sufficient grounds for a guilty verdict [10, p. 379 - 390].

In a sufficiently interesting work of a Russian researcher of a Russian jury [11, p. 2318] lists the most typical reasons for refusal in the arguments of appeals: a) insufficiency and inconsistency of evidence of guilt, b) inadequate evidence and incorrectness of the verdict, c) on the guilt of the convicted person and evaluation by jurors of the evidence examined in court, d) other interpretation evidence on the basis of which the verdict was passed, e) that the evidence does not confirm the guilt of the convicted person. With a rather negative attitude of the author to the modern Russian judicial system (by virtue of the accusatory bias in the activity of such), such arguments can hardly be justified by the requirement of a review due to the peculiarities of the jury trial.

A peculiar procedure for the revision of sentences issued by the court on the basis of the jury's verdict is provided for by the Austrian Criminal Procedure Code, which stipulates the possibility of revision in an alternative - appeal or cassation - procedure.

The cassation and appeal procedures for the verification of the jury's sentence in Austria do not compete with each other, since they are used on various grounds.

A cassation appeal of a jury's verdict is allowed only on the basis of the circumstances established by the court of first instance and the evidence that was examined at the court hearing. Presentation of new evidence and indication of new circumstances in a cassation appeal are not allowed.

Cassation grounds for repeal or amendment of such a sentence, in accordance with paragraph 345 of the Criminal Procedure Code of Austria, are the following violations of the law:

1) inadequate composition of the court in relation to three professional judges and eight jurors (presence of grounds for challenge, unlawful replacement of the jury by the reserve, absence of any of the judges or jurors during the trial, etc.)

2) the conduct of the trial in the absence of counsel;

3) investigation at the court session of unacceptable evidence (previously canceled acts of inquiry or investigation);

4) such a violation of the Code of Criminal Procedure, which is an unconditional basis for the annulment of the court sentence;

5) dissatisfaction with the petition of the complainant, which is essential for the proper resolution of the case, or sentencing on the basis of incomplete establishment of the circumstances of the case contrary to the objections of the complainant, or violation of the principles of criminal proceedings, or there are other violations that question the purity (quality) of the process;

6) violation of the law when raising questions to the jury;

7) if the presiding judge gave an incorrect legal instruction to the jury before their removal to the deliberation room;

8) the incompleteness or inconsistency of the jury's verdict;

9) if there was an erroneous or violation of the law providing the jury with the opportunity to amend the verdict;

10) if it follows from the documents submitted that there are serious doubts about the correctness of the jury's verdict on the essential circumstances of the case established at the court hearing;

11) if the jury has exceeded its authority;

12) if, when sentencing, violations of a criminal law nature were committed, when deciding on the question of punishment, the essential circumstances of the case were incorrectly assessed or violations were made in assessing the severity of the offense.

The procedure for consideration of the cassation appeal by the Supreme Court of Austria does not provide for the examination of any evidence, the verification of the sentence is carried out on the basis of the case materials.

According to the results of the cassation check, the court may make one of the following decisions: on leaving the contested sentence unchanged; on the abolition of the sentence and the direction of the criminal case to the court of first instance for a new judicial review (if there are procedural cassation grounds), cancel the sentence and decide the new sentence (if there are substantive violations); change the sentence.

The appeal appeal procedure is applied only when challenging the sentence in terms of the purpose of punishment (type of punishment, additional punishment, etc.), as well as on property claims (decision on confiscation, in terms of settling a lawsuit question, etc.). When considering an appeal, the parties may provide new evidence and point out to the court of appeal the circumstances that were not examined during the consideration of the case in the court of first instance.

Appeal proceedings end up leaving the contested verdict of the jury unchanged, or a decision on the incompetence of the court (with respect to the satisfaction of the complaint), or amending the verdict, or repealing the sentence and sending the case for a new trial [12, p. 139-146, 149-152].

The appeal (formerly cassation) instance under the Code of Criminal Procedure of the Russian Federation, checking the legality, validity and fairness of the sentence (legality and validity of other decisions of the court of first instance), cannot, as mentioned, consider (evaluate) the validity and motivation of the jury's verdict and basis.

It should be noted that the Code of Criminal Procedure in p. 2 - 4 Art. 389. 15 provides for three identical grounds for canceling or changing accusatory decisions for both the jury and the court without participation (for the latter there are three more grounds for review, for example, inconsistency of the court's findings with the actual circumstances of the criminal case established by the court of first instance).

In accordance with Art. 389.20 Code of Criminal Procedure of the consequences of the consideration of the appeal (before - cassation) complaint or presentation in relation to the accusatory decision of the jury may be:

- the decision to leave the sentence (or other contested court decision) of the jury unchanged, and the complaint or presentation without satisfaction. So, for example, despite the arguments of the defense (the lawyer asked for retraining from an intentional to an unwary crime) that, the jury, having recognized the proof of the fact of the actions (shots from a distance of no more than 130 cm) that resulted in causing K. to the victim of gunshot wounds, excluded the word "sighting" from the verdict, without thereby establishing intent to inflict grievous bodily harm, the sentence of the Chelyabinsk jury was left unchanged, since in two subsequent answers to the main questions, the jury recognized that K. had committed these actions and he is guilty;
- the abolition of the conviction and the termination of the case if there are grounds under Art. st. 24, 25, 27, 28 of the Code of Criminal Procedure of the Russian Federation, which is extremely rare in relation to a jury trial (for example, in 2005, convictions on 2 convictions by a jury trial were canceled and were completely terminated);
- the abolition of the decision of the judge, made in the preliminary hearing, and the transfer of the case to a new trial in the same court from the stage of the preliminary hearing;

- cancellation in accordance with Part 1 of Art. 389. 22 of the Code of Criminal Procedure of a jury conviction and remitting the case for a new trial to the same court of first instance from the stage of preliminary hearing or trial, or court actions after the jury's verdict (in cases of such violations of the criminal procedure and (or) criminal law that cannot be eliminated in the court of appeal). Another option in accordance with Part 3 of Art. 389. 22 Code of Criminal Procedure may be the return of the criminal case to the prosecutor, if during the consideration of the criminal case with a conviction in the appeal will be revealed, procedural violations, provided for by Art. 237 Code of Criminal Procedure. In 2013 st. 389. 22 was supplemented by part 1.1 already mentioned, which provides for the cancellation and return of a criminal case with a conviction,contrary to the jury's verdict and if there are grounds provided for in part 1, for a new trial to the court that passed the sentence, but by a different composition of the court from the time following the announcement of the jury's verdict;
- amending the sentence due to violations of the criminal procedure law, in the case of incorrect application of the criminal law and the injustice of the sentence (incompliance of the punishment imposed by the court with the gravity of the crime and the personality of the convicted person).

In accordance with part 3 of Art. 360 of the Code of Criminal Procedure of the Russian Federation (as amended before January 1, 2013), the cassation instance was directly entitled to amend the relevant court decision if it does not change for the worse for the convicted person (commute the sentence or apply the criminal law on a less serious crime). So, for example, the cassation determination of the Military Collegium of the RF Armed Forces from the conviction of the North-Caucasian District Military Court with the participation of jurors eliminated the instruction on the recognition of the circumstances aggravating the defendants, committing a robbery attack as part of a group of persons, reduced the punishment and other changes. in a sentence in favor of the defendants [13, p. 624 - 631].

The Court of Cassation of the RF Armed Forces could not cancel the acquittal, the decision to dismiss the case or other decision in favor of the defendant, on the grounds of a substantial violation of his rights (for example, to cancel the acquittal because the defense counsel was replaced without accused), to reconsider the sentence on the motive of the violation by the presiding judge of the principle of objectivity in his parting word, if the parties did not raise objections immediately after pronouncing it.

According to the Charter of Criminal Proceedings of 1864, for example, sentences passed by a district jury trial were considered final, i.e. they could not be appealed. Final verdicts (both convictions and acquittals) could be canceled only in cassation, both for complaints of persons participating in the case, and for protests or representations of persons prosecuted by prosecutors (Art. 855 of CPC). The exception was the rule of Art. 818 of CPC when the court had the right to send the case to the new jury, if it unanimously acknowledged that the jury convicted an innocent person. The decision of the new composition was considered final and could be appealed only in cassation.

Cassation complaints and protests on final verdicts were filed with the Senate Criminal Cassation Department and were allowed:

1) in the case of a clear violation of the direct meaning of the law and its misinterpretation in determining the crime and type of punishment;

2) in case of violation of ceremonies and forms of legal proceedings so significant that without complying with them it is impossible to recognize the verdict in force of the court decision (for example, if the chairman of the court did not utter parting words to the jury or when drawing lots on tickets, not the names of assessors were indicated, but only the corresponding numbers);

3) in case of violation of the limits of the department or authority, the law submitted to the judicial establishment (Art. 912 of CPC).

In the cassation complaints it was impossible to refer to new witnesses who can prove the defendant's innocence, petition for addition of the case with new circumstances that were not specified in a timely manner, provide documents not studied by the court, prove the validity of the

challenge made in court, point to the wrong assessment of the defendant's confession in court or the testimony of witnesses.

In accordance with Article 913 of CPC, an error in the reference to the law (when defining a crime or misdemeanor and sentencing) was not considered as a reason to annul the sentence if the punishment imposed corresponded to the law, although not to the one to which the wrong reference was made in the court decision.

With a combination of crimes and misdemeanors, the incorrect application of the law to a less dangerous criminal act, when this circumstance did not affect a more serious punishment, was also not considered as a reason for repeal (Art. 914 of CPC). The non-application, for example, of a statute of limitations to one of the criminal acts in which the defendant was found guilty if it did not affect the punishment imposed for a more important crime, was not regarded as an excuse for annulment of the sentence [14, p. 901].

In accordance with Article 915 of the CEC, a court ruling on a verdict disagreeing with the jury's decision, or non-mitigation of punishment by the court, when it was recognized by the jury that the defendant deserves leniency, could not be a reason to cancel the jury's decision, but was considered only as a ground to cancel verdict of the court based on this decision.

The cassation proceedings themselves were carried out according to the rules of art. 916 - 933 of CPC. Upon receipt of a complaint or submission, the First Present in the Cassation Department appointed a day for the report of one of the Senators. Protests of persons of prosecutorial oversight were previously considered in the administrative meetings of the Department. The case could be heard both by the entire presence of the Department, and by the Presence of the Branch Offices. The participants in the case were not summoned to the Senate, but their presence during the examination was not prohibited. The report itself, with its specific content, was held in a public meeting with an oral presentation with the possibility of announcing the written materials of the case. Then the explanations of the participants in the case and the conclusion of the Ober-Prosecutor were heard, after which, in complex cases, the rapporteur on the case proposed a draft of issues to be resolved. The list of questions was approved by the Senate and proclaimed the First Present. Like the verdict, the decision was made in a special (consultative) room, on the basis of internal conviction, from the evaluation of all evidence in the aggregate by voting on each issue after the preliminary meeting, a decision was made by majority vote, given the equality of votes, the presiding judge or a more favorable solution for the defendant, if the presiding judge's vote did not give an advantage. The very publicly announced decision could consist in the abandonment, cancellation or amendment of the sentence. Further complaints against the decisions of the Senate were not allowed and not taken on the basis of internal conviction, from the evaluation of all evidence in the aggregate by voting on each issue after the preliminary meeting, a decision was made by a majority vote, with equality of votes, preference was given to the decision for which the presiding judge voted or a more favorable decision for the defendant, if the presiding judge did not give an advantage. The very publicly announced decision could consist in the abandonment, cancellation or amendment of the sentence. Further complaints against the decisions of the Senate were not allowed and not taken.on the basis of internal conviction, from the evaluation of all evidence in the aggregate by voting on each issue after the preliminary meeting, a decision was made by a majority vote, with equality of votes, preference was given to the decision for which the presiding judge voted or a more favorable decision for the defendant, if the presiding judge did not give an advantage. The very publicly announced decision could consist in the abandonment, cancellation or amendment of the sentence. Further complaints against the decisions of the Senate were not allowed and not taken.if the chairman's vote did not give an advantage. The very publicly announced decision could consist in the abandonment, cancellation or amendment of the sentence. Further complaints against the decisions of the Senate were not allowed and not taken.if the chairman's vote did not give an advantage. The very publicly announced decision could consist in the abandonment, cancellation or amendment of the sentence. Further complaints against the decisions of the Senate were not allowed and not taken.

6. Grounds for revising acquittals by the jury. In accordance with Art. 389.25 Code of Criminal Procedure of the modern jury trial can be canceled on the proposal of the prosecutor or the complaint of the victim only if there are such significant violations of the criminal procedure law, which

1) restricted the right of the prosecutor, the victim or his representative to present evidence (for example, the unlawful refusal to satisfy applications for admission of evidence to the case), or

2) influenced the content of the questions put to the jury or the content of the answers given by them, or

3) in the case of an unclear and contradictory verdict of the jury, the presiding judge did not indicate such a violation to them and did not offer to return to the deliberation room for making clarifications to the question sheet (this basis was added to the Code of Criminal Procedure of the Russian Federation chapter 45.1)

All of the above grounds have been fairly successfully applied and are being applied by Russian courts to cancel acquittal decisions of jury trials. For example, in a criminal case with an acquittal verdict against K. and Ch., Accused of premeditated murder with aggravating circumstances, the appeal sent the case for a new consideration for reasons of significant violations that could (in the opinion of the appeal) affect the content of the jury's answers to questions (concealment by some jury of information about their convictions or repeated administrative charges, as well as convictions of their relatives, references to inadmissible evidence, for the detection of the illegal methods of influence on the investigation, distortion of the essence of the protection of procedural documents, asking questions that can not be made in the presence of the jury.

Such violations are typical enough for acquittals of jurymen both in the 90s of the last century and now, but the author's extreme (almost a 30-year-old lawyer)'s scientific and practical surprise and even indignation is caused by the decision of the Supreme Court of the Russian Federation, which upheld the acquittal the sentence of the Moscow City jury court against the famous plastic surgeon Tapiya F, who was accused of long-term and repeated sexual crimes against his children (his own son and adopted daughter). Admitting a certain subjectivity of personal assessments (the author represented the interests of the injured party in the supervisory review), we note that there were many procedural violations in the case (similar to the violations in the above example, that in the overwhelming majority of cases leads to the cancellation of the jury acquittal),what was also indicated in the appeal of the three representatives of the state prosecution and several appeals from the representatives of the victims (for example, in the court of first instance, about 70 inadmissible defense questions of the jury were taken away, and the defense itself received several dozen comments in accordance with Article 258 of the CPC Of the Russian Federation for violation of the requirements of t. 336 of the Criminal Procedure Code of the Russian Federation), but the appealed decision was upheld by appeal for no apparent reason [15], which once again shows the lack of uniform practice and etkogo understanding the reason for cancellation or modification vouchers jury solutions. Federal Law of December 28, 2013 No. 432 - Federal Law such sexual crimes were excluded from the jurisdiction of the jury,but such private law changes are unlikely to prevent other similar cases in a different category of criminal cases.

In one of the criminal cases, the presiding judge refused to satisfy the request of the public prosecutor to announce the testimony of the accused at the preliminary investigation as a witness due to the incomplete explanation to her of the provisions of Art. 51 of the Constitution, including the right not to testify against "other persons". The sentence in this case was canceled and the case was sent for a new trial, since The Constitution of the Russian Federation and Art. 47 of the Code of Criminal Procedure do not contain norms that would oblige the investigator to explain to the accused the right not to testify against "other persons" not specified in Art. 51 of the Constitution of the Russian Federation.

In another case, the public prosecutor was refused to adjourn the case with a hearing to take measures to ensure the witness for the prosecution, which was considered by the court of second

instance to restrict the public prosecutor's right to provide evidence to the juror that could have been significant to the case.

In another case, with a canceled factual acquittal, the prosecution was denied a study of the protocols for the inspection of the scene of the incident, the objects, the search in part of the announcement of the explanations, the victims and other persons participating in them due to the actual circumstances of the the defendants, the testimony of two witnesses upon the discovery of weapons and explosives in the two defendants, which was the reason for the cancellation of an almost entirely acquittal.

In a similar case, the prosecution refused to disclose to the jury additional evidence of the defendant T. during the investigation as an accused and to watch the video of the interrogation due to the fact that the evidence was recognized as inadmissible evidence information about the name of the recording device). The court of second instance considered that the state prosecution was denied unreasonably, because, in particular, none of the participants in the interrogation objected to the interrogation by the criminal investigator, the latter could participate in certain investigative actions, not taking the case to his own case. the instructions of the head of the investigative body, in fact, questions were asked by the criminal investigator with the consent of the investigator,and the lack of information about the name of the recording device was the only formal violation of the requirements of Part 4 of Art. 190 Code of Criminal Procedure, which could be eliminated during the trial.

Significant violations of the criminal procedure law that influenced the content of questions and answers to the jurors and resulted in the abolition of acquittals, judicial practice, as already mentioned, refers to the incorrect formulation of the question sheet by the presiding judge; vagueness or inconsistency of the jury's verdict; references of the defense in the debate and the court investigation to illegal methods of influence during the preliminary investigation; references to evidence not examined at the court hearing; research in the presence of jury evidence not subject to investigation in their presence; clarification of the legality of the investigative actions; the bias of the parting word of the presiding judge, the unlawful impact on the jury by deliberately distorting admissible evidence. An analysis of the first decisions of the Cassation Chamber of the Armed Forces of the Russian Federation at one time showed that one of the most common reasons for annulment of sentences was the misuse of specifically legal terms, violation of the order of jury meetings, voting and passing a verdict [16. p. 97, 105].

This formulation is rather indefinite procedural in nature, it is possible to include any procedural violation, including intentionally admitted (in relation to the criminal process as a contest, defending the notorious honor of the uniform, etc.) by the presiding person or the public prosecutor if there are serious concerns acquittal by jury.

We agree that, in the literal sense of this provision, it should be established with certainty that such procedural violations influenced the content of not only the questions posed, but also the answers to them. Taking into account the secret of the jury meeting, the possibility of reliably establishing the fact of the influence of procedural irregularities on the jury's answers is very problematic [17, p. 736]. In part 2 of the currently excluded paragraph 27 of the Resolution of the Plenum of the Armed Forces of the Russian Federation No. 23 of November 22, 2005. "On the application by courts of the norms of the Code of Criminal Procedure of the Russian Federation regulating court proceedings with the participation of jurors" (as amended on May 15, 2018), for example, earlier it was stated that the presiding judge's violation of part 2 of art. 338 Code of Criminal Procedure (refusal to the defense in raising questions about the factual circumstances of a criminal case,excluding the responsibility of the defendant for the deed or entailing his responsibility for a less serious crime) can not be the basis for the annulment of the acquittal verdict. With regard to other prohibitions on the use of procedural violations to repeal acquittals, this Decree does not say anything.

In our opinion, in order to prevent such situations and ensure the stability of both the accusatory and the acquittal decisions of the jury, we should return to the list of the four procedural

violations mentioned above, previously provided for by paragraph 1 part 1 of Art. 465 Code of Criminal Procedure of the RSFSR.

In the most famous case, VI. Zasulich (1878) in the cassation protest against the acquittal of the jury, for example, pointed out seven very controversial procedural violations of the protesters, according to the author of the protest, who presided over the case (A. F. Koni) and one of the grounds was a reference to an interrogation of a defense motion (allegedly irrelevant) witnesses of beatings of political prisoners and corporal punishment of one of them, which the Governing Senate used to cancel the acquittal [18, p. 66-67]. Note that the UUS 1864. He offered the same reasons for the appeal review for the final sentences, which were the sentences of the district court with the participation of the jury and all the sentences of the judicial chambers.

In modern Russian practice in the case of T. and K., the ambiguity and inconsistency of the jury's verdict was also one of the grounds for the abolition of the actual acquittal, since In question No. 1, the jury gave a positive answer about the crime event using a shotgun for killing a hunting rifle, and answering question No. 5 did not agree that Timofeev was transporting this bleed and making a shot of it on the day of the established crime event, but answering question No. 14 agreed that on the day of the murder, the bleed was under Timofeev for seven hours (including during the alleged murder). In this case, the jury's answers to questions No. 1 and 14 contradicted their answer to question No. 5.

In a similar case on charges of Ch. And V. in the jury's answers to four questions there were contradictions and ambiguities in the proof of the actions imputed to them regarding their intent for theft of another's property that were not eliminated by the presiding person, and the inaccuracies and ambiguities in the answers, concerning the transfer of specific property stolen by convicts.

For comparison, we point out that the main arguments of appeal (formerly - cassation) complaints by the defense are references to the president's bias, mentioning previous convictions, excluding admissible evidence, use of inadmissible evidence, refusing to call additional witnesses, inconsistency and ambiguity of the verdict. the jury, illegal methods of influence on the investigation, violation of the procedure for replacing the complete jury with a spare, disagreement with the assessment of evidence in, protect the denial of the question about the presence of the actual circumstance excluding the responsibility of the defendant or entailing its liability for a less serious crime, violation of rights of the defense, the judge repeated participation in a criminal trial. In one of the criminal cases, the sentence was canceled, for example, due to technical errors in the preparation of a guilty verdict, which resulted in a new judicial review in the same court, but with a different composition of judges with the exact same decision.

The main arguments of appeals (formerly cassation) complaints and submissions by the prosecution (in most cases, public prosecutors) to acquittal decisions are references to the presence of confessions during the investigation, exclusion of admissible evidence (and vice versa), contradictory verdict, unlawful impact on the defendant's jury relatives or a lawyer, their statements in the process of illegal methods of investigation, the consideration of the case in the absence of victims, the refusal of interrogation as a testimony firs operatives, trying to continue the interrogation of a minor victim by the defense in the presence of the defendant, who at the time of its examination of the courtroom was removed, unexplained jurors returned from the deliberation room,the results of examinations of physical evidence and the publication of case materials in terms of advantageous to lawyers, the illegal composition of the jury trial.

Interestingly enough, until recently it was possible to encounter cases where the main argument of the submission indicated that "jurors subjectively approached discussion of the questions posed to them, with all the evidence of establishing the event of a crime with case materials," "with all the evidence of a crime when answering his events gave a negative answer "," the defendants' guilt was fully established by the case materials, but the jurors gave an incorrect assessment of the evidence and unfounded Anno acquitted the defendants". It should be noted that the Cassation Chamber (now the Judicial Panel on Criminal Cases) in these situations reasonably left the acquittal decisions unchanged, since the assessment of crime or guilt is the exclusive

competence (right) of the jury and for these reasons, the sentence imposed on the basis of the jury's verdict cannot be appealed and canceled.

Today, the most serious restriction of the rights of the defense in a jury trial, in the opinion of current lawyers, is the repeal of acquittals or partly acquittals because the lawyer, the accused or the witnesses tried to convince the court that confessions at the investigation were given to the accused in the result of illegal methods of exposure (this is not prohibited in the US criminal process). When canceling such decisions, it is usually indicated that only the factual circumstances of the case were to be investigated in court and circumstances that could not be considered in a jury trial, i.e. jurors cannot decide the question of assessing the admissibility of evidence [19, c . 188-190]. Despite such prohibitions, the methodological manuals of the 90s of the last century still actually recommended that the defense try to cast doubt on the guilty plea of the defendants during the preliminary investigation during the jury trial [20, p. 132 - 133].

We have already given examples of justified cases of cancellation of acquittals by the jury. We add that, in particular, in the case of E. being charged with particularly malicious hooliganism, using violence and insulting the authorities, the conviction was canceled due to an unreasonable refusal to the prosecution (the principle of adversity was violated) in the investigation of the testimony of two uninterested E witnesses who failed to appear ., whose testimony was not announced during the investigation in court, and the reason for their failure to appear in court was not clarified.

In the case of N., acquitted for non-participation in the commission of premeditated murder with aggravating circumstances, the reason for the cancellation of the acquittal was the violation by the presiding judge of the requirements of Art. 346 and 340 of the Code of Criminal Procedure due to the unlawful impact on jurors by deliberately distorting by the lawyer of admissible evidence (holes in the material evidence were made by an expert in his research, and the object belonged to the defendant had no holes). In the case of S. for premeditated murder with aggravating circumstances and qualified bribery (justified by the Stavropol jury court), the chairperson had a violation of his parting words, in which he (judging by the record of the court session) essentially examined the evidence and gave them his assessment. Besides, jurors four times (in one case already during the beginning of the announcement of the foreman of their verdict) returned to the deliberation room to resolve the inconsistency of the verdict, but without explaining the presiding judge what these contradictions are, which ultimately led to the recognition of their verdict in cassation (now - appeal) unclear and contradictory. Failure to comply with the requirements of the obligatory reminder to the jury of the content of the evidence examined at the court hearing resulted in the annulment of one of the acquittal decisions of the Krasnodar jury.which ultimately led to the recognition of their verdict in cassation (now - the appeal) unclear and contradictory. Failure to comply with the requirements of the obligatory reminder to the jury of the content of the evidence examined at the court hearing resulted in the annulment of one of the acquittal decisions of the Krasnodar jury.which ultimately led to the recognition of their verdict in cassation (now - the appeal) unclear and contradictory. Failure to comply with the requirements of the obligatory reminder to the jury of the content of the evidence examined at the court hearing resulted in the annulment of one of the acquittal decisions of the Krasnodar jury.

On the other hand, for example, on legal grounds, the acquittal against the head of the unit of the medical unit Z. was accused of accepting a bribe combined with her extortion, and in another similar case, when the presiding judge reasonably refused to take into account the jury trial of unacceptable evidence, namely, materials of operational-search activity obtained in violation of the current legislation [21, p. 351 - 353], as well as in the case of the acquittal of the jury against K., who was accused of sexual assault against the juvenile, where the prosecutor referred to the entry into force of the Federal Law excluding the jury from the jurisdiction of the jury. sex crimes as a basis for cancellation of the acquittal.

The proposed practice (and the requirements of justice) hardly allows one to express an opinion on the complete prohibition of the annulment of acquittals of the jury, but in terms of

minimal and cardinal changes this can be done with regard to decisions of district courts with jurors subjects) in the near future.

The foregoing reasons for the cancellation of the jury's decision, both under the Code of Criminal Procedure of the Russian Federation and UUS 1864. (note that in the pre-revolutionary period up to one third of the defendants were acquitted by the jury, and a little more by professional judges) and (to a much lesser extent) under the Code of Criminal Procedure of the RSFSR seem to be quite vague and evaluative from a legal point of view (especially 389.25 of the Criminal Procedure Code of the Russian Federation) and allowing, as already mentioned by the author, essentially to cancel any unacceptable (in the opinion of the higher authority) decision (for the most part, acquittal) of the jury at the discretion and interpretation of the UK in criminal cases) by the Armed an apparent Affairs of the Federation courts, what is most likely, will hear appeals against decisions of the district courts with the participation of jurors.

For comparison, the new Criminal Procedure Code of the Republic of Kazakhstan 2014. in part 2 of Art. 662 does not include ambiguity and inconsistency of the verdict in the grounds for reviewing the acquittal of the jury on appeal, proposing as such: violations of the criminal procedure law that restricted the right of the prosecutor, the victim or his representative to present evidence; caused the exclusion of admissible evidence; influenced the unjust formation of the jury; discussion of issues that were not subject to discussion in the presence of a jury; incorrect formulation of questions for the jury; incorrect judicial debate ..

5. Conclusions. It seems that strengthening the guarantees of individual rights in a jury trial with the persistent accusatory bias of the Russian justice can, first of all, be promoted by an appeal review of court decisions involving jurors (at least acquittals or at least decisions rendered at the level of the court of the Federation) by a new jury, rather than three professional judges, perhaps with a joint appeal decision by the jury, together with professional judges. Secondly, it is necessary to return to the Code of Criminal Procedure of the Russian Federation as grounds for cancellation or amendment of decisions of jury courts on appeal of grounds previously provided for by Art. 465 of the Criminal Procedural Code of the RSFSR due to their clearer and unambiguous wording (as for the accusatory,and for acquittals of the court with the participation of jurors) with an indication of the list of unconditional essential violations of the criminal procedure law, only according to which the cancellation or change of the acquittal decisions of the jury is possible (at the present time the essential violations provided for by article 389. 25 Code of Criminal Procedure are interpreted by the court practice is quite wide and not always in favor of the defendant). It seems that for reconsideration of the accusatory decisions of the jury, both unconditional and conditional significant violations of the criminal procedure law can be left as grounds for review. Thirdly, the prohibition of the cancellation of acquittal decisions by jurors on the grounds not specified in the appeals or appeals filed against these decisions is necessary (we note that before January 1, 2013, the Code of Criminal Procedure of the Russian Federation in part 2 of Art.360 limited the limits of the cassation review, the court decision that had not entered into legal force to the part in which it was appealed).

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