

URGENT ACTION

TRADE UNION ACTIVIST STILL FACING EXAMINATION

Trade union activist Andrei Bondarenko was not made to undergo a compulsory psychiatric examination on 13 December 2010, as had been scheduled. He believes that public and international pressure, including the appeals sent by the UA network, helped bring this about.

His lawyer lodged an appeal against the forcible examination before the High Court on Criminal and Civil Cases in 2010, but he has not yet been told of a hearing being scheduled. The Court is not obliged to notify him or his lawyer in advance of any such hearing which would be carried out in their absence. If the High Court rejects his appeal, he may be still at risk of compulsory examination. Any such examination carried out within the Vinnytsya Region is unlikely to be impartial because of the political pressure that could be brought to bear on the examining doctor and because of the previous position adopted by the psychiatric hospital in seeking to examine Andrei Bondarenko against his wishes. Amnesty International has serious doubts as to the need for another psychiatric assessment examination of Andrei Bondarenko but, should his appeal fail and the court order stand, any assessment should be carried out impartially and in conformity with international professional standards by a psychiatrist with forensic competence who is in good standing with Ukrainian psychiatric bodies.

PLEASE WRITE IMMEDIATELY in Ukrainian, Russian or your own language:

- Expressing concern that Andrei Bondarenko continues to be at risk of a psychiatric examination against his will and asking for the reasons behind a compulsory medical assessment such as this
- Urging that should such an examination be ordered by the court, that it is carried out with due regard to forensic professional standards and impartiality, including by undertaking such an assessment outside the Vinnytsya region,;
- Urging the authorities to ensure that any examining doctor is in good standing with the relevant Ukrainian medical and psychiatric bodies and works within a professional and human rights framework set out by the World Health Organization, the World Psychiatric Association and the United Nations
- Urging that no compulsory medication or other treatment be contemplated before Andrei Bondarenko completes any legal appeals available to him
- Reminding the authorities that they should ensure that human rights defenders can carry out their lawful activities unhindered in conformity with the UN Declaration on Human Rights Defenders (1999)
- Urging the authorities to review the procedures undertaken in this case in cooperation with impartial psychiatric and legal experts in Ukraine

PLEASE SEND APPEALS BEFORE 3 MARCH 2011 TO:

Prosecutor General
Viktor Pshonka
Vul Riznitska 13/15
01601 Kyiv, Ukraine
Fax: +380 44 280 2851
Salutation: Dear Prosecutor

President
Viktor Yanukovych
Bankovaya Str. 11
01220 Kyiv, Ukraine
Fax: +380 44 255 6161
e-mail: press@stpu.gov.ua
Salutation: Dear President Yanukovych

Ombudsperson
Nina Karpachova
Vul Instytutska 21/8
01008 Kyiv, Ukraine
e-mail: omb@ombudsman.kiev.ua
Salutation: Dear Ombudsperson

Also send copies to diplomatic representatives accredited to your country. Please check with your section office if sending appeals after the above date. This is the second update of UA 232/10. Further information: <http://www.amnesty.org/en/library/info/EUR50/011/2010/en>

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ADDITIONAL INFORMATION

Andrei Bondarenko has no record of mental illness and has undergone three voluntary psychiatric examinations to assess his mental health, the most recent of which was in October 2010. Among the reasons quoted by prosecutors for him to be examined is his "excessive awareness of his own and others' rights and his uncontrollable readiness to defend these rights in unrealistic ways."

In 2007, the Vinnytsya Prosecutor's Office twice asked local health authority officials in Vinnytsya to request compulsory psychiatric examinations of Andrei Bondarenko. The first request was turned down by a judge in July 2007 on the basis that the hospital had not formulated the request correctly. The second request was turned down in August of the same year after Andrei Bondarenko went voluntarily to a psychiatrist in Vinnytsya regional hospital and received a certificate stating that he was "sane".

In January 2009, he was detained outside his house and charged with refusing to show his identity documents to the police. He was sentenced to 10 days' administrative detention, but on the seventh day he was again taken to civic court where a third request for a psychiatric examination was presented by the Vinnytsya regional psychiatric hospital. The hospital claimed that Andrei Bondarenko had previously requested a psychiatric consultation from them, although he denies this, and a hospital representative submitted a request for the hospital's doctors to represent the interests of Andrei Bondarenko at the court hearing. However, this third request was turned down by the court.

In August 2010, following the fourth request for his examination, Andrei Bondarenko travelled to the town of Gaisin in Vinnytsya Region (100 km south of Vinnytsya) where he arranged to have a voluntary psychiatric examination to assess his mental health. On the basis of the certificate he received confirming his sound mental health, the request for a compulsory psychiatric examination was turned down by the court. The Prosecutor's office appealed against this decision and, in addition to the civil proceedings, filed criminal charges against Andrei Bondarenko for allegedly using false data to conduct the examination in August. Following the release of the previous Urgent Action and the publicity around the case, the criminal charges against Andrei Bondarenko were dropped on 29 November. The order for a compulsory examination ordered by the court in Vinnytsya on 29 October 2010 and upheld by the Appeal Court on 23 November 2010 is now under appeal to the High Court of Ukraine.

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