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Belarus

Mikhail Marinich – opposition politician imprisoned for his political beliefs

On 30 December 2004, then 64-year-old Mikhail Marinich, a former Minister for External Economic Relations, and Ambassador, who ran in the Presidential elections in 2001, was sentenced to five years' imprisonment in a hard labour colony with confiscation of property. In addition he was prohibited from assuming any managerial function linked to "material valuables" for the first three years after his release. Amnesty International believes that his conviction is related to his opposition activities and his open criticism of the state authorities. The organization considers him to be a prisoner of conscience and is calling for his immediate and unconditional release from his current imprisonment in Minsk.

Various international and national observers¹, who had followed the criminal proceedings and were present at the court hearing, observing the trial, cast considerable doubt on the fairness of the trial and the final court ruling. Mikhail Marinich was sentenced under Article 210 (4) of the Criminal Code for embezzlement by means of abuse of his official position executed on a large scale. In recent years Amnesty International has repeatedly expressed concern about the imprisonment and subsequent convictions of high profile political opponents of President Alyaksandr Lukashenka.²

Since his detention in April 2004 there were repeated expressions of domestic as well as international concern³ about the reasons for Mikhail Marinich's continued pre-trial detention and the political background to the charges brought against him. He was first detained on 24 April for a driving offence and after his possessions and money were confiscated he was released. He was later summoned to the KGB (*Komitet Gosudarstvennyi Bezopasnosti*, Committee for State Security) investigation offices where he was told that the money was counterfeit. KGB officers then took him to his dacha which was searched and where an unlicensed pistol was found. On 26 April he was

¹ Including observers from the European Union (EU) and Organization for Security and Cooperation in Europe (OSCE), as well as local organizations such as the Belarusian Helsinki Committee.

² See for example *Belarus: Dissent and Impunity* (AI Index: EUR 49/014/2000), *In the Spotlight of the State: Human Rights Defenders in Belarus* (AI Index: EUR 49/005/2001), *Belarus: Professor Yuri Bandazhevsky – Prisoner of Conscience* (AI Index: EUR 49/008/2001) and *Belarus: Four Years On - Prisoner of Conscience Andrey Klimov* (AI Index: EUR 49/001/2002).

³ See for example press statement *OSCE PA Working Group on Belarus visits Minsk*, 23 June 2004.

placed in pre-trial detention under suspicion of possession of an unlicensed fire-arm and misappropriation of documents. Mikhail Marinich reportedly suffers from a heart condition which was aggravated by conditions in pre-trial detention, where he was held in a cell with three other detainees who smoke heavily. Mikhail Marinich's lawyer repeatedly appealed against the pre-trial detention, in particular on the basis of medical grounds, but all appeals were turned down. In August the UN Working Group on Arbitrary Detention was refused permission to visit Mikhail Marinich in pre-trial detention.⁴

On 5 November Mikhail Marinich was officially charged under Article 295 (2) of the Criminal Code for illegal activities involving firearms, ammunition, and explosives. In addition further charges were brought against him under Articles 210 (4) and 377 (1, 2) of the Criminal Code, accusing him of embezzlement of computers and other equipment and misappropriation/damaging of official documents. Before the start of the trial he was amnestied for the charges relating to the documents. The computers and other equipment were officially on loan from the United States (US) Embassy to the organization, *Delovaia Initsiativa*, of which he is the President. In a response to these charges the US State Department stated that, "The equipment has at all times remained property of the U.S., and the U.S. makes no claims against Ambassador Marinich or his organization regarding disposition of this equipment"⁵.



Mikhail Marinich in court, 30 December 2004 ©Photo.ByMedia.net

After unusually quick trial proceedings starting on 23 December and ending 30 December the Minsk district and Zaslavlja city court ruled that Mikhail Marinich was guilty of embezzlement as part of criminal proceedings, and that these were linked to his relationship with the organization he headed and its property, but not to his relations with the US Embassy. The court did not find sufficient evidence to support the charge of possession of an unlicensed fire-arm and Mikhail Marinich was acquitted of this charge.

On 5 January 2005 the Board of *Delovaia Initsiativa* reportedly adopted a statement protesting against the conviction of Mikhail Marinich. The Board refutes the court's position that by omitting to register the equipment with the state authorities, nor including it on the organization's balance sheet, Mikhail Marinich intended to embezzle the equipment on loan from the US Embassy. The Board states that the *Delovaia Initsiativa* had never considered itself to be the owner of the equipment and had not considered and would not consider a claim to the equipment. It considers that the court's interpretation of some of the witness statements, including those of members of *Delovaia Initsiativa* was biased, misjudged, partial and incomplete.

Shortly after the conviction of Mikhail Marinich, a well-known local human rights lawyer and Vice-President of the Belarusian Helsinki Committee, Hary Pahaniaila, reportedly stated that the case against Mikhail Marinich was not a criminal case but a civil dispute, since the owner (the US Embassy) of the allegedly embezzled goods had not

⁴ E/CN.4/2005/6/Add.3, page 16.

⁵ US State Department, *Prosecution of Belarusian Opposition Figure Mikhail Marinich*, Press statement, Washington, 23 December 2004.

made any claims and their opinion had not even been heard. “The question whether or not goods were stolen is decided by its owner. In cases where the owner is unable to defend himself, the state has a duty to interfere, but first and foremost the owner has to be asked its opinion, and in this case the owner (the US Embassy) has clearly stated it makes no claims. .. Look at the cases of Andrei Klimov, Mikhail Chigir. This is not the first case where the state has used civil disputes to initiate criminal proceedings to persecute its opponents.”⁶

An appeal against the Minsk district court decision is currently pending with the Minsk regional court, requesting Mikhail Marinich’s conviction under Article 210 (4) to be quashed, and for him to be immediately released.

⁶ 3 January 2005, Radio Free Europe/Radio Liberty.