

Mandates of the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment; the Working Group on Arbitrary Detention; the Working Group on Enforced or Involuntary Disappearances; the Special Rapporteur on the right to food; and the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism

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Excellency,

We have the honour to address you in our capacity as Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment; Working Group on Arbitrary Detention; Working Group on Enforced or Involuntary Disappearances; Special Rapporteur on the right to food; and Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism, pursuant to Human Rights Council resolutions 34/19, 42/22, 36/6, 32/8 and 40/16.

In this connection, we would like to bring to the attention of your Excellency's Government information we have received concerning twenty former detainees at Guantanamo Bay, who were resettled in United Arab Emirates (UAE), between November 2015 and January 2017, and were held in detention, without trial or charge. **Mr. Ravil Mingazov**, who continues to be detained in the UAE without charge, subjected to torture and ill-treatment, and threatened with repatriation to his native Russia, where he risks torture and abuse; **eighteen Yemeni detainees**, who remain in detention without charge and suffer from ill-treatment; and **Mr. Haji Hamdullah**, who was held in a secret location subjected to torture and ill-treatment, until he was forcibly repatriated to his native Afghanistan, on 23 December 2019, where he died suffering from health issues resulting from torture and ill-treatment in both Guantanamo and the UAE detention facilities.

According to the information received:

During the period from November 2015 to January 2017, there were three waves of resettlements from Guantanamo Bay to the UAE: five men on 13 November 2015, 15 men on 13 August 2016, and three men on 19 January 2017. Of those 23 men, four have since been repatriated to their home country, while the 19 others remain in detention in the UAE.

All detainees, who were resettled in the UAE, were cleared for transfer either through the Inter-Agency Review Task Force (IART) or through the Periodic Review Board (PRB), after the unanimous agreement of the six major US government agencies: the US Departments of Defense, Justice, Homeland

Security, and State, the Joint Chiefs of Staff and the Director of National Intelligence.

Prior to transfer to the UAE, the United States of America (USA) officials have allegedly provided assurances to the detainees and their lawyers that following six to twelve months in a residential rehabilitation program, the UAE would facilitate release into Emirati society and family reunification.

However, after years of detention without charge or trial at Guantanamo Bay, the transferred detainees are facing further lengthy periods of detention without charge or trial in the UAE, and there are serious concerns that they have been victims of severe mistreatment.

Case of Mr. Rival Mingazov

Mr. Mingazov, born in 1967, is a Russian national, of Muslim Tartar origins. He left Russia from fear of religious persecution and was detained at Guantanamo Bay Detention Camp, without charge or trial, from 18 October 2002 until his resettlement to the UAE in January 2017.

In May 2010, the United States of America (USA) District Court granted Mr. Mingazov the writ of habeas corpus and ordered his immediate release. However, the Government appealed this decision. On 21 July 2016, the US Periodic Review Board (PRB) cleared Mr. Mingazov transfer to the UAE.

Mr. Mingazov accepted resettlement in the UAE based on a range of informal assurances, including a six-month stay in a residential rehabilitation program, followed by his release into Emirati society and reunion with his family. Those assurances further included access to medical care and social services, in addition to funding for family visits and communication.

Since his transfer to the UAE, on 19 January 2017, Mr. Mingazov has been detained in an unknown location without charge, trial or access to legal counsel, and is currently threatened with forced repatriation to his native Russia, where he is likely to be subjected to torture and ill-treatment. Although his family could visit him in Al-Razeen Prison on two occasions, during the period from 20 November to 18 December 2018 and from 13 to 26 May 2019, they could not confirm whether he was detained there or only transferred for the visit.

From May to November 2019, Mr. Mingazov was denied any contact with his family and was reportedly subjected to torture and humiliation by security guards. After those five months, his calls with family were put under surveillance and cut off when he talked about his deplorable detention conditions and ill-treatment.

Mr. Mingazov was reportedly on hunger strike in November 2019 for at least 20 days, denied any medical care, and moved into solitary confinement on several occasions between February and March 2020, which heighten the risk of his ill-treatment.

As with other former detainees at Guantanamo Bay, Mr. Mingazov could allegedly be risking forced repatriation to Russia where he is likely to face persecution. This risk was demonstrated in a public report by Human Rights Watch concerning seven Russian former detainees at Guantanamo Bay repatriated to Russia in 2004 who were all detained, beaten, and harassed, and one of them ultimately killed.

Case of eighteen Yemeni detainees

According to further information received, eighteen former detainees at Guantanamo Bay, all Yemeni citizens, resettled in the UAE between November 2015 and January 2017, have allegedly suffered continued arbitrary detention, without charge or trial, and have been subjected to ill-treatment and deplorable detention conditions.

Since their arrival in the UAE, all eighteen detainees have been held in an unknown location, without charge or trial, with no access to their lawyers despite formal written requests made by lawyers on 2 August 2017, 13 November 2017 and 12 February 2018. On each occasion, the UAE Government did not respond.

Those detainees have reportedly been punished by guards when they were deemed to be unpleasant. Punishments include deprivation of adequate food, exercise, and medical treatment for detainees suffering from diabetes and heart disease. One detainee stated that he has been tortured by guards and held in solitary confinement. As for family visits, detainees were brought to a third location to meet with their families, blindfolded and with their hands and feet tied together. Detainees have also been punished in retribution of visits, with one detainee saying that he is treated badly and moved to a dark room before each visit. Recently, at least one detainee began a hunger strike. This detainee is described as being close to death.

Case of Mr. Haji Hamdullah

Mr. Hamdullah is an Afghan citizen, born in 1963. He was a political opponent, which led to his seizure and transfer to the USA allegedly by members of the Afghan Northern Alliance, officially known as the United Islamic Front for the Salvation of Afghanistan, who are holding power.

Mr. Hamdullah was detained at Guantanamo Bay Detention camp, without trial or charge, from 21 November 2003, until his resettlement in the UAE in August 2016.

On 11 February 2016, the Periodic Review Board cleared Mr. Hamdullah for release. In its clearance, the Board determined that Mr. Hamdullah, “does not support a jihadist ideology” and cited a lack of information regarding any involvement with al-Qaida or the Taliban.

On 13 August 2016, the USA transferred Mr. Hamdullah to the UAE for resettlement, with his consent, as he feared for his security in case he was returned to Afghanistan. Mr. Hamdullah’s counsel made these fears clear to the US Department of State during the clearance for release from Guantanamo Bay.

The terms of resettlement were agreed bilaterally between the UAE and the USA, and remained undisclosed. However, they reportedly included enrolment in a residential rehabilitation program for a period of 6 to 15 months following which Mr. Hamdullah would be released into Emirati society and reunited with his family. Mr. Hamdullah also expected to receive medical treatment and access to social services, as well as funding for family visits and communications.

After thirteen years of detention at Guantanamo Bay without charge or trial, Mr. Hamdullah was detained for three years in the UAE at three separate detention facilities not known to him or his family. Mr. Hamdullah was allegedly tortured in the first detention facility, denied access to his lawyers, and only allowed family visitation on three occasions, with irregular access to phone calls. During his detention, Mr. Hamdullah was not charged nor did he appear before a judicial authority.

On the first three months of his detention, he was held in a small dark room, which contained a single small window. Detainees did not see each other and were kicked anytime they spoke. In these months, Mr. Hamdullah was given little to no food and was escorted in handcuffs every time he was taken to the toilet. Since then, he was only fed white rice, and once a week he was given two pieces of fruit and four dates. Once a week he was allowed to walk outside for a brief period. Mr. Hamdullah, who suffered from heart problems and type 2 diabetes, has seen his health deteriorating in Emirati custody, as he did not received adequate medical care and was subjected to deplorable conditions.

On 25 May 2019, his family was informed by the Afghan security services that the UAE was arranging his repatriation to Afghanistan. Three days prior to his return to Afghanistan, the UAE authorities told Mr. Hamdullah that he could leave

the prison and return to his home country. Mr. Hamdullah told the UAE authorities that he did not wish to return to Afghanistan. However, he was told that if he did not return then he would remain imprisoned in the UAE.

On the 23 December 2019, Mr. Hamdullah was forcibly repatriated to Afghanistan, without security assurances, despite his claims of risking torture and ill-treatment in Afghanistan. On arrival in Kabul, he was taken to the National Security Ministry, where he was held for 10 days and then released.

Since his return to Afghanistan, Mr. Hamdullah's health was reportedly constantly deteriorating. On 4 May 2020, in Kabul, he passed away due to illness resulting from years of torture, mistreatment and medical neglect both at Guantanamo and in the UAE.

On the lead up to Mr. Hamdullah's death, he reportedly had two bouts of serious respiratory illness. The first bout was reportedly more serious, however by the second bout Mr Hamdullah was too weak to fight the illness and died.

While we do not wish to prejudge the accuracy of these allegations, we are deeply concerned about the undisclosed terms of the resettlement programme and its mode of implementation, of former detainees at Guantanamo Bay, agreed between the UAE and the USA. In this context, we are seriously concerned by the continued detention of Mr. Mingazov, and the 18 Yemeni former detainees at Guantanamo Bay, as well as the detention of Mr. Hamdullah for three years, in the UAE, with no charge or presentation before a judicial authority, instead of undergoing the allegedly agreed residential rehabilitation program, or release.

We are further alarmed by the alleged ill-treatment including prolonged solitary confinement of Mr. Mingazov, and the 18 Yemeni detainees. Moreover, we are deeply concerned of the allegations of torture and ill-treatment of Mr. Hamdullah, which seem to have led to the degradation of his health and eventually his death upon his forceful return to his native Afghanistan. In this regard, we would like to recall the absolute obligation to refrain, prohibit and prevent any form of torture or ill-treatment with no exception or derogation, under the Convention against Torture ratified by the UAE in 19 July 2012. This prohibition is further rooted in customary law. Moreover, with regards to the solitary confinement, we would like to refer to the report by the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment (A/66/268), in which it is stated that the use of prolonged solitary confinement (i.e. lasting more than 15 days) in itself violates the absolute prohibition of torture and ill-treatment. Additionally, due to the prisoner's lack of communication, and the lack of witnesses, solitary confinement enhances the risk of other acts of torture or ill-treatment. We are also concerned about the lack of judicial oversight in these cases and we remind your Excellency's Government that the right to challenge the legality of the detention, under article 9 of the International

Covenant on Civil and Political Rights, also applies to administrative detention as well as to detention derived from terrorism related charges (A/HRC/30/37, para. 47).

We are further concerned by the non-disclosure of the place of detention of the detainees which makes them more vulnerable to enforced disappearance and recall Article 10 of the 1992 Declaration on the Protection of all Persons from Enforced Disappearance which requires that any person deprived of liberty be held in an officially recognized place of detention and be brought before a judicial authority promptly after detention

Furthermore, we are seriously concerned by the refusal to grant Mr. Mingazov and the Yemeni detainees, fundamental safeguards such as the right to be presented before judicial authority, the right to challenge the legality of their detention, the right to legal counsel and medical care. In this regard, we would like remind your Excellency's government of its obligations under article 9 of the Universal Declaration of Human Rights, as well as to underline the Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment, adopted by General Assembly resolution 43/173, Principle 17, adding that "A detained person shall be entitled to have the assistance of legal counsel" and Principle 24, stating that "A proper medical examination shall be offered to a detained person as promptly as possible after admission...and thereafter treatment shall be provided whenever necessary".

We wish to further draw the attention to the UAE obligation not to forcibly repatriate Mr. Mingazov to Russia, where there are substantial grounds to believe he could be facing persecution, including torture or ill-treatment, due to his status as former detainee at Guantanamo Bay and his religious affiliation, as stated in article 3 of the Convention against Torture, providing that, "[n]o State Party shall expel, return ("refouler") or extradite a person to another State where there are substantial grounds for believing that he would be in danger of being subjected to torture"; and that, "[f]or the purpose of determining whether there are such grounds, the competent authorities shall take into account all relevant considerations including, where applicable, the existence in the State concerned of a consistent pattern of gross, flagrant or mass violations of human rights". We further regret the forced repatriation of Mr. Hamdullah to Afghanistan, against his will, conscious of the expressed potential risk to his security and safety.

Finally, we would like to draw the attention of your Excellency's Government to paragraph 16 of the Resolution A/RES/65/205 of the UN General Assembly, which "...recognizes that diplomatic assurances, where used, do not release States from their obligations under international human rights, humanitarian and refugee law, in particular the principle of non-refoulement."

The full texts of the human rights instruments and standards recalled above are available on www.ohchr.org or can be provided upon request.

In view of the urgency of the matter, we would appreciate a response on the initial steps taken by your Excellency's Government to safeguard the rights of the above-mentioned person(s) in compliance with international instruments.

As it is our responsibility, under the mandates provided to us by the Human Rights Council, to seek to clarify all cases brought to our attention, we would be grateful for your observations on the following matters:

1. Please provide any additional information and any comment you may have on the above-mentioned allegations.
2. Please provide information on the resettlement and rehabilitation program for former detainees at Guantanamo Bay its mode of implementation, and the legal grounds for their continued detention in the UAE. Please explain how this is compatible with the State international legal obligations.
3. Please provide the details and, where available, the results of any investigation, medical examinations, and judicial or other inquiries which may have been carried out, or which are foreseen, in relation to the allegations of torture and other cruel, inhuman or degrading treatment or punishment. If no such measures have been taken, please explain how this is compatible with the international human rights obligations of the United Arab Emirates.
4. Please provide information on the exact locations of detention of former detainees at Guantanamo Bay currently relocated and held in UAE prisons.
5. Please provide the details of any measures which have been taken, or which are foreseen, for the purpose of protecting Mr. Mingazov and others former detainees at Guantanamo Bay from further infliction any form of ill-treatment. If no such measures have been taken, please explain how this is compatible with the international human rights obligations of the United Arab Emirates.
6. Please provide information, where available, on any agreement concluded by the Emirati Government to repatriate former detainees at Guantanamo Bay, and any related risk assessment carried out by the authorities to ascertain the risk of being subjected to torture or cruel, inhuman or degrading treatment or punishment including enforced disappearance upon repatriation, and how this decision is compatible with the international standards.

While awaiting a reply, we urge that all necessary interim measures be taken to halt the alleged violations and prevent their re-occurrence and in the event that the investigations support or suggest the allegations to be correct, to ensure the accountability of any person responsible of the alleged violations.

This communication and any response received from your Excellency's Government will be made public via the communications reporting [website](#) within 60 days. They will also subsequently be made available in the usual report to be presented to the Human Rights Council.

Please note that a related communication is being sent to the United States of America.

We would like to inform your Excellency's Government that after having transmitted an urgent appeal to the Government, the Working Group on Arbitrary Detention may transmit the case through its regular procedure in order to render an opinion on whether the deprivation of liberty was arbitrary or not. Such urgent appeals in no way prejudice any opinion the Working Group may render. The Government is required to respond separately for the urgent appeal procedure and the regular procedure.

Please accept, Excellency, the assurances of our highest consideration.

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punishment

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