

**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 detainee**, 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 or 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 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, including torture and ill-treatment. 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 to having 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 on 13 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 Type 2 diabetes and heart problems, has seen his health deteriorating while in Emirati custody, where he did not receive 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 severe; 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 of former detainees at Guantanamo Bay, agreed between the UAE and the USA and the manner of its implementation. 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 torture and 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 return to his native Afghanistan. In this regard, we would like to recall the obligation to refrain from, prohibit and prevent torture and any form of ill-treatment with no exception or derogation, under the Convention against Torture ratified by the USA in 21 October 1994. This prohibition is further rooted in customary law. 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).

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](http://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 and its mode of implementation, the legal grounds for the continued detention in the United Arab Emirates and the conditions in which those detainees are held. Please explain how this is compatible with the obligations of the United States of America under international law.
3. Please provide details on the risk assessments carried out by the United States of America, as well as any measures of post-transfer verification, with the aim of prevention of any risk of torture and other cruel, inhuman or degrading treatment or punishment, prior, during and after the repatriation of the above-mentioned former detainees at Guantanamo Bay to the United Arab Emirates. If no such measures were taken, please explain how this is compatible with the obligations of the United States of America under international law.
4. Please indicate what reparations or remedies the United States government intends to provide these individuals who were rendered to the Guantanamo Bay Detention Camp without due process of law, and who experienced arbitrary detention, and experienced torture, inhuman and degrading treatment while in custody.

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 Arab Emirates.

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.

Nils Melzer  
Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment

Elina Steinerte  
Vice-Chair of the Working Group on Arbitrary Detention

Luciano Hazan  
Chair-Rapporteur of the Working Group on Enforced or Involuntary Disappearances

Fionnuala Ní Aoláin  
Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism