

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

REFERENCE:
UA ARE 5/2021

30 June 2021

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 Enforced or Involuntary Disappearances; and Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism, pursuant to Human Rights Council resolutions 43/20, 45/3 and 40/16.

In this connection, we would like to bring to the attention of your Excellency's Government information we have received concerning the alleged imminent extradition of **Mr. Ravil Mingazov** to Russia where he may risk torture and arbitrary detention. He is a former detainee at Guantanamo Bay who was resettled in the United Arab Emirates (UAE), in 2017, and detained since in an unknown location without charges or trial and subjected to ill-treatment.

We note that our concerns have been raised previously with the Government of the UAE, regarding the treatment, conditions of detention and the risk of involuntary repatriation of former detainees from Guantanamo Bay resettled in the UAE, including the case of Mr. Mingazov, in a communication sent on 15 July 2020 (UA ARE 3/2020). We regret the lack of response from your Excellency's Government. The communication was made public after 60 days, as per existing procedures.

According to the information received:

Mr. Mingazov, born in 1967, is a Russian national, of Muslim confession and of Tartar origin. He left Russia for alleged 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.

Mr. Mingazov has reportedly 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. Four requests made by his lawyers in the United States of America to the Ministry of Foreign Affairs of the UAE, between 2017 and 2020, to

communicate with Mr. Mingazov, remain unanswered.

Furthermore, Mr. Mingazov was reportedly on hunger strike for at least 20 days, in November 2019, was denied medical care, and moved into solitary confinement on several occasions between February and March 2020.

Since his resettlement, Mr. Mingazov's 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. However, they could not confirm whether he was detained there or only transferred for the visit. In general, Mr. Mingazov's contact with his family has been limited to sporadic phone calls, every two to four weeks, for around 5 minutes. He was reportedly denied any contact with his family, for six month (May-November 2019), and was reportedly subjected to torture and humiliation by security guards. Since this period, his calls with family were put under surveillance and cut off when he talked about his detention conditions and ill-treatment. The last time Mr. Mingazov communicated with his family was reported on 26 March 2021.

In January 2021, a commission of UAE officials accompanied by a Russian interpreter reportedly visited Mr. Mingazov in detention. The purpose of the visit is unclear.

On 20 June 2021, Russian officials have reportedly visited Mr. Mingazov's family in Russia, and mentioned that they were issuing his passport in preparation for his repatriation. They asked the family and some neighbours to verify a photo of Mr. Mingazov and sign forms attesting that the photo they had was of him.

Mr. Mingazov repatriation to Russia would allegedly put him at risk of torture and persecution, on the basis of his religious beliefs and status as a former detainee in Guantanamo Bay. This risk was demonstrated in a public report by Human Rights Watch¹ concerning seven Russian Guantanamo detainees repatriated to Russia in 2004 who were all detained, beaten, and harassed, and one of them ultimately killed.

The decision to resettle Mr. Mingazov to the UAE instead of his repatriation to Russia was initially derived from the credible risk to his physical and moral integrity, if he is to be repatriated.

While we do not wish to prejudge the accuracy of these allegations, we are seriously concerned about the information alleging the imminent repatriation of Mr. Mingazov to Russia, despite substantial grounds that he could be facing persecution, including torture or ill-treatment, due to history of former detainees at Guantanamo Bay and his religious beliefs. In this regard, we would like to remind your Excellency's Government of its obligation not to forcibly repatriate Mr. Mingazov to Russia, as stated in article 3 of the Convention against Torture, which provides that "[n]o State Party shall expel, return ("refouler") or extradite a person to another State

¹ [The "Stamp of Guantanamo": The Story of Seven Men Betrayed by Russia's Diplomatic Assurances to the United States \(hrw.org\)](https://www.hrw.org/report/2014/06/19/stamp-guantanamo)

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”. The Convention against torture was ratified by the UAE on 19 July 2021.

Under international law, the decision to expel, remove or deport a non-national may only be taken after an examination of each individual’s circumstances and in accordance with the law and when procedural guarantees have been respected. In this connection, individuals facing deportation/repatriation are to have access to a fair, individualized examination of their particular circumstances, and to an independent mechanism with the authority to appeal negative decisions. Moreover, a risk assessment in the event of extradition should also be carried out to determine whether there is a risk of violation in the receiving State. In this context, an analysis of the general human rights situation in that State must be taken into consideration.

Paragraph 16 of the Resolution A/RES/65/205 of the UN General Assembly, “Urges States not to expel, return (“refouler”), extradite or in any other way transfer a person to another State where there are substantial grounds for believing that the person would be in danger of being subjected to torture, and 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.”

Furthermore, we are very disturbed about allegations of ill-treatment and prolonged solitary confinement of Mr. Mingazov since his resettlement to the UAE, and about the refusal to grant him fundamental safeguards such as the right to be presented before judicial authority, the right to challenge the legality of his detention, the right to legal counsel and medical care. Nowhere in the world should an individual be subjected to a measure that may gravely undermine his or her integrity and health, such as torture, without the possibility to defend himself before an independent and competent court of law upholding universally recognized fair trial standards. 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. 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). Article 9 of the Universal Declaration of Human Rights, which is being considered as international customary law, requires states that “No one shall be subjected to arbitrary arrest, detention or exile.” Principle 17 of the Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment, that “A detained person shall be entitled to have the assistance of legal counsel”; and Principle 24 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”.

The non-disclosure of the place of detention of Mr. Mingazov, and his prolonged incommunicado or secret detention, are also a matter of serious concern.

They violate his non-derogable rights not to be arbitrarily detained and not to be subjected to enforced disappearance. Article 10 of the 1992 Declaration on the Protection of all Persons from Enforced Disappearance, 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. This principle is also stressed in the Convention against torture and the ICCPR, which states that “No one shall be subjected to arbitrary arrest or detention.”

Last, we reiterate our concerns about the undisclosed terms of the resettlement programme of former detainees at Guantanamo Bay agreed between the UAE and the United States of America (USA), and its mode of implementation,. This programme has led to the resettlement of 23 detainees at Guantanamo Bay, from the USA to the UAE, where they have been held in indefinite incommunicado arbitrary detention, in unknown locations, deprived of their right to a fair trial or legal representation to contest the legality of their detention, restricted in their contacts with their relatives and lawyers -- instead of undergoing the allegedly agreed residential rehabilitation program, or otherwise release into Emirati society.

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 steps taken by your Excellency’s Government to safeguard the rights of Mr. Mingazov in compliance with the UAE states international human rights obligations.

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 detailed information on any agreement concluded by the Emirati Government to repatriate Mr. Mingazov to Russia, and any related risk assessment carried out by the authorities of the UAE to ascertain the risk of torture or cruel, inhuman or degrading treatment or punishment upon repatriation, and how this decision is compatible with the same international standards binding on the UAE.
4. Please provide information on the exact locations of detention of Mr. Mingazov, and the legal and factual grounds for his continued detention in the UAE.

5. 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 ill-treatment of Mr. Mingazov. 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 the details of any measures which have been taken, or which are foreseen, for the purpose of protecting Mr. Mingazov 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.
7. Please provide information on the steps taken by the authorities of the UAE to seek Mr. Mingazov view - consent or refusal - to be repatriated, to Russia; and about the opportunity afforded to him by the same authorities to object to it before an independent and competent judge.

While awaiting for a reply, we urge that all necessary measures be taken to halt the alleged forcible repatriation of Mr. Mingazov to Russia, and to ensure a thorough and individualized assessment of the risks he may face upon repatriation, including of torture, ill-treatment and arbitrary detention.

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.

We may publicly express our concerns in the near future about this and previous similar or related cases as we are under the impression, given the information at hand, that this case illustrates a pattern of treatment of former Guantanamo detainees whom, according to our knowledge, after a 6 month rehabilitation programme should be released and enabled to go on with their life under the protection of the law of the UAE. We also believe that should this be the case, the wider public should be informed of the human rights implications of these. Any expression of concern on our part will indicate that we have been repeatedly in contact with your Excellency's Government's to clarify the matter of this letter.

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

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

Tae-Ung Baik
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