

Mandates of the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism; the Working Group on Arbitrary Detention; the Special Rapporteur on adequate housing as a component of the right to an adequate standard of living, and on the right to non-discrimination in this context; the Special Rapporteur on the human rights of migrants and the Special Rapporteur on the right to privacy

Ref.: UA KAZ 2/2025

(Please use this reference in your reply)

29 April 2025

Excellency,

We have the honour to address you in our capacity as Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism; Working Group on Arbitrary Detention; Special Rapporteur on adequate housing as a component of the right to an adequate standard of living, and on the right to non-discrimination in this context; Special Rapporteur on the human rights of migrants and Special Rapporteur on the right to privacy, pursuant to Human Rights Council resolutions 49/10, 51/8, 52/10, 52/20 and 55/3.

In this connection, we would like to bring to the attention of your Excellency's Government information we have received concerning Mr. **Sabry Al-Qurashi**, a Yemeni citizen currently living in Kazakhstan. Mr. Al-Qurashi was cleared for release and transferred to Kazakhstan from the detention facility at the U.S. Naval Station Guantánamo Bay in December 2014.

While we commend your Excellency's Government for deciding to resettle former Guantánamo detainees, including Mr. Al-Qurashi, we express grave concerns at allegations that Mr. Al-Qurashi is under constant threat of being forcibly removed to Yemen where he may face arbitrary detention and torture and other ill-treatment. Such removal would appear to violate the obligation of non-refoulement under international human rights law. We are further concerned that Mr. Al-Qurashi has reportedly been unable to obtain a legal status in Kazakhstan where he has been living for over 10 years, which appears to have significantly impeded his ability to fully exercise his human rights, including freedom from arbitrary detention, freedom of movement and the rights to work, social security, and an adequate standard of living, including housing.

We have previously raised concerns regarding a similarly situated individual facing imminent threats of removal from Kazakhstan to Yemen (KAZ 1/2025). We thank your Excellency's Government for its reply dated 26 April 2025 and continue to urge your Excellency's Government to halt any decision to forcibly remove individuals in Kazakhstan to countries where they may face grave human rights violations.

According to the information received:

Mr. Al-Qurashi is a Yemeni national from Sanaa, Yemen, who was detained at the U.S. Naval Station Guantánamo Bay in June 2002, for twelve years, without charge or trial.

Mr. Al-Qurashi was cleared for release through the stringent review process carried out by the Guantánamo Review Task Force. On 30 December 2014, he

was released and transferred from Guantánamo Bay to Kazakhstan under the assurance of permanent resettlement in Kazakhstan with the opportunity to safely rebuild his life there. Mr. Al-Qurashi has been living in Kazakhstan since then.

Upon arriving to Kazakhstan in December 2014, Mr. Al-Qurashi was not given any information about his migration status and was made responsible for regularizing his status. He applied for asylum in 2015 and was provided asylum-seeker papers on 25 December 2015. However, the documents were only valid until 2 February 2016 and were not renewed upon expiry. No decision was ever made on his 2015 asylum claim, despite Kazakh domestic law requiring that a decision on asylum status be made within three months of the application being submitted, with a possible maximum extension of one year.

Despite being in Kazakhstan for over 10 years, Mr. Al-Qurashi continues to be denied a legal status and faces continuous harassment by the Kazakh authorities, including credible and explicit threats of refoulement to Yemen, where he is at risk of arbitrary detention, ill-treatment, and torture, among other violations. According to the information received, Mr. Al-Qurashi was issued a Yemeni passport in 2016, which was immediately confiscated by the Kazakh authorities. It was not until 2023, after the intervention of the U.S. authorities, that Mr. Al-Qurashi was able to obtain a newly issued passport from the Yemeni authorities.

Since Mr. Al-Qurashi arrived in Kazakhstan, his movements have been heavily monitored, including by plain clothes intelligence service officials who follow him. Despite there being no domestic law preventing him from travelling within Kazakhstan, in practice, the Kazakh authorities refuse all requests he makes to visit other provinces within the country. In addition, his family members in Yemen have been repeatedly denied a visa and are unable to visit him in Kazakhstan. It is reported that Mr. Al-Qurashi requested permission to bring his former spouse to join him in Kazakhstan but was prevented by the Kazakh authorities from doing so, leading to the marriage ending.

In August 2019, Mr. Al-Qurashi was stopped by the police and told he could not travel outside of his home without identification documents. In December 2019, Mr. Al-Qurashi was stopped again and, upon not being able to provide identification documents, was arrested and detained. In 2020, he was reportedly beaten on the street by another individual who falsely accused him of stealing. A police officer known to Mr. Al-Qurashi came to the scene but took no action against the alleged perpetrator, despite Mr. Al-Qurashi's injuries.

In April 2024, Mr. Al-Qurashi was told by an official from the Social Security Department that he could be deported to Yemen or detained if his asylum documents were not extended past October. A month later, while he was visiting a friend, the police came to the apartment where he was staying and, after having checked his papers, told Mr. Al-Qurashi that he was in Kazakhstan illegally and took him to the police station where he was interrogated in a cell. During the interrogation, intelligence service officials were aggressive and shouted at Mr. Al-Qurashi who felt intimidated and became fearful of being physically

assaulted. He was asked why he had not returned to Yemen and told that he should leave Kazakhstan or else be forcibly removed to Yemen. He was also told to leave the country while he still could by the Social Affairs Department in Kyzylorda.

Being deprived of any form of valid legal status and identification papers in Kazakhstan, Mr. Al-Qurashi was unable to work or travel and remained at constant risk of arrest and detention. Following the 2022 transfer of responsibility for asylum claims from the Immigration Police to the Ministry of Labour and Social Services, Mr. Al-Qurashi had to submit another asylum application in October 2023. He received asylum-seeker documents which were renewed for successive three-month periods and expired in October 2024. The authorities then informed Mr. Al-Qurashi that his documents would not be renewed.

In June 2024, Mr. Al-Qurashi was reportedly offered a one-month tourist visa by the immigration police who implied that having an entry visa would enable him to leave the country. There was no explanation as to how he would be able to re-enter the country if he left. That same month, Mr. Al-Qurashi was threatened by the authorities that he would be forcibly removed to Yemen if he refused the one-month visa. On 18 August 2024, Mr. Al-Qurashi was visited by local intelligence service officials who threatened him with detention and removal to Yemen upon the then-upcoming expiry of his asylum-seeker documents in October 2024.

In December 2024, the International Committee of the Red Cross (ICRC) ceased providing a financial stipend to Mr. Al-Qurashi.

On 4 February 2025, Mr. Al-Qurashi's asylum application was rejected and he was given 30 days to appeal before facing removal. It is reported that the application was rejected on the basis that Mr. Al-Qurashi had traveled to Iraq, even though he denied having done so. Mr. Al-Qurashi filed an appeal on 4 March.

In March 2025, the courts were given two months to decide on the case and requested that Mr. Al-Qurashi submit the asylum application to the Governor's office of his town. The Governor's office rejected the application and Mr. Al-Qurashi was given two months to appeal the decision in the courts, with his visa being renewed until 20 June. However, Mr. Al-Qurashi has faced threats by intelligence service officials in an attempt to deter him from pursuing the case through the courts. He was told that he should leave voluntarily to another country and that if he refused to do so or pursued the case in the courts, he would be forcibly removed to Yemen.

On 6 April 2025, Mr. Al-Qurashi was again contacted by an intelligence service agent who told him that if he decided to leave willingly to a third country, he would be made to sign a paper attesting that his departure was voluntary and that the authorities would help arrange his travel. He was told that his life would be made harder should he refuse.

In addition, it is reported that while the authorities affirm that Mr. Al-Qurashi is allowed to work, intelligence service agents have threatened Mr. Al-Qurashi's employer, warning him that his business would be shut down if he continued to employ Mr. Al-Qurashi, thereby preventing Mr. Al-Qurashi from working in practice. Mr. Al-Qurashi was also reportedly visited by intelligence service officials multiple times at his place of work. During one of those visits, the agents attempted to question a family member of the business owner about Mr. Al-Qurashi. Additionally, it is reported that intelligence service officials have instructed Mr. Al-Qurashi's landlord not to renew his rental agreement, making it impossible for him to rent a place to live. As a result of the harassment he faces, Mr. Al-Qurashi has reportedly had to leave the town where he lived.

While we do not wish to prejudge the accuracy of these allegations, we express grave concern regarding the credible threats of removal of Mr. Al-Qurashi to Yemen, which appear contrary to the principle of *non-refoulement*, as well as the reported ongoing and persistent harassment by authorities that he faces, purportedly aimed at pressuring him to leave Kazakhstan. We are further concerned at the apparent unwillingness and refusal of the authorities to grant Mr. Al-Qurashi legal status in Kazakhstan for over ten years, which appears to have prevented him from enjoying his rights protected under international law, including his freedom from arbitrary detention, freedom of movement, and right to work, to social security, and to an adequate standard of living, including housing.

Absolute and non-derogable principle of non-refoulement

We are alarmed at the credible threats of removal from Kazakhstan to Yemen, where Mr. Al-Qurashi is at risk of arbitrary detention, torture and ill-treatment.

We remind your Excellency's Government of its absolute and non-derogable obligation against *refoulement* under international human rights law and as a peremptory norm of international law (*jus cogens*), arising under articles 6 (arbitrary deprivation of life), 7 (torture and cruel, inhuman or degrading treatment or punishment) and 9 (arbitrary detention) of the International Covenant on Civil and Political Rights, ratified by your Excellency's Government on 24 January 2006, and article 3 of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT), acceded to by Kazakhstan on 26 August 1998. We further note the obligation of *non-refoulement* to persecution under article 33 of the Convention relating to the Status of Refugees 1951, acceded to by Kazakhstan on 15 January 1999. Under international law, a State must not return a person to any country where there are substantial grounds to believe that the person would be at risk of arbitrary deprivation of life, torture and cruel, inhuman or degrading treatment or punishment, persecution, denial of justice, arbitrary detention, or other serious violations of international human rights law.

We emphasize in particular article 3(1) of the CAT, which provides 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." Article 3(2) states 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

Further, in relation to the allegation that Mr. Al-Qurashi was prevented from bringing his then-spouse to join him in Kazakhstan, we call the attention of your Excellency's Government to article 23 of the ICCPR, which recognizes that "family is the natural and fundamental group unit of society and is entitled to protection by society and the State". In its general comment No. 19, the Human Rights Committee noted that this right encompasses the possibility to live together, which "implies the adoption of appropriate measures, both at the internal level and as the case may be, in cooperation with other States, to ensure the unity or reunification of families, particularly when their members are separated for political, economic or similar reasons" (para. 5).

Right to work and to adequate housing

We also raise concern regarding the allegations of harassment against Mr. Al-Qurashi's former employer and landlord, which appear contrary to his rights to work and to an adequate standard of living, including adequate housing.

We remind your Excellency's Government of the obligations it assumed upon ratifying the International Covenant on Economic, Social and Cultural Rights (ICESCR) on 24 January 2006, in particular article 6, which enshrines the right to work, including the right of everyone to the opportunity to gain a living by work which the individual freely chooses or accepts, and article 11, which guarantees the right to an adequate standard of living, including adequate housing.

In its general comment No. 18 on the right to work, the Committee on Economic, Social and Cultural Rights (CESCR) noted that the right to work imposes on States an obligation to respect, protect and fulfill such right. It stated that "[t]he obligation to *respect* the right to work requires States parties to refrain from interfering directly or indirectly with the enjoyment of that right. The obligation to *protect* requires States parties to take measures that prevent third parties from interfering with the enjoyment of the right to work" (para. 22). It further noted that States should "refrain from denying or limiting equal access to decent work for all persons, especially disadvantaged and marginalized individuals and groups, including prisoners or detainees, members of minorities and migrant workers" (para. 23).

Furthermore, in its general comment No. 4 on the right to adequate housing, the CESCR noted that "all persons should possess a degree of security of tenure which guarantees legal protection against forced eviction, harassment and other threats" (para. 8). The CESCR emphasized that "the right not to be subjected to arbitrary or unlawful interference with one's privacy, family, home or correspondence constitutes a very important dimension in defining the right to adequate housing" (para. 9).

Impact of the lack of legal status on the enjoyment of rights and fundamental freedoms

We express further concern at the apparent failure and unwillingness of your Excellency's Government to regularize Mr. Al-Qurashi's legal status in Kazakhstan since his arrival over 10 years ago, in December 2014. Mr. Al-Qurashi has been in a legal limbo for over 10 years, despite the agreement to resettle him facilitated and agreed upon by both the Government of Kazakhstan and the Government of the United States. The apparent failure to grant Mr. Al-Qurashi any legal status in Kazakhstan

means that he is unable to fully root his life in his new country and appears to have significantly impacted his enjoyment of rights protected under international law, including his right to freedom of movement under article 12 of the ICCPR and his right to social security under article 9 of the ICESCR, which Kazakhstan has an obligation to fulfil under international law.

Regarding the right to freedom of movement, we remind your Excellency's Government that under article 12(1) of the ICCPR, "everyone lawfully within the territory of a State shall, within that territory, have the right to liberty of movement and freedom to choose his residence". The Human Rights Committee has affirmed that "[l]iberty of movement is an indispensable condition for the free development of a person" (general comment No. 27, para. 1).

We are also deeply concerned at the repeated instances of harassment of Mr. Al-Qurashi by intelligence service officials, which often relate to the uncertainty surrounding his legal status. We emphasize that under article 9 of the ICCPR, every person enjoys the right to freedom from arbitrary arrest detention and to security of person.

We are further concerned that the state of limbo that Mr. Al-Qurashi has been forced to live in for over 10 years, under constant and credible threats of removal to Yemen, coupled with the persistent harassment that he has reportedly been subjected to by the authorities, including through constant monitoring, may violate the absolute prohibition of torture and other cruel, inhuman or degrading treatment or punishment in article 5 of the UDHR, article 7 of the ICCPR and articles 1 and 2 of the CAT. We underline that the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment noted that systematic conduct in the form of "State-sponsored vilification and persecution involving additional measures such as arbitrary detention, constant surveillance, systematic denial of justice and serious threats or intimidation" may rise to the level of psychological torture (A/HRC/43/49, para. 69).

Finally, we remind your Excellency's Government of its obligations by virtue of article 2 of the ICCPR and article 2 of the ICESCR to ensure the full realization of the rights recognized in both Covenants to all individuals within its territory and subject to its jurisdiction.

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 respectfully urge your Excellency's Government to halt any plan to remove Mr. Al-Qurashi from Kazakhstan, and to safeguard his rights in compliance with international human rights instruments, including by urgently considering granting him legal status in Kazakhstan.

We would also appreciate a response as soon as possible on the initial steps taken by your Excellency's Government to safeguard the rights of the above-mentioned person 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 also 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 indicate whether your Excellency's Government will rescind its plan to forcibly remove Mr. Al-Qurashi to Yemen or any other country, in order to respect international legal standards, including the principle of non-refoulement.
3. Please explain how your Excellency's Government plans to regularize the legal status of Mr. Al-Qurashi, in line with the assurance of permanent resettlement in Kazakhstan with the opportunity to safely rebuild his life there that was made upon his transfer from Guantánamo Bay to Kazakhstan in 2014.
4. Please explain the basis for the rejection of Mr. Al-Qurashi's asylum application submitted in 2023 and detail the review process carried out to make a determination on his application.
5. Please provide detailed information on what diplomatic assurances and human rights safeguards were included in the transfer agreement between your Excellency's Government and the Government of the United States concerning Mr. Al-Qurashi's transfer from Guantánamo Bay to Kazakhstan.
6. Please provide information on the steps that your Excellency's Government intends to take to investigate all allegations of harassment by various Government officials against Mr. Al-Qurashi, including through the threat of removal to Yemen and repeated instances of arbitrary detention, to prevent their reoccurrence, and to ensure accountability.
7. Please indicate how your Excellency's Government will respect Mr. Al-Qurashi's freedom of movement and rights to privacy, family, work, social security, and an adequate standard of living, including housing.

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.

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.

We may publicly express our concerns in the near future as, in our view, the information upon which the press release will be based is sufficiently reliable to indicate

a matter warranting immediate attention. We also believe that the wider public should be alerted to the potential implications of the above-mentioned allegations. The press release would indicate that we have been in contact with your Excellency's Government's to clarify the issue/s in question.

Further, we would like to inform your Excellency's Government that after having transmitted the information contained in this communication to the Government, the Working Group on Arbitrary Detention may also transmit the case through its regular procedure in order to render an opinion on whether any deprivation of liberty is arbitrary or not. The present communication in no way prejudices any opinion the Working Group may render. The Government is required to respond separately to this letter and the Working Group's regular procedure.

Please be informed that a copy of this letter has been sent to Government of the United States of America.

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

Ben Saul

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

Matthew Gillett

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