

**AMNESTY
INTERNATIONAL**

European Institutions Office



Catherine Ashton

High Representative for Foreign Affairs & Security Policy
European Commission

Andris Piebalgs

Commissioner for Development
European Commission

Brussels, 16 March 2011
Our ref: B1047

Dear Ms. Ashton,
Dear Mr. Piebalgs,

European Union strategy for the Horn of Africa and Council Conclusions on Somalia

Ahead of the Foreign Affairs Council on 21 March and ongoing discussions on the European Union's strategy for the Horn of Africa, Amnesty International wishes to stress the importance of placing human rights at the heart of all efforts to bring peace and stability in the region. Human rights violations and widespread insecurity remain of great concern in the Horn of Africa, and are a major impediment to sustainable peace and stability. By making human rights a central part of its overall approach and strategy for the Horn of Africa, the EU can play a crucial role in addressing the current challenges, and make an important contribution to long-term development and security in the region and beyond.

With this letter, and in view of the Council Conclusions to be adopted on Somalia, we wish to share our concerns over the human rights situation in that country. Any political strategy designed to reduce insecurity in Somalia and support peace-building must take into account widespread past and present serious human rights abuses, including war crimes, endured by the Somali population. Mechanisms to ensure accountability for gross human rights abuses and war crimes, and an end to impunity must urgently be put in place. This must be accompanied by better documentation and reporting on human rights abuses committed in the context of the armed conflict in southern and central Somalia.

For these reasons, Amnesty International urges the EU to prioritise the protection and promotion of human rights in its Horn of Africa strategy, and in its peace-building efforts in Somalia.

In particular, the following issues require the EU's urgent attention and action:

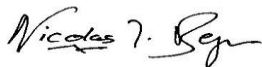
- Protection of civilians in Somalia
- Addressing impunity and ensuring accountability for crimes under international law in Somalia, including calling for an independent Commission of Inquiry to investigate violations of international human rights and humanitarian law
- Support human rights defenders and journalists working in extremely vulnerable circumstances, in line with the EU Guidelines on Human Rights Defenders
- Help improve humanitarian access to Somali civilians and support for Somali refugees and asylum seekers, including in Kenya

The attached briefing note outlines Amnesty International's concerns and recommendations on the above issues.

We look forward to hearing from you about your efforts to make human rights central to the EU's approach to the Horn of Africa, including in Somalia.

We wish you fruitful discussions and remain at your disposal for further information.

Yours sincerely,



Dr. Nicolas J. Beger
Director

Cc:

Nicholas Westcott, Managing Director Africa

Roger Moore, Director, Horn of Africa, East and Southern Africa, Indian Ocean

Jeremy Lester, Head of Unit, Horn of Africa, East Africa and Indian Ocean



AMNESTY INTERNATIONAL BRIEFING NOTE ON HUMAN RIGHTS ISSUES IN SOMALIA

March 2011

Ensuring the protection of civilians

Somali civilians continue to bear the brunt of the armed conflict in southern and central Somalia, with scores killed and injured in indiscriminate and targeted attacks. While many human rights abuses have been attributed to non-state armed groups, there are regular reports that pro-Transitional Federal Government (TFG) troops and the African Union Mission in Somalia (AMISOM) militarily have responded to attacks without taking all feasible precautions to avoid loss of life or injury to civilians.

Amnesty International acknowledges that AMISOM and TFG forces operate in a challenging environment. However, we are concerned that these forces have used mortars and other heavy artillery in urban areas which are densely populated or frequented by civilians. What is more, parties to the conflict in southern and central Somalia have located military bases and other military objectives in or near densely populated civilian areas. Children are particularly vulnerable in the conflict; the World Health Organization reported that children in Mogadishu accounted for almost one-fifth of all weapons-related casualties in 2010. Amnesty International is also concerned that non-state armed groups recruit and use children as child soldiers, and that pro-TFG forces have also been accused of recruiting and using child soldiers.

It is also deeply worrying that weapons and ammunition have been transferred to the TFG, including by the USA, without adequate monitoring to ensure that they will not be used to commit violations of international law, and without adequate safeguards to minimise the risk of the assistance provided being diverted to militias and armed groups both supporting and opposing the TFG.

Given the EU's engagement in supporting capacity-building of TFG security forces in Uganda, and given its important financial contribution to AMISOM, the EU should:

- Provide adequate training to TFG security forces in human rights and international humanitarian law, and on accountable arms management and safe storage, according to international standards and best practice procedures.
- Press for the establishment of effective, independent and impartial accountability and oversight mechanisms for all TFG military, security and police forces and affiliated militia, and provide technical and financial assistance for such mechanisms.
- Promote and provide technical and financial assistance to TFG security forces for the establishment of an effective and impartial screening or vetting mechanism as part of the recruitment procedures, to ensure that those reasonably suspected of serious violations of humanitarian law or human rights abuses, including the recruitment and use of child soldiers, are not recruited into the new security forces, pending independent and impartial investigations.
- Call on the TFG publicly to order its security forces, and all militia and forces affiliated to it, not to commit unlawful attacks, including those targeting civilians, those which do not attempt to distinguish between military targets and civilians or civilian objects, and those which, although aimed at a legitimate military target, have a disproportionate impact on civilians or civilian objects.

- Press for an investigation mechanism to be established within AMISOM to conduct prompt, independent and impartial investigation into all allegations that human rights and international humanitarian law have been violated by AMISOM personnel.

Addressing impunity, encouraging accountability

Any political strategy designed to reduce insecurity in Somalia and support peace-building must take into account the widespread serious past and present human rights abuses, including war crimes, endured by the Somali population. Mechanisms to ensure accountability for gross human rights abuses and war crimes, and an end to impunity must urgently be put in place. This must also be accompanied by better documentation and reporting on human rights abuses committed in the context of the armed conflict in southern and central Somalia.

The TFG has committed itself, under the Djibouti peace agreement in 2008, to promote justice and reconciliation. The UN Security Council is examining ways to ensure accountability for crimes of piracy, yet no such initiative has been forthcoming for other crimes under international law committed in Somalia.

In view of the nature and scale of human rights abuses committed, many of which amount to war crimes and other crimes under international law, the long-standing impunity which fuels further human rights abuses and violence, and the situation of state collapse and disintegration of public institutions in southern and central Somalia, local and international human rights activists have been calling for the establishment of an independent and impartial Commission of Inquiry, or similar mechanism, into serious human rights abuses committed in Somalia. This mechanism must investigate violations of international humanitarian and human rights law committed in recent years in Somalia, map previous serious crimes, and recommend ways forward for accountability.

An important but currently underutilized source of information about the current situation in Somalia is the population of internally displaced persons (IDPs) throughout the country and newly-arrived refugees in neighbouring countries. The EU should encourage the Office of the High Commissioner for Human Rights and other relevant UN mechanisms to enhance their capacity to monitor and publicly report on the human rights situation in Somalia. This should include deploying sufficient staff including, where possible, in IDP camps in Somalia and refugee camps in neighbouring countries.

Amnesty International is also deeply concerned at the resumption of executions by the TFG in late 2010. On 7 December, a former TFG soldier, Nur Ahmed Shire, was executed by TFG forces in the Mogadishu district of Hamar Weyne, after reportedly being convicted of killing another TFG soldier. On 15 January 2011, three other TFG soldiers were reportedly executed in Mogadishu. They had reportedly been convicted of murder by a TFG court martial.

In view of the above, Amnesty International urges the EU to:

- Support the establishment of an independent and impartial Commission of Inquiry or similar mechanism to investigate crimes under international humanitarian and human rights law committed in Somalia in recent years, map previous serious crimes, and recommend ways forward for accountability.
- Express concern at the resumption of executions since December 2010 by the TFG, in line with the EU Guidelines on the Death Penalty.

Protecting vulnerable human rights defenders and journalists

Human rights defenders (HRDs) working in south and central Somalia face a range of challenges which affect the scope of their monitoring work and advocacy outreach. These include a lack of concrete security measures available to them to mitigate some of the security challenges they face, particularly with those working in al-Shabaab controlled areas, a lack of capacity to carry out reporting and advocacy, and a lack of contact and collaboration between HRDs and international actors, including the donor and diplomatic community. Journalists and HRDs continue to face intimidation threats of killing and abduction. At least three journalists were killed in 2010. Many HRDs have been forced to leave southern and central Somalia following death threats.

In implementing its HRD Guidelines, the EU should enhance its financial, logistical and political support to Somali HRDs. This support should seek to increase their security and protection, reinforce their capacity to carry out regular human rights monitoring and reporting, and promote their engagement in key regional and international forums. EU Missions working on Somalia should develop a local implementation strategy on Somalia for the EU Guidelines on the Protection of Human Rights Defenders.

Since 2008, international NGOs have received many demands from HRDs and journalists working in Somalia for assistance in protection and evacuation. Despite considerable time and efforts by civil society organisations to meet these demands, the scale of the problem exceeds many organisations' capacity to assist, since NGOs do not have the funds, staff or mandate to respond to all the requests they receive. States, international donors and UN agencies need significantly to increase their efforts in providing protection, adequate and fair asylum procedures, financial and logistical support, and assistance to those fleeing.

In line with the above, Amnesty International urges the EU to:

- Call on the TFG authorities to establish prompt, impartial and effective investigations into the killings of human rights defenders and civil society actors, including journalists.
- Fully implement the EU HRD Guidelines, particularly by appointing an HRD liaison officer, adopting a local implementation strategy, and provide assistance as required and in consultation with HRDs.

- Cooperate closely with NGOs working on Somalia to help respond to the influx of requests by HRDs, notably journalists and other civil society actors working in Somalia, for assistance and evacuation.

Humanitarian access

The collapse of public institutions and armed conflict in southern and central Somalia has had dire consequences for the provision of humanitarian aid, including medical aid and education. Aid agencies face enormous challenges in providing emergency humanitarian assistance, including due to regular fighting, reported diversion of aid by local actors, and formal restrictions on their operations by al-Shabaab, which has banned several UN and international agencies from working in areas under their control. Since the end of 2010, 2.4 million people in Somalia need emergency humanitarian support.

Given the dire humanitarian situation, Amnesty International urges the EU to

- Contribute to the full funding of the Somalia Consolidated Appeals Process, which requests US\$530m for projects in 2011.
- Press for humanitarian activities to be carried out independently from political considerations and prioritise the safe delivery of humanitarian aid in Somalia.

Refugee, asylum and resettlement issues

Somali people constitute one of the world's largest refugee populations. A large number continue to be displaced within the country, and many others cross international borders to seek refuge and protection in other countries.

In line with the position of the UN High Commissioner for Refugees, Amnesty International opposes all forcible returns to southern and central Somalia at present, and believes that all Somalis from southern and central Somalia should be granted refugee status or other forms of international protection. Amnesty International calls on EU member states to ensure that no Somali is returned to southern and central Somalia at present, in line with the European Convention on Human Rights, which prohibits returning anyone to a country where they would be at risk of torture or other serious human rights violations.

Kenya hosts the largest number of Somali refugees in the region - some 353,000 were registered refugees as of January 2011, and the overall number of Somali nationals in Kenya is believed to be much higher since many are unregistered. The EU, and the wider international community, needs to provide Kenya greater support so it can find durable solutions for large refugee flows from Somalia.

The three refugee camps in Dadaab, in North Eastern Kenya, host over three times the number of refugees they were initially designed for, their resources and infrastructure have been stretched beyond capacity and the quality and quantity of essential services delivered is severely compromised. The refugee population increase has not been matched by a commensurate increase in the land made available to host them. While there are primary and secondary education facilities in the camps, they cannot meet the needs of a growing population, nor can they support children and young adults arriving from a country where access to, and quality of, education has been compromised by armed conflict. Medical facilities are stretched and psychosocial services and counselling are minimal, despite the Somali population's collective trauma resulting from experiencing and witnessing horrific abuses.

However, support cannot be limited to assisting the Kenyan Government and providing funding to organisations working with refugees and IDPs. The EU should press the Kenyan authorities to allow entry to individuals fleeing from conflict in Somalia and seeking refuge in Kenya, in line with its obligations under international and national law, and to halt all forcible returns of Somali nationals to southern and central Somalia.

The EU has an important role to play in sharing international responsibility towards Somali refugees and asylum seekers. Amnesty International acknowledges the important financial contributions and support that the EU has been providing to Somali refugees in the Dadaab camps, and urges the EU and its member states to:

- Prioritise adequate funding for education of Somali children, and for medical and psychological care in refugee camps, including Dadaab, and internally displaced persons' settlements in Somalia.
- Open or increase resettlement programmes for Somali refugees in Kenya and neighbouring countries.