



José Manuel Barroso
President of the European Commission

Brussels, 10 February 2012
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Dear Mr Barroso,

EU must secure human rights gains for Somalia civilians at UK conference and beyond

Ahead of the UK conference on Somalia on 23 February, we wish to share key concerns related to the dire human rights situation in Somalia and the protection of civilians, particularly in the light of increased military operations in the southern and central parts of the country.

In the thematic areas the British Government has identified for discussion, the EU must emphasise that only if civilians are protected will stabilisation efforts succeed in Somalia. As an absolute minimum, the EU must stress that international support for increased military operations in Somalia does not further undermine the already poor human rights situation.

We are mindful that the EU in its Council Conclusions on Somalia of 14 November 2011 encouraged AMISOM and Transitional Federal Government (TFG) forces to prioritise the protection of civilians, and further underlined that military efforts must be matched by complementary political efforts by the TFG. Given the EU's assistance to the TFG and AMISOM, and as the largest donor to Somalia, we urge the EU to lead efforts to secure further human rights gains for Somalia's civilians.

We call for coordinated international efforts to:

- **Improve protection of civilians in the country**
- **End the recruitment and use of child soldiers**
- **Increase human rights monitoring, documenting and reporting and address impunity**
- **Enhance efforts to re-establish the rule of law**

The attached briefing note outlines our concerns and recommendations on these challenges. We urge the EU to raise these points at the UK Conference, and also hope to see these considerations reflected in forthcoming Council Conclusions on Somalia.

We look forward to learning about your efforts to make human rights central to the international community's approach to Somalia. We wish you fruitful discussions and remain at your disposal for further information.

Yours sincerely,

Dr Nicolas J Beger
Director

1. Ensuring the protection of civilians

Efforts must be made to ensure that the current military scale-up in Somalia does not have adverse effects on the protection of civilians. Given the EU's training programme for TFG security forces in Uganda, and its important financial contribution to AMISOM, the EU should monitor the compliance of TFG and AMISOM forces with international humanitarian law, including their observance of the principle of distinction between civilians and civilian objects and military personnel and military objects, and their obligation to consistently take all feasible precautions in attack, and in responding to attack, so as to protect civilians, in line with its recommendations to AMISOM and the TFG forces in the Council Conclusions on Somalia of 14 November 2011.

Amnesty International maintains that no weapons, military and security equipment or financial assistance for the purchase of weapons should be extended to any of the parties to the conflict in Somalia, including the TFG, until effective mechanisms are in place to ensure the disarmament, demobilisation and reintegration of child soldiers, and to prevent such material assistance from being used in committing violations of international and human rights law.

In the light of this, and in line with the EU Guidelines on promoting compliance with international humanitarian law (IHL), the EU should:

- Monitor TFG and AMISOM's compliance with international humanitarian law. Precautions must take into account the effect that fighting can have on relief operations to support the civilian population, particularly given the acute humanitarian crisis currently affecting civilians in southern Somalia. In addition, given the insecure and polarised context of armed conflict in Somalia, the international community should urge parties to the conflict in Somalia to respect the neutrality and impartiality of humanitarian agencies operating in the country
- Ensure, and support efforts to ensure, that international coordination on Somalia is designed in accordance with applicable international humanitarian law. This is particularly important in respect of AMISOM's proposed new strategy, concept of operations and rules of engagement. The EU should provide technical assistance to support AMISOM's commitments to stop indiscriminate attacks and to investigate civilian casualties
- Work with the wider international community to ensure that AMISOM troop-contributing countries adhere to a clear command and control structure, and that they fully adhere to the AMISOM indirect fire policy and commitment to record civilian casualties
- Call for all reports of unlawful attacks in Somalia in which foreign and TFG armed forces may be involved to be promptly, thoroughly and impartially investigated. The results of such investigations should be made public and available to the Somali population. Victims of international law violations must receive reparation, and anyone, including those with command responsibility, reasonably suspected of violating international humanitarian law, must be brought to justice in fair trials without recourse to the death penalty
- Emphasize that all states, including EU member states, must respect the fundamental right of all Somalis to seek refuge, protection and assistance in other countries, and respect their obligations under international human rights and refugee law not to forcibly return anyone to South and Central Somalia. With regard to the high number of Somali refugees in Somalia's neighbouring states, the EU should increase its resettlement programmes and fund integration projects for Somali refugees in camps and urban areas, and fund protection and assistance programmes for such refugees

2. End recruitment and use of child soldiers

Ending the recruitment and use of child soldiers must be an essential element of any strategy to improve security in Somalia. While the TFG has recently committed itself to signing an action plan with the United Nations to prevent the recruitment and use of child soldiers in its forces, it has yet to establish screening mechanisms to ensure its forces and allied militia do not include persons under 18 years of age. Amnesty International continues to have concerns at the fate of child soldiers defecting from or captured from armed groups by the TFG and its allies.

In areas under al-Shabab control, forced recruitment of children for the purposes of enlisting them for fighting is reported to be on the rise, in part as a response by the armed group to the military pressure it is facing.

In line with the EU Guidelines on children and armed conflict, the EU should:

- Press the TFG to systematically screen all TFG units, including pro-TFG militia, to verify that children are not among TFG forces and to ensure the separation of children, in coordination with child protection agencies. Screening procedures must be established to ensure that persons aged under 18 are not recruited in TFG security forces and allied militia, including by circulating guidelines on verifying age, and instructing recruiters that in case of doubt over an individual's age they should not be recruited; by ensuring that the minimum age for recruits is strictly enforced; and by giving access to military bases by independent monitors to prevent and detect any underage recruitment
- Provide technical and financial assistance to programmes for the demobilisation, rehabilitation and reintegration programmes, so that these are established as a matter of priority. Assistance should also be given to other initiatives, including those supporting Somali children and youths separated from their families during the conflict, psychosocial support programmes, and programmes aimed at providing education and employment opportunities, including in IDP and refugee camps
- Ensure that all children who defect or who are captured by the TFG are accounted for and detained only as a last resort
- Call on all states engaging in Somalia not to give weapons, military and security equipment and financial assistance for the purchase of weapons to forces or militias found or believed to be recruiting or using children in their forces. This should be explicitly agreed on during the meeting and accompanied by appropriate monitoring
- Press for the UN Monitoring Group on the arms embargo in Somalia, which is tasked with monitoring violations of international law, and since July 2011 also with identifying those in Somalia responsible for recruiting and using child soldiers, to have sufficient resources to carry out its mandate

3. Strengthening human rights monitoring and addressing impunity

With increasing military operations in Somalia, human rights monitoring, documenting and reporting must be strengthened, to monitor compliance by all parties to the conflict with international humanitarian law, and to assess any concrete progress in human rights by forces receiving international support.

Kenyan and Ethiopian armed forces are currently fighting alongside militia which are loosely affiliated with the TFG. Amnesty International has received reports that in some towns under the control of these militias, individuals have been arbitrarily detained and extra-judicially executed. The lack of adequate human rights monitoring, documenting and reporting in these areas allow human rights abuses to go unchecked.

All strategies designed to reduce insecurity and support peace-building in Somalia must take into account the widespread and serious past and present human rights abuses, including war crimes, which have been committed. Mechanisms to ensure accountability for gross human rights abuses and an end to impunity must urgently be put in place.

The TFG accepted recommendations made to it during its Universal Periodic Review in May 2011 in support of the establishment of an independent international commission of enquiry or similar mechanism. Yet no mention of the need to take urgent measures to address impunity is made in the Roadmap for ending the transition, and while the UN Security Council has been examining ways to ensure accountability for crimes of piracy, no such initiative has been forthcoming for other crimes under international law committed in Somalia.

The EU should:

- Press the UN to enhance monitoring, documenting and public reporting on all violations of international human rights and humanitarian law committed by all parties to the conflict
- Formally request that the UN establishes an independent, international mechanism to investigate and map human rights violations and abuses committed in Somalia, and recommend ways forward for accountability

- Call on the TFG to implement its commitments made under the UPR to fight impunity and take effective measures to ensure accountability

4. Support for the re-establishment of the rule of law

The cornerstone of political stability is the rule of law. The EU must press the TFG to make concrete efforts to establish the rule of law in areas under its control.

With the large flow of people displaced by drought and lack of access to aid into Mogadishu, reports of looting of aid have increased, and reports of rapes of women and girls in IDP camps located in the capital, sometimes by men in TFG uniforms, are also on the rise. The TFG has sought to address infighting among TFG troops and aid looting through a military court,¹ which has sentenced alleged perpetrators to death after summary or unfair trials. Amnesty International is concerned that the military court continues to impose death sentences on individuals, despite the TFG making a public commitment to ending the use of the death penalty at the Universal Periodic Review in October 2011. The military court also continues to sentence members of the military charged with offences against civilians. Amnesty International considers that such trials should take place before civilian courts.

In almost all cases, allegations of abuses have not been investigated and individuals responsible not brought to justice. Recently, the TFG has made some efforts to carry out investigations into human rights abuses which occur in areas under its control and to arrest suspects.

At least 24 journalists have been killed in Somalia since 2007, and many others have been injured, harassed and forced into exile. No one has ever been brought to justice for any of these attacks.

Two journalists were killed in the last six weeks in Mogadishu. Hassan Osman Abdi, director of the Shabelle Media Network, was shot outside his home on 29 January 2011. On 18 December 2011, Abdisalan Sheikh Hassan, a freelance journalist, was shot in the head by a man wearing a government military uniform. In both cases, the TFG promised to investigate the killings, and in the case of Abdisalan Sheikh Hassan, reportedly arrested suspects as part of the investigation.

The EU should:

- Focus attention and resources on plans to strengthen the rule of law in areas controlled by the TFG and its allies. Particular attention must be paid to supporting the justice system and the building of an effective, accountable TFG police force
- Express concern at the continued use of death sentences and executions by the TFG, in line with the EU Guidelines on the Death Penalty
- Call on the TFG to conduct full, impartial investigations into the deaths of Hassan Osman Abdi, Abdisalan Sheikh Hassan and all other journalists killed since 2007, and to bring the perpetrators to justice, in fair trials and without applying the death penalty

¹ Amnesty International considers that all offences alleged to have been committed by military personnel against civilians should be tried before a civilian court.