

Baroness Catherine Ashton

High Representative of the Union for Common Foreign
and Security Policy
Vice President of the European Commission (HR/VP)



Brussels, 16 September 2014

Ref: B 1610

Dear Baroness Ashton,

THE NEW DEAL ONE YEAR ON: EU MUST PRIORITISE HUMAN RIGHTS IN SOMALIA AND REGION

The 16th of September will mark one year since the Somali Federal Government, the European Union (EU) and other national and international partners met in Brussels to endorse the New Deal Compact for Somalia.ⁱ The compact sets priorities for Somalia from 2014-2016 and makes a number of welcome commitments, including an increased inclusion of civil society and a “human rights sensitive approach across all of the Peacebuilding and Statebuilding Goals [...] in the Compact.”ⁱⁱ These commitments echo the EU’s Strategic Framework for engagement in the Horn of Africa using a comprehensive approachⁱⁱⁱ, as well as more recent commitments on human rights at the April 2014 EU-Africa summit.^{iv}

At the time, Amnesty International called for human rights and accountability to remain at the centre of EU and member state engagement with Somalia^v. This call remains timely and urgent today.

At present, the situation in Somalia is far from normalised. Despite some localised changes in the security situation in parts of south and central Somalia, internal displacement continues due to ongoing conflict and insecurity. In field research, Amnesty International has documented widespread and grave human rights violations, including indiscriminate and targeted violence, killings, extortion, forced evictions, as well as rape and other forms of sexual violence, at times carried out by men wearing government and African Union Mission in Somalia (AMISOM) uniforms.^{vi}

Since April 2014, Kenya’s Somali community are being used as scapegoats in a counter-terror operation which has seen thousands subjected to arbitrary arrest, harassment, extortion, ill-treatment, forcible relocation and expulsion in the security crackdown known as ‘Operation Usalama Watch’.^{vii} Thousands of people have been forcibly encamped and hundreds returned to Somalia. This is in breach of the principle of *non-refoulement*. In this environment, it is a challenge to understand how the November 2013 tripartite agreement for the return of Somalis could ensure people’s safety and dignity, whilst also raising serious concerns about the truly voluntary character of any return.

Several EU member states, including Denmark, Netherlands, Sweden and the UK, are also considering or have already adopted asylum and return policies allowing for forcible returns of Somalis.^{viii} While there have been some changes in security, Amnesty International believes that it is far from safe enough to begin deporting people there, and that returns would place peoples’ lives at risk.

The EU and its member states are currently engaged in Somalia and the wider Horn of Africa in multiple dimensions. Ongoing support for humanitarian assistance in Somalia, including an additional 10 million Euro in August 2014, is much-needed and a welcome precedent for other member states and international counterparts to follow. Various EU initiatives on security, including the EU Training Mission (EUTM) and other missions, go some distance in providing training to police and military, including in international human rights and humanitarian law, yet fall short of ensuring due diligence on human rights, including monitoring of violations and full accountability for all support given to Somali forces. Several statements have been issued in response to pivotal events for Somalia’s security^{ix}, but rarely in response to human rights and humanitarian developments.

Considering the scope of their involvement, the EU and its member states must reinforce their engagement on key human rights issues in Somalia. The many components of EU support to Somalia must be joined up more closely in their efforts to mainstream human rights and to ensure access to

justice. The EU and its member states can likewise lead in international efforts by adopting a more explicit, public position on open issues of accountability and human rights violations in Somalia. The EU and its member states are now confronted with measures such as Operation Usulama Watch, forcible encampment and *refoulement* in Kenya, as well as a tripartite agreement that risks leading to *de facto* forcible returns to Somalia from Kenya. The EU and its member states should aim for a human-rights centred approach to Somali refugees and displacement that seeks the greatest possible coherence between internal and external action, between positive engagement with Somalia and Kenya to protect refugees and internally displaced persons (IDPs) in the region, and reinforced asylum policies at home.

Recommendations:

In line with their commitments to place human rights at the centre of all external action, and with commitments in the EU Guidelines on International Humanitarian Law (IHL), the EU Horn of Africa Strategy and the EU-Africa Summit, the EU and its member states should:

- Revive EU, member states' and public debate on reinforcing a comprehensive strategy for engagement with Somalia, including on human rights. A concrete step could be the adoption of explicit Foreign Affairs Council conclusions on Somalia which seek to boost engagement in the region and recognise that the current situation in Somalia is far from normalised
- Call for the partial lifting of the arms embargo in Somalia to be reinstated (when the embargo is reconsidered in October)
- Establish clear and robust mechanisms to monitor and ensure accountability, both for use of EU funding and for conduct of national and international armed forces in Somalia, making all funding to the Somali government and AMISOM contingent upon these mechanisms
- Act to ensure that the Somali authorities and AMISOM conduct full, independent investigations into all allegations of sexual violence and other human rights violations, and that perpetrators (whether state, non-state or AMISOM) are held to account
- Use all opportunities, in particular the planned conference in Copenhagen on the New Deal and the review of The European Union Naval Force Somalia (EUNAVFOR), to ensure human rights are at the forefront of the agenda, while steps are taken to explore concrete measures to improve accountability and due diligence for human rights in EU action in Somalia using a comprehensive approach

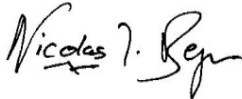
Amnesty International also calls on the EU and its member states to take action to protect Somali refugees and IDPs, and ensure the respect of their human rights and all those affected by the conflict in Somalia. To this end, Amnesty International calls on the EU and its member states to:

- Use the opportunities of the constitutional review and preparations for the forthcoming election in 2016, to increase inclusion of civil society including IDPs and refugees, and to ensure greater accountability for human rights in Somali government decision-making
- Take concrete initiatives to follow up on the human rights and humanitarian situation in Somalia and Kenya. EU and member state representatives should conduct visits to accessible IDP sites in the Afgooye corridor and KM 7-13 by Mogadishu, as well as to Somalis detained in Kenya in the course of Operation Usulama Watch
- Engage with the Somali government to ensure that it finalises its IDP policy, which would translate commitments under the Kampala Convention into law, and ensure greater safeguards for IDPs and returnees in Somalia
- Take an explicit and public position on the human rights violations and *refoulement* taking place in the context of Kenya's Operation Usulama Watch
- Continue the push to ensure increased humanitarian funding to address the needs of displaced, refugee and other vulnerable populations in Somalia and Kenya

- Ensure that firm support for humanitarian aid and protection of Somali refugees, asylum seekers and displaced people in the region is matched by a commitment to protections afforded by Somalis in the EU, in the spirit of internal-external coherence on human rights

We thank you in advance for your interest and engagement. We look forward to your concrete response in the near future and stand ready to provide any further information you may require.

Sincerely,



Dr. Nicolas Beger

Cc:

Suvi Seppalainen, Member of Cabinet, HR/VP
 Claudia Wiedey, Head of Division, Horn of Africa, East Africa and Indian Ocean
 Dilarde Teilane, Policy Officer, Horn of Africa, East Africa and Indian Ocean
 Tobias King, Policy Officer, Horn of Africa, East Africa and Indian Ocean
 Alexander Rondos, European Union Special Representative for the Horn of Africa
 Andris Piebalgs, EU Commissioner for Development
 Kristalina Georgieva, EU Commissioner for International Cooperation, Humanitarian Aid & Crisis Response
 COHOM
 COAFR
 COHAFA
 EUTM Somalia

ⁱ "The Somali Compact," 16 September 2013. <http://www.pbsbdialogue.org/The%20Somali%20Compact.pdf>

ⁱⁱ These include "the promotion of access to justice, human-rights sensitive legislation, security sector reform and addressing past injustices and violations. Particular focus must be given to the protection of the rights of the most vulnerable groups, such as IDPs, women, children and elderly. It will require targeted promotion and protection of human rights through the establishment of a human rights commission and strengthening of existing mechanisms, in line with the Post-Transition Human Rights Roadmap for Somalia for 2013-2015."

ⁱⁱⁱ "Council conclusions on the Horn of Africa," 14 November 2011. http://www.consilium.europa.eu/uedocs/cms_data/docs/pressdata/EN/foraff/126052.pdf

^{iv} "Declaration: Fourth EU-Africa Summit," 2-3 April 2014. http://www.consilium.europa.eu/uedocs/cms_Data/docs/pressdata/en/ec/142096.pdf

^v "EU must foreground human rights at the New Deal for Somalia Conference," 13 September 2013. http://www.amnesty.eu/content/assets/Letters2013/B1478_Letter_Ashton_New_Deal_conference_September_2013.pdf

^{vi} "Somalia: No Place for the Displaced: Forcible Eviction of Displaced Communities," 13 September 2013. <http://www.amnesty.org/en/library/info/AFR52/010/2013/en>; "Somalia: Rape and sexual violence in Somalia – An Ongoing Epidemic," 30 August 2013. <http://www.amnesty.org/en/library/info/AFR52/009/2013/en>

^{vii} "Somalis are scapegoats in Kenya's Counter-terror Crackdown," 27 May 2014. <http://www.amnesty.org/en/library/info/AFR52/003/2014/en>; "No Place like Home: Returns and Relocations of Somalia's Displaced," 19 February 2014. <http://www.amnesty.org/en/library/info/AFR52/001/2014/en>

^{viii} "Delivered by the Netherlands into the clutches of a suicide bomber in Somalia," 29 November 2013. <http://www.amnesty.org/en/library/info/EUR35/001/2013/en>; "Somalia: Mogadishu cannot qualify as an internal flight alternative," 26 September 2013. <http://www.amnesty.org/en/library/info/AFR52/012/2013/en>

^{ix} "Statement by the Spokesperson on today's attack against the Federal Parliament in Mogadishu, Somalia," 24 May 2014. http://eeas.europa.eu/statements/docs/2014/140524_01_en.pdf; "Statement by the Spokesperson of EU High Representative Catherine Ashton on attack targeted at the Presidential Palace in Mogadishu, Somalia," 21 February 2014. http://eeas.europa.eu/statements/docs/2014/140221_06_en.pdf; "Statement by the spokesperson of EU High Representative Catherine Ashton on attacks in Mogadishu, Somalia," 8 September 2013.

http://www.consilium.europa.eu/uedocs/cms_Data/docs/pressdata/EN/foraff/138692.pdf; "Statement by the spokesperson of EU High Representative Catherine Ashton on the fighting in Kismayo, Somalia, 30 June 2013. http://www.consilium.europa.eu/uedocs/cms_Data/docs/pressdata/EN/foraff/137669.pdf