



UNHCR Advisory on the Return of Somali Nationals to Somalia

1. UNHCR issued its current position concerning returns to Somalia in January 2004.¹ By way of this additional advisory, which complements and should be read alongside the position of January 2004, UNHCR re-confirms that this position remains valid. Indeed, prevailing problems in Somalia only support its continued validity and application.
2. Despite the hopes raised with the establishment of the Transitional Federal Government (TFG) in late 2004, the current situation in Somalia remains insecure and highly volatile. The relocation of the TFG from Nairobi to Somalia was largely completed by June 2005. However, the TFG faces serious challenges, including the choice of the temporary seat of Government and lack of infrastructure and resources. Its relocation has become fraught with controversy and opposition, which could assume further divisions along clan and regional lines. According to the Report of the [UN] independent expert on the situation of human rights in Somalia Ghanim Alnajjar, "The right to life continues to be violated on an extensive scale in Somalia. Most of the country is marked by insecurity and violence and the most insecure areas are in the South, notably the capital city Mogadishu." (UN Commission on Human Rights, E/CN.4/2005/117, 11 March 2005, para 17)
3. In southern and central Somalia (area south of the town of Galkayo, sometimes also referred to as "southern Somalia" only), breakouts of fighting occur on a regular basis and inter-clan conflicts, motivated by competition on control of resources and the cycle of revenge killings, continue to be a significant problem, leading to pattern of recurring displacement. This is compounded by high levels of violent crime, particularly in the city of Mogadishu. Reliable reports suggest that the United Nations arms embargo continues to be violated and that supplies of weapons and ammunition continue to flow into the country. Some observers have noted an increase of targeted killings and violence in Mogadishu and interpreted these to be meant as a warning/intimidation to the Transitional Federal Parliament and Government, and any outside intervention.
4. Furthermore, aid operations have been seriously affected by the high levels of insecurity. The proliferation in southern Somalia of checkpoints manned by uncontrolled militia restricts the movements of the few existing staff and supplies. Thus, at this point, beyond the violence and insecurity, Somalis also suffer from a

¹ UNHCR Position on the Return of Rejected Asylum-Seekers to Somalia, January 2004

lack of access to basic services and livelihood opportunities, as well as serious food insecurity, which are further aggravating their already precarious position.

5. In this connection, UNHCR underlines that an internal flight alternative is not applicable in Somalia, as no effective protection can be expected to be available to a person in an area of the country, from where he/she does not originate. In this regard, considerations based on the prevailing clan system are of crucial importance.
6. Therefore, international protection should not be denied on the basis of the internal flight alternative. Such a denial would effectively condemn the persons in question in a form of internal displacement, which brings along a high risk of denial of basic human rights and violation of socio-economic rights, exacerbating the already high levels of poverty and instability for both the individual and the community. It is especially important to note the likely weakened position of the women, children, elderly and physically and/or mentally disabled, whose overall exploitative circumstances could be expected to increase.
7. UNHCR acknowledges that not all Somali asylum-seekers may qualify for refugee status under the 1951 Convention. However, UNHCR considers that asylum-seekers originating from southern and central Somalia are in need of international protection and, excepting exclusion grounds, should be granted, if not refugee status, then complementary forms of protection.
8. Correspondingly, UNHCR re-iterates its call upon all governments to refrain from any forced returns to southern and central Somalia until further notice.
9. As regards forced returns to northern Somalia, while some returns are possible under certain conditions, notably where there are clan links within the area of return and effective clan protection, large-scale involuntary returns should be avoided. Persons not originating from northern Somalia should not be forcibly returned there.

UNHCR, November 2005