

Flygtningenævnets baggrundsmateriale

Bilagsnr.:	470
Land:	Somalia
Kilde:	UK Home Office
Titel:	Country Information and Guidance. Somalia - prison conditions
Udgivet:	Februar 2015
Optaget på baggrundsmaterialet:	11. maj 2015



Home Office

Country Information and Guidance

Somalia: Prison Conditions

February 2015

Preface

This document provides guidance to Home Office decision makers on handling claims made by nationals/residents of – as well as country of origin information (COI) about – Somalia. This includes whether claims are likely to justify the granting of asylum, humanitarian protection or discretionary leave and whether – in the event of a claim being refused – it is likely to be certifiable as ‘clearly unfounded’ under s94 of the Nationality, Immigration and Asylum Act 2002.

Decision makers must consider claims on an individual basis, taking into account the case specific facts and all relevant evidence, including: the guidance contained with this document; the available COI; any applicable caselaw; and the Home Office casework guidance in relation to relevant policies.

Country Information

The COI within this document has been compiled from a wide range of external information sources (usually) published in English. Consideration has been given to the relevance, reliability, accuracy, objectivity, currency, transparency and traceability of the information and wherever possible attempts have been made to corroborate the information used across independent sources, to ensure accuracy. All sources cited have been referenced in footnotes. It has been researched and presented with reference to the [Common EU \[European Union\] Guidelines for Processing Country of Origin Information \(COI\)](#), dated April 2008, and the [European Asylum Support Office’s research guidelines, Country of Origin Information report methodology](#), dated July 2012.

Feedback

Our goal is to continuously improve the guidance and information we provide. Therefore, if you would like to comment on this document, please [e-mail us](#).

Independent Advisory Group on Country Information

The Independent Advisory Group on Country Information (IAGCI) was set up in March 2009 by the Independent Chief Inspector of Borders and Immigration to make recommendations to him about the content of the Home Office’s COI material. The IAGCI welcomes feedback on the Home Office’s COI material. Information about the IAGCI’s work and a list of the COI documents which have been reviewed by the IAGCI can be found on the Independent Chief Inspector’s website at <http://icinspector.independent.gov.uk/country-information-reviews/>

It is not the function of the IAGCI to endorse any Home Office material, procedures or policy.

IAGCI may be contacted at:

Independent Chief Inspector of Borders and Immigration,

5th Floor, Globe House, 89 Eccleston Square, London, SW1V 1PN.

Email: chiefinspectorukba@icinspector.gsi.gov.uk

Website: <http://icinspector.independent.gov.uk/country-information-reviews>

Contents

Section 1: Guidance	4
1.1 Basis of Claim	4
1.2 Summary of Issues	4
1.3 Consideration of issues	4
1.4 Policy Summary	5
Section 2: Information	6
2.1 South and central Somalia	6
2.2 Somaliland and Puntland	10

Section 1: Guidance

Date Updated: 9 February 2015

1.1 Basis of Claim

- 1.1.1 Fear of being imprisoned on return and that prison conditions in Somalia, Somaliland and/or Puntland are so poor as to amount to torture or inhuman or degrading treatment or punishment.
- 1.1.2 This guidance is concerned solely with whether prison conditions are such that they breach Article 3 of European Convention of Human Rights (ECHR) and warrant a grant of humanitarian protection. Even if prison conditions are not severe enough to meet that threshold, Article 3 will still be engaged if, in that individual's personal circumstances, detention would amount to inhuman or degrading treatment or punishment.
- 1.1.3 If the prison sentence or the prison regime, irrespective of its severity, is discriminatory or being disproportionately applied for reasons of race, religion, nationality, membership of a particular social group or political opinion, the imprisonment may amount to persecution and the claimant may qualify as a refugee.

[Back to Contents](#)

1.2 Summary of Issues

- ▶ Is the person's account a credible one?
- ▶ Is the person at real risk of being imprisoned?
- ▶ Are prison conditions in Somalia, Somaliland and/or Puntland so severe that prisoners suffer treatment contrary to Article 3 ECHR?

[Back to Contents](#)

1.3 Consideration of issues

Is the person's account a credible one?

- 1.3.1 Decision makers must consider whether the material facts relating to the person's account and of their experiences are reasonably detailed, internally consistent (e.g. oral testimony, written statements) as well as being externally credible (i.e. consistent with generally known facts and the country information). Decision makers should take into account the possible underlying factors as to why a person may be inconsistent or unable to provide details of material facts.

For further guidance see Asylum Instruction: [Assessing Credibility and Refugee Status](#)

[Back to Contents](#)

Is the person at real risk of being imprisoned?

- 1.3.2 Decision makers must establish the likelihood that the person will be imprisoned on return, including if necessary whether the alleged offence constitutes an offence under Somali law, and, if so, is one which is likely to be punishable by a term of imprisonment and whether the punishment is discriminatory or being disproportionately applied for a Convention reason.

For further information see, [Somali national legislation and Penal Code](#).

[Back to Contents](#)

Are prison conditions in Somalia so severe that prisoners suffer treatment contrary to Article 3 ECHR?

- 1.3.3 Conditions in most prisons in Somalia, Somaliland and Puntland, including those administered by Al Shabaab, are harsh with reports of poor levels of sanitation, overcrowding and disease; inadequate medical facilities; extensive use of lengthy pre-trial detention and the use of torture and other forms of ill-treatment.
- 1.3.4 However with support from the UN Office on Drugs and Crime, new prison facilities have been opened in Somaliland and Puntland, primarily for piracy-related cases, which are expected to meet international standards and appropriate training and support have been provided to prison staff.
- 1.3.5 Prison conditions in general are not so systematically inhuman and life-threatening to meet the high threshold of Article 3. The particular circumstances of some individuals may place them at risk of suffering treatment contrary to Article 3 ECHR. Decision makers must therefore carefully consider the individual factors of each case. The relevant factors include:
 - ▶ the likely length of detention,
 - ▶ the likely type of detention facility; and
 - ▶ the person's age, gender, socio-economic status and state of health
 - ▶ whether they have family or friends to support them and, for example, provide food, etc

For further information on conditions, see [Country Information](#) and guidance, see Asylum Instruction: [Humanitarian Protection: instruction](#)

1.4 Policy Summary

- **Prison conditions in Somalia are extremely poor but in general are not so systematically inhuman and life-threatening as to meet the high threshold of Article 3. Dependant on the particular circumstances of the person concerned, prison conditions may reach the Article 3 ECHR threshold in individual cases. Each case needs to be considered on its facts.**
- **Where in an individual case treatment does reach the Article 3 ECHR threshold, a grant of Humanitarian Protection (HP) will normally be appropriate.**

See also the Asylum Instructions on:

- ▶ [Non-Suspensive Appeals: Certification Under Section 94 of the NIA Act 2002](#)
- ▶ [Humanitarian Protection](#)
- ▶ [Discretionary Leave](#)

[Back to Contents](#)

Section 2: Information

Date Updated: 7 January 2015

2.1 South and central Somalia

2.1.1 The US Department of State reporting on events in 2013 stated:

‘Prison and detention center conditions remained harsh and life threatening throughout the country, with medical care and sanitation wholly inadequate in many prisons.’

‘Physical Conditions: The number of prisoners and detainees throughout the country, including juvenile and female prisoners, remained unknown. Harsh conditions in prisons and detention centers throughout the country included overcrowding, poor sanitation, and lack of health care. Inadequate food, water, ventilation, and lighting continued to be persistent problems. Tuberculosis and pneumonia were reportedly widespread. Prisoners relied on their families and clans, which often paid the costs associated with detention. In many areas prisoners depended on family members and relief agencies for food.’

‘Information on the death rates in prisons and pretrial detention centers continued to be unavailable.’

‘In prisons and detention centers, authorities frequently held juveniles with adults. They separated female prisoners from men. Authorities often did not separate pretrial detainees from convicted prisoners, particularly in the southern and central regions. The incarceration of juveniles at the request of families who wanted their children disciplined remained a problem. Some families sent juveniles from al-Shabaab-controlled areas to prison to prevent their being forcibly recruited by al-Shabaab.’

‘After a visit to Mogadishu Central Prison on March 16 [2013], then prime minister Abdi Farah Shirdon issued a press release calling the prison conditions “deplorable” and asked the international community to support long-term improvements to this facility in Mogadishu.’

‘A UN prison assessment found, as of July 2012, the Mogadishu Central Prison population included 950 individuals, of whom 14 were women and 39 were juveniles. The UN confirmed the separation of women and men, but noted separation of adults and juveniles was not consistent. The UN also concluded prisoners’ living conditions in the Mogadishu Central Prison fell short of meeting minimum international and national standards. For example, authorities held 120 inmates in cells designed for a maximum of 50 persons.’

‘Administration: Prisons did not have ombudsmen and recordkeeping remained inadequate. There were limited alternatives to incarceration, although authorities sometimes released nonviolent offenders due to limited government resources to keep prisoners. Prisoners and detainees generally had access to visitors. Authorities allowed prisoners and detainees to practice their religion. The federal law does not specifically allow prisoners to submit complaints to judicial authorities without censorship.’¹

¹ U.S. Department of State, Country Reports on Human Rights practices for 2013: Somalia, US Department of State, Country Reports on Human Rights Practices for 2013, Somalia, 27 February 2014, Section 1c, Prison and Detention Center Conditions, <http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm?year=2013&dliid=220158> [Accessed 12 December 2014]

- 2.1.2 A media report in March 2013 on then prime minister Abdi Farah Shirdon visit to Mogadishu central prison stated:

‘High seasonal temperatures have brought an outbreak of diarrhea and cholera, resulting in two deaths and 38 hospitalisations in the antiquated prison, which suffers from overcrowding.’

“I am very disappointed to see prisoners in these deplorable conditions,” the Prime Minister said. “At present the situation is under control and we are providing immediate assistance in terms of providing sufficient quantities of clean water and medical supplies for all those who require treatment. For the longer term, we will be asking our international partners to support us as we embark on urgently needed renovation and expansion of our prison facilities.”

‘The Prime Minister said the growing numbers of prisoners was part of a process of normalization as the machinery of government was resuming operations after years of inactivity.’

“As the security situation has improved and the judicial system has started operating again, inevitably we have been making more arrests and sending convicted criminals to prison,” he said. “Government capacity is limited so we do need more support. We are also taking action to expand the existing prison system by renovating two additional prisons in Afgoye and Lafoole.”

‘The Minister of Justice [...] said the government is opening two workshops in Mogadishu Central Prison “to help ensure that when prisoners are released they have acquired some basic skills to help them to return to employment”.’²

- 2.1.3 The Elman Peace and Human Rights Centre, Mogadishu reported to the May 2013 Danish and Landinfo Fact Finding Mission that many people are incarcerated without charges for long periods of time. Children and adults are not separated. There are outbreaks of diseases in the prisons and all humanitarian actors have been denied access. The last being International Committee of the Red Cross (ICRC) who’s access was denied and there have been concerns of cholera outbreaks. Petty criminals are incarcerated with radicals and high risk individuals.³
- 2.1.4 In May 2013 the UN Secretary-General’s report on Somalia found that, ‘Conditions in detention facilities monitored across the country are still below minimum international standards, including in Hargeysa, Garoowe and Boosaaso and in Mogadishu Central Prison, where an outbreak of suspected cholera was reported.’⁴
- 2.1.5 The August 2013 report by the UN Independent Expert on the situation of human rights in Somalia stated that,

² Horseed Media. Somalia: PM takes action to improve “deplorable” Mogadishu Prison conditions and calls for international support. 16 March 2013. <http://horseedmedia.net/2013/03/16/somalia-pm-takes-action-to-improve-deplorable-mogadishu-prison-conditions-and-calls-for-international-support/> [Accessed 12 December 2014]

³ Danish Immigration Service /Landinfo, Security and protection in Mogadishu and South-Central Somalia Joint report from the Danish Immigration Service’s and the Norwegian Landinfo’s fact finding mission to Nairobi, Kenya and Mogadishu, Somalia 16 April to 7 May 2013, May 2013, section 1.4, Activities by the SNAF, police forces, District Commissioners (DCs) and criminal gangs. http://www.nyidanmark.dk/NR/rdonlyres/6F1A29C6-2F84-40D2-BDE4-42F69897EEC3/0/security_and_protection_in_somalia_may_2013.pdf [Accessed 12 December 2014]

⁴ UN, Report of the Secretary-General on Somalia, E. Human rights and the rule of law, paragraph 43, 31 May 2013. http://www.ecoi.net/file_upload/1226_1371048709_n1334531-326.pdf [Accessed 12 December 2014]

‘Like many other institutions, prisons and detention facilities have been severely affected by the conflict. Most detention facilities are dilapidated, which affects the basic human rights of the inmates. The lack of an adequate number of properly trained corrections personnel has added to the problem. The living conditions of prisoners and detainees fall well below the standards identified in international human rights law and in the laws of Somalia. There is no clear separation of individuals sentenced by military courts and those sentenced by civilian courts. The same applies to those sentenced or tried on charges of national security offences and those sentenced or tried for common crimes. This poses serious concerns in terms of both internal security and rehabilitation of prisoners. In practice, there is no separation of adults and juveniles in detention, despite this being expressly required by law. There is a clear need to bring the conditions of detainees in Somalia up to the minimum international standards.’⁵

2.1.6 A Reporters Without Borders article in August 2014 referred to torture being committed in detention facilities by the Somali authorities:

‘Reporters Without Borders condemns the closures of Mogadishu-based Radio Shabelle and Sky FM and arrests of 19 journalists and employees on 15 August, and the continuing detention and reported torture of the directors of the two radio stations and their owner.’

‘Most of those arrested were released after two days, but the NSA is still holding Shabelle Media Network owner Abdiimalik Yusuf Mohamud, Radio Shabelle editor in chief Ahmed Abdi Hassan and Sky FM director Mohamud Mohamed Dahir, also known by the pseudonym of Mohamed Arab.

‘They are being held at NSA headquarters in Mogadishu, which is often used in anti-terrorism operations.’

‘Several witnesses, including security officers, say the three men have been badly tortured in an attempt to extract confessions that they were deliberately trying to harm the Somali government.’⁶

2.1.7 In February 2014 Reporters Without Borders reported that it is:

‘...appalled by the way the National Intelligence and Security Agency (NISA) is persecuting Mohamed Bare, the director of Mogadishu-based Radio Danan. Released on 13 February [2014] after being held arbitrarily for three days and tortured, Bare received a summons yesterday for interrogation at NISA headquarters ... NISA officers arrested Bare on 11 February for posting photos on the Radio Danan website showing the Lower Shabelle region’s vice-president after he was injured by a bomb. Bare was arrested on the Sayidka road on the outskirts of Mogadishu along with Radio Haatuf director Ibrahim Mohamed Ali and Radio Antenna technician Abdikarim Fiidow. The three media workers were taken to NISA headquarters for interrogation and were then held for three days in the NISA’s notorious Mogadishu detention centre, where NISA officers tortured the two radio directors and threatened to kill them if they continued their critical coverage of the government.’⁷

⁵ UN Independent Expert on the situation of human rights in Somalia, Report of the Independent Expert on the situation of human rights in Somalia, Shamsul Bari, 16 August 2013, 8. Rights of prisoners and detainees, paragraphs 29 and 30, 16 August 2013

http://www.ecoi.net/file_upload/1930_1377681912_a-hrc-24-40-en.pdf [Accessed 12 December 2014]

⁶ Reporters Without Borders, Three journalists tortured while in detention, 19 August 2014 <http://en.rsf.org/somalie-three-journalists-tortured-while-19-08-2014,46821.html> [Accessed 12 December 2014]

⁷ Reporters Without Borders, Security agents still hound journalist after detaining, torturing him, 25 February 2014, <http://en.rsf.org/somalia-security-agents-still-hound-25-02-2014,45925.html> Date accessed 17 December 2014

2.1.8 Human Rights Watch similarly reported in May 2014 that:

‘In addition to arbitrary arrests, detainees held by NISA [National Intelligence and Security Agency] in particular are on occasion held for lengthy periods without access to a court... Human Rights Watch was not able to document the use of confessions gathered through torture or coercion as evidence in court. However, we received several credible reports of defendants being mistreated during the pre-trial period, notably during detention in NISA facilities. The uncle of a NISA official, who had been arrested for having beaten a civilian in late 2012, said that during his detention his nephew “was beaten—he still has a scar on his face—and beaten on his chest. This was at the ‘PS’ [a common name for NISA] in Villa Somalia... They were taken to a room and beaten with sticks and wires.’⁸

2.1.9 For information about prison medical facilities see the UNPOS (UN Political Office of Somalia), September 2012 report Assessment of the Prison System in Mogadishu/South Central Somalia [page 20, Healthcare].⁹

[Back to Contents](#)

Al Shabaab controlled areas

2.1.10 The US State Department report for 2013 stated that, ‘Al-Shabaab operated dilapidated detention centers in areas under its control in the southern and central regions.’¹⁰ The U.S. Department of State annual religious freedom report covering 2013 reported that ‘There were numerous reports of religious prisoners and detainees in al-Shabaab controlled areas. The exact figure was unknown.’¹¹

2.1.11 Amnesty International reported in October 2014:

‘Al-Shabaab regularly capture and imprison people suspected of activities against their interpretation of Shar’ia law. For example, in June 2014, one man was alleged to have received lashes for the rape of a woman and another man reportedly had his hand amputated for stealing. It is said that thousands are imprisoned for “minor offenses” such as smoking, listening to music and engaging in other leisure activities. Torture and other ill-treatment such as stoning, public whipping and amputation are used as ‘punishment’ if these rules are not adhered to. Reports state there have been increases in beheadings, torture and other ill-treatment and abductions since 2013.’¹²

⁸Human Rights Watch, Somalia: Unfair Trials in Military Courts, 22 May 2014 Right Not to Be Compelled to Testify against Oneself. http://www.hrw.org/sites/default/files/reports/somalia0514_ForUpload.pdf [Accessed 12 December 2014]

⁹ UNPOS, Assessment of the Prison System in Mogadishu/South Central Somalia, September 2014. <http://unpos.unmissions.org/mwg-internal/de5fs23hu73ds/progress?id=gq5sZmC8r7MqZWLFoj5Tei5fhcRhMvyVHaaBzA8eHwc.&dl> Accessed 22 December 2014

¹⁰ U.S. Department of State, Country Reports on Human Rights practices for 2013: Somalia, US Department of State, Country Reports on Human Rights Practices for 2013, Somalia, 27 February 2014, Section 1c, Prison and Detention Center Conditions, <http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm?year=2013&dliid=220158> [Accessed 12 December 2014]

¹¹ U.S. Department of State, International Religious Freedom Report for 2013: Somalia, 28 July 2014, Section II., Abuses by Rebel or Foreign Forces or Terrorist Organizations, <http://www.state.gov/j/drl/rls/irf/religiousfreedom/index.htm?year=2013&dliid=222095> Date accessed 17 December 2014

¹² Amnesty International, Forced returns to south and central Somalia, including to Al-Shabaab areas: A blatant violation of international law, 23 October 2014, Human rights abuses in areas under al-Shabaab control, <http://www.amnesty.org/en/library/asset/AFR52/005/2014/en/dabb38b2-34b0-4fe1-bb9c-612c8a872dbc/afr520052014en.pdf> Date accessed 17 December 2014

2.2 Somaliland and Puntland

2.2.1 The US Department of State reporting on events in 2013 stated, 'In April 2012 the UN Independent Expert for Somalia visited several detention centers in Puntland and Somaliland. He found unlawful or arbitrary detentions. Authorities detained women and girls for disobeying their parents or husbands. He described detention conditions as close to inhuman, stating they were overcrowded and frequently lacked water, sanitation, and ventilation.'¹³

2.2.2 The same report also noted:

'Somaliland law allows [prisoners] to submit complaints to judicial authorities and specifies the complaints must go through the commandant and must be done in a manner prescribed by regulation.'

'Independent Monitoring: Government, Puntland, and Somaliland authorities permitted prison monitoring by independent nongovernmental observers during the year. In Somaliland a prison conditions management committee organized by the UN Development Program and composed of medical doctors, government officials, and civil society representatives continued to visit prisons. Somaliland also allowed the UN Political Office for Somalia (UNPOS) and UN Assistance Mission in Somalia human rights unit to visit prisons, but Puntland denied access.'

'Improvements: The UN Office on Drugs and Crime (UNODC) conducted training for prison security and management personnel during in Somaliland and Puntland.'¹⁴

2.2.3 A report by the UN Secretary-General in October 2014 recorded that:

'On 2 April 2014, a 500-bed prison opened in Garoowe, Puntland, which was built under the Maritime Crime Programme of UNODC [UN Office on Drugs and Crime]. It will receive inmates of local prisons and, especially, prisoners convicted of piracy who are serving their sentences in neighbouring countries. By returning pirates to Somalia, the burden on regional States of prosecuting and holding them will be reduced. This will also allow the prisoners to serve their sentences closer to their families and within their own cultural environment. The prison has been constructed to provide humane and secure detention conditions in line with international human rights standards. It offers improved infrastructure and sanitation, medical support for inmates and staff and education and vocational training programmes in such areas as construction, sewing, carpentry and brick-making. Strong emphasis has been placed on training and mentoring custodial staff to ensure that the prison is managed in accordance with best practice in the provision of criminal justice. As a high-security facility, it exceeds the security conditions of any institution of its type in the region.'

¹³ U.S. Department of State, Country Reports on Human Rights practices for 2013: Somalia, US Department of State, Country Reports on Human Rights Practices for 2013, Somalia, 27 February 2014, Section 1c, Prison and Detention Center Conditions, <http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm?year=2013&dliid=220158> [Accessed 12 December 2014]

¹⁴ U.S. Department of State, Country Reports on Human Rights practices for 2013: Somalia, US Department of State, Country Reports on Human Rights Practices for 2013, Somalia, 27 February 2014, Section 1c, Prison and Detention Center Conditions, <http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm?year=2013&dliid=220158> [Accessed 12 December 2014]

‘UNODC finalized the construction of a new block for 40 women inmates at the prison in Boosaaso, Puntland. The construction of another block for 200 male inmates is continuing. A new gatehouse and armoury have also been built. The Hargeysa Central Prison in “Somaliland” is fully operational, with the support of UNODC, which also provided a prison mentor for critical operations, including the provision of training to staff and vocational training for inmates.

‘On the night of 8 November 2013, Al-Shabaab fighters launched a deadly attack on the prison in Boosaaso. The prison had previously been substantially rebuilt by UNODC using funds from the Trust Fund to Support Initiatives of States Countering Piracy off the Coast of Somalia. A UNODC prison adviser has been based in Boosaaso to assist in managing the 49 convicted pirates transferred there from Seychelles and in making wider improvements to the operation of the prison. Tragically, the Deputy Commander and a guard were killed in the attack, while the Commander and a supervisor were injured. The attackers caused substantial damage to the main entrance gate, a section of the prison’s external perimeter wall, razor wiring on the perimeter wall and the prison’s only prisoner transport truck. Prison staff and Puntland security forces bravely fought the attackers and were able to prevent the prison from being taken over and the potential escape of Al-Shabaab operatives, including an expert in improvised explosive devices and a suicide bomb coordinator, the imprisoned pirates and others.’¹⁵

[Back to Contents](#)

¹⁵ UN Security Council. Report of the Secretary-General on the situation with respect to piracy and armed robbery at sea off the coast of Somalia. 16 October 2014. Para 39 – 40.
http://www.ecoi.net/file_upload/1226_1413977730_n1456124piracy-somalia.pdf [Accessed 12 December 2014]

Change Record

Version	Date	Change References
1.0	9/02/2015	First version of country information and guidance.

[Back to Contents](#)