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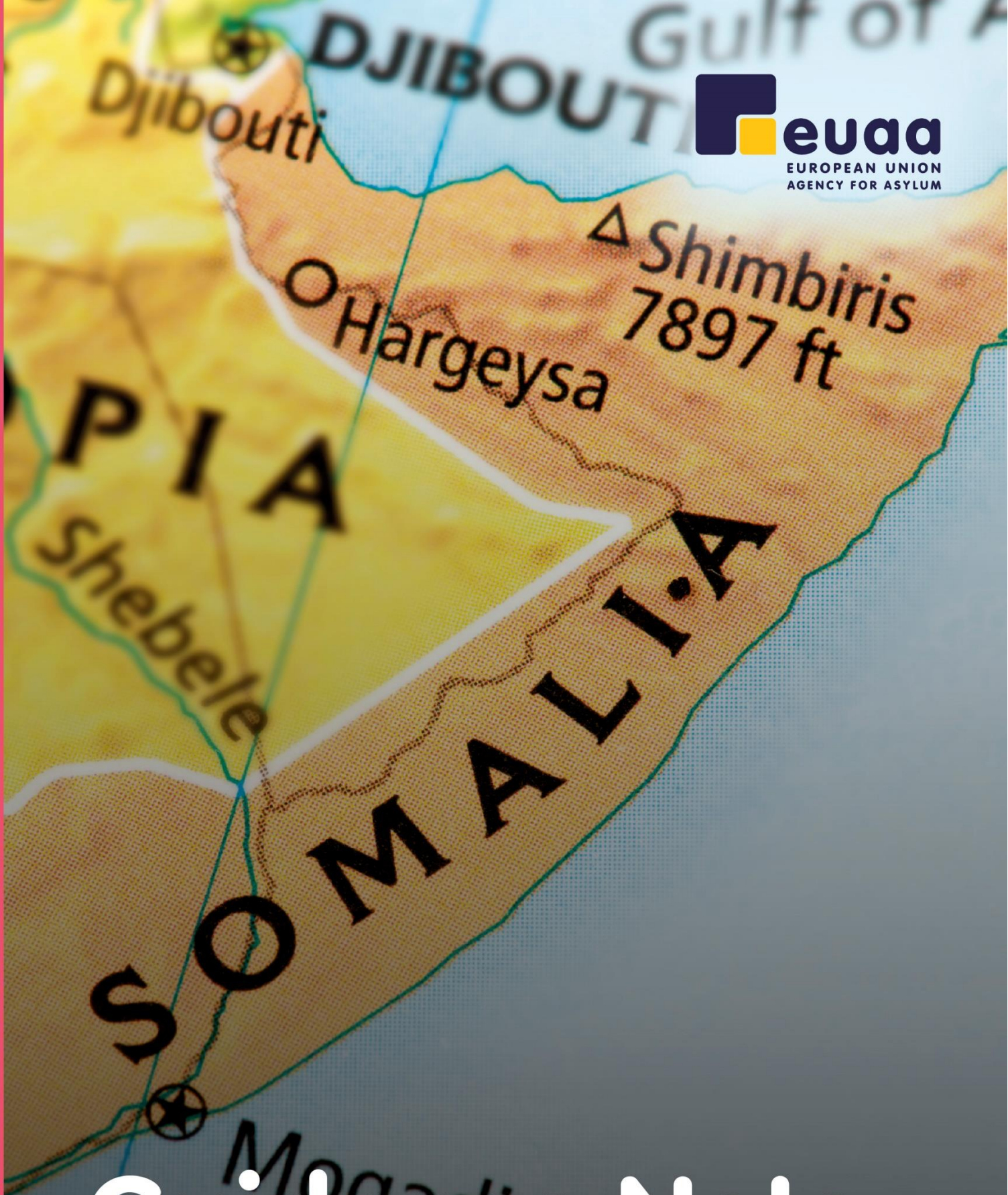
Country Guidance



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Guidance Note: Somalia

June 2022

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Contents

Introduction

This guidance note summarises the conclusions of the common analysis on Somalia and should be read in conjunction with it. The complete 'Country Guidance: Somalia' is available at https://euaa.europa.eu/country-guidance-somalia-2022.

The country guidance is developed in accordance with Article 11 of the EUAA Foundation Regulation (EU) No. 2021/2303 ([1]). It represents the common assessment of the situation in the country of origin by senior policy officials from EU Member States, in accordance with current EU legislation and jurisprudence of the Court of Justice of the European Union (CJEU).

This guidance does not release Member States from the obligation to individually, objectively and impartially examine each application for international protection. Each decision should be taken on the basis of the individual circumstances of the applicant and the situation in Somalia at the moment of the decision, according to precise and up-to-date country information, obtained from various relevant sources (Article 10 of the Asylum Procedures Directive).

The analysis and guidance provided within this document are not exhaustive.

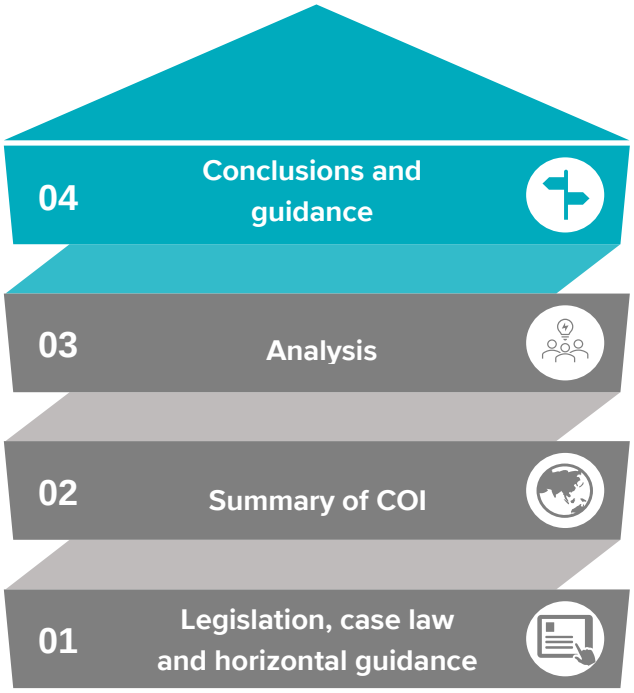
Why is this country guidance developed?

The country guidance is intended as a tool for policy-makers and decision-makers in the context of the Common European Asylum System (CEAS). It aims to assist in the examination of applications for international protection by applicants from Somalia, and to foster convergence in decision practices across Member States.

([1]) Regulation (EU) 2021/2303 of the European Parliament and of the Council of 15 December 2021 on the European Union Agency for Asylum and repealing Regulation (EU) No 439/2010, available at https://eur-lex.europa.eu/eli/reg/2021/2303/oj.

On 21 April 2016, the Council of the European Union agreed on the creation of a senior-level policy network, involving all Member States and coordinated by the European Union Agency for Asylum (EUAA), with the task to carry out a joint assessment and interpretation of the situation in main countries of origin ([2]). The network supports EU-level policy development based on common country of origin information (COI), by jointly interpreting such information in light of the relevant provisions of the asylum acquis and taking into account the content of the EUAA training material and practical guides where appropriate. The development of common analysis and guidance notes has been included as a key area in the new mandate of the EUAA and it is currently regulated under Article 11 EUAA Regulation.

What is included in the guidance note?



The guidance note summarises the **conclusions** of the common analysis in a light user-friendly format, providing practical guidance for the analysis of the individual case. It is the 'executive summary' of the complete 'Country Guidance: Somalia'.

In the comprehensive 'Country Guidance: Somalia', you will also find a second, more detailed, part – the common analysis. The common analysis defines the relevant elements in accordance with legislation, jurisprudence and horizontal guidance, summarises the relevant factual basis according to the available COI, and analyses the situation in the respective country of origin accordingly.

The common analysis is available at https://euaa.europa.eu/country-guidance-somalia-2022.

Links to the relevant part of the common analysis (in English) are provided throughout this guidance note.

([2]) Council of the European Union, Outcome of the 3461st Council meeting, 21 April 2016, 8065/16, available at http://www.consilium.europa.eu/media/22682/st08065en16.pdf.

Is this guidance binding?

The country guidance is not binding. However, in accordance with Article 11 EUAA Regulation, Member States have the obligation to take into account the guidance notes and common analysis when examining applications for international protection, without prejudice to their competence for deciding on individual applications.

Who was involved in the development of this country guidance?

This document is the result of the joint assessment by the Country Guidance Network, whose work was supported by the EUAA and national experts acting as reviewers. The European Commission and UNHCR provided valuable input in this process.

The guidance note, accompanied by the common analysis, were finalised by the Country Guidance Network in May 2022 and endorsed by the EUAA Management Board in June 2022.

What is the applicable legal framework?

In terms of applicable legal framework, the common analysis and guidance note are based on the provisions of the 1951 Geneva Convention ([3]) and of the Qualification Directive (QD) ([4]); as well as on jurisprudence of the CJEU; where appropriate, the jurisprudence of the European Court of Human Rights (ECtHR) is also taken into account.

What guidance on qualification for international protection is taken into account?

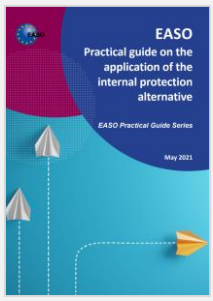
The horizontal guidance framework applied in this analysis is based primarily on the following general guidance:

([3]) United Nations General Assembly, 1951 Convention Relating to the Status of Refugees and the 1967 Protocol Relating to the Status of Refugees.

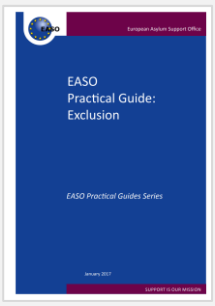
([4]) Directive 2011/95/EU of the European Parliament and of the Council of 13 December 2011 on standards for the qualification of third-country nationals or stateless persons as beneficiaries of international protection, for a uniform status for refugees or for persons eligible for subsidiary protection, and for the content of the protection granted.

EUAA Practical Guide: Qualification for international protection

EUAA Guidance on membership of a particular social group



EUAA Practical guide on the application of the internal protection alternative



EUAA Practical Guide: Exclusion

These and other relevant EUAA practical tools can be found at https://euaa.europa.eu/practical-tools-and-guides.

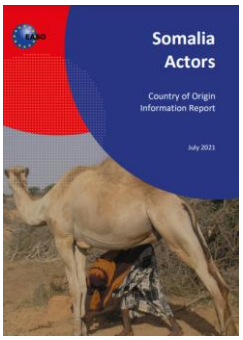
Relevant UNHCR guidelines are also taken into account ([5]).

What country of origin information has been used?

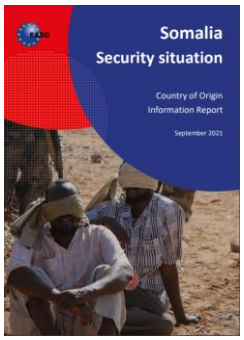
The EUAA Country Guidance documents should not be considered and should not be used or referenced as sources of COI. The information contained herein is based on EUAA COI reports and, in some instances, on other sources as indicated. Unlike the Country Guidance, these represent COI sources and can be referenced accordingly.

This development is mainly based on the following recent COI:

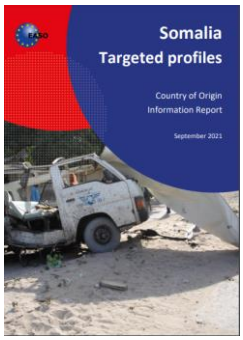
([5]) UNHCR Handbook and guidelines on procedures and criteria for determining refugee status under the 1951 Convention and the 1967 Protocol Relating to the Status of Refugees, as well as other guidance, policy documents and UNHCR ExCom and Standing Committee conclusions are available at https://www.refworld.org/rsd.html.



EUAA COI Report: Somalia – Actors (July 2021)



EUAA COI Report: Somalia – Security situation (September 2021)



EUAA COI Report: Somalia – Targeted profiles (September 2021)

EUAA COI Report: Somalia – Key socio-economic indicators (September 2021)

This guidance should be considered valid as long as current events and developments fall within the trends and patterns observed within the reference period of the respective COI reports. New developments that cause substantial changes and result in new trends may impact the assessment provided in the present guidance. All effort is made to update the EUAA COI reports and country guidance documents regularly and to reflect any such significant changes accordingly. Individual applications should always be assessed in light of the most up-to-date available COI.

To access EUAA COI reports, visit https://euaa.europa.eu/country-reports.

How does country guidance assist in the individual assessment of applications for international protection?

The guidance note and common analysis follow the steps of the examination of an individual application for international protection. This document looks into the relevant elements according to the QD and provides a general assessment of the situation in the country of origin, along with guidance on relevant individual circumstances which should be taken into account.

For additional information and to access other available country guidance, see https://euaa.europa.eu/asylum-knowledge/country-guidance.

General remarks

The structure of the Somali governance

Last updated: June 2022

Somalia is a Federal State composed of two levels of government: the federal government and the federal member states, which include both state and local governments. Federal Member States (FMS) also dispose their own constitutions and armed forces.

South-Central Somalia includes the following FMS: Jubbaland, South-West, Benadir, Hirshabelle and Galmudug. Mudug region is divided between Galmudug and Puntland, with Galmudug controlling the southern half of the region. Puntland, as a self-proclaimed autonomous state within the Somali Federal State, was established on 1 August 1998.

Somaliland declared its independence in 1991 while the civil war was occurring in the rest of Somalia. Somaliland remains largely internationally unrecognised.

In terms of territorial control and influence, areas of Sool and Sanaag regions and the area of Ayn (Togdheer region) are contested between Somaliland and Puntland.

Read more in the common analysis.

The role of clans in Somalia

Last updated: June 2022

Layered in all aspects of life, the clan is both a tool for identification and a way of life. Clans define the relationship between people and belonging to a strong clan matters in terms of access to resources, political influence, justice, and security.

Somalis are roughly divided in five large family clans: the Dir, the Isaaq, the Darood, the Hawiye and the Rahanweyn. Large segments of the Somali population are considered as minorities, either in the local context or in Somalia in general, living amongst larger clans. Somalis are traditionally attached to a territory where their kin are supposed to be more numerous. Until today, most Somalis still rely on support from patrilineal clan relatives.

Clans often compete against each other, as well as against other actors. Clan militias are also important actors of political life across Somalia. Under the *xeer* system, clan elders act as mediators or arbiters, and play a central role in the resolution of local and intra-clan disputes.

Read more in the common analysis.

Actors of persecution or serious harm

Last updated: June 2022

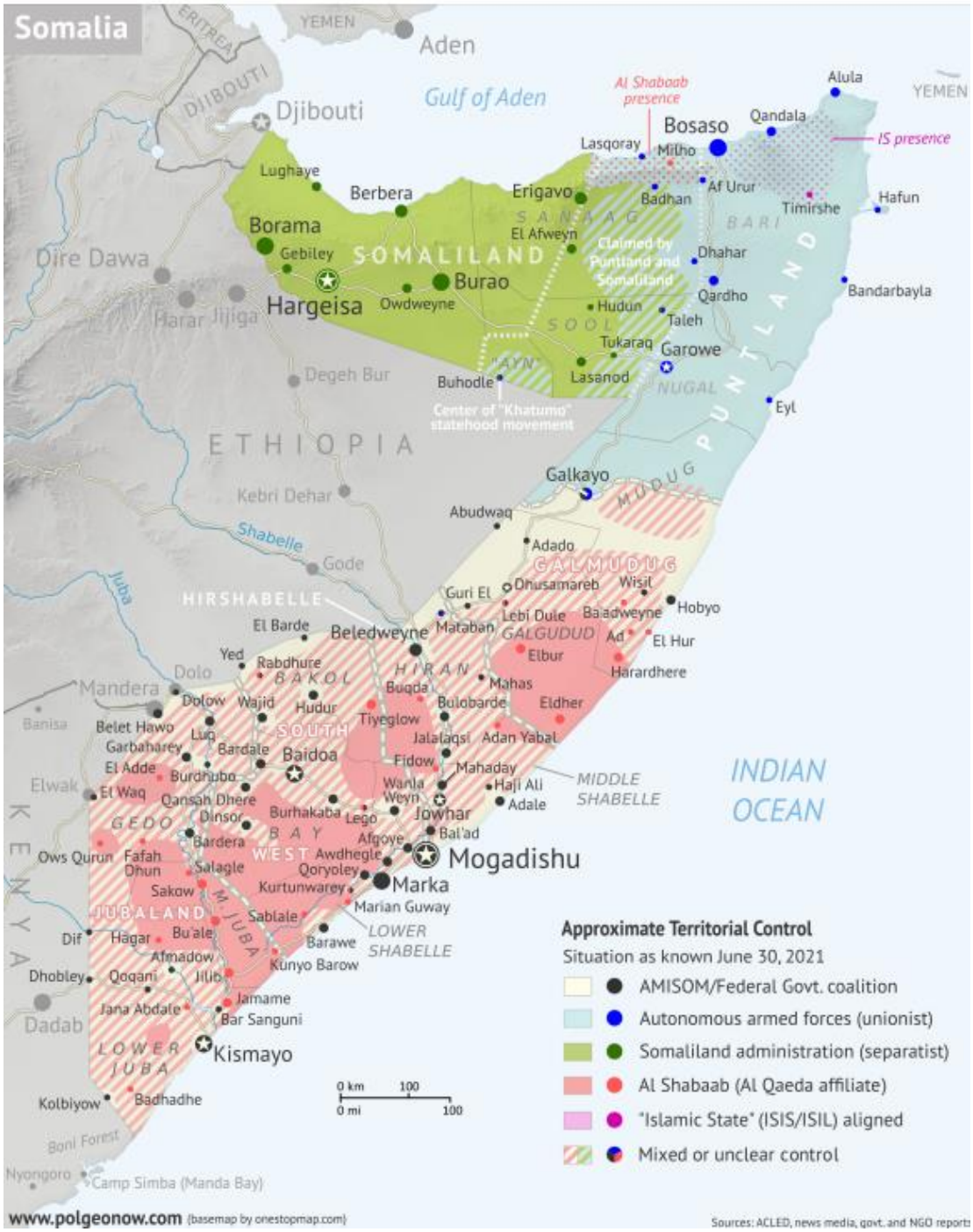
Risks to which a population of a country or a section of the population is generally exposed do not normally create in themselves an individual threat, which would qualify as serious harm (Recital 35 QD). Generally, persecution or serious harm must take the form of conduct of an actor (Article 6 QD).

According to Article 6 QD, actors of persecution or serious harm include the following.

Figure 1. Actors of persecution or serious harm.

This section includes guidance concerning some of the main actors of persecution or serious harm in Somalia. The list is non-exhaustive. Their reported areas of control, as of 30 June 2021, are presented on the following map.

Figure 2. Somalia - Approximate Territorial Control, 30 June 2021 by Political Geography Now (https://www.polgeonow.com/).



Read more in the common analysis.

- **Federal government of Somalia (FGS) forces:** FGS has pushed Al-Shabaab out of many urban centres in South-Central Somalia. FGS security forces consist of four entities: Somali National Army (SNA), Special Forces, National Intelligence and Security Agency (NISA) and Somali Police Force (SPF). FGS security forces have committed a wide range of human rights violations, including extrajudicial killings, arbitrary arrests and detentions, (conflict-related) sexual violence and enforced disappearances. The severe violation of rights of children by FGS forces has been also reported, such as deprivation of liberty for alleged association with Al-Shabaab or the Islamic State in Somalia (ISS), child recruitment, sexual violence, killing and maiming.

Read more in the common analysis.

- **Jubbaland forces:** since 2012, state President Ahmed Madobe and his militia group have been in charge of the town and the port of Kismayo, of which they also control the surroundings. A large portion of the regional state is under the de facto control of Al-Shabaab. The United Nations Secretary General (UNSG) has attributed to the Jubbaland security forces several violations, such as assassinations, conflict-related sexual violence, violations of human rights and international humanitarian law, deprivation of liberty of children, child recruitment, killing or maiming of children, rape and sexual violence against children, and denial of humanitarian access.

Read more in the common analysis.

- **South-West forces:** in terms of territorial control, the South-West state remains among those most affected by Al-Shabaab's presence and attacks. The group controls large swathes of territory in all three South-West regions. UNSG attributed to South-West forces violations such as conflict-related sexual violence, arbitrary arrests of journalists, child recruitment, deprivation of liberty of children, killing and maiming of children, rape and sexual violence against children, attacks on school and hospitals, and child abduction.

Read more in the common analysis.

- **Benadir/Mogadishu forces:** the region of Benadir covers the same area as the capital Mogadishu and it is officially controlled by the FGS security institutions and the African Union Mission in Africa (AMISOM). See section 1.1 Federal Government of Somalia (FGS) forces.

Read more in the common analysis.

- **Hirshabelle forces:** a significant portion of the state territory is controlled by Al-Shabaab. Hirshabelle security forces have been reported to commit human rights violations.

Read more in the common analysis.

- **Galmudug forces:** Galmudug state comprises Galgaduud and approximately half of Mudug administrative regions. Numerous actors compete for power such as Ahlu Sunna Wal-Jama'ah (ASWJ), an armed Sufi group which used to be the most powerful military actor in the state and was later almost completely demobilised and integrated into Galmudug's forces and the national army. It has been reported that Al-Shabaab continued to control part of the Galmudug state. UNSG attributed to Galmudug security forces violations such as the deprivation of liberty of children, child recruitment, killing and maiming of children, rape and sexual violence against children, attacks on schools and hospitals, child abduction, and denial of humanitarian access.

Read more in the common analysis.

- **Puntland forces:** Puntland is reportedly 'the most stable and most developed state in the union'. Puntland comprises Nugal and Bari regions. Puntland also controls the northern part of the Mudug region and contends with Somaliland over control of areas of Sool and Sanaag regions and of the area of Ayn (Togdheer region). Puntland's security forces are constituted by the Border Police, the Puntland State Police (PSP), Intelligence forces and Correctional forces. Among them, Puntland Maritime Police Force (PMPF) is funded by the United Arab Emirates (UAE) and Puntland Security Force (PSF) was set up by the United States (US) as a separate private auxiliary group. UNSG attributed to PSF violations such as the execution of a death sentence, the issuance of death sentences, conflict-related sexual violence, arbitrary arrests of journalists, deprivation of liberty of children, child recruitment, killing and maiming of children, rape and sexual violence against children, and denial of humanitarian access affecting aid delivery to children.

Read more in the common analysis.

- **Somaliland forces:** it has been reported that the government of Somaliland exerts consistent control over most of the territory that it claims. Areas of Sool and Sanaag regions and the area of Ayn (Togdheer region) are contested between Somaliland and Puntland. Security forces of Somaliland are constituted by the National Intelligence Service (NIS), the Somaliland Police, the Somaliland National Armed Forces, and the Somaliland Coast Guard. Somaliland security forces were deemed responsible for various violations such as the execution of death sentences, torture, beatings and harassment of civilians, and the deprivation of liberty of children.

Read more in the common analysis.

- **Al-Shabaab:** Al-Shabaab is an Islamist Sunni Salafi jihadist armed group based in Somalia and seeks to establish an Islamic caliphate in the country. Its main unifying idea is the 'opposition to the Western-backed government'. While the group controls large swathes of rural territory in central and southern Somalia, its level of penetration and influence has further widely permeated Somali society. It also retained operational military capacity in Puntland and in Somaliland, as well as presence south of Puntland.

  It has been reported that the Jabahaat, Al-Shabaab's military wing, had an estimated 5 000 – 7 000 active fighters in 2020. The Amniyat is the intelligence and counter-intelligence agency of Al-Shabaab used to undermine local governance and enforce Al-Shabaab rules in enemy territory.

  In the context of the conflict against anti-Al-Shabaab forces, Al-Shabaab committed the majority of the severe human rights abuses reported during the reference period, including attacks on civilians, targeted killings, disappearances, rapes and conflict-related sexual violence. The group also blocked humanitarian assistance, recruited child soldiers, and restricted freedom of speech, press, assembly, and movement.

  Checkpoints taxation, business extortion, imports taxation at major seaports, and real estate companies are multiple sources of funds for the group. Al-Shabaab also operates its own justice mechanism in areas under its control and also elsewhere via mobile courts and may impose severe punishments.

Read more in the common analysis.

- **Clans and clan militias:** clan militias are important actors of political life across Somalia. A clan militia is generally an armed group based on lineage and the result of the convergence of several individuals' interests. Clashes can occur between and within clan militias. Numerous violations were attributed to clan militias, including

killings, torture, sexual violence, child recruitment, attacks on schools and hospitals, abductions, and denial of humanitarian access.

Clan members have also been involved in clan revenge, killings and blood feuds.

Read more in the common analysis.

- **Islamic State in Somalia (ISS):** formed in October 2015, the ISS or otherwise known as ISIS-Somalia is a jihadist Islamist group. The group secured a base in Puntland and has expanded its activities to other parts of Somalia. In 2020, the group conducted small-scale IED attacks and killings in Puntland, Mogadishu and Lower Shabelle. The group has regularly clashed with Al-Shabaab, while operationally and ideologically challenging its dominance.

  As of mid-2018, it was estimated that the group had 200 fighters throughout the country, almost all in Puntland. In 2020, 30 fighters, including seven foreign fighters, joined the group in Bari region.

Read more in the common analysis.

- **African Union Mission in Africa (AMISOM):** AMISOM is a multidimensional and multinational peace support operation with nearly 20 000 forces on the ground. AMISOM is tasked to reduce the threat posed by Al-Shabaab and other armed groups, to support the transfer of security responsibilities from AMISOM to Somali Security Forces (SSF) and to assist the FGS, FMS and SSF in providing security for the political process at all levels. According to UN reports, AMISOM's overall conduct with regard to international humanitarian law and human rights law standards has improved in the last few years. In 2020, AMISOM was listed among the actors conducting extra-judicial killings of civilians and its forces were implicated in rapes and other unspecified grave abuses of human rights while conducting military operations against Al-Shabaab.

Read more in the common analysis.

- **United States Africa Command (AFRICOM):** AFRICOM's East Africa Counterterrorism Operation seeks to 'disrupt, degrade, and deny victory to Al-Shabaab and ISS in Somalia and neighbouring countries'. As of January 2021, the US military troops in Somalia had mostly withdrawn from the country. AFRICOM was particularly engaged in drone and airstrike campaigns, resulting in casualties.

Read more in the common analysis.

- In specific situations, **other non-State actors** of persecution or serious harm may include the family or family/clan members (e.g. in the case of female genital mutilation (FGM), domestic violence, violence against lesbian, gay, bisexual, trans, intersex or queer (LGBTIQ) persons) or criminal groups.

Read more in the common analysis.

Refugee status: guidance on particular profiles

Preliminary remarks

Last updated: June 2022

All elements of the definition of a refugee in accordance with the QD should be fulfilled for the qualification of the applicant as a refugee:

Article 2(d) QD
Definitions

'refugee' means a third country national who, owing to a well-founded fear of being persecuted for reasons of race, religion, nationality, political opinion or membership of a particular social group, is outside the country of nationality and is unable or, owing to such fear, is unwilling to avail himself or herself of the protection of that country, or a stateless person, who, being outside of the country of former habitual residence for the same reasons as mentioned above, is unable or, owing to such fear, unwilling to return to it, and to whom Article 12 [exclusion] does not apply;

Article 9 QD outlines how 'persecution' should be assessed.

Article 10 QD provides further clarification on the different reasons for persecution (race, religion, nationality, political opinion, or membership of a particular social group). A link (nexus) between those reasons and the persecution or the absence of protection should be established in order for the applicant to qualify for refugee status.

Guidance on specific profiles of applicants, based on their personal characteristics or affiliations with a certain group (e.g. political, ethnic, religious), is provided below.

An individual assessment is required for every application. It should take into account the individual circumstances of the applicant and the relevant country of origin information. Factors to take into account in this assessment may include, for example:

- home area of the applicant, presence of the potential actor of persecution and their capacity to target a person of interest;
- nature of the applicant's actions (whether or not they are perceived negatively and/or whether or not individuals engaged in such actions are seen as a priority target by the actor of persecution);

- visibility of the applicant (i.e. to what extent it is likely that the applicant is known to or could be identified by the potential actor of persecution); noting, however, that the applicant does not need to be individually identified by the actor of persecution, as long as his or her fear of persecution is well-founded;
- resources available to the applicant to avoid persecution (e.g. relation to powerful individuals);
- etc.

The fact that an applicant has already been subject to persecution or to direct threats of such persecution, is a serious indication of the applicant's well-founded fear, unless there are good reasons to consider that such persecution will not be repeated (Article 4(4) QD).

Read more in the common analysis.

Profiles

This section refers to some of the profiles of Somali applicants, encountered in the caseload of EU Member States. It provides general conclusions on the profiles and guidance regarding additional circumstances to take into account in the individual assessment. Some profiles are further split in sub-profiles, with different conclusions with regard to the risk analysis and/or nexus to a reason for persecution. The corresponding number of the profile and a link to the respective section in the common analysis are always provided for ease of reference.

The conclusions regarding each profile should be viewed without prejudice to the credibility assessment of the applicant's claims.

When reading the table below, the following should be borne in mind:

An individual applicant could fall under **more than one profile** included in this guidance note. The protection needs associated with all such circumstances should be fully examined.

The **risk analysis** paragraphs focus on the level of risk and on some of the relevant risk-impacting circumstances. Further guidance with regard to the qualification of the acts as persecution is available within the respective sections of the common analysis.

The table below summarises the conclusions with regard to different profiles and sub-profiles and aims at providing a practical tool to case officers. While examples are provided with regard to sub-profiles at differentiated risk and circumstances which may increase or decrease the risk, these **examples are non-exhaustive** and they have to be taken into account in light of all circumstances in the individual case.

Persons who belonged to a certain profile in the past or **family members** of an individual falling under a certain profile may have protection needs similarly to those outlined for the respective profile. This is not explicitly mentioned in the table below, however, it should be taken into account in the individual assessment.

The **potential nexus** paragraphs indicate a possible connection to the reasons for persecution according to Article 10 QD. The common analysis sections provide further guidance whether a nexus to a reason for persecution is highly likely or may be substantiated depending on the individual circumstances in the case.

For some profiles, the connection may also be between the **absence of protection** against persecution and one or more of the reasons under Article 10 QD (Article 9(3) QD).

2.1.1 Federal and state officials

Last updated: June 2022

Risk analysis

Higher level federal and state officials in South-Central Somalia and Puntland: well-founded fear of persecution would in general be substantiated.

Lower level officials in South-Central Somalia and Puntland: not all individuals would face the level of risk required to establish well-founded fear of persecution. Risk-impacting circumstances could include:

- nature of duties
- visibility of profile
- area of origin and operational capacity of Al-Shabaab
- etc.

Federal and state officials in Somaliland: well-founded fear of persecution could be substantiated in individual cases. Risk-impacting circumstances (e.g. visibility of profile, nature of duties, area of origin and operational capacity of Al-Shabaab) should be given due consideration.

Potential nexus: religion and/or (imputed) political opinion.

Read more in the common analysis.

2.1.2 Members of the federal and state armed forces

Last updated: June 2022

Risk analysis

In South-Central Somalia, well-founded fear of persecution would in general be substantiated.

There is limited information with regards to targeting of this profile specifically **in Puntland**. Risk-impacting circumstances could include:

- nature of duties
- visibility of profile and proximity to high level federal or state officials or members of the armed forces
- time of service
- etc.

The increasing operational capacity of Al-Shabaab in Puntland in relation to the area of origin of the applicant should be carefully taken into consideration.

In Somaliland, well-founded fear of persecution could be substantiated in individual cases. Risk-impacting circumstances (e.g. visibility of profile, the rank, the time of service, nature of duties, area of origin and operational capacity of Al-Shabaab) should be given due consideration.

Potential nexus: religion and/or (imputed) political opinion.

* Exclusion considerations could be relevant to this profile.

Read more in the common analysis.

2.1.3 Electoral delegates

Last updated: June 2022

Risk analysis: a well-founded fear of persecution would in general be substantiated **in South-Central Somalia and Puntland**.

Potential nexus: religion and/or (imputed) political opinion.

Read more in the common analysis.

2.1.4 Civilians perceived as 'spies' by Al-Shabaab

Last updated: June 2022

Risk analysis

In South-Central Somalia and Puntland, well-founded fear of persecution would in general be substantiated.

In Somaliland, well-founded fear of persecution could be substantiated in individual cases. Risk-impacting circumstances (e.g. visibility of profile, area of origin and presence of Al-Shabaab) should be given due consideration.

Potential nexus: (imputed) political opinion and/or religion.

Read more in the common analysis.

2.2.1 Persons fearing forced recruitment by Al-Shabaab

Last updated: June 2022

Risk analysis: not all individuals under this profile would face the level of risk required to establish well-founded fear of persecution. Risk-impacting circumstances could include:

- age (young men are at higher risk)
- visibility of profile
- area of origin and control or influence of Al-Shabaab
- clan affiliation
- socio-economic situation of the family
- etc.

Potential nexus: while the risk of forced recruitment as such may not generally imply a nexus to a reason for persecution, the consequences of refusal, could, depending on individual circumstances, substantiate such a nexus, among other reasons, to (imputed) political opinion and/or religion.

Read more in the common analysis.

2.2.2 Child recruitment by Al-Shabaab

Last updated: June 2022

Risk analysis: not all children would face the level of risk required to establish well-founded fear of persecution in the form of child recruitment. Risk-impacting circumstances could include:

- gender
- age
- area of origin and the control or influence of Al-Shabaab
- clan affiliation and clan positioning towards Al-Shabaab
- socio-economic situation of the family
- family status (e.g. orphans)
- etc.

Potential nexus: the individual circumstances of the child need to be taken into account to determine whether a nexus to a reason for persecution can be substantiated. For example, in the case of children who refuse to join Al-Shabaab, persecution may be for reasons of (imputed) political opinion and/or religion.

Read more in the common analysis.

2.2.3 Deserters from Al-Shabaab

Last updated: June 2022

Risk analysis: a well-founded fear of persecution by Al-Shabaab would in general be substantiated. Further risk of persecution by the state should be assessed on the basis of risk-impacting circumstances, such as rank/role in Al-Shabaab (e.g. being considered 'high-risk' by the state authorities), etc.

Potential nexus: religion and/or (imputed) political opinion.

* Exclusion considerations could be relevant to this profile.

Read more in the common analysis.

2.3 Individuals refusing to pay 'taxes' to Al-Shabaab

Last updated: June 2022

Risk analysis: a well-founded fear of persecution would in general be substantiated where Al-Shabaab imposes taxes in the case of individuals refusing to pay such taxes to the group.

Potential nexus: (imputed) political opinion and/or religion.

Read more in the common analysis.

2.4 Humanitarian workers and human rights defenders

Last updated: June 2022

Risk analysis

In South-Central Somalia and Puntland, well-founded fear of persecution would in general be substantiated.

In Somaliland, not all individuals under this profile would face the level of risk required to establish a well-founded fear of persecution. Risk-impacting circumstances could include:

- visibility of profile
- nature of activities
- area of origin and operational capacity of Al-Shabaab
- etc.

Potential nexus: religion and/or (imputed) political opinion.

Read more in the common analysis.

2.5 Journalists

Last updated: June 2022

Risk analysis

Journalists seen as critical of an actor particularly active in a specific area or in control of a specific area: well-founded fear of persecution would in general be substantiated in that specific area.

Other journalists: not all individuals would face the level of risk required to establish well-founded fear of persecution. Risk-impacting circumstances could include:

- gender (higher risk for women)
- the topic they report on
- visibility of activities and public profile
- reach of the actors they report on
- etc.

Potential nexus: (imputed) political opinion. In case of targeting by Al-Shabaab, persecution of this profile may also be for reasons of religion.

Read more in the common analysis.

2.6.1 Individuals (perceived as) contravening Islamic laws in Al-Shabaab controlled areas

Last updated: June 2022

Risk analysis: a well-founded fear of persecution would in general be substantiated.

Potential nexus: religion.

Read more in the common analysis.

2.6.2 Individuals (perceived as) contravening Islamic and customary tenets outside Al-Shabaab controlled areas

Last updated: June 2022

Risk analysis

Individuals (perceived as) apostates, converts proselytisers or blasphemers: a well-founded fear of persecution would in general be substantiated.

Other individuals (perceived as) contravening Islamic and customary tenets in areas outside of the control of Al-Shabaab: not all individuals would face the level of risk required to establish well-founded fear of persecution. Risk-impacting circumstances could include:

- nature and visibility of activities of the applicant

- belonging to a religious minority (e.g. Christians being at higher risk)
- area of origin in relation to presence or operational capacity of Al-Shabaab
- etc.

Potential nexus: religion and/or in some cases membership of a particular social group (e.g. individuals seen as transgressing moral norms).

Read more in the common analysis.

2.7 Individuals involved in blood feuds/clan disputes

Last updated: June 2022

Risk analysis: not all individuals under this profile would face the level of risk required to establish well-founded fear of persecution. Risk-impacting circumstances could include:

- gender (men have a significantly higher risk)
- being considered a priority target
- clan affiliation
- etc.

Potential nexus: the individual circumstances of the applicant need to be taken into account to determine whether a nexus to a reason for persecution can be substantiated. For example, in the case of lineage/clan members involved in a blood feud, persecution may be for reasons of membership of a particular social group. Furthermore, in case of inter-clan disputes, persecution may be for reasons of race.

* Exclusion considerations could be relevant to this profile.

Read more in the common analysis.

2.8 Individuals accused of crimes in Somalia

Last updated: June 2022

Risk analysis: the individual assessment of whether there is a reasonable degree of likelihood for the applicant to face persecution should take into account individual circumstances, such as:

- the legal framework and the justice system applied
- the nature of the crime for which they may be accused and the envisaged punishment
- etc.

Potential nexus: In the case of individuals accused of ordinary crimes there would in general be no nexus. However, where a well-founded fear of persecution is established in relation to the envisaged punishment under Sharia law, persecution may be for reasons of religion. With regard to treason, espionage or crimes that endanger public safety, persecution may be for reasons of (imputed) political opinion.

* Exclusion considerations could be relevant to this profile.

Read more in the common analysis.

2.9.1 Low status occupational minorities

Last updated: June 2022

Risk analysis: not all individuals under this profile would face the level of risk required to establish well-founded fear of persecution. Risk-impacting circumstances could include:

- gender
- their area of origin and the local clan dynamics
- financial situation
- etc.

Potential nexus: race and/or membership of particular social group.

Read more in the common analysis.

2.9.2 Ethnic minorities

Last updated: June 2022

Risk analysis: not all individuals under this profile would face the level of risk required to establish well-founded fear of persecution. Risk-impacting circumstances could include:

- the specific minority group that the applicant belongs to
- gender
- area of origin and the local clan dynamics
- etc.

Potential nexus: race.

Read more in the common analysis.

2.9.3 Groups specialised in religious services

Last updated: June 2022

Risk analysis: not all individuals under this profile would face the level of risk required to establish well-founded fear of persecution. Risk-impacting circumstances could include:

- their area of origin in relation to the specific minority group they belong to and the local clan dynamics
- gender
- etc.

Potential nexus: race and/or membership of particular social group.

Read more in the common analysis.

2.9.4 Clans which can be considered minority groups in local contexts

Last updated: June 2022

Risk analysis: not all individuals under this profile would face the level of risk required to establish well-founded fear of persecution. Risk-impacting circumstances could include:

- their area of origin in relation to the specific minority group they belong to and the local clan dynamics
- their status as ‘noble’ or ‘commoner’
- gender
- etc.

Potential nexus: race and/or membership of particular social group.

Read more in the common analysis.

2.9.5 Individuals in mixed marriages

Last updated: June 2022

Risk analysis: not all individuals under this profile would face the level of risk required to establish well-founded fear of persecution. Risk-impacting circumstances could include:

- gender
- the clan of the partners (in particular whether one of the partners belongs to a minority clan)
- specific minority group that the applicant belongs to
- area of origin
- etc.

Potential nexus: race and/or membership of particular social group.

Read more in the common analysis.

2.10 LGBTIQ persons

Last updated: June 2022

Risk analysis: a well-founded fear of persecution would in general be substantiated.

Potential nexus: membership of a particular social group.

Read more in the common analysis.

2.11 Women and girls

2.11.1 Violence against women and girls: overview

Last updated: June 2022

Risk analysis: not all women and girls would face the level of risk required to establish well-founded fear of persecution. Risk-impacting circumstances could include:

- age
- area of origin and actor in control of the area
- clan affiliation
- being from a displaced or nomadic community
- having a disability
- level of assistance by a support/clan network
- etc.

Potential nexus: different reasons under Article 10 QD, depending on the specific circumstances of the case, for example membership of particular social group.

Read more in the common analysis.

2.11.2 Violence by Al-Shabaab

Last updated: June 2022

Risk analysis: not all women and girls would face the level of risk required to establish well-founded fear of persecution in relation to violence by Al-Shabaab. Risk-impacting circumstances could include:

- age
- area of origin and presence/control of Al-Shabaab
- clan affiliation
- family/community perception
- etc.

Potential nexus: race (e.g. in the case of Bantu women), religion, and/or membership of a particular social group (e.g. women who have left Al-Shabaab marriages).

Read more in the common analysis.

2.11.3 Child marriage and forced marriage

Last updated: June 2022

Risk analysis: not all women and girls would face the level of risk required to establish well-founded fear of persecution in relation to forced marriage or child marriage. Risk-impacting circumstances could include:

- prevalence of the practice in the area of origin
- age
- socio-economic status of the family
- clan and family traditions
- etc.

Potential nexus: religion and/or membership of a particular social group (e.g. in relation to refusal to enter into a marriage).

Read more in the common analysis.

2.11.4 Female genital mutilation or cutting (FGM/C)

Last updated: June 2022

Risk analysis: girls who have not been subjected to FGM: a well-founded fear of persecution would in general be substantiated.

Women who have not been subjected to FGM: not all such individuals would face the level of risk required to establish well-founded fear of persecution. Risk-impacting circumstances particularly include:

- age
- marital status
- the views of her family on the practice
- etc.

The circumstances under which the applicant had managed to avoid being subjected to FGM should also be given due consideration.

Women and girls who have been subjected to FGM: not all such individuals would face the level of risk required to establish well-founded fear of persecution. Risk-impacting circumstances could include:

- age
- family status

- type of FGM/C experienced
- family perceptions and traditions towards the practice
- etc.

Potential nexus: membership of a particular social group (e.g. women and girls who have not been subjected to FGM) and/or religion.

Read more in the common analysis.

2.11.5 Women and girls in clan conflicts

Last updated: June 2022

Risk analysis: not all women and girls would face the level of risk required to establish well-founded fear of persecution in relation to clan conflicts. Risk-impacting circumstances could include:

- belonging to a minority clan
- family/clan traditions
- etc.

Potential nexus: race and/or membership of a particular social group (especially in relation to some minority groups).

Read more in the common analysis.

2.11.6 Single women and female heads of households

Last updated: June 2022

Risk analysis: not all women and girls under this profile would face the level of risk required to establish well-founded fear of persecution. Risk-impacting circumstances could include:

- being in an IDP situation
- family status (e.g. single mother)
- family/society perceptions
- level of assistance by a support/clan network
- etc.

Women without support/clan network: a well-founded fear of persecution would in general be substantiated.

Potential nexus: membership of a particular social group (e.g. women with children born out of wedlock).

Read more in the common analysis.

2.12 Children

Last updated: June 2022

Risk analysis: not all children would face the level of risk required to establish well-founded fear of persecution. Risk-impacting circumstances could include:

- area of origin
- family status
- level of assistance by a support/clan network
- etc.

Children without support/clan network: a well-founded fear of persecution would in general be substantiated.

Potential nexus: the assessment should take into account the individual circumstances of the child. For example, children born out of wedlock may be subjected to persecution for reasons of membership of particular social group.

Read more in the common analysis.

2.13 Persons with disabilities or severe medical issues

Last updated: June 2022

Risk analysis: the lack of personnel and adequate infrastructure to appropriately address the needs of individuals with (severe) medical issues fails to meet the requirement of Article 6 QD regarding the existence of an actor that inflicts persecution or serious harm, unless the individual is intentionally deprived of healthcare.

In the case of **persons living with disabilities**, not all individuals under this profile would face the level of risk required to establish a well-

founded fear of persecution. Risk-impacting circumstances could include:

- nature and visibility of the mental or physical disability
- negative perception by the family/community
- existence of support network
- etc.

Potential nexus: membership of a particular social group (e.g. persons with noticeable physical disability).

Read more in the common analysis.

Subsidiary protection

Article 15(a) QD

Death penalty or execution

Last updated: June 2022

The FGS has not abolished the death penalty, nor has it declared a moratorium on executions. The FGS and other actors within the jurisdiction of Somalia continue to impose and carry out death sentences for crimes other than the intentional killing of a person, including crimes committed while under the age of 18. Death penalty can be imposed for crimes such as treason and espionage, and crimes that endanger public safety.

Death penalty may also be imposed by Islamic courts for the commission of *hadd* crimes e.g. illicit sexual relations (*zina*), including homosexual relationships.

Al-Shabaab courts also implement *Sharia* law in a strict and violent way and may impose severe punishments, such as executions, for the abovementioned *hadd* crimes, including for adopting un-Islamic behaviour and for spying for the government or other foreign powers.

Some profiles of applicants from Somalia may be at risk of death penalty or execution (e.g. **2.6 Individuals (perceived as) contravening religious social or religious laws/tenets, 2.10 LGBTIQ persons, 2.2.3 Deserters from Al-Shabaab**) and those individuals would qualify for refugee status. In cases where there is no nexus to a Convention ground, the need for subsidiary protection under Article 15(a) QD should be examined.

Please note that exclusion considerations could be relevant.

Read more in the common analysis.

Article 15(b) QD

Torture or inhuman or degrading treatment or punishment

Last updated: June 2022

In the cases of applicants for whom torture or inhuman or degrading treatment or punishment may be a real risk, there would often be a nexus to a reason for persecution under the definition of refugee, and such individuals would, therefore, qualify for refugee status. However, with reference to cases where there is no nexus to a Convention ground and the applicant would not qualify for refugee status, the need for subsidiary protection under Article 15(b) QD should be examined.

When examining the need for protection under Article 15(b) QD, the following considerations should be taken into account:

- **Arbitrary arrests, illegal detention and prison conditions**: special attention should be paid to the phenomena of arbitrary arrests and illegal detention, as well as to prison conditions.

  Urban prisons in Somalia, especially following large security incidents, are at times overcrowded, with authorities often not separating pre-trial detainees from convicted prisoners, especially in the southern and central regions. In these areas, including areas under the control of Al-Shabaab, prison conditions are believed to be harsh and at times life-threatening due to poor sanitation and hygiene, inadequate food and water, and lack of medical care. Disease outbreaks and long pre-trial detention period have been reported. Reportedly, Garowe Prison in Puntland and Hargeisa Prison in Somaliland met international standards and were well-managed. Taking into account the above, some cases may qualify under Article 15(b) QD.

- **Corporal punishment:** corporal punishments for the so-called *hadd* crimes may be imposed by *Sharia* or Al-Shabaab courts. Where there is no nexus to a reason for persecution, being subjected to such punishments may qualify under Article 15(b) QD.

- **Criminal violence**: criminality is pervasive in Somalia. Reported crimes include killings, sexual violence, abductions, banditry, thefts, robberies, money extortion, piracy, (child) trafficking, human and/or arms smuggling. Where there is no nexus to a reason for persecution, being subjected to such criminal acts may qualify under Article 15(b) QD.

- **Healthcare unavailability**: it is important to note that serious harm must take the form of conduct of an actor (Article 6 QD). In itself, the general unavailability of healthcare, education or other socio-economic elements (e.g. situation of IDPs, difficulties in finding livelihood opportunities, housing) is not considered to fall within the scope of inhuman or degrading treatment under Article 15(b) QD, unless there is intentional

conduct of an actor, for example, the intentional deprivation of the applicant of appropriate health care.

- **Socio-economic conditions**: People in Somalia face continuous socio-economic challenges due to high poverty and highly precarious conditions regarding employment, housing, food and water supplies. Besides violent conflicts, climatic shocks, among which droughts and floods, lead to displacements and contribute to vulnerabilities. Furthermore, (repeated) evictions from government buildings and by private landlords in Somalia represent a constant risk for vulnerable communities, among which IDPs living in collective settlements and other urban poor individuals in densely populated areas.

  Additionally, it has been reported that Al-Shabaab continued to hinder commercial activities in the areas it controlled and disrupted the delivery of humanitarian aid.

  As stated above, serious harm must take the form of conduct of an actor (Article 6 QD). In themselves, general poor socio-economic conditions are not considered to fall within the scope of inhuman or degrading treatment under Article 15(b) QD, unless there is intentional conduct of an actor. However, when these socio-economic conditions are the result of an intentional conduct of an actor (e.g. in case of disruptions of humanitarian aid by Al-Shabaab, forced evictions), these conditions may qualify under Article 15(b) QD, following an individual assessment.

Other cases for which a real risk of serious harm under Article 15(b) QD may exist are, inter alia, some situations under the profile **2.7 Individuals involved in blood feuds/clan disputes**, where a nexus to a reason for persecution has not been established.

Please note that exclusion considerations could be relevant.

Read more in the common analysis.

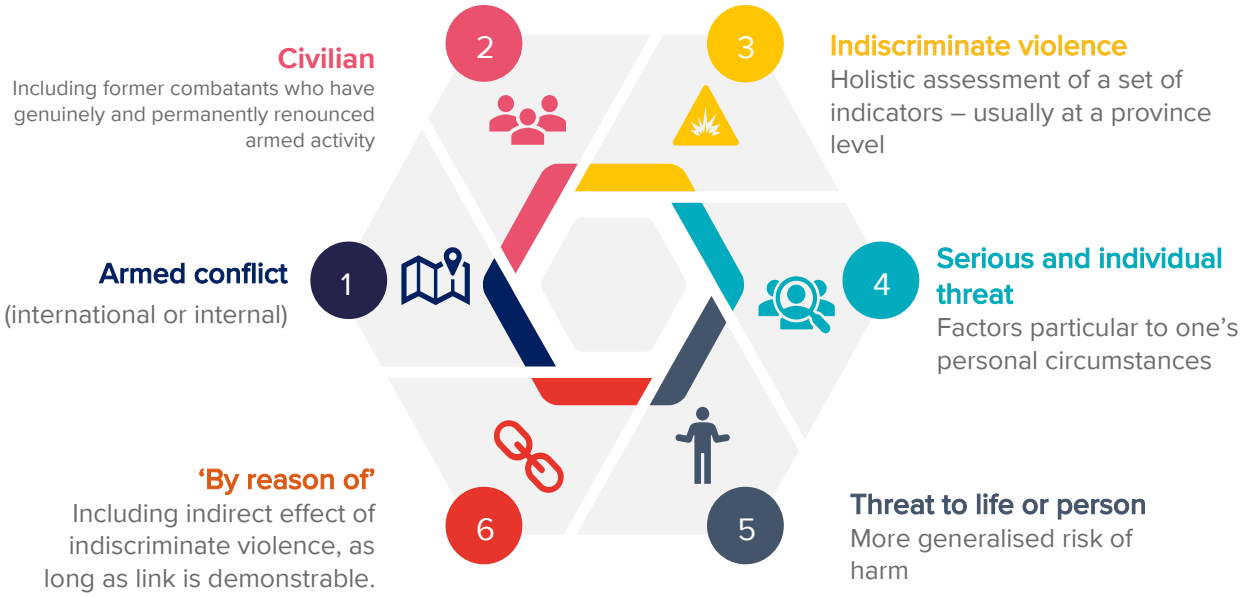
Article 15(c) QD

Serious and individual threat to a civilian's life or person by reason of indiscriminate violence in situations of international or internal armed conflict

Last updated: June 2022

The necessary elements in order to apply Article 15(c) QD are:

Figure 3. Article 15(c) QD: elements of the assessment.



In order to apply Article 15(c) QD, the above elements should be established cumulatively.

Read more in the common analysis.

The following is a summary of the relevant conclusions concerning the situation in Somalia:

a. Armed conflict:

Several conflicts/rivalries take place in the territory of Somalia:

- **Al-Shabaab – anti Al-Shabaab armed conflict**: a non-international armed conflict with Al-Shabaab is taking place in Somalia, while the group controls parts of the country. The FGS, the FMS, some clans, as well as other international actors, such as Ethiopia,

Kenya, the US, and AMISOM, are all engaged, in various degrees and forms, in the long-standing conflict against Al-Shabaab.

- **The inter and intra-clan rivalries:** clans often compete against each other, as well as against other actors such as the FGS or the FMS. The existence of clan militias has been reported throughout Somalia, including Puntland and Somaliland. In some cases, clan rivalries have escalated to armed confrontations, therefore taking the form of an armed conflict in the meaning of Article 15(c) QD.

- **Anti-ISS armed conflict**: various armed forces, including AFRICOM, the Federal Security Forces, and the Puntland armed forces are engaged in various degrees in an armed conflict against the ISS. While the ISS is mainly active in Puntland, it carries out attacks also in Mogadishu and elsewhere. Furthermore, Al-Shabaab and ISS also fight against each other.

- **Puntland versus Somaliland:** Puntland and Somaliland contend over control of areas of the Sool and Sanaag regions as well as the area of Ayn, part of Togdheer region. In this context, clashes were reported in the beginning of 2020.

- **Other rivalries:** other types of confrontations which do not necessarily develop into armed confrontations are taking place in Somalia. These include: the FGS versus the FMS, the intra-FMS control and governance dynamics, the FGS versus Somaliland. In some occasions, armed confrontations have been reported.

Read more in the common analysis.

b. **Civilian**: Article 15(c) QD applies to a person who is not a member of any of the parties to the conflict and is not taking part in the hostilities, potentially including former combatants who have genuinely and permanently renounced armed activity. The applications by persons under the following profiles should be examined carefully. Based on an individual assessment, such applicants may be found not to qualify as civilians under Article 15(c) QD. For example:

- Members of the FGS security forces, including the SNA, special forces, NISA and SPF
- Members of the FMS armed forces
- Members of the Somaliland armed forces
- Al-Shabaab members
- Members of clan militias
- ISS members.

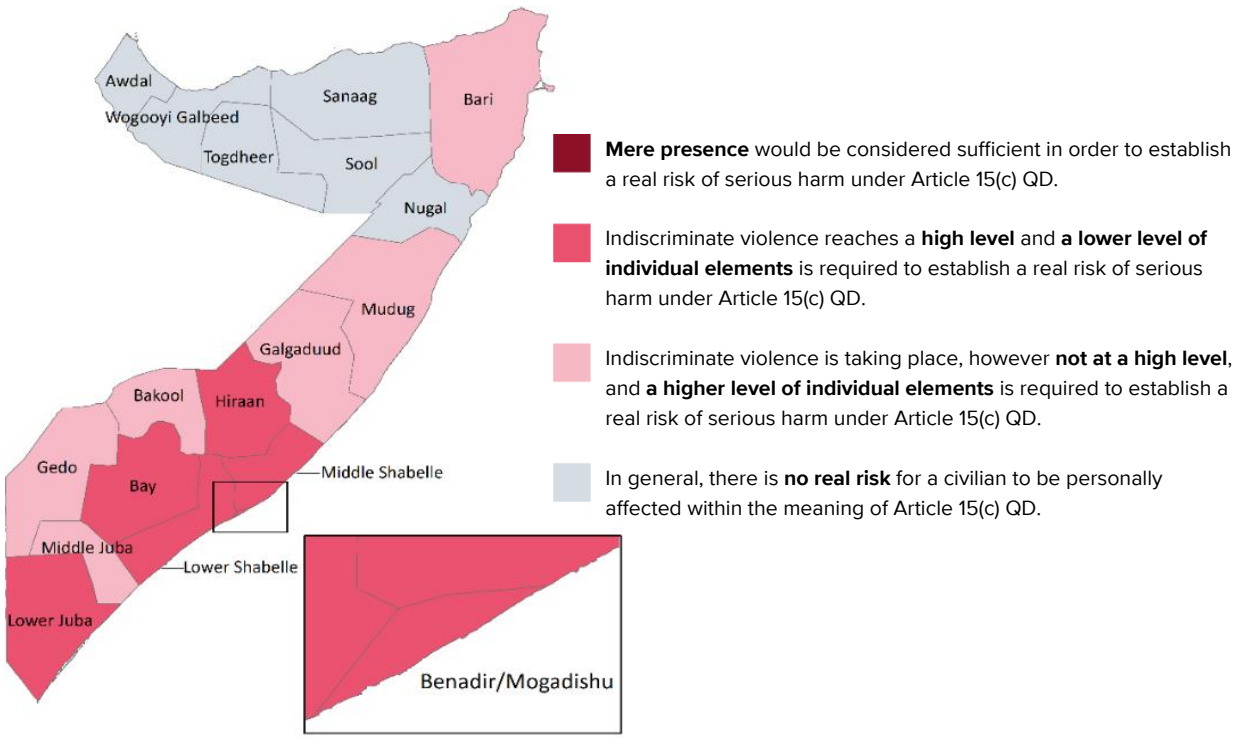
It should be noted that actively taking part in hostilities is not limited to openly carrying arms but could also include substantial logistical and/or administrative support to combatants.

It is important to underline that the assessment of protection needs is forward-looking. Therefore, the main issue at hand is whether the applicant will be a civilian or not upon return. The fact that the person took part in hostilities in the past would not necessarily mean that Article 15(c) QD would not be applicable to him or her.

Read more in the common analysis.

c. **Indiscriminate violence**: indiscriminate violence takes place to a different degree in different parts of the territory of Somalia. The map below summarises and illustrates the assessment of indiscriminate violence per region in Somalia. This assessment is based on a holistic analysis, including quantitative and qualitative information for the reference period (primarily, 1 January 2020 - 30 June 2021). Up-to-date country of origin information should always inform the individual assessment.

Figure 2. Level of indiscriminate violence in Somalia (based on information up to 30 June 2021).



It should be noted that there are no regions in Somalia where the degree of indiscriminate violence reaches such a high level that substantial grounds are shown for believing that a civilian, returned to the relevant country or, as the case may be, to the relevant region, would, solely on account of their presence on the territory of that country or region, face a real risk of being subject to the serious threat referred to in Article 15(c) QD.

For the purposes of the guidance note, the regions of Somalia are categorised as follows:

Territories where 'mere presence' in the area would not be sufficient to establish a real risk of serious harm under Article 15(c) QD, however, indiscriminate violence reaches **a high level**, and, accordingly, **a lower level of individual elements** is required to show substantial grounds for believing that a civilian, returned to the territory, would face a real risk of serious harm within the meaning of Article 15(c) QD.

This includes the regions of *Bay, Benadir/Mogadishu, Hiraan, Middle Shabelle, Lower Juba* and *Lower Shabelle*.

Territories where indiscriminate violence is taking place, however **not at a high level** and, accordingly, **a higher level of individual elements** is required in order to show substantial grounds for believing that a civilian, returned to the territory, would face a real risk of serious harm within the meaning of Article 15(c) QD.

This includes the regions of *Bakool, Bari, Galgaduud, Gedo, Middle Juba* and *Mudug*.

Territories where, in general, there is **no real risk** for a civilian to be personally affected within the meaning of Article 15(c) QD.

This includes the regions of *Awdal, Nugal, Sanaag, Sool, Togdheer* and *Wogoyi Galbeed*.

Read more in the common analysis.

d. **Serious and individual threat**: in the context of the 'sliding scale', each case should be assessed individually, taking into account the nature and intensity of the violence in the area, along with the combination of personal circumstances present in the applicant's case. Certain personal circumstances could contribute to an enhanced risk of indiscriminate violence, including its direct and indirect consequences. While it is not feasible to provide exhaustive guidance what the relevant personal circumstances could be and how those should be assessed, the following are highlighted as possible examples of circumstances which may impact the ability of a person to assess and/or avoid risks related to indiscriminate violence in a situation of an armed conflict:

- age
- health condition and disability, including mental health issues
- economic situation
- knowledge of the area
- occupation and/or place of residence
- family members or clan/support network

Read more in the common analysis.

e. **Threat to life or person**: the risk of harm as per Article 15(c) QD is formulated as a 'threat to a civilian's life or person' rather than as a (threat of) a specific act of violence. Some of the commonly reported types of harm to civilians' life or person in Somalia include killings, injuries, abductions, forced displacement, famine caused by food insecurity, etc.

Read more in the common analysis.

f. **Nexus**: the nexus 'by reason of' refers to the causal link between the indiscriminate violence and the harm (serious threat to a civilian´s life or person) and includes:

- harm which is directly caused by the indiscriminate violence or by acts that emanate from the actors in the conflict, *and*

- harm which is indirectly caused by the indiscriminate violence in a situation of armed conflict. Indirect effects are only considered to a certain extent and as long as there is a demonstrable link with the indiscriminate violence, for example: widespread criminal violence as a result of lawlessness, destruction of the necessary means to survive, destruction of infrastructure, denial of or limited access to humanitarian aid. Armed clashes and/or closure or destruction of roads can also lead to food supply problems that cause famine or to limited or no access to healthcare facilities in certain areas of Somalia.

Read more in the common analysis.

Actors of protection

Last updated: June 2022

Article 7 QD stipulates that protection can only be provided by:

a. the **State**;

b. parties or organisations controlling the State or a substantial part of the territory of the State;

provided they are **willing and able** to offer protection, which must be:

effective and of a **non-temporary nature**.

Such protection is generally provided when the actors mentioned take reasonable steps to prevent the persecution or suffering of serious harm, inter alia, by **operating an effective legal system for the detection**, **prosecution** and **punishment** of acts constituting persecution or serious harm,

and when the applicant has **access to such protection**.

Read more in the common analysis.

The Somali State

The President is the Head of the State, the symbol of national unity, and the guardian of the Constitution.

On the FGS level, the legislative power is exercised by the Federal Parliament. The executive branch consists of the Council of Ministers. Local parliaments are also based in FMS. Puntland has developed significant institution-building and governance mechanisms. However, it is still affected by a number of issues.

The Judiciary consists of the Constitutional Court, the Federal Government level courts and the FMS level courts. Under the Provisional Constitution, the judiciary power shall be independent of the legislative and executive branches. Puntland has by far the most advanced (formal) judicial system among the FMS. Islam is the State religion and *Sharia* is the basis of both statutory and customary law.

The formal justice system is only a portion of the composite justice system that operates in Somalia that includes also customary justice and *Sharia* courts. Independence and impartiality of the judiciary is not always respected by the government. Furthermore, local courts often depend on local clans and are affected by clan politics. The right to a fair and public trial is often not enforced at all, with the authorities not respecting most rights relating to trial procedures.

Women, children and minority group members often experience problems with regard to access to justice.

The state security architecture remains deeply fractured, with impacts in all other domains. As a consequence, the FMS' security, political, and administrative powers are often still weak. Several issues have a considerable impact on the effective capacity of the SNA to engage in military operations against Al-Shabaab with the group having also infiltrated NISA. The PSP has been described as the only functioning state police service among the FMS police services. On the other hand, PMPF has supplanted various official policy functions in Bosasso and has become involved in Puntland politics, clan rivalries, and geopolitical conflicts, while being used to combat Al-Shabaab and ISS forces as well. It still works as the praetorian guard of current Puntland's administrations. PMP has also fought the PMPF over access and control of Bosasso. Both PMPF and PSF operate outside of Somalia's constitution and security architecture, with the latter working as a private auxiliary group.

The Somali multi-faceted justice system is still experiencing significant weaknesses and is unable to effectively detect, prosecute and punish acts that constitute persecution or serious harm. Furthermore, law enforcement is continuously challenged by the different conflicts taking place in Somalia, including the conflict with Al-Shabaab.

Therefore, it can be concluded that, in general, the Somali State would not be considered an actor of protection meeting the criteria under Article 7 QD.

Read more in the common analysis.

Authorities of Somaliland

The authorities of Somaliland dispose their own legislative, executive and judiciary branches.

Despite some issues experienced by the Somaliland armed forces, they have managed to deny Al-Shabaab a foothold in the area.

Justice provision in Somaliland operates similarly to that in the rest of Somalia, whereby it combines statutory courts with both *xeer* and *Sharia*. All three systems are recognized by the Constitution of Somaliland.

Somaliland doubled the number of (statutory) judges in less than a decade and has introduced mobile courts to deal with the access to justice for rural areas harder to reach. However, a number of issues still affect (statutory) justice, such as high legal fees and widespread allegations of corruption. In Somaliland defendants generally enjoyed a presumption of innocence and the right to a fair trial.

Women, children and minority group members often experience problems with regard to access to justice.

It can be concluded that the authorities of Somaliland, in areas under their control, may, depending on the individual circumstances of the case, be considered able and willing to provide protection that meets the requirements of Article 7 QD. In disputed areas between Somaliland and Puntland, the criteria under Article 7 QD would generally not be met.

When assessing the availability of protection by the authorities of Somaliland, individual circumstances such as home area, age, gender, clan, social and economic situation, actor of persecution and type of human rights violation must be taken into account. Protection by the Somaliland authorities is generally not considered available for members of minority groups, LGBTIQ persons and women, especially in cases of sexual and gender-based violence.

Read more in the common analysis.

Al-Shabaab

There is no functional formal judicial system in Al-Shabaab-controlled areas. Al-Shabaab has established courts in the territory under its control, as well as beyond it, through the introduction of mobile courts, including in Mogadishu. These courts implement the *Sharia* law in its strictest form leading to executions and corporal punishments.

Al-Shabaab carried out arbitrary arrests on the basis of questionable or false accusations. Its courts did not permit legal representation or appeals. The group administered justice without consulting the victims or taking into account the broader circumstances of an offence.

The lack of due process and the nature of the punishments would not qualify the parallel justice mechanism operated by Al-Shabaab as a

legitimate form of protection. Further taking into account its record of human rights violations, it can be concluded that Al-Shabaab does not qualify as an actor of protection who is able to provide effective, non-temporary and accessible protection.

Read more in the common analysis.

Considerations on clan support

Most Somalis rely on support from patrilineal clan relatives. Clans can provide different forms of support for their members.

Under the *xeer* system, clan elders act as mediators or arbiters, and play a central role in the resolution of local and intra-clan disputes.

The support provided by clans in Somalia cannot be considered as meeting the requirements of Article 7 QD([6]).

Read more in the common analysis.

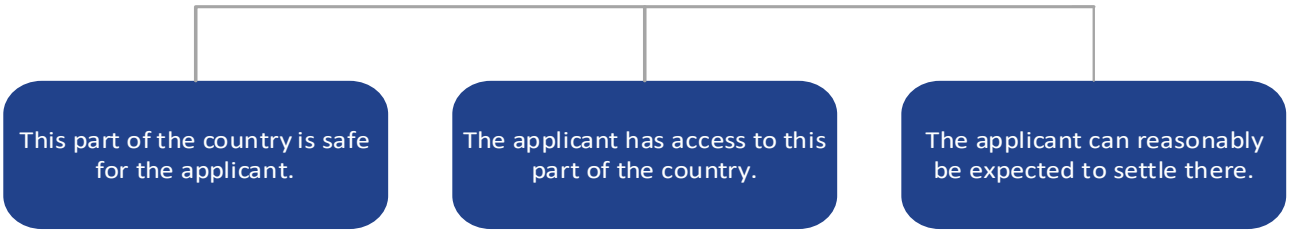
([6]) CJEU, *OA v Secretary of State for the Home Department,* C-255/19, Second Chamber, judgment of 20 February 2021 (*OA*).

Internal protection alternative

Last updated: June 2022

The required elements in order to apply Article 8 QD are:

Figure 5. IPA: elements of the assessment.



In relation to these elements, when assessing the applicability of IPA, the case officer should consider the general situation in the respective part of Somalia, as well as the individual circumstances of the applicant. The burden of proof lies with the determining authority, while the applicant remains under an obligation to cooperate. The applicant is also entitled to submit elements and indicate specific reasons why IPA should not be applied to them. Those elements have to be assessed by the determining authority.

Read more in the common analysis.

Part of the country

Last updated: June 2022

The first step in the analysis of IPA is to identify a particular part of the country with regard to which the criteria of Article 8 QD would be examined in the individual case.

The examples of Mogadishu, Garowe and Hargeisa have been selected as the main urban centres in Somalia, including Puntland and Somaliland.

When identifying the relevant part of the country to assess as IPA, the clan affiliation of the applicant would be an important consideration. For example, for applicants from the Darood/Harti clan family, Garowe may be particularly relevant to assess. Similarly, Hargeisa may be particularly relevant to assess for applicants originating from Somaliland and/or belonging to the Isaaq clan family. For applicants from other clans, Mogadishu may be more relevant to assess, due to the presence of multiple clans in the city.

Read more in the common analysis.

Safety

Last updated: June 2022

The criterion of safety would be satisfied where there is no well-founded fear of persecution or real risk of serious harm, or where protection is available.

Figure 6. IPA: Assessment of the safety requirement.

Absence of persecution or serious harm

The assessment should take into account:

- **general security situation in relation to indiscriminate violence**

The general security situation in the particular part of the country that is being examined as an alternative for internal protection in the individual case should be assessed in accordance with the analysis under the section on Article 15(c) QD.

The conclusions with regard to the three cities of Mogadishu, Garowe and Hargeisa are as follows:

In **Mogadishu**: indiscriminate violence reaches a high level, and, accordingly, **a lower level of individual elements** is required to show substantial grounds for believing that a civilian, returned to the territory, would face a real risk of serious harm within the meaning of Article 15(c) QD

In **Garowe**: there is, in general, **no real risk** for a civilian to be personally affected within the meaning of Article 15(c) QD

In **Hargeisa**: there is, in general, **no real risk** for a civilian to be personally affected within the meaning of Article 15(c) QD.

- **actor of persecution or serious harm and their reach**

In case where the person fears persecution or serious harm by **State actors** (e.g. journalists), there is a presumption that IPA would not be available (Recital 27 QD).

In specific cases, where the reach of a certain State actor is clearly limited to a particular geographical area (e.g. FMS authorities, Somaliland authorities), the criterion of safety may be satisfied with regard to other parts of Somalia.

In case of persecution by **Al-Shabaab**, the criterion of safety, in general, would not be satisfied in South-Central Somalia. With regard to Puntland and Somaliland, IPA may be considered safe, depending on individual circumstances. Among other relevant factors, the capacity of Al-Shabaab to track and target individuals in areas outside of its control, the way the applicant is perceived by Al-Shabaab, and whether a personal enmity is at stake should be given due consideration.

With regard to other actors of persecution or serious harm, such as the **ISS and clans**, their presence is generally geographically more limited. In some cases, the criterion of safety under IPA could be satisfied, depending on individual circumstances.

Where the applicant faces persecution or serious harm for reasons related to the prevalent social norms in Somalia and the actor of persecution or serious harm is the **Somali society at large** (e.g. LGBTIQ persons), IPA would in general not be considered safe.

For certain particularly vulnerable individuals, such as some women and children, if the actor of persecution or serious harm is the **(extended) family or clan** (e.g. FGM, forced marriage), taking into account the reach of these actors, the lack of State protection and their vulnerability to potential other forms of persecution or serious harm, IPA would in general not meet the requirement of safety.

See the chapter Actors of persecution or serious harm.

- **whether the profile of the applicant is considered a priority target by the actor of persecution or serious harm**

The profile of the applicant could make them a priority target, increasing the likelihood that the actor of persecution or serious harm would attempt to trace them in the potential IPA location.

- **behaviour of the applicant**

It cannot be reasonably expected that the applicant abstains from practices fundamental to his or her identity, such as those related to their religion or sexual orientation and gender identity, in order to avoid the risk of persecution or serious harm.

- **other risk-enhancing circumstances**

The information under the chapter Refugee status should be used to assist in this assessment.

Availability of protection against persecution or serious harm

Alternatively, it may be determined that the requirement of safety is satisfied if the applicant would have access to protection against persecution or serious harm, as defined in Article 7 QD, in the area where IPA is considered. In the case of persecution by the State, a presumption of non-availability of State protection applies.

In relation to **Mogadishu**, the requirement of safety may be satisfied **only in exceptional cases**. Individual circumstances are to be taken into consideration.

In relation to **Garowe** and **Hargeisa**, the requirement of safety may be satisfied, depending on the profile and the individual circumstances of the applicant.

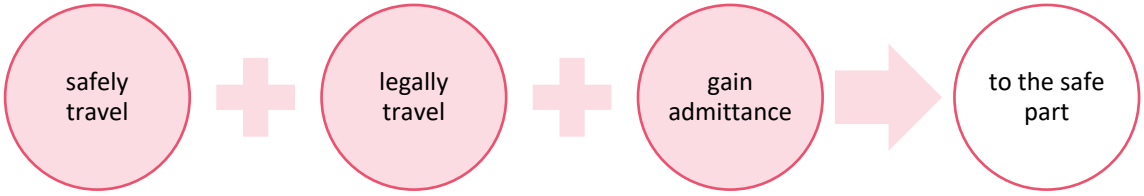
Read more in the common analysis.

Travel and admittance

Last updated: June 2022

In case the criterion of 'safety' is satisfied, as a next step, case officers have to establish whether an applicant can:

Figure 3. Travel and admittance as requirements for IPA.



It should be noted that in the context of Somalia, the three requirements should be read in conjunction.

The individual circumstances of the applicant should also be taken into account when assessing whether he or she can safely and legally travel and gain admittance to a part of the country.

For those applicants who meet the 'safety' criterion, the assessment of the availability of IPA should proceed with an assessment of the requirements of safety and legality of travel and of gaining admittance.

Based on available COI, it is concluded that there are some security concerns with regard to the safety of travel to Mogadishu. With regard to Garowe and Hargeisa, it is concluded that, in general, a person can access these cities without serious risks.

The possession of identification documents may be required to pass through checkpoints to travel to Mogadishu, Garowe and Hargeisa.

Identification documents issued by Somaliland authorities or a travel document such as a visa are required to travel to Hargeisa. The possession of a 30-day visa would not be sufficient to consider that the applicant can settle in the city. The profile and individual circumstances of the applicant should be taken into account.

Clan affiliation does not constitute a legal requirement to travel and gain admittance in Mogadishu, Garowe and Hargeisa, however it would be a crucial factor to take into account when examining the requirements of reasonableness to settle in one of these cities.

Read more in the common analysis.

Reasonableness to settle

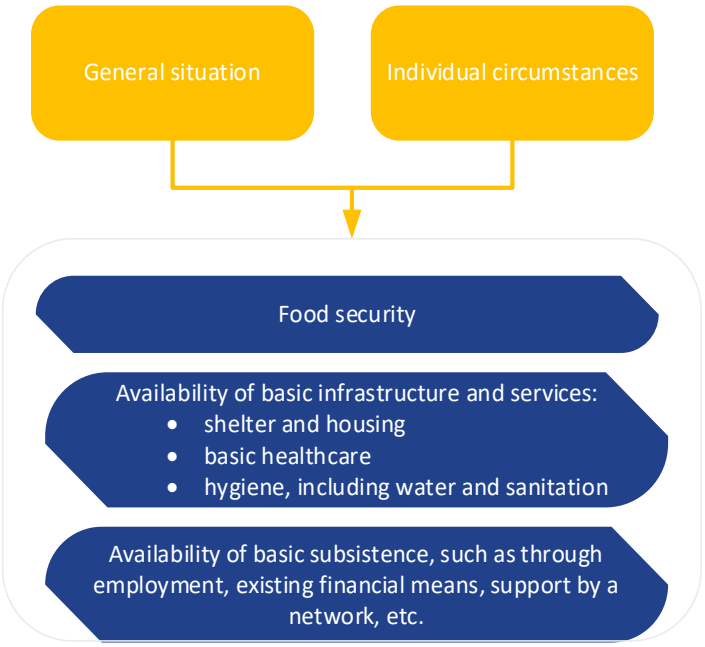
Last updated: June 2022

According to Article 8 QD, IPA can only apply if the applicant 'can reasonably be expected to settle' in the proposed area of internal protection.

In applying the reasonableness test, it should be established that the basic needs of the applicant would be satisfied, such as food, shelter and hygiene. Additionally, due consideration has to be given to the opportunity for the person to ensure their own and their

family's subsistence and to the availability of basic healthcare. The assessment should be based on the general situation in the country and the individual circumstances of the applicant.

Figure 4. IPA: assessment of the reasonableness requirement.



Read more in the common analysis.

General situation

The general situation in the area in consideration should be examined in light of the criteria described above, and not in comparison with standards in Europe or other areas in the country of origin.

The general circumstances prevailing in Mogadishu, Garowe and Hargeisa assessed in relation to the factors above entail significant hardship. However, they do not preclude the reasonableness to settle in the cities as such. A careful examination should take place, particularly when assessing the reasonableness of IPA to Mogadishu.

The person's ability to navigate the above circumstances in the three cities will mostly depend on access to clan support and financial means and in individual cases, the reasonableness requirement may be satisfied. The impact of COVID-

19 on the economic situation, as well as on the healthcare system, should also be considered.

Read more in the common analysis.

Individual circumstances

Last updated: June 2022

In addition to the general situation in the area of potential IPA, the assessment whether it is reasonable for the applicant to settle in that part of the country should take into account the individual circumstances of the applicant, such as:

- clan affiliation and support network
- age
- gender
- state of health
- religion
- local knowledge
- social, educational and economic background
- civil documentation
- etc.

The individual considerations could relate to certain vulnerabilities of the applicant as well as to available coping mechanisms, which would have an impact when determining to what extent it would be reasonable for the applicant to settle in a particular area. It should be noted that these factors are not absolute and they would often intersect in the case of the particular applicant, leading to different conclusions on the reasonableness of IPA.

Read more in the common analysis.

Conclusions on reasonableness

Last updated: June 2022

The general conclusions on the reasonableness of IPA for particular profiles of applicants are based on an assessment of the general situation in Mogadishu, Garowe and Hargeisa and the individual circumstances of such applicants, as outlined in the sections above.

Mogadishu

Based on the general situation in Mogadishu, and taking into account the applicable individual circumstances, IPA in Mogadishu may be a reasonable only in exceptional cases. Such exceptional cases would in particular include **some able-bodied men and married couples without children** with no additional vulnerabilities, who belong to locally majority clans and who have educational and professional background facilitating their access to employment, or a support network who is able to assist them in accessing basic subsistence, or those who otherwise have sufficient financial means. In the cases of couples, basic subsistence has to be ensured for both spouses in the IPA location.

Garowe and Hargeisa

In the case of **single able-bodied men and married couples without children**, IPA **could be reasonable** for those who belong to the local majority clan and can rely on its support and have no additional vulnerabilities.

In the case of **families with children and unaccompanied children**, internal protection alternative **would in general not be reasonable**. Individual circumstances and the best interests of the child should be duly assessed.

In the case of applicants from **minority groups**, including clans who can be considered minorities in the local context of the suggested IPA location, internal protection alternative **would in general not be reasonable**.

In the case of **other profiles**, the individual circumstances of the applicant, in particular in relation to clan affiliation, gender, age, the existence of a support/clan network, etc. should be given due consideration, when assessing the reasonableness to settle in one of these cities.

Read more in the common analysis.

Exclusion

Last updated: June 2022

Given the serious consequences that exclusion may have for the individual, the exclusion grounds should be interpreted restrictively and applied with caution.

The examples in this chapter are non-exhaustive and non-conclusive. Each case should be examined on its own merits.

Applying the exclusion clauses, where there are serious reasons to consider that the applicant has committed any of the relevant acts, is mandatory.

Exclusion should be applied in the following cases:

Grounds for exclusion			
Refugee status	• a crime against peace, a war crime, or a crime against humanity • a serious non-political crime outside the country of refuge prior to his or her admission as a refugee • acts contrary to the principles and purposes of the United Nations	**Subsidiary protection**	• a crime against peace, a war crime, or a crime against humanity • a serious crime • acts contrary to the principles and purposes of the United Nations • constituting a danger to the community or to the security of the Member State in which the applicant is present • other crime(s) (under certain circumstances)

It should be underlined that the determining authority has the burden of proof to establish the elements of the respective exclusion grounds and the individual responsibility of the applicant, while the applicant remains under an obligation to cooperate in establishing all facts and circumstances relevant to their application.

Read more in the common analysis.

In the context of Somalia, numerous circumstances and different profiles may require consideration of the potential applicability of exclusion grounds. The QD does not set a time limit for the application of the grounds for exclusion. Applicants may be excluded in relation to events which have occurred in the recent and more distant past (e.g. acts committed by the Islamic Courts Union, acts committed during the civil war in 1988-1991).

COI indicates that excludable acts are committed by many actors both in relation to armed conflicts, as well as in the context of general criminality and human rights abuses.

Read more in the common analysis.

The following subsections provide guidance on the potential applicability of the exclusion grounds in the context of Somalia.

Crime against peace, war crime, crime against humanity

The ground 'crime against peace' is not likely to be of relevance in the cases of applicants from Somalia.

Violations of international humanitarian law by different parties in the current and in past conflicts in Somalia could amount to war crimes, such as the deliberate and systematic attacks on hospitals, the deliberate indiscriminate attacks on civilians, etc.

Relevant situations include the civil war (1988-1991) and the non-international armed conflict between the Somali government and Al-Shabaab. Furthermore, fighting between the ISS and Al-Shabaab amounts to a non-international armed conflict.

Reported crimes such as murder, torture, and rape by the different actors could amount to crimes against humanity when committed as part of a widespread and systematic attack against the civilian population.

Some acts in the current and past conflicts, such as extrajudicial killings, torture, forced disappearance, could amount to both war crimes and crimes against humanity.

Especially (former) members of the SNA, the SPF, the NISA, as well as FMS security forces and anti-government armed groups, in particular Al-Shabaab and the ISS, can be implicated in acts that would qualify as war crimes and/or crimes against humanity.

Crimes committed also in the context of clan militias clashes, in particular in the civil war in the past, could also give rise to considerations under Article 12(2)(a) QD/Article 17(1)(a) QD.

Serious (non-political) crime

In the context of Somalia, criminality and breakdown in law and order in some parts of the country make the ground of 'serious (non-political) crime' particularly relevant. In addition to violence and murder related to family and clan disputes, some examples of particularly relevant serious crimes may include human trafficking, extortion/illegal taxation, piracy, etc.

Violence against women and children (for example, in relation to domestic violence or in the context of forced and child marriage) could potentially amount to a serious (non-political) crime.

Performing FGM is a serious (non-political) crime. A careful examination of all relevant circumstances of the case, including those related to the individual responsibility should take place.

In some cases, the crimes in question could be linked to an armed conflict or could be committed as a part of a systematic or widespread attack against a civilian population (e.g. kidnapping of recruits, taxation to finance the activities of non-state armed groups), in which case they should instead be examined under Article 12(2)(a)/Article 17(1)(a) QD.

Acts contrary to the purposes and principles of the United Nations

(Former) membership in armed groups such as Al-Shabaab and the ISS could trigger relevant considerations and require an examination of the applicant's activities under Article 12(2)(c)/Article 17(1)(c) QD, in addition to the considerations under Article 12(2)(b)/Article 17(1)(b) QD.

The application of exclusion should be based on an individual assessment of the specific facts in the context of the applicant's activities within that organisation. The position of the applicant within the organisation would constitute a relevant consideration and a high-ranking position could justify a (rebuttable) presumption of individual responsibility. Nevertheless, it remains necessary to examine all relevant circumstances before an exclusion decision can be made.

Where the available information indicates possible involvement in crimes against peace, war crimes or crimes against humanity, the assessment would need to be made in light of the exclusion grounds under Article 12(2)(a)/Article 17(1)(a) QD.

Danger to the community or the security of the Member State

In the examination of the application for international protection, the exclusion ground under Article 17(1)(d) QD is only applicable to persons otherwise eligible for subsidiary protection.

Unlike the other exclusion grounds, the application of this provision is based on a forward-looking assessment of risk. Nevertheless, the examination takes into account the past and/or current activities of the applicant, such as association with certain groups considered to represent a danger to the security of the Member States or criminal activities of the applicant.

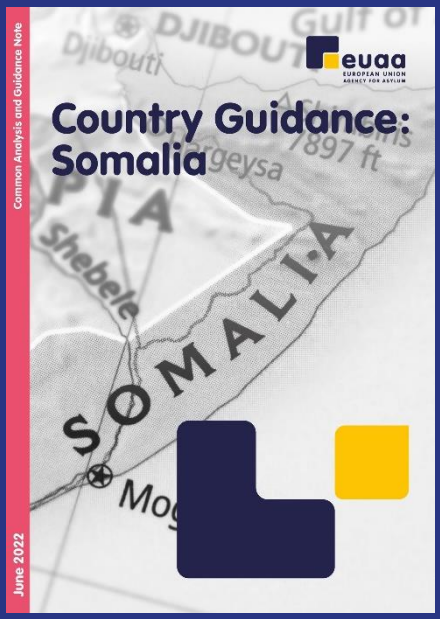
Read more in the common analysis.

Abbreviations

AFRICOM	United States Africa Command
AMISOM	African Union Mission in Somalia
ASWJ	Ahlu Sunna Wal-Jama'ah
CEAS	Common European Asylum System
CJEU	Court of Justice of the European Union
COI	Country of origin information
EU	European Union
EUAA	European Union Agency for Asylum
FGM	female genital mutilation/cutting
FGS	Federal Government of Somalia
FMS	Federal Member States
IDP(s)	Internally displaced person(s)
IED	improvised explosive device
IPA	international protection alternative
ISS	Islamic State in Somalia
LGBTIQ persons	Persons: ▪ who are attracted to others of their own gender (lesbian, gay) or any gender (bisexual); ▪ whose gender identity and/or expression does not correspond to the sex they were assigned at birth (trans, non-binary); ▪ who are born with sex characteristics that do not fit the typical definition of male or female (intersex); and ▪ whose identity does not fit into a binary classification of sexuality and/or gender (queer)
NGO	Non-Governmental Organisation
NIS	National Intelligence Service
NISA	National Intelligence and Security Agency
PMPF	Puntland Maritime Police Force
PSF	Puntland Security Force

QD (Qualification Directive)	Directive 2011/95/EU of the European Parliament and of the Council of 13 December 2011 on standards for the qualification of third-country nationals or stateless persons as beneficiaries of international protection, for a uniform status for refugees or for persons eligible for subsidiary protection, and for the content of the protection granted
SNA	Somalia National Army
SPF	Somali Police Force
UN	United Nations
UNHCR	United Nations High Commissioner for Refugees
UNSG	United Nations Secretary General
US	United States of America

The comprehensive common analysis, which forms the basis for this guidance note is available in e-book and pdf format in English.



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