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Netherlands: Government must stop imminent deportation of Somalis

Amnesty International urges the Dutch government not to forcibly return asylum seekers to war-torn Somalia amid fears that they could be deported imminently.

“It is outrageous that the Dutch government intends to forcibly return anyone to southern and central Somalia. Given the consistent failure of all parties to the ongoing conflict in this part of Somalia to respect international humanitarian law, the risk of injury or death is frighteningly high,” said Michelle Kagari, Deputy Programme Director of Amnesty International’s Africa Programme.

Following the recent signing of a Memorandum of Understanding (MOU) between the Dutch government and the Transitional Federal Government (TFG) of Somalia, rejected asylum seekers can now be forcibly returned directly to or near the capital Mogadishu, part of which is controlled by the TFG.

Despite an order of the District Court of Amsterdam as well as repeated pleas from civil society organizations, the Dutch government has refused to make the MOU public.

The MOU follows a decision made on 19 May 2009 by the Dutch government to terminate its policy whereby asylum seekers from southern and central Somalia, areas currently most affected by the turmoil in the country, would receive automatic protection from the Dutch government. Since then asylum claims have been assessed on an individual basis.

Both the 19 May 2009 decision and the recent MOU have come in the face of severe criticism from human rights and refugee organizations.

“Forcibly returning anyone to southern and central Somalia could be sending them to their deaths. The Dutch government must immediately suspend its plans to forcibly return Somalis to southern and central Somalia and grant rejected asylum seekers a form of complementary or subsidiary protection, in line with the guidelines developed by the UN Refugee Agency” said Michelle Kagari.

The human rights situation in southern and central Somalia further deteriorated in 2009 and 2010. The UN estimates that since March this year, fighting in Mogadishu has led to more than 3,000 conflict-related casualties.

UN figures also suggest that there are an estimated 1.4 million people displaced in the country and a further estimated 595,000 living as refugees in neighbouring countries.

The principle of *non-refoulement* prohibits states from expelling or returning any person in any manner whatsoever to a situation where he or she would be at risk of torture or other serious human rights violations, such as threats to their life or freedom. This principle is outlined in the UN Refugee Convention and in numerous other international instruments, to which the

Netherlands is a state party. The principle of non-refoulement is widely regarded as a norm of customary international law, binding on all states.

Background:

Amnesty International believes that it is not safe to return Somali nationals to southern and central Somalia, including Mogadishu. All Somalis are at risk of being injured or killed in the generalized violence and indiscriminate and disproportionate attacks, given the consistent failure of all parties to the ongoing conflict to respect international humanitarian law. Amnesty International is opposed to all forcible returns to southern and central Somalia at present, and believes that all Somalis from southern and central Somalia should be granted refugee status or another form of international protection and that internal flight alternatives to Puntland or Somaliland are generally not available to persons originating from southern and central Somalia.

In addition to the risks faced by all Somalis due to the situation of generalized violence in southern and central Somalia, Amnesty International considers that certain categories of persons are at risk of specific human rights abuses.

These include human rights and civil society activists, journalists, humanitarian workers, individuals perceived to support or be affiliated with the Transitional Federal Government or the African Union Mission in Somalia (AMISOM), persons perceived as contravening armed groups' interpretation of Islamic law, men and boys targeted for forced recruitment into fighting forces, women and children.

The UN Refugee Agency (UNHCR) guidelines of 5 May 2010 say that "in light of the risks to safety and security, ongoing armed conflict and the shifting armed fronts and ongoing widespread human rights violations, it cannot be considered reasonable for any Somali, regardless of whether the individual originates from southern and central Somalia, Somaliland or Puntland, to relocate within or to southern and central Somalia." UNHCR has called on all governments to grant complementary or subsidiary protection to Somalis from southern and central Somalia seeking asylum and whose claims are considered as not meeting the refugee criteria.

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International Secretariat, Amnesty International, 1 Easton St., London WC1X 0DW, UK

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