



## **OPEN SUMMARY: FOR DISTRIBUTION**

FI AD-HOC QUERY ON ASYLUM PROCEEDING AND RETURNS TO SOMALIA

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**Responses from Austria, Belgium, Czech Republic, Estonia, Finland, France, Germany, Hungary, Ireland, Latvia, Lithuania, Luxembourg, Netherlands, Slovak Republic, Slovenia, Sweden, plus Norway (17 in Total)**

*Disclaimer: The following summary has been based on the responses which were provided primarily for the purpose of information exchange among EMN NCPs in the framework of the EMN. The contributing EMN NCPs have provided, to the best of their knowledge, information that is up-to-date, objective and reliable. Note, however, that the information provided does not necessarily represent the official policy of an EMN NCPs' Member State.*

### **1. Background Information**

This Ad-Hoc query is a follow-up of two previous Ad-Hoc queries and their updates:

- **Ad-Hoc query on asylum proceeding and returns to Somalia, originally requested by SK EMN NCP on 20th October 2012, of which FI EMN NCP requested an update on 1st November 2013**

### **2. Questions asked in the follow-up AHQ**

1. What is the current policy with regard to asylum seekers from Somalia? If there are differences in the policy depending on the place of origin in Somalia, please state what the different policies are (e.g. Somaliland, Puntland, Southern and Central Somalia, Mogadishu).
2. Is internal flight applied to asylum seekers from Somalia? If yes, in which areas of Somalia?

3. a) Do asylum seekers from Somalia receive negative decisions? If yes, are there forced returns to any parts of Somalia (which parts)?
  - b) What happens if the asylum decision is negative, the asylum seeker does not leave voluntarily, and forced return is not possible in practice?
4. Are language analysis tests conducted in order to verify the place of origin of the applicant? If yes, are the tests conducted on all asylum applicants from Somalia?
5. Has the number of asylum seekers from Somalia changed recently (in the past 12 months)? If yes, how?

### **3. Highlights / Norway's practice in relation to others**

In Norway there were 44% fewer asylum seekers from Somalia during Jan. – March 2015 as compared to the same time period in 2014. There were 51 % fewer asylum seekers during 2014 compared with the year before.

**NO practice regarding asylum seekers from Somalia roughly coincides with the majority of reporting MS and most closely reflects practice in NL and SE.** In Norway, protection has primarily been granted in cases where: applicants have substantiated a well-founded fear of being persecuted by al-Shabaab; women have substantiated a well-founded fear of gender related persecution; and girls are at real risk of FGM (NO & NL were the only respondents mentioning this last factor). However, according to an instruction given by the Norwegian Ministry of Justice and Public Security in 2012, applicants who have substantiated a real risk of having to seek refuge in IDP areas in South and Central Somalia are entitled to protection.

**In addition to carrying out individual considerations, NL also has targeted certain groups of asylum seekers who are at risk and who will be granted refugee status if there are even slight indications that they fear persecution. These include: civil servants; members of the judiciary; members of AMISOM; persons who work for international organizations or delegations; persons who are suspected by Al-Shabaab to spy for the Somali government; and journalists. In addition to viewing applicants' individual claims, SE takes into account whether the applicant belongs to a particularly vulnerable group in Somalia e.g. women, children, internally displaced persons, and persons belonging to minority groups. They also consider risks involved regarding mobility/travel through Somalia and the general absence of possibility of protection from the authorities.**

While most of the MS indicate a general rule of subsidiary protection status for Somali applicants due to the security situation in the south and Mogadishu, Norway no longer considers the security situation to be so serious, and does not consider applicants to be at real risk of inhuman treatment upon return due solely to the general situation either in Mogadishu or any other areas in Somalia. FR and DE also share the view that it is not risky to return applicants to Somalia, but at the same time only FR has succeeded in a few forced returns to Mogadishu.

NO, and a number of other MS as well do not consider Northern Somalia to be particularly *unsafe* and applicants from these areas are not *generally* granted protection though individual considerations are always made. FI grants one year permits for applicants from this area because it is not possible at present to implement forced returns. FR and DE are reviewing their practices during the summer of 2015. NL reported on a

moratorium on decisions which offers the possibility of extending the period in which a decision is made by one year at most. During this moratorium asylum seekers who originate from Al Shabaab controlled areas will not be returned by force.

**2. Most reporting MS follow the UNHCR guidelines in regards to applying IFA/IRA:** “Whether an IFA/IRA exists in Puntland or Somaliland will depend on the circumstances of the individual case, including whether the individual is a member of a majority or minority clan and whether the individual originates from the territory where IFA/IRA is being considered. The generally deplorable living conditions of displaced persons in Puntland and Somaliland, however, indicate that an IFA/IRA is generally not available for individuals from southern and central Somalia in these territories.” **In NL IFA is not applied to women who fear (sexual) violence or circumcision. SE stipulates that internal flight is not generally applicable to persons from minority groups, unaccompanied minors, and persons at risk of becoming internally displaced in the area of refuge. Women without male support are also considered to be extremely vulnerable and would only under exceptional circumstances be referred to internal flight.**

Some MS consider internal flight possible within Somaliland or Puntland on the condition that the asylum seeker is originally from those areas. Norway and other MS consider Mogadishu a possible IFA/IRA location. Norway has also used other cities of some size for IFA/IRA, not controlled by al-Shabaab. SE gave an interesting and thorough response indicating possible IFA. SE and DE explicitly stated that the area of refuge (IFA) needs to be practically accessible for the person and he/she has to be able to reach this area (i) without risking violence en route and (ii) can be referred to a refugee camp and to be able to put up residence there.

**3. Most MS report the practice of either granting international protection, or not doing so in some cases, but at the same time, not implementing forced returns to anywhere in Somalia, with the exception of FR.** Generally in cases where there are no individual grounds for granting international protection, asylum seekers from Southern and Central Somalia are granted international protection due to the security situation, and asylum seekers from Northern Somalia are granted (in some MS temporary) residence permits based on the fact that forced returns are not possible in practice. **Several MS report practicing a “tolerated stay” which does not constitute a right to residence status; it is more an acknowledgment that it is impractical to implement a forced return. A number of MS share stricter attitudes towards applicants presenting false documents/ ID or making false claims or in any way preventing a voluntary return. In FI it is possible that in the future no residence permit will be granted to those asylum seekers who receive a negative asylum decision and who *could* leave voluntarily but will not. This is not unlike what SE practices now: a practical impediment to the enforcement of a refusal-of-entry or expulsion order would only be applicable in case the difficulties to return are not in any way connected to the person’s refusal to cooperate with the authorities to return.**

NO reports on 50% negative decisions, but few forced returns in recent years. The Norwegian government is working on finding solutions to this dilemma as the significant efforts to encourage voluntary return have not produced desired results with this group. NO alone reports that a significant number of Somali asylum seekers disappear after receiving a negative decision. DE reports on 300 negative decisions out of 3482 applicants, but no forced returns.

4. **Only NO and FI always conduct language tests.** NO reported that these often reveal false claims of area of origin. In one MS interviews are conducted by language analysts and if need be, the applicant also completes a language test. A number of MS never carry out language tests and 5 MS do so whenever in doubt about applicants' origins.

5. **Reports about changes in migration patterns: NO reports a drop during the fall of 2014 and again during the winter/spring of 2015. NL, and SK also report a decline between 2013 and 2014. FI however reported that there has been a notable rise in the number of asylum seekers from Somalia in the last quarter of 2014 and the first part of 2015: the number has tripled compared to the same period in the previous years.** SI also reports a slight increase (small numbers). SE has experienced a 27% increase in the number of applicants recently, in particular for unaccompanied minors (153% increase). One other MS reports significant increases per month in 2015. The majority MS report unchanged migration patterns of Somali asylum seekers.

#### **Questions from Nov. 2013:**

1. Have you implemented any recent changes in the decision making on the asylum claims of the asylum seekers from Somalia following the changes in the country (e.g. removal of Al Shabaab from Mogadishu – August 2011, from Beled Weyne – December 2011, from Afgoye – May 2011 and from Kismayo – September/October 2012)?
2. Do you carry out returns to Somalia following these changes? If yes, to certain regions only or to the whole country?

- **Ad-Hoc query on returns of rejected asylum seekers to North Darfur and Somalia, requested by SK EMN NCP on 15th May 2014**

#### **Questions from May 14, 2014**

1. Does your Member State carry out voluntary or forced returns of rejected asylum seekers to **North Darfur (Republic of the Sudan)**?
2. If yes:
  - a) What was the total number of voluntary returns of rejected asylum seekers to North Darfur (Republic of the Sudan) in 2013 (and if available in the first 3 months of 2014)?
  - b) What was the total number of forced returns of rejected asylum seekers to North Darfur (Republic of the Sudan) in 2013 (and if available in the first 3 months of 2014)?
  - c) In case the data in a) or b) is not available, please provide the total number of returns of rejected asylum seekers to North Darfur (Republic of the Sudan) in 2013 (and if available in the first 3 months of 2014).

3. Does your Member State carry out voluntary or forced returns of rejected asylum seekers to **Somalia**?
4. If yes:
  - a) What was the total number of voluntary returns of rejected asylum seekers to Somalia in 2013 (and if available in the first 3 months of 2014)?
  - b) What was the total number of forced returns of rejected asylum seekers to Somalia in 2013 (and if available in the first 3 months of 2014)?
  - c) In case the data in a) or b) is not available, please provide the total number of returns of rejected asylum seekers to Somalia in 2013 (and if available in the first 3 months of 2014).

FI EMN NCP requests an update on the two above mentioned queries. The Finnish Immigration Service (FIS) is currently considering the need to reassess its asylum policy regarding Somalia. The situation in Somalia has changed since the previous queries. Moreover, some of the questions and answers require more specificity.