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Technical assistance and capacity-building

Albania,* Austria, Belgium,* Cyprus,* Denmark, Finland,* Germany, Greece,* Ireland,* Italy, Lithuania,* Luxembourg,* Montenegro,* Netherlands, New Zealand,* Slovakia,* Somalia, Sweden,* Turkey,* Ukraine, United Kingdom of Great Britain and Northern Ireland and Yemen*: draft resolution

48/... Assistance to Somalia in the field of human rights

The Human Rights Council,

Guided by the Charter of the United Nations,

Reaffirming the Universal Declaration of Human Rights,

Acknowledging that peace and security, development and human rights are the pillars of the United Nations system,

Reaffirming its respect for the sovereignty, territorial integrity, political independence and unity of Somalia,

Reaffirming also its previous resolutions on Somalia,

Recalling its resolutions 5/1 and 5/2 of 18 June 2007,

Recognizing that the primary responsibility for promoting and protecting human rights in Somalia rests with the Somali authorities and that enhancing the legal framework, human rights protection systems and the capacity, transparency and legitimacy of institutions is essential to help to combat impunity and to improve accountability for human rights violations and to encourage reconciliation,

Recognizing also the need for all authorities engaged in security to uphold their international human rights commitments and obligations and to address abuse and the excessive use of force against civilians,

Recognizing further the importance and effectiveness of international assistance to Somalia and the continued need to step up the scale, coordination, coherence and quality of all capacity development and technical assistance to Somalia in the field of human rights at the national and federal Member State levels, and in that regard acknowledging the Somalia Partnership Forum held in Mogadishu in December 2020, at which Somali stakeholders adopted the 2021 Mutual Accountability Framework with the aim of accelerating reforms regarding human rights, as well as reforms regarding security, economic and political institutions and elections,

Underscoring the importance of cooperation and consensus for making further progress on key national priorities, including the implementation of the national security

* State not a member of the Human Rights Council.



architecture, reaching agreement on a federated justice system, power- and resource-sharing, the constitutional review, fiscal federalism and the planning and holding of national elections, all of which require political agreements that can form the basis for legislation in the Federal Parliament,

Reaffirming the need for continued regular Somalia Partnership Forum meetings to hold all parties to account for progress and agree on shared future priorities,

Recognizing the sustained and vital commitment of the African Union Mission in Somalia and the loss and sacrifice of personnel killed in action, and recognizing also that the Mission is critical to creating the conditions for Somalia to establish political institutions and to extend State authority, which are key to laying the foundations for a staged transfer of security responsibility to Somali security forces,

Recognizing also the role that women have played and will continue to play in community mobilization and peacebuilding in Somali society, the need to take special measures to end sexual and gender-based violence and all other forms of unlawful violence in situations of armed conflict, to end impunity and, in accordance with international law, to prosecute those responsible for violence against women and girls, and the importance of promoting their economic empowerment and full, equal and meaningful participation in political and public decision-making processes, including within Parliament and at all levels of government, in line with Security Council resolution 1325 (2000) of 31 October 2000 on women and peace and security,

Recognizing further the increased proactiveness of the Federal Government of Somalia and some federal Member State authorities in strengthening the promotion and protection of human rights through their respective ministries, including their advocacy for and implementation of human rights commitments in Somalia and their engagement with the international human rights system,

Recognizing that the coronavirus disease (COVID-19) pandemic represents an additional and profound challenge to the difficulties already presented by natural disasters to the health system and the socioeconomic and humanitarian situation in Somalia and recognizing also that the secondary effects of the pandemic have disproportionately affected women and girls and those in vulnerable situations,

Noting the important role played by women as first responders to the COVID-19 pandemic and the importance of women's full, equal and meaningful participation in recovery and relief,

Welcoming the provision of life-saving vaccines through the COVID-19 Vaccine Global Access (COVAX) facility, and stresses the importance of their equitable distribution across Somali society,

1. *Welcomes* the commitment of the Somali authorities to improve the situation of human rights in Somalia, and in that regard also welcomes:

(a) The agreements reached by the National Consultative Council in September 2020 and February and May 2021 setting out a pathway for the federal electoral process and the continued commitment to a free, fair, timely, peaceful, transparent, credible and inclusive electoral process, including a commitment to ensure that women play a full, equal, effective and meaningful role in the process and hold at least 30 per cent of seats in Parliament;

(b) The partial improvements in the human rights context in Somalia, as seen by the progress made towards the ambitious goals set out in the New Partnership for Somalia and the National Development Framework of Somalia to promote stability and development with respect for human rights, as set out in the 2017–2019 human rights scorecard of the Federal Government of Somalia by, inter alia, strengthening the rule of law, promoting inclusivity in political decision-making, particularly for women and girls, young persons, persons belonging to minorities and persons with disabilities, delivering a constitutional settlement that guarantees freedoms of expression and association, and addressing security threats in a manner that respects human rights obligations and protects civilians;

(c) The enforcement by the Attorney General's Office of an order of the Banadir Regional Court, following a petition submitted by the National Union of Somali Journalists, through the appointment on 8 September 2020 of a special prosecutor, to investigate and prosecute those responsible for killing journalists in Somalia as a step in the right direction to put an end to impunity for crimes committed against Somali journalists and to hold perpetrators accountable;

(d) The refreshed Somalia Transition Plan, which should support the emergence of effective Somali security institutions and the progressive handover of responsibility from the African Union Mission in Somalia to increased Somali ownership, and appreciating, in particular, that this approach is underpinned by a focus on the rule of law, reconciliation, justice, respect for human rights, and the protection of women and children, and girls in particular;

(e) The continued commitment of the Federal Government, the federal Member States and the Banadir Regional Authority to improve representation, inclusion and the full, equal and meaningful participation of women in public and political affairs and, in particular, in leadership roles, including its commitment to ensuring a minimum of 30 per cent of seats in Parliament for women;

(f) The Federal Government's establishment of a national disability agency in August 2020, its ratification of the Convention on the Rights of Persons with Disabilities in August 2019, and its commitment to entrenching the rights of persons with disabilities in social, educational, political and economic life through the first-ever national disability bill for Somalia and other legislative mechanisms, by improving the collection of data on persons with disabilities;

(g) The work undertaken by the Ministry for Women and Human Rights Development as the lead body of the Federal Government to advance the human rights agenda in Somalia, including through the implementation of the Somalia Joint Human Rights Programme and the preparations for its next phase, the work of the interministerial Human Rights Task Force, the capacity-building of interministerial focal points on human rights, and its reporting under the Convention on the Rights of the Child and the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment;

(h) The continued cooperation with the Independent Expert on the situation of human rights in Somalia, the cooperation with the special representatives of the Secretary-General, including the Special Representative on Sexual Violence in Conflict and the Special Representative for Children and Armed Conflict, and the pledge by Somalia to develop a new national action plan to end sexual violence in conflict following the visit by the relevant Special Representative;

2. *Also welcomes* the active engagement of the Federal Government with the universal periodic review process in May 2021, and in this regard further welcomes its acceptance of many recommendations made during the review, encourages the Government to implement them as a matter of priority, and welcomes its commitment to complete a midterm review on the implementation of recommendations;

3. *Expresses concern* at the reports of violations and abuses of human rights in Somalia, including by all armed actors, underscores the need to uphold respect for human rights for all and to hold accountable all those responsible for such violations and abuses and related crimes, including those committed against women and children, and girls in particular, such as the unlawful recruitment and use of child soldiers and children in armed conflict, killing and maiming, rape and other sexual and gender-based violence, child, early and forced marriage and harmful practices, including all forms of female genital mutilation, and emphasizes the importance that children formerly associated with armed groups be recognized as victims and the need to establish and implement rehabilitation and reintegration programmes;

4. *Also expresses concern* that internally displaced persons, including those who may be in vulnerable situations, who may include women, children, young persons, persons with disabilities and persons belonging to minority and marginalized groups, are the most at risk of violence, abuse and violations;

5. *Further expresses concern* at the attacks against and harassment of human rights defenders and the media in Somalia, including journalists and media workers, especially in the form of harassment, arbitrary arrest or prolonged detention, and emphasizes the need to promote respect for freedom of expression and opinion and to end impunity, holding accountable those who commit any such related crimes;

6. *Expresses concern* that those belonging to minority clans and marginalized groups, including women and girls, continue to be at the periphery of economic and political opportunities and decision-making in Somalia, and encourages the Somali authorities to increase its efforts to widen opportunities for their participation in public affairs, recognizing that women and girls belonging to minorities continue to be more vulnerable to sexual and gender-based violence due to poverty, marginalization and discriminatory attitudes;

7. *Expresses deep concern* about the failure of the Lower House of Parliament to pass the Sexual Offences Bill endorsed by the Cabinet in May 2018 and about its decision to instead table a bill on “sexual intercourse-related crimes” in August 2020, which is incompatible with the obligations of Somalia under international human rights law and under the Provisional Federal Constitution of Somalia, and encourages the Lower House of Parliament to reconsider its decision and table the Sexual Offences Bill endorsed by the Cabinet in 2018;

8. *Expresses concern* about the proposal made in August 2018 by the Somaliland House of Representatives to replace the 2018 law on rape and sexual offences with a new bill on “rape, fornication and related offences”, which would affect the response to serious offences such as rape, the due process rights of those accused of sexual offences and the protection of the rights of women, children and persons with disabilities, and encourages Somaliland lawmakers to reconsider their decision on the new bill, noting that the 2018 law on rape and sexual offences is in line with international human rights standards;

9. *Also expresses concern* about the signing into law in August 2020 of the amended 2016 media law as well as provisions of the 1964 Penal Code, which do not comply with international standards on freedom of expression, such as those providing for imprisonment as a punishment for media-related offences, and encourages the Federal Government of Somalia to consider repealing such provisions;

10. *Further expresses concern* about the large number of instances of the six types of grave violations committed against children in armed conflict, as identified by the Secretary-General and documented in his annual report,¹ and demands that all parties to the conflict take appropriate measures to comply with applicable international humanitarian law;

11. *Recognizes* that the exposure and sensitivity of Somalia to climate change and environmental degradation is vast and structural, and that this vulnerability is a driver of fragility, conflict and humanitarian need;

12. *Also recognizes* the efforts of those States hosting Somali refugees, urges all host States to meet their obligations under international law relating to refugees, and urges the international community to continue to provide financial support to enable host States to meet the humanitarian needs of Somali refugees in the region, to support the reintegration of those returning to Somalia when conditions are suitable, and to support internally displaced persons in Somalia;

13. *Further recognizes* the efforts of Somalia, despite its own struggles, to accept and not turn its back on refugees from other countries in the region;

14. *Calls upon* the Federal Government of Somalia, federal Member States and key political stakeholders, with the support of the international community:

(a) To make urgent progress towards settling outstanding constitutional issues and completing the constitutional review process in an inclusive manner that promotes the building of peace and the rule of law, protects the freedoms of expression and association, and includes targeted provisions that enable and facilitate the advancement of women, children, young persons, persons with disabilities, persons belonging to minorities and

¹ S/2021/437.

disadvantaged groups in the areas of access to justice, education, health, water, security and economic recovery, including representation and the right to participate in elections in 2021;

(b) To expedite the establishment of a national human rights commission consistent with the principles relating to the status of national institutions for the promotion and protection of human rights (the Paris Principles), providing it with adequate resources, to monitor and ensure accountability for violations and abuses, including a recruitment process that provides equal opportunities for the representation of women, persons belonging to marginalized groups and persons with disabilities;

(c) To accelerate the Government-led inclusive political settlement and to reach political agreement among the Federal Government, all federal Member States and the Federal Parliament in order to deliver shared political and security commitments through inclusive and regular high-level dialogue at all levels;

(d) To complete implementation of the ongoing electoral process by the end of 2021, in a manner agreed upon by all stakeholders, that are free, fair, timely, peaceful, transparent, credible, inclusive and in accordance with the Provisional Federal Constitution of Somalia;

(e) To hold free, fair, inclusive and transparent one person, one vote elections at the federal Member State and district levels, in preparation for holding such elections at the federal level in 2025;

(f) To continue its cooperation with the Special Representative of the Secretary-General for Somalia;

(g) To secure constitutional provisions for equal representation and full, equal and meaningful participation, inclusion and protection of women and persons belonging to minority clans and marginalized groups, particularly in leadership and decision-making roles in public and elected offices and the civil service through the constitutional review and other ongoing political and legislative processes;

(h) To promote the inclusivity and accessibility of elections held in 2021, particularly by ensuring the full, equal and meaningful participation and equal representation of women in decision-making and in leadership positions, as well as of internally displaced persons, young persons, persons with disabilities, persons belonging to minorities and all members of disadvantaged groups at all stages of the electoral cycle, while noting that, in future elections, the Federal Government of Somalia should ensure the representation of all Somalis, in accordance with long-standing commitments to conduct one person, one vote elections;

(i) To realize its commitments to security sector reform, including by ensuring the active and meaningful participation of women in the implementation of the national security architecture, to ensure that Somali security forces and institutions comply with applicable national and international law, together with international human rights law, including on the protection of individuals from, inter alia, sexual and gender-based violence, and on the prevention of extrajudicial killings, and the strengthening of internal and external accountability of all relevant security forces and institutions;

(j) To continue measures to implement the action plans to prevent the unlawful recruitment and use of children in armed forces of all types, including forces operating at the national, federal and local levels and groups such as Al-Shabaab, to work with specialized organizations, such as the United Nations Children's Fund, to ensure that former child soldiers and children under 18 years of age used in armed conflict are treated as victims and rehabilitated in a way consistent with international best practice, and to identify those responsible for such violations and abuses and hold them accountable;

(k) To accelerate the implementation of the joint communiqué and the adoption and implementation of the new national action plan against sexual violence in conflict;

(l) To accelerate the finalization, adoption and full implementation of its national action plan on women and peace and security, in close cooperation with civil society, in line with Security Council resolution 1325 (2000) and the Council's subsequent resolutions on that issue, noting that the Cabinet endorsed a Somali women's charter to strengthen women's

participation in peacebuilding and socioeconomic progress in the stabilization and rebuilding efforts for Somalia;

(m) To review the amended media law signed in August 2020 and to ensure its compliance with international human rights law, and to accelerate the work of the Special Prosecutor for investigating crimes against journalists;

(n) To realize its commitments to ending the prevailing culture of impunity, to hold accountable those who commit human rights violations and abuses by ensuring prompt, independent, impartial, thorough and effective investigations into human rights violations, by urgently concluding the establishment of an adequately resourced and independent national human rights commission, and by reforming State and traditional justice mechanisms, in accordance with international human rights standards, and also to increase the representation of women in the judiciary, and to improve access to justice for women and children;

(o) To prioritize the enactment of legislation and to undertake reforms that respect, protect and fulfil women's and girls' full enjoyment of all human rights, and to allow for response to and the prevention and elimination of all forms of violence and discrimination against all women and girls, including by adopting a zero-tolerance approach to sexual and gender-based violence, child, early and forced marriage and all forms of female genital mutilation, while ensuring that those responsible for sexual and gender-based violence, exploitation and abuse are held to account, regardless of their status or rank;

(p) To continue to acknowledge the importance of inclusive dialogue and local reconciliation processes for stability in Somalia, including in the context of the national reconciliation framework and process, and calls upon the Federal Government and the federal Member States to increase leadership and engagement in de-escalating tensions and engage in constructive dialogue;

(q) To increase the support and resources allocated to the ministries and institutions responsible for the administration of justice and the protection of human rights, particularly the Ministry for Women and Human Rights Development at the federal and State levels, including by fully funding the Joint Programme on Human Rights, which is a key vehicle for fulfilling the human rights commitments of Somalia, as well as the judiciary, the police and correctional services;

(r) To consider acceding to and ratifying the Convention on the Elimination of All Forms of Discrimination against Women and the Convention on the Prevention and Punishment of the Crime of Genocide;

(s) To realize the commitments it made at the Global Disability Summit, particularly by supporting the national disability agency in its work, in accordance with the Convention on the Rights of Persons with Disabilities and in consultation with organizations of persons with disabilities;

(t) To encourage the Parliament to pass the original Sexual Offences bill approved by the Cabinet in 2018, and to ensure that any bill passed into law reflects international obligations and commitments on the protection of all women and children, girls in particular, and to implement it and other laws as necessary to combat sexual and gender-based violence;

(u) To harmonize national and federal Member State-level political policies and legal frameworks with applicable human rights obligations and other commitments;

(v) To treat former combatants in accordance with applicable obligations under national and international law, in particular international human rights law and international humanitarian law;

(w) To implement the Declaration on Durable Solutions for Somali Refugees and the Reintegration of Returnees in Somalia, adopted in Nairobi on 25 March 2017;

(x) To promote the well-being and protection of all internally displaced persons, including from sexual and gender-based violence, and also from exploitation and abuse committed by State or international military or civilian personnel, to facilitate the voluntary reintegration or return of all internally displaced persons, including the most vulnerable, in

safety and with dignity, to ensure a fully consultative process and best practices for relocations, and to provide sites that afford safe access to essential food and potable water, basic shelter and housing, appropriate clothing and essential medical services and sanitation;

(y) To ensure safe, timely, sustained and unhindered access for humanitarian organizations, to recognize the acute vulnerability of internally displaced persons, to facilitate safe, timely, sustained and unimpeded humanitarian access to people in need, wherever they are in Somalia, and to safeguard the neutrality, impartiality and independence of humanitarian actors from political, economic and military interference, while remaining sensitive to the needs of persons belonging to ethnic minorities requiring humanitarian assistance;

(z) To consider primarily as victims those children who have been released or otherwise separated from armed forces and armed groups in accordance with the Principles and Guidelines on Children Associated with Armed Forces or Armed Groups, which have been endorsed by the Federal Government of Somalia, and to cease detaining all children on national security charges whenever doing so would be in violation of applicable international law;

(aa) To implement fully the Convention on the Rights of the Child, the two action plans signed by the Federal Government of Somalia in 2012 to end and prevent the recruitment and use of child soldiers and the killing and maiming of children, the Somali National Army command order on the protection of children's rights before, during and after operations, the road map signed in 2019 and the standard operating procedures on the handover of children;

(bb) To implement the Safe Schools Declaration, which the Federal Government of Somalia endorsed in October 2015, to ensure that education facilities, students and education personnel are protected;

(cc) To strengthen the legal and operational framework for the protection of children in Somalia, including by becoming a party to the Optional Protocols to the Convention on the Rights of the Child and the African Charter on the Rights and Welfare of the Child and through the swift enactment and implementation of the Child Rights bill;

15. *Stresses* the important role of joint monitoring and reporting on the situation of human rights in Somalia by national and international experts and the Federal Government, and the vital role that those monitoring human rights can play in evaluating and ensuring the success of technical assistance projects, which in turn must be for the benefit of all Somalis;

16. *Underlines* the importance of the realization by the United Nations Assistance Mission in Somalia of its mandate throughout Somalia and the need to strengthen synergy with the work of the Office of the United Nations High Commissioner for Human Rights;

17. *Commends* the engagement of the Independent Expert on the situation of human rights in Somalia;

18. *Decides* to renew the mandate of the Independent Expert on the situation of human rights in Somalia, under agenda item 10, for a period of one year to assess, monitor and report on the situation of human rights in Somalia with a view to making recommendations on technical assistance and capacity-building in the field of human rights;

19. *Acknowledges* the progress that Somalia has made and its cooperation with United Nations bodies, including the Office of the High Commissioner and the mandate of the Independent Expert since its creation in 1993, and that the situation of human rights in Somalia determines the action most appropriate for the Council to take, and in this regard welcomes the transition plan towards deeper thematic engagement with the special procedures and other experts, as well as the Office of the High Commissioner, as proposed by the Independent Expert, in cooperation with the Federal Government of Somalia, in her most recent report,² in which she includes clear steps and benchmarks to inform appropriate

² See A/HRC/48/80.

follow-up actions by the Human Rights Council, considering the recommendations of the Independent Expert and the human rights commitments of Somalia;

20. *Requests* the Independent Expert to continue to work closely with the Federal Government and other relevant authorities at the national and subnational levels, with all United Nations bodies, including the United Nations Assistance Mission in Somalia, the African Union, the Intergovernmental Authority on Development and other relevant international organizations, civil society and all relevant human rights mechanisms, and to assist Somalia in the implementation of:

- (a) Its national and international human rights obligations;
- (b) Human Rights Council resolutions and other human rights instruments, including associated routine reporting;
- (c) Recommendations accepted in the context of the universal periodic review;
- (d) Other human rights commitments, policies and legislation to promote the empowerment of women, young people and persons belonging to marginalized groups such as minority clans, freedom of expression and assembly, the protection of the media and civil society, including women peacebuilders, access for women and minorities to justice and accountability for violations of their human rights, and increasing the capacity of ministries and institutions responsible for the administration of justice and the protection of human rights;

21. *Requests* the Independent Expert to report to the Human Rights Council at its fifty-first session and to the General Assembly at its seventy-seventh session;

22. *Also requests* the Independent Expert to provide an update to the Human Rights Council in her report on progress on the implementation of the benchmarks and indicators in the transition plan to inform future action by the Council;

23. *Requests* the Office of the High Commissioner and other relevant United Nations agencies to provide the Independent Expert with all the human, technical and financial assistance necessary to carry out the mandate fully;

24. *Decides* to remain actively seized of the matter.
