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Technical assistance and capacity-building

Albania,* Australia,* Austria,* Belgium,* Bulgaria,* Canada,* Costa Rica,* Croatia,* Cyprus,* Denmark,* Estonia,* France, Germany, Greece,* Iceland,* Ireland,* Lithuania, Luxembourg, Montenegro, Netherlands, Norway,* Romania,* Slovakia,* Slovenia,* Somalia, Sweden,* Türkiye,* Ukraine, United Kingdom of Great Britain and Northern Ireland and United States of America: draft resolution

51/... 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 abuses 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 acknowledging the Mutual Accountability Framework, which is aimed at 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 architecture, the constitutional review, power and resource-sharing in the federal order,

* State not a member of the Human Rights Council.



including fiscal federalism, and reaching agreement on a federated justice system, all of which require political agreements that can form the basis for legislation in the federal Parliament,

Recognizing the sustained and vital commitment of the African Union Mission in Somalia, followed by the African Union Transition Mission in Somalia, and the loss and sacrifice of personnel killed in action over the past 15 years, and recognizing also that the African Union Transition 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, including conflict-related sexual violence, female genital mutilation, child, early and forced marriage, and all other forms of unlawful violence in situations of armed conflict, to end impunity and, consistent with international law, to prosecute those responsible for sexual and gender-based 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 commitment of the Federal Government of Somalia and some federal member state authorities to strengthening the promotion and protection of human rights through their respective ministries, while urging increased advocacy for and implementation of human rights commitments in Somalia and engagement with the international human rights system,

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

(a) The successful conclusion of the electoral process in Somalia in May 2022 and the formation of a Government in August 2022, but expresses concern that the 30 per cent women's quota failed to be met during parliamentary elections, and encourages renewed commitment to ensuring that women play a full, equal and meaningful role in political decision-making;

(b) 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, but calls upon the Federal Government of Somalia to empower the special prosecutor to use the role to its full effect and prosecute those responsible for killing journalists in Somalia;

(c) Revisions to the Somalia Transition Plan, which should support the emergence of effective Somali security institutions and the progressive handover of responsibility from the African Union Transition Mission in Somalia to increased Somali ownership, 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;

(d) 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;

(e) The continued cooperation with the Independent Expert on the situation of human rights in Somalia, including by implementing the Emergency Response and Preparedness Plan of 2021 to support internally displaced people and establishing alternative dispute resolution centres to handle small civil cases to improve citizens' access to justice,

and 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;

(f) The genuine commitment and cooperation of Somalia with the treaty bodies, in particular the submission of the initial report of Somalia under article 44 of the Convention on the Rights of the Child to the Committee on the Rights of the Child on 10 September 2019 and the spirit of transparency and cooperation in which the delegation of Somalia engaged with the Committee in the consideration of that report during the ninetieth session of the Committee;

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,¹ encourages the Government to implement them as a matter of priority, and welcomes its commitment to completing 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 and rape and other forms of sexual and gender-based violence, including child, early and forced marriage and all forms of female genital mutilation and harmful practices, and emphasizes the importance of children formerly associated with armed groups being recognized as victims and the need to establish and implement rehabilitation and reintegration programmes and strengthen existing ones;

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* about the deteriorating human rights situation in Somaliland in 2022, in particular the sharp increase in the number of journalists arrested, the nationwide shutdown of the Internet and the use of lethal force by the police during the protests on 11 August, and encourages the Somaliland authorities to uphold the right to freedom of expression and of peaceful assembly in line with international human rights standards and to reconsider implementing the draft media law and 2018 sexual offences bill, which would improve protections for journalists and the rights of women, children and persons with disabilities;

7. *Also 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 minority groups continue to be more vulnerable to sexual and gender-based violence owing to poverty, marginalization and discriminatory attitudes;

8. *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

¹ See A/HRC/48/11.

Parliament to reconsider its decision and table the Sexual Offences bill endorsed by the Cabinet in 2018;

9. *Expresses concern* about the signing into law in August 2020 of the amended 2016 media law and provisions of the 1964 Penal Code that do not comply with international human rights law, 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. *Also 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,² and demands that all parties to the conflict take appropriate measures to comply with applicable international humanitarian law;

11. *Further expresses concern* that the exposure and sensitivity of Somalia to climate change and environmental degradation are vast and structural, and that this vulnerability is a driver of fragility, conflict and humanitarian need, including hunger, which is reflected in the grave humanitarian crisis in Somalia and the wider region;

12. *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. *Also 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 finalizing a new constitution through inclusive and regular high-level dialogue at all levels, including the full, equal and meaningful participation of women, with a view to reaching 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, that promote the building of peace and the rule of law, protect the freedoms of expression and association and include targeted provisions that enable and facilitate the advancement of women, children, young persons, persons with disabilities, persons belonging to minority and disadvantaged groups in the areas of access to justice, education, health, water, security and economic recovery;

(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 hold free, fair inclusive and transparent one person, one vote elections at the federal member state and district levels;

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

(e) To encourage an inclusive and accessible approach to political participation at the Federal Government and federal member state level by ensuring full, equal and meaningful opportunities for women, internally displaced persons, persons with disabilities and persons belonging to minority and marginalized groups and agreement on a future electoral model that encourages inclusivity at all stages;

² A/76/871-S/2022/493.

(f) 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 ensuring 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 to the strengthening of internal and external accountability of all relevant security forces and institutions, including by drawing from the experience of the African Union Transition Mission in Somalia Civilian Casualty Tracking, Analysis and Response Cell to support the development of Somali civilian casualty monitoring, mitigation and prevention policies and mechanisms;

(g) To strengthen the legal and operational framework for the protection of children in Somalia, including by swiftly implementing the Child Rights bill, to consider 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, to prevent the unlawful recruitment and use of children in armed forces of all types, including forces operating at the national, federal member state 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 unlawfully used in armed conflict are treated as victims and rehabilitated, 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 identify those responsible for such violations and abuses and hold them accountable;

(h) 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;

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

(j) To accelerate the finalization, adoption and full implementation of the 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;

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

(l) 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, thorough and effective investigations and by reforming State and traditional justice mechanisms, in accordance with international human rights standards, to increase the representation of women in the judiciary and to improve access to justice for women and children;

(m) 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, and girls in particular, and to implement it and other laws as necessary to combat sexual and gender-based violence, including 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;

(n) 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 federal member states to increase leadership and engagement in de-escalating tensions and engage in constructive dialogue;

(o) To increase the support and resources allocated to the ministries and institutions responsible for the administration of justice and the protection of human rights, in particular 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;

(p) 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;

(q) To realize the commitment it made at the Global Disability Summit, in particular 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;

(r) To harmonize national and federal member state-level political policies and legal frameworks with applicable human rights obligations and other commitments;

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

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

(u) 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;

(v) 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 minority groups requiring humanitarian assistance;

(w) 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 children on national security charges whenever doing so would be in violation of applicable international law;

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 African Union Transition Mission in Somalia of its mandate throughout Somalia and the need to strengthen synergies 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 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, also acknowledges that the situation of human rights in Somalia determines the action most appropriate for the Human Rights Council to take, and in this regard welcomes the transition plan towards deeper thematic engagement with the special procedures of the Council 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,³ in which she included clear steps and benchmarks to inform appropriate follow-up actions by the 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 African Union Transition Mission in Somalia, 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 members of minority groups 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. *Also requests* the Independent Expert to report to the Human Rights Council at its fifty-fourth session and to the General Assembly at its seventy-eighth session;

22. *Further 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.

³ A/HRC/48/80.