



**Ad-Hoc Query on SK EMN Ad-Hoc Query on Asylum Seekers from Somalia**

**Requested by SK EMN NCP on 26<sup>th</sup> October 2011**

**Compilation produced on 6<sup>th</sup> December 2011**

**Responses from Belgium, Estonia, Finland, Germany, Hungary, Italy, Latvia, Lithuania, Luxembourg, Malta, Netherlands, Portugal, Slovak Republic, Sweden, United Kingdom (15 in Total)**

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**1. Background Information**

In Slovakia the number of asylum seekers from Somalia has grown fourfold compared to 2010. Slovak Republic has only limited experience with asylum seekers from Africa. Therefore, taking into account recent developments in Somalia such as Al Shabab's forced withdrawal from Mogadishu, experiences/practices of other MS would be much appreciated. So far the asylum seekers from Somalia were granted subsidiary protection.

We would be very grateful for your responses by **26 November 2011**.

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## 2. Responses<sup>1</sup>

		Wider Dissemination? <sup>2</sup>	<p>1. What is the number of asylum seekers from Somalia in your country in 2010 and 2011? From which regions did asylum seekers usually claim to arrive?</p> <p>2. What is your current asylum policy towards Somali asylum seekers? [granting/rejecting asylum (according to Geneva Convention or on humanitarian basis) or subsidiary protection]</p> <p>3. Do you use language analysis in order to verify applications for asylum? If yes, do you have a special list of questions on Somalia? Do you use other methods to verify applicant's claims?</p> <p>4. Do you carry out voluntary or forced returns to Somalia? If yes, to which regions?</p>
	Belgium	No	This EMN NCP has provided a response to the requesting EMN NCP. However, they have requested that it is not disseminated further.
	Estonia	Yes	<p>1) There have been no asylum seekers from Somalia in the recent years until October 2011 when 3 female applicants arrived. Applicants claim to have arrived from Mogadishu</p> <p>2) The applications are currently being reviewed.</p> <p>3) In this case Estonia is using the help of Finnish colleagues using the video conference session. A row of questions concerning Somalia is being prepared including geographical, political and social aspects of life in this country.</p> <p>4) The applications are currently being reviewed.</p>
	Finland	No	This EMN NCP has provided a response to the requesting EMN NCP. However, they have requested that it is not disseminated further.
	Germany	Yes	<p>1. 01.01.-31.12.2010: 2.235 first applications 01.01.-30.09.2011: 700 first applications Usually the asylum seekers claim to arrive from Mogadishu and from southern and central parts of Somalia under control of al-Shabaab.</p> <p>2. According to German jurisdiction the recognition of an asylum application under German Basic Law depends on the existence of a state or at least a state-like power. In the central and southern parts of Somalia (including Mogadishu) this prerequisite is not fulfilled. Therefore applicants originating from these parts of the country cannot be granted asylum.</p>


<sup>1</sup> If possible at time of making the request, the Requesting EMN NCP should add their response(s) to the query. Otherwise, this should be done at the time of making the compilation.

<sup>2</sup> A default "Yes" is given for your response to be circulated further (e.g. to other EMN NCPs and their national network members). A "No" should be added here if you do not wish your response to be disseminated beyond other EMN NCPs. In case of "No" and wider dissemination beyond other EMN NCPs, then for the Compilation for Wider Dissemination the response should be removed and the following statement should be added in the relevant response box: "This EMN NCP has provided a response to the requesting EMN NCP. However, they have requested that it is not disseminated further."




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			<p>Concerning “Republic of Somaliland” and “Puntland” Germany starts out from the assumption that in these parts of Somalia a state-like power exists. On principle applicants originating from these regions can be granted asylum under German Fundamental Law or refugee protection under Section 60 (1) Residence Act if they suffered from or were threatened by political persecution.</p> <p>Applicants from Mogadishu and Central/South Somalia are often granted refugee protection as neither the non-existent state nor the non-existent state nor can quasi-state actors provide protection against persecution.</p> <p>Civilians from Mogadishu regularly receive protection pursuant to Art. 15 lit. c of the EU Qualification Directive.</p> <p>Concerning the present famine in large parts of Somalia it should be noted that Germany complies with the prohibitions of deportations pursuant to Art. 15 (a), (b) and (c) of the Qualification Directive and <u>also</u> grants subsidiary protection under (subordinated) national law. This subsidiary protection usually takes the form of a prohibition of deportation pursuant to Section 60 (7) sentence 1 of the Residence Act. Protection pursuant to this provision is granted if a removal would result in a significant, concrete danger to life, limb or freedom in the target country, and if this danger was not serious enough to grant higher-ranking protection (asylum, refugee protection or subsidiary protection under European law). Examples are dangers resulting from an expected, significant deterioration in health, for example due to insufficient treatment, or the risk of not being able to obtain a minimum standard of living.</p> <p>3. Yes. There is list of special questions on Somalia to be put to the applicant within the framework of a linguistic analysis. The utilization is not compulsory. The list is not open to the public. When the application gave rise to suspicions the hearing will include questions to assess the credibility of the applicants’ claims concerning their nationality. In cases where doubts about the nationality remain, a linguistic and textual analysis may be conducted or an expert’s opinion can be obtained from e.g. Federal Foreign Office or academic institutions.</p> <p>4. Germany does not carry out forced returns to Somalia. There were no voluntary returns.</p>															
	<p><b>Hungary</b></p>	<p><b>Yes</b></p>	<p>1. In 2010 the number of asylum seekers with Somali nationality was 51; in the period of January 2011 - October 2011 it was 36. Most of the applicants came from the capital, Mogadishu, however the refugee authority does not keep statistical data in connection with the region of origin of Somali asylum seekers.</p> <p>2.</p> <table border="1" data-bbox="875 1222 1821 1417"> <thead> <tr> <th></th> <th>Asylum seekers from Somalia</th> <th>Refugee Status</th> <th>Subsidiary Protection</th> <th>Non-refoulement</th> </tr> </thead> <tbody> <tr> <td>2010</td> <td>51</td> <td>19</td> <td>23</td> <td>1</td> </tr> <tr> <td>the first 10 months of 2011</td> <td>36</td> <td>4</td> <td>2</td> <td>0</td> </tr> </tbody> </table>		Asylum seekers from Somalia	Refugee Status	Subsidiary Protection	Non-refoulement	2010	51	19	23	1	the first 10 months of 2011	36	4	2	0
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			<p>In view of the fact that the majority of asylum seekers came from the capital, Mogadishu - where currently internal armed conflict exists - one of the international protection statuses has to be determined to them.</p> <p>The main grounds for recognition as a refugee are the discrimination based on racial or ethnic origin. The grounds of subsidiary protection are mostly the reason pursuant to Article 15 c of the Council Directive 2004/83/EC (serious and individual threat to a civilian's life or person by reason of indiscriminate violence in situations of international or internal armed conflict.)</p> <p>3. The refugee authority does not apply language analysis in cases of asylum seekers with Somali nationality. The determination of their identity and nationality is mostly based on their answers and statements. If the applicant avows him/herself unaccompanied minor and his/her age is questionable it can be determined by an examination of a medical expert. Should the applicant have special needs (eg. by psychological problems) the refugee authority shall arrange medical examination of an expert.</p> <p>4. There were no forced returns to Somalia as a country of origin. There was no voluntary return to Somalia in 2009, 2010, 2011.</p>																																				
	<p><b>Italy</b></p>	<p><b>Yes</b></p>	<p>1) According to Eurostat, the number of asylum applications from Somalia received in Italy in 2010 and 2011 is the following:</p> <table border="1" data-bbox="607 727 1104 849"> <thead> <tr> <th></th> <th>2010</th> </tr> </thead> <tbody> <tr> <td>Asylum applicant</td> <td>85</td> </tr> <tr> <td>New asylum applicant</td> <td>85</td> </tr> </tbody> </table> <table border="1" data-bbox="607 879 1821 1000"> <thead> <tr> <th></th> <th>2011M01</th> <th>2011M02</th> <th>2011M03</th> <th>2011M04</th> <th>2011M05</th> <th>2011M06</th> </tr> </thead> <tbody> <tr> <td>Asylum applicant</td> <td>0</td> <td>5</td> <td>10</td> <td>65</td> <td>150</td> <td>95</td> </tr> <tr> <td>New asylum applicant</td> <td>0</td> <td>5</td> <td>10</td> <td>65</td> <td>:</td> <td>:</td> </tr> </tbody> </table> <p>With reference to the regions of origin, please note that no official data are available.</p> <p>2) Our current asylum policy is usually oriented towards the granting of subsidiary protection for this category of applicants. You may refer to the following Eurostat data regarding 2010 first instance and final decisions in order to have an overview of national asylum policy with reference to Somali citizens:</p> <table border="1" data-bbox="607 1214 1256 1401"> <thead> <tr> <th></th> <th>First instance decisions</th> <th>Final decisions</th> </tr> </thead> <tbody> <tr> <td>Total positive decisions</td> <td>140</td> <td>0</td> </tr> <tr> <td>Geneva Convention status</td> <td>40</td> <td>0</td> </tr> </tbody> </table>		2010	Asylum applicant	85	New asylum applicant	85		2011M01	2011M02	2011M03	2011M04	2011M05	2011M06	Asylum applicant	0	5	10	65	150	95	New asylum applicant	0	5	10	65	:	:		First instance decisions	Final decisions	Total positive decisions	140	0	Geneva Convention status	40	0
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			<table border="1"> <tr> <td>Humanitarian status</td> <td>10</td> <td>0</td> </tr> <tr> <td>Rejected</td> <td>10</td> <td>5</td> </tr> <tr> <td>Subsidiary protection status</td> <td>85</td> <td>0</td> </tr> <tr> <td>Temporary protection status</td> <td>0</td> <td>0</td> </tr> <tr> <td>Total number of decisions</td> <td>150</td> <td>5</td> </tr> </table> <p>3) Applicant's claim verification is carried out during the official interview with the Territorial Commission that is competent for the decision on the admissibility of the asylum application. Territorial Commission members are entitled to require, if necessary, any additional proof that may support the application. With reference to language, the official translator appointed by the Territorial Commission can provide language analysis expertise.</p> <p>4) As per the above-mentioned data, it seems that no forced returns to Somalia have been carried out during the year 2010. No evidence can be provided with reference to voluntary returns.</p>	Humanitarian status	10	0	Rejected	10	5	Subsidiary protection status	85	0	Temporary protection status	0	0	Total number of decisions	150	5
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	<b>Latvia</b>	<b>Yes</b>	<ol style="list-style-type: none"> <li>1. In 2010 and 2011 the responsible authority has not received any asylum application from Somalia.</li> <li>2. Subsidiary form of protection has been granted to asylum seekers from Somalia in 2006.</li> <li>3. No, as far as we have had just a few asylum applicants from Somalia in 2005/2006.</li> <li>4. No.</li> </ol>															
	<b>Lithuania</b>	<b>No</b>	This EMN NCP has provided a response to the requesting EMN NCP. However, they have requested that it is not disseminated further.															
	<b>Luxembourg</b>	<b>Yes</b>	<ol style="list-style-type: none"> <li>1. What is the number of asylum seekers from Somalia in your country in 2010 and 2011? From which regions did asylum seekers usually claim to arrive? The number of asylum seekers from Somalia are the following: In 2010: 30 Somali nationals In 2011: 11 Somali nationals (between January and October) No statistics are available regarding the region the Somali asylum seekers were they usually claim they are from. But it can be said that the average claims coming from Mogadishu or originating from the Bajuni islands.</li> <li>2. What is your current asylum policy towards Somali asylum seekers? [granting/rejecting asylum (according to Geneva Convention or on humanitarian basis) or subsidiary protection] As all our requests for asylum are individually analyzed, a general answer can't be given regarding the refugee status or subsidiary protection. But it should be added that an important amount of the Somali asylum seekers present falsified documents which delays the asylum procedure as the documents need to be verified by the police first and once them determined that is a forgery then the case is brought to court.</li> <li>3. Do you use language analysis in order to verify applications for asylum? If yes, do you have a special list of questions on Somalia? A language analysis is done with all Somali asylum seeker.</li> </ol>															

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			<p>There is no a special list of questions. The treating agent will pose general questions about traditions and other country knowledge is asked.</p> <p>Do you use other methods to verify applicant's claims? Very detailed questions about the applicant's knowledge of Somalia and the Somali clans are asked, furthermore, we very often show them pictures which they should be able to identify when claiming coming from a certain region or city.</p> <p>4. Do you carry out voluntary or forced returns to Somalia? If yes, to which regions? No.</p>
	<b>Malta</b>	<b>Yes</b>	<p>1. What is the number of asylum seekers from Somalia in your country in 2010 and 2011? From which regions did asylum seekers usually claim to arrive?</p> <p>The Office of the Refugee Commission received 34 applications from asylum-seekers claiming to be from Somalia and in 2011 the number increased to 411.</p> <p>This Office notes that the majority of Somali asylum-seekers who arrived in Malta in 2010 and 2011 claimed to be from different districts of Mogadishu city in Banaadir region in Southern Somalia.</p> <p>2. What is your current asylum policy towards Somali asylum seekers? [granting/rejecting asylum (according to Geneva Convention or on humanitarian basis) or subsidiary protection]</p> <p>As in all other cases, each claim put forward by Somali asylum-seekers needs to be considered and assessed on its own merits in the time and place in which it allegedly took place. Each claim is first assessed to check whether it meets the criteria to be granted refugee protection. In the case of those who do not qualify as refugees, the Office of the Refugee Commissioner takes the following position that is based on the UNHCR Eligibility Guidelines published May 2010.</p> <p>This Office is of the opinion that the present humanitarian and security situation varies considerably in different areas of Somalia. The Office agrees with the UNHCR Guidelines on Somalia published on May, 2010 where it states that <i>'each area is characterized by distinct political, human rights and security situations. For these reasons, the Guidelines make specific recommendations concerning the international protection need of individuals originating from the respective areas.'</i></p> <p>The Office of the Refugee Commissioner is of the opinion that the present humanitarian and security situation in the Southern and Central areas of Somalia is not stable and not safe while the situation in Somaliland and Puntland is generally more stable, peaceful and less precarious than south and central Somalia.</p> <p>As regards to the interpretation of Article 15 (c) of Council Directive 2004/83/EC of 29 April 2004 on minimum standards for the</p>

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		<p>qualification and status of third country nationals or stateless persons as refugees or as persons who otherwise need international protection and the content of the protection granted, the Office of the Refugee Commissioner adopts the notion of “individual” threat as interpreted by the UNHCR, following its recommendation that subsidiary protection based on Article 15 (c) shall be granted to a person who was “forced to flee or remain outside his/her country of origin as a result of a threat to his/her life, security or liberty for reasons of indiscriminate violence arising from situation such as armed conflict”<sup>3</sup>. The Office of the Refugee Commissioner further notes the decision by the European Court of Justice (ECJ) in Case c-456/07 Elgafaji v Staatssecretaris van Justitie, which interpreted Article 15 (c) as follows:</p> <ul style="list-style-type: none"> <li>○ “The existence of serious and individual threat to the life or person of an applicant for subsidiary protection is not subject to the condition that that applicant adduce evidence that he is specifically targeted by reason of factors particular to his personal circumstances.</li> <li>○ The existence of such a threat can exceptionally be considered to be established where the degree of indiscriminate violence characterizing the armed conflict taking place – assessed by the competent national authorities before which an application for subsidiary protection is made, or by the courts of a Member State to which a decision refusing such an application is referred –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 his presence on the territory of that country or region, face a real risk of being subject to that threat”.</li> </ul> <p>3. Do you use language analysis in order to verify applications for asylum? If yes, do you have a special list of questions on Somalia? Do you use other methods to verify applicant’s claims?</p> <p>In order to verify the nationality and the area of the person who is seeking international protection, this Office asks for specific information throughout the asylum determination procedure to assess the applicant’s knowledge of geographical, political, cultural and ethnic information regarding his/her alleged Somali nationality, always taking into consideration the age, education and social position of the applicant. The Office of the Refugee Commissioner uses a set of questions to assess such knowledge which is related to country of origin information.</p> <p>As regards, the use of language analysis, the Office of the Refugee Commissioner has a contract with a foreign company through which language analysis is conducted.</p> <p>4. Do you carry out voluntary or forced returns to Somalia? If yes, to which regions?</p> <p>Malta has never forcibly returned failed Somali asylum-seekers to Somalia.</p>
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<sup>3</sup> Council of Europe, Recommendation (2001) 18 of the Committee of Ministers to Member States on subsidiary protection, 27 November 2001.

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	<p>Netherlands</p>	<p>Yes</p>	<p>1. Number of Asylum seekers from Somalia in 2010 : 3372 and in 2011: 1263 ( jan-oct)</p> <p>- Most Somali Asylum seekers are claiming to be coming from the South of Somalia. However, no specific information is available.</p> <p>2. What is your current asylum policy towards Somali asylum seekers? [granting/rejecting asylum (according to Geneva Convention or on humanitarian basis) or subsidiary protection]</p> <p>Reer Hamar people are granted asylum according to the Geneva Convention or to the European Convention on Human Rights rather easily if they meet certain criteria. Certain other appointed groups deserve specific attention, such as journalists, persons known to be political opponents, women and girls who fear FGM or (sexual) violence and women who are not accompanied by a husband or another male relative.</p> <p>Furthermore a distinction is made between Mogadishu and the rest of Central and Southern Somalia. Asylum-seekers from Mogadishu are considered to have a flight alternative in the remainder of Central and Southern Somalia, provided that they have family living in those areas and that they have experience living under Al-Shabaab. There are certain exemptions to the flight alternative: ‘unaccompanied minors’, ‘unaccompanied women’ (as described earlier) and certain non-Somali minorities from Mogadishu are not considered to have a flight alternative in the remainder of Central- and South Somalia.</p> <p>In principle, asylum-seekers from the rest of Central and Southern Somalia (not including Mogadishu) are granted asylum when they lack experience living under Al-Shabaab.</p> <p>In general all Somalian asylum-seekers are considered to have a flight alternative in Northern Somalia if they have lived in Northern Somalia for at least 6 months under circumstances which are considered to be reasonable according to local standards.</p> <p>3. Do you use language analysis in order to verify applications for asylum? If yes, do you have a special list of questions on Somalia? Do you use other methods to verify applicant’s claims?</p> <p>Yes, we use language analysis frequently. We use a general list of topics to be discussed for all language analysis interviews, so these are not specific for Somali cases. Language analysis is used to determine what language variety a person speaks. Distinguishing between Northern and Southern Somali language varieties is possible in almost all cases. Finer distinctions are sometimes possible. In some 40% of cases, the claimed origin from Southern Somalia was not confirmed.</p> <p>Documents (if there are any) can be investigated. Questions on the area of origin, the reasons for applying for asylum, the travelling route and recent developments in the area of origin are used to verify applicant's claims, as in all asylum cases.</p> <p>4. Do you carry out voluntary or forced returns to Somalia? If yes, to which regions</p>
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			Voluntary return to Somalia is always possible. Forced return is also possible under strict conditions to certain parts of Somalia (South and Central Somalia).
	<b>Portugal</b>	<b>Yes</b>	<ol style="list-style-type: none"> <li>1. Portugal registered two asylum applications from nationals of Somalia in 2010 and 11 in 2011 (until this date). Most of these nationals states that they came out of Mogadishu.</li> <li>2. Although Portugal has not adopted a policy or approach to asylum seekers from Somalia, and as all cases are examined individually, as a rule is granted subsidiary protection.</li> <li>3. When is in doubt the nationality invoked, it can be asked to the asylum applicant, a set of questions about and concerning Somalia with a view to ascertain the nationality invoked. Portugal, up till now did not used other tests.</li> <li>4. No, Portugal has not been removed nationals from Somalia.</li> </ol>
	<b>Slovak Republic</b>	<b>Yes</b>	The Slovak Republic has only limited experience with asylum seekers from Africa. So far the asylum seekers from Somalia were granted subsidiary protection.
	<b>Sweden</b>	<b>Yes</b>	<ol style="list-style-type: none"> <li>1. Statistics from which regions asylum seekers usually claim to arrive from are not registered in the Swedish Migrations Board's database. However, the majority of the applicants claim they are from Mogadishu or, to some extent, from other parts of central and southern Somalia. Only a few claim to be from Somaliland or Puntland in northern Somalia.  Somalia Asylum seekers from Somalia: in 2010; 5553 in 2011; 2931</li> <li>2. The Swedish Migration Court of Appeal (Migrationsöverdomstolen) has in two judgments of October 2009 and February 2011 introduced a major change in practice on Somalia. The Court concluded in the first judgment that there is a situation of internal armed conflict in Mogadishu and in the second judgment that there also is a situation of internal armed conflict in central and southern Somalia. This means that there is an internal armed conflict in all areas except Somaliland and Puntland.  The Court stated that applicants that have their domicile in central and southern Somalia, including Mogadishu, are granted subsidiary protection because if returned, solely on account of their presence in central and southern Somalia they risk facing real serious harm. This ruling was in accordance with article 15 c in the Asylum Qualification Directive that has been implemented in the Swedish Aliens Act in January 2010.  Applicants from Somaliland and Puntland are handled on an individual judgement.</li> <li>3. To be able to establish the identity, nationality and/or place of origin all Somali asylum seekers has to answer detailed questions</li> </ol>

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			<p>concerning their identity and place of origin. For example they should be able to give a good description of their clan and their place of origin. We do not use any specific interview guidelines or lists of questions.</p> <p>We use language analysis in cases where we suspect that the asylum seeker has a different place of origin than they claim. Nevertheless, it is not always we can get a clear picture of the asylum seeker's identity, nationality and/or place of origin.</p> <p>4. We do carry out both forced and voluntary return to Somalia when it is possible and appropriate. During 2010 we had 21 voluntary and 8 forced return cases to Somalia and during 2011, up to date we have had 12 voluntary and one forced return case to Somalia. In our statistic system we cannot unfortunately see from which regions in the country they come from. They are all only registered as Somali citizens. We can neither see to which parts of the country they return to. However, it is likely that most of them have returned to Somaliland.</p>
	<b>United Kingdom</b>	<b>Yes</b>	<ol style="list-style-type: none"> <li>1. In 2010 there were 679 applications for asylum from Somali asylum seekers (main applicants and dependants). In Quarters 1 and 2 of 2011 there were 324 applications (this data is provisional). Statistics on asylum applications are available here: <a href="http://www.homeoffice.gov.uk/publications/science-research-statistics/research-statistics/immigration-asylum-research/immigration-tabs-q2-2011v2/asylum1-q2-11-tabs">http://www.homeoffice.gov.uk/publications/science-research-statistics/research-statistics/immigration-asylum-research/immigration-tabs-q2-2011v2/asylum1-q2-11-tabs</a></li> <li>2. Asylum seekers all have their claim for asylum treated in the same manner regardless of their country of origin; there is no specific process for Somali asylum seekers. When considering a claim for asylum from a Somali asylum seeker, UK Border Agency staff may consult the UK Border Agency COI report (available here: <a href="http://www.ukba.homeoffice.gov.uk/sitecontent/documents/policyandlaw/coi/somalia/">http://www.ukba.homeoffice.gov.uk/sitecontent/documents/policyandlaw/coi/somalia/</a>) and/or the Somalia Operational Guidance Note (available here: <a href="http://www.ukba.homeoffice.gov.uk/sitecontent/documents/policyandlaw/countryspecificasylumpolicyogns/somaliaogn?view=Binary">http://www.ukba.homeoffice.gov.uk/sitecontent/documents/policyandlaw/countryspecificasylumpolicyogns/somaliaogn?view=Binary</a>)</li> <li>3. The UK does use language analysis testing, although there is no special list of questions asked as part of this analysis. Guidance on the use of language analysis in the asylum process is available on the UK Border Agency website: <a href="http://www.ukba.homeoffice.gov.uk/sitecontent/documents/policyandlaw/asylumprocessguidance/consideringanddecidingtheclaim/">http://www.ukba.homeoffice.gov.uk/sitecontent/documents/policyandlaw/asylumprocessguidance/consideringanddecidingtheclaim/</a></li> <li>4. The UK does conduct voluntary and enforced removals to Somalia, but only to some regions. Voluntary Assisted Returns are can be conducted to Somaliland and Puntland, but not currently directly to Central or Southern Somalia. Enforced Returns are conducted to Somalia and each case is considered on its individual merits. Enforced Removals can be conducted to all areas of Somalia.</li> </ol>

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