



## **Refugee Consortium of Kenya**

### **Refugee Protection Situation Report Volume 2, Issue No.1 of 2018**

**Period: 1<sup>st</sup> December – 31<sup>st</sup> December**

**Date: 22<sup>nd</sup> January, 2018**

#### **Introduction**

This report focuses on refugee and asylum seeker protection situation in Kenya. Specifically, it provides information on arrest and arraignment cases at police stations and courts of law respectively in the period indicated above. It also addresses access to territory for refugees and asylum seekers across various border entry points in Kenya.

Data used for this report was collected by 11 Refugee Consortium of Kenya (RCK) legal officers and 40 protection and detention monitors. It was collected on a daily basis and was reinforced by legal interventions at police stations and courts of law. The geographical areas covered for detention monitoring included Dadaab, Garissa, Kakuma and Nairobi. Border crossing data covered 11 entry points along the Kenyan border. These were Abdisugow, Amuma, Dajabula, Damajale, Degelema, Diif, El-Wak, Kulan, Liboi, Mandera and Wajir border points.

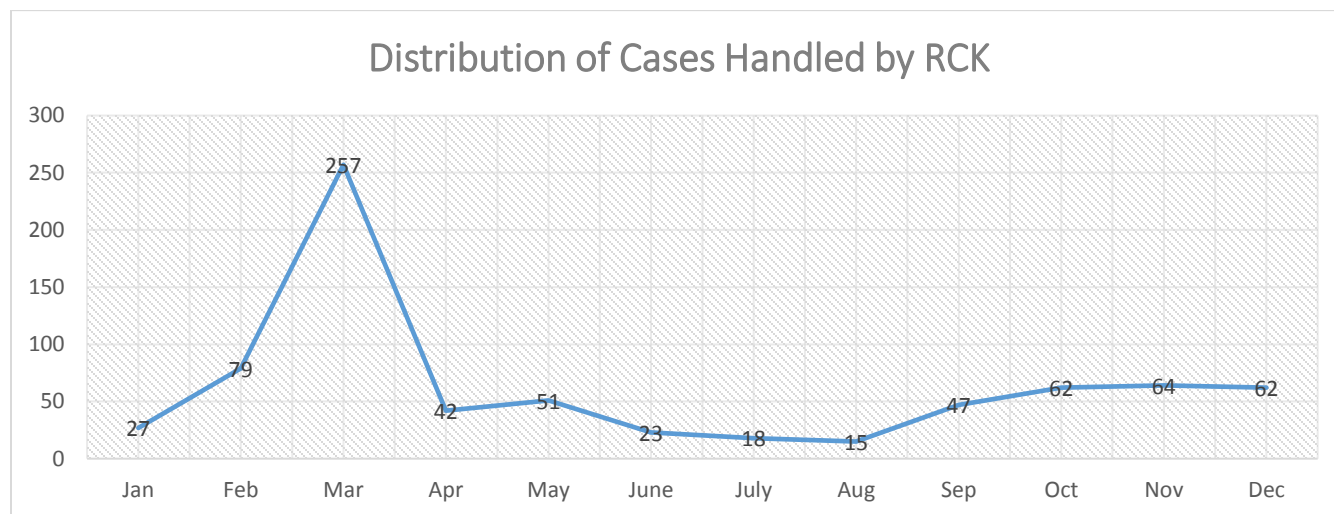
According to the data collected, there were some cases of arrests in parts of the country where RCK has a presence. However, there was a slight decrease in the number of cases handled by RCK staff from the previous month. A majority of the cases (55%) were related to the offence of residing outside a designated area contrary to section 25(f) of the Refugees Act, 2006. The other cases related to the offence of unlawful presence and accounted for 45 percent of the cases handled by RCK in December, 2017.

Access to Kenyan territory remained unhindered in all the areas RCK is monitoring with the exception of Busia. Border entry figures for border points, indicated an increase of 0.7 percent. This provides some evidence that foreign nationals from Ethiopia and Somalia that may need asylum can access Kenyan territory. However the same cannot be said of the Busia border. Immigration officers still refuse to allow

entry of asylum seekers from Burundi and the Democratic Republic of Congo insisting that they should seek asylum in Uganda as the first country of asylum.

### Arrests and Arraignment Cases

A total of 62 cases were recorded in the period under review. This is a decrease of 2 cases from the number of cases reported in November. Graph 1 shows the distribution of the 747 cases observed by RCK staff since January 2017. This translates to 62 cases per month in 2017.



**Graph 1: Distribution of cases handled by RCK staff at police stations and courts of law**

Fifty-five percent of the cases related to the offence of residing outside a designated area contrary to section 25(f) of the Refugees Act, 2006. The other 45 percent related to the offence of unlawful presence contrary to section 53(1) (j) of the Citizenship and Immigration Act, 2011. Table 1 below provides a breakdown of the types of cases that RCK staff intervened in the month of December.

### Summary of reports of arrests and arraignments

Place of Incident	Incident	Characteristics of PoCs	Status of Situation
Garissa	Arraignment: Residing outside a designated area without authorization.	19 Somali nationals (12 adult males, 1 minor male, 4 adult females & 2 minor females)	4 persons were discharged while 15 others were fined Ksh.20,000. Should the 15 fail to pay their fines, they would face between three to six months in prison.

	Arraignment: Unlawful presence.	17 Somali nationals (10 adult males, 3 minor male 2 adult females and 2 minor females)	Eight of the cases were discharged. The rest were convicted and ordered to pay Ksh.50,000 or face six months prison sentence.
Kapenguria	Arraignment: Residing outside a designated area without authorization.	15 South Sudanese nationals (7 adult males, 2 minor males, 4 adult females and 2 minor females)	All the PoCs were released and escorted to Kakuma after RCK officers intervened on their behalf.
Malaba	Arraignment: Unlawful presence.	5 Ethiopians and 1 Burundi national (5 adult males and 1 adult female)	The PoCs were released and sent to UNHCR for registration after it was confirmed that they were seeking asylum in Kenya.
Nairobi	Arrest: Unlawful presence	5 Adult Ethiopian Males	The five were released upon intervention from RCK legal officers

*Table 1: Breakdown of arrest and arraignment cases*

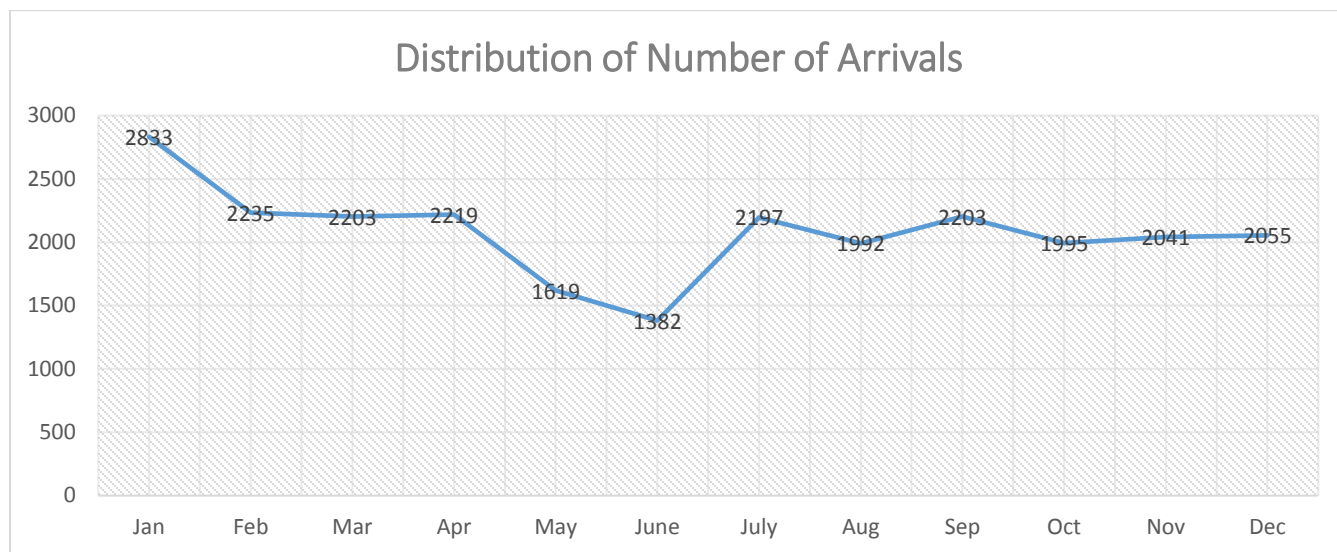
## Access to Territory

### Busia

Entry into Kenya from Uganda at this border point is hindered. Asylum seekers from countries such as DRC and Burundi are often denied entry by immigration officers. Officers from RCK and UNHCR Kakuma office conducted a border monitoring mission to establish the reason behind this. They discovered that the immigration officers denied these nationals entry because they crossed Uganda which is also hosting refugees it what appears to be an enforcement of the first country of asylum rule. They further alleged that the Ugandan authorities were facilitating their entry into Kenya and that there were people who were being smuggled into Kenya. The officers from RCK could not independently verify these claims but are engaging the Department of Immigration Services for a lasting solution that will guarantee access to territory.

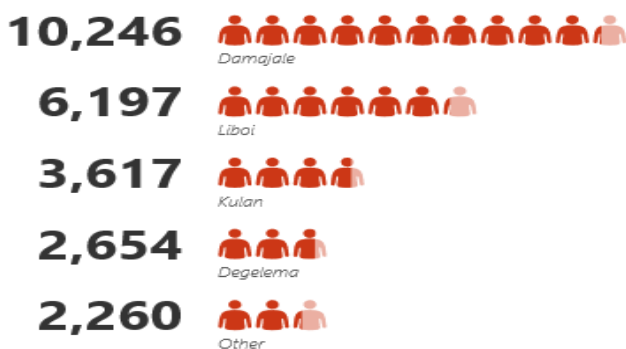
**Dadaab**

In the period under review, the number of foreign nationals entering Kenya from Ethiopia and Somalia was 2,055. This represents a 1% increase compared to the figure of 2,041 recorded in November. Graph 2 below shows the distribution of border entry observations since January, 2017.



**Graph 2: Distribution of border entry observations between January and December, 2017**

**NUMBER OF BORDER ENTRIES PER LOCATION**



Damajale recorded the most entries among the areas that RCK was monitoring in 2017. Border entries observed at this point accounted for 41 percent of all the border entries recorded. This was followed by Liboi (25%), Kulan (14%) and Degelema (11%). These four locations are near the Dadaab Refugee Camp complex which could explain the high levels of traffic. On average, there were 2,081 entry observations per month for the year 2017. The other locations include Diif, El-Wak, Mandera and Wajir.



## Conclusion

The number of arrests and arraignment cases reduced from 64 to 62. The change was not significant and all the individuals in these cases had access to legal assistance from RCK. A majority of the cases related to the offence of unlawfully residing outside a designated area. The other cases related to unlawful presence.

The Kenyan territory is fairly accessible to asylum seekers. The number of people that were recorded to have entered the country slightly increase from the figure that was recorded in November. However access at the Busia border point was a challenge. Immigration officers denied asylum seekers access because Kenya was not the first country of asylum. They advised the asylum seekers to make their application in Uganda. This demonstrates the need for concerted advocacy efforts to address the issue.

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