



Refugee Consortium of Kenya

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

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Date: 12th February, 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. The report is produced by RCK on a monthly basis with the financial support of the Human Security Division of Federal Department of Foreign Affairs of the Swiss Confederation, Sigrid Rausing Trust, United Nations High Commission for Refugees (UNHCR) and the United Nations Voluntary Fund for Victims of Torture (UNVFVT).

Data used for this report was collected by 9 Refugee Consortium of Kenya (RCK) legal officers and 40 protection and border 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 46 cases of arrest and arraignment reported in areas that RCK has a presence. This was a 26 percent decrease in the number of cases handled by RCK staff from the previous month. Ninety-one percent of the cases related to the offence of unlawful presence contrary to section 53(1) (j) of the Citizenship and Immigration Act, 2011. The remainder of the cases related to the

offence of residing outside a designated area contrary to section 25(f) of the Refugees Act, 2006. It should be noted that the decrease in the number of case reported is attributed to the reduction in funds for such monitoring and not necessarily lack of cases.

Access to Kenyan territory remained fairly unhindered in all the areas RCK is monitoring with the exception of Busia. Border entry figures for border points, indicated an increase of 8 percent. This provides some evidence that foreign nationals that may need asylum can reasonably access Kenyan territory.

Arrests and Arraignment Cases

A total of 46 cases were recorded in the period under review. This is a decrease of 26 percent from the number of cases reported in December, 2017. It should be noted that the decrease in the number of case reported is attributed to the reduction in funds for such monitoring and not necessarily lack of cases.

Ninety-one percent of the cases related to the offence of unlawful presence contrary to section 53(1) (j) of the Citizenship and Immigration Act, 2011. The remainder of the cases related to the offence of residing outside a designated area contrary to section 25(f) of the Refugees Act, 2006. 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
Dadaab	Arrest: Unlawful presence.	11 Somali adult males	All were released at the police stations upon RCK's intervention and production of their certified registration documents to the authorities.
Garissa	Arraignment: Residing outside a designated area without authorization.	4 Somali nationals (2 adult males, 1 minor male, 1 adult female)	2 accused persons were discharged while 2 others were fined Ksh.20,000 or face 3 months in prison in the alternative.

	<p>Arraignment: Unlawful presence.</p>	<p>31 Somali nationals (9 adult males, 15 minor male 5 adult females and 2 minor females)</p>	<p>Eight of the accused were discharged while cases involving five others are still ongoing. Another 18 accused persons were convicted and ordered to pay fines between Ksh.20,000 and Ksh. 100,000 or face prison sentences of between three months to a year in the alternative.</p>
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Table 1: Breakdown of arrest and arraignment cases

Access to Territory

Busia

Asylum seekers from Burundi and Congo are still being denied access to Kenya’s territory. They advised by Kenyan authorities at the border to present themselves to the United Nations High Commissioner for Refugees (UNHCR) in Uganda. This has promoted others find alternative routes to access the country and present themselves at police stations or the Red Cross offices. Five Burundi asylum seekers were returned to Uganda while three others who accessed the country were assisted to reach Red Cross Kitale. The Refugee Consortium of Kenya is still following up with the relevant authorities to resolve this matter.

Dadaab

In the period under review, the number of foreign nationals entering Kenya from Ethiopia and Somalia was 2,222. This represents an eight percent increase compared to the figure of 2,055 recorded in December, 2017. Figure 1 below shows the distribution of border entry observations since January, 2017.

NUMBER OF BORDER ENTRIES PER LOCATION

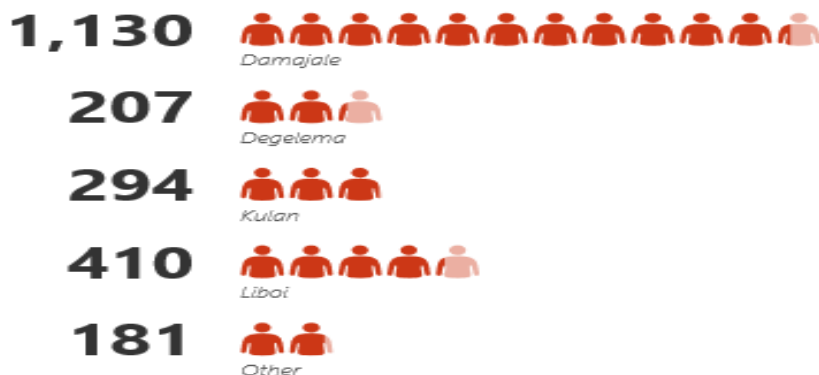


Figure 1: Number of border entries for January, 2018

Damajale recorded the most entries among the areas that RCK was monitoring in the period under review. Border entries observed at this point accounted for 51 percent of all the border entries recorded. This was followed by Liboi (19%), Kulan (13%) and Degelema (9%). These four locations are near the Dadaab Refugee Camp complex which could explain the high levels of traffic. The other locations include Abdisugow, Amuma, Diif, El-Wak, Mandera and Wajir.

The individuals observed crossing into Kenya were Ethiopian and Somali nationals. The Ethiopians interviewed for this report indicated that they were from Warder, Fiq, Salahad and Danot areas in Ethiopia.¹ They indicated that they fled Ethiopia due to difference in political opinion with the sitting government. The Somalis interviewed for this report hailed from Hosingo, lower and middle Juba, Kismayu, Salagle and Buale in Somalia.² They cited their reasons for flight as insecurity arising from militia groups controlling the stated areas of origin. They added that the militia groups impose taxes on the residents, thereby increasing their tax burden because they also had to pay government taxes as well.

¹ Interviews were only conducted for persons who were willing to disclose information to RCK monitors. Therefore this does not denote that all persons were from the areas indicated in this report.

² Ibid

Kitale

A total of 85 asylum seekers presented themselves to the Red Cross office in Kitale. These were 56 Burundi nationals, 12 Congolese nationals, and 17 South Sudanese nationals. They are awaiting transportation to Kakuma refugee camp for registration. In spite of the fact that asylum seekers can access Kenyan territory they face some challenges. These challenges include harassment by boda boda operators, robbery and physical assault as some in the community may think that they are thieves.

Malaba

There were no cases of denied entry into Kenyan territory from this border point. However the Immigration Officer there indicated her intention to send a protest letter to the Department of Immigration Service (DIS) headquarters in Nairobi. She lamented that the police have been assisting Burundi and Congolese asylum seekers to access Kenyan territory.

Conclusion

There has not been a significant change in the protection environment for refugees and asylum seekers since December 2017. From the data presented in this report, asylum seekers were reasonably able to access Kenyan territory. Furthermore, there have not been major cases of arrests and/or arraignment in the period under review. However, asylum seekers from Burundi and Congo still face challenges accessing Kenyan territory. Asylum seekers from these two countries were denied entry at the Busia border point – a situation that has not changed since December, 2017. Authorities at the border cite the enforcement of a DIS first country of asylum policy. Officers from RCK are still engaging DIS to resolve this matter.

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