



Refugee Protection Situation Report Volume 2, Issue No.4 of 2018

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Date: 11th April, 2018

Introduction

This report focuses on refugees and asylum seekers' protection situation in Kenya. Specifically, it provides information on arrest and arraignment of 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 the Refugee Consortium of Kenya (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 Commissioner for Refugees (UNHCR) and the United Nations Voluntary Fund for Victims of Torture (UNVFVT).

Data used for this report was collected by 9 RCK legal officers and 40 protection and border monitors. It was collected on a daily basis and was reinforced by information collected during legal interventions at police stations and courts of law. The geographical areas covered for detention monitoring included Dadaab, Garissa, Kakuma and Nairobi. Cross border movement data covered 14 entry points along the Kenyan border. These were Abdisugow, Amuma, Busia, Dajabula, Damajale, Degelema, Diif, El-Wak, Kitale, Kulan, Liboi, Malaba, Mandera and Wajir border points.

In the period under review there was a 49 percent decrease in the number of cases handled by RCK staff as compared to the previous month. Ninety-two percent of the cases related to the offence of unlawful presence contrary to section 53(1) (j) of the Citizenship and Immigration Act, 2011. Eight percent of the cases related to the offence of residing outside a designated area contrary to section 25(f) of the Refugees

Act, 2006. For the cases that ended up in convictions, the accused persons were fined between Ksh.20,000 and Ksh.50,000 or condemned to face an imprisonment term that ranged from 3 months to 6 months. The penalties meted out by the courts were lower in March than in February. The upper limit of the fines in February was Ksh.250,000 as compared to Ksh.50,000 in March. The upper limit of jail term in February was 18 months as compared to 6 months in March.

Arrests and Arraignment Cases

A total of 38 asylum and immigration cases were recorded in the period under review. This is a 49 percent decrease from the number of cases reported in February, 2018. The total number of cases since January stands at 158 cases. A total of 92 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 (8%) related to the offence of residing outside a designated area contrary to section 25(f) of the Refugees Act, 2006. Seventy three percent of the cases involved men while 11 percent of the cases involved women. Minors accounted for 15 percent of the cases since January, 2018 with a ratio of 11 to 4 in favour of the boys. Table 1 below provides a breakdown of the types of cases that RCK staff intervened in the month of March, 2018.

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.	3 Somali nationals (2 adult males and 1 adult female)	The accused PoCs were convicted of the offence and were fined Ksh.20,000 or face 6 months in the alternative. A further order of relocation to the camp was issued by the courts.
	Arraignment: Unlawful presence.	5 Somali nationals (2 adult males, and 3 minor females)	2 of the 3 minor females were deported after the court concluded that they were not seeking asylum in Kenya. The other female

			minor was released after proof of Kenya nationality was presented in court. Cases against the 2 adult males is still ongoing.
Mwingi	Arraignment: Unlawful presence.	5 Somali nationals and 3 Tanzanian nationals (4 adult males, 3 minor males and 1 adult female)	All the 3 minors were released on free bond pending deportation to Somalia as they were not seeking asylum in Kenya. 1 Somali adult male and 1 Somali adult female were released after they produced refugee documentation. Cases against the 3 Tanzanian nationals are still ongoing.
Nairobi	Arraignment: Unlawful presence.	15 Ethiopian adult males.	The accused persons pled not guilty to the offence as they claimed to have the proper travel and visa documents. However the courts did not agree with them and issued a deportation order against them. An RCK lawyer was present and asked each of them whether they were seeking asylum to which they all responded that they were not.
Wajir	Arraignment: Unlawful presence.	7 Somali adult males	5 of the 7 accused persons were convicted and fined Ksh.50,000 or face between 3 and 6 months in prison in the alternative. A further order of relocation to Dadaab camp was issued after they satisfy the penalty outlined by the court. The remainder of the cases are still ongoing.

Table 1: Breakdown of arrest and arraignment cases

Access to Territory

Busia

There were no reports of entry at this point in the period under review.

Dadaab

In the period under review, the number of foreign nationals entering Kenya from Ethiopia and Somalia was 2,081. This represents a seven percent decrease compared to the figure of 2,234 recorded in February, 2018. The total figure for border entry observations since January, 2018 is 6,537. Figure 1 below shows the distribution of border entry observations since January, 2018.

NUMBERS OF BORDER ENTRIES PER LOCATION

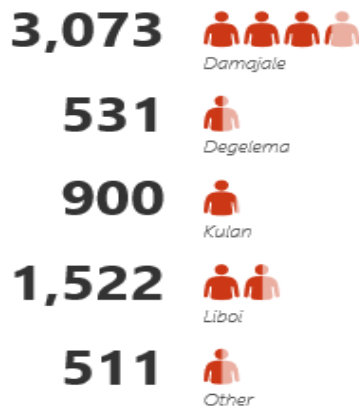


Figure 1: Number of border entries since January, 2018

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 47 percent of all the border entries recorded. This was followed by Liboi (23%), Kulan (14%) and Degelema (8%). These four locations are near the Dadaab Refugee Camp complex which could explain the high levels of border entry observations. The other

locations include Abdisugow, Amuma, Diif, El-Wak, Mandera and Wajir which accounted for eight percent of the entries.

The individuals observed crossing into Kenya were Ethiopian and Somali nationals. The Ethiopians interviewed for this report were from Ogaden region of Ethiopia. They were mainly from Makahil, Reer-Isaack, Bahgeni and Malingun clans and fled Ethiopia due to difference in political opinion with the government. The Somali nationals interviewed for this report hailed from lower and middle Juba, Kismayu, Salagle, Buale, Hosingo, Baqdad and Kanjaron in Somalia. They cited their reasons for flight as insecurity arising from militia groups controlling the stated areas of origin.

Kitale

A total of 64 asylum seekers from the Democratic Republic of Congo crossed at this border point. Thirty eight of them were male while twenty six were female. They were allowed access into the country and were facilitated to travel to the Kakuma refugee camp. No cases of arbitrary arrests or detention were observed at this border point.

Malaba

There were no reports of entry at this point in the period under review.

Conclusion

The information presented in this report provides evidence that refugees have access to territory in the country. In the areas that RCK has been monitoring, there were no cases of denial of entry. This conclusion is valid despite the decreased flow of asylum seekers gaining access.

Moreover, there has been a decrease in cases of arrests and detention on asylum related matters. There has been a 49 percent decrease in these cases. This indicates that the asylum environment was relatively conducive in the period under review.

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