



## **Refugee Protection Situation Report Volume 2, Issue No.6 of 2018**

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

**Date: 14<sup>th</sup> June, 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 12 entry points along the Kenyan border. These were Abdisugow, Amuma, Busia, Dajabula, Damajale, Degelema, Diif, El-Wak, Kitale, Kulan, Liboi and Malaba border points.

In the period under review, there was a 50 percent decrease– from 108 cases in April to 54 cases in May – in the number of cases handled by RCK staff and monitors. Forty-six percent of the cases related to the offence of unlawful presence contrary to section 53(1) (j) of the Citizenship and Immigration Act, 2011. Fifty-four 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 proceeded to court and ended up in convictions, the accused persons were fined between Ksh.10,000 and Ksh.100,000 or in default to serve imprisonment terms ranging from one month to 12 months. The penalties meted out by the courts in April were similar to those orders in May. The upper limit of the fines for both months was Ksh.100,000. The upper limit of jail term for the two months was 12 months.

### Arrests and Arraignment Cases

A total of 54 asylum and immigration cases were recorded in the period under review. This is a 50 percent decrease from the number of cases reported in April, 2018. The total number of cases recorded since January stands at 320, 73 percent of which 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 (27%) related to the offence of residing outside a designated area contrary to section 25(f) of the Refugees Act, 2006. Sixty-six percent of the cases involved men while 18 percent of the cases involved women. Minors accounted for 13 percent of the cases since January, 2018 with a ratio of 9 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 May, 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	10 adult males and 5 adult females (all Somali nationals)	Seven of the accused were discharged by the court. They were ordered to return to the Dadaab refugee camp. The remaining eight were convicted of the offence and were fined between Ksh.10,000 and Ksh. 20,000 or spend between one month and three months in prison in the alternative.
Kakuma	Arraignment: Unlawful presence	1 South Sudanese adult male	The matter was withdrawn by the prosecutor following an appeal from RCK as South

			Sudanese Nationals have prima facie status in Kenya. He was escorted to Kakuma for registration.
	Arraignment: Residing outside a designated area without authorization	5 adult males and 7 minor males. All South Sudanese.	All the accused persons were discharged after RCK legal officers mitigated on their behalf.
Mandera	Arraignment: Unlawful presence	8 Somali adult males	All the accused persons were convicted of the offence. They were fined between Ksh.40,000 and Ksh.100,000 or spend between 3 months and 12 months in prison in the alternative. They all paid their fines and the police arranged their deportation to Somalia. The accused persons indicated that they were not seeking asylum.
Mwingi	Arraignment: Unlawful presence	3 adult males, 5 adult females, 1 minor male and 1 minor female (all Somalia)	All the accused persons were discharged by the court. The court further ordered that they be taken to the nearest refugee camp for registration.
Nairobi	Arraignment: Unlawful presence	5 adult males (3 Ethiopians and 2 Somali nationals)	All the accused persons were released after they produced documents that confirmed that they were asylum seekers in Kenya.
	Arraignment: Residing outside a designated area	1 Somali adult male	The accused person was convicted of the offence. He was fined Ksh.20,000 or spend three months in prison in the alternative.

	without authorization		
Wajir	Arraignment: Unlawful presence	3 Somali adult males	All the accused persons were convicted. They were fined Ksh.51,000 or spend six months in prison in the alternative.
	Arraignment: Residing outside a designated area without authorization	1 Somali adult male	The accused person was discharged after an officer from RCK intervened.

Table 1: Breakdown of arrest and arraignment cases

## Access to Territory

### Dadaab

In the period under review, the number of foreign nationals entering Kenya from Somalia was 923. This represents a 47 percent decrease compared to the figure recorded in April, 2018. This decrease was largely occasioned by mobility challenges as a result of heavy rainfall. Seventy nine percent of the 923 individuals were adults (32% men & 47% women) while 21 percent were minors (10% boys & 11% girls). The total figure for border entry observations since January, 2018 stands at 9,171. Figure 1 below shows the distribution of border entry observations since January, 2018.

### NUMBERS OF BORDER ENTRIES PER LOCATION

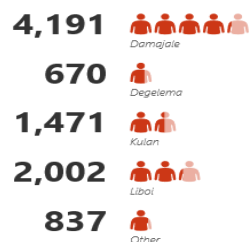


Figure 1: Number of border entries since January, 2018

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 46 percent of all the border entries recorded. This was followed by Liboi (22%), Kulan (16%) and Degelema (7%). 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 and El-Wak which accounted for nine percent of the entries.

The individuals observed crossing into Kenya were Somali nationals. Those interviewed for this report hailed from Warder, Danot, Fiq and Lagahidda all from Ogadenia in Somalia. They cited their reasons for flight as insecurity arising from militia groups controlling the stated areas of origin and political differences between them and the ruling class therein.

## **Conclusion**

The number of arrests and arraignments have significantly reduced. There was a 50 percent drop in cases recorded in May as compared to those recorded in April. This could be attributed to limited movements owing to the observance of the Holy Month of Ramadhan. Asylum seekers also had fair access to territory with no reports of refolement recorded.

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