



## **Refugee Protection Situation Report Volume 2, Issue No.10 of 2018**

**Period: 1<sup>st</sup> September – 30<sup>th</sup> September**

**Date: 9<sup>th</sup> October, 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 the 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).

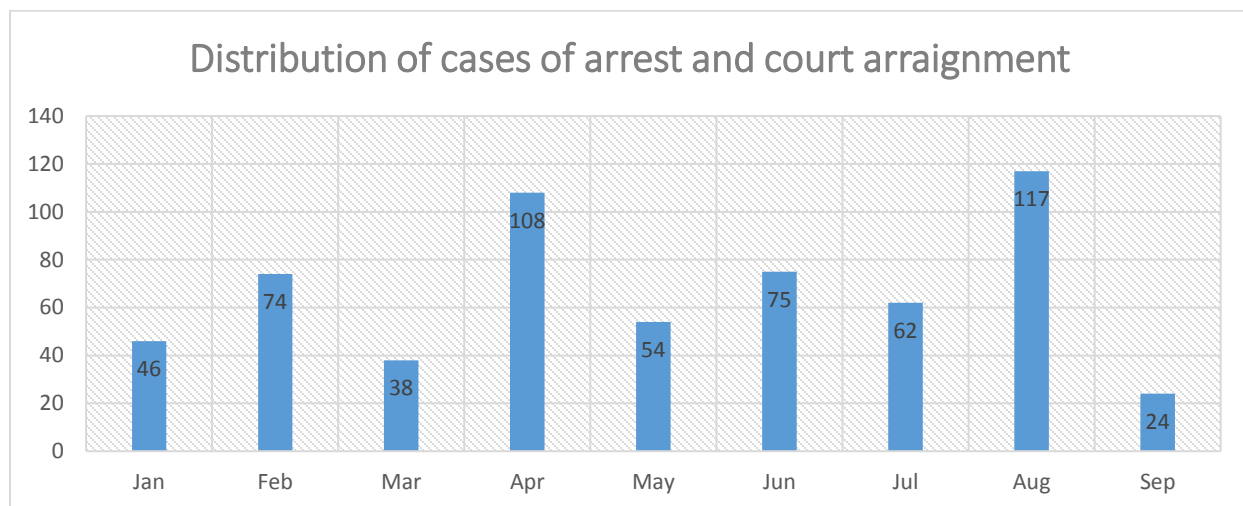
Data used for this report was collected by RCK legal officers and RCK protection and border monitors. This was on a daily basis and was reinforced by information collected during legal aid clinics, and interventions at police stations and courts of law. The geographical areas covered for detention monitoring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

### **Arrests and Arraignment Cases**

Twenty-four asylum and immigration cases were recorded in the period under review. This amounts to 79 percent decrease from the number of cases reported in August, 2018. The total number of cases recorded since January stands at 598, 73 percent of which related to the offence of unlawful presence contrary to

section 53(1) (j) of the Kenya 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 598 cases involved men while 19 percent involved women. Minors accounted for 15 percent (10% boys and 5% girls) of the cases since January 2018.

Fines and jail terms recorded in September were significantly lower than those recorded in August. The highest fines recorded in August was Kes.200,000 as compared to Kes.50,000 in September. The longest sentence imposed by the court in August was 12 months as compared to a month in September. Graph 1 shows the distribution of cases handled by RCK since January 2018 while table 1 below provides a breakdown of the types of cases that RCK staff intervened in the month of August, 2018.



Graph 1: Distribution of cases of arrests and arraignment in courts recorded by RCK since January, 2018.

**Summary of reports of arrests and arraignments**

Place of Incident	Incident	Characteristics of PoCs	Status of Situation
Busia	Arrest: Unlawful presence	9 persons: 2 adult males, 2 adult females, 4 minor males and 1 minor	They were all released to head to Kakuma after intervention from an officer from RCK.

		female (8 Congolese and 1 South Sudanese)	
Garissa	Arraignment: Residing outside a designated area without authorization	3 Somali adult males.	Two of the three accused persons were discharged by the court. The court further ordered that they be transported back to Dadaab refugee camp. The other accused person was convicted of this offence and fined Kes.10,000. This accused still faces other charges of impersonation and giving false information to a government officer.
	Arraignment: Unlawful presence	3 Somali Nationals (3 adult males and 1 minor male)	All the cases against the accused had not been concluded at the time of reporting and are ongoing.
Kisumu	Arraignment: Unlawful presence	2 Congolese male adults	The accused persons were released. This was after it was established that they were registered in Nairobi and Mombasa.
Mwingi	Arraignment: Residing outside a designated area without authorization	1 Somali minor male	The accused person was released after RCK intervened in court. He was ordered back to Dadaab.
Wajir	Arraignment: Unlawful presence	6 adult males (3 Ethiopians and 3 Somali nationals)	The court convicted all the accused persons after it emerged that they were in Kenya for economic opportunities. They were fined Kes.50,000 or serve 1 month in prison. Thereafter the court ordered for their deportation.

**Table 1: Breakdown of arrest and arraignment cases**

## Access to Territory

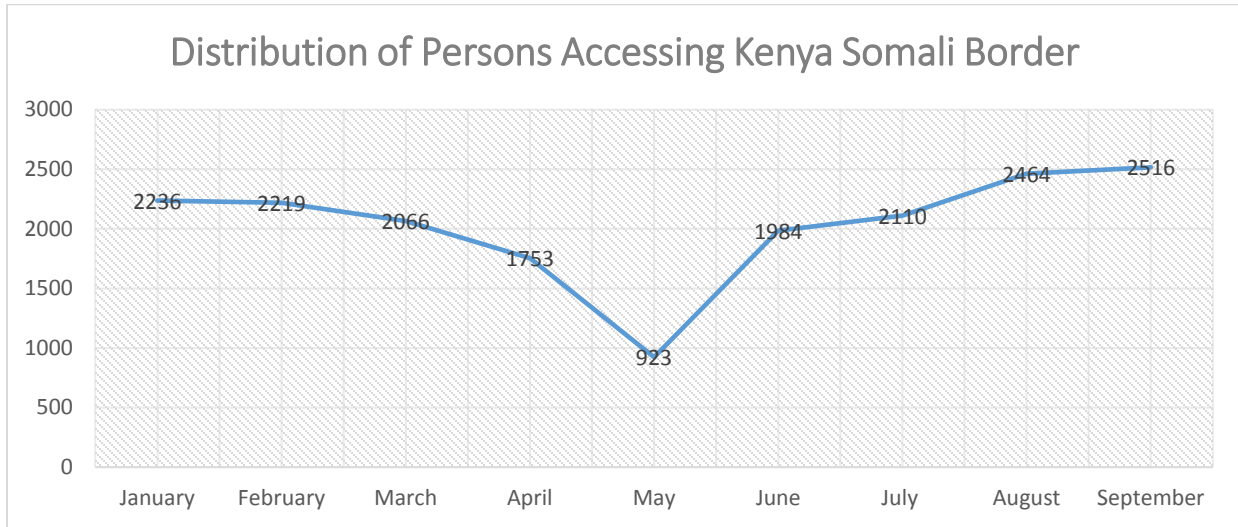
### *Bungoma*

An adult Burundi national presented himself to the police upon entry into Kenya from Uganda. He sought to be reunited with his family who are in Kakuma refugee camp. The police did not charge him with any offence and allowed his passage to Kakuma.

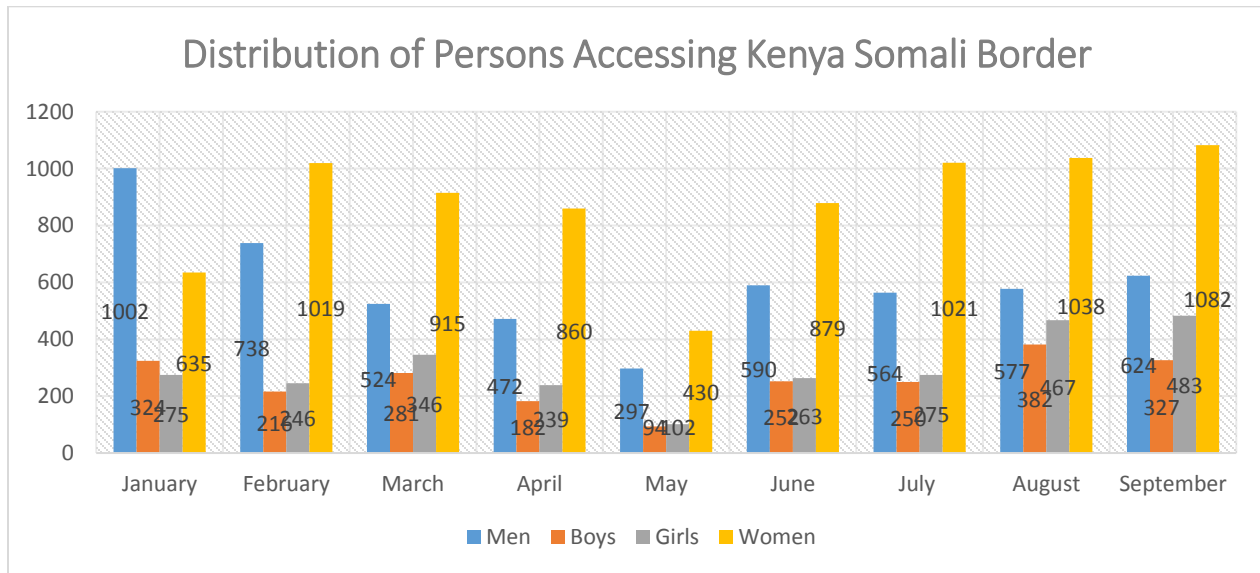
### *Dadaab*

In the period under review, the number of foreign nationals entering Kenya from Somalia was 2516. This represents a two percent increase compared to the 2464 figure recorded in August, 2018. Sixty-eight percent of the 2516 individuals were adults (25% men & 43% women) while 32 percent were minors (13% boys & 19% girls). The total figure for border entry observations since January, 2018 stands at 18,271.

Graph 2 below shows the distribution of entry per month since January, 2018. Graph 3 below shows the distribution of the persons entering Kenya from Somalia disaggregated broadly by age and gender. Figure 1 below shows the distribution of border entry observations since January, 2018. It should be noted that those accessing Kenyan territory are not necessarily newly arrived asylum seekers and includes refugees and asylum seekers that left Dadaab for Somalia for whatever reason. Officers from RCK were not able to ascertain which of the foreign nationals were asylum seekers as some of those gaining access to Kenyan territory did not want to be interviewed.

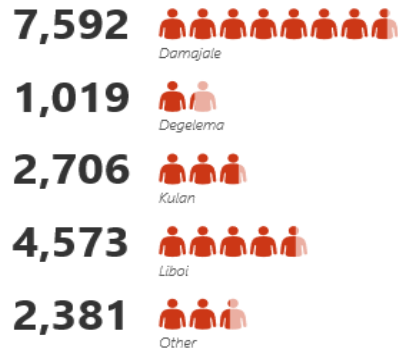


**Graph 2: Distribution of persons crossing into Kenya from Somali per month**



**Graph 3: Distribution of persons entering Kenya from Somalia by age and gender.**

## NUMBERS OF BORDER ENTRIES PER LOCATION



*Figure 1: Number of border entries since January, 2018*

The individuals observed crossing into Kenya were Ethiopian and Somali nationals. 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. The ongoing conflict between Oromo and Somali controlled areas in Ethiopia also contributed to the increase in entry observations.

### *Kitale*

There were 72 asylum seekers that accessed Kenyan territory through this location. They were made of Burundi, Congolese, Rwandan and Ugandan nationals. Fifty-nine of them were adult males while 13 of them were adult females. They were facilitated to move to Kakuma to register for asylum after RCK officers intervened with the local authorities on their behalf.

### *Kisumu*

Four asylum seekers presented themselves to the Police. They were from Burundi and had UNHCR registration documents from Tanzania. No charges were brought to court against them and they were allowed to travel to Kakuma refugee camp.

### *Malaba*

One refugee who had left Kenya for Uganda was intercepted while crossing back to Kenya. His reasons for crossing into Uganda were unclear. He was allowed to go to Kakuma where he is registered as a

refugee after RCK monitors persuaded the immigration authorities to allow him into the country. No charges were presented against the refugee.

## **Conclusion**

The general refugee protection situation from the foregoing information is fair. There were no cases of unjust penalization of asylum seekers. There was also evidence that asylum seekers could enter the country without undue hindrance. However encampment policy still negatively influences the freedom of movement for refugees. In as much as refugees charged with the offence of residing outside a designated area without authorization were rarely imprisoned, they cannot move freely within the republic without movement passes from the Refugee Affairs Secretariat. This limitation has yet to be justified in law.

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