



KENYA

Somali Refugees

I. Refugee Population in Kenya

As of 31 December 2013, the total number of registered refugees and asylum-seekers with UNHCR in Kenya stood at **587,223**. The vast majority, 477,424 persons, are from Somalia followed by asylum-seekers and refugees from South Sudan (46,176), from Ethiopia (31,209), the Democratic Republic of Congo (14,510) and other nationalities. Out of the 477,424 Somali refugees, 391,207 live in the Dadaab camps, 53,816 in Kakuma and the remaining refugees in Nairobi.

Table 1: Number of registered refugees by country of origin

Registered Refugees - 2013 (as of 30 June 2013)					
Country of Origin	Alinjugur	Dadaab	Kakuma	Nairobi	Totals
Somalia	132,611	258,596	53,816	32,401	477,424
Ethiopia	3,236	12,748	7,272	7,955	31,209
Sudan		21	7,666	275	7,962
DR Congo	2	129	7,809	6,570	14,510
Rwanda		18	554	858	1,430
Eritrea		31	115	1,602	1,748
Burundi		18	5,024	411	5,453
South Sudan	1	803	45,309	63	46,176
Uganda	3	56	914	148	1,121
Other	2	10	61	117	190
Totals	135,855	272,428	128,540	50,400	587,223

II. Situation Overview: Protection Situation and options for local integration / voluntary return of refugees

Introduction:

The Republic of Kenya has acceded to the 1951 Convention/1967 Protocol relating to the Status of Refugees and the 1969 OAU Convention Governing the Specific Aspects of Refugee Problems in Africa. In addition, Kenya has ratified other international instruments protecting human rights, including the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, the Convention on the Elimination of All Forms of Discrimination against Women and the Convention on the Rights of the Child as well as the International Covenant on Civil and Political Rights (ICCPR). In essence, the country adheres to its basic obligations under these instruments, in as much as asylum-seekers are granted admission into Kenya and receive protection and assistance. Indeed, the country has a long tradition of providing asylum for refugees.

In December 2006, Kenya enacted its first refugee legislation, which came into force on 15 May 2007. The Refugee Act allows the designation of areas in which refugees may reside (a) transit centres and (b) refugee camps. The Act does not indicate whether refugees shall be required to reside in these designated areas. The Department of Refugee Affairs (DRA) commenced the registration of refugees in Kenya in March 2011. Initially registration efforts were limited to Dadaab refugee camps, Kakuma and Nairobi, but in the course of 2011 and 2012 expanded their registration activities and operates offices now as well in Mombasa, Malindi, Nakuru, Eldoret and Isiolo. Registration activities in the urban areas are currently suspended as a consequence of the relocation directive of December 2012.

It is noteworthy that a small number of refugees remain subject to arbitrary arrest and detention if they are found residing in urban areas without authorization, but they are always released after intervention by protection staff or legal partners. The new Citizenship and Immigration Act (2011) may offer some opportunities for refugees to integrate locally in Kenya. It is fair to say that *de jure* and *de facto* local integration of refugees into the Kenyan community is extremely limited owing to the restrictions on their movement and the lack of authorization for refugees to engage in gainful employment or other forms of self-reliance as work permits are not issued to refugees. In any case, formal employment opportunities are scarce given Kenya's economic situation.

Asylum-seekers have historically been granted admission into Kenya and the country has a long tradition of providing and securing asylum for refugees. Refugees in Kenya mainly receive UNHCR protection and assistance at the Dadaab and Kakuma camps. These camps are characterized by harsh living conditions, limited opportunities for economic activity, insecure environment, and are situated in remote semi-arid to arid regions with little surface water where refugees and local population competes for scarce natural resources. The government policy confines refugees to designated areas and provides only permission to a handful of refugees, who are self-sufficient, to reside outside camps. In the Nairobi context refugees have limited access to local and national economic activities, however, many of them are self-sufficient. In the light of the urban policy UNHCR and partners attempt to enhance livelihood and other self-reliance projects for refugees in the urban areas.

Relocation Directive

On 12 December 2012 the Kenyan Department of Refugee Affairs (DRA) issued a directive stating that the authorities had stopped all urban refugee operations with immediate effect. The notion of stronger application of the encampment policy and relocation of refugees and asylum-seekers to refugee camps came as a result of the public statements made by the authorities. According to these statements, Somali refugees were expected to relocate to the Dadaab while refugees of other nationalities were requested to move to Kakuma.

On 19 January 2013 one of UNHCR's legal partners Kituo Cha Sheria filed a constitutional petition in the High Court challenging the directive on various grounds. Given the urgency of the matter, Kituo Cha Sheria also sought an injunction ordering the Government of Kenya to stop the relocation of refugees pending the hearing and determination of the petition. On 23 January 2013 the case was filed before a judge in the High Court who issued interim orders stopping the government from relocating the refugees. On 4 February 2013 UNHCR's application to be admitted to the petition as *amicus curiae* was granted by the Court.

The main hearings in front of the High Court have been completed at the end of May and the ruling was pronounced on 26 July 2013. The High Court concluded that the Directive is in violation of the right to freedom of movement, right to dignity, right to fair and administrative action and that it violates the State's responsibility towards persons in vulnerable situations, all rights guaranteed by the Kenyan Constitution, 2010. In addition, the Court declared that the proposed implementation of the Directive is a threat to the *non-refoulement* principle, contained in the Section 18 of the Refugees Act, 2006. The Court ordered that the Directive be quashed. In early August 2013, the Attorney General's office filed a notice of appeal indicating that the Government will appeal the High Court ruling in its entirety. UNHCR is in the process of analyzing the new legal situation and its impact on the urban refugee programme. Consultations are held with refugee communities and legal partners (within Legal Advocacy TG) as the

substantive memorandum of appeal and associated records are expected from the Government (to be filed within 60 days from the date of notice of appeal).

The authorities have failed to reinstate the registration and documentation services for asylum-seekers and refugees in urban centers.

Voluntary Return

The large majority of refugees in Kenya are of Somali nationality. Although recent developments in Central and South Somalia, coupled with some cross border movements, have opened the debate for support to those who wish to go back to areas of origin, UNHCR has not observed large sustainable return movements of refugees to Somalia. A group of refugees from Kakuma recently conducted a successful go and see visit to Somalia. The relocation directive also triggered the spontaneous return of some Somalis from the urban areas to Mogadishu, which was monitored by UNHCR colleagues in Somalia.

On 10 November 2013 governments of Kenya and Somalia and UNHCR have signed the **Tripartite Agreement**¹ governing the voluntary repatriation of Somali refugees living in Kenya. The Agreement defines the roles and responsibilities of signatories and it includes internationally accepted standards that ensure voluntary character of refugees' repatriation.

It is underlined that the recently concluded tripartite agreement governing future voluntary returns from Kenya to Somalia does not affect the assessment of international protection needs of asylum-seekers from Somalia. As with other countries, the fact that some Somalis may choose to return spontaneously despite the less than ideal circumstances does not change the fact that many Somalis continue to flee in search of international protection, either for 1951 Convention reasons or for reasons that may bring them within broader international protection criteria. Any assistance provided by UNHCR for spontaneous return to Somalia would be aimed at supporting individuals who, being fully informed of the situation in their places of origin, choose voluntarily to return. Any future role of UNHCR in the facilitation of voluntary repatriation movements to Somalia and any future involvement by UNHCR in efforts aimed at sustainable reintegration for returnees and IDPs in Somalia should not be construed as implying an assessment on the part of UNHCR that Somalia is safe for every individual, regardless of personal profile or personal circumstances. It should be noted in this regard that voluntary repatriation and forced return are processes of fundamentally different characters, engaging different responsibilities on the parts of the various actors involved.²

In terms of resettlement, UNHCR will focus on vulnerable groups among the Somali refugee population for whom return is not considered to be a viable option in any foreseeable future. Other refugee nationalities considered for resettlement include Congolese, Ethiopians, Eritreans and Sudanese refugees; for none of these nationalities voluntary return is currently an option.

III. Resettlement activities UNHCR Kenya 2012- 2013

Key Points

- In view of challenges in accessing refugees in Dadaab due to the unpredictable security situation, submissions from the Kenya operation fell significantly in 2012. The Kenya operation submitted a total of 3,240 refugees between 1 January and 31 December 2012. At the same time a total of 2,658 refugees departed to several resettlement countries.
- Due to the lack of access to Dadaab, some resettlement countries started implementing innovative interviewing methodologies in 2012: video conferencing used by Canada, Australia and the UK, while the USA funded the construction of a relocation facility in Kakuma for out-processing of refugees from Dadaab. Sweden and Norway processed refugees from Dadaab by transferring them to the IOM Transit center in Nairobi for interviews.
- Countries for resettlement processing of refugees in Kenya include the USA, Australia, Canada, the UK, Norway, Sweden, the Netherlands, Denmark, Finland and France.

¹ *Tripartite Agreement Between the Government of the Republic of Kenya, the Government of the Federal Republic of Somalia and the United Nations High Commissioner for Refugees Governing the Voluntary Repatriation of Somali Refugees Living in Kenya*, 2013, 10 November 2013, <http://www.refworld.org/docid/5285e0294.html>.

² International Protection Considerations with Regard to people fleeing Southern and Central Somalia, UNHCR January 2014, HCR/PC/ SOM/14/01

- Due to the shift in approach from the resettlement of protracted caseloads to individual protection referrals, the Kenya operation invests significant time and resources in training of UNHCR staff and partners in identification of refugees in need of resettlement for protection reasons.
- Progress has been made with regards to the anti-fraud work plan: UNHCR became part of the Nairobi anti-fraud workgroup, anti-fraud training was organized for colleagues and partners and a wide range of anti-fraud materials were distributed among refugee communities and partners.
- Immediate protection needs of high profile refugees were effectively addressed through resettlement.
- The average processing time between submission and departure of non-Somali refugees in Kenya currently stands at 341 days, while for the Somali refugees this processing time takes 458 days. This information only reflects the processing time for refugees who actually depart, since thousands of Somali refugees have been pending in the process for several years.



Somali refugee, Dahira, 11, carries her severely malnourished baby brother, Mahad, on her back in Dagahaley, one of the camps in Dadaab, north-east Kenya. The family made their way to Dadaab, the world's largest refugee camp complex, to escape drought and war in Somalia's Bay region. Mahad was admitted to a camp hospital on the day this picture was taken. UNHCR/ Brendan Bannon/ July 2011.

Table 2: Statistics on submissions and departures 2012 - 2013

Summary of Resettlement Submissions / Departures in 2012-2013 from the 3 locations				
	2012		2013	
Site	Submissions	Departures	Submissions	Departures (as of 31 December 2013)
Dadaab	1,273	1,071	2,061	1,281
Kakuma	1,190	773	2,976	1,503
Nairobi	777	814	2,375	820
Totals	3,240	2,658	7,412	3,604

Table 3: Resettlement submissions/departures by country of origin

Summary of Resettlement Submissions / Departures in 2012 – 2013 by Country of Origin				
	2012		2013	
Country	Submissions	Departures	Submissions (as of 31 December 2013)	Departures (as of 31 Dec 2013)
BDI	21	14	58	13
COD	230	192	1,783	307
ERT	20	25	111	25
ETH	701	806	1,181	469
RWA	24	26	22	27

SOM	2,170	1,441	3,985	2,612
SUD	38	102	29	61
UGA	5	14	24	2
SSD	12	35	214	88
IRN	-	3	-	-
Other	19	-	5	-
Totals	3,240	2,658	7,412	3,604

Table 4: Resettlement submissions/departures by country of resettlement

Statistics on Submissions / Departures 2012 - 2013 by Country of Resettlement				
	2012		2013	
Country	Submissions	Departures	Submissions (as of 31 December 2013)	Departures (as of 31 Dec 2013)
USA	1,023	1,686	5,304	2,040
CAN	820	213	254	464
AUS	50	141	932	311
SWE	402	88	342	331
GBR	583	460	155	260
NET	114	29	145	-
NOR	218	18	218	159
DEN	14	10	16	22
FRA	6	6	28	3
Other	10	7	18	14
Totals	3,240	2,658	7,412	3,604

IV. Resettlement of Somali refugees

Resettlement as a form of responsibility sharing is essential to assist keeping asylum space open. However, the situation in Dadaab refugee camps and its environment has been rendered precarious following security incidents, including the abduction of aid workers in 2011 and 2012, and has been exacerbated by Kenya's incursion into Somalia in the fight against Al-Shabaab. This has resulted in heightened security risks and consequent travel restrictions to Dadaab by several foreign governments on their nationals. Resettlement processing out of Dadaab has been severely affected by this situation as reflected in the processing statistics. Many resettlement countries have shifted focus to referrals from Kakuma and Nairobi at the expense of resettlement out of Dadaab where the majority of Somali refugees are resident.

At the same time several resettlement countries have requested UNHCR to put on hold submissions of Somali refugees, mainly due to the fact that they have large numbers in their pipeline. If the resettlement countries decide not to return to Dadaab for a prolonged period of time, they will not be able to clear their pipeline and hence not resume processing of newly submitted cases.

In the meantime innovative methodologies of interviewing are being explored, such as video conferencing (used in 2012 and 2013 by Canada, Australia, the UK and Sweden) and the relocation of refugees to Kakuma camp (supported by the USA) or Nairobi (supported by Sweden and Norway).

As mentioned before, already in 2012, UNHCR Kenya shifted its resettlement strategy from majority protracted refugee population profiling and expedited referrals for the Somali refugees in the past to individual protection cases identification and referrals. This means that also in 2013 and 2014 a smaller number of refugees from the protracted 1992 Somali refugee population in Dadaab will be identified for resettlement compared to previous years, while there will be increased numbers of referrals of refugees with strong protection needs or other vulnerabilities from all sites. The protection referrals are supported by primary assessments of vulnerabilities carried out by referring units who are also the first point of reference for refugees (Registration, Eligibility, Protection Delivery, Community Services and Medical

units). Protection referrals are also received from implementing partners in refugee protection. In addition to identification through referrals by different units and partners, protection profiling exercises take place in order to identify refugees with vulnerabilities and other protection needs.

The decision to continue with identification of individual protection cases for resettlement processing is also consistent with the current discussions / Tripartite Agreement on voluntary repatriation to Somalia and will assist the operation in identifying specific categories of refugees for whom return will not be an option. Following groups have therefore been identified following this non exhaustive list of vulnerable groups:

- Women at risk who belong to a minority clan
- Women at risk who belong to a clan who has since lost power
- Long standing refugees part of a mixed marriage
- LGBTI cases
- Conversion cases
- Individuals who will most likely be primary targets for attacks because of their influence, such as affluent businessmen, journalists, political activists, people in or related to Somali government
- Persons individually targeted by armed groups
- Long standing refugees from the 1991/92 arrivals who have nothing to return to in Somalia

The main challenge in the overall resettlement processing of Somali refugees include long waiting periods between submissions, acceptances and departures, due to lengthy security checks and current lack of access for resettlement countries to Dadaab. UNHCR continuously raises this issue in stakeholders as well as bilateral meetings with the respective counterparts.

V. Resettlement objective and expected progressive outcomes of strategic use of resettlement in Kenya

2013

Based on the 2013 UNHCR Projected Global Resettlement Needs document the total multiyear resettlement needs in Kenya for 2013 stood at 165,095 refugees out of which 152,375 were Somali refugees (92%). UNHCR indicated to submit 9,349 refugees for resettlement in 2013. However, due to the unpredictable security situation in Dadaab, which has prevented most resettlement countries from processing refugees out of the camps, this target was revised downward at the end of last year to 7,500 refugees (3,500 from Kakuma, 2,500 from Dadaab, 1,500 from Nairobi); a target which was almost fully met with a total of 7,412 submissions in 2013.

As stated before, resettlement in 2013 continued to be used predominantly as a protection tool for individual cases and to a lesser extent as a durable solution for the protracted Somali refugee population. However, only a significant increase of resettlement allocations for Somali refugees and departures of Somali refugees will enable UNHCR to use resettlement as a protection tool in the Kenyan context.

2014

Based on the 2014 UNHCR Projected Global Resettlement Needs document the total multiyear resettlement needs in Kenya for 2014 stood at 151,741 refugees out of which 141,511 were Somali refugees (93%). UNHCR indicated to submit 6,280 refugees for resettlement in 2014. Since the majority of refugees will need to be submitted from Kakuma, this target will only be met under the condition that all current national positions are filled and that a competent P3 Resettlement Officer is appointed to lead the resettlement operation in Kakuma.

Short-term outcomes include:

- Immediate protection needs of refugees for whom resettlement is the only viable durable solution are addressed;
- Continued willingness on behalf of the Kenyan government to receive and register new arrivals is maintained;
- Positive attitude of the Kenyan Government in strengthening the asylum system institution, enhance the implementation of the refugee legislation and policy in view of taking over the

reception and registration and issuance of identify documentation as well as a gradual take-over of refugee status determination is maintained and enhanced.

Mid-term and long-term outcomes include:

- Resettlement will be an illustration of the commitment demonstrated by the international community to share the significant responsibility carried by Kenya and help to preserve and expand protection space;
- Larger resettlement departures will have significant positive impact on remaining refugees, including newly arrived refugees, by reducing overcrowding and allowing a more equitable distribution of the very limited resources available;
- Improve living conditions of refugees in Kenya and the quality of asylum which may also open up space for other durable solutions, in particular self-reliance opportunities inside Kenya;
- Provide durable solutions for a sizable number of refugees, who have no other durable solution prospects and are faced with urgent protection concerns or face other vulnerabilities;
- In the longer term, resettlement will contribute to achieving a higher level of self-reliance of the remaining refugees and pave the way towards engaging the Kenyan government in *de facto* local integration opportunities for specific groups of refugees.

VII. Progress to date and next steps

Progress to date

- During 2013, the Kenya operation submitted a total of 7,412 refugees for resettlement (2,061 from Dadaab, 2,976 from Kakuma and 2,375 from Nairobi) following selection missions from the the Netherlands, Norway, Sweden and the United Kingdom in addition to local circuit rides carried out by Australia, Canada and the USA compared to a total of 3,240 submissions in 2012.
- In November 2012 and May 2013 several relocation movements took place from Dadaab, during which approximately 1,500 refugees were transferred from Dadaab to the transit centre in Kakuma for US CIS interviews and out-processing.
- During 2012 and 2013 three stakeholders meetings took place between UNHCR, resettlement countries, IOM and RSC, while the Resettlement Unit has been holding on a regular basis bilateral meetings with specific resettlement countries.

Challenges

- One of the main challenges for resettlement processing out of Kenya is the requirement of the Kenyan authorities for refugees to possess the government issued refugee ID card in order to obtain exit permits for departure. During 2012 UNHCR launched information campaigns to encourage refugees to register with the government and included this requirement at the early stages of internal processing. However, this situation is now further complicated by the relocation directive of the government in an attempt to strengthen its encampment policy and the subsequent decision to maintain all DRA registration offices in the urban areas closed. This means that many vulnerable refugees who never started government registration or who need to collect their Refugee ID cards cannot be processed for resettlement, while at the same time a large number of refugees accepted for resettlement cannot be cleared for departure.
- A growing number of unaccompanied minors and separated children are in need of best interest determinations/ assessments (BIDs / BIA), the processing of which results in delays in submitting their cases. Other factors leading to delays include the obtainment of custody and divorce documents for vulnerable women at risk with missing husbands.
- Another challenge is the lack of places for specific caseloads in Kenya:
 - For refugees in Dadaab: UNHCR received in 2013 commitments for only 1,250 refugees (UK, Sweden, USA, Australia and Norway) and could therefore not meet the proposed target for Dadaab of submission of 2,500 individuals.
 - For Ethiopian OLF supporters: many countries have decided not to process these refugees anymore, while a number of them face serious protection problems due to the proximity of Ethiopia and the presence of state agents in Kenya.

- There is a need to increase places for medical cases and to reduce the long processing time for urgent and emergency cases due to the delayed identification of municipalities.
- While the Kenya operation aims to submit 6,280 refugees during 2014 any staffing shortfalls, in particular in Kakuma, will have immediate impact on submission figures.

Next steps

Resettlement countries are invited to:

- Increase resettlement places for 2014 and beyond to meet the resettlement needs of the Somali refugee population as well as Ethiopian OLF supporters.
- Identify opportunities to reduce the backlog of Somali refugees in their processing pipeline in order to let these long pending cases depart from Kenya as soon as possible.
- Explore innovative means of conducting resettlement interviews through video-conferencing, relocation to Kakuma or Nairobi and transfer to Evacuation Transit Centers to mitigate resettlement countries' current lack of access.
- Increase the emergency quotas and dossier allocations and reduce the processing time for cases submitted on an urgent and emergency basis, so that UNHCR can efficiently respond to the needs of refugees with strong imminent vulnerabilities.
- Assist in improving UNHCR's and partners' human resource capacity, not only to carry out best interest assessments and determinations for unaccompanied and separated refugee children, but also to increase the overall resettlement capacity in operations with high targets.

Table 5: Summary of resettlement places pledged in 2012, 2013 and 2014

Country	2012	2013	2014 (update)
Australia	No specific quota	750 (3 locations)	0
Canada	No specific quota	150 (urban areas)	400
Netherlands	80 non Somali refugees (Nairobi and Kakuma)	80 non Somali refugees (Nairobi and Kakuma)	80 non Somali refugees (Nairobi and Kakuma)
Norway	170 Somali refugees from Dadaab	150 (Somalis from Dadaab)	TBC
Sweden	350 Somali refugees (300 from Dadaab and 50 from Nairobi)	300 (Somalis from Dadaab and Nairobi)	150 (Somalis from Dadaab and Nairobi)
United Kingdom	230 Ethiopian Oromo refugees (90 from Nairobi and 140 from Kakuma)	330 (Somalis from Dadaab)	300 Dadaab 50 Kakuma
United States	No specific quota	No specific quota	No specific quota



UNHCR, 29 January 2014

An aerial view of the Dadaab refugee complex in north-east Kenya. The camps there house hundreds of thousands of Somali refugees.
Brendan Bannon/IOM/UNHCR