



UNHCR
The UN Refugee Agency

FUNDING SUBMISSION

Strengthening institutions that manage asylum processes in Kenya

**A project implemented in the context of the Asylum Capacity
Support Group**

Government of Kenya and UNHCR
Nairobi, Kenya
December 2021

Project Summary

PROJECT TITLE	Strengthening institutions that manage asylum processes in Kenya
MAIN OBJECTIVES	Legal frameworks and administrative institutions ensure asylum and protection for refugees and asylum-seekers in Kenya in line with national, regional and international standards
BENEFICIARIES	Asylum-seekers in Kakuma, Nairobi and other urban locations, and refugees throughout Kenya
PARTNERS	Department of Refugee Services ¹ in Kenya and other partners through direct implementation by UNHCR
PROJECT DURATION	24 months (January 2022 – December 2023)
BUDGET	USD 1.54 million – DKK 9,981,468

Background and Needs

Kenya has a long history of receiving and hosting persons fleeing from neighbouring countries in the East Africa region. As of 31 October 2021, the population in Kenya stood at 539,084 persons, comprising 479,872 refugees (89%) and 59,212 asylum-seekers (12%), with a steady inflow of new arrivals mainly from South Sudan, Burundi, the Democratic Republic of Congo (DRC) and Somalia. The main refugee and asylum-seeker population is hosted in the refugee camps in Dadaab and Kakuma and the Kalobeyei integrated settlement. Slightly over 86,000 reside in urban locations, primary Nairobi, Mombasa and Nakuru, despite the Government's encampment policy and movement restrictions.

Kenya remains the fifth largest refugee-hosting country in Africa and the thirteenth largest asylum country in the world. Though the total number of refugees in the country has declined over the past several years, Kenya continues to receive new arrivals as a result of the volatile situations in several countries in the region, which together with natural growth through births has led to an increase in the population in the refugee camps.

¹ Under the recently enacted Refugees Act, 2021 the current Refugee Affairs Secretariat will be transformed into the Department of Refugee Services when the Act takes effect in February 2022.

In March 2021, the Government of Kenya announced its decision to close the refugee camps in Dadaab and Kakuma and the settlement in Kalobeyei. To this end, a Roadmap for Solutions, developed jointly by the Government of Kenya and UNHCR, is being implemented in Kenya and across the region with the involvement of governments, UNHCR offices, UN and NGO partners, donors, and development agencies in countries of origin. The Roadmap includes efforts to facilitate enhanced and sustainable voluntary repatriation for refugees in safety and dignity, departures to third countries through resettlement and complementary pathways, and provisions for alternative stay options in Kenya, including for certain refugees from countries within the East African Community (EAC). Additionally, the Roadmap involves the verification of the refugee population in Dadaab and the carrying out of return intentions surveys in all camps. The deregistration of Kenyans who have registered as refugees from the refugee database and the issuance of appropriate documentation to them to confirm their Kenyan citizenship, along with the deregistration from the national database of refugees who have acquired Kenya IDs, are important elements of the Roadmap.

During the Global Refugee Forum (GRF) in 2019, Kenya made several pledges within the areas of education, inclusion, and protection. Among these, Kenya pledged to support the strengthening of institutions and structures that manage asylum, deliver services, and provide security in refugee-hosting areas.² In the same forum, the Government of Denmark pledged to support the establishment of the Asylum Capacity Support Group (ACSG) with the aim of building capacity within national asylum systems in general, including through the provision of technical and other support for the assessment of institutional capacities of specific aspects of national asylum and RSD system. The ACSG was established through affirmation of the Global Compact on Refugees (GCR) and is intended to act as a mechanism for coherent and consistent support to increase the capacity of national asylum systems, including to ensure quality and timely admission, reception, registration, documentation, and identification of persons with international protection needs.³

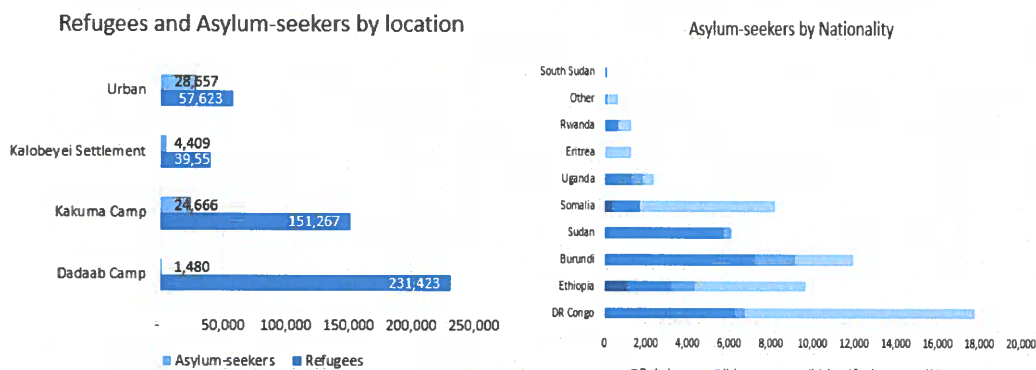
Based on the pledges made at the GRF, Kenya and Denmark were proposed as a match under the ACSG during the follow-up of the GRF in 2021. Denmark has previously supported Kenya in strengthening its capacity to manage and protect refugees, including through the project “Capacity-Building of the Kenyan Refugees and Asylum System – Institutional Capacity for Implementation of the New Refugee Act” from 2009-2013. The overall objective of the project was to strengthen the capacity of the Government of Kenya to take over responsibility for refugee administration and implementation of the Refugees Act, 2006.

² See <https://globalcompactrefugees.org/>

³ Global Compact on Refugees, 2019. Page 23.

Over the past decade, significant steps have been made towards strengthening the national asylum system in Kenya. Registration, refugee status determination (RSD) and documentation responsibilities have been handed over to the Government of Kenya, in particular the Commissioner for Refugee Affairs who heads the Refugee Affairs Secretariat (RAS) within the Ministry of Interior and Coordination of National Government. With the enactment of the Refugees Act, 2021 in February 2022, RAS will be replaced by the Department of Refugee Services (DRS). The functions of RAS previously and DRS going forward include the implementation of the different elements of the asylum system, coordination of assistance, services and durable solutions for refugees and asylum-seekers, and policy formulation, among other responsibilities. UNHCR Kenya continues to support registration and RSD operations through technical guidance and remains engaged in longer-term institutional capacity development.

Currently, the Government of Kenya has registered a total of 59,212 asylum-seekers, with the majority originating from the DRC (17,756 individuals), Burundi (11,916 individuals) and Ethiopia (9,634 individuals). A detailed breakdown of the population in Kenya is provided below.



Objectives and Targets

This project aims to enhance the management of the asylum process and delivery of services in reception, registration, documentation and RSD procedures in Kenya, particularly focusing on access to the national asylum system and fairness and efficiency of RSD procedures, and to enhance the awareness of the new Refugees Act, 2021 for concerned government officials and refugees.

The **objectives** of the project are to:

- Strengthen the Government of Kenya’s asylum management system to deliver fair, efficient and adaptable national RSD procedures aligned to national and international legal frameworks.

- Improve procedures for admission and reception of asylum-seekers to protect against refoulement.

The objectives target four **outputs**:

- Enhanced awareness of the new Refugees Act, 2021 and other relevant legislation for concerned government officials and refugees by—
 - Facilitating the rollout of, and awareness raising on, the new Kenya Refugees Act, 2021.
 - Ensuring that justice and law and order sector actors have adequate knowledge of the asylum system in Kenya.
- Increased fairness of national RSD procedures by facilitating training for RSD staff engaged by DRS to have adequate knowledge, capacity and skills to conduct RSD interventions.
- Enhanced efficiency of national RSD procedures through improved management of RSD support activities, establishment of complex casework teams and establishment of case referral mechanisms.
- Strengthened adaptability of national RSD procedures through the implementation of a Quality Assurance Initiative.

The expected achievements per target, the theory of change analysis, and comprehensive results framework are provided in the sections below.

Strategy

Kenya is party to the 1951 Convention relating to the Status of Refugees and its 1967 Protocol. It acceded to these instruments respectively in May 1966 and November 1981 without reservations. It also ratified the 1969 OAU Convention Governing the Specific Aspects of Refugee Problems in Africa without reservations in June 1992, along with several other international and regional human rights instruments relevant to refugee protection. The refugee and asylum-seeker population in Kenya is managed by RAS within the Ministry of Interior and Co-ordination of National Government. With the enactment of the Refugees Act, 2021, which will come into effect in February 2022, refugee management will become the role of DRS. The status and treatment of refugees in Kenya is currently governed by the Refugees Act, 2006 and the Refugees Regulations, 2009 pending the effective implementation of the Refugees Act, 2021 and the expected updated Refugees Regulations.

The vision and strategic orientation of the refugee programme in Kenya is such that the Government of Kenya, with the combined support of UNHCR, partners, donors and development and financial institutions, will continue to protect all refugees and asylum-seekers through government-led protection processes (registration, documentation, RSD

and data management) and will manage refugee issues through their inclusion in national and county plans, policies and programmes and their economic inclusion as a viable solution to the extent possible. This vision is expected to be achieved through the implementation of the six strategic areas of UNHCR Kenya's Multi-Year Strategy, which will guide the operation in the implementation of the Roadmap for Solutions in 2022 and position the overhauled and presumably smaller Kenya operation for the years ahead. UNHCR's multi-year strategy includes: (1) maintaining asylum space in its humanitarian and civilian nature and upholding protection standards in light of the Government's decision to close the refugee camps; (2) ensuring the establishment and implementation of efficient and fair government-owned protection processes and supporting the development of a legal framework and administrative procedures to prevent and reduce statelessness; (3) achieving durable solutions; (4) ensuring refugees benefit from basic services, including healthcare, education and water, provided by national authorities and the private sector; (5) ensuring refugees continue to enjoy economic inclusion and self-reliance through development of individual capacities and the promotion of a conducive environment for livelihoods opportunities; and (6) ensuring effective prevention and response to the COVID-19 pandemic in the Kenya refugee operation.

The main priorities for the operation in 2022 will be the implementation of the Roadmap for Solutions, while preserving the gains made in the Comprehensive Refugee Response Framework (CRRF) approach over the past several years and continuing to provide lifesaving and basic services to refugees and asylum-seekers in the camps and facilitating access to these services in urban areas.

This proposal is based on the directions set forward in the Roadmap for Solutions and the overall vision. The background, details and activities per objective are as follows.

1. Enhance awareness of the new Refugees Act, 2021 and other relevant legislation for concerned government officials and refugees by facilitating the rollout of and awareness raising on the new Act

The Refugees Act, 2021 will scale up the level of the national refugee management organization from the current Refugee Affairs Secretariat to the Department of Refugee Services, which will remain under the Ministry of Interior and Coordination of National Government. At the time of submitting this proposal, the details of the Refugees Act 2021 have not been published by the Government. However, it is expected that the Act will introduce new bodies and actors in the RSD and appeal processes, along with opportunities for other local solutions, including residency for refugees from countries within the EAC, access to work permits, and other conditions to facilitate socio-economic and financial inclusion of refugees. It is also anticipated that the Act includes new provisions granting the Commissioner for Refugee Affairs more authority in relation to cancellation of

status, expulsion in cases of conduct that is in breach or likely to result in breach of public order or contrary to public morality, and striking persons out of the asylum process if they do not abide by the laws of Kenya.⁴

This project will support the **implementation of activities relating to the introduction and rollout of the Refugees Act, 2021**. For DRS and the management of the asylum system in Kenya, the activities of the project relate to the **development of detailed procedures required to implement the Act** (which will be managed through Implementing Regulations to be issued in due course), the **training of new and existing DRS staff** on the implications of the Act to asylum, RSD, and registration processes, and the **induction of new actors** in the RSD process on their roles and responsibilities. Beyond DRS, the proposed activities include a series of **sensitization workshops** with justice and law and order actors at the Nairobi level and in asylum corridors across the country. The purpose of these workshops will be to raise awareness among these key actors on changes in their roles and responsibilities under the Refugees Act, 2021 and to improve outcomes for asylum-seekers who are brought to their courts.

In addition, it will be essential to provide refugee communities with information on the Refugees Act, 2021 and to offer an opportunity for them to ask questions regarding the impact of the Act on their stay in Kenya. Sensitization and information sharing with refugee communities is vital to ensure refugees are aware of their rights. It is proposed to **organize a dedicated information campaign** tailored towards refugee communities across the country with a focus on the implications of the Act as well as the potential new opportunities, e.g., elements related to the status afforded to nationals of countries within the EAC. The adoption of the Act will further require a **revision and re-issuance of existing information and communication materials** on the asylum system and the channels through which refugees and asylum-seekers can receive assistance.

It is proposed that the above activities be implemented with the support of partners, including the Task Force that has supported the development of the Refugees Act, 2021, under the leadership of DRS or any other body constituted by DRS. UNHCR, together with the legal aid organisation Refugee Consortium of Kenya (RCK), will implement elements of the project. In addition, it is proposed that the NGO FilmAid be engaged in the development of information campaigns.

The expected achievements are:

- Regulations implementing the Refugees Act, 2021 adopted

⁴ It will be important to advocate for the inclusion of provisions in the forthcoming Implementing Regulations relating to the Act to prevent the refoulement of refugees and asylum-seekers in need of international protection.

- 200 DRS staff trained on the provisions of the Refugees Act, 2021 and the forthcoming implementing regulations
- 2 bodies or institutions established under the Refugees Act, 2021 inducted on their roles and responsibilities
- 15 court users' committees trained on the changes in the Refugees Act, 2021
- At least 45,000 persons among the refugee community informed about the provisions of the Refugees Act, 2021

2. Enhance awareness of the new Refugees Act, 2021 and other relevant legislation for concerned government officials and refugees by ensuring that justice and law and order sector actors have adequate knowledge of the asylum system in Kenya

The judiciary and other justice and law and order sector actors play an important role in ensuring that asylum-seekers can access international protection in Kenya. Asylum-seekers travelling to registration points across the country are at risk of being arrested alongside migrants at police check points, and many risk being charged with unlawful presence in the country under the Kenya Citizenship and Immigration Act, No 12 of 2011 (Section 53(1)(j)). To ensure protection of asylum-seekers in line with refugee legislation and the application of the principle of non-refoulement, it is essential for these authorities, as first responders, to have the necessary knowledge, skills and legal awareness. Beyond protecting the rights of asylum-seekers during admission, the judiciary in Kenya has, over the past years, been requested to decide on cases of allegations of rights violations. Notably, the High Court is the second level appellate body for refugee status decisions in Kenya. The Judicial Training Institute (JTI) is responsible for continuing education and training for judges and other judicial officers. However, the JTI does not have a training programme on the performance of their duties in relation to refugee legislation.

The proposed activity seeks to build upon the skills and knowledge of the judiciary and other rule of law actors on refugee protection and the provisions of the Refugees Act, 2021. Under the project, a **training curriculum on refugee management and protection will be developed** and rolled out for the JTI. In addition, the Kenya Magistrates and Judges Association (KMJA) **Judicial Officer's Handbook on Refugee Law of 2010 will be updated** to include new aspects of refugee law and management, including the provisions of the newly enacted Refugees Act, 2021 along with mixed migration movements, trafficking, and refugee reception. Further **training for Court Users' Committees** at refugee entry points and transit corridors will be organized, targeting some 150 court users.

The expected achievements are:

- Development of training curriculum for judges and magistrates on refugee protection and RSD
- Updating and printing of Judicial Officer's Handbook on Refugee Law

- Training of 30 judges and magistrates on refugee protection and RSD
- Training of 150 members of court users' committees on refugee protection following the updated Judicial Officer's Handbook on Refugee Law

3. Identifying and addressing gaps in RSD and registration procedures through the implementation of the Quality Assurance Initiative

From 2014, when the national asylum authorities began implementing the status determination related provisions of the Refugees Act, 2006 the capacities and knowledge of the institution and its staff were progressively developed to build an independent and effective national RSD process. In 2019, the joint RAS-UNHCR RSD team began progressively addressing quality aspects of decision-making and procedures in the RSD process in line with the strategy in place. Gaps and concerns in the RSD process were identified through a quality assurance lens. The introduction of the Quality Assurance Initiative (QAI) in 2019 marked a recognition of the achievements of the national RSD system but also a commitment to continuously work towards improving fair and efficient national asylum procedures.

The purpose of the QAI elements of the project will be to provide DRS with the capacity to systematically focus on quality assurance in its registration and RSD procedures. The QAI will seek to increase the quality of registration and RSD procedures and enhance their fairness and efficiency, including by conducting a detailed **process analysis and case file audit**. The activity will be focused on cases in which rejection was recommended at some point in the RSD process. The activity will encompass an analysis phase to identify gaps and include actionable recommendations. The recommendations will subsequently lead to a **concrete workplan to be implemented over the remaining months of the project**. Gaps relating to knowledge will feed into training activities. The experience and lessons learned of the first year of implementation of the QAI have demonstrated that the pressure on processing in the context of backlog reduction does not provide a suitable environment to address other crucial challenges, including attention to ensure adequate standards of quality in the RSD process. Based on these findings it is proposed to dedicate capacity for the initiative in the form of an **Expert Consultant** and a **Quality and Training Coordinator**.

The Expert Consultant will conduct a detailed analysis of RSD and registration processes and decisions undertaken by DRS. This will form the basis of an initial workplan covering the period March 2022 to June 2023, including a six-month and twelve-month review, as well as the development of a workplan for the second term covering the period of July 2023 to December 2023. The Expert Consultant will work closely with a Quality and Training Coordinator, who will be seconded to DRS to oversee the implementation of the QAI component as well as other activities of the proposal. To ensure sustainability of the

intervention after the end of the project, two senior DRS RSD staff in Kakuma and Nairobi will be assigned to the initiative on a part-time basis. To compensate for loss in capacity and to ensure the DRS RSD staff will be able to work effectively on the activity, the proposal includes **two additional staff to be recruited by DRS** to compensate for the lost capacity. To facilitate the adoption of the analysis, recommendations, and development of a workplan, **three workshops will be organized** to share lessons learned and analyse results and achievements of the QAI at the end of the project period.

The expected achievements are:

- Comprehensive assessment of the quality of the registration and RSD process conducted
- Detailed recommendations and workplan put in place
- 80% of recommendations of a quality process analysis and case file audit implemented after 18 months

4. Strengthening the capacity, skills, and knowledge development of registration and RSD staff in ensuring the fairness and efficiency of national asylum procedures for refugees and asylum-seekers in Kenya

Up until now, RAS staff have benefited from training, knowledge, and skills development activities provided by UNHCR, including trainings available on UNHCR's internal learning platform and, to a limited extent, blended trainings organized by UNHCR. RAS RSD supervisors and some reviewers have completed UNHCR's Facilitation Induction Programme, with three staff having been trained as facilitators for the Interview Learning Programme. Beyond this, RAS does not currently have the capacity or the curriculum to implement advanced RSD or interviewing skills training internally, nor does it have the capacity to train staff engaged in registration and support services to RSD on their role and responsibilities in the asylum system. RAS shares with the other humanitarian actors the commitment to ensure that those served are protected against sexual exploitation and abuse; while RAS has a commitment to PSEA, it does not have training materials or skilled facilitators to ensure awareness among its staff to enhance prevention.

The project will seek to **build the skills and knowledge** of both DRS staff as well as additional actors involved in ensuring protection and access to reception and asylum in Kenya. Moreover, it will build a greater institutionalisation of in-house knowledge development within DRS through the **development of learning programs, materials, and curriculum**, along with a focused **training-of-trainers** component. It is proposed to engage DRS staff in the implementation of these activities to ensure continuous learning and knowledge development after the project ends.

The aim of this activity will be to enhance the fairness and quality of RSD interviews and decisions at first instance and on appeal. The activity will adapt four curricula to the situation in Kenya covering:

- Refugee protection and RSD for staff engaged in supporting the RSD process
- Interviewing techniques for RSD staff involved in casework
- Enhanced RSD assessment and analysis skills for RSD staff involved in casework
- Protection from Sexual Exploitation and Abuse (PSEA) based on the “Saying No to Sexual Misconduct” training for all DRS staff

The **development of the curricula** will be implemented by two DRS staff members under the supervision and support of the Quality and Training Coordinator. One DRS staff will be assigned to ensure sustainability and a second staff will be recruited for the purpose of the project. To compensate for the loss in capacity, **an additional DRS staff will be hired** under the project. The activity includes **rollout of a training on refugee protection** for 40 DRS staff supporting RSD casework, while **7 DRS staff will be trained as facilitators**. The activity also includes a **training-of-trainers for 4 DRS staff** identified from the RSD operations across Kenya as well as **training of 60 staff on interview techniques and enhanced RSD assessment and analysis skills**. All DRS staff will be **trained on PSEA**.

The expected achievements are:

- Two training curriculums on enhanced RSD learning and interview skills for RSD caseworkers developed
- Training curriculum on refugee protection and RSD for staff supporting RSD operations developed
- Training curriculum on PSEA developed
- 60 RAS/DRS staff engaged in the curriculum on enhanced RSD learning and interviewing skills
- 40 RAS/DRS staff trained in the newly developed curriculum on refugee protection
- 250 RAS/DRS staff trained in PSEA

5. Reducing the waiting period for asylum-seekers between registration and receiving an RSD decision

In Kenya, there is currently an RSD backlog of 59,212 individuals, with many asylum-seekers experiencing delays of at least three years before receiving their decision. Asylum-seekers' inability to access documentation as refugees significantly increases protection risks and reduces self-reliance opportunities, including limited access to services such as education and financial services. DRS, with support of UNHCR, has over the past years taken several steps to address the backlog, including an increase of human resources

capacity to address RSD applications and diversification of processing methodologies to reduce timeframes for specific caseloads.

These measures have improved output in terms of the number of decisions and have reduced backlogs at the different stages of processing. Nevertheless, the ongoing influx of asylum-seekers who require RSD has resulted in waiting times that continue to exceed backlog reduction objectives. In analysing the causes, the main issues identified prevent the maximization of the available RSD capacity due to: (1) difficulties in contacting asylum-seekers to schedule interviews; (2) high no-show rates; and (3) high rates of complementary interviews following review, particularly in more complex cases, which indicates the need for enhanced RSD knowledge and skills.

On the other hand, the growing backlog of pending cases, and the fact that it has been in place for several years, requires a recognition that it will not be addressed within a short timeframe. Accordingly, a protection-sensitive identification and prioritization mechanism is required to ensure that asylum-seekers with particular vulnerabilities and protection needs are prioritized and are not further impacted by lengthy delays in decisions.

The aim of the proposed activity is to strengthen the management and supervision of RSD support services relating to scheduling, filing, and interpreter management. Currently, the RAS RSD supervisors in Kakuma and Nairobi supervise not only the substantive number of RSD staff, but also the support service staff. As RAS has a flat RSD staffing structure without hierarchy this practically means that the RSD supervisor supervises all staff. Despite registration and RSD being a core function for RAS, the staff working in these functions are all project staff under the RAS-UNHCR project agreement and are not substantive government technical staff. The introduction of a **manager for support services** in the two locations will provide a more hierarchical structure for the scheduling and file management teams to reinforce accountability and enhance capacities to address obstacles.

Concerns relating to the knowledge and skills of RSD caseworkers will be addressed by the training components proposed under the objective relating to training capacity. However, the development of complex casework capacity in RAS/DRS will need to go beyond knowledge development to include nurturing of experience and coaching over a longer period. The proposed activity **establishes dedicated complex casework teams at Nairobi and Kakuma level** who, through training, coaching, and experience development, will build the skillset required for such cases. In recognition of the enhanced responsibilities of these teams, a **Senior Caseworker role will be created** within the RSD organigram, which will improve the overall performance of the team while providing opportunities for career progression for RSD caseworkers.

To ensure an effective **case referral mechanism** is in place, the proposed activity will see the **development of tools** to identify and follow-up on asylum-seekers with protection concerns or specific needs, along with **SOPs, criteria, and timeframes** for case processing. The mechanism will be rolled out among key protection and other partners to put in place and maintain a comprehensive referral network.

The expected achievements are:

- Percentage of **complex** RSD applications requiring a complementary interview after review reduced from 43% to 30%
- Two managers for RSD support services recruited
- SOPs updated to enhance efficiency of scheduling
- Four RSD officers for complex cases recruited and trained
- Tools for case-referral mechanism for RSD prioritization developed

Constraints and Risks

The main constraints and risks involved with the project relate to the Government of Kenya's decision in March 2021 to close the camps in Dadaab and Kakuma and the Kalobeyi integrated settlement. This decision has created uncertainties about the future of the refugee program in the camps, though the urban refugee program has remained outside the scope of the directive. Considering the need for strengthened asylum systems during the implementation of the Roadmap for Solutions, UNHCR considers that the objectives of the project can still be implemented and delivered. In addition, despite this decision the Government has consistently maintained that it will continue to abide by national, regional and international obligations including in the area of refugee law and rights.

A further risk factor relates to the developments around the COVID-19 pandemic and the low implementation of the vaccination program in Kenya. It is expected that COVID-19 infection rates will continue and thus the project may require implementation during periods of national lockdown measures. However, these periods can be compensated by online coordination and collaboration tools, in which most staff are already acquainted.

The following table provides an overview of the main risks and the measures identified to address them:

Risk Factor	Likelihood	Impact	Risk response	Residual risk	Background to assessment
Failure to show progress in the implementation of the Roadmap results in a	Unlikely	Significant	Effective implementation of the activities identified under the Roadmap in	The main reduction in refugee numbers can be achieved through voluntary repatriation,	Kenya Roadmap Risk Profile & Treatment plan developed by UNHCR Kenya in

(temporary) closure of the refugee programme in Kenya			close coordination with partners, resettlement countries and countries of origin. Implementation of the preventive treatments identified in the UNHCR developed Kenya Roadmap Risk Profile & Treatment plan.	which is dependent on the voluntary and informed decisions of the individual refugees particularly in light of the security situation and instability in countries of origin. Partners have expressed concerns about the implementation of the Roadmap and their reluctance to contribute to its implementation	collaboration with the Regional Bureau for East and Horn of Africa and Great Lakes region and country operations in the region.
The current political climate in Kenya particular in light of the political priorities such as the elections and security climate results in a slow operationalization of DRS and delays in project implementation	Likely	Major	The implementation of the different output activities can be restructured to the operationalization of DRS. The project period has been extended from the initially intended 18 months to 2 years to provide flexibility.	Risk of having to implement multiple activities within a short timeframe at the end of the project period overwhelming the capacity available for the project but also undermining the effectiveness of the activities.	Kenya risk register.
The COVID-19 pandemic and in particular the low implementation of the vaccination program in Kenya and continuous infection rates result in the project having to be implemented in periods of national lockdown measures.	Likely	Minor	The implementation of the different output activities can be restructured to the COVID-19 situation. The project period has been extended from the initially intended 18 months to 2 years to provide flexibility. Identify alternative means to achieve and deliver the outputs under the project.	Risk of having to implement multiple activities within a short timeframe at the end of the project period overwhelming the capacity available for the project. Alternative implementation methods might have a reduced effectiveness, such as online training as opposed to in person.	Kenya risk register.

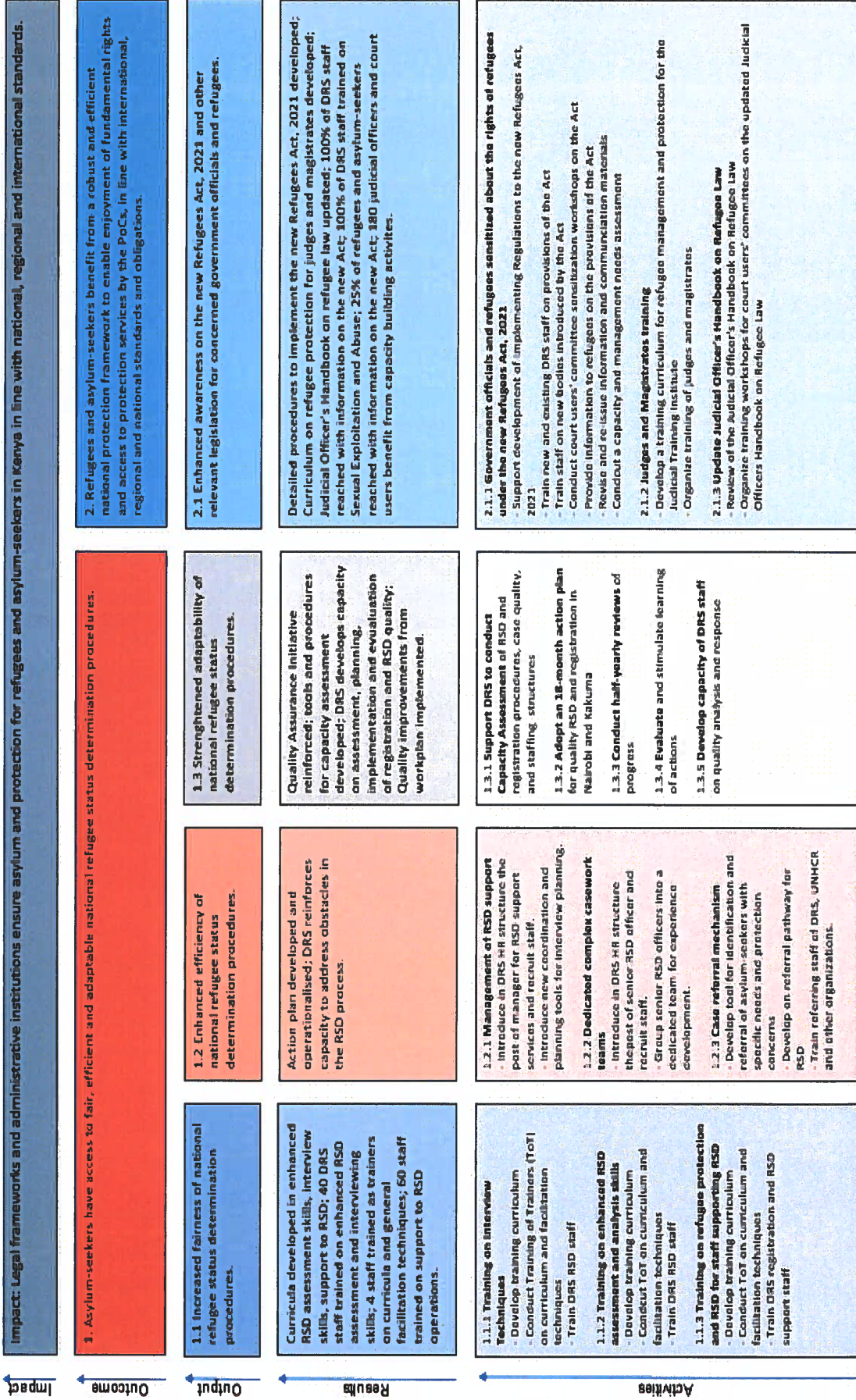
Budget

BUDGET FOR PROJECTS FUNDING SUBMISSION			
Objectives	Budget (USD)	Donor's Contribution (KES)	Donor's Contribution (DKK)
Awareness of the new Refugees Act, 2021 and other relevant legislation for concerned government officials and refugees by facilitating the roll out and awareness of the new Kenya Refugees Act, 2021.	445,000	49,426,150	2,886,270
Awareness of the new Refugees Act, 2021 and other relevant legislation for concerned government officials and refugees by ensuring that justice and law and order sector actors have adequate knowledge of the asylum system in Kenya.	170,000	18,881,900	1,102,620
Strengthened adaptability of national refugee status determination procedures through the implementation of a Quality Assurance Initiative.	435,000	48,135,450	2,821,410
Increased fairness of national refugee status determination procedures by facilitating training for RSD staff engaged by DRS to have adequate knowledge, capacity and skills to conduct RSD interventions.	195,000	21,658,650	1,264,770
Enhanced efficiency of national refugee status determination procedures through enhanced management of RSD support activities, establishment of complex casework teams and establishment of case referral mechanisms.	200,000	22,214,000	1,297,200
6.5% Indirect Support Cost	93,925	10,432,250	609,198
TOTAL	1,538,925	170,928,400	9,981,468

Exchange rate used: 111.07 KES = 1 USD (1 Nov 2021) – 6.486 Danish Krone = 1 USD (1 Nov 2021)

Theory of Change

In alignment with the Government of Kenya's pledge to the Global Refugee Forum aimed at strengthening the institutions and structures that manage asylum, the project specific summary Theory of Change below provides an overview of the casual logic between activities, outputs, outcomes, and longer-term impact as planned for this project. The complete Theory of Change can be found in Annex 1.



The main assumptions to guide the above theory of change are:

- The project builds on the current human resource capacities, knowledge and skills of the RAS/DRS RSD staff, which has been built up since handing over the role of RSD to the Kenyan authorities. The interventions in the project are aimed at refining the structures and capacities to improve the asylum system in Kenya with an impact for years after its completion. The assumption is that the human resources required to undertake these activities will be considered as additional and not be considered a replacement of existing capacities. Particularly as it is acknowledged that funding of refugee operations is limited in the current context and will focus on the implementation of the Roadmap.
- The second assumption is that the scope for the roadmap for solutions remains as it currently is and does not affect registration and RSD operations in Kakuma camp and Kalobeyi integrated settlement or in urban areas. Despite the decision of the Government of Kenya to close the camps in Dadaab and Kakuma and the Kalobeyi integrated settlement (without reference to the urban refugee program), the Government has maintained that it will continue to abide by their national, regional and international obligations. The target date for the Roadmap of June 2022 is rather ambitious and it is assumed that the expectations of the authorities can be managed and will not lead to further frustrations and additional measures which have a further impact on the protection space in Kenya.
- The enactment of the Refugees Act, 2021 will lead to a transition from RAS to DRS. The project builds on the capacities and knowledge of the RSD system and staff currently in place. It is assumed that the transition from RAS to DRS the technical human resources capacity can be maintained without sudden loss of staff beyond the capacity of what the RSD teams are able to address.
- RAS/DRS and UNHCR have moved to a Joint Refugee Processing Centre in Nairobi to provide services to refugees and asylum-seekers. This move will streamline the delivery of services to PoCs by avoiding unnecessary commutes between different offices to receive services. The assumption is that the centre can be sufficiently managed to avoid disturbances to the neighbourhood and a forced closure and relocation of the centre which would halt operations and the effective implementation of different activities under the project.
- The activities under the project are aimed at enhancing knowledge, skills and capacity to improve the effectiveness and adaptability of the RSD process as well as to reduce the number of asylum-seekers arrested in immigration control procedures. The activities require a number of changes to the roles and responsibilities of staff and the procedures implemented by RAS/DRS. A key factor to the success of the activities is the receptiveness and acceptance of RAS/DRS staff of the changes to these responsibilities and procedure and their willingness

to adjust habits based on the learning provided. For the learning activities, these adjustments will be built into the curriculum development activities and subsequent monitoring activities.

Results Framework

Project/Programme	Strengthening institutions that manage asylum processes in Kenya
Project/Programme Objective	Legal frameworks and administrative institutions ensure asylum and protection for refugees and asylum-seekers in Kenya in line with national, regional and international standards.
Impact Indicator	<ol style="list-style-type: none"> 1. Extent refugees and asylum-seekers in Kenya have access to quality asylum procedures aligned to national legal frameworks. 2. Proportion of individuals seeking international protection who are able to access asylum procedures.
Baseline in 2021	<ol style="list-style-type: none"> 1. 70% 2. 76%
Target in 2023	<ol style="list-style-type: none"> 1. 80% 2. 100%
Outcome	<ol style="list-style-type: none"> 1. Asylum-seekers have access to fair, efficient and adaptable national refugee status determination procedures. 2. Refugees and asylum-seekers benefit from a robust and efficient national protection framework that enables them to enjoy fundamental rights and access to protection services, in line with international, regional and national standards and obligations.
Outcome Indicator	<ol style="list-style-type: none"> 1.1. Percentage of RSD applications finalized within 6 month of first instance interview. 1.2 Satisfaction rating of PoCs with regard to interviews and the overall RSD process. 2.1. Proportion of PoCs who are reported refouled. 2.2. Extent regulations to the Refugees Act, 2021 are enacted and operationalized.
Baseline in 2021	<ol style="list-style-type: none"> 1.1. 41% 1.2. TBC 2.1. 0

		2.2. 0%
Target in 2023		1.1. 75% 1.2. An increase of 10% from the baseline rate 2.1. 0 2.2. 60%
Output I		Increased fairness of national refugee status determination procedures
Output indicators		1. Percentage of RSD applications requiring a complementary interview after review. 2. Number of DRS staff trained in the curriculum on enhanced RSD learning and interviewing skills. 3. Number of DRS staff completing Training of Trainers curriculum on RSD learning, interview techniques and general facilitation techniques. 4. Number of DRS staff conducting registration and supporting RSD trained in the curriculum on refugee protection and RSD processes. 5. Number of curriculums on enhanced RSD assessment skills, interview skills and support to RSD developed. 6. Number of DRS staff trained in Protection from Sexual Exploitation and Abuse (PSEA). 7. Number of cases of SEA identified through reporting channels of DRS and UNHCR.
Baseline	2021	1. 34% 2. 0 3. 0 4. 0 5. 0 6. 0 7. 3
Target	2023	1. 15% 2. 60 3. 4 4. 40 5. 3 6. 250

		7. 8
Output II		Enhanced efficiency of national refugee status determination procedures
Output indicators		<ol style="list-style-type: none"> 1. Percentage of complex RSD applications requiring a complementary interview after review. 2. Average processing time (in days) for prioritized RSD cases from referral to first instance RSD asylum decision. 3. Percentage of PoCs who do not attend their interviews after receiving an appointment (no-show rate). 4. Number of managers for RSD support services recruited. 5. Number of SOPs updated. 6. Number of RSD officers for complex cases recruited and trained. 7. Number of tool for case-referral mechanism for RSD prioritization developed. 8. Number of first instance decisions in 12 months.
Baseline	2021	<ol style="list-style-type: none"> 1. 43% 2. TBC 3. 31% 4. 0 5. 0 6. 0 7. 0 8. 2362
Target	2023	<ol style="list-style-type: none"> 1. 30% 2. 120 3. 20% 4. 2 5. 2 6. 4 7. 2 8. 12,000
Output III		Strengthened adaptability of national refugee status determination procedures
Output indicators		<ol style="list-style-type: none"> 1. Quality process analysis and case file audit implemented.

		2. Percentage of the recommendations of a quality process analysis and case file audit implemented after 18 months.
Baseline	2021	1. No 2. Number of recommendations (to be determined following process analysis and case file audit)
Target	2023	1. Yes 2. 80%
Output IV		Awareness of the new Refugees Act, 2021 and other relevant legislation for concerned government officials and refugees
Output indicators		<ol style="list-style-type: none"> 1. Number of PoCs arrested or detained related to immigration control or legal status. 2. Number of persons denied access to asylum. 3. Implementing Regulations developed with support provided to GOK. 4. Number of DRS staff trained on the provisions of the Refugees Act, 2021. 5. Number of court users' committees trained on the changes brought on by the Refugees Act, 2021. 6. Number of the refugees reached to raise awareness on the provisions of the Refugees Act, 2021. 7. Number of information and communication materials developed and/or revised. 8. Curriculum for refugee management and protection developed for the Judicial Training Institute 9. Number of judges trained on the curriculum for refugee management and protection developed for the Judicial Training Institute. 10. Judicial Officer's Handbook on Refugee Law updated. 11. Number of members of court users' committee trained on refugee protection following the update of the Judicial Officer's Handbook on Refugee Law.
Baseline	2021	<ol style="list-style-type: none"> 1. To be confirmed by end of year. 2. 19,000 3. No 4. 0 5. 0 6. 0

		7. No 8. No 9. 0 10. No 11. 0
Target	2023	1. Baseline reduced by 30% 2. 0 3. Yes 4. 200 5. 15 6. 45,000 7. 4 8. Yes 9. 30 10. Yes 11. 150

Institutional and Management Arrangements

The institutional and management arrangements encompass three coordination structures:

- **A Steering Committee** with a proposed membership composed of DRS, the Danish Embassy and UNHCR, with ToRs to be developed jointly
- **A Programme Management Team** comprising staff engaged in the project from UNHCR, DRS, RCK and the Danish Government
- **A Multi-Functional Team** for monitoring of the various activities implemented by DRS and RCK in line with UNHCR project management procedures

UNHCR Kenya will ensure regular Steering Committee meetings with participation from DRS and UNHCR staff from Dadaab, Kakuma and Nairobi, and the project managers and coordinators responsible for the daily supervision and implementation of activities. Representation from the Embassy of Denmark will be discussed and agreed upon with the embassy focal point. During the inception phase, it is proposed to organize meetings on a bi-weekly or monthly basis and gradually move to quarterly meetings. The Steering

Committee will coordinate closely with the already established UNHCR Kenya multi-functional team (MFT) which consists of UNHCR staff from Programme, Supply, Project Control and Protection and supports project development and monitoring. This will ensure compliance with UNHCR policies in relation to monitoring and reporting, procurement, partnership agreements, and overall project control, including compliance with the Humanitarian Partnership Framework Agreement between UNHCR and Denmark. In addition, the MFT will provide guidance and support on the overall implementation strategy and make suggestions for any adaptations needed throughout the project period.

UNHCR Kenya has already partnered with the Kenyan refugee management agency, RAS. While it is uncertain what changes the introduction of the new Refugees Act, 2021 and establishment of DRS would require, DRS will remain the key partner for UNHCR. The uncertainties around the changes will be managed through the recruitment of a project manager/coordinator and other technical and dedicated staff to other activities which will be deployed to DRS to support and lead the implementation of activities, including the RSD project and components of training and learning. Strong profiles within RSD, project management, and knowledge management will be prioritized in recruitment. Anti-corruption measures will be mainstreamed in all project activities and directly through the mandatory PSEA training for all DRS staff.

UNHCR Kenya has further already partnered with Refugee Consortium of Kenya (RCK) in the advocacy for the Refugees Act, 2021, and the activities indicated under this project are an extension of this work. The guiding document for the partnership is the tripartite project partnership agreement between RAS, RCK and UNHCR Kenya for 2021 and extended to 2022. Under the current partnership agreement, the partner is implementing activities within law and policy, capacity development, legal remedy and assistance, access to asylum, and non-refoulement, detention and free movement, and operations management. RCK will continue to lead the implementation of activities related to the introduction of the Kenya Refugees Act, 2021 throughout 2022. These activities include development of detailed procedures required to implement the Act, training of new and existing RAS/DRS staff on the implications of the Act, and induction of new actors in the RSD process on their roles and responsibilities. Moreover, RCK will be leading a series of sensitization workshops with justice and law and order actors, as well as organizing an information campaign and communication materials targeting refugee communities. RCK will work closely with DRS staff, especially in the areas of leadership and accountability. UNHCR selection and retention of NGO partners is done in adherence to global guidelines. UNHCR Kenya will conduct a partner selection process in 2021 to guide implementation arrangements in 2022. DRS is not subject to these procedures given its unique mandate.

UNHCR will ensure an appropriate monitoring and reporting plan in accordance with the Humanitarian Partnership Framework Agreement between UNHCR and the Government

of Denmark. The Steering Committee will have overall responsibility for meeting the requirements for monitoring and reporting with support from the MFT. There will be an inception phase to streamline the project activities and detailed budget based on the analysis phase of the QAI project, which will identify gaps and make recommendations. Based on the findings and recommendations, a detailed workplan will also be developed by the Steering Committee during the inception phase. Two workshops will be held to facilitate the adoption of the analysis, recommendations, and development of a workplan as well as the analysis of achievements at the end of the project period.

All activities and materials will have visibility ascribed to the donor in the requested format. The communication and learning materials developed during the project will be disseminated through UNHCR RSD community of practice and the ACSG portal as well as refugee community structures and DRS knowledge databases. Results and key learnings will be posted on the ACSG portal, potentially followed by dissemination webinars and reporting forums related to the ACSG and the wider GRF/GCR processes.

Financial Management

The first transfer of DKK 5,000,000 will be requested at the earliest opportunity upon acceptance of the proposal. The second transfer of DKK 4,981,468 will be effectuated halfway through the project based on a disbursement request from UNHCR to be made no later than December 2022.

The grant will be managed in accordance with the Humanitarian Partnership Framework Agreement between UNHCR and Denmark. Audits will be undertaken at three levels:

a) External Audit

UNHCR accounts are audited annually by the United Nations Board of Auditors, which provides independent assurance to the General Assembly, Member States and other stakeholders regarding the proper, effective and efficient use of organization resources. The UN Board of Auditors provides an opinion on UNHCR financial statements. The reports of the Board of Auditors are transmitted to the General Assembly through the Advisory Committee on Administrative and Budgetary Questions (ACABQ). The single audit principle adopted by the United Nations including UNHCR, allows only one entity, in this case the Board of Auditors, to externally audit UNHCR. The single audit principle gives the Board of Auditors the exclusive right to act as the external auditors for UNHCR.

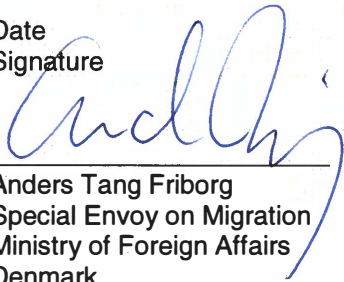
b) Internal Audit

The Office of Internal Oversight Services (OIOS) carries out internal audit services at UNHCR.

c) Project Audit


Independent, qualified and experienced audit providers, which are contracted by UNHCR, carries out an audit on the funded projects, which are implemented by UNHCR partners. Such audit is conducted in line with International Standards of Audit.

Date
Signature



Anders Tang Friborg
Special Envoy on Migration
Ministry of Foreign Affairs
Denmark

Date: 13 December 2021
Signature



Paul Stromberg
Head, Donor Relations & Resource
Mobilization Service, UNHCR
Geneva

Annex 1



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