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From:	Presidency
To:	Working Party on Frontiers/Mixed Committee
	(EU-Iceland/Liechtenstein/Norway/Switzerland)
Subject:	Report on the activities of the Immigration Liaison Officer (ILO) Networks and on the situation in Kenya in matters relating to illegal immigration

Delegations will find enclosed a report on the activities of Immigration Liaison Officer (ILO)

Networks and on the situation in Kenya in matters relating to illegal immigration.

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PART II: SITUATION IN THE HOST COUNTRY IN MATTERS RELATING TO ILLEGAL IMMIGRATION

INTRODUCTION

This report has been drawn up in accordance with Council Regulation (EC) No 377/2004 of 19 February 2004 on the creation of an immigration liaison officers network[1], as amended by Regulation (EU) No 493/2011 of the European Parliament and of the Council of 5 April 2011[2].

Article 6(1) of this Regulation provides that 'The Member State holding the Presidency of the Council of the European Union (…) shall draw up, by the end of each semester, a report to the European Parliament, the Council and the Commission on the activities of immigration liaison officers networks in specific countries and/or regions of particular interest to the Union, as well as on the situation in those countries and/or regions, in matters relating to illegal immigration, taking into consideration all the relevant aspects, including human rights'. According to Article 4(1) of the Regulation, all ILOs posted in the third country concerned shall contribute to the report.

After consultation with the European Commission, the Dutch Ministry of Security and Justice decided to focus on the ILO network in Kenya and, to a lesser extent, migration flows from the surrounding countries Somalia, Ethiopia, Eritrea and Djibouti. From Kenya numerous airlines operate flights to various EU/Schengen Member States, which underlines the importance of this country from the ILO-perspective. Moreover, the Horn of Africa has been playing a key role in the field of migration for years, with Somalia, Ethiopia, Eritrea and Kenya itself as source countries, and Kenya as a transit country as well. Since years a cooperation network of liaison officers in Nairobi, called the Nairobi Immigration Liaison ('NAIL') team, has been established, without this team being evaluated within the framework of Regulation (EC) No 377/2004. Stemming from this network a long- standing relationship with relevant Kenyan authorities has developed. This report aims to provide an overall view of the execution of ILO tasks in Kenya.

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[1]   Council Regulation (EC) No 377/2004 of 19 February 2004 on the creation of an immigration liaison officers network. OJ L 64, 2.3.2004.

[2]   Regulation (EU) No 493/2011 of the European Parliament and of the Council of 5 April 2011 amending Council Regulation (EC) No 377/2004 on the creation of an immigration liaison officers network. OJ L 141/13, 27.5.2011.

On 27 October 2015, the Dutch Ministry of Security and Justice forwarded a tailored questionnaire to the Immigration Liaison Officers posted in Kenya and in the surrounding countries, as well as the EU/Schengen Member States, the Immigration Service of Kenya, Interpol Nairobi, Europol and Frontex. The deadline for completing and returning the questionnaires was 6 December 2015. 24 EU/Schengen Member States responded to the questionnaire. In addition, input has been received from the Immigration Service of Kenya, Interpol Nairobi, Europol, Frontex and Australia.

A draft report was presented in a meeting held in Nairobi on 20 January 2016, in which the ILOs of Member States and befriended nations, a representative of the EU Delegation and staff of the embassies of the EU/Schengen Member States participated. In addition, representatives of the Dutch Ministry of Security and Justice held meetings with the Director of the Department of Immigration Services of Kenya and representatives of the airlines and handling agencies in Nairobi between 18 and 21 January 2016. The outcomes of these meetings have been incorporated into the final report. In the beginning of March 2016, the draft report has been distributed within the ILO network in Nairobi and the Working Party Frontiers. On the basis of the comments on this draft the report has been finalised.

The report has been drawn up in accordance with the model established by Commission Decision 687/2005[1] and consists of two parts:

(I)   Activities of the ILO Network

(II)   Situation in the host country in matters relating to illegal immigration

The report covers the period from January 2014 till December 2015. A significant part of the report also deals with the question how to perform ILO tasks in a country which is too unstable and unsafe to deploy an ILO (e.g. Somalia) and the issue of human trafficking and smuggling.

The completed report shall be treated as a 'RESTREINT UE/EU' document and the relevant provisions of Council Decision (EU) No 2013/488 of 23 September 2013 on the security rules for protecting EU classified information[2] must be observed.

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[1]   Commission Decision 2005/687/EC of 29 September 2005 on the format for the report on the activities of immigration liaison officers networks and on the situation in the host country in matters relating to illegal immigration. OJ L264/8, 8.10.2005.

[2]   Council Decision 2013/488/EU of 23 September 2013 on the security rules for protecting EU classified information. OJ L 274, 15.10.2013.

EXECUTIVE SUMMARY

The NAIL team

In Kenya a cooperation network of immigration liaison officers (ILOs) has been set up in accordance with Regulation (EC) No 377/2004. This network is known as the Nairobi Immigration Liaison ('NAIL') team and consists of immigration officers posted by Hungary, the Netherlands, the United Kingdom, Switzerland, Australia, the United States, Canada and an official of the Embassy of France. The NAIL team members meet on a monthly basis to discuss trends and incidents at the airport(s) and embassies, as well as travel and training plans or results. Occasionally these meetings are attended by relevant partners and stakeholders, such as airline representatives and handling agents. A large-scale Immigration Liaison Kenya (ILK) meeting takes place once a year and brings all relevant partners and stakeholders together to discuss contemporary migration issues and trends. Apart from meetings, the ILOs regularly exchange information and experiences via phone or email. Moreover, the NAIL network has established regular contacts with other networks- such as the Nairobi Anti-Fraud Group (NAFG) and the network of diplomats working on a returns agreement with Somalia- as well as other Immigration and Police officers posted in the region.

Cooperation among the NAIL team members

The NAIL team in Nairobi has been defined by the ILOs as an 'excellent', 'very strong', and 'extremely well- functioning' network. In the past years, cooperation among the ILOs posted by EU and non-EU countries has strengthened and engagement with relevant partners and stakeholders has improved. Moreover, regular contact has been established with the diplomatic and consular staff of the embassies represented in Nairobi. The methodical and ad-hoc information sharing, regular meetings and jointly executed trainings strengthen the perception of the NAIL team as a professional network based on a long- lasting cooperation and coordination. As a result of the network there is a wider presence at the airport covering all Europe bound flights. According to the ILOs it is essential to work collaboratively in order to tackle the issue of illegal migration.

Joint trainings

In the reporting period (2014-2015) the NAIL team members organised several joint specialised trainings in Kenya. These trainings were provided to immigration, airline and consular staff as well as other relevant partners and were jointly delivered and/ or funded by the member countries. The trainings were much appreciated and directly relevant to the everyday work of those trained. The airlines indicated that, as a result of the training, the communication between the Kenyan authorities and airline profilers has improved, because they now 'speak the same language' when they are confronted with questioned documents. The embassies represented in Nairobi argued that the training of consular staff contributed to the improvement in fraud detection at the consular sections in Nairobi and enabled the participants to improve their network. According to the NAIL team, trainings are an important tool to build trust and to enhance cooperation between the NAIL team members and relevant partners and stakeholder.

Cooperation between the NAIL team members and airlines/ handling agents

The NAIL network established regular contacts with the concerned counterparts in the airline industry and adopted a largely coordinated position in contacts with carriers. All carriers cooperate with the NAIL team through the station managers and handling agencies, and increasingly consult the individual members of the team via phone or email to ask for their advice on specific visa- or document issues. All consulted airlines/handling agencies underlined the added value of the presence of NAIL team members at the airport and the effectiveness of the trainings conducted by the NAIL team. According to the airlines, the reliable advices of the NAIL team members enabled them to avoid penalties for bringing inadmissible passengers into the EU. The trainings provided the profilers with the skills and confidence to deal with travel document issues in the absence of the ILOs and improved their network. As the NAIL team has its own 'corporate identity', the airlines can contact any of the members when necessary. The airlines stated that, in general, the NAIL team members are readily available, although some are not as easily accessible or as much involved in airport work as others. The airlines made the following recommendations to improve the network: more presence at the airport, more/continuous trainings, a possible extension of the ILO network with representatives of South America and Asia, and the provision of additional equipment.

They also advised the EU/Schengen Member States to inform the airlines/handling agents as soon as possible about changes in their visa and document policy and asked the consular sections of the Member States to provide the airlines with their contact details so that they can reach the embassies also after the office hours to ask for clarifications about specific visa –or document issues.

Cooperation between the NAIL team members and the Kenyan authorities in general

The NAIL network has been successful in establishing and maintaining contact with the competent authorities in Kenya. A balanced give- and- take relationship has developed. The joint training sessions conducted by the team members have improved their access to the Kenyan authorities and enhanced the cooperation between the NAIL team members and individual Kenyan immigration officers. In general, the Kenyan authorities are motivated to assist the NAIL team and are willing to provide its members with the information required. The Department of Immigration Services of Kenya agreed that the cooperation with the ILO network in Nairobi is highly developed and effective. The Immigration Service did, however, express a need for additional equipment and more capacity building and training at the air- and land borders. The Immigration Service also advised the NAIL team to enhance dialogue with leading authorities in charge of borders and argued that the NAIL team should conduct more mixed trainings of the Immigration Service and airlines/ handling agents to enable them to build a network and to share information and experiences.

Migration from Kenya towards the EU

Kenya is an important regional hub for both (ir)regular migration towards Europe, the Middle East, North America and other African countries. It is a country of destination and transit and, to a more limited degree, a country of origin. Kenya faces unique migration challenges as the country hosts more than half a million refugees and asylum seekers, with over 70% coming from Somalia. The exact number of migrants that use Kenya as a transit country en route to Europe is not known, but the urban migrant communities and refugee and asylum seeker populations in Kenya represent a large pool of potential illegal migrants. The Kenyan authorities have limited capacity with regard to the removal of illegal migrants. Kenyans themselves are rarely found in irregular migration flows in the Horn of Africa, but instead obtain documentation and visas which they may abuse through over-stay or non-renewal. Reportedly, illegal migration of Kenyan nationals towards the EU is not a major source of concern for the EU/Schengen Member States.

Moreover, it is certainly not a priority for the Kenyan authorities, as the numbers are very limited compared to illegal migration towards the southern African countries. Smugglers focus on the southern routes as well, because routes towards the North are more complicated and less profitable.

Cooperation with the Kenyan authorities in the fight against illegal immigration

According to the NAIL team members the cooperation with the Kenyan authorities in the fight against illegal immigration is good. The authorities are usually open to engagement and cooperation and are willing to share information on a case by case basis. Kenya allows airside access at Jomo Kenyatta International Airport and the cooperation with the authorities at the airport has improved drastically in the last few years. The NAIL team members mentioned several ways and means to assist Kenya in preventing illegal migration flows originating from or transiting through its territory, among others: continuous training of immigration and airport staff as well as other control authorities, providing assistance in setting up a Fraud Detection Unit at the airport, creating a network of various Kenyan government institutions (through trainings), and being available 24/7 for information and advice. It also followed from the report that the capacity of relevant Kenyan ministries, departments, and agencies to effectively implement migration policies, laws, and regulations should be improved. Moreover, some EU/Schengen Member States indicated that the cooperation with the Immigration Service of Kenya could be enhanced, as they experience difficulties in reaching the immigration staff and do not always receive a timely response on their requests for information.

Border management

Kenya shares a highly porous border with Somalia, Ethiopia and Southern Sudan and faces

significant challenges in effective migration management. The authorities struggle to match their desire to control the movement of illegal migrants with their capacity. Risks and threats at Kenya's borders include- among others- terrorism (Al-Shabaab), cross-border migration, drug trafficking, human trafficking and smuggling and corruption. Moreover, border offices are generally poorly equipped and the biometric system that is used to record all passengers entering and leaving is not used as effectively as it could be. The ILOs also detected irregularities by procedures at the exit checkpoints of the Immigration Service at Jomo Kenyatta International Airport. The Kenyan authorities increased their efforts to fight corruption at the airport, but there is still room for improvement.

Air borders inflows and outflows

Kenya is a major African air transport hub. From Nairobi and Mombasa numerous airlines operate (direct) flights to various EU/Schengen Member States. The efforts the airlines, ILOs and local authorities in Kenya resulted in the refusal of 958 persons wishing to depart from Kenya by air in 2014 (top 3: Kenyans, Somalis and Ugandans) compared to 1,048 persons in 2015 (top 3: Kenyans, Somalis and Ethiopians). In approximately 10% of these cases there was a fraudulent document/imposter involved. The top 3 destinations of these passengers were London, Paris and Istanbul (2014)/New York (2015). In total, seven of the top 20 destinations of the passengers denied boarding were in Europe. The ILOs have been successful in preventing inadmissible passengers from boarding flights to the EU, however problems do exist in relation to transit passengers who claim asylum when they arrive at their transit destination in the EU. A good cooperation is achieved with all airlines and the penalty regime for Europe bound flights operates successfully. More difficulties exist in relation to the penalty regime for Kenya bound flights. Airlines often attempt to send inadmissible passengers back to the last point of embarkation to avoid the enormous fines the Immigration Service in Kenya imposes.

Human trafficking and smuggling

Kenya is a regional hub for smuggling and the obtaining of false documentation necessary for creating new identities or visas and is used as a staging point for secondary movement. Smugglers operate out of the refugee camps and the main urban centres offering onward clandestine movement towards South Africa, in particular, as well as further locations such as Europe and North America or Canada (by flights, with visas procured). Endemic corruption makes Kenya a popular transit country for smugglers. Only a limited number of smugglers and facilitators were intercepted in 2014-2015. Europol provided that it does not receive many contributions concerning smuggling from Nairobi to destination countries inside the EU. The contributions that Europol did receive mostly involved counterfeit/forged documents or imposters and in only a few cases illegal migrants were accompanied by a facilitator on their flight into the EU. The ILOs estimated that 70% of illegal migration from Kenya is organised/facilitated.

Kenya is also a source, transit, and destination country for men, women, and children subjected to forced labour and sex trafficking (TIP report 2015). There is evidence of human trafficking mostly towards the Middle East and the Gulf countries. However, examples of human trafficking from Kenya towards Europe exist. The Government of Kenya does not fully comply with the minimum standards for the elimination of trafficking, but has demonstrated progress in anti-trafficking law enforcement efforts: Kenya started to use its Counter-Trafficking in Persons Act to investigate and prosecute trafficking offenses, created a Counter-Trafficking in Persons Advisory Committee, increased its efforts to protect the victims of trafficking by establishing a Victim Protection Act and a National Assistance Trust Fund for Victims and provided anti-trafficking training to Kenyan security personnel. Moreover, the Government operates a 24-hour hotline and referral/rescue centres for child trafficking victims in cooperation with (local) NGOs and has raised awareness on the issue of human trafficking. Kenya also drafted a Country Plan to combat trafficking. The authorities are particularly worried about trafficking from Kenya towards the Middle East and have increased oversight of agencies offering employment in this region. Prosecution of human traffickers- and smugglers (including facilitators) may result in custodial sentences for a term not exceeding 5 years and/or fines not exceeding 500.000 shilling. In the reporting period the Kenyan government prosecuted/convicted more traffickers, identified a large number of child trafficking victims and assisted a limited number of adult trafficking victims.

The Kenyan authorities are generally willing to cooperate when asked to assist on matters relating to the combatting of human trafficking and smuggling, however the authorities still lack the capacity and –according to some ILOs- the motivation to combat human trafficking/ smuggling networks. The TIP report and the contributions of the NAIL team demonstrated that more efforts should be taken by the Kenyan authorities to prevent and combat human trafficking and smuggling. The following recommendations were made: provide additional training to all levels of government on identifying and handling trafficking/smuggling cases, allocate sufficient resources to the relevant authorities and funds, collect and analyse trafficking/ smuggling data, offer more protection and assistance to adult trafficking victims, improve the capacity of immigration and police officials and prosecutorial authorities to investigate and prosecute human trafficking/smuggling offences and convict and punish offenders (including government officials), raise more awareness on trafficking and provide for adequate victim and witness protection, implement national laws on trafficking/ smuggling and increase knowledge of these laws, enhance interagency collaboration within the criminal justice system and properly investigate trafficking/ smuggling cases.

According to the ILOs, the NAIL network- which is effective at detecting, disrupting and deterring human trafficking / human smuggling at the airport(s)- should organise regular meetings and trainings, develop materials, support investigations by corruption, and raise awareness on the issue of human trafficking and smuggling.

Document fraud and visa policy

Frontex provided that only a very limited number of Kenyan nationals using forged or counterfeit documents were intercepted by the EU/Schengen Member States in 2014-2015. In general, the number of fraudulent Kenyan travel documents reported by the EU Member States remains low and does not possess any serious threat to the internal security of the Member States. Kenyan ordinary passports have been issued in compliance with the ICAO standards and are broadly recognized by all Member States. Although the security level of Kenyan passports is not an issue, problems do exist in relation to the issuing process as Kenyan passports are often based on fraudulent birth certificates. In Kenya cases of forgery and/or the use of forged travel documents are prosecuted resulting in custodial sentences (imprisonment for a term not exceeding five years) and/or fines (not exceeding 5 million shillings). The majority of NAIL team members cooperate with local authorities in identifying false documents. Counterfeit/ forged passports and imposters are mainly detected by agents of the airlines and the ILOs. It followed from the report that the relevant embassies and consulates of the EU/Schengen Member States in Nairobi did not experience a significant rise/decline in visa applications/refusals in 2014- 2015. However, it was demonstrated that there are substantial differences between the Member States in visa refusal rates, which varied from 65% (UK) to 6% (BE/NL) in 2015. The vast majority of applicants being refused a visa were Kenyan nationals.

Return and readmission

According to the majority of Member States there is a good cooperation with the Kenyan authorities in relation to the return of illegal migrants and the verification of citizenship. Kenya supports both voluntary and forced returns and is generally willing to consult national databases in order to assist with enquiries into the issue of Kenyan passports and disputed nationality cases. Those who are proven to be Kenyan citizens are allowed in unconditionally. Nationals of a third country are granted transit status at the request of the returning country.

The Kenya embassies/ High Commissions usually issue an Emergency Travel Document (ETD) following the verification of the citizenship of the returnee, which is assessed on the basis of documentary evidence or a personal interview. In limited cases removals are effected on an European Union Letter (EUL) and only a small number of Kenyan nationals returned from the EU under Assisted Voluntary Return and Reintegration (AVRR) programmes. Not all ILOs are involved in the return process. Some Member States fear that involvement in return cases could compromise the reputation of the ILO in the host country.

ILO activities in Djibouti, Ethiopia, Eritrea and Somalia

No ILO network has been set up in Somalia, Eritrea and Djibouti. In Ethiopia some forms of cooperation are existent, but only a limited number of Member States do have a dedicated presence and/or direct flights to or from Ethiopia. According to the ILOs cooperation with Ethiopia has been limited and the Ethiopian government can at times be difficult to engage with. Access to the airport in Addis Ababa is not easily granted. Cooperation with Ethiopian Airlines, on the other hand, has been fairly good. The ILOs provided that engagement with Eritrea has been difficult and (extremely) limited, mainly because it is a closed state that does not always freely engage with the diplomatic community. The same applies to Djibouti which has shown a willingness to cooperate and engage only on limited occasions. There has been regular engagement with Somalia and Somaliland, as it is a priority country for a lot of Member States due to returns and counter-terrorism priorities. Cooperation has been good when engagement took place. In the reporting period the NAIL team members organised several document trainings for immigration, airline and consular staff in Djibouti, Ethiopia and Somalia. More information on Somalia, Ethiopia, Eritrea and Djibouti is included in the annex to the report.

Performing ILO tasks in unstable and unsafe countries: Somalia

According to the ILOs, regular engagement is key to building cooperation with relevant authorities in unstable/unsafe third countries such as Somalia. All engagement (capacity building and other development activities) needs to be coordinated and engagement opportunities should also be seized when officials from Somalia or Somaliland visit other relatively safe countries in the region. Moreover, the EU/Schengen Member States could establish common procedures for co-operation with Somali authorities and might organise joint visits to Somalia.

The NAIL team in Nairobi functions as an 'information sharing platform', in which the team members organise training activities and inform each other of training undertaken in order to share experiences and to coordinate their activities in Somalia. The immigration service in Somalia expressed a strong need for document trainings. Confidence building with relevant counterparts is essential in relation to capacity building and regular meetings and trainings provided as in kind contributions are an important tool to build trust and to enhance cooperation.

In Somalia, the span of control of the NAIL network remains limited, although some (long-lasting) contacts have been established which have proved to be useful for the home countries' repatriation – or intelligence officers. The security environment in Somalia largely dictates the level of on the ground liaison or capacity building work that can be conducted safely. A close protection team is needed when moving from one destination to another and travel and training outside of the secure airport zone in Mogadishu, which includes the British Embassy, is generally considered unsafe. Risk assessments and risk mitigation strategies need to be constantly prepared and reviewed and the ILOs have to strike a balance between safety and results in cooperation with the authorities in their home countries. Currently, the EU is building an own office in Mogadishu, which should be operational by the end of 2016. The Member States will be able to rent these facilities and could sign an MOU with the EU in order to arrange secure transport.

Annex: The Horn of Africa

In general all African countries in the Horn of Africa can be seen as source- and transit countries for illegal immigration. The economic, political and security situation in this region is a key push factor for the migratory flow towards Europe. The majority of migrants (mainly nationals of Eritrea, Somalia and Sudan) travel over land to Northern Africa to cross the Mediterranean Sea to Europe, as it is the cheapest and easiest way of traveling. Most common and known routes to Europe start in the countries of origin in the region, converge in Sudan and continue towards Libya. Other migrants transit the Sinai Peninsula and travel over land towards the coastal areas of Israel and Lebanon in search for further transportation by boat or proceed traveling over land towards Turkey. The use of the route from Turkey via the Eastern Mediterranean Sea route towards the EU (Aegean islands) increased significantly in the last period. Illegal migration from the Horn of Africa is dominated by highly integrated networks of transnational organised criminal groups, which offer routes to different departure points in the North African countries like Egypt, Libya and Tunisia.

According to Europol, suspects of facilitated illegal immigration mainly stem from Eritrea, Somalia and Sudan and recruit migrants by means of social media and mouth to mouth advertisement. For smuggling by air the airports in Nairobi, Cairo and Khartoum are the major hubs on the African continent in this region.

OVERVIEW OF RECOMMENDATIONS

One of the aims of this report was to evaluate the functioning of the ILO network in Kenya and to analyse the potential of ILO networks to contribute to the effective implementation of the Member States migration policies. On the basis of the information provided by the ILOs, the EU/Schengen Member States, the Department of Immigration Services of Kenya, Interpol Nairobi, Europol, Frontex and the airlines and handling agencies represented in Nairobi a number of recommendations have been made. These recommendations are divided in three categories: (1) suggestions and proposals to enhance the added value of the ILO networks (2) recommendations to develop or enhance tasks and activities with or within unstable and unsafe countries and (3) suggestions and proposals to improve the reports drawn up in accordance with Council Regulation (EC) No 377/2004.

1.   Suggestions and proposals to enhance the added value of the ILO networks

Recommendations to improve and strengthen the ILO network in Kenya:

1)   **Additional resources**: Several ILOs argued that additional resources should be provided to the Member States, in particular additional funding to supply airline/immigration staff with equipment. The airlines as well as the Immigration Service of Kenya agreed that extra equipment would be very much appreciated.

2)   **Better coordination**: Efforts across the spectrum of immigration should be better coordinated. As there are many diplomatic missions in Nairobi, it is difficult to know who is dealing with immigration. This lack of coordination could be overcome by meetings such as the NAIL team/NAFG (Nairobi Anti-Fraud Group) meetings, in which the different missions are brought together. The NAIL team should regularly inform the consular staff of the Member States of the outcomes of their meetings and has to enhance the coordination of the activities of individual ILOs forming part of the network. Moreover, it would be useful to better coordinate the Member States' different efforts in Somalia.

3) **Monthly bulletin:** One ILO suggested that a monthly bulletin (regular newsletter) would be useful. During the meeting with the representatives of the EU/Schengen Member States in Nairobi the consular sections agreed that such a regular and short (digital) newsletter with trends and incidents (perhaps combined with those discussed in the NAFG meetings) would be really useful and could potentially improve coordination in information sharing.

4) **More ILOs in the region**: Several ILOs argued that more ILOs should be stationed across the Horn of Africa in order to increase information collection and sharing. The EU should focus on convincing Schengen states to participate in activities concerning ILO networking in order to reduce illegal migration. Kenya Airways suggested that it would be useful to have a Nordic ILO in Kenya.

5) **Use each other's network**: ILOs have different mandates and responsibilities. Some ILOs have many different duties (such as project identification, training, prevention, return cases and consular advice), while others have just one or two particular tasks. The job responsibilities of the ILOs forming part of the network should be balanced. This balance would create the biggest influence and the best results. The ILOs with certain limitations in job responsibilities should make use of the broader network of ILOs assigned with additional tasks.

6) **More dedication to airport duties:** According to one ILO the network should share the workload/presences at the airport between the team members in a more systematic manner. NAIL members should also increase information sharing on activities/incidents at Jomo Kenyatta International Airport. The airlines agreed that more presence of some of the NAIL team members (EU as well as non-EU) at the airport would be very useful. Currently, there are only a few ILOs who are committed to airport work. Visibility is important to earn and maintain the goodwill of partners and stakeholders at the airport.

7) **Keep the size of the network 'manageable'**: Interpol Nairobi as well as airlines/handling agencies argued that the NAIL network could be improved by involving more embassies, missions and African-, Asian- and Latin-American states. However, it followed from the meeting with the ILOs in Nairobi that the NAIL team should be distinguished from the NAFG team in which all countries can participate. It would be more difficult to establish contacts and to develop a personal relationship with partners and stakeholders (such as the airlines and the Immigration Service) when the network expands. One ILO argued that the NAIL team should be limited to people having (full time) airport access, so that the members can cover each other's flights. Potential new members should ask themselves whether they are willing to be available 24/7. In order to enhance information exchange on Asian/ Latin-American states, the NAIL team should establish and maintain close contact with their colleagues posted in those regions.

8) **More (mixed) trainings:** the airlines and the Immigration Service of Kenya underlined the importance of continuous training for agencies and staff who are assigned with the responsibility of document checks. The Immigration Service argued that ILOs should conduct mixed trainings of the Immigration Service, Kenya Airways and other handling agencies to enable them to build a network and to increase information collection and sharing. The more training the ILOs give, the more visible the NAIL network would be.

Recommendations to improve and strengthen ILO networks in general:

– ILO networks should continue to involve liaison officers from third countries in the activities conducted by the ILOs posted by the EU Member States.

– Coordination between the individual ILOs forming part of an ILO network, as well as coordination between ILOs and the Immigration Liaison Officers Managers Networks (ILOMNs), should be enhanced.

– The potential of the interaction and cooperation between the ILOs and the EU DEL and relevant EU Agencies should be adequately exploited. Multi-agency cooperation could substantially benefit the fulfilment of the tasks of ILO networks.

2. Recommendations to develop and enhance tasks and activities with or within unstable and unsafe countries (Somalia)

1) **Coordinate transportation**: One ILO argued that NAIL team members providing joint training in Somalia should be able to use the same means of transportation (i.e. share one vehicle). This option has been discussed during the meeting with the EU/Schengen Member States in Nairobi. In practice the possibility to share a vehicle is difficult to realise, because of the duty of care/ insurance issues. However, the EU DEL mentioned that the EU is building an office in Mogadishu. When this project is finished (probably by the end of 2016) the Member States are able to rent these facilities and could sign an MOU with the EU DEL in order to (also) arrange secure transport.

2) **Conduct more trainings**: Several ILOs underlined the importance of (frequent) on the job trainings of immigration officers in Somalia. The Somali immigration service expressed a strong need for document trainings.

3) **Provide for equipment**: the ILOs mentioned that more provisions are needed to enable ILOs to conduct training in unstable/unsafe countries such as Somalia. Basic equipment (loops, magnifiers etc.) should be provided to the participants involved in the trainings.

4) **Establish and maintain regular contact and enhance coordination**: According to the ILOs, regular engagement is the key to building relationships with relevant authorities in unsafe/unstable third countries. Therefore ILOs should establish and maintain regular contact with the government and immigration officials in the case of Somalia. Moreover, the NAIL team/Member States could share information on possible visits to Somalia and might even organise joint meetings with the immigration service/police in Somalia (although joint operations are not always possible).

5) **Enhance cooperation with the authorities**: it has been argued that the cooperation with the Somali authorities in relation to forced returns/ the verification of citizenship should be enhanced. The Member States could establish common procedures for co-operation with Somali authorities. In order to enhance cooperation on the repatriation of Somali citizens, capacity building and training are essential ('more for more').

6) **Engage in international capacity building programs or projects**: Several ILOs argued that the network should engage in capacity building projects like CBMM (Capacity Building for Migration Management), implemented by IOM. These international capacity building programs and projects should be developed/ enhanced to avoid duplications of efforts between participating donors. The programs or projects should contain improvements of organizational structures, training activities on all levels, legislative reviews and infrastructure.

3. Suggestions and proposals to improve the reports drawn up in accordance with Council Regulation (EC) No 377/2004

– In order to effectively evaluate the functioning of an ILO network, the focus should not only be on the ILOs forming part of the network, but also on the main partners and stakeholders involved in the activities conducted by the ILOs, in particular the airlines which offer (in)direct flights to the EU Member States and the immigration service of the host country.

– The authorities of the host country should be closely involved in the reporting exercise. After the report has been delivered, the Member States could provide the host country with an executive summary in which the main findings and conclusions are highlighted, while duly respecting the restricted nature of the report.

– In order to ensure that reports are drawn up on the basis of up-to-date information, Member States could request the input of NGOs/ international organisations (e.g. IOM, UNHCR and RMMS), national expertise centres and EU agencies (e.g. Europol, Frontex) on the questionnaire. These actors could help to present a more complete overview of the situation in the region/country.

– Visits to the host country are extremely useful to obtain additional information, however they should focus not only on the ILOs posted by the EU Member States, but also on the airlines and handling agencies, the immigration service of the host country, as well as non-EU ILOs and the diplomatic and consular sections of the EU/Schengen embassies.

–   Member States should comply with their obligation under Article 6(1) Regulation (EC) No 377/2004 -which provides that reports should be delivered by the end of each semester- in order to avoid that the information included in the report is outdated. This is all the more important in the rapidly developing field of migration.

Representatives of the European Commission posted to the third country concerned should be closely involved in the reporting exercise and have to make active use of the competence to participate in the activities of ILO networks in accordance with Article 4(2) Regulation (EC) No 377/2004.

PART I: ACTIVITIES OF THE ILO NETWORK

A. Activities of the ILO network in Kenya

1. The NAIL team

In Kenya a cooperation network of immigration liaison officers (ILOs) has been set up in accordance with Regulation (EC) No 377/2004. This network is known as the Nairobi Immigration Liaison ('NAIL') team. The NAIL team consists not only of the 4 ILOs posted by the EU Member States, but comprises representatives of the United States, Canada, Australia and Switzerland as well. In addition, (some of) the NAIL team meetings are attended by an official of the French Embassy.

List of EU/ Schengen Member States that are part of the NAIL team (2014-2015)

Member State	Number of ILOs	Covering
Hungary	1 ILO (EU funded)	Kenya, Ethiopia, Somalia, Tanzania, Nigeria, Uganda, Rwanda, Burundi, Djibouti and Sudan
France	1 local official	Kenya
The Netherlands	1 ILO	Kenya, Somalia, Ethiopia, Eritrea, Sudan, Uganda, Rwanda, Burundi, DRC, Tanzania
United Kingdom	1 ILO and 1 ILM	Kenya, Ethiopia, Somalia, Eritrea, Djibouti, South Sudan, Tanzania, DRC, Uganda, Congo and Rwanda
Sweden	1 ILO (temporary*)	Kenya, Somalia, Ethiopia
Switzerland	1 ALO	Kenya

*Sweden posted an ILO in Kenya from 01-12-2014 until 30-06-2015 (trial period).The results verses costs did not motivate the country to permanently place an ILO in the region.

List of non-EU states that are part of the NAIL team (2014-2015)

Country	Number of ILOs	Covering
Australia	1 First Secretary Immigration and Border Protection	Sub- Saharan Africa
Canada	1 Migration Integrity Officer (MIO)	West- and East-Africa
United States	1 ICE 1 HS 1 local ALO	n/a

Germany posted an ALO in Ethiopia (Addis Ababa) since September 2015. As from January 2016 the German ALO plans to travel to Nairobi once a month to participate in the NAIL team meetings. Switzerland also posted an ILO in Sudan covering Djibouti, Eritrea, Ethiopia, Kenya, Somalia and Sudan. The German ALO and Swiss ILO both contributed to this report.

2. Activities of the NAIL team in Kenya

2.1 Meetings

The NAIL team members meet on a monthly basis to discuss trends at Jomo Kenyatta International Airport (JKIA) and, to a lesser extent, incidents at their respective embassies. During these (closed) meetings the team members also inform each other of their participation in (joint) specialised trainings and their plans to travel in the region. Meetings are organised by one of the members and after each meeting the meeting minutes are forwarded to the team. Airline representatives or handling agents are invited to participate in the NAIL team meetings on an ad hoc basis in order to shed some light on current trends. In the reporting period representatives of Emirates, Kenya Airways, AGSC (KLM), Swissport and, occasionally, officers from the US/Canadian embassies have attended the NAIL-team meetings. Once a year the NAIL team members organise an Immigration Liaison Kenya (ILK) meeting in order to share experiences and main trends. This meeting takes place in Nairobi and is attended by the diplomatic and consular staff of the EU countries and befriended nations, airline representatives, the Department of Immigration Services of Kenya (hereinafter: 'Immigration Service'), UNHCR, IOM and the Regional Mixed Migration Secretariat (RMMS).

2.2 Exchange of information and experiences

According to the NAIL team members, regular meetings and email exchange are the most effective methods to exchange relevant information and experiences. Particularly important in this regard is the monthly gathering in Nairobi, but the members also meet in person during training sessions or at the airport. In addition to meetings, the NAIL team members exchange information (e.g. about offloads or individuals of concern) via phone or email whenever necessary or required. There is no common approach as to the methods of collecting and reporting strategically relevant information, as the individual members of the NAIL team employ their own methods. Most relevant is that all members of the team are committed to inform each-other. The NAIL team is well known in the region, so (migration related) NGOs, agencies, expert groups, local authorities and immigration officers are able to reach the members in case they encounter any issues.

2.3 Contacts with carriers

The NAIL network as well as individual members of the team established regular contacts with the concerned counterparts in the airline industry and adopted a largely coordinated position in contacts with carriers, bearing in mind that some countries are more active than others in airport work. The NAIL team is an institute in Nairobi. All carriers[1] are aware of its existence, cooperate directly with the NAIL team through the station managers or indirectly through the handling agencies[2] and increasingly consult the individual members of the team via phone or email to ask for their advice on specific visa- or document issues. The NAIL team has its own 'corporate identity', so the handling agencies are able to reach any of the members in case of emergency. Once every two months, one of the representatives of the NAIL team attends the Airline Operators Committee (AOC)-meeting at the airport. The NAIL delegate contributes to this meeting- in which airline representatives, handling agencies, the Immigration Service and the police participate- by giving an overview of current trends and answering questions on various subjects (such as training possibilities).

2.4 Organisation of information sessions and joint specialised trainings

In the reporting period the NAIL team members participated in various joint specialised trainings in Kenya, such as: profiling training, imposter training, document training including alerts on passports, training on transit and admission rules of different destinations (Schengen, USA, UK, Canada), training on printing techniques/ security paper and language training as part of profiling. These trainings were provided to airline staff, handling agencies, the Immigration Service of Kenya, the Criminal Intelligence Department (CID), the National Registration Bureau (NRB), the Anti-Terrorist Police Unit (ATPU), the consular staff of the EU- and Schengen Member States, as well as other embassies in Nairobi. Joint training took place every few months and the NAIL team members participating in the activities found joined training to be very effective and useful.

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[1] Emirates, British Airways, KLM Royal Dutch Airlines, Qatar Airways, African Express Airways, Etihad Airways, South African Airways, SN Brussels Airlines, Kenya Airways, Turkish Airlines, Swiss Air.

[2] Kenya Aerotech, AGSC, Swissport, KQ.

Examples of joint specialised trainings are:

– *The joint DOC1[1] training organised by Australia and the Netherlands (over 2014-2015):*

This document training was attended by officers of the Australian High Commission, the Canadian High Commission, the British High Commission, the Embassy of the Netherlands, the Immigration Service, the Criminal Intelligence Department (CID), the Anti-Terrorist Police Unit (ATPU), the National Registration Bureau (NRB) and Kenya Airways. The training was fully funded by the Australian government and the Netherlands provided the technical- and training support. The Dutch ILO trained more than a hundred officers over six sessions, together with the ILO Back Office and the Royal Netherlands Marechaussee (on two occasions). 103 of the 109 participants passed and the training had a major impact.

The ten participants that had obtained the best results were selected to take part in a DOC2[2] training, conducted in the Netherlands. All participants passed the training and were turned into trainers themselves as part of a 'train the trainers' program. The follow-up trainings were funded by the Dutch organisation for internationalisation in education, NUFFIC. The ten participants, on their turn, conducted a DOC2- training for fifteen Kenyan immigration officers. These fifteen people were, eventually, also trained in order to become trainers.

Kenya Airways indicated that this training considerably increased their standing in relations with the Immigration Service. The latter even invited the handling agents to conduct training for their agents and approaches Kenya Airways via phone and email to ask for advice.

– *The joint training of the Immigration Service of Kenya by NAIL members from Australia, UK, Canada, Switzerland and the Netherlands (mid 2015):*

During this joint training a total of 159 frontline Kenyan Immigration Officers at JKIA, Nairobi were trained over five days. The participants received a slightly reduced DOC1 training on security paper, printing techniques and passport investigation. Each of the nine sessions ended with a workshop on authentic, forged and counterfeit documents. The training was very relevant, as it increased the officers' knowledge about documents and improved the day to day cooperation between NAIL team members and individual Kenyan immigration officers.

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[1] A DOC1 training is a basic document training of 3 days. At the end of this training the participants have to pass a test.

[2] A DOC2 training is an advanced document training of 14 days and follows up on the DOC1 training.

As a result of the training, the communication between the Kenyan authorities and airline profilers has improved. Since they receive the same sort of training, they are able to 'speak the same language' when they are confronted with a counterfeit or forged document. A follow-up training is planned. This training will focus on digital printing techniques (in addition to the mechanical printing techniques discussed in the first sessions) and on passenger assessment and imposter detection.

– *The document- and imposter training for diplomatic and consular staff of EU/Schengen /non-EU states in Nairobi by the Swiss, UK and Hungarian NAIL team members*

Training was provided by the NAIL team members in document examination, profiling and imposter detection. The training was hosted by the Embassy of the Netherlands and delivered by the UK, Swiss and Hungarian team members. Participants included diplomatic and locally engaged staff working in visa/ consular roles from the embassies of Sweden, Germany, Norway, USA, Canada, Switzerland, South Africa and Australia. The training also focused on local documents (such as bank statements and degree certificates) that are submitted on a regular basis in visa applications. The training was much appreciated and directly relevant to the everyday work of those trained. The training also contributed to the improvement in fraud detection at the consular sections in Nairobi. Imposter trainings and passport document examination trainings are very important to the embassies dealing with visas applications and all embassies reported that this form of training helps them to carry out their daily work and to combat illegal migration. It followed from the meeting with the EU/Schengen Member States in Nairobi on 20 January 2016 that the training also enabled the diplomatic and consular staff to improve their network. One Member State added that the training of embassy staff is of utmost importance, because embassies are increasingly confronted with forged documents, while in some cases there is a 'gap' in knowledge of fraudulent documents.

–   *The joint training of the consular staff of the Australian High Commission/US Embassy (2014) by the ILOs from the Netherlands, Hungary and Switzerland*

The Dutch, Hungarian and Swiss team members conducted a joined training of the consular staff of the Australian High Commission in Nairobi. In addition, the Dutch and Swiss NAIL team members trained the consular staff of the US embassy in Nairobi. Both trainings focussed on document examination (passport investigation) in general and on the recognition of the different stamps that are issued by the EU/Schengen Member States in particular. The participants expressed their appreciation for the training opportunities and indicated that this kind of trainings helps them to carry out their daily work.

–   *Trainings of airlines and their handling agencies (2014-2015)*

The NAIL team members provide a lot of training to all the airlines and their handling agencies in Nairobi. The four major handling- and security agencies in Nairobi are AGSC (KLM), Swissport (BA, Swiss Air, SN Brussels, Qatar), Kenya Airways (Kenya Airways, Ethiopian Airlines, Egypt Air) and Kenya Aerotech (Emirates). These handling agencies receive training on a yearly basis on: security paper, printing techniques, passenger assessment, imposter detection, rules and regulations, and passport investigation in general (including workshops). The handling- and security agencies might receive more training upon request. AGSC for example is trained every two months on different subjects like Eastern-European passports, French- and Italian passports, the 90 days in 180 days rule and other relevant topics.

It followed from the meetings with the airlines/handling agencies in Nairobi from 18-21 January that these trainings are very useful, as they do not only increase the knowledge but also the confidence of the handling- and security agents and at the same time improve their network (AGSC). Swissport representatives mentioned that the overall yearly report of the organisation showed a lot of improvement of the skills of profilers in relation to offloads and technical errors. It also added that the trainings increased the agents' knowledge about the different rules applicable in the different continents. Since Swissport has to deal with different airlines, various kinds of documents and -passengers travelling to many destinations around the world, these thematic trainings have proved to be extremely useful.

2.5 Contacts with similar networks

The ILOs posted by the EU Member States set up regular contact with the different officers posted by Australia, Canada, South Africa, the USA and Switzerland, who are also participating in the NAIL team. Furthermore, the NAIL team remains in close contact with other networks and in some cases the individual team members are even forming part of these networks. Some NAIL team members actively participate in the Nairobi Anti-Fraud Group (NAFG); a group of representatives of European, Australian, South African, American, Canadian and other consular sections. The NAFG meetings enable consular staff to share experiences on fraud attempts connected to visa applications.

In addition, the NAIL network has established contacts with the German ILOs in Cairo and Addis Ababa, the American ILO in Addis Ababa (who has arranged training facilities for the NAIL team) and the American ILO in Pretoria. The NAIL network also cooperates with the network of European, American and Canadian Police- and Immigration officers, as there is an overlap in activities relating to human trafficking and smuggling. The Norwegian visa officers in Addis Ababa and Nairobi have regular contact with the Swiss ILO posted in Sudan. There is also a network of- among others- Dutch, American, British and Norwegian diplomats concerning returns to Somalia (most NAIL team members cover Somalia from Nairobi, see also paragraph 3.4 and Chapter B on performing ILO tasks in unstable and unsafe countries).

3. Activities of the NAIL team in neighbouring countries

No ILO network has been constituted in Somalia, Eritrea and Djibouti. In Ethiopia some forms of cooperation are existent. In Addis Ababa there is a group of visa officers and ILOs/ALOs who meet regularly, however not all countries are represented in Ethiopia. Germany posted an ALO in Addis Ababa as from September 2015, but due to the short time of his assignment the ALO could not provide enough data to enable an extensive analysis of the existent forms of cooperation. In the reporting period no activities took place in Eritrea. In Djibouti, Ethiopia and Somalia the NAIL team members organised several (joint) specialised trainings:

3.1 Djibouti

Some individual NAIL team members travel to Djibouti to conduct training over there, but not all team members are accredited to work in Djibouti. In the reporting period the Canadian ILO has trained in Djibouti. The UK ILOs conducted training in Djibouti for immigration officers in the beginning of 2016.

3.2 Ethiopia

In the reporting period two document trainings took place at the Netherlands Embassy in Addis Ababa. The first training was attended by officers of the consular sections of different European missions (Norway, Denmark, Sweden etc.). Airline representatives and immigration officers, as well as consular staff of the European missions, participated in the second training. There was also a training organised by the USA and conducted by the Canadian, Dutch and Swiss NAIL team members. Furthermore, the Swedish ILO provided trainings for the consular section of the Swedish Embassy in Addis Ababa jointly with the Hungarian ILO. The training was well- received and seemed to have a positive impact. Australia participates in anti-fraud meetings in Addis Ababa whenever possible. The UK and Canadian NAIL team members conducted various trainings at the airport in Addis Ababa. The fact that there are direct flights from Ethiopia to London and Toronto underlines the importance of such trainings. The UK ILO visits Addis Ababa on a monthly basis to give training to Ethiopian Airlines. Recently, the UK introduced the plan to transfer one of its ILOs from Kenya to Ethiopia. The UK expects to get access to the airside area at the airport in Addis Ababa, although this might prove to be difficult as the example of the German ALO in Ethiopia has demonstrated.

3.3 Somalia

Extensive trainings of Somali Immigration staff were conducted at Mogadishu International Airport in 2015 (at least 8). These sessions have been jointly delivered and/ or funded by member countries including the Netherlands, UK, Canada, Hungary and Sweden. Australia has so far only provided financial support and will in the near future participate in the delivery of the trainings. Also in 2016 several training sessions in Somalia are lined up. The NAIL team does not (yet) conduct training for diplomatic- or consular staff in Somalia. For trainings in Mogadishu the training facilities at the British embassy are being used. The network of- among others- Dutch, American, British and Norwegian diplomats working on a returns arrangement with the Federal Government of Somalia, was also involved in the organisation of the trainings conducted by the NAIL team members. In addition, the EU delegation (EU-DEL) to Somalia has set up a network of migration focal points for Somalia as from June 2015. During the meeting with representatives of the Member States in Nairobi, the EU-DEL explained that the EU is working on an own office in Mogadishu. This office should be operational by the end of the year 2016 and the Member States will be able to use these facilities.

4. Overall evaluation of the cooperation and coordination among the NAIL team members

The NAIL team is very positive about the cooperation and coordination among the members forming part of this network.[1] The ILOs indicated that the cooperation among the representatives posted by EU and non-EU countries has strengthened in the past few years. The NAIL team members conduct more trainings together, take up more common projects and engage in capacity building and concrete, visible actions. According to the team members, the NAIL- network facilitates a more effective performance of their duties. They describe the NAIL team in Nairobi as an 'excellent', 'very strong', and 'extremely well- functioning' network in which its members can always turn to their colleagues when they are in need of information and/or advice. Confidence in fellow NAIL team members is very important when taking over each other's task, as ILOs need to be able to trust the decisions taken by the other members of the network.

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[1] Only the Swiss ILO in Sudan (who is not part of the NAIL team) preferred bilateral communication with respective ILOs to a general ILO network.

During the meeting in Nairobi, the consular staff of the EU Member States agreed that the NAIL team functions well and that regular contact with the diplomatic and consular staff of the Member States has been established.

The methodical and ad-hoc information sharing, regular meetings and jointly executed trainings strengthen the perception of the NAIL team as a professional network based on a long lasting cooperation and coordination. The NAIL team members evaluated the activities carried out within the framework of the network as very useful (average of 4.5 on a scale from 1 to 5). As a result of the network there is a wider presence at the airport covering all Europe bound flights. The network also provides regular trainings to airlines and other law enforcement agencies in order to maintain good relationships and keep stakeholders up to date on current forgery and illegal migration trends. In the past years, engagement with stakeholders has improved and the NAIL network recognises that there has to be collaborative working in order to tackle the issue of illegal migration.

5. Overall evaluation of the cooperation with airlines and handling agencies

5.1 Cooperation between the NAIL team and airlines/handling agencies

The Netherlands delegation organised meetings with representatives of the main airlines

and handling agencies in Nairobi between 18-21 January to evaluate the added value of the NAIL team at the airport and the effectiveness of the trainings conducted by the NAIL team members. Input has been received from KLM and its security agency AGSC, Swissport[1] and Kenya Airways. All were positive about the effectiveness of the trainings conducted by the NAIL team. AGSC and Swissport provided that these trainings inform them as profilers on immigration rules, different travel documents and their security features, as well as profiling techniques. Through the alerts send out by the NAIL team members, handling agencies become aware of current trends at the other airlines/airports. The trainings provided the profilers with the confidence to deal with travel document issues in the absence of the ILOs. According to Swissport and AGSC the advices given by the NAIL team are reliable and enabled the airlines to avoid penalties for bringing inadmissible passengers into the EU Member States.

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[1] Handling agency of BA, Swiss Air, SN Brussels, Qatar.

The airlines and handling agencies also responded to the question how the NAIL team could be of more value at the airport. KLM indicated that more and more presence at the airport would be very welcome, as well as continuous training for agencies and staff who are assigned with the responsibility of document checks. According to AGSC, the NAIL team should continue in the same spirit: be available, give trainings and send out alerts. Swissport argued that the NAIL team should continue giving (more) trainings and has to consider bringing more members on board, especially from South America and Asia. Kenya Airways mentioned more participation of the NAIL team members, as well as more training on printing/digital techniques and other thematic trainings. The airline also argued that additional equipment would be very much appreciated and that the NAIL members should continue to send out (more) alerts. From their side, Kenya Airways provides the NAIL team members with a list of all offloads (including reasons) at the end of every month.

In general, the accessibility of the NAIL team members was evaluated as 'good'. The team members are often (physically) present at the airport, and in case one of the NAIL team members is not present or cannot be reached it is possible to contact another team member. However, the airlines indicated that some NAIL members are not as easily accessible or as much involved in airport work as other members. The airlines often contact the same NAIL team members who then contact their fellow colleagues and/or embassy staff.

5.2 Cooperation between the consular sections of the Member States and the airlines and handling agents

The airlines/handling agencies indicated that they face (technical) difficulties in reaching the consular staff of the EU/Schengen embassies to ask for clarifications about specific visa or documents issues. One airline made the following recommendations in relation to the cooperation with the embassies in Nairobi:

– *Provide contact details*: The embassies represented in Nairobi should provide the airlines with their contact details, despite the fact that communication between airlines and consular staff often goes through the ILOs. As a consequence, the airlines would be able to reach the consular sections directly when they are in need for assistance (e.g. in interviewing a passenger). Currently, in most cases the airlines only have the general phone number of the consular sections and are not able to reach anyone after the office hours. In such a situation, the airline can contact the airport in the country of destination, however local contacts proved to be much more effective.

– *Inform about changes in visa/document policy*: The Member States should inform the airlines/handling agents about changes in their visa and document policy, as that is a major source of confusion for the airlines. EU/Schengen States should harmonise their rules, (continue to) share information in visa working groups, and inform the airlines as soon as possible when they introduce changes.

This information has been communicated with the representatives of the Member States during the meeting in Nairobi.

6. Overall evaluation of the contact with the Kenyan authorities

This paragraph focusses on the contact with the Kenyan authorities in general. Part II chapter F of this report will deal with the cooperation with the authorities in relation to the topics discussed in part II (such as border control, human trafficking and smuggling etc.).

6.1 Cooperation between the NAIL network and the Kenyan authorities

The NAIL network has been successful in establishing and maintaining contact with the competent authorities in Kenya. A balanced (give and take) relationship has been developed. The team members offer -among other things- capacity building and training and the Kenyan officials, on their turn, provide for relevant information and assistance in consular matters. The joint training sessions conducted by the team members have improved their access to Kenyan authorities such as the Immigration Service, the National Registration Bureau and the Police. In general, the Kenyan authorities are motivated to assist the NAIL team and are willing to provide its members with the information required.

The positive cooperation with the Kenyan authorities enabled the NAIL team members to assist their own competent authorities to perform their duties (i.e. in preparation of returns, establishing contacts in the host country or establishing the identity of third country nationals).

The Immigration Service agreed that the cooperation with the ILO network in Nairobi is highly developed and that the network is effective and very important. Interaction with ILOs takes place at both a personal and an official level and includes trainings, sharing of information and the provision of equipment.[1] During the meeting between the Netherlands delegation (in charge of the reporting exercise) and the Director of the Department of Immigration Services of Kenya in Nairobi on 21 January 2016 it has been discussed how the Immigration Service could benefit more of the presence of the NAIL team. The Director and his staff mentioned the following points:

− *Equipment*: According to the Immigration Service equipment at border crossing points is of more use than money. The Dutch ILO proposed that Kenya would set up a document investigation lab at Jomo Kenyatta International Airport (initially financed by the Kenyan authorities) and that it could ask other countries to invest in this project, as countries are more likely to support something that already exists. The Immigration Service stated that efforts are taken to set up a fraud detection unit at the airport and that it aims to involve all stakeholders at the airport in this project.

− *Capacity building & training*: The director and his staff suggested that the NAIL team could conduct document trainings for the 200 new staff members of the Immigration Service, possibly in cooperation with their own trainers. According to the Director, the previous document training of immigration staff has been very useful, also with regard to intellectual capacity building. The NAIL team members could train more people to become trainers and should thereby focus not only on the airport, but also on the land borders. At the end of the trainings the participants should receive a certificate as proof of their achievements. Finally, the Immigration Service argued that mixed trainings of stakeholders that work together (Kenya Airways, the Immigration Service and other handling agencies) are important to enable them to build a network and to share information and experiences.

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[1]   Department of Immigration Services of Kenya: response to the questionnaire.

The Immigration Service also advised the NAIL team to enhance the network and to get in touch with leading authorities in charge of borders. The NAIL team should not be too modest and might even invite the Director of the Department of Immigration Services and other leading representatives to the yearly ILK (Immigration Liaison Kenya) meeting in Nairobi. According to the Immigration Service, the NAIL team also has to meet the CEOs of all the stakeholders (e.g. customs director, Kenyan airport authorities, national police) involved at the borders to enhance dialogue and to make them appreciate their work. The only complicating factor is that in Kenya CEOs frequently change position. As they do not work at the same department for a long time it is difficult to establish long-lasting contacts.

6.2 Cooperation between the EU/Schengen Member States and the Immigration Service

It followed from the meeting in Nairobi that there are substantial differences between the Member States with regard to the contact with the Kenyan authorities. Several Member States argued that the Immigration Service of Kenya responds very late or not at all to their requests for information. Other Member States indicated that they do not experience such problems. One ILO stated that the relationship with the Immigration Service has developed and that a change of attitude took place in the last few years. Especially at the airport, the Immigration staff realised that they need the ILOs as much as they need them. As several Member States indicated that they experience difficulties in reaching the immigration staff, one of the ILOs provided the consular staff with the number of the duty phone of the Immigration Service.

6.3 Cooperation between the airlines/handling agencies and the Immigration Service

The airlines/ handling agents argued that the contact with the Department of Immigration Services of Kenya is (fairly) good. However, cooperation is in some cases difficult when it comes to passengers on transit and with forged documents. The Immigration Service imposes huge fines when carriers bring inadmissible passengers into Kenya. Both the airlines and the Immigration Service supported the idea to set up a document investigation lab at Jomo Kenyatta International airport.

7. Recommendations to improve and strengthen the NAIL network

The recommendations mentioned below are based on the input of: the ILOs, the EU/Schengen Member States, the Department of Immigration Services of Kenya, Interpol Nairobi and the airlines/handling agencies:

1) **Additional resources**: Several ILOs argued that additional resources should be provided to the Member States, in particular additional funding to supply airline/immigration staff with equipment. The airlines as well as the Immigration Service of Kenya agreed that extra equipment would be very much appreciated.

2) **Better coordination**: Efforts across the spectrum of immigration should be better coordinated. As there are many diplomatic missions in Nairobi, it is difficult to know who is dealing with immigration. This lack of coordination could be overcome by meetings such as the NAIL team/NAFG (Nairobi Anti-Fraud Group) meetings, in which the different missions are brought together. The NAIL team should regularly inform the consular staff of the Member States of the outcomes of their meetings and has to enhance the coordination of the activities of individual ILOs forming part of the network. Moreover, it would be useful to better coordinate the Member States' different efforts in Somalia.

3) **Monthly bulletin**: One ILO suggested that a monthly bulletin (regular newsletter) would be useful. During the meeting with the representatives of the EU/Schengen Member States in Nairobi the consular sections agreed that such a regular and short (digital) newsletter with trends and incidents (perhaps combined with those discussed in the NAFG meetings) would be really useful and could potentially improve coordination in information sharing. It was argued that this newsletter could be disseminated every six months instead of every month.

4) **More ILOs in the region**: Several ILOs argued that more ILOs should be stationed across the Horn of Africa in order to increase information collection and sharing. The EU should focus on convincing Schengen states to participate in activities concerning ILO networking in order to reduce illegal migration. Kenya Airways suggested that it would be useful to have a Nordic ILO in Kenya.

5) **Use each other's network:** ILOs have different mandates and responsibilities. Some ILOs have many different duties (such as project identification, training, prevention, return cases and consular advice), while others have just one or two particular tasks. The job responsibilities of the ILOs forming part of the network should be balanced. This balance would create the biggest influence and the best results. The ILOs with certain limitations in job responsibilities should make use of the broader network of ILOs assigned with additional tasks.

6) **More dedication to airport duties:** According to one ILO the network should share the workload/presences at the airport between the team members in a more systematic manner. NAIL members should also increase information sharing on activities/incidents at JKIA. The airlines agreed that more presence of some of the NAIL team members (EU as well as non-EU) at the airport would be very useful. Currently, there are only a few ILOs who are committed to airport work. Visibility is important to earn and maintain the goodwill of partners and stakeholders at the airport.

7) **Keep the size of the network 'manageable'**: Interpol Nairobi as well as airlines/handling agencies argued that the NAIL network could be improved by involving more embassies, missions and African-, Asian- and Latin-American states. However, it followed from the meeting with the ILOs in Nairobi that the NAIL team should be distinguished from the NAFG team in which all countries can participate. It would be more difficult to establish contacts and to develop a personal relationship with partners and stakeholders (such as the airlines and the Immigration Service) when the network expands. One ILO argued that the NAIL team should be limited to people having (full time) airport access, so that the members can cover each other's flights. Potential new members should ask themselves whether they are willing to be available 24/7. In order to enhance information exchange on Asian/ Latin-American states, the NAIL team should establish and maintain close contact with their colleagues posted in those regions.

More (mixed) trainings: the airlines and the Department of Immigration Services of Kenya underlined the importance of continuous training for agencies and staff who are assigned with the responsibility of document checks. The Immigration Service argued that ILOs should conduct mixed trainings of the Immigration Service, Kenya Airways and other handling agencies to enable them to build a network and to increase information collection and sharing. The more training the ILOs conduct, the more visible the NAIL network would be.

B. Performing ILO tasks in unstable and unsafe countries (Somalia)

The Member States that responded to the questionnaire indicated that Somalia can be regarded as an unstable and unsafe country. The Swiss ILO argued that Sudan could, potentially, be seen as an unstable/unsafe country in the region as well.

1. Responsibility of the ILO network towards unstable and unsafe countries

According to the NAIL team members the network has the responsibility to build relationships and to maintain a network (through capacity building) in unstable/unsafe countries. The NAIL network should be used as an 'information sharing platform', in which the team members organise training activities and inform each other of training undertaken in order to share experiences and to coordinate their activities. Moreover, the network has the task to organise meetings to discuss verifying procedures and to research and propose different needs and actions in the framework of capacity building. The network also has the responsibility to engage with relevant stakeholders in unstable/unsafe countries, in particular on the subject of forced returns.

2. Best practices for maintaining relations with the authorities and airlines of unstable and unsafe countries

Regular engagement is key to building cooperation with relevant authorities in unsafe/unstable third countries such as Somalia. All engagement (capacity building and other development activities) needs to be coordinated within EU and non-EU countries across all diplomatic functions and relevant contact persons should be identified. Engagement opportunities should also be seized when officials from Somalia/ Somaliland visit Kenya or other relatively safe countries in the region. Confidence building with relevant counterparts is essential in relation to capacity building.

It is moreover important to conduct training sessions for Somali Immigration staff. The immigration service in Somalia expressed a strong need for document trainings, as more airlines operate flights from Somalia (e.g. daily flights by Turkish Airlines). These training sessions could also be held in third countries. The UK ILOs have a good relationship with Somali officials in Hargeisa and Mogadishu. Regular referrals are taken by the UK from officials in Somalia to prevent illegal migration. The UK, on behalf of other countries, also recovered forged documents from the Somaliland immigration departments. These documents have been returned to their respective Embassies.

The Swiss ILO mentioned the following best practices in relation to Sudan:

–   Close bilateral information sharing with the NAIL team in Nairobi and the Migration Specialist from the Norwegian Embassy in Addis Ababa.

–   Schengen meetings in Khartoum (involving also the UK, USA and Canada) to exchange information and best practices as well as the joint organization of trainings for consular embassy staff, airline officers and immigration.

–   Establishment of a migration coordination group on political level amongst European representations in order to share information.

–   Contacts with airlines for direct information on misuse of documents (especially imposters) and regular information sharing through the ALO network.

3. The assessment of trustworthiness of partners and stakeholders in unstable and unsafe countries

According to some of the NAIL team members, regular meetings and trainings provided as in kind contributions (e.g. to immigration services) are an important tool to build trust and to test a specific person on a minor case. Others indicated that the assessment of trustworthiness depends very much of the local situation, culture, expectations and the partners/stakeholders themselves and often takes place on a case-by-case basis. Of particular importance is understanding of the internal hierarchy and system of the counterpart's organization (e.g. with regard to the Intelligence Service), as well as transparency in ILO/ALO terms of reference and objectives. The trustworthiness of partners and stakeholders should be regularly monitored.

In Somalia the span of control of the NAIL network remains limited, although some (long-lasting) contacts have been established which have proved to be useful for the home countries' repatriation – or intelligence officers. The UK normally invites partners to the Embassy for meetings in Somalia. Exceptionally, the offices of relevant partners are visited, but only if adequate security is in place and if there is approval from the close protection- and security team. All visits are done in an armed car with close protection.

4. Safety measures that are needed to enable ILOs to take up tasks in unstable and unsafe countries

Security requirements vary widely across different countries and regions. The security environment is also very dynamic which means that risk assessments and risk mitigation strategies need to be constantly prepared and reviewed. Reliable information related to potential threats is extremely relevant and this information should be regularly shared amongst Member States. The ILOs also rely upon information relating to security issues provided by organisations such as International SOS and Control Risks. Furthermore, ILOs should receive information on personal arming and the political-, socio-economic- and security situation of the country concerned, as well as hostile environment awareness training (HEAT) provided by their own headquarters. The posting of ILOs in unstable and unsafe countries should be avoided. An alternative would be to grant an ILO posted in a third country the competence to carry out activities in an unstable/unsafe country, even if the amount and quality of the information gathered in this way will be reduced.

In countries like Somalia the security environment varies and largely dictates the level of on the ground liaison or capacity building work that can be conducted safely. In the part of Somalia under the control of the Federal Government of Somalia (including Mogadishu) travel outside of the secure airport zone which includes the British Embassy is generally considered unsafe. Meetings are therefore regularly conducted at the Embassy. In Somalia safe transportation is essential. Various NAIL team members indicated that a close protection team is needed when moving from one destination to another. Norway, among other countries, made use of this team in the past and was satisfied with the level of protection offered. The EU delegation travels to Somalia twice a month, using a close protection team. The duty of care is transferred to the EU when delegations travel to Somalia in a convoy (delegation members need to sign a document regarding liability).

In Somalia secure training facilities, as well as security checks of all participants taking part in trainings, are of utmost importance. In order to guarantee a secure training facility, the UK only conducts training of immigration staff at their Embassy in Somalia. The British Embassy is heavily fortified and thus a more secure environment for the NAIL members. Hargeisa in Somaliland, on the other hand, is considered fairly safe and trainings of immigration/airline staff have been conducted at a secure hotel in Hargeisa with appropriate security precautions. For the other ILOs it is important to have close contact with the British embassy, as well as other partners in Mogadishu (NGO network). It has also been indicated that ILOs need to be embedded within the local structures and ought to have a satellite phone and own means of transportation (EU/UN plane) at their disposal.

During the meeting with the Member States in Nairobi the participants discussed the thesis 'safety vs results'. Who is responsible for the safety of an ILO that conducts training in an unsafe country like Somalia? Who assesses the risks and determines what is more important in a particular case: the safety of the ILO or the need to go to an unsafe country? It followed from the discussion that it is never possible to exclude all risks and that ILOs have to strike a balance between safety and results in cooperation with the authorities who are responsible for their safety. If ILOs stay in Somalia overnight, they should be provided with a safe place to stay. The EU- DEL indicated that the EU is building an own office in Mogadishu. When this project is realised the Member States could make use of these facilities.

5. Recommendations to develop and enhance tasks and activities with or within unstable and unsafe countries

1) **Coordinate transportation**: One ILO argued that NAIL team members providing joint training in Somalia should be able to use the same means of transportation in Somalia (i.e. share one vehicle). This option has been discussed during the meeting with the EU/Schengen Member States in Nairobi. In practice the possibility to share a vehicle is difficult to realise, because of the duty of care/ insurance issues. However, the EU- DEL mentioned that the EU is building an office in Mogadishu. When this project is finished (probably by the end of 2016) the Member States are able to rent these facilities and could sign an MOU with the EU DEL in order to (also) arrange secure transport.

2) **Conduct more trainings**: Several ILOs underlined the importance of (frequent) on the job trainings of immigration officers in Somalia. The Somali immigration service expressed a strong need for document trainings.

3) **Provide for equipment**: the ILOs mentioned that more provisions are needed to enable ILOs to conduct training in unstable/unsafe countries such as Somalia. Basic equipment (loops, magnifiers etc.) should be provided to the participants involved in the trainings.

4) **Establish and maintain regular contact and enhance coordination**: According to the ILOs, regular engagement is key to building relationships with relevant authorities in unsafe/unstable third countries. ILOs should therefore establish and maintain regular contact with the government and immigration officials in the case of Somalia. Moreover, the NAIL team/Member States could share information on possible visits to Somalia and might even organise joint meetings with the immigration service/police in Somalia (although joint operations are not always possible).

5) **Enhance cooperation with the authorities**: it has been argued that the cooperation with the Somali authorities in relation to forced returns/ the verification of citizenship should be enhanced. The Member States could establish common procedures for co-operation with Somali authorities. In order to enhance cooperation on the repatriation of Somali citizens, capacity building and training are essential ('more for more').

6) **Engage in international capacity building programs or projects**: Several ILOs argued that the network should engage in capacity building projects like CBMM (Capacity Building for Migration Management), implemented by IOM. These international capacity building programs and projects should be developed/ enhanced to avoid duplications of efforts between participating donors. The programs or projects should contain improvements of organizational structures, training activities on all levels, legislative reviews and infrastructure.

C. Suggestions and proposals to improve further reports and to enhance the added value of ILO networks

1. Suggestions and proposals to improve the reports drawn up in accordance with Council Regulation (EC) No 377/2004

–   In order to effectively evaluate the functioning of an ILO network, the focus should not only be on the ILOs forming part of the network, but also on the main partners and stakeholders involved in the activities conducted by the ILOs, in particular the airlines which offer (in)direct flights to the EU Member States and the immigration service of the host country.

–   The authorities of the host country should be closely involved in the reporting exercise.1 After the report has been delivered, the Member States could provide the host country with an executive summary in which the main findings and conclusions are highlighted, while duly respecting the restricted nature of the report.

–   In order to ensure that reports are drawn up on the basis of up-to-date information, Member States could request the input of NGOs/ international organisations (e.g. IOM, UNHCR and RMMS), national expertise centres and EU agencies (e.g. Europol, Frontex) on the questionnaire. These actors could help to present a more complete overview of the situation in the region/country.

–   Visits to the host country are extremely useful to obtain additional information, however they should focus not only on the ILOs posted by the EU Member States, but also on the airlines and handling agencies, the immigration service of the host country, as well as non-EU ILOs and the diplomatic and consular sections of the EU/Schengen embassies.

–   Member States should comply with their obligation under Article 6(1) Regulation (EC) No 377/2004 -which provides that reports should be delivered by the end of each semester- in order to avoid that the information included in the report is outdated. This is all the more important in the rapidly developing field of migration.

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[1]   This was also concluded in the Luxembourg Presidency report of 13 November 2015 on Airports in United Arab Emirates-an emerging hub for migration?

–   Representatives of the European Commission posted to the third country concerned should be closely involved in the reporting exercise and have to make active use of the competence to participate in the activities of ILO networks in accordance with Article 4(2) Regulation (EC) No 377/2004.

2. Suggestions and proposals to enhance the added value of ILO networks

–   ILO networks should continue to involve liaison officers from third countries in the activities conducted by the ILOs posted by the EU Member States.

–   Coordination between the individual ILOs forming part of an ILO network, as well as coordination between ILOs and the Immigration Liaison Officers Managers Networks (ILOMNs), should be enhanced.

–   The potential of the interaction and cooperation between the ILOs and the EU DEL and relevant EU Agencies[1] should be adequately exploited. Multi-agency cooperation could substantially benefit the fulfilment of the tasks of ILO networks.

Reference is also made to the recommendations to improve the NAIL network (page 29-31). These recommendations might be relevant for the improvement of ILO Networks in general.

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[1]   For example Europol argued that many EU Member States have liaison officer deployed along the most used smuggling routes. These liaison networks often have direct access to date information on organized crime group (OCG) activity. Information from these networks could be actively shared with Europol via the Europol National Units to the extent that data protection legislation allows it. See Europol, 'Facilitation of illegal immigration related to Kenya and surrounding countries', FP Checkpoint 02 Unit, 23 December 2015, p.8.

PART II: SITUATION IN THE HOST COUNTRY IN MATTERS RELATING TO ILLEGAL IMMIGRATION

A. Mixed migration characteristics[1]

Kenya is an important regional hub for irregular migration towards South Africa, the Middle East, North Africa, West Africa, Europe and North America.[2] It is primarily a country of destination and transit for hundreds of thousands of people in the regional mixed migration flow, because of its strategic location and significantly better poverty ranking[3] than most of its neighbours. Kenya is also, to a more limited degree, a country of origin.[4] The following paragraphs focus on the situation in Kenya as a destination, origin and transit country.

1. Kenya: a country of destination

1.1 Numbers

Kenya ranks among the largest refugee hosting countries in Africa. According to UNHCR statistics, the refugee and asylum seeker population in Kenya is 596,094 (as of January 2016) with over 70% coming from Somalia.[5] Two refugee camps, Kakuma in the North West of Kenya and Dadaab in the North East, host the largest number (90%) of refugees in Kenya. Both camps were established more than 20 years ago in response to the influx of refugees fleeing civil war in neighbouring

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[1] IOM describes mixed migration as consisting of complex population movements including refugees, asylum seekers, economic migrants and other migrants. UNHCR defines it as people travelling in an irregular manner along similar routes, using similar means of travel, but for different reasons, see also Australian Government Department of Immigration and Border Protection, 'Irregular Migration Flows in the Horn of Africa: Challenges and implications for source, transit and destination countries', September 2015, p.7.

[2] International Organization for Migration (IOM), 'Migration in Kenya: a country profile 2015', p.24.

[3] Kenya's poverty level index was assessed to have a Multidimensional Index % of 0.226 and a Human Development Index of 0.548, ranking Kenya as number 145 out of 187 countries, see United Nations Development Programme (UNDP), Human Development Statistical Tables 2015, available at: http://hdr.undp.org/en/countries/profiles/KEN, last assessed in May 2016.

[4] Regional Mixed Migration Secretariat (RMMS), 'Country profile Kenya', available at: http://www.regionalmms.org/index2728.html?id=16, last assessed in February 2016.

[5] United Nations High Commissioner for Refugees (UNHCR), Factsheet Kenya, available at: http://reliefweb.int/sites/reliefweb.int/files/resources/KenyaFactsheet-January2016fv.pdf, last assessed in March 2016.

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countries.[1] As of January 2016 348.085 individuals were located in the Dabaab/ Alinjugur camps, 185,984 in the Kakuma camp and 62,025 in Nairobi.[2] The number of refugees in Nairobi is, however, indicative as the Government of Kenya issued a formal directive ordering urban refugees to return to the camps thereby shutting down all registration and service provisions in 2012.[3] Refugees must reside in the designated camps to qualify for assistance; however a humanitarian crisis has developed as the camps have exceeded their full capacity.[4] Moreover, in May 2016 the Kenyan government announced that it intends to close down the refugee camps within a year, citing economic, security and environmental burdens. UNHCR and numerous aid groups/ human rights organisations underlined the 'potentially devastating consequences for hundreds of thousands of people that premature ending of refugee hosting would have'.[5]

1.2 Countries of origin

Refugees primarily originate from within the African continent (see table below). Key countries of origin are Somalia, South Sudan, Ethiopia, Democratic Republic of Congo (DRC), Sudan and Burundi. Kenya has one of the largest Somali refugee populations in the world. Kenya also hosts a large Ethiopian refugee population and substantial numbers of undocumented Ethiopians live in Kenya. Moreover, Kenya provides refuge to a sizeable population of South-Sudanese. South Sudanese and Somalis, with the exception of those from Somaliland and Puntland, are granted prima facie refugee status.[6]

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[1] IOM, Migration in Kenya: a country profile 2015, *supra* n.15, p.37-38.
[2] UNHCR, Factsheet Kenya, *supra* n.18.
[3] IOM, Migration in Kenya: a country profile 2015, *supra* n.15, p.40.
[4] IOM, Migration in Kenya: a country profile 2015, *supra* n.15, p.38
[5] See, among others, UNHCR, 'UNHCR appeals to Kenya over decision to end refugee hosting', available at: http://www.unhcr.org/57308e616.html, last assessed May 2016.
[6] RMMS, Country profile Kenya, *supra* n.17.

Refugees and asylum-seekers in Kenya (2010-2015) divided by country of origin

Country of origin	2012	2013	2014	2015
Somalia	513.421	477.424	427.311	423.510
South Sudan	34.607	47.176	89.474	91.520
Ethiopia	32.687	31.209	30.478	30.509
DR Congo	12.768	14.510	17.303	18.053
Sudan	5.747	7.962	9.631	10.040
Burundi	4.271	5.453	6.568	6.619
Eritrea	1.880	1.748	1.566	1.546
Uganda	1.011	1.121	1.399	1.545
Rwanda	1.550	1.430	1.443	1.443
Other	1.011	1.121	1.399	204
Total	**608.113**	**587.223**	**585.363**	**584.989**

Source: UNHCR Factsheet Kenya (March 2015), available at:

http://www.unhcr.org/524d84b99.html.

1.3 Trends

– The largest group of refugees and asylum-seekers remain Somalis, however aggregate numbers of Somali refugees decreased, in part due to the spontaneous return of Somali refugees to their homeland within the framework of the 'Tripartite Agreement' between the Governments of Kenya and Somalia, and UNHCR.[1]

– The recent trends include a high number of economic migrants, reflecting a growing

– aspiration of many in the region to find a better life outside their country but it also reflects the extent to which public officials may be colluding with and facilitating smugglers, traffickers and individuals seeking to bend or break national laws.[2]

– The numbers of refugees and asylum-seekers from South Sudan have more than doubled in just over two years.[3]

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[1]   IOM, Migration in Kenya: a country profile 2015, *supra* n.15, p.39-40
[2]   RMMS, Country profile Kenya, *supra* n.17.
[3]   IOM, Migration in Kenya: a country profile 2015, *supra* n.15, p.39-40

1.4 Main drivers and motivation for migration

Mixed migration in Kenya has been characterized by the influx of Somalis, Ethiopians and South-Sudanese since the early 1990s, when all three regions were either in state of conflict and/or experiencing drought and famine. Most who came then were bona fide refugees being accepted on a prima facie basis. The drought-triggered famine in the Horn of Africa, the intervention by the combined African military force (AMISOM) to eject the Al Shabaab militant group from Somalia and the civil war in South Sudan also resulted in an influx of refugees to Kenya. Most of those entering Kenya are escaping harsh, oppressive and undesirable conditions elsewhere and seek to find a better life outside their country. Kenya's relatively stable and less oppressive regime (that reportedly turns a blind eye to many irregular migrants), porous border and strategic location in the Horn of Africa make it an attractive country of destination.[1]

1.5 Main routes and modus operandi

Somalis, Ethiopians, and to some extent Southern Sudanese, who come from bordering countries, take advantage of Kenya's porous border, crossing into the country either on their own accord or facilitated by smugglers and/or brokers. They travel on foot, or use vehicles between the countries. The populations living at the borders often share a common culture and language, as well as trade links between themselves, making these crossings easier. Many of those crossing into Kenya report harassment near the border and in urban centres by Kenyan police, who extort bribes from migrants. The number of people (especially fisherman) accessing Kenya by boat at Mombasa from Mogadishu and Kismayo or through Lake Victoria increased.[2] For more information on smuggling, see Chapter C.

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[1]   RMMS, Country profile Kenya, *supra* n.17.
[2]   RMMS, Country profile Kenya, *supra* n.17.

1.6 Illegal immigrants and migrant detention

The exact number of illegal immigrants apprehended in Kenya is not known. Kenya does apprehend illegal immigrants- such as those arriving by air on fraudulent or counterfeit documents- however, it also has an open door policy towards asylum seekers.[1] In Kenya a migrant who unlawfully enters or is unlawfully present in the country commits a criminal offence. The Kenyan government uses immigration detention as a means to control the movement of migrants through its territory. Illegal immigrants in Kenya are arrested several times during their journey because they do not have proper documentation or they are released only to end up imprisoned again because there are no deportation or repatriation systems in place. Authorities have on several occasions in recent years carried out mass arrests, detention and deportation of migrants and refugees as part of security operations, and usually in response to a security crisis (such as terror attacks).[2]

There have been multiple incidents in which (mainly) Ethiopian migrants were arrested and detained in Kenya, implying a potential increase in the number of Ethiopians traveling south through Kenya on their way to South Africa. Despite scattered information on separate incidents, comprehensive data on the number of migrants in detention in Kenya is not collated.[3] The Immigration Service of Kenya acknowledged that it has limited capacity with regard to the removal of illegal residents. In case of rejected asylum seekers the Immigration Department acts in conjunction with other security agents, notably the Kenya Police Service. The issue of hosting refugees, in particular Somali refugees, has become highly politicised in Kenya with anti-migrant sentiment exacerbated after attacks by Al-Shabaab extremists.[4]

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[1]   Information provided by the ILOs.
[2]   RMMS, Country profile Kenya, *supra* n.17. See also Human Rights Watch (HRW), 'Kenya: Counterterrorism Operations Undermine Rights', January 2015, available at: https://www.hrw.org/news/2015/01/29/kenya-counterterrorism-operations-undermine-rights, last assessed in March 2016.
[3]   RMMS, Country profile Kenya, *supra* n.17.
[4]   Australian Government, Irregular Migration Flows in the Horn of Africa, *supra* n.14, p.40.

2. Kenya: a country of origin

Kenya is, to a more limited degree, also a country of origin. However, for those Kenyans who do leave the country, the push and pull factors are different than for migrants in neighbouring countries. Most of the Kenyan emigrants are skilled and well-educated, leaving Kenya (initially) through legal channels to seek training or work in different countries.[1]

2.1 Countries of destination

On the African continent, most Kenyans migrate to Tanzania, Uganda and South Africa.

Significant numbers have moved to the United Kingdom and other countries in Europe, North America, the Middle East and the Gulf region in search of better opportunities.[2]

2.2 Numbers and trends

The World Bank estimated the number of Kenyan emigrants in 2013 to be approximately 475,499, or 1% of the total Kenyan population.[3] A survey (2013) of the UN Department of Economic and Social Affairs showed that roughly 145,403 Kenyan emigrants were living in the UK, 138,261 in the US and Canada, 44,359 in Uganda, 59,236 in Tanzania and 16,614 in South Africa.[4] Kenyan authorities estimated the number of Kenyan migrant workers in the Gulf Region to be 100,000 as of November 2014. The majority of Kenyan emigrants, except for those in the Middle East, are professionals, technicians and business people. The Middle East and the Gulf region (specifically Saudi Arabia, the United Arab Emirates and Qatar) are key labour destination regions for Kenyan unskilled migrant workers.[5]

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[1]   RMMS, Country profile Kenya, *supra* n.17.
[2]   IOM, Migration in Kenya: a country profile 2015, *supra* n.15, p.17.
[3]   RMMS, Country profile Kenya, *supra* n.17.
[4]   IOM, Migration in Kenya: a country profile 2015, *supra* n.15, p.53.
[5]   RMMS, Country profile Kenya, *supra* n.17.

2.3 Main drivers and motivation for emigration

The drivers of emigration are access to employment and education opportunities. Most of the Kenyan emigrants are skilled and well-educated and leave Kenya to seek training or work in different countries. Migration of unskilled migrants to the Middle East and the Gulf region for employment appears to be trending upwards. Despite the large amount of refugees and asylum seekers, Kenya experiences net emigration as departures of its citizens exceeds arrivals of foreigners. This has drawn concerns among policy circles regarding the impact of large-scale emigration on the country's development. Labour market conditions, specifically the wage gap and the supply of labour, explain in part the net emigration rate, especially for youth. Young people between the ages of 15 and 39- accounting for 35.4% of the population- represent a large pool of potential domestic and international migrants.[1]

2.4 Illegal migration from Kenya towards the EU

In terms of irregular land or maritime migration, Kenyans themselves are rarely found in irregular migration flows in the Horn of Africa but instead obtain documentation and visas (which they may abuse through over-stay or non-renewal) and generally do not travel with smugglers.[2] The number of irregular migrants from Kenya living and working outside their country is not known and data on Kenyans residing illegally abroad is not publically available.[3] There are estimates that there are at least 30,000 Kenyans in an irregular status residing in the US alone.[4] The EU/Schengen Member States that have responded to the questionnaire indicated that illegal migration of Kenyan nationals to their respective countries is not a major source of concern:

– Frontex reported that in 2014, 101 Kenyan nationals were refused entry at the external borders of the EU, compared to 100 in 2015 (until October 2015).[5] The main reasons for these refusals were the lack of a valid visa/ lack of justification (see also chapter B)

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[1]   IOM, Migration in Kenya: a country profile 2015, *supra* n.15, p.17-19 and 77.
[2]   Australian Government, Irregular Migration Flows in the Horn of Africa, *supra* n.14, p.39.
[3]   IOM, Migration in Kenya: a country profile 2015, *supra* n.15, p.24.
[4]   IOM, Migration in Kenya: a country profile 2015, *supra* n.15, p.16.
[5]   European Agency for the Management of Operational Cooperation at the External Borders of the Member States of the European Union (Frontex), 'Evaluation of ILO posting in Kenya, Somalia, Djibouti, Eritrea and Ethiopia: Answered Questionnaire for the Immigration and Naturalisation Service of the Netherlands', December 2015, p.2.

– Italy reported the refusal of one Kenyan citizen at the air border in 2015. At Italy's sea border 4 Kenyan nationals arrived in 2014 and 17 in 2015 (until November). Italy also reported that there are 2.644 Kenyan nationals holding an Italian residence permit (as from November 2015). Three of these Kenyans hold a residence permit for social protection/ victim of trafficking.

– Malta provided that 0 boat immigrants with a Kenyan nationality arrived in 2014/ 2015.

– Poland indicated that the number of Kenyan nationals apprehended/detected by the Border Guards in connection with illegal stay was 4 in 2014 and 8 in 2015. The number of Kenyan nationals apprehended/detected in connection with illegal crossing was 0 in 2014 and 3 in 2015 (1 via sea, 2 via Germany).

– Bulgaria stated that it does not experience any serious migration pressure from Kenya. The country did not apprehend any Kenyan nationals at Bulgarian Border Crossing Points (BCPs) in 2014/2015.

– Ireland provided that it does not have an issue with illegal migrants from Kenya. The same applies to Portugal, Belgium and Estonia.

– The Netherlands reported that 8 Kenyan nationals were refused at Schiphol Airport Amsterdam in 2014, compared to 11 Kenyan nationals in 2015.

– It followed from the meeting with representatives of the Member States in Nairobi that approximately 8 Kenyans applied for asylum in Norway in 2015. How these Kenyan nationals arrived in Norway is not known, but it seems likely they used the land routes.

The other Member States did not provide information on illegal migration from Kenya towards their respective countries.

It followed from the meeting with the Member States and the Director of the Department of Immigration Services in Nairobi that illegal migration from Kenya towards the EU is not a priority for the Kenyan authorities, as the numbers are very limited compared to illegal migration towards the southern African countries. Smugglers focus on the Southern routes which are more profitable. The routes towards the North are more complicated and only a limited number of illegal migrants succeed in reaching the EU via air routes. The ILOs are successful in preventing inadmissible passengers from boarding flights to the EU, however problems do exist in relation to transit passengers who claim asylum when they arrive at their transit destination in the EU (e.g. Paris, Amsterdam). Some of these passengers pretend to be Somali nationals. See also Chapter B on air borders inflows and outflows.

3. Kenya: a country of transit

Kenya is a transit country for irregular migrants from neighbouring states and attracts heterogeneous migration flows. In particular, the open and porous borders between Somalia and Kenya, spanning around 700 km in total, enable thousands of asylum seekers and irregular migrants to enter Kenya.[1]

3.1 Countries of origin

Most transit migrants are of Somali, Eritrean or Ethiopian origin, fleeing political insecurity and other undesirable conditions in their home countries. Many Ethiopians and Somalis enter Kenya as irregular migrants with the intention of moving on to South Africa.[2] They stay for short, medium or long terms in the main urban centres (Mombasa and Nairobi) as well as small towns- either as internal regional irregular migrants or as transit migrants – waiting to get sufficient resources and contacts to make their secondary movement. Many may not arrive with correct documentation but can frequently obtain documentation through bribery and forgery, or avoid arrest by reportedly paying off police and immigration officials.[3]

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[1]   RMMS, Country profile Kenya, *supra* n.17.
[2]   RMMS, Country profile Kenya, *supra* n.17.
[3]   Australian Government, Irregular Migration Flows in the Horn of Africa, *supra* n.14, p.39.

3.2 Numbers and trends

While the majority of irregular migrants seek refuge in Kenya, an unknown but estimated significant number, use the country as a point of transit en route to the South or North. For those that transit Kenya the greatest areas of risk and vulnerability are at the hands of smugglers taking them south. Every year thousands of Ethiopian nationals irregularly migrate from Ethiopia, through Kenya, Tanzania, Malawi and Mozambique en route to South Africa. The exact number of migrants crossing into South Africa is unknown, but the number of ‚undocumented immigrants living in South Africa may vary between 3-6 million people.[1]

3.3 Motivation to use Kenya as a transit country

Many migrants in the mixed migration flow use Kenya as a country of transit because of its strategic location, relatively developed infrastructure, good air and land connections, large migrant communities and well-connected smuggling networks.[2]

3.4 Main routes and modus of operandi

Transit migrants in the Horn of Africa use the following land routes: Northward (through Sudan and Egypt into Israel), Eastward (towards Yemen), Southward (through Kenya towards South Africa) and Westward (also known as the 'Central Mediterranean route').[3] Eritreans, Somalis and Ethiopians are mainly using the land route through South-Sudan/ Sudan to Libya or via Egypt to Libya. Main air routes from Kenya towards Europe are the direct flights to London, Paris and Brussels, as well as flights to Italy, Sweden and Greece (with a transit in the Middle East or via Zurich, Brussels and Paris).[4]

Migrant smuggling is an important component of mixed migration flows through Kenya.

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[1]   Regional Mixed Migration Secretariat (RMMS), Regional Mixed Migration 3rd Quarter Trend Analysis 2015, December 2015, available at: http://www.regionalmms.org/index897d.html?id=2, last assessed in January 2016.
[2]   RMMS, Country profile Kenya, *supra* n.17.
[3]   RMMS**,** Regional Mixed Migration 3rd Quarter Trend Analysis 2015, *supra* n.47.
[4]   Information provided by the ILOs.

According to the ILOs, three independent cases in Nairobi demonstrated that smugglers have access to airside at JKIA. Documents are handed over in the arrival hall (just before the immigration control) to illegal migrants.[1] Given Kenya's geographical location in the region, permeable borders and relatively ineffectual efforts to control borders and regulate migrant movements, its role as a point of transit for both the Northern and Southern routes is of high importance.[2] For more information on smuggling, see Chapter C.

3.5 Illegal migration towards the EU

The exact number of migrants that use Kenya as a transit country en route to Europe is not known (see also Chapter B: air borders inflows and outflows towards the EU). However, it is undisputed that the urban migrant population and the refugee and asylum population in Kenya represent a large pool of potential illegal migrants. As Kenya hosts over half a million refugees, the conditions in the refugee camps are not ideal with overcrowding common and a strict encampment policy. In most cases the displacement is protracted and refugees can expect to remain in the camps for long periods without the opportunity to access higher education or employment.[3] These circumstances may encourage secondary movement.

4. Relevant state institutions responsible for migration[4]

The Ministry of Interior and Coordination of National Government in Kenya houses the Directorate of Immigration and Registration of Persons. The following departments of this directorate are particularly important in the field of migration:

– *The Department of Refugee Affairs*: core functions of this Department include refugee status determinations and registration; coordination of provision of services to refugees; issuance of identification cards, movement passes, and travel document to refugees and the management of refugee camps, reception, and transit centres.

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[1] Information provided by the ILOs.
[2] RMMS, Country profile Kenya, *supra* n.17.
[3] RMMS, Country profile Kenya, *supra* n.17.
[4] This paragraph is based on IOM, Migration in Kenya: a country profile 2015, *supra* n.15, p.137-143

–   *The Department of Immigration Services*: this Department formulates national migration policy and reviews immigration laws and regulations; controls and regulates entry and exit of all persons and removal of prohibited immigrants; issues Kenyan passports and other travel documents; controls and regulates residency and provides consular services to (non) nationals at Kenya missions abroad.

–   *The National Registration Bureau (NRB)*: the NRB is responsible for identification and registration of all Kenyans 18 years of age and above; the production and issuance of identification documents; the management of a database of all registered persons; and the detection and prevention of all illegal registration.

5. Key national and international legislation relating to migration[1]

5.1 The Refugees Act 2006 and the Refugee Regulations 2009

The Refugees Act contains provisions specifying for example: the grounds upon which a person can be disqualified from being granted refugee status; the conditions under which a person's refugee status ceases; the procedure by which a refugee is to be recognised; the rights and duties of refugees in Kenya; the possible expulsion of refugees and/or family members; the grounds on which refugee status or recognition of refugees may be withdrawn; the time-limits for making a decision, and other relevant provisions.

The Act also establishes:

–   *The Department of Refugee Affairs;* (see above)

–   *The office of the Commissioner of Refugee Affairs*: this Commissioner is responsible for heading the Department of Refugee Affairs.

–   *The Refugee Affairs Committee*: this Committee is responsible for assisting the Commissioner in matters concerning recognition of persons as refugees.

–   *The Refugee Appeal Board*: this Board is responsible for deciding on appeals.

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[1]   This paragraph is based on IOM, Migration in Kenya: a country profile 2015, *supra* n.15, p.111-136.

− *Refugee Camp Officers*: these officers are responsible for managing the refugee camps.

− *Appointed Officers*: these officers have the capacity to interview a refugee or asylum-seeker and to record their bio-data (finger-prints, photographs, X-rays, etc.).

Since 2014, every person who has applied for recognition of their status as a refugee is required to remain in a designated refugee camp until the processing of their status is completed.

5.2 The Relocation directive of December 2012 and the encampment order of March 2014

On 18 December 2012, the Commissioner for Refugee Affairs issued a press release stating that the Government of Kenya would stop reception and close down all registration centres in urban areas, and that all asylum-seekers and refugees were to report to Dadaab or Kakuma refugee camps. This directive led to widespread concerns. The Directive was upheld in June 2014 by the High Court.

5.3 The Kenyan Citizenship and Immigration Act (2011) and the Citizenship and Immigration Regulations (2012)

The Citizens and Immigration Act and -Regulations address the administration of citizenship and immigration matters, and matters related to citizenship, rights and duties of citizens, passports and travel documents, immigration controls, management of foreign nationals, and management of immigration related records (visas, permits, and passes granted by the Government of Kenya). Under the Act, a migrant who unlawfully enters or is unlawfully present in the country commits a criminal offence. If convicted, the penalty may involve a fine (of up to USD 5.500) or imprisonment (of up to 3 years), or both. Importantly, this rule does not apply to newly arrived asylum-seekers. In 2014 a new section was added in the Kenyan Citizenship and Immigration Act (2011) by the Security Laws Amendment Act. This section established a Border Control and Operations Coordination Committee which is responsible for formulating policies and programmes for the management and control of designated entry and exit points.

5.4 The Counter Trafficking in Persons Act

This Act will be discussed in Chapter C. For more information on national legislation, see Migration in Kenya: a country profile.[1]

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[1]   IOM, Migration in Kenya: a country profile 2015, *supra* n.15, p.111-136.

5.5 International Conventions signed by the Government of Kenya

Kenya is party to key international treaties and multilateral agreements relating to migration including international/United Nations conventions and regional African Union treaties:

Treaty	Signed	Year
UN Refugee Convention	Yes	1966
- Protocol to the Refugee Convention (1967)	Yes	1981
International Covenant on Civil and Political Rights (1966)	Yes	1972
- Optional Protocol I to the International Covenant on Civil and Political Rights (1966)	No	
International Covenant on Economic, Social and Cultural Rights (1966)	Yes	1972
- Optional Protocol I to the International Covenant on Economic, Social and Cultural Rights (2008)	No	
Convention on the Elimination of all forms of Racial Discrimination (1966)	Yes	2001
- Declaration under Article 14 allowing individual complaints	No	
ILO Equal Remuneration Convention (C100 – 1951)	Yes	2001
ILO Discrimination (Employment and Occupation) Convention (C111 – 1958)	Yes	2001
Convention on the Elimination of all forms of Discrimination against Women (CEDAW, 1979)	Yes	1984
- Optional Protocol to the Convention on the Elimination of all forms of Discrimination against Women (1999)	No	
Convention Against Torture and other Cruel, Inhumane or Degrading Treatment (1984)	Yes	1997
UN Convention against Transnational Organized Crime (2000)	Yes	2004
UN Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children, supplementing the UN Convention against Transnational Organized Crime (2000)	Yes	2005
UN Protocol against the Smuggling of Migrants by Land, Sea and Air, supplementing the United Nations Convention Against Transnational Organized Crime (2000)	Yes	2005
ILO Indigenous and tribal Peoples Convention (C169 – 1989)	No	
UNESCO Convention against Discrimination in Education	No	
UN Convention Relating to the Status of Stateless Persons (1954)	No	
Convention on the Rights of persons with Disabilities (2006)	Yes	2008
- Optional Protocol to the Convention on the Rights of Persons with Disabilities	No	
Convention on the Rights of the Child (CRC, 1989)	Yes	1990
- Optional Protocol I to the Convention on the Rights of the Child (2000)	Yes	2002
- Optional Protocol II to the Convention on the Rights of the Child (2000)	No	
Convention on the Protection of the Rights of All Migrant Workers and Members of their Families (1990)	No	
- Optional Protocol Convention on the Protection of the Rights of All Migrant Workers and Members of their Families Art. 11 Individual complaints procedure	No	

Source: ILO, 2015; Kenya Human Rights Commission, 2010; United Nations Treaty Collection, 2015. Available at: IOM, Migration in Kenya: a country profile 2015, p.134.

B. BORDER MANAGEMENT

1. General overview

Kenya shares a highly porous border with Somalia, Ethiopia and Southern Sudan. This border has long served as a convenient entry and exit point for migration flows, and continues to do so whether the borders are officially open or closed.[1] The authorities struggle to match their desire to control the movement of undocumented foreigners with their capacity.[2]

The Department of Immigration of Kenya undertakes migration management activities from over 45 locations spread throughout the country as follows:

S. NO.	Type of control	Number
1	Land borders	17
2	Sea ports	7+ Mbita point on Lake Victoria
3	Airports	8
4	Inland offices	11
5	Head quarter	1

Source: The Department of Immigration Services of Kenya: response to the questionnaire

Immigration officers are usually stationed at the point of entry or exit from where they can mount patrols to the border area. Day to day surveillance of the parts of the border between entries is entrusted to other security agents. Systems for data collection are available on legal migration. The Investigation and Prosecution section of the department of Immigration maintains a screening list which is accessible to all border control points.[3]

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[1] RMMS, Country profile Kenya, *supra* n.17. See also International Crisis Group, 'Kenya's Somali North East:
Devolution and Security', Crisis Group Africa Briefing N°114 (Nairobi/Brussels), 17 November 2015, available at: http://www.crisisgroup.org/~/media/Files/africa/horn-of-africa/kenya/b114-kenya-s-somali-north-east-devolution-and-security.pdf, p. 12.

[2] Australian Government, Irregular Migration Flows in the Horn of Africa, *supra* n.14, p.41.

[3] The Department of Immigration Services of Kenya : response to the questionnaire.

1.1 Land, sea and air borders

The Department of Immigration has deployed an optimal number of immigration officers at land border controls. Challenges include transportation, housing, internet connectivity and lack of specialized equipment. It is particularly difficult to monitor the activities at the 700 kilometer border with Somalia, because the population at the borders (often pastoralists involved in cross-border movement) is thin. The sea borders are found along the Indian Ocean, however the Department of Immigration does not have the capacity to patrol the vast coastline. Immigration officers are also stationed at all international airports. The largest number of officers is stationed at the busiest airports: Jomo Kenyatta (Nairobi) and Moi International Airport (Mombasa).[1] According to the ILOs, border controls are mostly effective at airports, as land and sea borders are porous.

1.2 Education and training border guards

After basic immigration induction training, border officers undergo specialized courses relevant to immigration. These include among others: document examination, prosecution, border control procedures, fraudulent documents course, airport interdiction, counter-terrorism, security and paramilitary training, refugee protection, customer services, law and other relevant training and education.[2]

2. Risks and threats at Kenya's borders

2.1 Infrastructure and equipment

The headquarters building for border control is reasonably well equipped, but elsewhere offices are generally in a poor condition. Border crossing points are equipped with a biometric system to record fingerprints and photographs of all passengers entering and leaving. However, this Personal Identification Secure Comparison and Evaluation System (PISCES) is not used as effectively as it could be. Immigration staff frequently create a new file for a passenger rather than first searching the database for a previous entry/exit and appending the record to this.

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[1]   The Department of Immigration Services of Kenya: response to the questionnaire.
[2]   The Department of Immigration Services of Kenya: response to the questionnaire.

This causes multiple file creation for the same passenger who travels regularly. At JKIA, the following risks were reported: there is no designated staff entrance and passengers are sometimes grouped together at the same gate when boarding different flights (e.g. the flight to Brussels and the flight to Kigali board nearly at the same time at the same gate).[1] This might facilitate boarding card swaps.

2.2 Staff

Corruption is endemic in Kenya. Kenya is perceived as one of the 'highly corrupt' countries in the world, ranking 139th on the Corruption Perception Index in 2015.[2] Reportedly, migrants that cross the porous borders are often harassed by the Kenyan police who extort bribes even from those who would qualify as bona-fide refugees such as Somalis to whom a prima-facie status is accorded.[3] The salary of the border guards is low, which makes it easier to bribe them.[4] The ILOs also detected some irregularities by procedures at the exit checkpoints of the Immigration Service at JKIA, for example a case in which the immigration officer just stamped the document of a passenger without taking a picture, a scan of the document or fingerprints. Reportedly, some employees of almost all partners at the airport (Immigration, Airlines, Kenya Airport Authority, Police) are involved in the trafficking and smuggling of human beings. Access to airports, immigration stamps and visas is readily available for a price.[5]

2.3 Migratory pressure and asylum seekers

Kenya faces unique migration challenges due to the influx of migrants from other African countries that are in a state of conflict and/or experiencing drought and famine or other harsh, oppressive and undesirable conditions. Mainly due to its strong humanitarian traditions of generosity and hospitality towards asylum-seekers and refugees, its relative stability/ economic prosperity, and its strategic location in the Horn of Africa, Kenya is a magnet for refugees and asylum seekers from across the region. Most of those entering Kenya originate from Somalia, South Sudan, Ethiopia, the Democratic Republic of the Congo, Sudan and Burundi.

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[1]   Information provided by the ILOs.
[2]   Transparency International, Corruption by country/territory: Kenya, available at: https://www.transparency.org/country/#KEN, last assessed in May 2016.
[3]   RMMS, Country profile Kenya, *supra* n.17.
[4]   Information provided by the ILOs.
[5]   Information provided by the ILOs.

The conflict in Yemen also increased cross-border migration, however most Yeminis flee to Djibouti and, to a lesser extent, Ethiopia, Somalia and Sudan.[1] Kenya also faces migration challenges due to intensified climate change and environmental degradation, which contributed to cross-border migration by nomadic and semi-nomadic pastoralists from Ethiopia, Somalia and Uganda.[2] For more information, see chapter A.

2.4 Trafficking and smuggling of human beings

Kenya is a source, transit, and destination country for men, women, and children subjected to forced labour and sex trafficking.[3] For more information, see chapter C.

2.5 Terrorism

Terrorism is a major challenge for all countries in the region including Kenya. Kenya has suffered attacks from terrorists linked to al-Shabaab. The porous nature of Kenya's land borders and the fact that ethnic Somalis live both in Kenya and Somalia means that terrorists are able to readily move between Kenya and Somalia without detection. In 2015, following 148 fatalities after an attack on Garissa University College in North-Eastern Kenya carried out by the Al-Shabaab group, Kenyan authorities reiterated calls for the closure of Dadaab refugee camp and repatriation of refugees to Somalia, alleging that the camp was a support and recruitment base for terrorists. In 2015, the government also announced that it would begin constructing a wall at the border with Somalia with the intent to keep out irregular migrants and Al-Shabaab militia from inside Somalia. It is not clear how much progress has been made so far. Some argue that the project is useless as the biggest threat the country is facing is from within.[4] Like most countries, Kenya is also not immune to the phenomenon of its citizens or citizens from neighbouring countries transiting through its ports en route to the Middle East to fight for ISIS.[5]

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[1] Regional Mixed Migration Secretariat (RMMS), Monthly Summary October 2015, available at: http://www.regionalmms.org/fileadmin/content/monthly%20summaries/RMMS_Monthly_Summary_October_2015.pdf , last assessed in March 2016.
[2] RMMS, Country profile Kenya, *supra* n.17.
[3] US Department of State, 'Trafficking in Persons (TIP) Report 2015: Kenya', p.204-206.
[4] Word Tribune, 'Kenya building wall at border with Somalia to keep out Al-Shabab jihadists', 2 December 2015, available at: http://www.worldtribune.com/kenya-building-wall-at-border-with-somalia-to-keep-out-al-shabab-jihadists/, last assessed in May 2016.
[5] Information provided by the ILOs.

2.6 Drug trafficking

Kenya along with Tanzania is a major transit point for narcotic trafficking. Kenya and Tanzania are on the 'smack track'[1] and are both known transit points for heroin from Afghanistan smuggled by sea from ports in Pakistan and Iran. The Combined Maritime Forces have made major intercepts in the Indian Ocean. Overland routes from Tanzania to Kenya are reportedly to transport heroin prior to smuggling by air, generally towards Europe. Wildlife crime and smuggling is also a major concern for Kenya and neighbouring countries.[2]

3. Air borders inflows and outflows towards the EU

Kenya is a major African air transport hub. There are direct flights from Nairobi to Amsterdam and London (daily) and to Paris, Frankfurt, Zurich and Brussels (frequently). Meridiana and Condor operate flights from Mombasa to Frankfurt, Milan and Rome. According to the ILOs, Swissport reported 567 intercepts at JKIA from January to November 2015. The vast majority of these intercepts were for Europe bound passengers. The majority of intercepts were Kenyan, Ethiopian and Somali passengers.

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[1] The Smack Track is a circuitous route to smuggle heroin from Afghanistan to Europe, passing through east Africa, see The Economist, 'Drug smuggling in Africa: the Smack Track', available at: http://www.economist.com/news/middle-east-and-africa/21639560-east-african-states-are-being-undermined-heroin-smuggling-smack-track, last assessed in March 2016.

[2] Information provided by the ILOs.

3.1 Overview of flights and airlines

See tables below.

Overview of the flights (frequency, destination) and airline companies operating flights from Kenya to the EU Member States in 2014 and 2015

From	Airline	Schedule	Destination
Nairobi (NBO)	KLM	Daily	Amsterdam
Nairobi (NBO)	Kenya Airways	Daily	Amsterdam
Nairobi (NBO)	Kenya Airways	Daily	London
Nairobi (NBO)	Kenya Airways	6 times a week	Paris
Nairobi (NBO)	British Airways	Daily	London
Nairobi (NBO)	Virgin Atlantic	5 times a week	London
Nairobi (NBO)	Swiss	6 times a week	Zurich
Nairobi (NBO)	Brussels Airlines	3 times a week	Brussels
Nairobi (NBO)	Lufthansa	4 times a week	Frankfurt
Mombasa (MOI)	Condor	3 times a week	Frankfurt
Mombasa (MOI)	Meridiana	2 times a week	Milan
Mombasa (MOI)	Meridiana	2 times a week	Rome

Source: Websites of airlines, information provided by the ILOs

Airline passengers also make use of (the below mentioned) transit points en route to the EU Member States.

Overview of transit points that are frequently used when flying from Kenya to the EU Member States in 2014 and 2015

From	Airline	Schedule	Destination
Nairobi (NBO)	Kenya Airways	4 times a week	Guangzhou
Nairobi (NBO)	Kenya Airways	Daily	Mumbai
Nairobi (NBO)	Kenya Airways	Daily	Bangkok
Nairobi (NBO)	Turkish Airlines	Daily	Istanbul
Nairobi (NBO)	Emirates Airlines	Daily	Dubai
Nairobi (NBO)	Qatar Airways	Daily	Doha
Nairobi (NBO)	Ethiopian Airlines	2 times a week	Addis Ababa
Nairobi (NBO)	Egypt Air	3 times a week	Cairo
Nairobi (NBO)	China Southern	Daily	Guangzhou
Nairobi (NBO)	Etihad	Daily	Abu Dhabi
Nairobi (NBO)	South African Airlines	Daily	Johannesburg
Nairobi (NBO)	Saoudi Airlines	Daily	Jeddah
Mombasa (MOI)	Turkish Airlines	Daily	Istanbul
Mombasa (MOI)	RwandAir	Daily	Dubai

Source: Websites of airlines, information provided by the ILOs

3.2 Refusals at the air borders in Kenya in 2014/2015

The efforts of the entire network (the airlines, immigration liaison officers and the local authorities) in Kenya resulted in the refusal of 958 persons wishing to depart from Kenya by air in 2014. The reasons for refusal were diverse. In 834 of the cases it concerned a technical stop/ profile, in 93 of these cases there was a fraudulent document involved (53 forged/counterfeit passports and 40 forged/counterfeit visas). In 2014 the network detected 31 imposters.

Top 20 nationalities that were stopped by the network in 2014 and the top 20 destinations

Top 20 nationalities			Top 20 destinations*		
Kenya		456	London (LHR)		43
Somalia		88	Paris (CDG)		37
Uganda		33	Istanbul (IST)		35
United States		28	Minneapolis (MSP)		26
Congo (Kinshasa)		24	New York (JFK)		25
India		24	Copenhagen (CPH)		21
Comoros Islands		23	Toronto (YYZ)		21
South Sudan		19	Milan (MXP)		21
Tanzania		18	Havana (HAV)		20
Nigeria		17	Doha (DOH)		20
Ethiopia		17	Johannesburg (JNB)		18
Burundi		15	Amsterdam (AMS)		17
United Kingdom		12	Barcelona (BCN)		17
Rwanda		12	Stockholm (ARN)		17
Madagascar Republic		10	Houston (IAD)		17
Canada		10	Boston (BOS)		16
Iran		9	Mexico-city (MEX)		14
China		9	Minsk (MSQ)		13
Yemen		9	Detroit (DFW)		12
Zimbabwe		9	Madrid (MAD)		12
Other		153	Other		557
Total		**958**	**Total**		**958**

*The majority of these destinations can only be reached via transit

Source: Immigration and Naturalisation Service of the Netherlands

In 2015, the efforts of the entire network (the airlines, immigration liaison officers and the local authorities) in Kenya resulted in the refusal of 1,048 persons wishing to depart from Kenya by air. The reasons for refusal were diverse. In 930 of the cases it concerned a technical stop/ profile, in 80 of these cases there was a fraudulent document involved (61 forged/counterfeit passports and 19 forged/counterfeit visas). In 2015 the network detected 38 imposters.

Top 20 nationalities that were stopped by the network in 2015 and the top 20 destinations

Top 20 nationalities	
Kenya	591
Somalia	56
Ethiopia	32
Burundi	29
United States	25
India	23
Tanzania	20
Sudan	17
Comoros Islands	17
Uganda	16
Congo (Kinshasa)	16
Malawi	13
Eritrea	12
Zimbabwe	12
Nigeria	12
Zambia	11
China (PRC)	10
South Africa	10
Rwanda	9
Iran	8
Other	109
Total	**1048**

Top 20 destinations*	
New York (JFK)	55
London (LHR)	41
Paris (CDG)	40
Doha (DOH)	33
Istanbul (IST)	30
Amsterdam (AMS)	30
Frankfurt (FRA)	25
Minneapolis (MSP)	24
Beirut (BEY)	22
Stockholm (ARN)	20
Havana (HAV)	20
Boston (BOS)	18
Washington (IAD)	17
Sao Paulo (GRU)	17
Minsk (MSQ)	15
Mexico (MEX)	15
Copenhagen (CPH)	15
Johannesburg (JNB)	15
Toronto (YYZ)	14
Milan (MXP)	13
Other	569
Total	**1048**

*The majority of these destinations can only be reached via transit

Source: Immigration and Naturalisation Service of the Netherlands

3.3 Incidents reported by the NAIL team at JKIA[1]:

−   *Imposters*: in the reporting period there has been a Kenyan passenger using a Canadian visa as an imposter and a Somali using a Swedish passport as an imposter on flights to London.

−   *Poor profile passengers*: the NAIL team also reported poor profile passengers on the route Belgrad – Minsk – Sao Paulo – Mexico (using Qatar Airways, Emirates or Kenya Airways).

−   *Counterfeit/ forged documents*: The NAIL team reported a Somali with a counterfeit Italian document using Brussels Airlines; passengers using a forged Lithuanian passport and counterfeit Schengen visas and residence cards on the route Khartoum – Cairo - Europe direct; and passengers from Burundi and Rwanda using counterfeit/forged documents (Belgian ID Card).

3.4 Carriers liability

A good cooperation is achieved with all airlines that are working very closely with the NAIL network. Carriers are liable in a case of irregular migration. The Immigration Service of Kenya fines the airline KShs 1 million (€8.911) per inadmissible passenger carried and an additional amount of KShs 200.000 (€1.782) when the airline knowingly brings such a passenger into the country.[2] Airlines have to furnish the Immigration Service with a passenger manifest and a list of the crew. When inadmissible passengers arrive in Kenya they are taken into custody and provided with proper accommodation and maintenance. Consequently, they are removed from the Kenyan territory and (if applicable) the payment of any surcharge is levied.[3] Airlines often attempt to send inadmissible passenger back (to the last point of embarkation) before the Immigration Service finds out, to avoid the huge fines.[4]

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[1]   Information provided by the ILOs
[2]   Information provided by the airlines. See also the Kenyan Citizenship and Immigration Act (2011) Section 44.
[3]   The Department of Immigration Services of Kenya: response to the questionnaire.
[4]   Information provided by the airlines.

The NAIL team members assist the airlines and handling agencies by giving advice in order to avoid that penalties are levied upon arrival in one of the EU/Schengen Member States. The penalty regime works well for Europe bound flights.[1] KLM and Kenya Airways provided that the NAIL team members are readily available for consultation and that their input is highly appreciated. AGSC mentioned that through the advices of the NAIL team, the handling agents are able to stop passengers before arrival in an EU Member State. Swissport stressed however that the final decision is taken by the document checker, especially if the consultation is done over the phone, but that the NAIL members provide valuable assistance if they are physically on site.

3.5 Refusal of entry at the EU external borders

In 2014, 101 Kenyan nationals were refused entry at the EU external borders and between January and October 2015 the figure was 100.

Location of refusal, divided into land/sea and air

Refusal of entry by location	2014	Jan-Oct 2015	Total Jan 2014 - Oct 2015
Total	**101**	**100**	**201**
Air	98	93	**191**
Sea	1	4	**5**
Land	2	3	**5**

Sourse: Frontex, Evaluation of ILO posting in Kenya, Ethiopia, Eritrea, Somalia and Djibouti:

Answered Questionnaire for the Immigration and Naturalisation Service of the Netherlands

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[1]   Information provided by the ILOs and Interpol Nairobi.

Main reasons for refusals

Reason	2014	2015 (jan.-oct.)
No valid visa	39	68
Reason not available	29	23
No justification	17	8
No valid document	5	5
False visa	0	1
No subsistence	11	1
Threat	0	1
Over three- months stay	2	0

Source: Frontex, Evaluation of ILO posting in Kenya, Ethiopia, Eritrea, Somalia and Djibouti:

Answered Questionnaire for the Immigration and Naturalisation Service of the Netherlands

Top 10 nationalities of persons that have been refused at the external borders in 2014 and 2015 coming from a direct flight from Kenya to the EU Member States

Refusals from Kenya	2014	2015	Total
Nairobi (NBO)	**18**	**30**	**48**
Kenya	6	10	16
Unknown	1	11	12
Comoros	1	2	3
Tanzania	2	1	3
Madagascar	0	3	3
Rwanda	2	1	3
South Africa	2	0	2
United Kingdom	2	0	2
Burundi	1	1	2
Uganda	1	1	2
Mombasa (MBA)	**0**	**2**	**2**
Kenya	0	2	2
Grand total	**18**	**32**	**50**

Source: Frontex, Evaluation of ILO posting in Kenya, Ethiopia, Eritrea, Somalia and Djibouti:

Answered Questionnaire for the Immigration and Naturalisation Service of the Netherlands

Incoming carriers of Kenyans that have been refused at the external borders in 2014 and 2015 coming from a direct flight from Kenya to the EU Member States

Airlines used from Kenya	2014	2015	Total
Total	**6**	**12**	**18**
Brussels Airlines (SN)	3	2	5
Condor (DE)	0	2	2
Kenya Airways (KQ)	3	4	7
KLM Royal Dutch Airlines (KL)	0	3	3
Swiss Int. (LX)	0	1	1

Source: Frontex, Evaluation of ILO posting in Kenya, Ethiopia, Eritrea, Somalia and Djibouti:

Answered Questionnaire for the Immigration and Naturalisation Service of the Netherlands

C. Human trafficking and –smuggling

1. Situation in Kenya in relation to human trafficking and smuggling

1.1 Human smuggling

Kenya is a regional hub for smuggling and the obtaining of false documentation necessary for creating new identities or visas. Somalis, Ethiopians, and to some extent Southern Sudanese, who come from bordering countries, take advantage of Kenya's porous border and are often facilitated by smugglers and/or brokers. Particularly in Ethiopia and Somalia, the number of brokers and smugglers offering to manage migrants' journeys are high. There have also been instances of some migrants 'buying' their passage on private cargo planes ('carrying qat') from South-Central Somalia to Kenya.[1] Reportedly, Nairobi is a central hub for obtaining travel documents, false birth certificates, affidavits of relationships, visas for other countries (often illicitly) and is used as a staging point for secondary movement. Smugglers operate from the main urban centres (Mombasa and Nairobi) offering onward clandestine movement towards South Africa, in particular, as well as further locations such as Europe and North America or Canada (by flights, with visas procured).

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[1]   RMMS, Country profile Kenya, *supra* n.17. There are daily 'qat flights' between Wilson Airport (Nairobi) and Somalia.

Reportedly the fee to be smuggled on a truck from the border with Ethiopia to Nairobi is about USD600-700. The fee to be transported from Nairobi to South Africa is between USD1.100-1.500.[1]

Smuggling networks operate out of refugee camps as well. Some refugees pay organised smugglers to transport them to Nairobi, either by covert routes or with the collusion of bribed police officers. Others reported that they paid public officials or police to escort them along these routes. There is also an experienced network of brokers in Kenya, specialising in assisting Somalis to organise their departure from Kenya to another destination. Endemic corruption makes Kenya a popular transit country for smugglers who are reported to bribe security and border officials to allow passage. The International Peace Institute (IPI) labelled migrant smuggling and women/children trafficking networks – mainly Somali and Kenyan - as one of the three most prominent groups of African criminal networks in East Africa.[2] Also at the airport, the level of corruption is high. Three independent cases in Nairobi demonstrated that smugglers have access to airside at Jomo Kenyatta International Airport. Documents are handed over in the arrival hall (just before the immigration control) to illegal migrants. Reportedly, employees of almost all partners at the airport (Immigration, airlines, Kenya Airport Authority, Police) are involved in the smuggling of human beings.[3]

1.2 The number of smugglers that were intercepted in 2014-2015

According to the UK ILOs 5 smugglers were intercepted in 2014 and 6 in 2015 (until October 2015). The Swiss ALO indicated that a number of facilitators (direction Europe) were intercepted at Jomo Kenyatta Airport in 2014-2015. In total, six facilitators- accompanying the passengers until the gates- were stopped. According to Frontex four facilitators of Kenyan nationality were detected in 2014 and two between January and October 2015.[4]

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[1]   Australian Government, Irregular Migration Flows in the Horn of Africa, *supra* n.14, p.39.
[2]   RMMS, Country profile Kenya, *supra* n.17.
[3]   Information provided by the ILOs and the airlines.
[4]   Frontex, Evaluation of ILO posting in Kenya, Ethiopia, Eritrea, Somalia and Djibouti, *supra* n.43, p.7.

The ILOs mentioned that the proportion of organized illegal migration (compared to un-facilitated illegal migration) is difficult to estimate, but relatively high. Estimates have been made that 70% of illegal migration is organized and 30% not facilitated. There may, however, be various levels of facilitation per person: some may just obtain fraudulent documents from a smuggler whilst others may use a 'package deal' from one or more smugglers to supply services such as documents, accommodation and transport by air, land and/or sea.

1.3 Profile of intercepted smugglers

According to the Swiss ALO, intercepted smugglers often have the following profile: Male/ aged between 30 and 45 years/ Sudanese and Somali origin with European resident status / frequent travellers over Istanbul, Dubai or Khartoum. The UK ILOs added that smugglers are mainly Somali nationals travelling on GBR/EU documents. The migrants who are smuggled are often imposters.

1.4 Human trafficking

Kenya has been identified as a source, transit and destination country for men, women, and children subjected to forced labour and sex trafficking in the U.S. Trafficking in Persons (TIP) Report 2015.[1] Accurate estimates of the frequency and scale of the problem are a challenge.[2]

Human trafficking towards/within Kenya

Within Kenya, children are forced to labour in domestic service, agriculture, fishing, cattle herding, street vending, and begging. Children- boys and girls- are also exploited in prostitution throughout Kenya, including in the coastal sex tourism industry. Researchers have estimated that around 20,000 children are trafficked in Kenya every year. The price for trafficked girls aged 10 to 15 from Kenya is estimated at USD 600.[3] The children that are subject to prostitution and forced labour mainly stem from Kenya, Burundi, Ethiopia, Somalia, South Sudan, the United Republic of Tanzania and Uganda.[4] Children in Kenya-based refugee camps may endure sex trafficking as well, while others are taken from the camps and forced to work on tobacco farms.

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[1]   US Department of State, TIP Report 2015: Kenya, *supra* n.69, p.204-206.
[2]   IOM, Migration in Kenya: a country profile 2015, *supra* n.15, p.25.
[3]   US Department of State, TIP Report 2015: Kenya, *supra* n.69, p.204-206. See also, IOM, Migration in Kenya: a country profile 2015, *supra* n.15, p.27 and p.157.
[4]   IOM, Migration in Kenya: a country profile 2015, *supra* n.15, p.26.

Trucks transporting goods from Kenya to Somalia return to Kenya with young girls and women subsequently placed into brothels in Nairobi or Mombasa. Indian women recruited to work in mujra dance clubs in Nairobi face debt bondage, which they are forced to pay off by dancing and performing sex acts. Human trafficking in Kenya is said to have a value of USD 40 million on the black market.[1]

Human trafficking from Kenya to other countries

Kenyans who (voluntary) migrate to other African countries, Europe, the United States, and the Middle East in search of employment are at times exploited in domestic servitude, massage parlors and brothels, or forced manual labour. Agencies based in Nairobi recruit young Kenyans for work in the Middle East with the promise of better pay. Press reports indicate that upon arrival, their passports are confiscated and the promised job may not necessarily have the same terms agreed upon. They are allegedly being forced into domestic servitude upon arrival. They further complain of being subjected to serious violations such as sexual harassment, violence, torture, starvation and other cruel and degrading treatment. It is not clear how many people are affected by these activities which appear to be related to various labour violations bordering on trafficking.[2]

In addition, gay and bisexual Kenyan men are lured from universities with promises of overseas jobs, but are forced into prostitution in Qatar and the United Arab Emirates (UAE). The same applies to girls from Ethiopia, who travel from Nairobi to the Middle East and are forced into prostitution upon arrival. Kenyan women are subjected to forced prostitution in Thailand by Ugandan and Nigerian traffickers. According to Kenya Airways, trafficking towards the Middle East is a major source of concern for the Kenyan authorities. Following the reports of abuse, between 2012 and 2014, the government revoked the licenses of 930 agencies recruiting Kenyans to work in the Middle East and announced a temporary ban of the recruitment of workers to the region.[3]

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[1]   IOM, Migration in Kenya: a country profile 2015, *supra* n.15, p.16-17.
[2]   RMMS, Country profile Kenya, *supra* n.17.
[3]   RMMS, Country profile Kenya, *supra* n.17.

Trafficking routes

Human trafficking routes evolve as they react to policy measures and restrictions by national and international agencies attempting to curb the activity. Current evidence of human trafficking routes show two main routes: the northeastern Kenya (Garissa) transit route for trafficked victims bound for Nairobi, Mombasa and beyond, and the Busia and Malaba border with evidence of human trafficking by Ugandans. The most recently identified routes of migration and trafficking are to the Middle East where Kenyans are at risk of exploitation in domestic servitude, massage parlours or brothels, or of being forced into manual labour.[1] Additional routes are detailed in the table below.

Transit routes and destinations

Origin	Transit points	Destination
Southern Somalia	Liboi, Fafi	Garissa
Garissa	Madogo, Bangali, Mwingli	Nairobi
Garissa	Wajir	Kismayu
Dadaab	Ijara	Mombasa
Ijara	Nairobi, Dar es Salaam, Maputo	South Africa
Mogadishu	Liboi, Garissa, Nairobi	South Africa
Garissa	Nairobi, Sudan, Libya	Malta and Italy
Liboi	Dadaab, Garissa	Nairobi, US, Canada
Liboi	Dadaab, Modogashe, Isiolo, Nanyuki, Nyahururu, Nakuru	Nairobi, Britain
Mandera	Wajir, Modogashe, Isiolo	Nairobi, Denmark
Fafi	Ijara, Garsen, Mombasa	Nairobi, Botswana
Moyale	Marsabit, Isiolo, Nanyuki	Nairobi, Botswana

Source: IOM, 2010b; IOM, Migration in Kenya: a country profile 2015, p.25

1.5 The number of human traffickers that were intercepted in 2014-2015

In 2014 the Government of Kenya:

–   Reported the prosecution of 65 trafficking cases (this number more than doubled compared to 2013)

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[1]   IOM, Migration in Kenya: a country profile 2015, *supra* n.15, p.25.

– Convicted 33 traffickers (a significant increase from seven in 2013)

– Identified 658 internal child trafficking victims (555 had been exploited in forced labor, 39 had been sexually exploited, and the exploitation endured by the remaining 64 was unknown).

– Identified at least 12 adult victims of forced labour exploitation overseas and assisted in their repatriation

Seventeen cases remained pending at the end of the reporting period, six cases were withdrawn, one case was pending arrest of the suspect, and one case ended in an acquittal. The government did not report any investigations, prosecutions, or convictions of government employees complicit in human trafficking; however, corruption at all levels of the government remained a concern. During the reporting period, the government cooperated with foreign governments in the investigation of potential sex and labour trafficking crimes.[1]

It followed from the meeting with the Immigration Service of Kenya in Nairobi in January 2016 that the number of human trafficking cases at the airport decreased. The Immigration Service increasingly makes use of CCTV at the airport, which is revealing a lot. According to the immigration staff, human trafficking frequently involves people with a non-Kenyan nationality and mainly takes place at JKIA. In January 2016 the Immigration Service arrested two traffickers.

2. Responsibility of the ILO network in combatting human trafficking and smuggling from/via Kenya towards the EU

2.1 Human trafficking and smuggling from/via Kenya towards the EU

There is evidence of human trafficking mostly towards the Middle East and the Gulf countries. However, examples of human trafficking from Kenya towards Europe exist. During the meeting with the Member States in Nairobi, Sweden mentioned that it recently received anonymous calls about Swedish men 'buying' Kenyan women. Reportedly, the NAIL team members are well aware of the problems related to human trafficking and smuggling. Europol indicated that the airport in Nairobi connects the Horn of Africa with major airports in the rest of Africa and other transit and destination countries.

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[1] US Department of State, TIP Report 2015: Kenya, *supra* n.69, p.204-206.

Europol does, however, not receive many contributions concerning smuggling from this hub to destination countries inside the EU (as it frequently involves only one single Member State). The contributions that Europol did receive, mostly involved counterfeit or forged ID documents or abuse of genuine ID documents by an imposter. In only few cases the contributions mentioned a facilitator accompanying the irregular migrants on their flight into the EU.[1]

During the meeting with representatives of the EU/Schengen Member States in Nairobi it was discussed whether the notion of trafficking/smuggling includes cases in which one parent 'kidnaps' a child without the consent of the other parent. The Member States indicated that they are confronted with this problem. It has also been discussed that Somali minors are sometimes forced to stay in Somalia as their parents confiscate their (EU) passports. Other cases include situations in which children are taken away from their parents to be given away for adoption. These matters fall outside the scope of this report.

2.2 How to support the Kenyan authorities

According to the NAIL team members the network is effective at detecting, disrupting and deterring human trafficking / human smuggling at JKIA and regional airports and needs to continue its very important liaison work with the Kenyan authorities, airlines, ground handling agents and other stakeholders in order to prevent and combat trafficking and smuggling of human beings. Relationship building is essential to obtaining valuable information and cooperation. The network should organise regular meetings and trainings (of airport/immigration staff), develop materials, support investigations by corruption, and raise awareness on the issue of human trafficking and smuggling. In addition, the diplomatic efforts/dialogues by European and like-minded countries should be enhanced. Interpol Nairobi mentioned the collaboration with government authorities such as the Ministry of Labour and the Ministry of Foreign Affairs.

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[1] Europol, Report on facilitation of illegal immigration related to Kenya and the surrounding countries, *supra* n.13, p.4.

3. National strategies and measures taken to prevent and combat trafficking and smuggling of human beings[1]

3.1 Existing strategies and measures
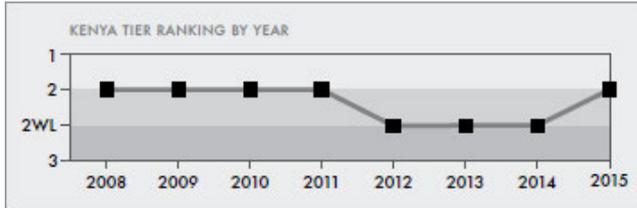
Kenya has a considerable human trafficking problem. According to the U.S. Trafficking in Persons (TIP) Report 2015 the Government of Kenya does not fully comply with the minimum standards for the elimination of trafficking; however, it is making significant efforts to do so. For this reason Kenya is placed on Tier 2.[2] Improvements have been made compared to the previous TIP report in which Kenya still ranked as a Tier 2 Watch List country.[3] Human trafficking and smuggling are regulated by the Counter Trafficking in Persons Act (CTP Act) which became operational in October 2012 and punishes perpetrators of human trafficking and smuggling.

– *Counter-Trafficking in Persons (CTP) Act*

The Counter-Trafficking in Persons Act entered into force in the end of 2012, but the Kenyan government only recently made robust efforts to implement it. The purpose of the Act is to implement Kenya's obligations under the United Nations Convention Against Transnational Organized Crime particularly its Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially women and children. The Act establishes human trafficking and related offenses as crimes, and specifies punishments for those involved in such crimes, including the promotion of trafficking, acquisition of travel documents by fraud or misrepresentation, facilitation of entry into or exit from Kenya, interference with documents and travel effects, and trafficking persons as part of an organized crime group.

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[1]   This paragraph is based on IOM, Migration in Kenya: a country profile 2015, *supra* n.15, p.130-133 and the US Department of State, TIP Report 2015: Kenya, *supra* n.69, p.204-206.

[2]   The analyses are based on the extent of governments' efforts to reach compliance with the Trafficking Victims Protection Act of 2000 (TVPA's) minimum standards for the elimination of human trafficking (which are generally consistent with the Palermo Protocol) and not on the size of the country's problem.

[3]   US Department of State, 'Trafficking in Persons (TIP) Report 2014: Kenya', p.227-229.

The law also protects victims of trafficking in persons in section 14, which states that victims are not to be held liable for offences related to being in the country irregularly or for criminal acts that were the direct result of being trafficked. Prior to the CTP Act, trafficking cases were adjudicated under the Penal Code, the Children's Act (2001) and the Sexual Offences Act (2006).

– *Counter-Trafficking in Persons Advisory Committee and the National Assistance Trust Fund for Victims*

In August 2014 a Counter-Trafficking in Persons Advisory Committee (Advisory Committee) was established by the Government of Kenya. This Committee meets regularly and is in the process of developing Kenya's national action plan to address human trafficking in the country.[1] The National Assistance Trust Fund for Victim, provided for by the CTP Act, is to be used for expenses associated with victims of trafficking, damages, and other purposes upon the advice of the Advisory Committee.[2]

– *Victim Protection Act*

In September 2014, the government passed the Victim Protection Act, which improves support to trafficking victims including accommodation, food, medical treatment, psycho-social care, police protection, and the establishment of a fund; however, it is unclear what efforts officials made to begin implementation of these measures. While efforts to assist and care for child trafficking victims remained strong, the government provided relatively few services to adult trafficking victims identified within the country or abroad. Kenya's diplomatic missions made moderate efforts to assist Kenyan national trafficking victims. Generally, the government lacks a unified system for providing access to medical aid, shelter, counselling, or financial assistance to adult nationals who were repatriated.

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[1]   IOM, Migration in Kenya: a country profile 2015, *supra* n.15, p.27.
[2]   IOM, Migration in Kenya: a country profile 2015, *supra* n.15, p.129.

– *Training and awareness raising*

The Department of Child Services (DCS) of the Ministry of Labour, Social Security and Services, in partnership with international organizations and NGOs, provided training in 2014 on the anti-trafficking act to 30 Kenyan security personnel operating in Mombasa, where the trafficking of children and child sexual exploitation remained an issue. During the reporting period, over 200 officials received anti-trafficking training. However, training provided by the government during the reporting period remained insufficient in light of Kenya's considerable human trafficking problem. DCS also disseminated awareness materials and case studies in efforts to educate local communities on potential indicators of trafficking.

– *24-hour hotline, referral- and rescue centres*

DCS and a local NGO continued to jointly operate a national 24-hour toll-free hotline for reporting cases of child trafficking, labour, and abuse. DCS continued to operate eight drop-in referral centres that provided counselling, guidance, and referrals to other centres for an unknown number of victimized children, including trafficking victims, who could not return to their homes. DCS also funded and operated four rescue centres where child victims of violence, including trafficking victims, could stay for three months before returning home or being referred to NGO facilities.

– *Increased oversight of overseas labour recruitment*

In September 2014, as an attempt to better regulate overseas labour recruitment, the government revoked all accredited certificates issued to private employment recruitment agencies and reinstituted its ban on the recruitment of domestic workers for employment in the Middle East. The Ministry of Labour (MOL) established a new process for agencies sourcing jobs abroad, requiring their approval of contracts in advance of workers' departure for employment.

– *Additional strategies and measures*

The ILOs provided that Kenya participated at both the Valetta Summit[1] and Khartoum

Initiative[2] and that a Counter Trafficking in Persons Unit has been established within the Office of the Director of Public Prosecutions. Moreover, the Department of Immigration developed the Kenyan Immigration Border Procedure Manual (KIBPM), setting out guidelines and procedures for immigration officials to identify traffickers and victims of trafficking.

3.2 Planned strategies and measures

The ILOs stated that Kenya has drafted a Country Plan to combat trafficking and is currently discussing its implementation and looking for funding from the UK, EU and IOM. Kenya also plans to build a wall along the length of the Somali border to combat human trafficking- and smuggling. As previously demonstrated, it is not clear how much progress has been made in building this wall.

3.3 Security forces involved in combatting illegal immigration, smuggling and trafficking

– Immigration

– National Police Service Formations such as: the APS Rural Border Patrol, Anti-Narcotics Unit, Anti-terrorism Police Unit, Kenya Airport Police Unit, Kenya Marine Police Unit, Directorate of Criminal Investigation

– National Intelligence Service

– International police cooperation with Interpol

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[1] The Valletta Summit on Migration was held in Malta, on 11–12 November 2015. The EU and African countries discussed the European migrant crisis and tried to find common solutions to mutual challenges. See, European Council, '2015 Valletta summit on migration - background on EU action, available at: http://www.consilium.europa.eu/en/meetings/international-summit/2015/11/11-valletta-summit-press-pack/,last assessed in May 2016.

[2] On 28 November 2014, the EU Member States, as well as Eritrea, Ethiopia, Somalia, South Sudan, Sudan, Djibouti, Kenya, Egypt and Tunisia launched on the EU-Horn of Africa Migration Route Initiative, also known as the 'Khartoum Process', which aims to tackle trafficking and smuggling of migrants between the Horn of Africa and Europe, see ECRE, Khartoum Process: EU and African Union launch initiative against smuggling of migrants, available at: http://ecre.org/component/content/article/70-weekly-bulletin-articles/911-khartoum-process-eu-and-african-union-launch-initiative-against-smuggling-of-migrants.html, last assessed in May 2016.

Police forces involved in combating illegal immigration, smuggling and trafficking of human beings receive training and education to deal with those tasks. Enrolment into the police service requires that one must have accomplished Kenya's O-level[1] education. The recruits undergo nine months police training.[2]

3.4 Penalties for smugglers and traffickers in human beings

Citizenship and Immigration Act (2011): Section 53(2), (3) and (4) provides upon conviction for a fine not exceeding 500.000 shilling or imprisonment for a term not exceeding five years or both. This penalty is the same with regard to facilitators. Subsection (4) provides that a victim of smuggling who is willing to act as a prosecution witness may not be held liable.[3]

Sexual Offenses Act of 2006: Sections 14, 15, and 17 of the Sexual Offenses Act of 2006 prohibit the facilitation of child sex tourism, child prostitution, and forced prostitution, and prescribe penalties of six to 20 years' imprisonment—penalties that are sufficiently stringent and commensurate with those prescribed for other serious offenses. However, prosecutors rarely pursue cases under these provisions of the act.[4]

According to the NAIL team members individual cases of human trafficking- and smuggling (including facilitators) are prosecuted resulting in custodial sentences and/or fines. There has been a case in which a facilitator was prosecuted and penalized by the Immigration Service and the Kenyan court and sentenced to pay 1.6 million KSH (Around 15.000.- Euro) or to two years custody.

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[1] The O- Level (Ordinary Level) is a subject-based qualification conferred as part of the General Certificate of Education (GCE).
[2] The Department of Immigration Services of Kenya: response to the questionnaire.
[3] The Department of Immigration Services of Kenya: response to the questionnaire.
[4] US Department of State, TIP Report 2015: Kenya, *supra* n.69, p.204-206.

4. Recommendations to the Kenyan authorities

According to the TIP report 2015, the Kenyan government demonstrated progress in anti-trafficking law enforcement efforts. There are, however, still tasks and activities that could be developed and/or enhanced. Recommendations have been made by the ILOs and in the TIP report 2015.

4.1 Recommendation in the TIP report 2015

– Continue using the Counter-Trafficking in Persons Act of 2010 to investigate and prosecute trafficking offenses, and convict and punish trafficking offenders, including government officials suspected of complicity in human trafficking

– Continue to use the anti-trafficking law or Section 14 of the Sexual Offenses Act to prosecute and punish child sex tourists

– Provide additional training to all levels of the government, particularly first-line responders, on identifying and handling trafficking crimes:

– Allocate adequate resources to police, labour, and social services staff to ensure implementation of the prosecution and protection mandates within the Counter- Trafficking in Persons Act of 2010

– Implement a formal process for law enforcement officials to refer trafficking victims for assistance

– Continue to increase oversight of and accountability for overseas recruitment agencies

– Increase protective services available to adult trafficking victims, particularly those identified in and returned from the Middle East

– Establish the board of trustees to oversee the National Assistance Trust Fund for Victims of Trafficking and allocate money to endow this fund

– Allocate resources to the victim assistance fund mandated by the Victim Protection Act

– Develop a unified system to collect and analyse trafficking case data for use by all stakeholders.

4.2 Additional recommendations of the ILOs

In addition, the ILOS added that better training of airport staff to identify trafficked people should be provided. They also indicated that Kenya has existing legislation to combat human trafficking / human smuggling, but that the country should increase its resources to actively target these crimes. According to one of the ILOs, the Office of the Director of Public Prosecutions in Kenya identified the following (additional) challenges:

– Legal uncertainty (lack of precedence and case law) and a lack of or a limited knowledge of trafficking laws

– Poorly investigated cases

– Inadequate victim and witness protection

– Lack of interagency collaboration within the criminal justice system (police, prosecution and judiciary) and beyond (INGO, NGO and IOs)

– Lack of awareness at governmental and population level.

More capacity building to relevant security forces and the judiciary is deemed necessary, especially with regard to the implementation of national law on human trafficking.

The TIP report and the contributions of the NAIL team demonstrate that more efforts should be taken by the Kenyan authorities to prevent and combat trafficking and smuggling of human beings.

D. Document fraud and visa policy

1. Falsified travel documents

1.1 Use of falsified travel documents

A limited number of Kenyan nationals arriving in the EU/SAC (Schengen- Associated Countries) from third countries were detected with fraudulent documents.[1]

Kenyans arriving in the EU/SAC (Schengen-Associated Countries) with fraudulent documents ordered by the detections made in 2015

Country of issuance of the document	Type of fraud	Document type	2014	Jan-Oct 2015
Kenya	FALSE-BIOPAGE	PASSPORTS	0	1
South Africa	FALSE-COUNTERFEIT	VISA	0	1
Netherlands	FALSE-COUNTERFEIT	STAMPS	0	1

Source: Frontex, Evaluation of ILO posting in Kenya, Ethiopia, Eritrea, Somalia and Djibouti:

Answered Questionnaire for the Immigration and Naturalisation Service of the Netherlands

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[1] Answers to the questions related to the unauthorised use of fraudulent documents by Kenyan nationals arriving EU/SAC (Schengen- Associated Countries) from third countries were elaborated with the help of the data collected within European Union Document Fraud Risk Analysis Network (EDF-RAN). In this part detections of Kenyans presenting fraudulent travel documents inside the EU/SAC were not involved.

Detections of document fraud on the direct flights from Kenya, in particular from Nairobi and Mombasa, to the EU/SAC in 2014-2015

Refusals from Kenia- Top 10 illegally used documents					
Nationality of the document	Fraud type	Document type	2014	2015	Total
France	Counterfeit	Passport	4	2	6
Russian Federation	Counterfeit	Visa	2	-	2
France	Counterfeit	Passport	-	1	1
France	Counterfeit	Visa	-	1	1
Comoros	Impostor	Passport	1	-	1
Comoros	Counterfeit	Identity card	-	1	1
Belgium	Impostor	Passport	1	-	1
DRC Congo	Counterfeit	Passport	1	-	1
Guinea	Impostor	Passport	-	1	1
Congo	Counterfeit	Passport	-	1	1
Other			1	5	6
Total			**10**	**12**	**22**

Source: Frontex, Evaluation of ILO posting in Kenya, Ethiopia, Eritrea, Somalia and Djibouti:

Answered Questionnaire for the Immigration and Naturalisation Service of the Netherlands (the figures cover the period Jan 2015 – 29 Nov 2015)

As there were only very limited cases of document fraud involving Kenyan nationals entering the EU/SAC (Schengen- Associated Countries) from third countries, it is not possible to highlight the most favourite document type in use. According to Frontex, the number of fraudulent Kenyan travel documents reported by the EU Member States remains extremely low and does not possess any serious threat to internal security of the EU Member States. Based on the limited information available, the security of the issuing process of travel and other identity documents in Kenya is difficult to assess and therefore it is difficult to estimate the threat linked to fraudulently obtained Kenyan passports.

With regard to the security of travel and other identification documents issued by Kenya, Frontex provided that the model of Kenyan ordinary passports has been issued in compliance with the ICAO standards. Kenyan ordinary passports are broadly recognized by all EU Member States. Their security protection is on standard level and therefore acceptable. It followed from the meeting with representatives of the Member States in Nairobi that the security level of the Kenyan passports is not an issue, however problems exists in relation to the issuing process. Kenyan passports are often based on fraudulent birth certificates. The embassies experienced situations in which Kenyan nationals applied for a visa to different embassies with different passports. The solution to this problem would be the use of biometrics.

1.2 Penalties for forgery and use of counterfeit/forged travel documents

The Kenyan Citizenship and Immigration Act (2011) Section 55(1) and (2) provides upon conviction for a fine not exceeding 5 million shillings or imprisonment for a term not exceeding five years or both in cases of forgery and/or the use of forged travel documents.[1] According to the NAIL team members, individual cases of forgery are prosecuted resulting in custodial sentences and/or fines. The penalties are not fixed and will be established on a case by case basis at the discretion of the courts. Fines are usually between KSH 200,000.- and KSH 500,000.- (Around 2.000 up to 5.000.- Euro). Persons involved in forgery of travel documents may be convicted in an accelerated procedure.

1.3 Cooperation of the NAIL network with local authorities in identifying false documents

Several NAIL team members- at least the Australian First Secretary, the Swedish ILO, the Swiss ALO, the UK ILOs and the Dutch ILO- and Interpol Nairobi cooperate with local authorities in identifying false documents. The Swedish ILO encountered less than 10 cases during the reporting period; the UK ILOs encountered 202 cases in 2014 and 166 in 2015; Australia encountered 2 cases in 2014-2015; the Swiss ALO cooperated with the Immigration Service and the airline staff at Jomo Kenyatta Airport and encountered 130 cases in 2014-2015, mainly counterfeit, forged, stolen blank documents and fraudulently obtained documents; the Dutch ILO gave 88 negative advices in 2014 (including phone referrals, embassy referrals and cases in surrounding countries) and 75 negative advices in 2015 (these figures include migration criminality cases but also technical offloads).

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[1] The Department of Immigration Services of Kenya: response to the questionnaire.

According to the Dutch ILO the authorities do ask for help (e.g. when there is a Dutch document involved), but in most cases the airlines call for the advice of ILOs. If there is a case of migration criminality, the airline hands the passenger over to the authorities.

2. Visa policy

2.1 Visas granted by the Government of Kenya

Type of Visa	Purpose
Ordinary	Issued for single or multiple entries to persons whose nationalities require visas to enter Kenya for visits or residence
Transit	Issued for periods not exceeding three days to persons whose nationalities require visas to enter Kenya and who intend to transit through Kenya to a different destination.
Diplomatic	Issued for single or multiple entries to holders of diplomatic passports on official duty.
Courtesy/official	Issued to persons holding official or service passports on official duty and to ordinary passport holders who are not entitled to a diplomatic visa but where it is considered to be desirable on the grounds of international courtesy.
East Africa tourist	A joint tourist visa that entitles holders to travel to and within the Republic of Kenya, Republic of Rwanda and Republic of Uganda for the purpose of tourism. Validity: 90 days, multiple entry ($101)

Source: IOM, Migration in Kenya: a country profile 2015, p.124.

According to the Immigration Service of Kenya, the common visa policy of Kenya, Rwanda and Uganda faces challenges. These countries issue common visas and share information on a regular basis (such as watch lists). However, Somalis that need a visa to enter Kenya can (more easily) obtain a visa in Uganda and consequently travel from Uganda to Kenya without facing any obstacles.

2.2 Criteria to obtain a visa to enter Kenya

Historically, a Kenyan visa could be obtained upon arrival at the airports in Kenya. In 2015, the Immigration Service of Kenya has instituted a new visa policy whereby all visitors must use an online system to apply for an eVisa.[1] A decision upon the application is made within the next ten days. The system is not working very effectively yet, so visitors (except those who require a referral visa, see 2.2) can still apply for a visa at the arrival side of the airport. The requirements to obtain a visa are easy to fulfil.

In order to obtain a single entry visa one should have: 1. A travel document that is valid no less than six months, 2. A complete visa application form, 3. At least one blank page in the passport, 4. A return ticket. During the online application process visitors may be required to attach one of the following documents: invitation letters from a company or copies of registration of the company (for a business visit); invitation letters from family (for a family visit) and a travel itinerary/ hotel bookings (for tourists). In order to obtain a transit visa one should comply with the following requirements: 1. A travel document that is valid no less than six months, 2. At least one blank page in the passport and 3. An onward ticket. A transit visa is issued to persons connecting through Kenya to other destinations for a period not exceeding 72 hours.[2]

2.3 Countries requiring a visa to enter Kenya

All foreign citizens wishing to travel to Kenya need an eVisa, except citizens from the following visa free countries: The Bahamas, Barbados, Belize, Botswana, Brunei, Burundi, Cyprus, Darussalam, Dominica, Ethiopia, Fiji, Gambia, Ghana, Grenada, Jamaica, Kiribati, Lesotho, Malawi, Malaysia (for less than 30 days stay), Maldives, Mauritius, Namibia, Nauru, Papua New Guinea, Rwanda, St.Kitts and Nevis, St.Lucia, St. Vincent and the Grenadines, Samoa, San Marino, Seychelles, Sierra Leone, Singapore, Solomon Islands, South Africa (for less than 30 days stay), Swaziland, Tanzania, Tonga, Trinidad and Tobago, Tuvalu, Uganda, Vanuatu, Zambia and Zimbabwe.[3]

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[1] Citizens can apply, using the following link: http://evisa.go.ke/evisa.html, after they have registered as a visitor.

[2] See also: https://immigration.ecitizen.go.ke/index.php?id=8.

[3] See, http://evisa.go.ke/eligibility.html.

Nationals of the following countries require a referral visa: Afghanistan, Armenia, Azerbaijan, Cameroon, Democratic People's Republic of Korea (formerly North Korea), Eritrea, Iraq, Kosovo, Lebanon, Libya, Mali, Palestine, Senegal, Somalia, Syria and Tajikistan. These nationals cannot make e-Visa applications on eCitizen. Reference to the Director of Immigration Services, Nairobi, is necessary before the issue of a visa.[1]

2.4 Total number of visa applications received, granted and refused by the relevant embassies and consulates of the EU/Schengen Member States in Kenya

The tables below reflect the number of visa applications received, granted and refused by the relevant embassies/consulates in Kenya, as well as the main nationalities of those applicants being refused a visa in 2014 and 2015:

2014

Embassy/ consulate/ High Commission of:	Total number of visa applications received	Total number of visa applications granted	Total number of visa applications refused	Main nationalities of applicants being refused
Bulgaria	-	52	-	-
Hungary	297	209	86	Kenya, Uganda
Ireland	631	578	33	Kenya, India (3), Uganda (1)
Netherlands	3.902	3.656	191	Kenya
Slovakia	525	510	16	Kenya
Sweden	1.586	1.296	244	Kenya
UK	37.514	28.607	8.338	Kenya, DRC, Uganda and Sudan
Australia*	10.500	7.200	3.200	Kenya, Ethiopia, Ghana
Norway	916	820	96	Kenya
Switzerland	2.501	2.217	242	Kenya

*The numbers are approximate and are not official Australian Government Statistics

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[1] For more information on visas see: http://www.immigration.go.ke/Information.html and https://immigration.ecitizen.go.ke/index.php?id=6.

A complete overview of visa applications received, granted and refused by the relevant embassies/consulates of the EU Member States in 2014 can be found on the website of the European Commission (DG Migration and Home Affairs): http://ec.europa.eu/dgs/home-affairs/what-we-do/policies/borders-and-visas/visa-policy/index_en.htm.

2015

Embassy/ consulate/ High Commission of:	Total number of visa applications received	Total number of visa applications granted	Total number of visa applications refused	Main nationalities of applicants being refused
Bulgaria	-	28	-	-
Hungary	410	281	92	Kenya, Uganda
Ireland	629	568	46	Kenya
Netherlands	2.981	2.724	178	Kenya
Slovakia	417	409	4	Kenya
Sweden	1.507	1.067	401	Kenya
UK	6.299	5.970	808	Kenya
Australia	7.100	5.550	3.050	Kenya, Ethiopia, Ghana
Norway	1.054	863	191	Kenya
Switzerland	2.636	2.341	189	Kenya

* The numbers of Australia, Sweden, Switzerland and the Netherlands are up to 31 October 2015. The numbers provided by Ireland and Norway are up to 30 November 2015. The numbers of Bulgaria are until 22 December 2015 (Bulgaria does not have a consulate/embassy in Nairobi). The numbers provided by the UK are indicative, as in January 2015 all visa work (except for priority visas) was transferred from Nairobi to Pretoria. The Australian numbers are not official Australian Government Statistics, but estimates.

A complete overview of visa applications received, granted and refused by the relevant embassies/consulates of the EU Member States in 2015 is not available yet.

2.5 Explanations for a possible rise/decline in visa applications/refusals in 2014-2015

–   Ireland, Bulgaria and Slovakia did not experience a significant increase in visa applications or a significant trend in the type of visa refusals.

–   - Sweden experienced a slight rise in visa applications, and a definite rise in visa refusals due to the large number of unclear applications (where the purpose of the trip seemed to be something else than stated). Most applicants applying for a Swedish visa stem from the (tourist) area along the coast; an area which experiences a high number of unemployment.

–   Also Hungary was confronted with a rise in visa applications. A possible explanation for this rise could be introduction of the Southern Opening Policy by the Hungarian Government. This new strategy opened a new chapter in Hungary's trade-based diplomacy. In the next few years Hungary will open four new embassies in Ecuador, Ethiopia, Ghana, and Angola, as well as six Hungarian trading centres in Ethiopia, Angola, Chile, Ecuador, Peru, and Kenya.

–   Australia faced a decrease in applications lodged (overall). This decrease is largely due to the fact that Australia had a large pipeline of cases in the Refugee and Humanitarian caseload that slowed new applications. Australia experienced a small increase in the refusal rates, but reportedly this increase is not indicative of any particular policy or trend.

–   Norway provided that rejections have increased from 10 % of the caseload in 2014 to 18 % in 2015. Reportedly, the main reason for the increase in rejected visas is the fact that more applications are received from Kenyans who are not committed or tied to Kenya from a professional perspective (young/ unemployed who want to visit their boy/girlfriend in Norway). Norway also experienced a rise in fake documentation such as bank statements and letters of employment which are submitted during the application procedure.

–   The UK and the Netherlands were unable to comment on the possible rise/ decline in visa applications/refusals due to the fact that visa work was transferred to Pretoria in 2015.

During the meeting with the EU/Schengen Member States in Nairobi on 20 January 2016 it was demonstrated that there are substantial differences between the Member States in refusal rates. Sweden mentioned a refusal rate of 52% in December 2015. In the UK this number was even 65% (on approximately 44.000 applications a year), while Belgium had a refusal rate of 5-6% in 2015 (on approximately 2.000 applications a year). The Swedish Embassy detected more fake documents and reported problems with imposters as well. Belgium indicated that it has (almost) no issues with regard to visa applications and that the number of false Belgium documents is rather low. The Dutch ILO stated that the use of forged documents by (senior) athletes is a trend. The UK ILO indicated that the UK has a problem with overstayers, however they can be detected more easily as the UK keeps records (database, biometrics) of exit and entry data.

E. Return and readmission

1. Assisted voluntary return and forced return

1.1 Assisted voluntary return to Kenya

Assisted voluntary return and reintegration (AVRR) programmes are tools for state governance of migration. AVRR in Kenya started in 2002 as an IOM pilot project, returning Kenyans from Europe to Kenya. However it remains an ad hoc activity with only 150 AVRR beneficiaries since 2008. 88 percent of AVRR returnees originate in Europe. The UK Government has supported several assisted voluntary return programmes, including the Assisted Voluntary Return of Irregular Migrants programme, the Voluntary Assisted Return and Reintegration Programme for asylum-seekers, and the Assisted Voluntary Returns for Families and Children programme.

IOM AVRR beneficiaries by region, 2008–2014

Region					
Year	Europe	Asia	Oceania	Mena	Americas	Total
2008	30	-	-	-	-	30
2009	26	1	7	-	-	34
2010	18	-	-	1	-	19
2011	15	-	1	-	-	16
2012	15	-	-	1	-	16
2013	17	-	-	1	1	19
2014	11	-	-	5	-	16
Total	**132**	**1**	**8**	**8**	**1**	**150**

Nearly half of the European caseload consists of returnees from the United Kingdom; out of the 150 Kenyan AVRR beneficiaries since 2008, 47 percent came from the United Kingdom, 12 per cent from Norway and 9 per cent from Switzerland.[1]

1.2 Voluntary and forced returns from Kenya

According to the Immigration Service of Kenya, illegal immigrants who are unwilling to go back to their home countries must be repatriated in conjunction with the embassies of their home countries in Kenya. In general, repatriation systems are in place but Kenya struggles to minimise the influx of illegal migrants and to address the problem of facilitators. During the meeting with representatives of the Immigration Service in Nairobi the authorities mentioned that Ethiopians that are caught after they entered Kenya are brought back directly to the nearest border crossing point, because Kenya wants to avoid the costs of detention. Kenya also plans to deport a substantial number of Ethiopians in 2016. The Kenyan authorities have on several occasions in recent years carried out mass arrests, detention and deportation of migrants and refugees as part of security operations. These operations led to the detention of Somali refugees considered to pose a threat to national security. Other deportees included nationals of the Democratic Republic of the Congo, Ethiopia, Sudan and Cameroon, but exact figures are not available. According to UNHCR and IOM, the actual numbers of Somali deportees being removed from Kenya are higher than official figures suggest. Limited numbers of deportees are assisted upon return.[2]

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[1]   IOM, Migration in Kenya: a country profile 2015, *supra* n.15, p.67.
[2]   IOM, Migration in Kenya: a country profile 2015, *supra* n.15, p.68.

In November 2013, a Tripartite Agreement was signed by the Governments of Kenya, Somalia and UNHCR governing the voluntary repatriation of Somali refugees in Kenya as the main durable solution for the Somali refugee caseload in Kenya's Dadaab camps. On 8th December 2014, the pilot six-month phase returns project kicked off targeting 10,000 refugee returns to three areas in South Central Somalia: Luuq, Baidoa and Kismayo. As of March 2015, a total of 2,049 individuals had voluntarily returned to Somalia under this project.[1] As of 31 October 2015 a total of 5,403 Somali refugees had been supported to voluntarily repatriate from the Dadaab refugee camp to Somalia.[2] For 2016, UNHCR projects that up to 50,000 Somali refugees may return.[3]

2. Readmission of Kenyan nationals and third country nationals into the host country

According to the Immigration Service of Kenya, several provisions of the Kenyan Citizenship and Immigration Act 2011 (Section 43, 50) apply to returns. Those who are proven to be Kenyan citizens are allowed in unconditionally. Nationals of a third country are granted transit status at the request of the returning country. There are various returning countries, but the bulk is from Europe and North America.[4]

The Netherlands, Sweden and Switzerland reported that cooperation with the Kenyan authorities in the field of readmission is good/ satisfying. The Netherlands indicated that Kenya also cooperates in relation to forced returns. The Kenya Embassy in The Hague usually issues an (emergency) travel certificate following the verification of the citizenship of the returnee (except in complex family cases). According to Switzerland readmission takes place immediately or after prosecution. Australia argued that Kenya has been very cooperative in assisting with the transit of third country nationals transiting Kenya en route to their home country. The UK provided that it has positive engagement with the Kenyan High Commission in London who supports both voluntary and enforced returns. The official assigned to these cases is flexible and willing to travel to immigration detention centres/prisons when the national cannot travel to the Kenya High Commission in London.

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[1]   RMMS country profile Kenya, *supra* n.17; IOM, Migration in Kenya: a country profile 2015, *supra* n.15, p.43.

[2]   RMMS, Monthly Summary October 2015, *supra* n.67.

[3]   Council of the European Union, 'Joint Commission-EEAS non-paper on enhancing cooperation on migration, mobility and readmission with Somalia', Brussels: 17 March 2016, p.3.

[4]   The Department of Immigration Services of Kenya: response to the questionnaire.

Reportedly, the UK has little problems with the repatriation of Kenyan nationals, with the exception of a few cases in which the authorities dispute the fact that the returnee is a Kenyan national.

Norway mentioned that the co-operation with the Immigration authorities in the field of readmission of Kenyan nationals/illegal immigrants is fairly good. However, Norway would like to improve the cooperation with the Ministry of Interior and/or the State Department of Interior regarding ID verification so as to determine readmission to Kenya. The Kenya Embassy in Stockholm covering Norway does not verify citizenship unless the person to be returned contacts the embassy and requests for assistance himself. The Kenya Embassy does not cooperate in establishing nationality when there is no passport and the person to be returned does not cooperate. Neither do the Kenyan authorities answer requests for verification from the Norwegian authorities whether such a person is a Kenyan national or not. Norway is, however, most times allowed to bring the returnees before the Immigration authorities at JKIA, who conduct an interview with them in order to determine whether the deportees are Kenyan nationals or not. This is a complicated process and requires many resources. In addition, such permission is not given to Kenyan-Somalis or other particular cases. Norway would like the Kenyan authorities to be able to verify Kenyan citizenship before any returnees are brought to the host country.

3. Identification of Kenyan citizens without papers subject to return from another country

3.1 Procedures followed

The Netherlands reported that the Kenya Embassy in The Hague experiences difficulties in the process of establishing citizenship if this has to be determined purely based on oral information. Most presumed Kenyan citizens do not wish to return, and therefore will not provide correct information. In cases with documentation (such as (copies of) a passport or ID-card), citizenship can be assessed without a personal interview. In cases without documentation (or with copies of less concrete documentation), the Kenya Embassy in The Hague will conduct a personal interview. Also Interpol Nairobi argued that the verification of the identity of a returnee is a complicated process.

The UK has a special dual European Union Letter (EUL) /Emergency Travel Document (ETD) process in place for returns to Kenya. Removals can only be effected on an EU letter in cases where there is a copy of a valid/expired passport. In the absence of this, an emergency travel document (ETD) application is submitted to the Kenya High Commission in London, followed by a mandatory face to face interview. The minimum requirements for an ETD are: bio data, a Kenyan passport application form and four passport photographs. An ETD will then be issued for the returnee if sufficient documentary evidence to support nationality is provided (other than a copy of valid/expired passport). The returnee must admit to Kenyan nationality during face to face interview and provide sufficient information. If the returnee is non-compliant with the ETD process/face to face interview then the returnees' parents can confirm nationality.

According to the Immigration Service of Kenya the following procedure is followed[1]:

– The case is reported to the nearest Kenyan Embassy or High Commission or Consulate

– If none of the above is available, the returning country attaché in Nairobi contacts Immigration directly

– Bio-data or available details of the person to be returned is provided. The person may also be availed at a Kenyan Embassy for an interview

– If proven to be Kenyan, the Embassy issues a one way travel document

– The returning country bears the costs of transportation and escort of the person being removed

3.2 The average time to issue return papers

According to the Immigration Service of Kenya return papers are issued immediately if a person is confirmed to be a Kenyan citizen. The Netherlands provided that once Kenyan citizenship is established, the Embassy will issue return papers within a few days.

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[1] The Department of Immigration Services of Kenya: response to the questionnaire.

3.3 Existence of a central register

The Immigration Service of Kenya mentioned that a national database exists at the National Registration Bureau (NRB) that contains details of all adult Kenyans (over 18 years old). The Department of Immigration also maintains a database of all Kenyan Citizens who have acquired travel documents and the foreign nationals who have either entered or resided in Kenya. Both databases are integrated. These two databases are always first point of recourse in identification of persons for any purpose.[1]

3.4 Cooperation between the ILO Network and the competent authorities

The UK ILOs are not involved in the return process, as that process is managed in the country itself. The authorities of the home country approach the ILO on an ad hoc basis. In the Netherlands, the ILO is of added value to the Repatriation and Departure Service, due to his wide range of good (immigration) contacts. The ILO is the person to contact when the Dutch authorities need to acquire immigration-contacts and/or advice in relation to immigration-issues. To strengthen those contacts the ILO arranges and facilitates requested training-sessions within the field of immigration. The other NAIL team members did not provide any information on the cooperation with the authorities in relation to returns. Reportedly, the ILO task of contributing to the return of illegal immigrants[2] is a sensitive issue in some Member States, mainly due to the fear that the execution of this task might compromise the reputation of the ILO in the host country.

3.5 Acceptance of an EU travel letter or other travel documents issued by the returning country

The Immigration Service of Kenya provided that at the borders only internationally recognised travel documents are accepted.[3] Norway mentioned that it has one contact person working at the National Registration Bureau (NRB), who carries out checks in the central registry for the verification of citizenship. The Kenyan authorities do accept Norwegian issued travel documents for persons who were identified by the NRB. In the case of Switzerland the situation regarding the acceptance of travel letters/documents depends on the case at hand.

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[1] The Department of Immigration Services of Kenya: response to the questionnaire.
[2] Article 1 Council Regulation (EC) No 377/2004 of 19 February 2004 on the creation of an immigration liaison officers network. OJ L 64, 2.3.2004.
[3] The Department of Immigration Services of Kenya: response to the questionnaire.

The UK indicated that removals can only be effected on an European Union Letter (EUL) where there is a copy of a valid/expired passport. The UK is not aware of any issues in relation to the return of Kenyan nationals on an EUL. The Netherlands does not have any records of returns on an EU travel letter.

4. Resources of the host country for returned migrants

4.1 Legal, economic and administrative capacities in the field of reception

The UK argued that there are no social services to speak of. The Immigration Service of Kenya provided that the welfare of returned migrants is left to the family of the returnee.[1] In some cases, there are NGOs which offer social services to returned persons.

4.2 Legal, economic and administrative capacities in the field of reintegration

There are robust frameworks in place for reintegration of refugees, although they are not operated by the Kenyan authorities. IOM and UNHCR have been actively involved in the assistance and response to the needs of migrant return and reintegration. IOM Kenya aims to provide secure, reliable, flexible and cost-effective services for persons who require international migration assistance. This includes humanitarian assistance to stranded migrants who request emergency to return home; and assisted voluntary return and reintegration services to migrants, including asylum-seekers whose claims have been rejected or are likely to face rejection of their claim, irregular migrants, victims of trafficking, unaccompanied minors, elderly people and those with particular medical needs.[2]

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[1] The Department of Immigration Services of Kenya: response to the questionnaire.
[2] IOM, Migration in Kenya: a country profile 2015, *supra* n.15, p.149.

5. Voluntary return programs for nationals of the host country and third country nationals

The Immigration Service of Kenya indicated that return programs are in place with respect to refugees and administered by the Directorate of Refugees Affairs and international organisations like UNHCR. Norway indicated that it has a general return program for persons without legal stay, in co-operation with IOM. Norway does not co-operate with Kenya on return programs, as the returns are considered voluntary and because the returnees travel on Kenyan travel documents, which they obtained at the Kenyan embassy in Stockholm (with the assistance of IOM). Switzerland ensures the normal return and reintegration package to nationals of Kenya who want to return to Kenya on a voluntary basis. Kenyans having stayed more than three months in Switzerland receive a return assistance of CHF1.000 per adult and CHF500 per minor. A material reintegration assistance of up to CHF3.000 is available as well. The implementing partner is IOM. In the UK, Kenyan nationals that qualify for the Assisted Voluntary Returns (AVR) program will receive £500 cash on departure and can claim back a further £1000 through the IOM office in Nairobi. The additional £1000 will not be given in cash, but instead can be claimed back to support education/equipment for a new business etc. Returnees have up to 1 year to claim this additional £1000 from the date they are returned to Kenya. Belgium provided that it has voluntary returned three Kenyan nationals in 2015, using the Return and Emigration of Asylum Seekers ex-Belgium (REAB) programme.

F. Overall evaluation of the cooperation with Kenyan authorities

The NAIL team members have evaluated the cooperation with the Kenyan authorities in the fields mentioned in the second part of this report. This chapter is based on their opinions, which are supported by factual evidence.

1. Cooperation with the authorities in charge of combatting illegal immigration

According to the majority of NAIL team members, the cooperation with the Kenyan authorities in the field of the fight against illegal immigration is good. The team members cooperate with the Immigration Department and other control authorities, who are prepared to share information on a case by case basis. The Kenyan authorities are usually open and cooperative with requests for information or cooperation. The individual members of the NAIL team are also positive about the collaboration with the authorities at JKIA. Kenya allows airside access at JKIA and the cooperation with the authorities has improved drastically in the last few years. The trainings conducted by the NAIL team increased trust and provided the NAIL team members with some kind of authority. One ILO placed a critical note and argued that- although the authorities seem to be cooperative- information sharing is often a one-way street. The ILO mentioned that the authorities are very keen to receive trainings (because it is cost effective) and appreciate the quick feedback from the NAIL team on their questions or problems, but that the same cannot always be expected in return. Another ILO argued that any progress in legal, institutional and financial management of migration flows would have to be supported financially, driven by the donor state and closely monitored.

2. Cooperation with the authorities in charge of border controls

According to some individual NAIL team members, the cooperation with the authorities in charge of border control seems less satisfying. According to one NAIL team member, the Immigration Service of Kenya is strict when it concerns passengers who are entering Kenya. However, it is relatively easy pass the immigration desk to exit Kenya on a counterfeit or forged passport. The immigration officers take the time to check the Kenyan visa, but they often fail to properly check the passport or the profile of the passenger. Basically, they verify only whether someone is an overstayer or not (because they can make money out of that). For this reason, the ILOs identified a lot of passengers with an authentic Kenyan visa but a counterfeit passport. In almost a hundred percent of the cases, counterfeit/ forged passports and imposters are detected by agents of the airlines (together with the ILOs). Reportedly, corruption is a major problem at the borders as well.

3. Cooperation with the authorities in charge of combatting human trafficking and smuggling

Some NAIL team members mentioned that the Kenyan authorities are generally willing to cooperate when asked to assist on matters relating to the combatting of smuggling and human trafficking. Kenya has made some legislative progress on this issue, however the authorities still lack the capacity to combat human trafficking/ smuggling networks. When a country with more capacity and influence is involved in the combat of smuggling networks better results are achieved. For example, the Americans have the capacity to hire Kenyan policemen who can infiltrate into smuggling networks. As a result they cracked down a few passport producing factories. The Kenyan authorities are less inclined to get involved in these activities on their own.

A complicating factor is that in Africa a distinction between human trafficking and smuggling is not always made. The trafficking aspect of smuggling is often recognised only when people arrive at their destinations (e.g. Kenyans that are exploited in the Middle East). Reportedly, some (corrupt) staff members of the Immigration Service, Kenya Airport Authorities and the airlines are involved in the trafficking and smuggling of human beings. Moreover, - even though it is relatively easy to detect individual passengers- it is hard to round up trafficking/ smuggling networks. It seems also that the authorities lack the motivation to tackle this problem (it is a culture that changes slowly), although they seem very worried about their own people being trafficked to the Middle East. The Kenyan embassies in the Middle East offer their support to these unfortunate victims of human trafficking. The findings of the ILOs correspond with the conclusions drawn from the US Trafficking in Persons (TIP) report.

4. Cooperation with the authorities in detecting fraudulent documents

The cooperation with the authorities of the host country facilitated the withdrawal of counterfeit and forged documents. It was mentioned during the meeting in Nairobi that the training of Immigration staff by the NAIL team members paid off, as the Immigration officers are able to detect fraudulently obtained documents (even genuine passports) and stop the persons using these documents at the border. However, as was pointed out above, counterfeit/ forged passports and imposters are mainly detected by agents of the airlines (together with the ILOs).

5. Cooperation with the authorities in charge of returns

Cooperation with the Kenyan authorities in the field of readmission is good/satisfying overall. The Immigration Service is willing to assist with enquiries into the issue of Kenyan passports and disputed nationality cases. Kenya also cooperates in relation to forced returns and has been very cooperative in assisting with the transit of third country nationals transiting Kenya en route to their home country. However, according to some Member States the co-operation with the Immigration authorities in the field of readmission (in particular in relation to the verification of citizenship) could be improved.

6. Cooperation with the authorities in respect of the communication flow

According to some of the NAIL team members, Kenya regularly communicates intended developments (e.g. around border controls) and other relevant information; however in some instances the practical implementation may vary from what was originally announced (even though there was an intent to implement what had been announced). Therefore, official communiques need to be read with caution. The NAIL team members receive some information, but not on a regular basis. They often find out about intended development through their network. Moreover, the quality of the information received differs.

In general, the cooperation with the authorities improved drastically in the last few years. The trainings the NAIL team conducted helped to boost trust. However, the capacity of the host country remains low, so the NAIL team needs to continue its important liaison work.

G. Recommendations to the Kenyan authorities

1. Recommendations

On the basis of the contributions to this report, the following recommendations are made to the Kenyan authorities:

–   **Enhance border management**: Kenya shares a highly porous border with Somalia, Ethiopia and Southern Sudan and faces significant challenges in effective migration management. Improvements are needed in border management infrastructure, systems, and personnel. Weak border management and corruption have been linked to migrant smuggling in Kenya.

–   **Increase efforts to combat human trafficking and smuggling**: Kenya has a considerable human trafficking/smuggling problem. More efforts are needed to improve the capacity of immigration and police officials and prosecutorial authorities to investigate and prosecute human trafficking/smuggling offenses and to protect victims of trafficking.[1] Additional research into these phenomena is required in order to facilitate effective law enforcement.

–   **Fight corruption at all levels of government, but in particular at the borders**: corruption is endemic in Kenya. Reportedly, police/border officials extort bribes from migrants and are colluding with and facilitating smugglers, human traffickers and individuals seeking to bend or break national laws. More efforts are needed to fight corruption and to investigate, prosecute, and convict public officials involved in these activities.

–   **Improve the skills and knowledge of border officials**: the Kenyan authorities should provide more training on refugee rights and principles of international protection in order to enable police/border guards to distinguish between economic migrants and asylum seekers.

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[1]   For more specific recommendations in relation to human trafficking, see p.67-68.

– **Encourage the implementation of migration policies, laws, and regulations**: Kenya remains 'a land of policies being drafted, but lacking implementation'. The capacity of relevant ministries, departments, and agencies to effectively implement migration policies, laws, and regulations should be improved and the government should allocate sufficient resources to support the development of a comprehensive migration governance framework.[1]

2. Ways and means to assist the host country

The NAIL team members proposed several ways and means to assist the Kenyan authorities in preventing illegal migration flows originating from or transiting through its territory:

– The NAIL network should provide continued training of immigration and airport staff in matters regarding impostors, forged documentation and facilitation/trafficking of human beings, not only to build capacity but also to gain trust and acceptance. The network should expand these trainings to police and other control authorities with an interest in migratory issues.

– Increasing resources for the ILO network would increase the effectiveness of the prevention of smuggling by air, even though controlling illegal movements by land is a much greater challenge.

– The Member States could support the efforts taken by the Kenyan authorities to set up a Fraud Detection Unit at Jomo Kenyatta International Airport.

– A big network of different Kenyan government institutions (Immigration Service, National Registration Bureau, Criminal Intelligence Department, Anti-Terrorist Police Unit) should be created. If necessary all parts of the identity chain could be involved in this network. These people are trained together and know each other which is beneficial for the cooperation on a national level as well.

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[1] For more information on this issue, see IOM, Migration in Kenya: a country profile 2015, *supra* n.15 p.158-171.

–   The team members should maintain the NAIL team and continue to share duties/ information, provide joint training, and use each other's network. The authorities should be able to reach the team members 24/7.

ANNEX

The Horn of Africa: Djibouti, Ethiopia, Eritrea and Somalia

1. Illegal immigration[1]

Irregular migration within and beyond the Horn of Africa and its neighbours is extensive and growing. In general all African countries in the Horn of Africa can be seen as source- and transit countries for illegal immigration. The economic, political and security situation in this region is a key push factor for the migratory flow towards Europe and other parts of the world. The biggest numbers of recorded irregular migrants to Europe by nationality from this region are Eritrea, Somalia and Sudan. In the second quarter of 2015 Eritrean nationals were responsible for 10%, Somali nationals for 3.7% and Sudanese nationals for 2.1% of the total number of illegal crossings between Border Control Points (BCPs) at external EU borders. Kenya and Djibouti were not in the top ten of registered countries. The majority of migrants travel to Europe via the Central Mediterranean route. In 2015 53,813 irregular migrants from the Horn of Africa (+33% compared to 2014) and 39,468 from the Sub-Saharan region (+81% compared to 2014) were detected on the Central Mediterranean Route until December 2015. Irregular migration from the Horn of Africa is dominated by highly integrated networks of transnational organised criminal groups.[2]

1.1 Air routes

Routes by air, land or sea from this region towards Europe are generally well known. For smuggling by air the national airports in Nairobi (Kenya) and Cairo (Egypt) are the major hubs on the African continent in this region. Another flight mode and a place of interest is Khartoum, Sudan.

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[1]   This paragraph is based on the Europol, Report on facilitation of illegal immigration related to Kenya and surrounding countries, *supra* n.13. The report refers to data received in Focal Point Checkpoint; Europol's operational project on Facilitated Illegal Immigration and focuses on facilitated illegal immigration only. Europol relied in its report on information provided by Frontex.

[2]   Sahan Foundation and IGAD Security Sector Program (ISSP), 'Human Trafficking and Smuggling on the Horn of Africa-Central Mediterranean Route', February 2016, p.5.

1.2 Sea routes

While it is possible to use sea routes towards Yemen and Saudi Arabia departing from almost all countries in the Horn of Africa, little information on migrants using sea routes is available. It can, however, not be excluded that migrants coming from the Horn of Africa have crossed the Gulf of Suez. From the Sinai Peninsula migrants can travel over land towards the coastal areas of Israel and Lebanon in search for further transportation by boat or proceed traveling over land towards Turkey.

1.3 Land routes

The majority of migrants travel over land to Northern Africa to cross the Mediterranean Sea to Europe, as it is the cheapest and easiest way of traveling. Most common and known routes start in the countries of origin in the region, converge in Sudan (with Khartoum as one of the key hubs) and continue towards Libya. According to Europol, migrants often travel on their own to Sudan. In some cases they are caught crossing the border illegally, and are sent back or are to stay in refugee camps. In other cases migrants fly from various countries in Africa or the Middle East to Khartoum.

1.4 Facilitated illegal immigration

In Sudan, many migrants get in contact with organized crime groups (OCGs). There are either approached or get in touch via friends. Facilitators of various nationalities (such as Eritrea, Somalia, and Sudan) are active in Khartoum. High demand and connections to other OCGs on this route have created various routes offered by OCGs to different departure points in the North African countries like Egypt, Libya and Tunisia. The OCGs provide the migrants with transport, housing, food, identity and travel documents and connections for the next stretch of the route. Omdurman, Ajdabiya and Kufra are amongst the transit points after Khartoum. In several cases, OCGs active in the Horn of Africa only facilitate transport to embarkation countries (mainly Libya). There are however also a few OCGs known to offer services from departure countries or Khartoum to the EU, including transport by boat to cross the Mediterranean Sea.

OCGs on average charge between 800 and 2.000 USD for transport to Libya using large pick-up trucks or lorries. Frequently, armed guards are accompanying the transports. Money is often transferred via hawalla banking[1] by relatives. In cases where migrants stay longer periods to work, the money is sometimes paid in cash. Next to mouth to mouth advertisement, OCGs and irregular migrants use social media as a means to get in touch with each other and as source of information.[2] Facilitators of illegal immigration use social media to recruit irregular migrants and offer unrealistic 'safe' trips towards EU shores. Social platforms are used to share or get information about how to enter the EU illegally and how to travel from the point of entry to the final destination. Many smuggling routes converge in Libya, Egypt or Turkey as country of embarkation to reach the EU. According to Europol, the FP Checkpoint database contained the following suspects of the relevant nationalities in relation to facilitated illegal immigration:

Suspects of facilitated illegal immigration*	
Eritrea	112 suspects
Somalia	44 suspects
Sudan	21 suspects
Ethiopia	6 suspects
Djibouti	1 suspect

Source: Europol, Report on Facilitation of illegal immigration related to Kenya and surrounding countries, p.7

* This table includes only suspects who have been identified.

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[1] Hawala is a method commonly used by migrant to pay their trip. The hawala system is an informal funds transfer system based on the performance and honour/trust of a huge network of money brokers, primarily located in the Middle East, North Africa and Indian subcontinent. The system operates outside of, or parallel to, traditional banking, financial channels and remittance systems. Source: Europol, Report on facilitation of illegal immigration related to Kenya and surrounding countries, *supra* n.13, p.7.

[2] Financial flows and the use of social media are key elements that are of interest to Europol, see Europol, Report on facilitation of illegal immigration related to Kenya and surrounding countries, *supra* n.13, p.8.

One of the key projects relevant for the smuggling routes from Kenya and surrounding countries such as Somalia, Ethiopia, Djibouti and Eritrea to Europe is Joint Operational Team MARE (JOT MARE).[1]

1.5 Departure countries before entry of the EU

In Libya different OCGs are active at places along the Libyan coast offer transport for the crossing of the Mediterranean Sea. These OCGs are linked to OCGs based in countries of origin or transit. Libyan OCGs also make use of other nationalities to recruit migrants from specific countries of origin. Some migrants act as recruiters and fund their own trip by assembling an agreed number of migrants. Also Egypt is both used as a departure country for the EU and as a transit country to Turkey or Libya. Many of the OCGs seem to be well organised as migrants indicate that they pay after their safe arrival to Europe. OCGs active in Egypt have links to other countries, both in and outside the EU. From Khartoum the migrants are transported to Aswan, Cairo to Alexandria by truck or public transport. Others fly directly to Cairo. Alexandria is mentioned most as one of the bigger departure points for vessels. Transportation by boats/ships is reported as a used modus operandi.

The route towards the EU via Turkey using the Eastern Mediterranean Sea route increased significantly in 2015 compared with 2014. After arrival in Turkey many of the migrants are depending on OCGs. The Aksaray district of Istanbul is the main area where smugglers offer their services. Various routes and modi operandi are used to reach the EU, via the Mediterranean Sea by boat, with known departure points Bodrum/Marmaris area and Izmir, by air from mainly Istanbul or over land by crossing the borders of Greece or Bulgaria. Most of the irregular migrants arrived on one of the Aegean islands. Some migrants from the Horn of Africa fly directly to Istanbul as imposters, where they are approached by recruiters originating from the same region. These recruiters collect passengers at the airport to form a group to go to Europe by boat.

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[1]   JOT MARE was launched in March 2015, in response to the migratory flow to Europe via the Mediterranean Sea, to support MS in tackling OCGs responsible for smuggling migrants by vessel in the Mediterranean Sea and subsequent secondary movement in the EU. See Europol, Report on facilitation of illegal immigration related to Kenya and surrounding countries, *supra* n.13, p.8.

Some OCGs have been active for several years and transport several hundreds of migrants per months. They often rely on good online marking strategies for safe transport and reliability within the migrant communities. The profits are high. Services in various price ranges are offered by OCGs. Some demand several thousand Euros for a trip from Khartoum to Europe; others offer part of the journey for around one thousand Euros, for example from Khartoum to Ajdabiya. Traveling directly to Europe by plane is often more expensive (between EUR 4.000 and 8.000 is charged). The higher amount is paid for full services like passports, tickets and payment upon arrival in the EU instead of transportation only.

The following paragraphs deal more specifically with the situation in Djibouti, Ethiopia, Eritrea and Somalia in matters relating to illegal immigration.

2. Djibouti

2.1 Refusal of entry at the EU external borders

In 2014, 39 nationals of Djibouti were refused at the EU external borders. In 2015, between January and October, the number of refusals amounted to 28 cases.

Location of refusal, divided into land/sea and air

Refusal of entry by location	2014	Jan-Oct 2015	Total Jan 2014 - Oct 2015
Total	39	28	67
Air	38	28	66
Sea	1	0	1

Source: Frontex, Evaluation of ILO posting in Kenya, Ethiopia, Eritrea, Somalia and Djibouti:

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The main reasons of refusal were the lack of justification (26 cases in 2014 and 21 in 2015), the lack of a valid visa (4 cases in 2014 and 3 in 2015), the lack of a valid document (4 cases in 2014 and 2 in 2015) and the lack of subsistence (7 cases in 2014 and 2 in 2015).

In 2015, 13 persons have been refused at the external borders while flying directly from Djibouti to the EU Member States. The incoming carrier was Air France (AF). According to Frontex there were no Djibouti nationals detected with fraudulent documents on entry into the EU/SAC in 2014 and 2015.

2.2 Return and readmission

In general, Djibouti is unwilling to cooperate in relation to returns unless the person in question is willing to return on a voluntary basis and the application for an emergency travel document is supported by identification documents. Identification is not possible without a passport or a national identification document. Cases which are supported by identification documents are examined by the central authorities in Djibouti. If identification is possible following this procedure, a personal interview takes place. If the person in question is willing to return on a voluntary basis an emergency travel document is issued.[1]

2.3 Cooperation with the authorities in combatting illegal immigration

Several ILOs stated that engagement with Djibouti is limited and that little interaction between the ILOs and the authorities in Djibouti takes place. The country has shown a willingness to cooperate and engage only on limited occasions. France argued that Djibouti is poorly equipped to deal with illegal immigration due to the lack of means of surveillance and interception as well as accommodation and deportation.

2.4 Illegal migration from Djibouti towards the EU

–	Belgium reported 84 asylum cases and 3 cases of illegal stay of people from Djibouti in 2015. Belgium voluntary returned 7 nationals of Djibouti in 2015.

–	Italy reported that 1 citizen of Djibouti was refused at the air border in 2015 (until 30 November 2015). 1 Djibouti national arrived in Italy via sea in 2014 and 2 in 2015.

–	Bulgaria provided that it does not experience any serious migration pressure from Djibouti. The same applies to the Netherlands.

–	Malta reported that 0 boat immigrants with a Djibouti nationality arrived in 2014/ 2015.

–	Poland indicated that the number of Djibouti nationals apprehended/detected by the Border Guards in connection with illegal stay was 1 in 2014 and 0 in 2015. No Djibouti nationals were apprehended/ detected in connection with illegal crossing.

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[1]	Information provided by the Repatriation and Departure Service of the Netherlands.

3. Ethiopia

3.1 Refusal of entry at the EU external borders

In 2014, 110 Ethiopian nationals were refused at the EU external borders. In 2015, between January and October, the number of refusals amounted to 86 cases.

Location of refusal, divided into land/sea and air

Refusal of entry by location	2014	Jan-Oct 2015	Total Jan 2014 - Oct 2015
Total	**110**	**86**	**196**
Air	107	82	**189**
Sea	2	4	**6**
Land	1	0	**1**

Source: Frontex, Evaluation of ILO posting in Kenya, Ethiopia, Eritrea, Somalia and Djibouti:

Answered Questionnaire for the Immigration and Naturalisation Service of the Netherlands

Main reasons of refusal were the lack of justification (29 cases in 2014 and 2015), the lack of a valid visa (55 cases in 2014 and 32 in 2015), the lack of a valid document (2 cases in 2014 and 6 in 2015), the lack of subsistence (13 cases in 2014 and 6 in 2015), a threat (1 case in 2014), an alert issued (1 case in 2014 and 2015) and a false document (2 cases in 2015). In the remaining cases the reason of refusal was not available.

Top 10 nationalities of persons that have been refused at the external borders in 2014 and 2015 coming from a direct flight from Ethiopia to the EU Member States

Refusals from Ethiopia	2014	2015	Total
Addis Ababa (ADD)	**127**	**141**	**268**
Ethiopia	41	27	68
Nigeria	13	17	30
Unknown	6	22	28
Gabon	13	15	28
Congo	19	8	27

Kenya	6	18	24
Angola	12	7	19
DRC Congo	6	10	16
Djibouti	6	6	12
Ghana	3	5	8
Burundi	2	6	8
Total	**127**	**141**	**268**

Source: Frontex, Evaluation of ILO posting in Kenya, Ethiopia, Eritrea, Somalia and Djibouti:

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Incoming carriers of Ethiopian nationals that have been refused at the external borders in 2014 and 2015 while flying directly from Ethiopia to the EU Member States were Ethiopian Airlines (38 cases in 2014 and 27 cases in 2015) and Lufthansa (3 cases in 2014).

3.2 Document fraud

Ethiopian nationals arriving in the EU/SAC (Schengen-Associated Countries) from third countries were detected with the following fraudulent documents[1]:

Top combinations of Ethiopian nationals arriving in the EU/SAC with fraudulent documents ordered by the detections made in 2014 and 2015

Country of issuance of the document	Type of fraud	Document type	2014	Jan-Oct 2015
Italy	COUNTERFEIT	OTHER	1	1
Italy	FRAUD OBTAINED	VISA	0	1
Ethiopia	NO MORE DETAILS	PASSPORTS	0	1
Ethiopia	IMPOSTOR	PASSPORTS	0	1
Germany	IMPOSTOR	RESIDENCE PERMITS	0	1
United Kingdom	FRAUD OBTAINED	PASSPORTS	1	0

Source: Frontex, Evaluation of ILO posting in Kenya, Ethiopia, Eritrea, Somalia and Djibouti:

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[1] This information was elaborated with the help of the data collected within EU Document Fraud Risk Analysis Network (EDF-RAN).

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As there were only very limited numbers (2 in 2014 and 5 in 2015) of document fraud cases involving Ethiopian nationals on entry into the EU/SAC (Schengen-Associated Countries) from third countries, it is difficult to highlight the most favourite document type in use.

Detections of document fraud on the direct flights from Ethiopia, in particular from Addis Ababa, to the EU/SAC in 2014-2015

Refusals from Ethiopia- Top 10 illegally used documents					
Nationality of the document	Fraud type	Document type	2014	2015	Total
Germany	Fraud	Visa	10	4	14
France	Impostor	Passport	2	5	7
France	Impostor	Residence permit	1	4	5
Belgium	Fraud	Visa	3	2	5
Italy	Fraud	Visa	5	-	5
DRC Congo	Forged	Passport	1	3	4
France	Forged	Passport	1	2	3
DRC Congo	Fraud	Passport	3	-	3
China (PRC)	Counterfeit	Passport	3	-	3
Cameroon	Impostor	Passport	-	3	3
Other			26	26	52
Total			**55**	**49**	**104**

Source: Frontex, Evaluation of ILO posting in Kenya, Ethiopia, Eritrea, Somalia and Djibouti:

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Additionally, there have been attempts by Iraqi nationals to travel to Addis Ababa (ADD) from Istanbul (IST), possibly with the intention of travelling onwards to the UK. Another trend appeared to be Chinese nationals who used poor quality forged EU documents on Ethiopian Airlines arriving in Rome (FCO) from Addis Ababa (ADD). In total, three facilitators of Ethiopian nationality were detected in 2014 and seven between January and October 2015.[1]

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[1] Frontex, Evaluation of ILO posting in Kenya, Ethiopia, Eritrea, Somalia and Djibouti, *supra* n.43, p.13.

The current model of the Ethiopian ordinary passport with 5 years validity has been issued in compliance with the ICAO standards. Their security protection is on standard level, very similar to the security level of Kenyan passports. Ethiopian ordinary passports are broadly recognized by all EU Member States. In 2015 the number of fraudulent Ethiopian travel documents reported by the EU Member States decreased compared to 2014. Whilst in 2014 there were more than 40 questioned Ethiopian passports detected and reported by the EU Member States within EDF (Frontex' data collection network), till the end of October 2015 there were only 9 such cases. The majority of these cases were, however, detected on intra-Schengen flights between Italy and Denmark (Ethiopian nationals), Greece and Germany (Eritrean nationals). Based on the limited information available, the security of the issuing process of travel and other identity documents as well as the number of fraudulently obtained Ethiopian travel documents in circulation in Ethiopia is difficult to assess.[1]

3.3 Return and readmission

There is no cooperation with Ethiopia on forced return. Return is only possible on a voluntary basis. Ethiopia does not establish citizenship for undocumented persons. In cases with documentation (only (copies of) a passport or fully authenticated birth certificate), citizenship can be assessed with or without a personal interview. In cases without documentation (or with copies of less concrete documentation), the embassy will only conduct a personal interview when the person wishes to return on a voluntary basis. If citizenship is established, a laissez passer can be issued for those who wish to return to Ethiopia. Without the signature of the person involved the laissez passer is not valid. An EU travel letter is not accepted.[2]

3.4 Cooperation with the authorities in combatting illegal immigration

Cooperation with Ethiopia is limited and there is room for improvement. Several Member States do not have a dedicated presence and do not have direct flights to or from Ethiopia. Cooperation with the Ethiopian government has been mixed and the government can at times be difficult to engage with. Reportedly, this reluctance to engage is largely due to cultural reasons. Cooperation with Ethiopian Airlines has been fairly good. According to France the fight against illegal immigration is

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[1]   Frontex, Evaluation of ILO posting in Kenya, Ethiopia, Eritrea, Somalia and Djibouti, *supra* n.43, p.13.

[2]   Information provided by the Repatriation and Departure Service of the Netherlands.

essentially the responsibility of the federal police in Ethiopia which refuses to disclose the figures available. Until recent atrocities against their nationals (abuse and murders), Ethiopia completely denied the problem. France indicated that, at a conference organized on the subject in Djibouti in October 2015, the Ethiopian delegation finally recognized that there was a problem and agreed to enter into a more constructive approach to fight illegal immigration but also to combat related human trafficking.

3.5 Illegal migration from Ethiopia towards the EU

–   Malta provided that 7 boat immigrants with an Ethiopian nationality arrived in 2014, compared to 0 in 2015.

–   Italy reported that from 1 January till 30th November 2015, 18 Ethiopians have been refused at the air border and 1 at the sea border. According to Italy, 560 Ethiopian nationals arrived in Italy via sea in 2014, compared to 2.499 in 2015 (from 1 January until 30 November 2015). Until 30 November 2015, 9.335 Ethiopian nationals were holding an Italian residence permit (including 1 holder of a residence permit for social protection/victims of trafficking).

–   Belgium voluntary returned 3 Ethiopian nationals in 2015.

–   Poland indicated that the number of Ethiopian nationals apprehended/detected by the Border Guards in connection with illegal stay was 2 in 2014 and 0 in 2015. The number of nationals apprehended/detected in connection with illegal crossing was 0 in 2014 and 1 in 2015.

–   The Netherlands reported 93 asylum applications of Ethiopian nationals in 2014 compared to 133 applications in 2015.

4. Eritrea

4.1 Refusal of entry at the EU external borders

In 2014, 84 Eritrean nationals were refused at the EU external borders. In 2015, between January and October, the number of refusals amounted to 54 cases.

The main reasons of refusal were the lack of justification (23 cases in 2014 and 16 in 2015), the lack of a valid visa (17 cases in 2014 and 15 in 2015), the lack of subsistence (1 case in 2014 and 4 cases in 2015), a false visa (13 cases in 2014 and 4 in 2015), no valid document (19 cases in 2014 and 2 in 2015), a false document (4 cases in 2014 and 1 in 2015), an alert issued (2 cases in 2014 and in 2015) and a threat (2 cases in 2014). In the remaining cases the reason of refusal was not available.

Location of refusal, divided into land/sea and air

Refusal of entry by location	2014	Jan-Oct 2015	Total Jan 2014 - Oct 2015
Total	**84**	**54**	**138**
Air	79	52	**131**
Sea	5	2	**7**

Source: Frontex, Evaluation of ILO posting in Kenya, Ethiopia, Eritrea, Somalia and Djibouti:

Answered Questionnaire for the Immigration and Naturalisation Service of the Netherlands

4.2 Document fraud

Eritrean nationals arriving in the EU/SAC (Schengen- Associated Countries) from third countries were detected with the following fraudulent documents:

Document type	2014	Jan-Oct 2015	Total Jan 2014 - Oct 2015
Total	**52**	**22**	**74**
PASSPORTS	23	15	38
VISA	18	7	25
RESIDENCE PERMITS	6	0	6
ID CARDS	3	0	3
STAMPS	2	0	2

Source: Frontex, Evaluation of ILO posting in Kenya, Ethiopia, Eritrea, Somalia and Djibouti:

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The overall number of fraudulent documents presented by Eritrean nationals on entry in the EU/SAC (Schengen-Associated Countries) from third countries is relatively low, however, once in the EU/SAC Eritreans are much more often detected with fraudulent documents on secondary movements inside the EU/SAC, in particular in 2014. In total, 81 facilitators of Eritrean nationality were detected in 2014 and 26 between January and October 2015.

Various types of fraud in relation to travel documents abused by Eritrean nationals

Type of fraud	2014	Jan-Oct 2015	Total Jan 2014 - Oct 2015
Total	**52**	**22**	**74**
COUNTERFEIT	19	4	23
FRAUD OBTAINED	7	4	11
IMPOSTOR	10	1	11
NO MORE DETAILS	8	2	10
IMAGE SUBSTITUTION	5	4	9
OTHER	1	3	4
MUTILATED	0	3	3
FALSE-BIOPAGE	1	1	2
PAGE SUBSUBSTITUTION	1	0	1

Source: Frontex, Evaluation of ILO posting in Kenya, Ethiopia, Eritrea, Somalia and Djibouti:

Answered Questionnaire for the Immigration and Naturalisation Service of the Netherlands

Countries of issuance of the travel documents abused by Eritrean nationals

Country of issuance of the document	2014	Jan-Oct 2015	Total Jan 2014 - Oct 2015
Total	52	22	74
France	20	2	22
Israel	5	3	8
Eritrea	1	6	7
Italy	6	1	7
Sweden	5	1	6
Germany	4	0	4
Guinea	1	2	3
Switzerland	0	2	2
Norway	2	0	2
Poland	1	1	2
Other	7	4	11

Source: Frontex, Evaluation of ILO posting in Kenya, Ethiopia, Eritrea, Somalia and Djibouti:

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The mostly misused documents in the hands of Eritrean nationals were passports and visas:

Top 10 combinations of Eritrean nationals arriving in the EU/SAC with fraudulent documents ordered by the detections made in 2014/2015

Country of issuance of the document	Type of fraud	Document type	2014	Jan-Oct 2015
Israel	IMAGE SUBSTITUTION	PASSPORTS	1	3
Eritrea	IMAGE SUBSTITUTION	PASSPORTS	0	3
France	COUNTERFEIT	VISA	5	2
Guinea	MUTILATED	PASSPORTS	0	2
Switzerland	OTHER	PASSPORTS	0	2
Sweden	IMPOSTOR	PASSPORTS	3	1
Eritrea	MUTILATED	PASSPORTS	0	1
Eritrea	NO MORE DETAILS	PASSPORTS	0	1
Eritrea	BIOPAGE	PASSPORTS	0	1
Italy	NO MORE DETAILS	VISA	0	1

Source: Frontex, Evaluation of ILO posting in Kenya, Ethiopia, Eritrea, Somalia and Djibouti:

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The current model of Eritrean ordinary passport has been issued in compliance with the ICAO standards. Their security protection is on standard level, similar to the security level of Kenyan and Ethiopian passports. Eritrean ordinary passports are broadly recognized by all the EU Member States. The number of questioned Eritrean travel documents reported by the EU Member States varies around 30 detections per year and, like in case of questioned Ethiopian passports, they are often detected on secondary movements inside the EU/SAC. Based on the limited information available, the security of the issuing process of travel and other identity documents, as well as the number of fraudulently obtained Eritrean travel documents in circulation in Eritrea, is difficult to assess.

4.3 Return and readmission

Current immigration policy of various EU countries does not allow (forced) return to Eritrea.

4.4 Cooperation with the authorities in combatting illegal immigration

Eritrea has been defined as a country that is difficult to engage with, mainly because it is a closed state that does not always freely engage with the diplomatic community. According to several ILOs, engagement with Eritrea is (extremely) limited.

4.5 Illegal migration from Eritrea towards the EU

− Belgium reported 310 cases of asylum and 114 cases of illegal stay of Eritreans in 2015

− Bulgaria provided that it does not experience any serious migration pressure from Eritrea. In 2014 4 Eritrean nationals were apprehended at Bulgarian border crossing points (BCPs). 15 Eritrean nationals were accommodated at the specialised centres for temporary accommodation of foreigners. In 2015 2 Eritrean nationals were apprehended at the Bulgarian land borders.

− According to Italy, 631 Eritreans lodged an application for asylum from 1 January until 11 December 2015, with a detection rate of international/subsidiary protection at 76%. From 1 January till 30 November 2015, seven Eritreans have been refused at the air border in Italy. 34,329 Eritrean nationals arrived in Italy via sea in 2014, compared to 37,882 Eritrean nationals in 2015. Until 30 November 2015 11,688 Eritrean nationals hold an Italian residence permit (including 1 holder of a residence permit for social protection/victims of trafficking).

– Malta provided that 38 boat immigrants with an Eritrean nationality arrived in 2014 and 2 in 2015.

– Poland indicated that the number of Eritrean nationals apprehended/detected by the Border Guards in connection with illegal stay was 0 in 2014 and 2 in 2015. The number of Eritrean nationals apprehended/detected in connection with illegal crossing was 13 in 2014 and 6 in 2015.

– The Netherlands reported 4,100 asylum applications of Eritrean nationals in 2014 compared to 8,434 in 2015 (Eritrea ranked second in the top 10 asylum applications).

Italy provided the following additional information: the illegal immigrants from Eritrea are traveling for about four months on board of (off-road) vehicles or trucks, through Sudan to reach Libya. They are often held in safe-house even for two or three months and subject to violence and abuse. From Libya, they sail in about one day (aboard wooden boats of about 10/25 meters) to the Sicilian coasts. In 2015 the flow from Libya was characterized by the predominant use of rubber boats. Migrants, mostly young males, said they had paid approximately between 600 and $ 1,500 per person. The Eritrean migrants have shown that the border between Libya, Egypt and Sudan is a collection point where Sudanese facilitators rely on Libyans ones. Procedures seem to be extremely fluid, including those relating to logistical arrangements, communications and payments. From 1 January till 30 November 2015, 8 Eritreans were arrested as facilitators in the immediacy of the landing events, compared to 16 arrested in the year 2014.

5. Somalia

5.1 Refusal of entry at the EU external borders

In 2014, 142 Somali nationals were refused at the EU external borders. In 2015, between January and October, the number of refusals amounted to 121 cases.

Location of refusal, divided into land/sea and air

Refusal of entry by location	2014	Jan-Oct 2015	Total Jan 2014 - Oct 2015
Total	**142**	**121**	**263**
Air	124	103	**227**
Sea	18	18	**36**

Source: Frontex, Evaluation of ILO posting in Kenya, Ethiopia, Eritrea, Somalia and Djibouti:

Answered Questionnaire for the Immigration and Naturalisation Service of the Netherlands

Main reasons for refusals

Reason	2014	2015 (jan.-oct.)
Reason not available	58	49
No valid document	37	25
No valid visa	25	15
No subsistence	8	14
No justification	10	7
False document	11	4
Threat	6	4
Alert issued	7	3
Over three- months stay	0	3
False visa	3	0

Source: Frontex, Evaluation of ILO posting in Kenya, Ethiopia, Eritrea, Somalia and Djibouti:

Answered Questionnaire for the Immigration and Naturalisation Service of the Netherlands

5.2 Document fraud

Somali nationals arriving in the EU/SAC from third countries were detected with the following fraudulent documents:

Document type	2014	Jan-Oct 2015	Total Jan 2014 - Oct 2015
Total	**56**	**51**	**107**
PASSPORTS	37	38	75
RESIDENCE PERMITS	6	7	13
VISA	5	3	8
ID CARDS	5	1	6
OTHER	2	2	4
STAMPS	1	0	1

Source: Frontex, Evaluation of ILO posting in Kenya, Ethiopia, Eritrea, Somalia and Djibouti:

Answered Questionnaire for the Immigration and Naturalisation Service of the Netherlands

The mostly misused documents in the hands of Somali nationals were passports of various countries.

Various types of fraud in relation to travel documents abused by Somali nationals

Type of fraud	2014	Jan-Oct 2015	Total Jan 2014 - Oct 2015
Total	**56**	**51**	**107**
IMPOSTOR	41	28	69
FRAUD OBTAINED	2	8	10
COUNTERFEIT	6	4	10
NO MORE DETAILS	2	3	5
NEW BIOPAGE	1	3	4
IMAGE SUBSTITUTION	2	1	3
BIOPAGE	1	1	2
PAGE SUBSTITUTION	0	1	1
OTHER	0	1	1
E-DEVICE	0	1	1
MUTILATED	1	0	1

Source: Frontex, Evaluation of ILO posting in Kenya, Ethiopia, Eritrea, Somalia and Djibouti:

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The mostly misused documents were Swedish, British and Danish passports. Somali nationals got accustomed to abuse quite well- protected passports of the UK, Sweden and Denmark on the routes towards the EU. This is not surprising as the countries listed above often represent their desired final destinations within the EU. It is always more difficult to alter well- protected document and thus much easier to rather use an authentic document of someone else who looks alike. According to Frontex, 34 facilitators of Somali nationality were detected in 2014 and 31 between January and October 2015.

Countries of issuance of misused documents in the hands of Somali nationals

Country of issuance of the document	2014	Jan-Oct 2015	Total Jan 2014 - Oct 2015
Total	56	51	107
Sweden	21	10	31
United Kingdom	9	10	19
Denmark	4	4	8
Netherlands	2	3	5
Italy	2	3	5
Germany	4	1	5
Canada	2	2	4
Malta	0	4	4
Somalia	0	3	3
Kenya	3	0	3
Other	9	11	20

Source: Frontex, Evaluation of ILO posting in Kenya, Ethiopia, Eritrea, Somalia and Djibouti:

Answered Questionnaire for the Immigration and Naturalisation Service of the Netherlands

Top 10 combinations of Somali nationals arriving in the EU/SAC with fraudulent documents ordered by the detections made in 2015

Country of issuance of the document	Type of fraud	Document type	2014	Jan-Oct 2015
Sweden	IMPOSTOR	PASSPORTS	16	7
United Kingdom	IMPOSTOR	PASSPORTS	5	7
Denmark	IMPOSTOR	PASSPORTS	2	3
Malta	IMPOSTOR	RESIDENCE PERMITS	0	2
Malta	IMPOSTOR	PASSPORTS	0	2
Somalia	FRAUD OBTAINED	PASSPORTS	0	2
Malawi	NO MORE DETAILS	PASSPORTS	0	2
Sweden	IMPOSTOR	RESIDENCE PERMITS	3	1
Sweden	E-DEVICE	PASSPORTS	0	1
Sweden	COUNTERFEIT	RESIDENCE PERMITS	0	1

Source: Frontex, Evaluation of ILO posting in Kenya, Ethiopia, Eritrea, Somalia and Djibouti:

Answered Questionnaire for the Immigration and Naturalisation Service of the Netherlands

Somalia introduced the first generation of biometric passports in January 2007. This model series is equipped by standard security features protecting the document from unlawful alterations, however, its electronic part represented many doubts. The information in the chip, especially finger prints, was easily accessible with a document reader without any need of related certificates protecting the information in the chip. In January 2013, Somalia introduced new model series of ordinary biometric passports. Its security protection is on a good level, but the current chaos in Somalia and the very unsecure (and thus non- reliable) issuing process of all Somali identification and travel documents does not allow most of the EU Member States to recognize Somalian passports for the purpose of travel and affixing a visa, regardless of the level of physical security protection of the documents in question. There are, however, exceptions. Some EU Member States still have been recognising all Somalian ordinary passports. A couple of EU Member States limit their recognition only to the biometric Somalian passports issued after 1 February 2007 (Estonia, France, and Italy). The situation in Somalia is therefore complex.

5.3 Return and readmission

The Repatriation and Departure Service of the Netherlands provided that the Netherlands had a MoU dated May 2010 which expired in May 2013. Negotiations on a new MoU were (so far) unsuccessful. The Embassy of Somalia in Belgium (Brussels) is willing to issue travel certificates/laissez passers for voluntary return, but not for enforced return. Somali nationality can be established by the Embassy, after a personal interview. The Embassy does not distinguish between a Somali from Somaliland, Puntland or Somalia. Co-operation with the Embassy is satisfying with regard to voluntary return or any other matter other than enforced return. In case of an eventual enforced return the Dutch authorities will provide a European Traveling Certificate for the Somali citizen. For voluntary return, Go Home travel documents can be issued. If citizenship is established and the person involved wishes to return to Somalia, return papers can be issued on the day of the interview. An EU travel letter or other travel document issued by the returning country is accepted only after approval from the central authorities, based on an assessment of the individual case. Norway provided that 18 persons from Somalia returned to Somalia from Norway in 2015. 5 of these cases concerned enforced returns, the remaining cases assisted returns for rejected asylum seekers. Most returnees are travelling on Norwegian issued travel documents.

According to a recently published Commission-EEAS paper, the average rate of return from the EU to Somalia in 2014 was 7%. A conducive environment to ensure a sustainable return and reintegration of migrants is not yet in place. Before any (mass-scale) voluntary returns can be envisaged, it is of utmost importance that the security situation is stabilized and that prospects for return, i.e. overall improvement of living conditions (access to basic services) and job opportunities are in place and coordinated. An 50 million euro EU Emergency Trust Fund-programme has been adopted and is aimed at closing existing gaps in managing refugee returns. In this regard the EU has important (political) leverage as Somalia's key interest is to maintain the level of political and financial support from the international community.[1]

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[1] Council of the European Union, 'Joint Commission-EEAS non-paper on enhancing cooperation on migration, mobility and readmission with Somalia', *supra* n.115, p.3.

5.4 Cooperation with the authorities in combatting illegal immigration

There has been engagement with Somalia and Somaliland, as it is a priority country for a lot of Member States due to returns and counter-terrorism priorities. Cooperation has been good when engagement has taken place. The ILO network has conducted (capacity building) training in Mogadishu. The cooperation with the competent authorities on information exchange and returnees is fairly good. Given the large number of irregular arrivals in 2015, there is a need to discuss a coherent strategy on irregular migration with Somalia.[1]

5.5 Illegal migration from Somalia towards the EU

–   Italy reported that from 1 January till 20 November 2015, four Somalis were refused at the air border. 5,756 Somalis arrived in Italy via sea in 2014 and 9,002 in 2015 (from 1 January till 30 November 2015). From 1 January 2015 till 11 December 2015, 1,097 Somalis lodged an application for asylum, with a detection rate of international/ subsidiary protection accounted for 92%. Until 30 November 2015 there were 10,586 Somali residence permit holders, including 3 holders of residence permits for social protection / victims of trafficking. From 1 January till 30 November 2015, 14 Somalis were arrested as facilitators in the immediacy of the landing events, compared to 7 arrested in the year 2014.

–   Somali nationals were in the top 10 of asylum seekers in Belgium in 2015. Belgium voluntary returned 1 Somali national in 2015.

–   Bulgaria provided that it does not experience any serious migration pressure from Somalia. In 2014 4 Somali nationals were apprehended at Bulgarian border crossing points (BCPs). 8 Somali nationals were accommodated at the specialised centres for temporary accommodation of foreigners. In 2015 5 Somali nationals were apprehended at Bulgarian land borders.

–   Malta provided that 118 boat immigrants with a Somali nationality arrived in 2014 compared to 4 2015.

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[1]   Council of the European Union, 'Joint Commission-EEAS non-paper on enhancing cooperation on migration, mobility and readmission with Somalia', *supra* n.115, p.6.

–   Poland indicated that the number of Somali nationals apprehended/detected by the Border Guards in connection with illegal stay was 1 in 2014 and 1 in 2015. The number of Somali nationals apprehended/detected in connection with illegal crossing was 4 in 2014 and 8 in 2015.

–   The Netherlands reported 1,527 asylum applications of Somali nationals in 2014 (Somalia ranked 4th in the top ten asylum applications) and 866 in 2015 (Somalia ranked 8th in the top 10 asylum applications).

–   Norway has experienced a decrease in asylum applications from Somalis the in last few years. In 2013 1,694 applications were registered, compared to 837 in 2014 and 561 in 2015. In 2015 190 Somalis were granted a permit (based on their asylum applications), while 347 applications for a permit were rejected.

–   In 2015, almost 20,000 Somalis applied for asylum in the EU.[1] In 2015 there were 17,692 irregular border crossings reported. Somali were among the top nationalities of migrants attempting to cross the Mediterranean.

Italy provided the following additional information: the illegal immigrants are traveling for about 4-6 months with makeshift equipment and they have to cross Kenya/Uganda and (later) Sudan to arrive in Libya, from where they reach the Sicilian coast on boats, often conducted by the migrants themselves. In Libya they are held in safe-house for two or three months and subject to violence and abuse. Foreigners, mostly young males, said they had paid for the travel from Libya approximately €800 and € 1,500 per person. In 2014 there has been presence of Somali migrants, mostly female, on the vessels from Greece which arrived in Calabria and Puglia. The migrants said they had reached Greece through Turkey and Iran (the latter destination was reached from Somalia by flight).

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[1]   Council of the European Union, 'Joint Commission-EEAS non-paper on enhancing cooperation on migration, mobility and readmission with Somalia', *supra* n.115, p.2.

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