



home affairs

Department:
Home Affairs
REPUBLIC OF SOUTH AFRICA

Indela Holding Facility, 10 Tom Muller Drive West Con, Private Bag X 1 Post Point West, Krugersdorp, 1724. Tel: (011) 662 0500

**RE: REPORT: BROOKLYN AND EASTERN AREAS CITIZENS' ASSOCIATIONS
AND ANOTHER v UNKNOWN PROTESTORS AND 7 OTHERS : CASE NO:
79931/19**

1. BACKGROUND

1.1. On or about 13 November 2019, the Court issued an Order in terms of which the Minister of Home Affairs was required to engage with the unknown protestors in order to ascertain their identities.

1.2. In addition, the Minister of Home Affairs together with the City of Tshwane Metropolitan Municipality ("City of Tshwane") is required to report back to this Court on Thursday, 21 November 2019 at 10h00 with regards to the operation conducted in the implementation of the Court Order.

2. EVENTS ON 14 AND 15 NOVEMBER 2019

2.1. The officials of the Department of Home Affairs ("DHA") were surprised to learn in the morning on 14 November 2019, that the unknown protestors had moved from the Affected Areas to the premises of the United Nations High

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Commissioner for Refugees ("UNHCR"). It appears that the move was not sanctioned by the UNHCR.

2.2. The new development posed a challenge to the officials of the DHA in initiating the identification process as ordered by the Court.

2.3. On 15 November 2019, members of the South African Police Service ("SAPS") launched an operation to remove the unknown persons from the premises of the UNHCR. The operation was conducted in the presence of immigration officers of the DHA and members of the Tshwane Metro Police Department ("TMPD").

2.4. This resulted in the arrest of some of the unknown persons and the majority were voluntarily and temporarily accommodated at Lindela Holding Facility on humanitarian grounds. Those who were arrested were held at Brooklyn Police Station, Sunnyside Police Station, Moot Police Station, Atteridgeville Police Station, Pretoria Central Police Station and Garsfontein Police Station.

3. VERIFICATION AND IDENTIFICATION PROCESS AT LINDELA HOLDING FACILITY

3.1. The total number of the persons accommodated temporarily at Lindela Holding Facility is 433.

3.2. The table below shows the figures per country:

NATIONALITY	FEMALES	MALES	CHILDREN	TOTAL	%
Burundi	24	0	17	41	9.46
DRC	179	13	176	368	84.98
Ethiopia	2	0	0	2	0.46
Rwanda	8	2	9	19	4.38
Tanzania	1	0	1	2	0.46
Uganda	1	0	0	1	0.24
TOTAL				433	

3.3. The verification and identification process was conducted from 16 – 18 November 2019.

3.4. The outcome of the verification and identification process is reflected in the tables below, which show the number of persons who have been issued with asylum seekers' permits and those who were granted refugee status in terms of sections 22 and 24 of the Refugees Act 130 of 1998:

NATIONALITY	SECTION 22		SECTION 24		TOTAL
	ADULT	CHILDREN	ADULT	CHILDREN	
Burundi	19	9	3	3	34
DRC	178	109	46	8	341
Ethiopia	2	0	0	0	2
Rwanda	12	3	2	1	18
Total	211	121	51	12	395

3.5. The number of undocumented persons (illegal foreigners) is 38 and reflected below:

NATIONALITY	NUMBER
Burundi	7
DRC	29
Uganda	1
Rwanda	1
TOTAL	38

3.6. I annex hereto the database containing particulars of the persons temporarily accommodated at Lindela Holding Facility marked "R1".

4. DECISION OF THE DHA ON UNDOCUMENTED PERSONS

4.1. The DHA has been advised that in line with the judgments of the Supreme Court of Appeal and the Constitutional Court in **Bula v Minister of Home Affairs** and

Ruta v Minister of Home Affairs¹ the undocumented persons should be afforded an opportunity to apply for asylum.

- 4.2. The decision was also informed by the fact that the affected persons indicated in no uncertain terms that they wish to apply for asylum in South Africa.
- 4.3. The undocumented persons will be given 14 (fourteen) days to apply for asylum.
- 4.4. In view of the fact that there is an upsurge in the number of asylum seekers at all the Refugee Reception Offices, an Order of this Court will be required as there are many asylum seekers in a queue for their applications to be processed.
- 4.5. I am advised that the appropriate order would be in the following terms:

"(1) The Refugee Reception Officers ("RROs") are hereby directed to forthwith issue permits valid for 14 (fourteen) days to the asylum seekers whose names appear in a list marked "B1" in terms of section 2 of the Refugee Act 130 of 1998 and Regulation 2(2) of the Regulations framed under the Refugees Act.

(2) The asylum seekers whose names appear in the list marked "B1" are hereby directed to approach a Refugee Reception Office of their choice to complete the asylum applications".

¹ **Bula v Minister of Home Affairs**, [2012] 2 All SA 1 (SCA); 2012 (4) SA 560 (SCA), paras 70, 72 and 80 and **Ruta v Minister of Home Affairs** 2019 (3) BCLR 383 (CC); 2019 (2) SA 329 (CC), paras 28 and 43.

5. **VERIFICATION AND IDENTIFICATION PROCESS AT BROOKLYN POLICE STATION, SUNNYSIDE POLICE STATION, MOOT POLICE STATION, ATTERIDGEVILLE POLICE STATION, PRETORIA CENTRAL POLICE STATION AND GARSFONTEIN POLICE STATION**

5.1. The total number of persons incarcerated at various police stations is 191.

5.2. The table below shows the figures per country:

NATIONALITY	FEMALES	MALES	TOTAL	%
Burundi	0	24	24	12.57%
DRC	1	157	158	82.72%
Ethiopia	0	1	1	0.52%
Rwanda	0	3	3	1.57%
Unknown Nationality	0	1	1	0.52%
Cote D'Ivoire	0	1	1	0.52%
Angola	0	2	2	1.05%
Sudan	0	1	1	0.52%
TOTAL	1	190	191	100%

5.3. The verification and identification process was conducted from 16 – 20 November 2019. The status of 14 individuals remains to be determined.

5.4. The outcome of the verification and identification process is reflected in the tables below, which show the number of persons who have been issued with asylum seekers permits and those who were granted refugee status in terms of sections 22 and 24 of the Refugees Act 138 of 1998:

NATIONALITY	S22	S24	TOTAL
Burundi	14	1	15
DRC	93	25	118
Ethiopia	1	0	1
Rwanda	3	0	3
Cote D'Ivoire	1	0	1
Angola	1	0	1
Sudan	1	0	1
Total	114	126	140

5.5. The number of undocumented persons (illegal foreigners) is 37 and reflected below²:

NATIONALITY	NUMBER
Burundi	6
DRC	31
TOTAL	37

5.6 The 14 nationals whose status still needs to be confirmed are reflected below³:

NATIONALITY	NUMBER
Burundi	3
DRC	9
Angola	1
Unknown	1
TOTAL	14

5.7 I annex hereto the database containing the particulars of the persons incarcerated at the above mentioned police stations marked "R2".

5.8 The decision on the fate of the undocumented persons who were arrested will be taken after the conclusion of the criminal proceedings. This is so, because, if they are convicted and sentenced to a term of imprisonment, this may invite invocation of the provisions of section 4 of the Refugees Act.

² See annexure "B2".

³ See annexure "C".

MODIRI MATTHEWS

CHIEF-DIRECTOR : INSPECTORATE

DEPARTMENT OF HOME AFFAIRS

20 NOVEMBER 2019