

**THE COMMISSION ON ADMINISTRATIVE JUSTICE**  
(Office of the Ombudsman)



*Hata Mnyonge ana Haki*

**AN INVESTIGATION REPORT ON  
ALLEGED MANIFEST INJUSTICE IN THE ISSUANCE  
OF PASSPORTS BY THE DEPARTMENT OF IMMIGRATION**



**MAY 2023**



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**Serial No. CAJ/74/2023**

## FOREWORD

The Commission on Administrative Justice (CAJ) undertook an investigation into allegations that the Department of Immigration was overcharging citizens for passports. The investigation was prompted by complaints made online on social media via a Facebook page called “**Wanderlust Diaries Ltd**” against the Department of Immigration.

The Office of the Director General Immigration Services was notified of the Commission’s decision to investigate the matter vide a letter, **Ref: CAJ/IE/6/106 /22 dated 3rd November 2022.**

The investigations team visited the Immigration offices and the Government Digital Payment Unit under the National Treasury, interviewed a number of officers as well as complainants and obtained several documents relevant to the matter under investigation.

This Report was informed by analysis of the information gathered and the examination of documents obtained in the process of the investigation. Various recommendations were made to the PS, State Department of Immigration and Citizen Services; Director General, Department of Immigration and Director General, Department of Accounting Services and Quality Assurance of the National Treasury. The recommendations are geared towards improvement of the passport processing services.

We reiterate our commitment as a Commission to address maladministration in public institutions and endeavour to uphold administrative justice while promoting access to information.

**Signed this 1<sup>st</sup> Day of June 2023**



**HON. FLORENCE KAJUJU, MBS  
CHAIRPERSON OF THE COMMISSION**

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## ACRONYMS

<b>CAJ</b>	Commission on Administrative Justice
<b>CBK</b>	Central Bank of Kenya
<b>CS</b>	Cabinet Secretary
<b>DG</b>	Director General
<b>NADRA</b>	National Database and Registration Authority
<b>PS</b>	Principal Secretary
<b>SMS</b>	Short Messaging System
<b>VIP</b>	Very Important Persons

## EXECUTIVE SUMMARY

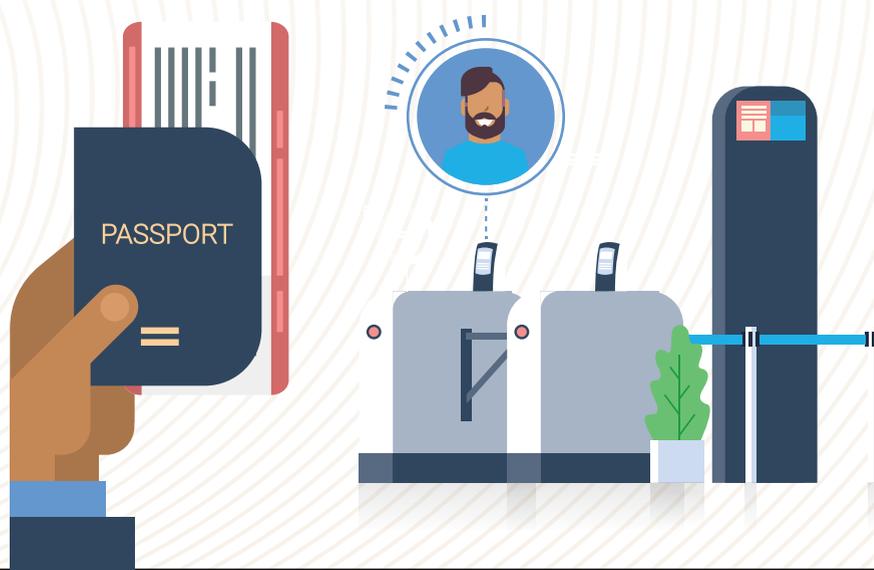
The Commission undertook investigations into allegations that the Department of Immigration was overcharging citizens for passports. The investigation was triggered by several complaints made online on social media via a Facebook page called “Wanderlust Diaries Ltd” against the Department of Immigration.

The Office of the Director General Immigration Services was notified of the Commission’s decision to investigate the matter on 3rd November 2022. The investigations team visited the Immigration offices and the Government Digital Payment Unit under the National Treasury, interviewed a number of officers as well as complainants, and obtained several documents relevant to the matter under investigation.

All nine complaints alleging overcharge of passport fees were found to be true while the allegation by the Department of Immigration that the complainants edited their application to a lower series was found to be false. Investigations revealed that the Department of Immigration lacks an internal policy or a procedure guiding and regulating issues that may arise out of passport processing such as editing and cancellation of applications and also lacks a mechanism to automatically refund excess payments.

Delays in the processing of passports and the unavailability of a particular passport series on the e-citizen platform were found to be occasioned majorly by two factors; delays in the approval of the procurement of blank passport booklets, and, the continuous breakdown of printing machines at the Department of Immigration. The e-citizen system was found to have eased and improved the efficiency of the passport application and payment processes but needs an upgrade to deal with emerging trends.

In light of these findings, it is recommended inter alia that the Department of Immigration refunds all applicants with outstanding overpayment while formulating policy guidelines that will formalize and standardize the management of issues arising from the passport application processes.



### 1.1 Background

The Commission noted numerous complaints from members of the public on social media against the Department of Immigration and the e-citizen platform alleging that they had been issued passports having fewer pages than the ones they had paid for.

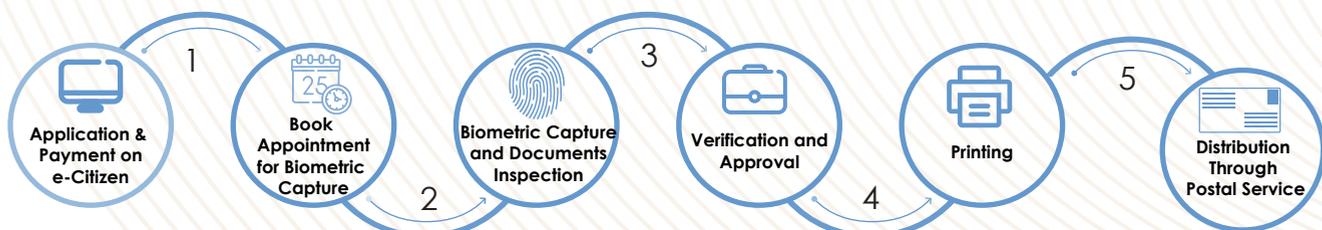
It was alleged that some citizens were compelled to pay 6,050/= for a 'B' series passport (50 pages) as it was the only option provided to them while making their online applications only for them to be issued with 'A' series passports (34-pages) whose cost is KSh. 4550, thereby losing KSh. 1,500 to the government without a clear channel of recourse.

Some of the complainants alleged that upon raising the issue with the Department of Immigration, the explanation offered for the anomaly was an alleged system error but no efforts were made by the Department to rectify the anomaly or reimburse the citizens for the cost difference between 'A' and 'B' series passport.

### 1.2 Passport Application Procedure

According to the Department of Immigration, applicants apply for passports on the e-citizen platform by entering the required information and making payments via the platform. This includes uploading all the supporting documents. An appointment for biometric capture is then booked by the applicant. The printed application is submitted by the applicant at the immigration office on the day that had been booked for biometrics. There are various regional offices where an applicant can book to submit their applications.

The receiving officer verifies the application and once satisfied, the applicant proceeds to have their biometrics captured. After that the applications are escalated to the recommending officer who again verifies the submitted documents. If there are any discrepancies, the applicant is contacted. If the application is okay, it is forwarded to the approving officer who checks if there are any comments made by the recommending officer and also further verifies the application. If they are satisfied, the passport application is forwarded to the Headquarters for printing where they are queued. Blank passport books are imported then the applicant information is printed onto the books. Thereafter, the passports are distributed for collection at the postal address given by the applicant.



## 1.3 Issues under investigation

Based on the allegations the investigation sought to establish the following issues:

- i. Circumstances surrounding the complaints alleging payment for “B” series passports but issuance of “A” series instead.
- ii. Whether the changes on the series of passports applied for were initiated by the applicants.
- iii. Whether there are Communication channels available at the Department of Immigration for informing applicants about the available number of pages after payments, before processing, and issuance of lesser pages.
- iv. Whether the Department of Immigration has an automatic way of refunding extra payments by passport applicants.
- v. To find out whether there is an existing channel of recourse for aggrieved applicants.
- vi. To understand the cause of the availability of the ‘B’ Series Passport as an Only Option at the Digital Passport Application Platform (e-Citizen).
- vii. The effectiveness of the e-Citizen platform and recommendations to improve the system.
- viii. To identify any form of maladministration arising from the numerous complaints and suggest appropriate remedial action.

## 1.4 Investigation Process

### 1.4.1 Notification

The Office of the Director General Immigration Services was notified of the Commission’s decision to investigate the matter vide a letter, **Ref: CAJ/IE/6/106 /22** dated **3<sup>rd</sup> November, 2022**.

### 1.4.2 Offices Visited

- i. Department of Immigration.
- ii. Department of Accounting Services and Quality Assurance.

### 1.4.3 Persons Interviewed

- i. Deputy Director, Corporate Affairs; Immigration Department.
- ii. Deputy Director, Passport Section; Immigration Department.
- iii. Head of Communication; Immigration Department.
- iv. Ag. Director, Government Digital Payment.
- v. e-Citizen Coordinator, Government Digital Payment.
- vi. Affected applicants or Complainants.

#### 1.4.4 Documents obtained

- i. Payment receipts/ Invoices
- ii. E-citizen application numbers
- iii. Copies of e citizen receipts(Pesa-flow) for various affected applicants
- iv. Application forms
- v. Passport Tracking numbers
- vi. Copies of passports for various affected applicants
- vii. Recorded Statements

### 1.5 Legal Framework

The following legal documents provided a framework that guided the investigation.

#### 1.5. 1 Constitution of Kenya, 2010

##### Chapter Three – Citizenship

##### Article 12. Entitlements of citizens

- (1) Every citizen is entitled to—
- (b) A Kenyan passport and any document of registration or identification issued by the State to citizens.

**Article 252(1)** provides inter-alia that “each commission and each holder of an independent office may conduct investigations on its own initiative or on a complaint made by a member of public.”

#### 1.5.2 Commission on Administrative Justice Act, 2011

Section 8 of the CAJ Act provides that CAJ has a mandate, inter-alia, to investigate any conduct in state affairs or any act or omission in public administration in any sphere of Government and complaints of abuse of power, unfair treatment, manifest injustice or unlawful, oppressive, unfair or unresponsive official conduct.

Sections 26-29 of the CAJ Act gives the Commission powers to conduct investigations on its own initiative or on a complaint made by a member of the public, issue summons and require that statements be given under oath, adjudicate on matters relating to administrative justice, obtain relevant information from any person or government authorities and to compel production of such information.

Under Section 31 of the Act, the Commission has power not limited by other provisions to investigate an administrative action despite a provision in any written law to the effect that the action taken is final or cannot be appealed, challenged, reviewed, questioned or called in question. After undertaking its investigations, the Commission is required under Section 42 of its constitutive Act, to prepare a report to the state organ, public office or organization to which the investigation relates.

The report shall include the findings of the investigation, action the Commission considers to be taken and reasons whereof and recommendations the Commission deems appropriate.

### 1.5.3 The Kenyan Citizenship and Immigration Act, 2011

#### Section 24; Persons entitled to passports and other travel documents

(1) Every citizen is, subject to this Act, entitled upon application, in the prescribed manner, to be issued with a passport or other travel documents to facilitate international travel.

#### Section 27. Application for and issuance of passports and other travel documents

- 1) An application for issuance or replacement of a passport or other travel document shall be in the prescribed form.
- 2) A person who wishes to apply for a passport shall appear in person before an immigration officer and make an application in the prescribed manner: Provided that in special circumstance the Director may use his discretion to dispense with personal appearance.
- 3) An application made under subsection (1) shall be accompanied by—
  - (a) the birth certificate or adoption certificate of the applicant;
  - (b) the national identity card of the applicant; or
  - (c) a certificate of registration or naturalization, where applicable; or
  - (d) service identity cards for members of the Defence Force;
  - (e) passport size photographs as may be determined in Regulations;
  - (f) in case of an applicant who is a child or with a disability that renders them dependent, the parent's or legal guardian's written consent; and
  - (g) prescribed fee.
- 4) An immigration officer shall, subject to this Act, issue or replace passports and other travel documents to any applicant.

#### Section 48; Powers of immigration Officer.

- 1) Subject to and for the purposes of this Act an immigration officer shall have the power to:
  - (c) Require any person seeking to enter or leave Kenya other than a refugee or any asylum seeker, to produce to him a valid passport or a valid travel document and any form of declaration that may be prescribed.
- 3) An immigration or other authorized officer of the Service shall capture biometrics in the course of the discharge of the mandate of the Service.

## 1.5.4 Kenya Citizenship and Immigration Regulations, 2011

### PART III—PASSPORTS AND OTHER TRAVEL DOCUMENTS

#### Application for a passport.

12. An application for the issuance or replacement of a passport or other travel document shall be in Form 19 set out in the First Schedule and shall be accompanied by such supporting documents and evidence as is required in the form.

## 1.5.5 The Public Finance Management Act, 2012

**Section 75,** Designation of Receivers and collectors of the national government (1) The Cabinet Secretary shall, in writing, designate persons as receivers of national government revenue under Article 209 (1), (2), and (4) of the Constitution and who shall be responsible for receiving and accounting for such national government revenue provided in any law or in regulations as the Cabinet Secretary may specify in the letter of appointment. (2) A receiver of national government revenue is responsible to the Cabinet Secretary for the collection of revenue for which he or she is responsible and such revenue shall be separately accounted for in accordance with Articles 206 (1) and 209 (1), (2) and (4) of the Constitution.

**Section 76,** Receiver may authorize a public officer to be a collector of national government revenue.

(1) A receiver of the national government revenue may authorize a public officer employed by the national government or any of its entities to be a collector of revenue for the national government and remit it to the receiver.

(2) Any public officer, other than a receiver or collector of revenue for the national government, who collects revenue for that national government shall, not later than three days after receiving it, deliver the revenue to a receiver or collector of revenue for the national government.

(3) A receiver of revenue for the national government shall provide monthly statements to the National Treasury and the Commission on Revenue Allocation.



## CHAPTER TWO: ANALYSIS AND FINDINGS

### 2.1 Circumstances surrounding the complaints alleging payment for “B” series passports but issuance of “A” series instead.

#### Allegations

From the complaints picked from social media, the Commission was able to contact nine complainants, seven of them alleged that they applied and paid for “B” series passports but were instead issued with ‘A’ series passports.

One complainant alleged that an Immigration Officer at the embassy advised her to upgrade from the ‘A’ series 34 pages to ‘B’ series 50 pages by adding KSh. 1,550 but was issued with 34 pages.

Another complainant alleged that she paid twice, first, KSh 7,500 for the renewal of her ‘C’ series passport on the 6th of November 2017 and made the second payment for the replacement of a lost passport in May 2018, where she paid Kshs. 12,050 and was issued a 50-page passport with no refund of the extra amount.

The Commission interrogated their respective passport application process to establish the veracity of their claims.

#### Investigation findings

##### i. Allegation one: applied and paid for a “B” series passport but were instead issued with ‘A’ series passports.

It was confirmed that indeed the seven complainants applied for “B” series passports which was the only available option then and paid KSh 6,050 but were issued with “A” series passports as demonstrated in the table below:

No.	E-Citizen No.	Pages Applied For	Fees Paid	Page Count Issued	Excess Money paid
1.	EPP1-YLTD509	50, B series	Ksh.6050	34, A series	Ksh.1500
2.	EPP1-5OTRZWO0	50, B series	Ksh.6050	34, A series	Ksh.1500
3.	EPPI-PPT9KQ9P	50, B series	Ksh.6050	34, A series	Ksh.1500
4.	EPP1-R7TWRA7V	50, B series	Ksh.6050	34, A series	Ksh.1500
5.	EPP1- 2ETKZA97	50, B series	Ksh.6050	34, A series	Ksh.1500
6.	EPP1- 7ATD6MWE	50, B series	Ksh.6050	34, A series	Ksh.1500
7.	EPP1-8JT7Z9Z	50, B series	Ksh.6050	34, A series	Ksh.1500

Upon the Commission's inquiry, the Immigration Department in their letters dated **15<sup>th</sup> November 2022, 5<sup>th</sup> December 2022, and 18<sup>th</sup> January 2023** acknowledged that the seven applicants paid an excess of KSh. 1,500 each and advised the aggrieved applicants to apply for a refund.

Some of the affected applicants indicated that they wanted the 'A' series of 34 pages but the 'B' series of 50 pages was the only available option. The unavailability compelled them to select the 'B' series. The applicants stated that they got or received passports since they needed them for traveling but did not get value for what they paid for.

### **ii. Allegation Two; upgraded from A series 34 pages to 'B' series 50 pages by adding KSh. 1,550 but was issued with 34 pages passport.**

Another complainant e-citizen application number EPP1-B5TKZ5KA alleged that she was advised by an Immigration Officer at the embassy to upgrade from the "A" series 34 pages to the 'B' series 50 pages by adding KSh. 1,550 due to the alleged unavailability of the "A" series applied for but was still issued with the "A" series 34 pages.

It was established that the above applicant had initially applied for an 'A' series (34 pages) passport and paid KSh. 4550 on 10th December 2019. Two years later, in October 2021, the applicant upgraded the application to a 'B' series (50 pages) passport by adding Ksh.1550 upon the advice of an immigration official. However, after the submission of documents to Immigration, the two distinct invoices were not merged to reflect one payment of KSh. 6,050 which is the official fee for the 'B' series passport and so the system only picked the 'A' series payment. The applicant was issued with the "A" series passport but was not refunded the extra payment of Kshs.1550.

Investigations revealed that payments made on separate occasions by one applicant especially when upgrading cannot be merged by the e-citizen system to generate a consolidated invoice. Immigration officials interviewed indicated that it is upon an applicant to ask for the merging of such payments or invoices during biometric capture. According to the Head of Communication and Corporate Affairs at the Department of Immigration, the applicant ought to have visited the e-citizen counter No.14 at Nyayo House, for the two (2) receipts to be merged. However, this information was not communicated to the applicant.

### **iii. Allegation Three: Applicant required to re-apply and pay for her passport that got "lost" in the hands of immigration officers during renewal.**

One applicant e-citizen application number EPP1-AAAAPSJ9 alleged that she initiated her passport renewal application for the 'C' series 66 pages by paying KSh 7500 on the 6th of November 2017. She went for her biometric capture on 24 January 2018 where she surrendered her expired 'C' series 66 pages passport together with her application for renewal documents. Upon making a follow-up about the status of her application for renewal, she was told by immigration officials that all her documents (including her expired passport) couldn't be traced, and given the urgency of her travel (medical treatment) she was advised to make a fresh application for a "lost" passport.

On 4th May.2018, she made the second application for a “lost” passport that cost her KSh. 12,050. Upon presentation of the second application for a “lost” passport to Nyayo House on 7th May 2018, she was instead issued a “B” series 50 pages passport allegedly from her first application for renewal (which was actually for 66 and not 50 pages) that had initially been declared “lost”. In this regard, she did not only lose KSh 12,050 arising from the second application for a “lost” passport which was totally pointless but also lost ksh.1500 from her first application for renewal of passport having been given a “B” series 50 pages passport instead of a “C” series 66 pages passport paid for. Upon inquiry, she was allegedly told by immigration officials that nothing could be done about the excess payments.

Investigations established that indeed the applicant had applied for a “C” series passport on 24th January 2018 and was issued a “B” series passport on 7th May 2018. However, she made another application on 4th May 2018 which she paid KSh. 12,050 for a lost passport. The Department alleges that she did not present the second application for processing and that, either way, the second application could not be processed given that she already had a valid East African Community passport. The Department acknowledged that she paid an excess of Ksh.12, 050 and recommended that she applies for a refund. Investigations found that her excess payments totals up to KSh 13,550; 1500 from her first payment and 12,050 from her second payment.

The analysis above confirms that all the complainants, in this case, did actually receive passports of lesser series than that which they had applied for hence there is a need for a refund by the Department of Immigration for the excess payments.

## 2.2 Whether the Changes on the Series of Passport Applied For Were Initiated by the Applicants

### Allegation

The Immigration Department through a response letter to the Commission dated 15th November 2022 alleged that the affected applicants downgraded their respective page counts from the “B” series to the “A” series. The Letter alleged that the complainants themselves edited the application on the e-citizen platform before submission of their documents for biometric capture to the Department of Immigration Services and downgraded the page count to ‘A’ series (34 pages) passport.

### Investigation Findings

The Ag. Director Government Digital Payment refuted the claim that the affected applicants downgraded their respective page counts and indicated that once submitted, the e-citizen system cannot allow an applicant to edit the page count on the passport application form.

He further reiterated that the e-citizen system cannot allow even an Immigration Officer to edit the page count on a passport application during or after the submission of an application for biometric capture at Immigration Offices. They can only review and return the application to the applicant with remarks that they edit or change a section of the passport application and re-submit back to Immigration through e-citizen. An applicant can only edit the application once returned to them by an Immigration officer for correction. The return for correction can only be done during or after the submission of the application for biometric capture.

The above position was also supported by the Deputy Director, Passport Section, who indicated that an Immigration Officer can only make comments or remarks on an application, and in case of a correction, the application is returned to the applicants. Further, he claimed that the Department cannot change the page count after an application has already been made due to the unavailability of the series applied for and that such changes in the series must be initiated by the applicants.

To prove their assertion, the Department availed 4 sample letters of former applicants (not the complainants in this case) requesting for cancellation of their original application (for lower series) in favor of their new application (higher series) given the urgency of their travels and the delays in getting the initially applied for lower series. However, no single sample request for downgrading (not cancellation) from a higher series to a lower series was availed.

The complainants refuted claims by the Department of Immigration that they edited their applications and altered the series applied for. Two complainants through recorded statements denied making the alterations before the submission of documents and downgrading the page count from the 'B' series (50 pages) to the 'A' series (34 pages). Review of the login and alteration data for six of the complainants provided by the Ag. Director Government Digital Payment indicated that after submission of the application, the applications were only updated long after the applicants had been issued with their passports a proof that the editing was not done by the applicants.

From the Analysis above, it can be deduced that the allegation that the complainants edited their application to a lower series is false. It was confirmed that the application once submitted on the e-citizen platform cannot be edited. The Department also failed to avail any letter/email from the complainants and even from other applicants requesting the printing of fewer pages than that applied for.



## 2.3 To establish whether there are communication channels available at the Department of Immigration for informing applicants about the series available after payments, before processing, and issuance of passports with lesser pages.

### Allegation

It was alleged that the Department neither communicated to the applicants on the unavailability of the series applied for nor sought their consent on whether to print for them passports with a fewer number of pages available or wait until the passport series applied for was available.

### Investigation Finding

Investigations established that the Immigration Department neither communicated to the applicants the fact that the series they applied for had run out of stock nor sought their consent for a downgrade. Furthermore, after being issued passports with fewer pages, there was no communication in regard to the procedure for a refund.

According to the Deputy Director, passport Section, in most cases, applicants are made to wait until the series selected are available. He indicated that the Department only responds to queries from applicants who call the office complaining of longer waiting periods than the prescribed period in the service charter. In such cases, some applicants apparently make oral requests to be issued with the available series, for instance, passports with lesser pages than what they had applied for citing urgency to travel. In other instances, they request for cancellation of the first application and reapply afresh for fast processing citing urgency.

Such agreements are apparently mostly oral and are not accompanied by written consent from the said applicants. It is suspected that such undocumented agreements may enable the applicants to acquire the passport they need urgently but could also form a basis for future complaints on the issuance of lesser pages.

Nevertheless, the Deputy Director, Corporate Affairs indicated that the Department is in the process of developing a short messaging system (SMS) for communicating with applicants to update them on every stage of their application.

It was however noted that the Department does not have an internal policy or a procedure guiding and regulating issues that may arise out of passport processing such as editing and cancellation of applications, thereby giving immigration officials a leeway to resolve such issues arbitrarily.

## 2.4 To Establish Whether the Department of Immigration has an Automatic Way of Refunding Extra Payments by Passports Applicants.

### Allegation

It was alleged that there were no mechanisms for the complainants to claim and get refunds for excess payments and even those who availed themselves to immigration offices to seek for refund were turned away without help.

### Investigation Findings

Investigations established that the Department has a working complaints channel which has been publicized on its website and social media platforms. Additionally, there is a signboard at the Nyayo House Ground floor that advises the public on how to lodge complaints at the customer care office. Further, the Department has a dedicated number that one can call or WhatsApp availed through its social media platforms.

According to Immigration Officers interviewed, the Department does not automatically initiate a refund for those who were issued with fewer pages than what was paid for. They only act on complaints lodged with them directly through the available channels. A claimant/complainant is supposed to write a letter addressed to the Director General who then marks it to the Department of Corporate Affairs. The applicant has to provide evidence to show that they are entitled to a refund and once the Corporate Affairs Department verifies the details and confirms the validity of the claim, the same is escalated to the Accounts Department to confirm the availability of funds for refund. If the Accounts Department confirms availability, the DG then authorizes the payment. The applicants are then contacted through the Corporate Affairs Department to collect their refund physically.

However, investigations established that this procedure is neither documented in a policy/procedure nor followed by immigration officials given that two of the complainants, in this case, indicated that they physically presented themselves to the Mombasa and Embu immigration offices to seek a refund but were “rudely” turned away. Further, even though it was confirmed that the Department has a complaints-handling infrastructure, some of the affected applicants were not aware of it hence the need for awareness creation among the public.

Nonetheless, investigations noted that the Department is in the process of developing a request for a refund form to help in standardizing the application for the refund process. The Deputy Director Corporate Affairs has also initiated a refund process for the complainants in this case and undertook to call the complainants to collect their refunds once the accounts department confirms the availability of funds.

However, the affected complainants are apparently required to collect the refunds in person a condition which might not be tenable for most of the complainants who are currently in foreign countries and, or those who have to further spend more money in traveling to claim the refund.

Investigations confirmed that the money collected through e-citizen for the passport charges is not received by the Department of Immigration but rather is remitted to a settlement account at the National Treasury. The money is then transferred to the exchequer account at the Central Bank of Kenya. The Immigration Department is not entitled to the revenue collected as it is all government revenue but gets its allocation through the normal budget approval by Parliament.

In summary, the Department of Immigration has no mechanism for automatically refunding excess payment occasioned by the issuance of passport with fewer pages than that applied for. The manual mechanism available is bureaucratic and cumbersome making it very difficult for applicants to get a refund.

## 2.5 To understand the cause of the availability of the 'B' Series Passport as an Only Option at the Digital Passport Application Platform (e-Citizen)

### Allegation

It was alleged that the complainants were interested in 'A' series passport with an application fee of KSh. 4,550 but the only available option on e-citizen was the B series whose fee is KSh. 6,050. They were therefore compelled to apply for the only available option.

### Investigations Findings

Investigations established that the affected applicants wanted to apply for 'A' series passports (34 pages) but were compelled to apply and pay for 'B' series as it was the only option available. However, besides paying for more pages which was not their initial preference, they were issued passports of fewer pages with no refund for the excess payment, and no explanation/communication for the changes was given.

According to the Ag. Director Government Digital Payment, as the developer and manager of the e-citizen platform, the Government Digital Payment Unit is the one with the right to modify the system and update the available page counts upon request by the Immigration Department.

The immigration Department indicated that different passport booklets ran out of stock at different times. This is attributed to delays in procurement approvals and the breakdown of printing machines.

According to the Deputy Director, Corporate Affairs, the occurrence in the year 2021 was caused by a breakdown in the printer machine designated for the 'B' series booklets, and for some time the Department was not issuing 'B' series passports. He alleged that he believed that the applicants got wind of this development and as a result decided to downgrade their applications from the 'B' series to 'A' series which were the passport booklets available then.

It was further established that towards the end of the year 2022 and the beginning of 2023, there was a shortage of 'A' and 'B' series booklets which made the two series unavailable on the e-citizen platform for new applicants to select. According to the Deputy Director Passport Section, this was occasioned by delayed procurement approvals of blank booklets.

Investigations revealed that it's a common occurrence for a specific series to be available in stock at the time of application only for it to be used up before all applications are printed. This is occasioned by the fact that passports for VIPs and other urgent applications do not follow the ordinary processing of passports thus making a regular applicant wait longer until the applied booklets are available or be forced to upgrade or downgrade the series applied for.

In Summary, it was established that delays in the approval of the procurement of blank passport booklets and the continuous breakdown of printing machines at the Department of Immigration were the major causes of delays in processing passports and the unavailability of a particular passport series on the e-citizen platform.

## 2.6 To understand the effectiveness of the e-Citizen platform and make recommendations to improve the system.

### Investigation Finding

Passport applications and payments are made and received on the e-citizen system. e-citizen system avails appointment date selection automatically and it's upon the applicant to select any of the available dates for biometric capture.

Passport applications move to the passport management system (NADRA) during the submission of biometric capture. Processing of passports is done through the National Database and Registration Authority (NADRA) system. According to the Ag. Director Government Digital Payments, the e-citizen platform, and the passport management system are integrated in such a way that all the bio-data on the applicant's application on the e-citizen is seamlessly transferred to the NADRA system for processing of passports. Further, the Deputy Director, Passport Section stated that application details move from the e-citizen platform to the NADRA system at the point of biometric entry during the physical submission of the application.

Payments made during passport applications are sent to a settlement account at the National Treasury. The money is later transferred to the exchequer account at the Central Bank of Kenya in the form of Government revenue.

Investigations revealed that the e-citizen platform cannot merge into one invoice different payments made at different times by an applicant especially when upgrading from the 'A' series to the 'B' Series and 'C' Series(66 pages) or even from the 'B' to 'C' Series. Further, it was noted that the e-citizen system is not programmed in such a way that it can automatically refund in cases of excess payments but would never accept lesser payments.

## 2.7 To identify any form of maladministration arising from the numerous complaints and suggest appropriate remedial action.

The Commission categorically notes that the above-proven allegations amounts, interalia, to the following forms of maladministration;

- a. **Manifest Injustice:** The Decision by the Department of Immigration in exercising its power, to issue applicants passports with fewer pages than that paid for without their consent and/or consideration for refund was unfair in a direct, obvious, and observable manner.
- b. **Inefficiency:** The Inability of the Department of Immigration to provide Kenyans with all categories of passport series on the e-citizen platform, the lack of effective communication to applicants on the challenges faced in processing passport, and the loss of an applicant's application documents inclusive of their expired passports forcing them to apply afresh as lost passport are all markers of inefficiency.
- c. **Discourtesy:** The casual, impolite, and inconsiderate dismissal of the aggrieved applicants who tried to raise complaints over the lack of refund of their excess payments and the lack of structured guidance to applicants who made inquiries on the way forward points to discourtesy by staff at the department of immigration.

## CHAPTER THREE: CONSEQUENTIAL OBSERVATIONS

The main challenge facing the Department of Immigration currently is the shortage of passport booklets which has been caused by delayed procurements approvals. Furthermore, the Department at times experiences system downtime during the application and processing of passports mostly occasioned by software issues that delay the process of passports application. Additionally, phasing out of the old passport led to a high number of applicants who wanted to acquire the new biometric e-passport.

Other hitches identified include:

- i. Staff shortage,
- ii. Inadequate physical infrastructure, for example, office space and equipment shortage,
- iii. Breakdown of printing machines,
- iv. Low printer capacity, and;
- v. Delays during vetting for border communities.

## CHAPTER FOUR: CONCLUSION

### **i. Veracity of the complaints alleging payment for “B” series passports but issuance of “A” series instead.**

All the 9 allegations were substantiated. The seven (7) applicants/complainants applied and paid for ‘B’ Series passports but were issued with ‘A’ series passports with no refund of the excess payment. One Complainant topped up her payment from “A” series to “B” series but was still issued with “A” series without a refund of the excess payment while another complainant was forced to reapply for her passport as a lost passport (when immigration officers allegedly misplaced her application during an application for renewal) only for her to be issued with the originally applied for renewed passport though with fewer pages than that paid for without a refund of either her first excess payment of KSh 1500 or her second payment for a lost passport of KShs.12,050.

### **ii. Veracity of the allegation that the Changes on the Passport Series Applied for were initiated by the Applicants/Complainants.**

The allegation that the complainants edited their application to a lower series was found to be untrue. It was confirmed that the application once submitted on the e-citizen platform cannot be edited. The Department also failed to avail any letter/email from the complainants and even from other applicants requesting the printing of fewer pages than that applied for.

### **iii. Communication channels available at the Department of Immigration for informing applicants about the available number of pages after payments and before processing and issuance of lesser pages.**

Investigations established that the Immigration Department neither communicated to the applicants the fact that the series they applied for had run out of stock nor sought their consent for a downgrade. Furthermore, after being issued with the fewer pages, there was no communication in regard to the procedure for a refund.

It was noted that the Department does not have an internal policy or a procedure guiding and regulating issues that may arise out of passport processing such as editing and cancellation of applications, thereby giving immigration officials the leeway to resolve such issues arbitrarily.

### **iv. Whether the Department of Immigration has An Automatic Way of Refunding Extra Payments Made by Passports Applicants.**

Even though it was confirmed that the Department has a complaints-handling infrastructure, some of the affected applicants were not aware of it hence a need for awareness creation among the public.

Investigations also established that the Department of Immigration has no mechanism for automatically refunding excess payment occasioned by the issuance of passports with fewer pages than that applied for. The manual procedure available was found to be bureaucratic and cumbersome making it very difficult for applicants to get a refund. The manual refund procedure was also neither documented in a policy/procedure nor followed by immigration officials thus the refund process for the complainants was only initiated when the Commission commenced its investigations.

It was further established that the refunds for the complainants are likely to delay since the Department of Immigration relies on funds released by the National Treasury to utilize the refund vote for processing such refunds.

#### **v. To understand the availability of the 'B' Series Passport as an Only Available on the Digital Passport Application Platform (e-Citizen)**

It was established that delays in processing passports and the occasional unavailability of a particular passport series on the e-citizen platform were occasioned majorly by two factors; delays in the approval of the procurement of blank passport booklets, and, the continuous breakdown of printing machines at the Department of Immigration.

#### **vi. The effectiveness of the e-Citizen platform**

The e-citizen system has eased and improved the efficiency of the passport application and payment processes. However, Investigations revealed that the platform cannot merge into one invoice different payments made at different times by an applicant especially when upgrading from the 'A' series to 'B' and 'C' or even from 'B' to 'C' Series. Further, it was noted that the e-citizen system is not programmed in such a way that it can automatically refund in cases of excess payments but would never allow for less payments.

#### **vii. Forms of Maladministration Arising From the Numerous Complaints and the Appropriate Remedial Action.**

The above-proven allegations amounts, inter alia, to the following forms of maladministration; Manifest Injustice, ineffectiveness, and discourtesy by the Department of Immigration. Chapter Five gives the appropriate actions and recommendations that will help remedy the identified maladministration.



### 5.1 Actions

Pursuant to section 42 (2) (b) of the CAJ Act, the Commission considers that the following actions should be taken:

- i. The Principal Secretary (PS) State Department of Immigration and Citizen Services to cause an audit of the NADRA system for the period of 2021-2023 in order to identify all passport applicants whose excess payments have not been refunded. The PS to provide the Commission with the data within three (3) months upon release of this Report.
- ii. The PS, State Department of Immigration and Citizen Services to ensure that the nine complainants in this case and all the other applicants whose excess payments have not been refunded identified from the system audit are promptly refunded their monies. The PS to report back to the Commission on steps taken within six (6) months upon release of this Report.
- iii. The PS, State Department of Immigration and Citizen Services to plan and implement a strategy that will ensure prompt approval of procurement requests for blank booklets and continuous servicing of passport printing machines to ensure its efficiency and effectiveness. The PS to report back to the Commission on steps taken within six (6) months upon release of this Report.
- iv. The Director General (DG), Department of Immigration to formulate policy guidelines and procedures that will formalize and standardize the management of issues arising from the passport application processes such as: cancellation of applications; upgrading/downgrading of applications; handling of applications considered 'urgent'; and, procedures for refund. This will help eliminate opportunities for corruption, unnecessary bureaucracies, and abuse of power by immigration staff. The DG to report back to the Commission on steps taken within one (1) year upon the release of this Report.

### 5.2 Recommendations

Pursuant to section 42 (2) (c) of the CAJ Act, the Commission makes these recommendations:

- i. The Cabinet Secretary, Ministry of Interior and Administration of National Government to ensure an increase in the budgetary allocation to the Department of Immigration for the purchase of new high-capacity passport printing machines, service of the old passport printing machines, and provide the immigration officers with sufficient working tools.

- ii. The Director General, Accounting Services and Quality Assurance to consider upgrading the e-citizen system to enable it automatically adjust payments as per alterations made by both the applicants and the immigration officers. This can be done by introducing automatic refunds for passport series downgrade and automatic consolidation of payments for passport series upgrades.
- iii. The Director General, Department of Immigration to take note of the Maladministration identified in this investigation and take necessary action to prevent future recurrence.
- iv. The Director General, Department of Immigration to consider partnering with the Commission on Administrative Justice in improving the effectiveness of its Complaint Handling Infrastructure and customer care practices.
- v. The Director General, Department of Immigration to proactively inform applicants about the unavailability of their applied series and seek their consent for a downgrade or an upgrade of their applications where necessary.

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