Guide for Policymakers on the Protection of Migrant Workers’ Rights within the ECOWAS Region

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<th>Full Form</th>
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<tbody>
<tr>
<td>AU</td>
<td>African Union</td>
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<tr>
<td>AUC</td>
<td>African Union Commission</td>
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<tr>
<td>BLA</td>
<td>Bilateral labour agreement</td>
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<tr>
<td>CoD</td>
<td>Country of Destination</td>
</tr>
<tr>
<td>CoO</td>
<td>Country of Origin</td>
</tr>
<tr>
<td>ECOVAS</td>
<td>Economic Community of West African States</td>
</tr>
<tr>
<td>EU</td>
<td>European Union</td>
</tr>
<tr>
<td>FMM</td>
<td>Free Movement of Persons and Migration in West Africa</td>
</tr>
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<td>FWAEA</td>
<td>Federation of West African Employers’ Associations</td>
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<tr>
<td>ICMPD</td>
<td>International Centre for Migration Policy and Development</td>
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<tr>
<td>ICRMW</td>
<td>International Convention on the Rights of All Migrant Workers and Members of their Families</td>
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<td>ICTWA</td>
<td>International Confederation of Temporary Work Agencies</td>
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<td>ILO</td>
<td>International Labour Organization</td>
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<tr>
<td>IOM</td>
<td>International Organization for Migration</td>
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<tr>
<td>JAES</td>
<td>Joint Africa EU Strategy</td>
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<td>JLMP</td>
<td>Joint Labour Migration Programme</td>
</tr>
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<td>KNOMAD</td>
<td>Global Knowledge Partnership on Migration and Development</td>
</tr>
<tr>
<td>LMIS</td>
<td>Labour Market Information System</td>
</tr>
<tr>
<td>MLA</td>
<td>Multilateral Labour Agreement</td>
</tr>
<tr>
<td>MoU</td>
<td>Memorandum of Understanding</td>
</tr>
<tr>
<td>MPFA</td>
<td>Migration Policy Framework for Africa</td>
</tr>
<tr>
<td>NLMP</td>
<td>National Labour Migration Policy</td>
</tr>
<tr>
<td>OECD</td>
<td>Organization for Economic Co-operation and Development</td>
</tr>
<tr>
<td>OSCE</td>
<td>Organization for Security and Co-operation in Europe</td>
</tr>
<tr>
<td>OTUWA</td>
<td>Organization of Trade Unions of West Africa</td>
</tr>
<tr>
<td>PEA</td>
<td>Private Employment Agency</td>
</tr>
<tr>
<td>PES</td>
<td>Public Employment Services</td>
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<tr>
<td>UN</td>
<td>United Nations</td>
</tr>
</tbody>
</table>
Executive summary

With the adoption of the Free Movement Protocol in 1979, the Economic Community of West African States (ECOWAS) has long been regarded as a pioneer of free movement in the Africa region. The Protocols allow ECOWAS community citizens to enter, reside and establish economic activities in the territory of other Member States. Yet, the reality of labour migration among ECOWAS Member States is that many continue to apply protectionist policies and discriminatory practices to Community citizens which impede full implementation of free movement.

Addressing these challenges is part of the rationale of the European Union-funded project “Support to Free Movement of Persons and Migration in West Africa” (FMM West Africa), jointly implemented by the International Organization for Migration (IOM), ILO and the International Centre for Migration Policy Development (ICMPD). In order to contribute to the strengthening of capacity for developing effective policy responses to labour migration in the ECOWAS area, the ECOWAS Commission, with support from the ILO, has sought to develop a tool for policymakers from ECOWAS Member States.

This guide for policymakers in the ECOWAS area has been designed as a user-friendly compendium for the development of effective policies ensuring the protection of migrant workers’ rights. Chapter 1 (Introduction) provides an overview of global and ECOWAS labour migration trends and patterns, in terms of stocks and flows, emerging challenges, migration of skills, and gender dimensions, before presenting the objectives of the guide.

Chapter 2 sets outs on key concepts and principles for labour migration policy formulation presented through brief overviews of six areas (The Migration Cycle; the Status of Migrant Workers; Gender dimensions of migration; Fundamental Principles and Rights at Work; Equality of Treatment and Non-Discrimination; Rights-Based Approach to Labour Migration).

Chapter 3 provides a concise overview of five dimensions of international standards and frameworks that need to be factored in labour migration policy development and implementation. It then summarises the gist of international standards on labour migration in Section 3.6.

Chapter 4 offers an up-to-date review of existing ECOWAS frameworks for the protection of migrant workers and findings from recent studies on their implementation with a view to pointing member states to gaps and challenges to be addressed by policy-makers.

In Chapter 5, a policy-oriented section providing step-by-step assistance to policy-makers for policy formulation, harmonisation and effective implementation, readers will find a review of issues of labour migration governance and policy strategies; a checklist to assess bilateral labour agreements; information on the regulation of recruitment and placement agencies; the role of public employment services; and social protection, social services and accompanying measures.

Chapter 6 then closes on a series of targeted and practical recommendations to various categories of stakeholders (ECOWAS Commission, ECOWAS Member States, ECOWAS Employers’ Associations, ECOWAS Workers’ Organizations, Migrant Workers and Other Civil Society Organizations).

The guide combines an approach through international standards and regional frameworks on one hand, and through national policy development on the other. The guide offers progression from basic to more complex notions, from international to sub-regional. Various boxes draw readers’ attention to examples of good practice or focus on the technical dimensions of some policy options. Each chapter ends on a short summary of key points for consideration. The different sections
gradually equip readers with both theoretical and practical knowledge which they may then apply to their national policy environment.
Chapter 1: Introduction

With the adoption of the Free Movement Protocol in 1979, the Economic Community of West African States (ECOWAS) has long been regarded as a pioneer of free movement in the Africa region. The Protocols allow ECOWAS community citizens to enter, reside and establish economic activities in the territory of other Member States. This progressive approach seemed all the more relevant in a context where labour migration was and continues to be overwhelmingly intra-regional. However, almost four decades after their adoption, the ECOWAS Protocols remain unevenly implemented and the principle of equal treatment between migrant workers and nationals not fully upheld in practice.

The reality of labour migration among ECOWAS Member States is that many continue to apply protectionist policies and discriminatory practices to Community citizens, such as establishing quotas for the issuance of work permits, barring foreigners from certain occupations, and placing restrictions on foreign-owned businesses (Devillard et al. 2015; Dimechkié 2014; Ndongo 2009). Added to these are administrative barriers to obtaining residence permits and proper documentation, and a lack of awareness on rights and obligations, both among citizens and government administrations. Thus, while the principles of free movement should have brought down the numbers of irregular migrant workers in the sub-region, practical barriers continue to maintain large numbers of ECOWAS migrants in irregular situations (Charrière and Fresia 2008). Furthermore, the concentration of migrant workers in the urban informal economy and agriculture means they are often faced with poor and precarious working condition, low wages, and a lack of social protection.

In recent years, renewed interest for regional integration has resulted in a number of initiatives concerning migrant workers, including the ECOWAS Common Approach to Migration, adopted in 2008, the ECOWAS Labour and Employment Policy of 2009, and the ECOWAS General Convention on Social Security, adopted in 2013. At national level as well, several countries in the region have developed or started to work on labour migration policies.

While a number of ECOWAS policy documents make reference to the norms enshrined in the International Labour Organization (ILO) instruments and the International Convention for the Rights of All Workers and Members of their Families (ICRMW), ratification of the Conventions by West African countries has been uneven, as has adherence to their principles in national legislation or in practice. Insufficient political will, prioritization and the development of expertise and actual capacity for policy-making within key national ministries remain the main obstacles to effective implementation and domestication of the Protocols. All too often, policy initiatives lack gender sensitivity and do little to provide effective incentives and protection to female migrant workers.

Addressing these challenges is part of the rationale of the European Union-funded project “Support to Free Movement of Persons and Migration in West Africa” (FMM West Africa), jointly implemented by the International Organization for Migration (IOM), ILO and the International Centre for Migration Policy Development (ICMPD). The project supports ECOWAS in strengthening the implementation of its policies and instruments, especially those guaranteeing the free movement of persons and the protection of migrant workers’ rights within the ECOWAS area. The ILO, as the United Nations agency in charge of establishing and monitoring labour standards, has been specifically tasked with the labour migration component of the FMM.

In order to contribute to the strengthening of capacity for developing effective policy responses to labour migration in the ECOWAS area, the ECOWAS Commission, with support from the ILO, has
sought to develop a tool for policymakers from ECOWAS Member States. Drafted in the form of a Guide, this volume is designed as a practical and contextualised compendium of relevant international and regional standards and frameworks organised to address the policy development and implementation needs of relevant stakeholders in the area of labour migration and the protection of migrant workers.

Before presenting the guide’s objectives and structure, the volume sets out on a concise analysis of the latest global and West African labour migration trends.

### 1.1 Overview of global labour migration trends

According to the ILO 2015 *Global Estimates on Migrant Workers*, there were 150.3 million migrant workers worldwide in 2013 out of 232 million migrants, with 55.7 per cent of them male and 44.3 per cent female (ILO 2015: iii). In other words, about 1.5% of the world population are migrant workers. This global migrant workforce is characterised by a labour force participation rate on average higher than that of resident workers (72.7 per cent vs 63.9 per cent) (Ibid.).

Labour migration is a phenomenon that concerns all regions of the world. Almost half (48.5 per cent) of migrant workers are concentrated in two broad sub-regions, Northern America and Northern, Southern and Western Europe. Sub-Saharan Africa only accounts for 5.3 per cent of global migrant workers (ILO 2015: vi).

The vast majority of migrant workers are in high-income countries. Of the global total of 150.3 million migrant workers, an estimated 112.3 million (74.7 per cent) were in countries classified as high income, 17.5 million (11.7 per cent) in upper-middle income countries and 16.9 million (11.3 per cent) in lower-middle income countries. The lowest number of migrant workers was in low-income countries, standing at 3.5 million (2.4 per cent) (ILO 2015: xii).

Migrants are concentrated in certain economic sectors with notable gender differences. The bulk of migrant workers in the world in 2013 were engaged in services, 106.8 million out of a total of 150.3 million, amounting to 71.1 per cent. Industry, including manufacturing and construction, accounted for 26.7 million (17.8 per cent) and agriculture for 16.7 million (11.1 per cent) (ILO 2015: xiii).
Migrants are predominantly low-skilled, although reliable up-to-date information is largely missing, particularly for countries in the South. From the data collected by the Database on Immigrants in OECD countries, migration seems to remain predominantly low-skilled, both in the North and in the South: 44 per cent of migrants are low-skilled, 33 per cent have intermediate skills; and only 22 per cent are highly skilled (Dumont et al., 2010).

In all world regions, ‘brain drain’ that is the emigration of the most highly skilled section of the workforce, has become an acute challenge. Around the world, the emigration rates of tertiary graduates are higher than the average total emigration rate. OECD estimates highlight that, in the North, 24 per cent of all migrants have completed tertiary education, while only 15 per cent of migrants in the South have reached this level of education (Dumont et al., 2010). However, attractive destinations for highly skilled migrants also exist in the South – for instance, in some of the Gulf Cooperation Council (GCC) countries, Malaysia and South Africa (GFMD, 2012; IOM, 2013: 68). In some African countries like the Republic of Congo, Sierra Leone, Zambia, Zimbabwe, over 20% of the highly skilled had emigrated to an OECD country in 2010/11.

These recent estimates confirm that labour migration is rising globally. However, accurate data for policy-making remains particularly scarce and inadequate in developing countries. Recent interventions to improve the quality of labour migration data in the Africa region in the framework of the African Union (AU) Joint Labour Migration Programme (JLMP), encourages standardised data collection through labour force surveys at national level. However, even where data are available, their systematic collection and analysis for policy-making hardly ever take place. The question of data usage for policy-making deserves more attention and training. Data usage forms a critical component of strategy development in rights-based labour migration policies (See Chapter 5. Section 5.2 on Labour Market Information Systems).
1.2 Labour migration trends and patterns in West Africa

Labour market trends

Labour markets in West Africa remain characterised by high levels of informal and vulnerable employment, unemployment, and low productivity. An estimated sixty percent of the sub-region’s population continues to live in poverty, and as many as 90% of workers are employed in the informal sector or traditional agriculture. While West Africa has enjoyed stable growth rates overall in the past decade, this has not yet translated into significant job creation or improved employment conditions for the working poor.

The region’s demographics represent a major challenge to improved labour market outcomes. With a population that has grown quickly in recent decades, and a resulting extremely young population - 66% of West Africans are under 25 years old - labour markets do not have the capacity to absorb the working age population, leaving many unemployed or to turn to informal employment. Although statistics are scarce, unemployment is estimated at 28% overall, with youth unemployment rates higher than adult rates.

The demographic challenge is compounded by a mismatch between educational systems and skills needed in the labour market, together with economies which structurally offer few opportunities for formal employment. Small private sector bases, the slow shift from agriculture to expanded service sector, and a saturated public sector limit job creation.

The context of high rates of unemployment and poverty emphasises the need for adequate social protection floors and safety nets, yet these are often weak and inaccessible to informal economy workers. In most Sub-Saharan countries, spending on social protection represents a mere 2 to 3% of GDP, making Africa the region with the lowest average social expenditure in the world (World Bank 2012).

Labour market institutions in Member States also tend to be weak. Outdated labour laws, weak collective bargaining structures, and weak and inconsistent data collection on the labour market are obstacles to effective policymaking. While the region has a long history of trade union presence, collective bargaining is on the decline, challenged by the prevalence of the informal economy and the difficulties in organising workers in small enterprises and in rural areas.

Labour migration context

West African labour migration is primarily an intra-regional affair. An estimated 90% of the region’s 8.4 million migrants originate from ECOWAS countries, making it the area with the highest mobility of the African continent. Compared to the global rate of migration however (3.2%), the percentage of migrants among the West African population is similar (2.8%). The vast majority of intra-regional mobility is related to economic activity. The vast majority of foreigners work in low-skilled positions in the informal sector, which does not provide migrants with the opportunity to regularise their immigration status (with the exception of Côte d’Ivoire). Trade and agriculture are the most common sectors of immigrants residing in ECOWAS countries (Devillard et al. 2015: 30).

Historically, migrant workers originating from northern inland areas migrated towards economic centres along the coasts, attracted by employment opportunities generated by cash crops and

1 This section is adapted from Awumbila et al. 2014; Dimechkié 2014; Devillard et al. 2015.
natural resource exploitation as well as by commercial and trading networks, in contexts of relative political stability. Following independence in the 1960s, Ghana, Côte d’Ivoire and Senegal were major countries of immigration. After independence, bilateral labour agreements were signed between the governments of Côte d’Ivoire and Burkina Faso on 20 March 1960. Côte d’Ivoire had similar bilateral agreements with Mali, Benin, and Guinea. These agreements facilitated migration of labour from these Sahel countries to the plantation zones of Côte d’Ivoire. The migrants generally worked as farm labourers, artisans, administrative workers, hawkers, and so on. On the other hand, Ghana attracted many migrants from Burkina Faso, Togo, Benin, Niger, Mali and Nigeria because of the massive extraction of minerals and the cultivation of cocoa taking place in the country (Anarfi and Kwankye, 2003; Awumbila et al., 2014).

From the 1970s, the Nigerian oil boom also began to attract large numbers of workers to the country. Emigration of West Africans outside of the sub-region occurred mainly to other Sub-Saharan countries. Migrants moved to Central Africa based on historical ties, such as Gabon and Central African Republic, and to North Africa, attracted to the Libyan and Algerian oil booms. To a lesser extent, migration in the 1960s and 1970s included outflows to industrial centres in the former colonial countries in Europe (France, England, and Portugal).

Contemporary labour migration flows in West Africa

From the 1990s, these patterns were disrupted by a combination of instability within the region and the increasing scarcity of legal channels for travel to and employment in OECD countries, blurring distinctions between countries of immigration, transit and emigration. While Côte d’Ivoire, Ghana, Senegal and Nigeria continue to be primary countries of destination for intra-regional migration, they also serve as transit and departure points for emigration outside of the region. For instance, Côte d’Ivoire continues to be the primary destination country for emigrants from Burkina Faso, Guinea Bissau and Mali, but it also serves as a stepping stone for migration to other regions. Nigeria too is at once a destination country, for migrants from Benin, Ghana and Niger, a transit zone, and a country of emigration for Nigerians who frequently migrate outside the sub-region. Senegal has increasingly become a transit zone to North Africa and Europe but also a country of destination for instance for migrant domestic workers from Guinea.

Accurate data on labour migration in ECOWAS continues to be scarce. However, drawing on existing data, policy-oriented research over the past five years has produced a wealth of resources providing important indications.

Table 1 below provides an overview of different sectors of employment of migrant workers across ECOWAS Member States. It is clear that there are possible complementarities but also many overlaps, and concentration of migrant workers in certain sectors. For instance, an obvious example of complementarity is Beninese traders and fishermen who meet demand for such occupations in Côte-d’Ivoire. Most ECOWAS countries seem to be senders of medical personnel, which means that there will be competition between these in the region and outside it. Finally, agriculture appears to be often prone to concentrations of migrant workers. A general ECOWAS survey of existing demand and supply capacity per sector and occupation conducted at regular interval could provide useful indications in order to monitor these dynamics and avoid unnecessary competition, overlaps, surplus labour, etc. It could constitute a critical monitoring and evaluation instrument.
### Table 1. Occupational sector of immigrants and emigrants across ECOWAS countries.

<table>
<thead>
<tr>
<th>Occupations of immigrants</th>
<th>Country</th>
<th>Occupations of emigrants</th>
</tr>
</thead>
<tbody>
<tr>
<td>• Trade and catering</td>
<td>Benin</td>
<td>• High-skilled “intellectual” jobs (Gabon, education sector)</td>
</tr>
<tr>
<td>• Agriculture</td>
<td></td>
<td>• Low- and medium-skilled urban jobs</td>
</tr>
<tr>
<td></td>
<td></td>
<td>• Trade, fishing (Gabon, Côte d’Ivoire), agriculture</td>
</tr>
<tr>
<td></td>
<td></td>
<td>• Medical sector</td>
</tr>
<tr>
<td>• Agriculture</td>
<td>Burkina Faso</td>
<td>• Agriculture</td>
</tr>
<tr>
<td>• Trade and craft sector (in urban areas)</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>Cape Verde</td>
<td>• Construction, domestic work, industry, services, hospitality work (in OECD countries)</td>
</tr>
<tr>
<td>• Construction sector, security guards (migrants from ECOWAS countries)</td>
<td></td>
<td>• Medical sector</td>
</tr>
<tr>
<td>• Trade (Chinese)</td>
<td></td>
<td></td>
</tr>
<tr>
<td>• Tourism (Lebanese and Europeans)</td>
<td></td>
<td></td>
</tr>
<tr>
<td>• Agriculture, herding, fishing</td>
<td>Côte d’Ivoire</td>
<td>• Health sector, trade, hospitality, services (in OECD countries and South Africa)</td>
</tr>
<tr>
<td>• Industry services and trade</td>
<td></td>
<td></td>
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<tr>
<td>• Education sector</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>The Gambia</td>
<td>• Medical sector</td>
</tr>
<tr>
<td>• Retail, wholesale and tourism</td>
<td></td>
<td>• Low-skilled jobs</td>
</tr>
<tr>
<td>• Agriculture, mining and fishing</td>
<td></td>
<td></td>
</tr>
<tr>
<td>• Manufacturing (10%), financial and business services (5%)</td>
<td></td>
<td></td>
</tr>
<tr>
<td>• Public sector (mainly as teachers)</td>
<td></td>
<td></td>
</tr>
<tr>
<td>• Agriculture, forestry and fisheries sector</td>
<td>Ghana</td>
<td>• Retail and sales</td>
</tr>
<tr>
<td>• Wholesale and retail</td>
<td></td>
<td>• Construction and agriculture</td>
</tr>
<tr>
<td>• Repairing motor vehicles</td>
<td></td>
<td>• Mechanics, electricians, carpenters</td>
</tr>
<tr>
<td>• Informal sector, self-employed</td>
<td></td>
<td>• Medical sector</td>
</tr>
<tr>
<td>• Mining sector</td>
<td>Guinea</td>
<td>• Agricultural sector</td>
</tr>
<tr>
<td>• Fishing industry</td>
<td></td>
<td>• Small trade and businesses</td>
</tr>
<tr>
<td>• Small businesses and trade</td>
<td></td>
<td></td>
</tr>
<tr>
<td>• Construction</td>
<td>Guinea-Bissau</td>
<td>• Agriculture and teachers (in Cape Verde)</td>
</tr>
<tr>
<td>• Trade</td>
<td></td>
<td>• Banking (Senegal)</td>
</tr>
<tr>
<td>• Fishing</td>
<td></td>
<td>• Construction, hospitality and domestic work (Portugal)</td>
</tr>
<tr>
<td></td>
<td></td>
<td>• Health professionals, high school teachers and, to a smaller extent, lawyers (Portugal)</td>
</tr>
<tr>
<td>• Petty trading and larger scale trade (Lebanese)</td>
<td>Liberia</td>
<td>• Medical sector</td>
</tr>
<tr>
<td>• Crafts</td>
<td></td>
<td></td>
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<tr>
<td>• Plantation work</td>
<td></td>
<td></td>
</tr>
<tr>
<td>• Informal sector</td>
<td>Mali</td>
<td>• Trade, agriculture, fishing, industry (Côte d’Ivoire)</td>
</tr>
<tr>
<td></td>
<td></td>
<td>• Herding (Algeria, Libya)</td>
</tr>
<tr>
<td>• Manual labourers (France)</td>
<td></td>
<td></td>
</tr>
<tr>
<td>• Energy sector</td>
<td>Niger</td>
<td>• Agriculture (in neighbouring countries)</td>
</tr>
<tr>
<td>• Construction</td>
<td></td>
<td>• Industrial, trade, hospitality, and health sectors (in OECD countries)</td>
</tr>
<tr>
<td>• Domestic and hospitality work</td>
<td></td>
<td></td>
</tr>
<tr>
<td>• Trade and business</td>
<td></td>
<td></td>
</tr>
<tr>
<td>• Informal market</td>
<td>Nigeria</td>
<td>• Health, real estate, wholesale (in OECD countries)</td>
</tr>
<tr>
<td>• Medical sector</td>
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</tr>
</tbody>
</table>
Migration of skills

Labour migration within the sub-region is primarily low-skilled, though little is known about migration patterns according to skill and education levels. There is evidence however that migration can have significant effects on workers' labour market status, allowing a shift from self-employment, (typically agriculture-based) to wage employment.

Whereas labour migration within the sub-region is dominated by low-skilled workers, highly-skilled workers tend to emigrate to countries in other regions. The rate of emigration from West African to OECD countries is almost 15 times higher among skilled workers (14.8%) than among low-skilled workers (1%), though these global figures hide significant disparities between countries. The most affected country is Cape Verde, with an emigration rate of 67% of its highly skilled workers. The Gambia and Sierra Leone are also highly affected by outflows of their highly skilled nationals. These are countries with small economies which have little to offer in terms of employment opportunities, particularly for skilled workers. Ghana is particularly affected by the 'brain drain' of medical doctors, with almost 38% of its doctors going abroad. From the 1970s, many Ghanaians in medical professions, as well as engineers, scientists and business managers, moved to Nigeria, and later on to other regions of Africa, or to Europe and North America. At the same time, highly skilled Nigerians were leaving their country primarily for North America.

Table 2. Profiles of migrants in ECOWAS countries.

<table>
<thead>
<tr>
<th>Country</th>
<th>Females as percentage of immigrants 2010 (World Bank Data)</th>
<th>Females as percentage of immigrants (national data)</th>
<th>Refugees as percentage of immigrants 2010</th>
<th>Emigration rate of tertiary-educated population</th>
</tr>
</thead>
<tbody>
<tr>
<td>Benin</td>
<td>45.5</td>
<td>Approx.40</td>
<td>4.0</td>
<td>11.3</td>
</tr>
<tr>
<td>Burkina Faso</td>
<td>50.8</td>
<td>49.6</td>
<td>0.1</td>
<td>2.6</td>
</tr>
<tr>
<td>Cape Verde</td>
<td>50.4</td>
<td>-</td>
<td>0.0</td>
<td>67.5</td>
</tr>
<tr>
<td>Côte d'Ivoire</td>
<td>45.1</td>
<td>29.6</td>
<td>1.1</td>
<td>5.7</td>
</tr>
<tr>
<td>The Gambia</td>
<td>50.5</td>
<td>57</td>
<td>4.9</td>
<td>63.3</td>
</tr>
<tr>
<td>Ghana</td>
<td>41.8</td>
<td>45.5</td>
<td>2.2</td>
<td>46.9</td>
</tr>
<tr>
<td>Guinea</td>
<td>53.1</td>
<td>-</td>
<td>7.2</td>
<td>11.3</td>
</tr>
<tr>
<td>Guinea-Bissau</td>
<td>50.0</td>
<td>-</td>
<td>40.7</td>
<td>24.4</td>
</tr>
<tr>
<td>Liberia</td>
<td>45.1</td>
<td>38.5</td>
<td>13.8</td>
<td>45.0</td>
</tr>
<tr>
<td>Mali</td>
<td>47.6</td>
<td>47.5</td>
<td>6.1</td>
<td>15.0</td>
</tr>
<tr>
<td>Niger</td>
<td>53.9</td>
<td>36</td>
<td>0.2</td>
<td>6.0</td>
</tr>
<tr>
<td>Nigeria</td>
<td>47.4</td>
<td>42</td>
<td>0.8</td>
<td>10.7</td>
</tr>
<tr>
<td>Senegal</td>
<td>51.2</td>
<td>45.5</td>
<td>9.8</td>
<td>17.7</td>
</tr>
<tr>
<td>Sierra Leone</td>
<td>45.7</td>
<td>45.6</td>
<td>16.9</td>
<td>52.5</td>
</tr>
</tbody>
</table>

Source: Adapted from Devillard et al. 2015: 29-30 compiled from various country reports.
Female labour migration and gender implications

By 2005, 47.4% of the 17 million immigrants in Africa were women, up from 42.3% in 1960. Although labour migration in the region continues to be male-dominated, female migration has increased slightly over the past decade, and now constitutes 46.5% of West African migration. Women continue to be disproportionately represented among low-skilled migrants, employed in areas such as cross-border trading and domestic work. At the same time, the share of female highly skilled emigrants from West Africa increased by 180% from 1990 to 2000, explained in part by increased female school enrolment rates, as well as increasing demand for skilled migrants in areas such as education and healthcare, where women are more highly represented (Docquier et al. 2008).

Given these trends in West Africa (concentration in low-skilled migration and rise in highly-skilled female emigration), it is critical that labour migration policies be gender-sensitive. Not only should policies acknowledge women’s increasing role in labour migration but also promote equality of treatment and cater for specific dimensions, such as access to health care, birth control, maternity leave, protection against sexual harassment, etc., that female migrant workers are entitled to or more in need of than male workers.

1.3 Objectives and contents of the guide

This guide for policymakers in the ECOWAS area has been designed as a user-friendly compendium for the development of effective policies ensuring the protection of migrant workers’ rights. After this Introduction (Chapter 1), the guide sets out on three detailed Chapters:

• Chapter 2. Key concepts and principles;
• Chapter 3. International standards and frameworks;
• Chapter 4. The ECOWAS Framework.

The guide then turns to Chapter 5, a policy-oriented section providing step-by-step assistance to policy-makers for policy harmonisation and effective implementation. It includes a review of issues of labour migration governance and policy strategies; regulation of recruitment and placement practices; and social protection, social services and accompanying measures. The last chapter (Chapter 6) then closes on a series of targeted recommendations to various categories of stakeholders.

The guide combines an approach through international standards and regional frameworks on one hand, and through national policy development on the other. As noted earlier, the ECOWAS region faces three broad challenges in regard to migrant workers’ rights: the translation of standards and frameworks adopted since the 1970s into actual practice into national legislation and policy; the abolition of barriers to free movement; and migrant workers’ effective access to their rights. Member states remain the custodians of national policy development and as such, are key actors of policy harmonisation who should be assisted in bridging the gap between politically validated frameworks and non-compliant or divergent practices.

The guide is drafted around simple presentations of key components of labour migration policy and migrant workers’ rights, offering progression from basic to more complex notions, from
international to sub-regional. Various boxes draw readers’ attention to examples of good practice or focus on the technical dimensions of some policy options. Each chapter ends on a short summary of key points for consideration. The different sections gradually equip readers with both theoretical and practical knowledge which they may then apply to their national policy environment.
Chapter 2: Key concepts and principles

This chapter summarises some of the key concepts and principles shaping the protection of migrant workers at the international level. While Chapter 3 provides more detailed technical information on standards and frameworks, Chapter 2 works as a quick reference tool providing accepted definitions, key principles, and implications for ECOWAS Member States in the following areas which constitute the backbone of migrant workers’ protection:

1. Taking into account the full migration cycle
2. Definition of the status of migrant workers
3. Gender dimensions of migration
4. Fundamental principles and rights at work
5. Equality of treatment and non-discrimination
6. A rights-based approach to migration

These fundamental dimensions should lay the foundations of any harmonisation effort in ECOWAS Member States.

2.1 Taking into account the full migration cycle

Historically, labour migration has tended to be envisaged from the perspective of either the country of destination or of the employer. This has led to piecemeal policies which left entire aspects of migrant workers’ lives unaddressed. A more holistic approach to labour migration offers more guarantees of successful experience for all stakeholders and most importantly, for migrant workers themselves. The graph below summarises all critical dimensions at each stage of the migration cycle.

The observation of the various necessities and challenges that migrant workers face throughout their migration experience calls for various type of intervention. A fine breakdown of these stages needs to be contextualised for each country and may then lead to the mapping out of service provision, legislative amendments, administrative reform, etc.

It also calls for a division of responsibilities between governments in CoO and CoD, employers, workers’ organizations, migrant rights associations, private sector operators such as banks, public services such as municipalities, health, etc and migrant workers themselves.

Graph 2 provides a breakdown of the migration cycle into its main phases and the types of accompanying measures which governments and social partners should consider addressing through the provision of services. It can be used as a practical checklist for ministries to check whether they are measures in place addressing each of the issues raised at each of the migration phases.
Graph 2. The labour migration cycle

1. Pre-departure
   - Assistance with decision-making
   - Protection against recruitment and placement malpractice
   - Preparation and sensitization through pre-departure training programmes (rights at work, employers expectations, cultural differences, etc...)
   - Language training

2. Travelling back and forth
   - Safety and comfort
   - Travel insurance
   - Non confiscation of documents
   - Fair and reliable immigration controls
   - Accompanying / support staff especially on first trip

3. Arrival in CoD
   - Welcome and induction
   - Time to settle in and learn new work duties and practices
   - Access to quality accommodation

4. Working and living in CoD
   - Relationship with employer
   - Delivery of work services and performance
   - Recognition of qualifications
   - Access to rights and services (complaints, health care, banking, low cost transfers)
   - Integration in CoD
   - Communication with relatives in CoO and participation to household decisions

5. Return and reintegration
   - Planning one’s return
   - Portability of personal possessions and benefits (savings, pension, etc)
   - Re-uniting with relatives and community of origin
   - Reintegration into labour market in CoO
   - Recognition of qualifications and experience acquired abroad

Box 1. How to use the migration cycle for planning?

Questions that governments from both CoO and CoD should ask themselves in considering the migration cycle are:

1. Do we have any measure in place to address each of the five phases of the migration cycle? If not, why?
2. Should we consider adopting new measures? For which phase? Why?
3. How can we reinforce our existing administrative and service structures?
4. Do we have the know-how or should we outsource this service?
5. Do we have resources available? If not, where can we locate such resources?
2.2 Defining the status of migrant workers

The United Nations Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (ICRMW) defines ‘migrant worker’ as “a person who is engaged or has been engaged in a remunerated activity in a State of which he or she is not a national.” ILO Conventions No.97 and 143 on migrant workers do not provide an elaborate definition but simply speak of “migration for employment”. Foreign nationality, employment or the fact of being engaged in a remunerated activity therefore stand out as key criteria for the definition of migrant workers.

In the ECOWAS context, the Free Movement Protocols merely refer to ECOWAS community citizens in terms of their rights of entry, residence and establishment, the latter two being linked albeit implicitly to accessing the labour market. The definition of who is a ‘worker’ and how this status may or may not be combined with foreign citizenship is deferred to national labour and immigration legislations.

In most ECOWAS Member States, there are no clear definitions of ‘migrant workers’ and extension of national labour legislation to ECOWAS migrant workers is implicit rather than explicit. Clarity on categories of migrant workers per type of occupation and per nationality (ECOWAS citizens vs non-ECOWAS citizens) in relation with the rights and obligations these statuses imply would represent an important step forward in harmonisation efforts. In particular, given the obligations created under the ECOWAS Protocols, ECOWAS migrant workers should be explicitly defined and distinguished from migrant workers from outside ECOWAS.

2.3 Gender dimensions of migration

Gender discrimination in the world of work remains very widespread. Labour migration is no exception. Gender discrimination is defined as the allocation of undue remuneration, benefits and more favourable conditions to one individual on the basis of their sex (in general male), all things being equal (age, education, experience, etc.). ILO Convention No.111 on Discrimination (Employment and Occupation), 1958 specifically addresses this dimension.

Gender issues span beyond discrimination and have to do with questions of bias and prejudice in terms of socially accepted representations of the place of men and women in society. These often affect the formulation and implementation of policies. In the area of migration, women have experienced multiple types of gender biases historically, from specific restrictions to female mobility under colonial regimes, to abuses by employers or smugglers, or discriminatory regulations on access to contraception, maternity leave, etc. In many instances, these situations have been documented to persist to date, particularly in contexts where factors of vulnerability are combined (e.g. female migrant workers in vulnerable sectors such as domestic work).

Gender-sensitive policies are defined as policies that have developed an understanding of these gender dynamics and have the ability to factor in effective anticipation, prevention and protection mechanisms. They are seen as critical to rights-based labour migration management.

The gender dimension of migration is one of the six pillars of the ECOWAS Common Approach to Migration (2008) and its 2011 Gender and Migration Framework and Plan of Action which supports the mainstreaming of gender issues in migration policies.
Mainstreaming of gender issues in migration policies can take several forms which will be envisaged in more detail in Chapters 5 (Labour migration policy) and 6 (Recommendations). Making **explicit reference to some of following instruments** in policies is a prerequisite to strengthening the protection of female migrant workers:

- Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW), 1979;
- International Convention on the Elimination of All Forms of Racial Discrimination (ICERD), 1966;
- International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families, 1990;
- ILO Migration for Employment Convention, 1949 (No.97);
- ILO Migrant Workers Convention, 1975 (No.143);
- ILO Domestic Workers Convention, 2011 (No.189);
- ILO Private Employment Agencies Convention, 1997 (No.181);
- ILO Core Conventions on Fundamental Principles and Rights at Work;
- Universal human rights instruments and their protocols;
- ILO Multilateral Framework on Labour Migration: non-binding principles and guidelines for a rights-based approach to labour migration.

### 2.4 Fundamental principles and rights at work

The notion of rights at work based on fundamental principles makes reference to the **international system of labour standards set by the ILO and its tripartite structures**. Like those of all workers, the protection of the human rights of men and women migrant workers and the promotion of their equal opportunity and treatment are embedded in the Preamble to the Constitution of the ILO of 1919, and in the Declaration of Philadelphia of 1944. In addition to its Core Conventions and Recommendations, the ILO clarified further the values guiding its action in its **1998 Declaration on Fundamental Principles and Rights at Work and its Follow-up**.

Special attention is devoted to migrant workers in the ILO Declaration on Fundamental Principles and Rights at Work and its Follow-up (1998). These principles and rights at work are deemed to be fundamental for the protection of human rights for all workers, including migrant workers, by the international community and the ILO. These rights include freedom from slavery, forced labour, degrading or inhuman treatment or punishment, trafficking and abuse; debt bondage; and other forms of exploitation.

Other fundamental rights at work concern **freedom of association and the right to collective bargaining, freedom from forced labour and child labour and non-discrimination in employment and occupation**. This means that the human rights of all migrant workers, regardless of their status, should be promoted and protected.

Following the adoption of the 1998 ILO Declaration on Fundamental Principles and Rights at Work, all members of the ILO, even if they have not ratified the Conventions in question, have an obligation arising from the very fact of their membership of the Organization, to respect and to promote and to realize in good faith and in accordance with the Constitution, the principles concerning the fundamental rights which are the subject of those Conventions (ILO, 1998: para.2).

Since all ECOWAS Member States are simultaneously ILO members, these dispositions and their extension to migrant workers fully apply. The notion that all migrant workers, regardless of their
migration status, should be guaranteed full access to these fundamental rights needs to be made explicit upfront in any national legislation regulating the presence of migrants in general and ECOWAS migrants in particular.

2.5 Equality of treatment and non-discrimination

The concepts of equality of treatment and non-discrimination is central to the protection of migrant workers and the implementation of free movement regimes. Together they guarantee that all rights and obligations bestowed upon national workers will be extended without any difference to migrant workers in the realm of employment and occupation. This includes monitoring of terms and conditions of employment, access to vocational training, language and integration courses, allowing for freedom of association, and protection against discrimination.

What the body of migrant-specific international conventions calls for is essentially policies which promote and guarantee equality of treatment and opportunity between regular status migrants and nationals in employment and occupation in the areas of access to employment, remuneration, social security, trade union rights, cultural rights and individual freedoms, employment taxes and access to legal proceedings.

Equality of treatment and non-discrimination are one of the major challenges in the implementation of the ECOWAS Free Movement Protocols (Dimechkié 2014: 28; Devillard et al. 2015: 39). The 1986 Supplementary Protocol regulates Community citizens’ right of residence for the purpose of seeking and taking up income-earning employment. This includes the right to apply for jobs, to travel freely for this purpose in a Member State, to reside in one of the Member States in order to take up employment, and to live in a Member State after having been employed there. The right of residence implies equal treatment of immigrant Community citizens and nationals of the host Member State in relation to taking up employment or practicing a profession. They should be granted equal treatment in terms of the security of the employment and possibilities of re-employment if the job is terminated for economic reasons.

The Protocol goes even further in that Community citizens shall be given priority over other workers newly admitted to the host country. Community citizens shall also enjoy equal treatment in the provision of access to social, cultural, and health facilities, as well as to general and professional education for themselves and for their children. The protocol provides various means to facilitate the exercise of this right, such as an ECOWAS residence card or a residence permit obtained from the host Member State (Devillard et al. 2015: 39).

However, one of the main challenges hampering the full realisation of equality of treatment resides in bureaucratic hurdles which establish de facto discrimination and limitations to ECOWAS migrant workers’ employment in other Member States. Their automatic right to work without a work authorisation is not explicit in most national legislations. In most countries they are still requested to apply for a work authorisation except under the Guinean Labour Code of 2014, which explicitly exempts them, Côte d’Ivoire, and in the draft Liberian immigration law (Devillard et al. 2015: 47). These ambiguities in defining the status and rights attached to the category ‘migrant worker’ hamper the full realisation of the right to establishment but also weaken the position of migrant workers on the labour market. Their protection under labour legislation as workers is thus limited and their treatment dissimilar to that of national workers.
2.6 A rights-based approach to labour migration

While there are attempts at creating an international legal and governance regime for migration, on the model of asylum, such a regime does not currently exist. What shapes international approaches to migration are international standards and frameworks, regional and sub-regional references, as well as national legislations and bi- or multilateral agreements and, of course, practices on the ground.

As seen previously, all international standards and frameworks on migration have reaffirmed both state sovereignty in accepting different categories of migrants on their territory and the central notion of migrants’ rights. This is also true of labour migration instruments that will be presented in detail in Chapter 3. A rights-based approach therefore does not simply mean that migrant workers have both intangible and contextualised rights. It also insists on the perspective from which policies are designed, asserting the need to ensure that migrant workers’ rights and interests are realised at each stage of the migration cycle. This is a fundamental shift in perspective in an area which has historically been dominated by the interests of ‘traders’ and ‘owners’ (in situations of slavery, bonded and forced labour), or mostly of employers and governments in colonial migrant labour systems (mines and plantations).

ECOWAS Protocols encourage Member States to adopt national labour migration policies rooted in a rights-based approach to labour migration. This means more than mere domestication of conventions into national legislations. It implies careful consultation and social dialogue to determine adequate strategies which address certain labour market imbalances through labour migration while ensuring effective protection to migrant workers.

Chapter 2. Key concepts and principles

KEY POINTS TO REMEMBER

The concepts and principles that have been developed for over a century around the idea of protection of migrant workers by international organizations provide robust foundations from which to shape and build your own national labour migration policies.

Using internationally acknowledged concepts and principles allows your country to discuss the same matters more easily with other ECOWAS Member States and other countries in the region.

Each of these concepts and principles are important in themselves but also in relation with one another.

Gender dimensions are almost systematically overlooked whereas female migration is constantly increasing; they require systematic review of all existing labour migration policies.

Equality of treatment between migrant and non-migrant workers and between different categories of migrant workers remains the main challenge within ECOWAS and should be addressed in priority.
Chapter 3: International standards and frameworks for the protection of migrant workers

For about a century, at the global level, international institutions have developed standards and frameworks for the protection of migrant workers and guiding principles for labour migration policy, as well as measures to regulate migratory movements. These conventions, recommendations and guiding frameworks are the outcome of various deliberative processes, whether within the UN or the ILO tripartite system.

These processes mean that international standards represent consensus on rules which have been examined, not only by international law experts, but also by legitimate constituents who have adopted them after careful consideration, deliberation and at times, negotiations. As such, they are considered the best possible compromise between vested interests in the area of labour migration.

Box. 2 How to use international labour standards regardless of ratification?

International labour standards (ILS) and frameworks, regardless of ratification, play at least three critical functions in labour migration policy development and implementation:

1. First, they are model laws against which national legislations may be drafted and adjusted to specific contexts;
2. Second, they may play a benchmarking role. They offer principles, criteria and direction against which already existing legislation and policy can be assessed and monitored. As such, they serve an evaluation function;
3. Third, ILS play a role in litigation, arbitration and jurisprudence to supplement existing frameworks or bridge gaps in national legislations.

Their main limitation is that their scope is by definition broad and decontextualized. They need to be updated through frameworks, guides and compendia of best practice. Regional and sub-regional frameworks may then assist policymakers to complement and domesticate ILS to national contexts.

3.1 UN Treaties and Conventions
Relevant UN frameworks

While the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (ICRMW) (1990) is the only UN instrument of direct relevance to migrant workers, there are also several other UN instruments that are of potential importance in terms of protecting migrants from discrimination and exploitation on grounds other than their non-national status.

The basis of international human rights law is found in the International Bill of Rights, which contains the nonbinding Universal Declaration of Human Rights (though most of its provisions are generally recognized as constituting International Customary Law) and two general human rights treaties, the International Covenant on Civil and Political Rights (ICCPR) and the International Covenant on Economic, Social and Cultural Rights (ICESCR). It should be emphasizesd that these instruments protect all human beings regardless of their nationality and legal status. Therefore, migrant workers, as non-nationals, are generally entitled to the same human rights as citizens.

The International Convention on the Elimination of All Forms of Racial Discrimination (ICERD) (1965), currently one of the most widely ratified of the UN human rights conventions, binds States parties to outlaw discrimination on the grounds of race, colour, descent, or national or ethnic origin against all individuals within the jurisdiction of the State and to enact sanctions for activities based upon such discrimination.


The UN International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families (ICMWR)

In 1990, the United Nations Assembly adopted the International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families (ICMWR). The ICMWR entered into force on 1st July 2003. To date, it counts 38 signatories and 48 parties.

The Convention represents a significant positive step for furthering the rights of migrant workers. It offers a series of obligations on governments to promote "sound, equitable, humane and lawful conditions" for the international migration of workers and members of their families. Fundamental human rights are extended to all migrant workers, both documented and undocumented, with additional rights being recognized for documented migrant workers and members of their families, notably equality of treatment with nationals in employment and in a number of legal, political, economic, social and cultural areas. It attempts to establish minimum standards of protection for migrant workers and members of their families.

Some highlights of the ICMWR are:

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2 This section draws on Baruah and Cholewinski, 2006: 28.
• **Article 7** advises governments/states to respect and to ensure to all migrant workers and members of their families within their territory the rights provided for in the present Convention without distinction of any kind such as sex, race, colour, language, religion or conviction, political or other opinion, national, ethnic or social origin, nationality, age, economic position, property, marital status, birth or other status.

• **Articles 9, 10 and 11** enunciate key directives to states/governments for the protection of migrant workers. Article 9 directs the states to protect the right of life of the workers and their families by law. Article 10 protects the migrant workers and their families from torture and cruel and degrading treatment or punishment. Article 11 proscribes against slavery and servitude of migrant workers and families and protects migrant workers and families from compulsory or forced labour.

• **Article 25** emphasizes that migrant workers should be treated on par with the nationals of the state/country for remuneration in employment. It also advocates for other conditions of work (overtime, hours of work, weekly rest, holidays with pay, safety, health, termination of the employment relationship) to be on par with national workers.

• **Article 26** has very important directives for the protection of the rights of migrant workers. In particular, it gives migrant workers the right to join trade unions and participate in meetings of trade unions.

### 3.2 ILO Standards

Since its inception, the ILO has been sensitive to the specific situation of migrant workers. With the Declaration of Philadelphia (1944), the ILO asserted the position that “workers are not a commodity”.

Key ILO technical instruments on migrant workers were then developed in the post-World War II period. These are the Migration for Employment Convention, 1949 (Revised) (No. 97) and the Migrant Workers (Supplementary Provisions) Convention, 1975 (No. 143), together with their accompanying Recommendations (No.86 and No.151).

**Convention No.97 on Migration for Employment (1949)** applies to the whole labour migration continuum from entry to return, including the conditions governing the orderly recruitment of migrant workers. It also articulates the principle of their equal treatment with national workers regarding working conditions, trade union membership and enjoyment of the benefits of collective bargaining, accommodation, social security, employment taxes and legal proceedings relating to matters outlined in the convention.

**Recommendation No.86 and more specifically the Model Agreement** presented in its Annex has been drafted specifically to assist governments with the design of rights-oriented Bilateral Labour Agreements which take into consideration workers’, employers’ and governments’ concerns. The Model Agreement sets a number of key criteria for optimal protection of migrant workers’ rights based on all UN fundamental conventions and ILO principles and standards.

The **Migrant Workers (Supplementary Provisions) Convention, 1975 (No. 143)** complements Convention No. 97 of 1949 by focusing on migration in abusive conditions, including irregular migration, and the promotion of equality of opportunity and treatment of all migrant workers regardless of migration status.
**Recommendation No.151** includes proposals for migrant workers as regards equality of opportunity and treatment and social policy in regard to employment and residence.

In addition to these migration instruments, a number of **other technical conventions and recommendations are directly relevant to labour migration**. This is the case of the Core conventions (C29 Forced Labour, C87 Right to Organise, C98 Collective bargaining, C105 Abolition of forced labour); Other technical conventions (C181 on Private Employment Agencies, C189 Domestic Workers; C122 on Employment Policy); Recommendation No.200 on HIV/AIDS (which provides guidance on pre-screening tests and workplace testing to prevent discrimination against and stigma associated with migrant workers) or Recommendation No.202 on Social Protection Floors. Each of these additional instruments may help address specific categories of migrant workers (Domestic Workers) or specific aspects of the labour migration cycle (recruitment by private employment agencies for instance).

Lastly, it is essential for governments and social partners to make use of the **ILO’s mechanisms for supervision of ratification**, regular reporting on the implementation of ratified conventions (Committee of Experts on the Application of Conventions and Recommendations – CEACR), of other mechanisms such as General Surveys (Article 19 of the ILO Constitution), as well as of complaint procedures (Freedom of Association; Representations, Article 24; and Commission of Inquiry, Article 26). The latest General Survey on migration instruments was published in 2016.

The ILO therefore proposes a **robust and comprehensive regulatory framework for the protection of migrant workers and the management of labour migration**. Its underlying principles are useful to guide the formulation of national law and policies. If and where these Conventions have been ratified, they are legally binding instruments and should therefore be fully implemented.

### 3.3 ILO Multilateral Framework on labour migration

In the face of Member States’ reluctance to ratify ILO Conventions No.97 and 143, the Governing Body identified the need to produce a new tool for labour migration governance taking into account aspects of labour migration not covered by earlier instruments (e.g. The growth of recruitment agencies and intermediaries, the feminization of migration, or the migration-development nexus).

The centrepiece of the Plan of Action adopted in 2004 was the development of a rights-based **Multilateral Framework on Labour Migration: Non-binding principles and guidelines for a rights-based approach to labour migration**.

The Multilateral Framework on Labour Migration represents a considered response to widespread demands for practical guidance and action with a view to maximizing the benefits of labour migration for all parties. It is structured around the following four principles:

1. **Protection**;
2. **Governance**;
3. **Migration-development nexus**;

...
Box 3. How can the ILO Multilateral Framework on Labour Migration be useful to governments and social partners?

- As a checklist to assess existing legislation, policies & practices
- As a ready reference source - in designing or improving migration legislation, policies and migration legislation.
- For negotiating agreements on labour migration between source and destination countries.
- For employers, on recruitment and employment good practices
- For the trade union movement, as a resource to protect workers, and advocate with the government on migrant rights.
- As a tool kit for training relevant stakeholders.
- As a resource for migrant workers to learn and campaign about their rights.

In addition to the Conventions and the ILO MLFM, in 2014, the ILO published a new report, entitled *Fair Migration: Setting an ILO Agenda* putting the ILO frameworks into the current context of globalisation of labour flows and reiterating the need to ensure specific protection of migrant workers who are not comparable to other production factors such as capital and services.

Box 4. What does the ILO 2014 Fair Migration Agenda urge constituents to work towards?

- Making migration a choice and not a necessity, by creating decent work opportunities in countries of origin.
- Respecting the human rights, including labour rights, of all migrants.
- Ensuring fair recruitment and equal treatment of migrant workers to prevent exploitation and level the playing field with nationals.
- Formulating fair migration schemes in regional integration processes.

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3 The Framework contains a list of good practices with examples in its Annex. Since the publication of the framework, the ILO MIGRANT technical branch has developed a data base of good practice which includes a number taken from the Africa region, available at the following link: [http://www.ilo.org/dyn/migpractice/migmain.home](http://www.ilo.org/dyn/migpractice/migmain.home)
Promoting bilateral agreements for well-regulated and fair migration between member States.

Countering unacceptable situations through the promotion of the universal exercise of fundamental principles and rights at work.

Promoting social dialogue by involving Ministries of Labour, trade unions and employers’ organisations in policy making on migration.

Contributing to a strengthened multilateral rights-based agenda on migration.

## 3.4 Ratification of standards in the ECOWAS region

Many ECOWAS Member States have ratified most of the international legal instruments protecting human rights. These include the 1966 International Covenant on Civil and Political Rights, the 1966 international Covenant on Economic, Social and Cultural Rights, the 1979 Convention on the Elimination of All Forms of Discrimination against Women, and the 1989 Convention on the Rights of the Child.

However, ratifications of ILO Conventions relevant to labour migration and of the UN ICRMW are still too limited in ECOWAS (See Table 3). While ECOWAS Member States have almost all ratified the ILO Core conventions (C29, C87, C98, C105, C111), ratification of migration relevant conventions (C97, C143, C122, C181, C189) remains scarce or even non-existent (C189). Ratifications of the ICMWR to date are just above 50% with eight out of 15 ECOWAS Member States (Burkina Faso, Cape Verde, Ghana, Guinea, Mali, Niger, Nigeria, Senegal) having ratified (see Table 3).

This means that while there is solid foundation for the basic protection of workers in general against most common human rights abuses across Member States, these have not been sufficiently complemented by the ratification of migrant-specific instruments. The ratification and domestication of the international migration conventions among ECOWAS Member States would constitute a simple and consistent harmonisation process and, by virtue of the cumulative effects of conventions, a much stronger common framework for the protection of migrant workers.

For the eight countries (Burkina Faso, Cape Verde, Ghana, Guinea, Mali, Niger, Nigeria, Senegal) which have ratified the ICRMW, its entry into force in 2003 should have triggered a range of domestication processes in areas such as family reunification, extension of social security rights, or protection of the right to organise, which have only unevenly been implemented to date (Devillard et al. 2015).

### Table 3. Ratifications of ILO and UN migration related instruments in ECOWAS.

<table>
<thead>
<tr>
<th>Instrument</th>
<th>ECOWAS Member States that HAVE ratified</th>
<th>ECOWAS Member States that have NOT ratified</th>
</tr>
</thead>
<tbody>
<tr>
<td>FUNDAMENTAL CONVENTIONS</td>
<td></td>
<td></td>
</tr>
<tr>
<td>C29 (Forced Labour)</td>
<td>Benin, Burkina Faso, Cape Verde, Côte d’Ivoire, Gambia, Ghana, Guinea, Guinea Bissau, Liberia, Mali, Niger, Nigeria, Senegal,</td>
<td></td>
</tr>
<tr>
<td>Convention Code</td>
<td>Countries with Ratifications</td>
<td>Source</td>
</tr>
<tr>
<td>-----------------</td>
<td>-----------------------------</td>
<td>--------</td>
</tr>
<tr>
<td>C98 (Collective bargaining)</td>
<td>Benin, Burkina Faso, Cape Verde, Côte d’Ivoire, Gambia, Ghana, Guinea, Guinea Bissau, Liberia, Mali, Niger, Nigeria, Senegal, Sierra Leone, Togo</td>
<td></td>
</tr>
<tr>
<td>C105 (Abolition of forced labour)</td>
<td>Benin, Burkina Faso, Cape Verde, Côte d’Ivoire, Gambia, Ghana, Guinea, Guinea Bissau, Liberia, Mali, Niger, Nigeria, Senegal, Sierra Leone, Togo</td>
<td></td>
</tr>
<tr>
<td>C111 (Discrimination – Employment &amp; Occupation)</td>
<td>Benin, Burkina Faso, Cape Verde, Côte d’Ivoire, Gambia, Ghana, Guinea, Guinea Bissau, Liberia, Mali, Niger, Nigeria, Senegal, Sierra Leone, Togo</td>
<td></td>
</tr>
<tr>
<td>C97 (Migration for Employment)</td>
<td>Burkina Faso, Nigeria</td>
<td>Benin, Cape Verde, Côte d’Ivoire, Gambia, Ghana, Guinea, Guinea Bissau, Liberia, Mali, Niger, Senegal, Sierra Leone, Togo</td>
</tr>
<tr>
<td>C143 (Migrant Workers)</td>
<td>Benin, Burkina Faso, Guinea, Togo</td>
<td>Cape Verde, Côte d’Ivoire, Gambia, Ghana, Guinea Bissau, Liberia, Mali, Niger, Nigeria, Senegal, Sierra Leone</td>
</tr>
<tr>
<td>UN ICRMW</td>
<td>Burkina Faso, Cape Verde, Ghana, Guinea, Mali, Niger, Nigeria, Senegal</td>
<td>Benin, Côte d’Ivoire, Gambia, Guinea Bissau, Liberia, Sierra Leone, Togo</td>
</tr>
<tr>
<td>C122 (Employment Policy)</td>
<td>Burkina Faso, Guinea, Senegal, Togo</td>
<td>Benin, Cape Verde, Côte d’Ivoire, Gambia, Ghana, Guinea Bissau, Liberia, Mali, Niger, Nigeria, Sierra Leone</td>
</tr>
<tr>
<td>C181 (Private Employment Agencies)</td>
<td>Niger (to enter into force in May 2016)</td>
<td>Benin, Burkina Faso, Cape Verde, Côte d’Ivoire, Gambia, Ghana, Guinea, Guinea Bissau, Liberia, Mali, Nigeria, Senegal, Sierra Leone, Togo</td>
</tr>
<tr>
<td>C189 (Domestic Workers)</td>
<td></td>
<td>Benin, Burkina Faso, Cape Verde, Côte d’Ivoire, Gambia, Ghana, Guinea, Guinea Bissau, Liberia, Mali, Niger, Nigeria, Senegal, Sierra Leone, Togo</td>
</tr>
</tbody>
</table>
3.5 African Union (AU) Framework on migration

Over the last decade, a comprehensive set of migration policy commitments and recommendations have been elaborated under the auspices of the African Union (AU). Many of these largely complementary documents and processes have been adopted at Heads of State levels. Together, they add up to a comprehensive guidance framework for national and regional labour migration policy across the continent. They include:

- The 2004 AU Plan of Action on Employment Promotion and Poverty Alleviation pressing for equity in international governance and for facilitating labour migration in Africa.
- The 2006 AU Migration Policy Framework that devotes a main chapter to Labour Migration.
- The AU Social Policy Framework of 2008 that recommended regional integration and collaboration of social security schemes in Africa to ensure benefits of labour circulation.
- The AU Plan of Action on Boosting Intra African Trade (2012) recognizing the key role of free movement of people and labour migration regulation. Regional agreements are deemed central to developing and facilitating regional labour migration.
- The AU Labour and Social Affairs Commission (which has now become the Social Development and Labour Commission), a tripartite Commission of the AUC tasked with technical discussions on labour migration.
- The 9th Ordinary Session of the AU Labour and Social Affairs Commission (April 2013), that adopted the Youth and Women Employment Pact including “Promotion of regional and sub-regional labour mobility”. The Pact called for an AU and RECs Labour Migration Plan.
- The AUC Strategic Plan 2014-2017 pursuing the strategy to “Promote labour migration to support cross border investment and to fill the skills gap”.
- The Joint Africa-EU Strategy (JAES) Action Plan Partnership on Migration, Mobility and Employment (MME) aims to ensure sustainable development through better management of and joint cooperation on MME issues. It pushes for the implementation of relevant international agreements and declarations, in particular the Tripoli Declaration on Migration and Development, the Ouagadougou Action Plan to Combat Trafficking in Human Beings, Especially Women and Children and the Ouagadougou Declaration and Plan of Action for Promotion of Employment and Poverty Alleviation.

The AU Migration Policy Framework for Africa (2006) identifies the following Six Priority Areas of Special Focus:

i) Political Leadership, Accountability and Good Governance;
ii) Youth and Women Employment;
iii) Social Protection and Productivity for Sustainable and Inclusive Growth;
iv) Well-functioning and Inclusive Labour market Institutions;
v) Labour Migration and Regional Economic Integration;
vi) Partnership and Resource Mobilisation.

In January 2015, the AU Summit of Heads of State endorsed a new initiative: The Joint Labour Migration Programme. Spearheaded by the AU Commission with coordinated support of the ILO,
IOM and UNECA, the JLMP addresses the need to implement the range of principles and frameworks on labour migration adopted by Regional Economic Communities (RECs) across the region. The JLMP is divided into two broad sections: The Governance of Labour Migration; The Operationalisation of Principles.

The last policy development to date in the AU is the AU Declaration on Migration of June 2015, which reaffirmed the AU and Member States’ previous commitments aimed at accelerating mobility and integration on the continent, migration in development while addressing regular and irregular migration.

3.6 Synthesis on international standards and frameworks

International standards play different roles (model laws, evaluation / bench-marking, litigation and arbitration) as seen in the introduction to this Chapter.

Read together, international standards and frameworks point to the following threshold principles which may guide any national labour migration policy development:

- **Global convergence towards rights-based, migrant centred standards and frameworks** and approaches to policy development focusing on each stage of the migration cycle (pre-departure, travel, induction, stay and conditions of work, return & reintegration)

- **Equality of treatment between migrant and national workers** emerges as the fundamental overarching principle regarding conditions of employment, wages, access to training and promotion, benefits, Occupational Safety and Health, social security, health care, etc...

- **A set of fundamental rights at work** underpins the threshold that is considered as a minimum for all workers including migrants: Consent to work / no forced labour, collective bargaining and representation, equal remuneration, etc...

- There is growing recognition that sustainable, rights-based policies should also emphasise **second-generation rights to migrants**, such as family reunification, access to decent conditions of living, social protection, etc...

- All international standards and frameworks promote **gender-sensitive mainstreaming** across all migration related policies in order to provide for specific vulnerabilities and discrimination experienced by women but also specific conditions related to reproductive health and female health issues in general.

Chapter 3. International standards and frameworks for the protection of migrant workers

KEY POINTS TO REMEMBER
International Labour Standards provide for all aspects of migrant workers' protection and the upholding of their rights at work, including those of irregular migrants.

Existing UN and ILO instruments and frameworks can be used as model laws, benchmark, and in litigation, arbitration and jurisprudence.

Ratification of instruments remains unsatisfactory. The UN ICMWR is currently the most widely ratified.

The African Union's migration frameworks align to ILS and provide strong support to further harmonisation efforts by ECOWAS Member States.
Chapter 4: ECOWAS Framework for the protection of migrant workers

Regional frameworks complement international standards and are critical to take into account in the development of national or bilateral policies and instruments. This chapter summarises the current state of ECOWAS Protocols and Approach on labour migration in terms of the key principles they uphold and of the actual implementation processes they have given rise to. Implementation gaps and challenges are underscored in the presentation as well as potential contradictions or tensions with international standards and frameworks.

4.1 ECOWAS Treaty

Fifteen West African countries signed the treaty for an Economic Community of West African States (Treaty of Lagos) on 28 May 1975. In July 1993, a revised ECOWAS Treaty designed to accelerate economic integration and to increase political co-operation, was signed.

ECOWAS aims to promote co-operation and integration in economic, social and cultural activity, ultimately leading to the establishment of an economic and monetary union through the total integration of the national economies of Member States. It also aims to raise the living standards of its peoples, maintain and enhance economic stability, foster relations among Member States and contribute to the progress and development of the African Continent. ECOWAS integration policies and programmes are influenced by the prevailing economic conditions in its member countries, the need to take the principal provisions of the African Economic Community (AEC) Treaty into account, and relevant developments on the international scene.

The revised treaty of 1993, which was to extend economic and political co-operation among Member States, designates the achievement of a common market and a single currency as economic objectives, while in the political sphere it provides for a West African parliament, an economic and social council and an ECOWAS court of justice to replace the existing Tribunal and enforce Community decisions. The treaty also formally assigned the Community with the responsibility of preventing and settling regional conflicts.

4.2 ECOWAS Free Movement Protocols

The 1979 Protocol Relating to Free Movement of Persons, Residence and Establishment provides the legal framework for ECOWAS community citizens to enter, reside and establish economic activities in the territory of other Member States. Adopted in 1980, the Protocol sets out the progressive implementation of these rights in three phases - entry, residence and establishment - the specifics of which are detailed in four Supplementary Protocols.

The four Supplementary Protocols are the following:

- Supplementary Protocol A/SP.1/7/85 on the Code of Conduct for the implementation of the Protocol on Free Movement, Right of Residence and Establishment;
- Supplementary Protocol A/SP.1/7/86 on the second phase (Right of Residence) of the Protocol on Free Movement, Right of Residence and Establishment;
- Supplementary Protocol A/SP.1/6/89 amending and complementing the provisions of Article of the Protocol on Free Movement, Right of Residence and Establishment; and
- Supplementary Protocol A/SP.2/5/90 on the implementation of the Third Phase (Right of Establishment) of the Protocol on Free Movement, Right of Residence and Establishment.
In addition, in 1985, the ‘Decision A/DEC.2/7/85 on the Establishment of a Travel Certificate for ECOWAS Member States’ was adopted. Furthermore, in 1990, the ‘Decision C/DEC.3/12/92 on the Introduction of a Harmonized Immigration and Emigration Form in ECOWAS Member States’ was adopted, which sets the requirement for ECOWAS Member States to establish a harmonised immigration and emigration form.

The right of residence, Phase two, (Supplementary Protocol A/SP/.1/7/86) grants Community citizens the right to "reside in other Member States for the purpose of seeking and carrying out income-earning employment" (Article 2). It includes the right to apply for jobs and take up employment in accordance with the legal and administrative provisions governing national workers’ employment. It also establishes the principle of equal treatment between migrant workers and nationals in regard to employment security, re-employment in the case of job loss, access to training and education, and access to social, cultural and health facilities. Finally, it offers protection to migrant workers and their families from mass expulsion and sets conditions for individual expulsion.

The right of establishment, Phase three, (Supplementary Protocol A/SP2/5/90) grants Community citizens access to economic activities and the right to carry out these activities, as well as the right to set up and manage enterprises under the same legislative conditions the host member state applies to its own nationals. It also protects migrant workers from confiscation or expropriation of capital and assets on the basis of discrimination.

The Supplementary Protocols also call on Member States to cooperate with each other and with the ECOWAS Secretariat (now the Commission) on issues of labour migration governance, including labour supply and demand, monitoring and sharing information on labour markets, harmonisation of employment and labour policies, prevention of employment of migrants in irregular status, and the elimination of administrative and legal barriers to establishing companies.

Box 5. Main rights and protections granted by the Free Movement Protocols to migrant workers from ECOWAS countries

- The right to enter, reside and establish in Member State (Protocol A/P.1/5/79, Article 2)
- Protection of property, goods or fixed assets legally acquired in Member States, and equal treatment with nationals in regard to tax laws. (Supplementary Protocol A/SP.1/7/85, Article 7)
- The right of residence in Member States "for the purpose of seeking and carrying out income earning employment," including the right to apply for jobs, to travel and reside in Member States to take up employment, and to live in Member States after having been employed there. (Supp. Protocol A/SP/.1/7/86, Articles 2 and 3)
- Protection from mass expulsion; individual expulsion must be based on "a well-founded legal or administrative decision" and must be carried out in respect of their fundamental rights. (Supp. Protocol A/SP/.1/7/86, Article 14)
- The right to transfer earnings or savings without impediment from Member States (Supp. Protocol A/SP/.1/7/86, Article 17)
- The right to equal treatment with nationals in regard to employment security, re-employment in case of job loss, training and professional education (Supp. Protocol A/SP/.1/7/86, Article 23)
- The right to create and manage enterprises under the same conditions as nationals. (Supp. Protocol A/SP.2/5/90, Article 2)
Outside of the Free Movement Protocols, it should also be noted that ECOWAS has adopted a Regional Labour and Employment Policy in 2009 and a Regional action plan on youth employment in 2012.

### 4.3 Common Approach to Migration

The 30th Ordinary Summit of ECOWAS Heads of State and Government, held in Abuja in June 2006, mandated the ECOWAS Commission to define a common regional approach on migration. Meeting in Ouagadougou on 20 December 2006, the ECOWAS Mediation and Security Council reaffirmed this priority, requesting the Commission President to: "pursue the consultative process for the definition of a common approach to the management of intra-regional migration and migration to Europe in all its dimensions”.

In executing this mandate, the ECOWAS Commission initiated a strategic thinking process with a view to defining a common regional approach on migration.

ECOWAS Member States carry out their actions within the framework of the revised ECOWAS Treaty and more particularly Article 59: “Citizens of the community shall have the right of entry, residence and establishment and Member States undertake to recognise these rights of Community citizens in their territories in accordance with the provisions of the Protocols relating thereto”.

The **Principles adopted in the Common Approach** (See Box 6 below) reiterate the key consensus points for action stemming from the existing ECOWAS Protocols.

### Box 6. Principles of the ECOWAS Common Approach on Migration

1. Free movement of persons within the ECOWAS zone is one of the fundamental priorities of the integration policy of ECOWAS Member States.
2. Legal migration towards other regions of the world contributes to ECOWAS Member States’ development.
3. Combating human trafficking is a moral and humanitarian imperative.
4. Harmonising national migration policies.
5. Protection of the rights of migrants, asylum seekers and refugees.
6. Recognizing the gender dimension of migration.

Even though the ECOWAS Common Approach provides very clear direction to the priority areas for policy intervention, **it does not provide a technical road map of action points** in terms of harmonisation of policies, effective protection of the rights of migrants, asylum seekers and refugees, effective, recurrent measures to combat human trafficking, or mainstreaming gender into all other migration-related measures. These are to be designed and drafted at the national level.

### 4.4 ECOWAS General Convention on Social Security

Efforts to harmonise social security regimes are particularly important in order to ensure consistent coverage of workers across countries, a continuum of access to health care, reduce social protection differentials and set up social protection floors. For migrant workers from a specific regional
economic community, a sub-regional convention on social security constitutes a major breakthrough in harmonising protection and working towards portability of accumulated benefits.

On 7 December 2012, ECOWAS adopted the General Convention on Social Security during the Conference of Ministers of Labour and Social Welfare in Dakar, Senegal, thereby reaching a new milestone in the implementation of regional free movement protocols.

The General Convention on Social Security is largely based on the ILO Conventions on equal treatment and the preservation of social security rights, the African Union’s policies on labour migration and regional migration policy, as well as the treaty governing cooperation in the areas of employment, labour law harmonisation and ECOWAS Member States’ social security schemes. The General Convention will enable retired migrants and migrant workers who had worked in one of the ECOWAS Member States to exercise their right to social security in their country of origin.

This Convention is envisioned to enhance the effective implementation of protocols on the free movement of persons within ECOWAS, by aiding the removal of regional restrictions on the provision of benefits. Furthermore, it meets the need to coordinate the social security systems of the regional organisation’s Member States.

Recent research into the state of implementation of the ECOWAS General Convention on Social Security reveals the following challenges:

1. Unequal development of national social security systems between ECOWAS member states (some services cannot be offered in some states compared to the CoO)
2. Insufficient administrative capacities in social security institutions (challenges in providing guarantees of accumulated rights and of enforcing actual transfer across countries)
3. Recognition of polygamous status (uneven across countries; may impact short-term benefits such as maternity and long-term such as survivor benefits)
4. Urgent need to develop a standard agreement template to link administrative bodies
5. The restrictive nature of the voluntary continued insurance mechanism (hampers ability of some migrants to improve their old age benefits) (Fall and Tounkara 2014: 41)

Fall and Tounkara (2015) recommend the following three measures:

5.1 Establish the Committee of Experts provided for in the final provisions of the Convention, which is the body in charge of driving forward the implementation of the Convention and ensuring proper regulation of its application;

5.2 Create a Technical Task Force comprising officials from ECOWAS, from the ILO FMM West Africa project and other experts to support the launching of the Committee of Experts’ activities and assist in the establishment of coordination mechanisms between national insurance funds.

5.3 Ensure wide dissemination of the Convention and its Administrative Arrangement in all Member States, in particular among social partner organizations representing employers and workers. (Fall and Tounkara 2015: 46).
4.5 Tripartite Social Dialogue Forum

Also of critical significance to labour migration is the establishment of the **ECOWAS Tripartite Social Dialogue Forum** which was formalised with the adoption, in December 2010, by ECOWAS Member States of the Draft Supplementary Act on the Establishment of a Tripartite Social Dialogue Forum for the ECOWAS Region. This Forum and the Act create **significant spaces at ECOWAS and national level for tripartite dialogue on labour migration to take place** (Article 2), an approach that is seen internationally as the best way to **build consensus, ensure alignment of labour migration strategies to national development plans, and representation of constituents’ interests in decision-making**.

In addition, the **Supplementary Act urges each member state** to (Article 4):

- a) Establish and support the effective functioning of a national tripartite social dialogue frameworks;
- b) Ensure compliance with undertakings and applications of decisions resulting from tripartite social dialogue at the national and regional levels;
- c) Ensure the application of the legislative, regulatory and conventional texts relating to Labour Laws in their respective countries;
- d) Create the enabling environment for the harmonisation of Community Labour Laws;
- e) Promote sustainable enterprise as the first step for the implementation of social dialogue;
- f) Each Member State may involve as Observers, relevant civil society groups as well as non-governmental and Inter-governmental organizations in the work of the national tripartite dialogue frameworks.

While not explicit in the Act, the **Tripartite Social Dialogue Forum is important in regard to labour migration**. International instruments and frameworks on labour migration explicitly encourage labour migration policies to be discussed through tripartite social dialogue mechanisms.

As shown, **ECOWAS Protocols and Frameworks have built an increasingly consistent rights-based set of guidelines for ECOWAS member states**. However, translation into national legislations and policies has been **uneven and at times inconsistent**. Working towards systematic alignment, concrete implementation, and strengthened coordination at the national level has become urgent if ECOWAS member states truly want to move towards an integrated region where labour mobility is a reality.

4.6 ECOWAS Frameworks on Child Labour and Counter-Trafficking

ECOWAS as a region faces critically **high rates of child labour** by international standards – almost 21 million children aged 5-14 years, 25% of all children in the age group, are in child labour. Child labour is not limited to national labour markets. Children also migrate for work and governments are responsible to ensure that migration does not constitute an increased risk for children, either of employment, of education marginalisation or of neglect of children left behind by migrant parents.

While **recent research** (ILO, undated: 21) seems to indicate that migration does not appear to consistently increase children’s risk of employment, there are important variations within the child migrant population that may be relevant to their susceptibility to involvement in employment. In fact, the opposite pattern seems to hold as seen in Graph 3 below. In four of the six countries where data are available, there is a smaller share of migrant compared to non-migrant children in employment (where migrant children are defined as those who have changed location during the
last five years). Niger even shows a very significant gap between migrant and non-migrant children, with non-migrant children at a 30% higher risk of being employed than migrant children. Mali is the only one of the six countries where migrants are at greater risk of employment. Unaccompanied children, as shown in evidence from Senegal, for instance, indicates that the subgroup of children that migrate unaccompanied and that migrate to urban areas are at greater relative risk of child labour and educational marginalisation. Also of concern are the group of children left behind by migrating parents, whose family support systems are disrupted and whose vulnerability therefore may be increased (Ibid.)

Graph 3. Permanent migrant and non-migrant children in employment across 6 ECOWAS countries.

Source: ILO (Undated: 22).

ECOWAS Ministers have for long recognised the challenge of child labour and addressed it in developing several frameworks:

- ECOWAS Child Policy and the accompanying Strategic Plan of Action for the ECOWAS Child Policy 2009-2013,
- West Africa Regional Action Plan to Eliminate Child Labour, Especially its Worst Forms (adopted in December 2012);
- Plan of Action for the Elimination of Child Labour, Especially the Worst Forms developed and approved for 2013-2015.

Linked to child labour but distinct from it is the issue of human trafficking. Combating trafficking in persons is a priority for the Economic Community of West African States (ECOWAS) Commission and its Member States.

As seen in Section 4.3, the ECOWAS Common Approach on Migration states in Principle 3 that “Combating human trafficking is a moral and humanitarian imperative”. The ECOWAS Commission TIP Unit is tasked with the development, adoption, promotion and implementation of its new Plan of Action, and seeks to enhance the ECOWAS Annual Review Meetings of the anti-trafficking National Focal Points (NFPs) of the Member States (MS).
ECOWAS Member States have constantly developed frameworks, Plans of Action and Road Maps. **Landmarks in countering trafficking in persons** have been:

- Declaration on the Fight against Trafficking in Persons, 2001,
- Initial Plan of Action against Trafficking in Persons (2002-2003),
- Joint ECOWAS/ECCAS Regional Plan of Action to Combat Trafficking in Persons, especially Women and Children (2006-2008),
- Strategic Plan of Action for the Combat of Trafficking in Persons in West Africa for 2010-2013,
- Roadmap on Trafficking in Persons and Child Protection for West Africa, 2010,
- Strategic Plan 2011-2015, A proactive Mechanism for Change, 2010,

The recent Baseline Assessment on Counter-Trafficking conducted in the framework of the FMM pointed to the need for the ECOWAS Commission to develop “**effective monitoring and enforcement mechanisms to ensure the implementation of its policies. The conflicts caused by competing and/or parallel processes (e.g. the West African Economic and Monetary Union, bilateral negotiations) may compromise the ECOWAS anti-trafficking framework. Weak regional governance of free movement and migration also derives from the situations at national level**” (Healy 2014: 5).

**Chapter 4. ECOWAS Frameworks for the protection of migrant workers**

**KEY POINTS TO REMEMBER**

- ECOWAS Free Movement Protocols and other relevant frameworks (Social Protection, Child Labour, Counter-Trafficking, Social dialogue) are comprehensive, rights-based, and internationally aligned.

- In each of the relevant areas (migrant workers’ protection, social protection, child labour, counter-trafficking, social dialogue), there remains considerable obstacles, particularly in terms of effective administrative measures for the implementation of the Protocols at the national level.

- Some issues need to be addressed collectively at ECOWAS level, through coordinating mechanisms, as for instance in terms of social protection benefits and their portability.

- Harmonisation and effective implementation also necessitate that staff in national ministries be trained to international and ECOWAS standards and that ECOWAS expertise is retained and regularly retrained.
Chapter 5: Labour migration policy development and coordination

Previous chapters have pointed to the critical need for member states to strengthen their domestication of existing international and regional standards and frameworks, as well as to ensure consistency and alignment across ECOWAS. This chapter reviews key dimensions, components and processes relevant to labour migration policy development and coordination at national level. It is organised around three main areas for intervention:

1. Labour migration governance and policy strategies;
2. The regulation of recruitment and placement practices;
3. Social protection, social services and accompanying measures.

5.1 Labour migration governance

The ECOWAS Common Approach on Migration of 2008 strongly encourages Member States to harmonise policies, and in particular to “harmonize national migration management policies with sector development policies.” (Principle 4).

The 2015 Survey on Migration Policies in West Africa cited previously found that:

_Regarding the principle of policy harmonisation, the study shows that most countries lacked a comprehensive national migration policy, with there being only six countries that are in the process of drafting a national policy. However, almost all countries plan to develop a national migration policy which could be the precursor to the planned regional common migration policy. Conversely, a common migration policy could stimulate the development of national migration policies._ (Devillard et al. 2015: 70).

While these efforts to consolidate labour migration policies in some ECOWAS countries should be commended, it is clear that ‘policy underdevelopment’ remains a major hindrance to more efficient protection of migrant workers in ECOWAS countries. It is evident that in many of the least developed countries (LDCs), budgetary constraints remain the major obstacle to policy design and implementation. However, limited means are not the only challenge. Policy-makers’ understanding of migration and political will also need to be examined in order to discern current blockades and deconstruct them.

Policy coherence

The 2015 Survey of Migration Policies in West Africa presents the following table which indicates the existence of comprehensive national migration policies as well as the degree to which migration and national development plans speak to one another.

<table>
<thead>
<tr>
<th>Country</th>
<th>Comprehensive national migration policy</th>
<th>Migration and</th>
<th></th>
</tr>
</thead>
</table>

Table 4. State of National Migration Policies in West African states.
<table>
<thead>
<tr>
<th>Country</th>
<th>(adopted or drafted)</th>
<th>development integrated</th>
</tr>
</thead>
<tbody>
<tr>
<td>Benin</td>
<td>No, but → National Policy for Beninese abroad</td>
<td>No</td>
</tr>
<tr>
<td>Cape Verde</td>
<td>No, but → National Immigration Strategy and National Emigration Strategy</td>
<td>Yes, the National Immigration Strategy follows the National development plan</td>
</tr>
<tr>
<td>Côte d’Ivoire</td>
<td>No → National Migration Policy is planned</td>
<td>Yes</td>
</tr>
<tr>
<td>The Gambia</td>
<td>No → National Migration Policy is planned</td>
<td>Yes</td>
</tr>
<tr>
<td>Ghana</td>
<td>Yes (Draft) → Draft National Migration Policy</td>
<td>Yes</td>
</tr>
<tr>
<td>Guinea</td>
<td>No → National Migration Policy is planned</td>
<td>No → Inclusion of migration issues in national development plan</td>
</tr>
<tr>
<td>Guinea-Bissau</td>
<td>No</td>
<td>Yes</td>
</tr>
<tr>
<td>Liberia</td>
<td>Yes (Draft) → National Policy on Migration</td>
<td>Yes → Diaspora was consulted during the planning process</td>
</tr>
<tr>
<td>Mali</td>
<td>No, but → Drafting has already started and the National Population Policy deals with migration</td>
<td>Yes</td>
</tr>
<tr>
<td>Niger</td>
<td>Yes (Draft) → National Policy on Migration</td>
<td>Yes</td>
</tr>
<tr>
<td>Nigeria</td>
<td>Yes → National Policy on Labour Migration and National Migration Policy</td>
<td>Yes</td>
</tr>
<tr>
<td>Senegal</td>
<td>No</td>
<td>Yes</td>
</tr>
<tr>
<td>Sierra Leone</td>
<td>No</td>
<td>Yes</td>
</tr>
<tr>
<td>Togo</td>
<td>No, but → currently drafting a Migration and Development Strategy</td>
<td>Yes</td>
</tr>
</tbody>
</table>

*Source: Adapted from Devillard et al. 2015: 49-50.*

It is encouraging to see that a substantial number of ECOWAS states (Burkina Faso, Ghana, Liberia, Niger and Nigeria) have comprehensive national migration policies either in place or at very advanced stages and that another group have planned policy development processes (Cape Verde, Côte d’Ivoire, Gambia, Guinea, Mali and Togo). However, it would be important to **examine provisions for labour migration in these policies and use ECOWAS structures** (the Tripartite Social Dialogue Forum for instance) in order to request Member States to provide regular reports on progress and consistency in policy development. In this sense, the Tripartite Social Dialogue Forum could become an instrument of harmonisation.

Policy coherence is also about **coherence between labour migration strategy and other key national policies:** National Development Policy; National Economic Policy; National Poverty Development Strategy; National Employment Strategy and possibly, National Education and Training Policy. A National Labour Migration Policy (NLMP) or Strategy may either be developed as a distinct, albeit closely interrelated, piece of policy or may be inserted directly into another policy framework. Typically, labour migration strategies are **inserted into national employment policies.** There is no ‘model’ as each country has its own set of laws, policy frameworks and ministerial portfolios. What really matters is political will, coherence of purpose and pragmatism in implementation.
Box 7. Ten key steps to develop national labour migration policy (NLMP).

**Step 1. Appointment of core task team:** Selection and constitution of task team located within Ministry of Labour but possibly inter-ministerial, with clear terms of reference and road map, including main objective of the policy development exercise, extent of powers, time frame, composition, and resources. The task team will be responsible for developing and coordinating all subsequent steps.

**Step 2. Review and assessment of national context:** The objective is to establish the state of knowledge on labour migration needs in relation with the country’s economy, challenges in implementation, and obligations to be met under international standards and regional frameworks. This stage will include a review of Labour Market Indicators relevant to labour migration and of all existing labour migration statistics.

**Step 3. Rounds of external tripartite plus consultations** aimed at establishing priorities and building consensus among main constituents, interest groups and experts. Consultations may be thematic, sectoral, on emigration and immigration dimensions, or based on stakeholders’ profiles (national bodies, experts, international organizations and partners, etc...). The methodology pursued needs to speak directly to the overall objectives ascribed to the policy.

**Step 4. Internal review of administrative, technical and budgetary resources.** Concurrently to Step 3, the task team needs to work in parallel on an internal resource appraisal aimed at identifying the scope of necessary reforms and available means at administrative, technical and budgetary levels in order to restrict the policy development process to reasonable levels of expectation. Step 4 should also assist in assessing the policy implementation frame, identify possible milestones, and the design of a practical monitoring and evaluation system. Step 4 will include but not be limited to legislative and regulatory gap analyses, human resources reviews, cost analyses.

**Step 5. Policy formulation.** Drawing on findings from the review and assessment of the national context (Step 2), conclusions of the rounds of external tripartite plus consultations (Step 3) and findings from the internal review (Step 4), the task team or a section of it drafts policy following national guidelines for policy formulation and accepted format, if need be with external technical assistance. Responsibility to drive the policy formulation process should be located within the task team and the lead ministry (Labour) as this is the best way to build internal capacity and leadership which will then be reutilised in policy implementation. In addition to the various key strategic dimensions that will shape the policy, it is essential to ensure that: a/ An overall sustainable governance structure is designed; b/ Adequate human and budgetary resources are identified; and c/ A workable monitoring and evaluation mechanism is set up from inception.

**Step 6. Internal governmental consultation on policy draft:** Such consultation should take the most appropriate form depending on the country’s accepted internal consultation processes. An inter-ministerial committee might be a useful space for such consultations. In particular, this is when coherence with national priority policies such as Economic Growth, Employment, Education, and Migration policies should be tested and sought and when necessary adaptations should be made.

**Step 7. Public submission through tripartite plus structures and / or parliamentary hearings.** Depending on the country’s official policy development structures and institutions, the draft policy should then be presented publicly and receive official public submissions from all relevant
constituents. Official consultation of regional bodies and neighbouring countries that might be directly affected is advisable following foreign affairs protocols.

Step 8. Political arbitration on policy options. Before final adoption of the policy at national level, final arbitrations should be rendered.

Step 9. Official launch of the policy and communication campaign are important stages which will ensure immediate publicity and information of key stakeholders.

Step 10. Appointment of lead units and staff and adoption of policy time frame will mark the actual kick off of the policy implementation phase.

Four key dimensions to bear in mind throughout the policy development process:

1. Sustainability of the institutional arrangement: Location of the NLMP should be designed in such a way that it will not be affected by political changes, Cabinet reshuffling, or political competition between ministries, etc... It is therefore advisable that it be located within a core ministry (the ILO recommends giving Labour and Employment ministries a lead role). It is also important that the policy comes with identified budgetary resources from the start;

2. Human resources: Efficient implementation of NLMP in all its dimensions requires competent, dedicated and stable staff. Few staff in existing public administrations have labour migration expertise, management skills, and services experience. This means that motivated staff will have to be trained either from the existing pool of staff who are already working on labour migration issues, or from other units in the public service, or from recruitment of external candidates. All three dimensions: Strategy and data analysis; Policy management and coordination; Services to migrant workers should be factored in the building of an efficient team of civil servants.

3. Clear coherence with and articulation to other key national policies: In terms of support to the overall strategy pursued by government; coherence of terminology, timeframes, targets and complementarity of objectives;

4. Mainstreaming of labour migration into other policies: Policy coherence is not only about ensuring that a NLMP aligns to other key national policies but also that key national policies mainstream labour migration, that is to say that they do incorporate it in development planning and cite it as one possible strategy, as well as reflect over the existence of populations of migrant workers and systematically propose migrant-sensitive policy options. This will require systematic participation or consultation of technical ministries competent in the area of labour migration in the development of other policies and their constant monitoring of such processes for mainstreaming purposes. It may require revision and amendment of existing legislation, policies and strategies.

Source: Author’s analysis from existing literature.

Gender dimension of labour migration policy

As mentioned in Chapter 2, the mainstreaming of gender in labour migration policies takes on several dimensions. The following actions form part of the mainstreaming of gender in labour migration policies:

1. Conformity with international norms relating to the gender dimension of labour migration will assist with upholding equality of treatment and non-discrimination. Specific reference to treatment of migrant workers no less favourable than international and / or
regional standards and frameworks within policy documents, is prerequisite to improved protection of female migrant workers. See list of international standards in Chapter 2, Section 2.3.


3. Recognize similarities of experience and goal in male and female migration projects: Both men and women migrate in search of better employment and life opportunities for themselves and their families. Recognition of these similarities implies equality of treatment, wages, and conditions of work.

4. Acknowledge the differences in migration experiences for male and female migrant workers – female migrant workers tend to experience more disadvantages and discrimination at all stages of the migration process due to their lack of access to and control over resources and gender stereotyping in the labour market.

5. Provide for general migrant protection while at the same time specifically targeting female migrant workers in order to empower them with choices, access to resources and rights. This means taking into account explicitly aspects such as access to health care, birth control, maternity leave, pension benefits, child care, etc...

6. Give particular attention to especially vulnerable groups of women migrants including migrant domestic workers and cross border traders, to ensure their access to safe migration and legal employment opportunities and to protect them from exploitation, violence and abuse.

Inter-ministerial coordination

Migration is by definition a complex policy issue which usually spans several ministries and should include social partners and other relevant stakeholders such as migrant rights and diaspora associations or federations of private employment agencies. Whether policies are about the regulation of incoming labour or the emigration of workers abroad or both, inter-ministerial coordination is absolutely key: it is the link that will ensure more or less efficient implementation of the whole.

Three dimensions need to be clearly addressed in dealing with inter-ministerial coordination: Governance structure; Technical division of labour; Communication.

- A transparent, functional tripartite governance structure is key to ensuring that there are clear decision-making and monitoring & evaluation processes. Government entities need to establish which ministry has the lead, what the consultation and decision-making processes are, and which unit is the main operational mechanism.

- Implementation then requires a clear division of labour between government technical units. Migration matters will almost by definition be scattered across a range of technical divisions. Coordination of this technical work from Labour Market Information System (LMIS) to selection, recruitment, placement, and admission procedures, issuance of migration permits, labour inspection, pre-departure training and induction upon arrival, etc. should be located within one operational unit. It may be useful to start with an exhaustive mapping of labour migration functions across government entities and to envisage how
best to rationalise these processes without creating gaps, losing experience and gaining in efficiency.

- Lastly, communication between these different entities by means of regular meetings, mailing lists, or a web intranet guarantees that no division feels left out or starts operating in isolation from the others.

Social dialogue and social partners

General principles

As one of the four pillars of the ILO’s Decent Work approach and a key direction of the Fair Migration Agenda, social dialogue should feature prominently in labour migration policy-making processes. However, the reality is that very little consultation and tripartite dialogue takes place in relation with labour migration dynamics.

While there has been strong reassertion of the role to be played by a tripartite approach to labour migration in international standards and frameworks, and in ECOWAS with the establishment of a Tripartite Social Dialogue Forum for the ECOWAS Region in 2012, the reality of practices is very slow to change.

There are at least two key levels at which involvement of social partners is critical:

1. At the national policy level, tripartite involvement of social partners (Employers and Workers) in the design, implementation, monitoring & evaluation of labour migration policy or strategy.

This is critical to ensure consensus-building around the best possible strategy and its adhesion to the national development plan. Social partners’ role in monitoring & evaluation is critical to alert government to possible risks, emerging trends, unanticipated impact, etc...

2. At the bilateral level, in bilateral government-to-government discussions, in areas such as bilateral trade union agreements, or in recruitment mechanisms between PEs.

Two additional levels of social partners’ involvement should also be taken into consideration for countries of destination:

3. At the national level, in terms of the protection of migrant workers at the workplace through access to trade unions and collective bargaining.

4. At the national level, in terms of fighting racism and xenophobia among the national workforce and society at large.

Box 8. What can trade unions do to strengthen migrant workers’ protection?

Trade unions in countries of origin can:
- lobby against social dumping;
- assist in offering pre-departure and return orientation and training;
- negotiate for standard employment contracts in accordance with international standards;
- lobby for abolition of recruitment fees;
- provide migrants with trade union contact names and addresses;
- provide referral services for migrants suffering from abuse;
- ensure migrant women’s protection from discrimination and from falling victims to trafficking.
Trade unions in destination countries can:
- lobby for legislation on equal treatment and non-discrimination in respect of employment conditions, social security, etc. to avoid labour market segmentation;
- organize training on the rights of migrant workers;
- call for the repeal of provisions discouraging migrants from joining trade unions;
- include migrants in collective bargaining agreements;
- cooperate in identifying abusive employment agencies;
- help identify those involved in trafficking;
- establish migrant workers rights’ committees;
- lobby for the inclusion of a social clause in bilateral / international treaties.


5.2 Labour Market Information Systems (LMIS)

Definitions and purpose

The capacity of states to relate labour migration indicators (whether emigration or immigration) to their other labour market indicators and to use their analysis for policy adjustments is essential for two reasons:

- Planning, monitoring & evaluation purposes;
- Combating stereotypes, xenophobia and racism which invariably use migrants as scapegoats in situations of economic crisis and unemployment.

A labour market information system (LMIS) consists of a set of institutional arrangements, procedures and mechanisms that are designed to produce labour market information. LMIS normally have two main objectives:

- Matching labour supply and labour demand (including international migration);
- Supporting decision-making and evaluation of employment policy (which includes labour migration policy)

Whether your country is more of a country of origin or a country of destination, a functional LMIS with a solid migration component is critical to the efficient implementation of policies. As a country of origin, you need to determine what you are seeking to do with labour surpluses, in which sectors they are more prominent, what their structural causes are and whether emigration will partly address some of your labour market issues. You also need to determine what numbers of migrant workers your country has the capacity to prepare, select and place abroad and how sustainable this is.

As a country of destination, you need to identify where your labour shortages are, what profile of workers you are looking for in terms of occupations, skills, experience, etc. You need to assess what benefit your different industrial sectors would draw from hiring migrant workers against the costs attached to bringing them in under conditions of equality of treatment with your national workers. Questions of skills transfers, productivity gains, pressure on wages, as well as the political implications of migrant workers’ integration into your society need to be carefully assessed and managed.
Situation in ECOWAS

ECOWAS Member States have made progress in harmonising and professionalising their LMIS. However, there are still considerable challenges. A 2015 report completed on LMIS and migration in ECOWAS Member States and Mauritania noted the following deficiencies:

- A fragmented system lacking coordination and synergy;
- Non-harmonized tools and limited sample survey coverage;
- Irregular output and non-availability of long-term statistical data;
- Methodological problems including: excessive emphasis on labour supply, limited data collection on local labour markets, insufficient level of disaggregation. (Doumbia, 2015: 7).

On this basis, the study recommends the following:

1. The design of a Labour Market and Migration Information System (LMMIS) at ECOWAS level;
2. A list of seven priority LMMIS indicators proposed as a medium-term objective for the sub-region;
3. Mechanisms to support the production of these tools, including definitions and methodologies to harmonize data collection and analysis for comparability between national and international data;
4. A plan for support from technical and financial partners for both regional and national LMMIS. (Ibid).

In developing national migration indicators within your LMIS, it will be important to ensure that they are aligned to these initiatives.

5.3 Regulation of recruitment and placement practices

There are increased concerns worldwide raised about the growing role of employment agencies, informal labour intermediaries and other operators acting outside the legal and regulatory frameworks. The ILO estimate of the number of victims of forced labour in sub-Saharan Africa is 660,000. In this region, the figure reflects the stubborn survival of traditional forms of servitude, but also relates to extreme poverty, a high incidence of child labour, and a context of severe political violence. Migrant workers are particularly exposed to the risk of forced labour and exploitation through unscrupulous and unprofessional recruitment and placement practices.

This sub-section envisages three critical instruments and institutions which play a critical role in improving conditions of recruitment and placement of migrant workers:

- Bilateral Labour Agreements;
- Public Employment Services (PES);
- and Private Employment Agencies (PEA).

Bilateral labour agreements

Definitions and current challenges

BLAs are part of the broader set of frameworks, laws, technical instruments, and practices which make up national labour migration policies. By definition, a BLA is a bilateral type of instrument between two governments that have agreed on a set of desirable objectives implying labour mobility. However, these objectives may be both common and distinct for the two governments.
A BLA may pave the way for the structuring of a national labour migration policy or, when there is already one, serve as a technical instrument supporting the strategy of the broader policy (Baruah & Cholewinsky 2006).

BLAs serve different purposes and strategic options which will vary from country to country. Box 9 summarises possible strategic options.

**Box 9. Summary of BLA options**

1. **BLAs to accompany national growth phases or specific sectors in destination countries** (demographic and/or labour surplus in origin country matches rapid economic growth rate and labour deficits in destination country)

2. **BLAs as pathway to regional integration** (in European Union for instance) within regional communities (France & Germany: coal mining)

3. **BLAs to regularise or formalise existing irregular flows** (catch up processes) (e.g. Filipino domestic workers to GCC countries)

4. **Sector-specific / Skills oriented / Seasonal / Vocational BLAs** (e.g.: Fruit pickers from Morocco to Spain; Nurses from Philippines to Kingdom of Saudi Arabia; Malawian doctors to United Kingdom; Trainee schemes between South East Asian countries and Japan or Korea)

Source: Author’s analysis from existing literature.

**Particular areas of concern in Africa**

In Africa, particular areas of concern or weakness identified in BLAs pertain to: gender discrimination, limited social dialogue, wage protection measures, protection of travel and identity documents, skills recognition, social security and health benefits, and access to complaints mechanisms (Wickramasekara 2015: 56. Annex 1A. Good practices scores by region).

Another challenge with BLAs is simply their limited impact and inability to capture and thus lessen flows of undocumented or unprotected migrants, something acknowledged clearly in the 2008 ECOWAS Common Approach on Migration (2.4. Actions for controlling irregular migration and human trafficking particularly of women and children, p.9).

To improve migrant workers’ conditions of recruitment and employment, BLAs need to offer something more than migrating outside of them or irregularly. Attractiveness in conditions guaranteed under BLAs and the ability of governments, employers’ organisations and international agencies to offer competitive conditions and services is key to successful BLAs (Martin 2011). Another critical issue is the ability of origin and destination states to collect data to facilitate work placement and monitor benefits of BLAs over time (See Section 5.2 on LMIS). Lessons can be drawn from past experiences of international cooperation in that area (Baruah and Cholewinski 2006; ILO/IOM/OSCE 2007; Martin 2011).

In ECOWAS, the 2008 Common Approach supports the harmonisation of BLAs in its Priority Area 4 on Harmonising policies. Specifically, the Common Approach urges Member States to:

- In accordance with Article 84 of the Revised Treaty, harmonise bilateral agreements linking different ECOWAS Member States and third countries, with ECOWAS community texts and
protocols; including agreements involving free movement. (1.2 Principles, 4. Harmonising Policies, p.5).

How to improve BLAs?
Drawing on existing standards and recent research, it is advisable to submit existing or draft BLAs to a number of systematic quality checks. Instruments are many but the checklist below proposes fifteen areas for assessment of essential minimum standards. It draws on the Model Agreement presented in the Annex to ILO Recommendation No.86 as well as Geronimi’s work (2004: 23-26), as cited in the 2006 IOM/ILO/OSCE Handbook on Establishing Effective Labour in (Baruah and Cholewinski, 2006: 179).

Table 5. Practical protection checklist of 15 essential minimum standards for BLAs.

<table>
<thead>
<tr>
<th>Standard to be covered explicitly in BLA</th>
<th>Yes (specify strong or weak provision) / No</th>
</tr>
</thead>
<tbody>
<tr>
<td>1 Transparency of process and openness to tripartite national social dialogue mechanisms (between government, employers and workers organisations and migrants associations)</td>
<td></td>
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<tr>
<td>2 Provisions to protect migrant workers from recruitment and placement malpractice</td>
<td></td>
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<tr>
<td>3 Provisions for the protection of migrant workers’ basic, labour and social rights throughout migration cycle (pre-departure, travel, workplace in CoD, return) aligned to recommended international labour standards (contract, conditions of employment, termination, etc...)</td>
<td></td>
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<tr>
<td>4 Provisions for decent conditions of living (quality of accommodation, access to amenities and communication systems, privacy)</td>
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<tr>
<td>5 Mainstreaming of gender concerns throughout BLA clauses</td>
<td></td>
</tr>
<tr>
<td>6 Legal provisions and mechanisms for equal treatment and non-discrimination of migrant workers in CoD and for the protection of vulnerable categories of workers (e.g. Domestic workers)</td>
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<tr>
<td>7 Explicit protection of wage provision (timely payment, legal deductions, overtime rates, proof of payment)</td>
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<tr>
<td>8 Provisions for occupational health and safety (prohibition of unhealthy or hazardous workplace, access to health care, compensation in cases of injury, etc...)</td>
<td></td>
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<tr>
<td>9 Prohibition of confiscation of travel and identity documents and personal effects</td>
<td></td>
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<tr>
<td>10 Provision for access to complaints and dispute mechanisms in CoD and CoO</td>
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<tr>
<td>11 Provision for contribution into pension scheme and free portability of benefits</td>
<td></td>
</tr>
<tr>
<td>12 Provision for free transfer of remittances and protection of right to individual banking</td>
<td></td>
</tr>
<tr>
<td>13 Provision for human resources development, skills enhancement, and recognition of skills and qualification in CoD and back in CoO</td>
<td></td>
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<tr>
<td>14 Provisions for clear governance and management structures of the BLA and regular exchange of information between the parties</td>
<td></td>
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<tr>
<td>15 Provisions for Monitoring and Evaluation mechanism throughout</td>
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</table>
the duration of the implementation of the BLA

Source: Author’s analysis from existing standards produced for IOM Guidelines on BLAs in the SADC Region, 2016.

Ideally, **tripartite structures should review BLA documents against these criteria**, verifying the robustness of the guarantees provided in writing and possibly requesting amendments and additional information to the other party. It is also essential that chief negotiators be equipped with these minimum standards when embarking on negotiations. Inherently, it is the consistency of follow-up mechanisms which will ensure highest compliance and meeting of objectives.

**Role of Public Employment Services**

The type of approach to State intervention in general of the country’s economy and labour market will determine the role to be played by PES. There are basically three approaches to State intervention in the area of labour migration. These are summarised below:

1. **State-regulated approach:**
   - State establishes legislation to regulate recruitment and employment of nationals abroad / migrant workers
   - State regulates PES through licensing or registration
   - State plays a role in vetting of contracts

2. **State-managed approach:**
   - State identifies desirable strategy and targets based on analysis of priorities in relation with employment / economic policy
   - Minimal use of LMIS for decision-making
   - State regulates PES through licensing
   - State plays a role in vetting of contracts and verification
   - State implements policy in partnership with other role players (PEAs, trade unions, etc)
   - Accompanying measures are outsourced to other role players

3. **State monopoly approach:**
   - State decides on strategy and targets based on analysis of priorities in relation with employment / economic policy
   - State develops the necessary services and operational structures to select, recruit, place and may contract national labour with foreign employers (Country of origin) or migrant labour with national employers (Country of Destination)
   - State puts in place its own M & E mechanisms: LMIS is central to State planning in the form of an integrated system which supports each and every step of the policy; sophisticated job seekers / placement data bases are managed by PES
   - State manages a set of accompanying measures throughout the migration cycle

(Source: Adapted from IOM, 2003.)

The level of capacity of the existing PES within a country may encourage governments to opt for one approach or the other. It is also possible to gradually scale up PES services in order to pursue one model of intervention over another. Increased State control over processes, provided efficiency of processes is guaranteed, usually allows countries to aim for their development objectives more tightly. Limited State intervention yields limited developmental impact and leaves the door open to non-compliant practices.
Role and regulation of Private Employment Agencies

A critical dimension of State intervention in the area of labour migration is the ability of Government services to efficiently and pertinently regulate PEAs. As seen in Section 3.5 (Table 3. Ratification of UN and ILO instruments), only Niger has ratified ILO Convention No.181 on Private Employment Agencies. This seriously limits the ability of ECOWAS governments to regulate this sector.

Before considering legislation and policy formulation, governments should set up an adequate institutional framework to coordinate the drafting of national legislation, and its subsequent monitoring and enforcement. This structure may be located in the ministry of labour but may also have a degree of coordination with other key departments. In any case, the authority should have a clear mandate and sufficient resources to carry out its activities.

Formulation of legislation on PEAs may draw on standards and directions provided in international instruments. The regulation of PEAs is laid out in ILO Convention No.181 and its Recommendation No.188. C181 provides definitions of the types of services rendered by PEAs. It recognizes the potentially positive role PEA can play in national and international labour markets. It obliges ratifying states to determine the legal status of PEA and the conditions governing their operations upon consultation with relevant workers’ and employers’ organizations (Art.3).

PEAs typically exercise two types of services: the first is the selection, recruitment and placement of workers directly with a user enterprise (this implies only a role as intermediary and does not modify the employer – employee relationship); the second is the temporary employment of workers and their hiring out to employers in the CoD (this implies a triangular relationship migrant workers – PEs or labour brokers - employers). States might decide to regulate differently these types of activities as well as the categories of workers that PEAs are allowed to recruit. This will determine the degree of coordination and the nature of the relationship between PES and PEAs.

Regulation typically takes the form of registering and / or licensing. While registering entails minimum control, licensing means assessment against established standards. Licensing will typically encompass verification of the personal or corporate personality of the operator, financial, marketing, recruitment and management capability. Regulation of PEAs should also include reporting and data protection systems for personal information on clients and job seekers (Baruah and Cholewinski, 2006: 44-46).

One of the most contentious issues in the regulation of recruitment of migrant workers is the payment of fees to PEAs and intermediaries. Charging fees to workers, particularly low-skilled workers, is generally considered bad practice. It is even prohibited explicitly in ILO Convention No.181 (Article 7). However, if it is “in the interest of the workers concerned, and after consulting the most representative organizations of workers and employers”, exceptions may be allowed for certain categories of workers or types of services provided by PEAs. In fact, most national legislations allow it but the problem is more to do away with over-charging and debt bondage resulting from exorbitant fees.

Government may consider introducing legislation regulating authorised and prohibited fees and disseminating information to migrant workers. In order to avoid abusive rates, placing an upper limit

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4 Of note are the forthcoming ILO Guidelines on Fair Recruitment developed during the ILO tripartite technical meeting on fair recruitment planned for September 2016 which should provide further guidance for policymakers.
on the fees that PEA\textsc{\textels{es}} can charge is common practice. There may be different levels based on workers’ qualifications. India, Pakistan, or the Philippines have legislation on fees.

5.4 Social security

Social security principles\textsuperscript{5}

Extending social security coverage to migrant workers is important for the following reasons:

• Facilitating economic development through the provision of income security for individuals;
• May help improve the demographic situation of a country as migrant workers are often net contributors to the social security system over their lifetime;
• Incentive and facilitated mobility. Attracting migrant workers for the proper functioning of integrated labour markets;
• Formalization of the labour market. Social security coverage is linked tightly with bringing migrant workers into the formal economy.

However, there are also a number of challenges that need to be taken into account. In particular:

• Short careers in the host economy, with frequent job change;
• Often active in the informal sector;
• Separated from dependant family members;
• Information gaps regarding the personal situation;
• Administrative requirements related to the coverage are often significant.

Social security standards for migrant workers

International standards on the social protection of migrant workers are many and they are well developed:

- The Social Security (Minimum Standards) Convention (No. 102) promotes a basic level of social security should be attained everywhere in the world. To attain this objective, it encourages unification of social security schemes and guaranteed income security and medical care for the population, on the basis of the concepts of universal and comprehensive coverage; establishes worldwide agreed minimum standards for all nine branches of social security; comprises explicit non-discrimination clauses: Part XI of Convention No. 102 is devoted to equality of treatment of non-national residents.

- The Equality of Treatment (Social Security) Convention, 1962 (No. 118) provides equality of treatment in all nine branches of social security (guarantees equal treatment with its own nationals to all persons who are nationals of any of the other countries that have ratified the Convention.

\textsuperscript{5} This section draws on Cissé, 2015.
Way forward in ECOWAS

There are at least three policy options to extend social security coverage to migrant workers among ECOWAS Member States: 1. Promote multilateral and bilateral agreements; 2. Setting up of voluntary plans for workers abroad; 3. Community-based schemes to cover member of families and use of remittances.

1. Promote multilateral and bilateral agreements

The principles of these agreements should be the following:

• Equality of treatment: a migrant worker and his or her family should have, as far as possible, the same rights and obligations as the nationals of the destination country;
• Social security provisions of a migrant worker governed at any one time by the legislation of one country only;
• Acquired rights and provision of benefits earned in the host country;
• Where right is conditional upon the completion of a qualifying period, account should be taken of periods served by the migrant worker in each country he/she has worked (aggregation of periods)

In West Africa, two initiatives should be mentioned: The Multilateral Convention of Social Protection (CIPRES) of 1996 and the ECOWAS General Convention on Social Security (See Chapter 4, Section 4.4). As far as the CIPRES is concerned, its characteristics are as follows:

• Its primary objective is to provide a unified oversight function for the management of the social security schemes in the member-states through the establishment of a Permanent Secretariat;
• It was signed in 1996 by 14 CIPRES member-states and covering 19 Social Security administrations in Central and West Africa;
• Burkina Faso, Benin, Central Africa, Republic, Mali, and Niger – have ratified the CIPRES Convention, thus bringing it into force between them;
• Material scope encompasses all benefits, whether in cash or in kind, in the event of old age, disability, death of a family member, employment injury (work accidents and professional diseases), maternity or sickness.

The ECOWAS Social Security Convention, as seen in Chapter 4, still requires progress in its implementation (see recommendations from Fall and Tounkara, 2015, in Chapter 4).

2. Setting up unilateral voluntary plans for workers abroad

These voluntary plans are set up unilaterally, either by the countries of origin (CoO) and countries of destination (CoD):

• A CoD national legislation could provide equality of treatment between nationals and non-nationals, not only for social security coverage, but for the payment of benefits abroad as well;
• A labour-sending country faces difficulties due to a number of restrictions to extend the enforcement of its national legislation beyond its territory but can provide some basic level of protection for its nationals working abroad through a specific plan;
• Examples of such plans are: The Filipino Overseas Migrant Workers Scheme or the Indian Migrant Workers Schemes in the United Arab Emirates.

3. Community-based schemes to cover member of families and use of remittances
There is a broad range of schemes which can be designed at the community level. Some examples are:
• Micro-insurance schemes established by nationals of origin country in the host country;
• Subscribe to existing micro insurance in the origin country to cover the family left behind (hospital plans, death insurance plans, funeral plans, etc);
• Use of remittances and other financial products to pay contributions to social security of origin country if legislation allowed.

5.5 Accompanying measures
Existing publications and data bases provide numerous examples of such technical measures. Here are only a few typical examples:
• Funding and technical facilitation of joint commission and inter-ministerial meetings from inception and throughout implementation;
• Capacity-building among ministries of labour and home affairs / migration of units in charge of BLA implementation (may include equipment, training, additional human resources, building of expertise, labour inspection, labour attachés, etc...);
• Sensitization workshops on ethical recruitment for employers and PEAs;
• Pre-departure, induction and reintegration sensitization programmes for migrant workers and training of trainers among workers organisations and migrant associations (see IOM 2011 Migrant Training Programme Overview);
• Support to vetting and recognition of skills and qualifications through bilateral training of staff;
• Sensitization of health personnel to ensure continuity of access to minimum health care for all migrant workers;
• Funding of and support to the coordination of data collection;
• Support schemes to access and export accumulated social benefits;
• Generalization of labour attachés and provision of social services to migrant workers from embassies and consulates;
• Technical cooperation programmes with financial institutions to decrease transfer costs and provide financial education of migrant workers.

It is important for governments to ensure that migrant workers are accompanied in their migration journey through a range of social services in areas such as travel, health, pension, financial education, savings and remittances, maintenance of the household in CoO.

Chapter 5. Labour migration policy development and coordination
KEY POINTS TO REMEMBER
Labour migration governance is often an overlooked dimension of labour migration management: The absence of policy may lead to serious abuses and minimal developmental impact.

Labour migration measures should be tightly articulated to employment policy. Labour migration is one lever of an employment strategy.

Inter-ministerial coordination, integration of labour migration indicators into Labour Market Information Systems.

Social protection and accompanying measures such as pre-departure training, workplace induction, financial education are key to successful labour migration programmes and policies.
Chapter 6: Practical recommendations for the protection of migrant workers’ rights within the ECOWAS region

The following recommendations have been drafted on the basis of the work conducted in the framework of the Free Movement of Persons and Migration in West Africa project since 2014. For each category of stakeholder, the recommendations are organized from more general actions relying on mid-term structural reforms to more specific and technical measures to be taken swiftly. The column to the right refers the reader to the relevant chapter or section in the guide.

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<th>Stakeholders and recommendations</th>
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<td><strong>6.1 Role of the ECOWAS Commission</strong></td>
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<tr>
<td>6.1.1 Ensure that issues of labour mobility and protection of migrant workers are fully addressed in the forthcoming regional migration policy, both in its guiding principles and action plan.</td>
<td>Chapters 1 and 4</td>
</tr>
<tr>
<td>6.1.2 Encourage Member States to ratify and domesticate ILO C97 (Migration for Employment), C143 (Migrant Workers Supplementary), C181 (Private Employment Agencies), C189 (Domestic Workers) and UN ICRMW (Rights of All Migrant Workers and Members of their Families).</td>
<td>Chapter 3</td>
</tr>
<tr>
<td>6.1.3 Enhance regional tripartite dialogue on labour migration by ensuring the regular tabling of labour migration issues on the agenda of the ECOWAS Social Dialogue Forum.</td>
<td>Chapters 3 and 4 (Section 4.5)</td>
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<tr>
<td>6.1.4 Establish a technical working group on labour migration within the ECOWAS Social Dialogue Forum to elaborate common positions, report on experiences at national level, and disseminate tools and policy developments.</td>
<td>Chapters 3 and 4 (Section 4.5)</td>
</tr>
<tr>
<td>6.1.5 Implementation of ECOWAS labour migration frameworks for Member States governments, Employers, Workers and Civil Society organizations.</td>
<td>Chapter 4</td>
</tr>
<tr>
<td>6.1.6 Use existing regional dialogue mechanisms (MIDWA, Social Dialogue Forum, Youth employment forums) to further labour migration governance topics and challenges and disseminate material produced by the FMM.</td>
<td>Chapter 4</td>
</tr>
<tr>
<td>6.1.7 Build capacity through tools and training for Commission staff across the four main directorates dealing with labour migration issues.</td>
<td>Chapters 4 and 5</td>
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<tr>
<td>6.1.8 Support the establishment and works of the ECOWAS Social Security Committee of Experts and encourage it to work towards (a) supporting harmonisation of data collection and information exchange between Member States social security systems, (b) exploring the feasibility of implementing a regional IT-based exchange platform, (c) disseminating the implications of the</td>
<td>Chapter 4 (Section 4.4) and Chapter 5 (Section 5.4)</td>
</tr>
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Convention widely through regional dialogue forums (Social Dialogue Forum, MIDWA, etc.) and print materials (pamphlets, guides).

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<tr>
<td>6.1.9</td>
<td>Promote the establishment of social protection floors in Member States as a strategy to extend social protection to a greater proportion of migrant workers.</td>
<td>Chapter 4 (Section 4.4) and Chapter 5 (Section 5.4)</td>
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<tr>
<td>6.1.10</td>
<td>Provide Member States with Guidelines to develop national information guides for migrant workers (ECOWAS and non-ECOWAS) presenting them with services, organizations, and procedures to access their rights.</td>
<td>All chapters; Chapters 4 and 5 in particular</td>
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### 6.2 Role of ECOWAS Member States

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<tr>
<td>6.2.1</td>
<td>Update national legislation on the entry and stay of foreigners on the state’s territory in order to fully transpose the 1979 Protocol relating to the Free Movement of Persons, the Right of Residence and Establishment and supplementary protocols into law.</td>
<td>Chapter 4 (Sections 4.1 to 4.3)</td>
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<tr>
<td>6.2.2</td>
<td>Where relevant, ratify and domesticate ILO C97 (Migration for Employment), C143 (Migrant Workers Supplementary), C181 (Private Employment Agencies), C189 (Domestic Workers) and UN ICRMW (Rights of All Migrant Workers and Members of their Families).</td>
<td>Chapters 2 and 3</td>
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<tr>
<td>6.2.3</td>
<td>Establish task teams to develop gender-sensitive, rights-based national labour migration policy or strategy aligned to international labour standards, regional frameworks, ECOWAS commitments as well as contributing to the objectives of national development plans and other key national policies (macro-economic framework, employment, education, gender, sectoral policies).</td>
<td>All chapters and Chapter 5 in particular</td>
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<tr>
<td>6.2.4</td>
<td>Mainstream labour migration issues and ECOWAS commitments under the Protocols and Common Approach into all relevant national policies.</td>
<td>Chapters 4 and 5</td>
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<tr>
<td>6.2.5</td>
<td>Make gender impact assessments an integral procedural component (based on sex-disaggregated statistics on labour migration) of national labour migration policy.</td>
<td>Chapter 1 (Section 1.2), Chapter 2 (Section 2.3), Chapter 5 (Section 5.1)</td>
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<tr>
<td>6.2.6</td>
<td>Reinforce intra-governmental coordination between key stakeholders on migration by establishing permanent inter-ministerial committees with decision-making powers, operational structures for implementation, and sustainable communication plans.</td>
<td>Chapter 5 (Section 5.1)</td>
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<tr>
<td>6.2.7</td>
<td>Based on the recommendations issued in the FMM report on LMIS, conduct the necessary national reforms in order to incorporate labour migration indicators aligned to international standards and agreed upon ECOWAS minimum set of indicators into national LMIS, including gender indicators.</td>
<td>Chapter 5 (Section 5.2)</td>
</tr>
<tr>
<td>6.2.8</td>
<td>Systematically reform and train Public Employment Services staff towards implementation of ECOWAS commitments and professionalization of their services in the selection, recruitment and placement of nationals abroad and of migrant workers on the national labour market.</td>
<td>Chapter 5 (Section 5.3)</td>
</tr>
<tr>
<td>6.2.9</td>
<td>Train immigration officials and labour inspectors systematically to migrant workers’ rights under ECOWAS Protocols and national legislation, including rights specific to female migrant workers.</td>
<td>Chapters 4 and 5</td>
</tr>
<tr>
<td>6.2.10</td>
<td>Establish national task team in order to regulate the operation of Private Employment Agencies, envisage necessary legislative reforms, and explore possibilities for self-regulation through the establishment of national associations of PEAs and training.</td>
<td>Chapter 5 (Section 5.1) together with Chapters 2, 3 and 4</td>
</tr>
</tbody>
</table>
6.2.11 Through PES or in partnership with national stakeholders, migrant organizations, private service providers and international organizations, set up relevant accompanying social services throughout the migration cycle.

### 6.3 Role of Employers’ Associations

#### To the Federation of West African Employers’ Associations (FWAEA)

6.3.1 Draft a strategy for West African Employers on the issue of the protection of migrant workers in supply chains and the prevention of rights violations with a view to educating your members, encouraging them to engage their suppliers and expanding their influence to governments and all relevant stakeholders.

6.3.2 On the basis of the West African strategy, draft West Africa guidelines and training material for your members to encourage them to develop fora and activities at national level.

#### To National Employers’ Associations in West Africa

6.3.3 Develop national strategies and training plans for your members based on three principles:

- Documenting labour migration in their operations;
- Engaging their suppliers and business partners;
- Working closely with governments, workers’ organizations and other civil society organizations towards a better protection of migrant workers and the prevention of violations.

6.3.4 Expand your expertise by undertaking national studies among your members to document labour migration among their operations and supply chains by:

- Mapping out existing international, regional and national standards and laws regulating the recruitment, contracting and employment of migrant workers;
- Researching the recruitment and employment practices of your suppliers with particular attention to gender discrimination;
- Assessing whether national labour laws support migrant workers in policy and in practice;
- Investigating the legal requirements for pre-departure trainings in important origin countries;
- Determining what levels of preparation workers have likely had and identify potential risk areas;
- Investigating what resources exist for migrant workers to report maltreatment in the country of employment with particular attention to maltreatment of female migrant workers, e.g. hotlines, trade unions, NGOs, destination country government agencies, and origin country embassies;
- Understanding the dispute resolution processes in the country of employment.

6.3.5 Educate and train suppliers by:

- Emphasizing a gender-sensitive, rights-based approach to migrant workers in their code of conduct and accompanying policies;
- Ensuring alignment between sourcing plans and protection of migrant workers; that is, source from countries that are committed to protecting migrant worker rights;
- Improving oversight and monitoring to assure compliance with migrant protections;
- Utilizing existing regional structures and origin government resources to identify good recruiting agencies, and to help link suppliers to them;

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6 This section draws on and is adapted from Business for Social Responsibility 2008.
• Establishing direct hotlines for migrant workers to report malpractice and abuses;
• Incentivizing direct employment through adjusted codes of conduct;
• Working with suppliers to set fees and contracts with employment agencies to limit the opportunity for unfair fee charging to migrant workers.

6.3.6 Expand your influence by encouraging your members to explore the following outreach strategies:
• Advocate a shift toward protection-focused policies and practices with all stakeholders – suppliers, recruiters and government;
• Participate actively in international and regional fora, such as the African Union Commission Technical Meeting on Social Development and Labour Affairs; the ECOWAS Tripartite Social Dialogue Forum, or the MIDWA process;
• Emphasize to national governments that sourcing decisions are based on equal protection of all workers under the law;
• Support the ratification of international conventions protecting migrant workers;
• Advocate to governments the importance of including labour provisions in international trade agreements;
• Develop a coordinated private sector approach, e.g. sharing best practices and establishing a unified position for government engagement;
• Establish industry-wide recruitment and employment practices; create guidance manuals for suppliers on company expectations;
• Engage Civil Society and Organized Labour to create and disperse trainings in destination and origin countries, utilizing existing trade union networks.

6.4 Role of Workers’ Organizations

To OTUWA and National Confederations

6.4.1 Draft strategic approaches at the regional (Organization of Trade Union of West Africa) and national levels based on labour market analyses and observation of trends in practice among employers and suppliers of migrant labour with particular attention to especially vulnerable categories of workers such as female migrant domestic workers.

6.4.2 With support from the ECOWAS Commission and international organizations, OTUWA to draft guidelines to its affiliates to educate and sensitize them to existing standards and frameworks for the protection of migrant workers in the ECOWAS zone.

6.4.3 Ensure regular and strategic tabling of labour migration issues on the agenda of the ECOWAS Tripartite Social Dialogue Forum and representation of Workers’ organizations.

6.4.4 Advocate for the creation of tripartite structures at national level.

6.4.5 Advocate for the ratification of international conventions by ECOWAS Member States.

6.4.6 Advocate for the alignment of national legislations and practices to ECOWAS frameworks on free movement.

6.4.7 Establish multilateral and bilateral trade union agreements:
• Map out trade unions along supply chains from CoO to CoD within ECOWAS and

7 This section draws on the ACTRAV approach to the protection of migrant workers (ILO ACTRAV 2010).
outside ECOWAS;

- Using the ILO ACTRAV Model Bilateral Trade Union Agreement, explore possibilities of setting up bilateral or multilateral trade union agreements focusing on preventing violations of migrant workers’ rights along supply chains;
- Use existing regional and sub-regional trade union platforms to regularly table labour migration issues;
- Establish regional / sub-regional information exchange platforms on thematic issues: gender discrimination, wages, occupational safety and health requirements, conditions of employment, working hours, access to social security benefits, etc…
- Use such agreements to sensitize job seekers in CoO.

### 6.4.8 Educate and train trade unionists:

- As part of your national and sub-regional strategies for the protection of migrant workers, set up national and/or sub-regional education and training programmes for trade unionists on existing international standards, regional and ECOWAS frameworks and national legislations and organising strategies, and the gender dimensions of labour migration;
- Expose trade unionists to international discussions on labour migration (ILO Global Labour Migration Academy; Global Forum on Migration and Development; etc);
- Develop national training manuals on the protection of migrant workers;
- Establish partnerships with Employers, Migrant Rights Organizations and other national stakeholders to promote rights-based approaches to labour migration.

### 6.4.9 Organize migrant workers:

- Through training workshops and information sessions, sensitize and educate all workers, national and migrant, to the need to protect migrant workers and enforce equality of treatment, including on issues of gender and access to social security benefits;
- Establish fee structure sensitive to migrant workers’ emphasis on maximum saving;
- Establish specific programmes for migrant workers to deconstruct negative opinions on trade unions;
- Establish specific packages of services to migrant workers (language, induction at workplace level, education of OSH, access to social benefits, preparation upon return, gender specific services such as access to child care, etc);
- Promote migrant workers to trade union responsibilities wherever possible and relevant to encourage peer-mobilisation.

## 6.5 Role of Migrant Workers and Other Civil Society Organizations

### 6.5.1 FORMALISATION

- Formalise existing migrant organizations through consultative and democratic processes of registration and election of representatives among communities of migrant workers
- Exchange information on practices that migrant workers face at all stages of the migration cycle;
- Set up national strategies for your organizations with clear objectives and targets;
- Request observer status in regional, sub-regional and national tripartite discussion and advocate for the tabling of labour migration issues (e.g. ECOWAS Tripartite Social Dialogue Forum; MIDWA; national social dialogue mechanisms)

### 6.5.2 NETWORKING, OUTREACH AND VISIBILITY

- Establish linkages with governments, trade unions, employers’ organizations;
- Exchange information with peer organizations among other communities of migrant workers;
- Network with national and regional human rights organizations;
- Establish connections across different countries with other diaspora organizations;
- Participate in fora and platforms to publicize your organization’s role;
- Sensitize the media to the conditions of migrant workers.
6.5.3 EDUCATION AND TRAINING OF MEMBERS

- Educate and train your members and organisers to existing international, regional and national standards and frameworks for the protection of migrant workers, including the gender dimension of migration;
- Develop information material together with other organizations and distribute widely among migrant communities;
- Educate and train migrants to their rights and responsibilities and to the opportunities for self-development offered in the community of destination.

Chapters 2, 3 and 4. On gender aspects of labour migration, see more specifically Chapter 1 (Section 1.2), Chapter 2 (Section 2.3), Chapter 5 (Section 5.1)
References

ECOWAS References

Protocols

- Protocol A/P1/5/79 on free movement of persons, the right of residence and establishment;
- Protocol A/P3/5/82 relating to the definition of Community citizenship;
- Supplementary Protocol A/SP1/7/85 on the code of conduct for the implementation of the protocol on free movement of persons, the right of residence and establishment;
- Supplementary Protocol A/SP1/7/86 on the second phase (right of residence) of the protocol on free movement of persons, the rights of residence and establishment;
- Supplementary Protocol A/SP1/6/89 amending and complementing the provisions of article 7 of the protocol on free movement of persons, the right of residence and establishment;
- Supplementary Protocol A/SP2/5/90 on the implementation of the third phase (right of establishment) of the protocol on free movement of persons, the right of residence and establishment.

Decisions

- Decision A/DEC.8/5/82 amending the provisions of paragraph 1 of the article 27 of the Treaty of Economic Community of West African States;
- Decision A/DEC.10/5/82 Relating to the application of the protocol relating to the free movement of persons and the public enlightenment programme;
- Decision A/DEC.2/7/85 of the authority of heads of State and government of the Economic Community of West African States relating to establishment of ECOWAS travel certificate for Member States;
- Decision A/DEC.2/5/90 establishing a residence card in ECOWAS Member States.

Frameworks, plans of action and roadmaps

- Regional Labour and Employment Policy, 2009
- Regional Action Plan on Youth Employment, 2012
- ECOWAS Child Policy and the accompanying Strategic Plan of Action for the ECOWAS Child Policy 2009-2013,
- West Africa Regional Action Plan to Eliminate Child Labour, Especially its Worst Forms (adopted in December 2012);
- Plan of Action for the Elimination of Child Labour, Especially the Worst Forms developed and approved for 2013-2015.
- Declaration on the Fight against Trafficking in Persons, 2001,
- Initial Plan of Action against Trafficking in Persons (2002-2003),
- Joint ECOWAS/ECCAS Regional Plan of Action to Combat Trafficking in Persons, especially Women and Children (2006-2008),
- Strategic Plan of Action for the Combat of Trafficking in Persons in West Africa for 2010-2013, 2010
• Roadmap on Trafficking in Persons and Child Protection for West Africa, 2010,
• Strategic Plan 2011-2015, A proactive Mechanism for Change, 2010,
• Draft Regional Guidelines on Protection Support and Assistance to Witnesses, 2010.

Resolutions and meetings

ECOWAS Heads of State. 1984. Resolution A/RES.2/11/84 of the authority of heads of State and Government on the first phase of the protocol relating to free movement of persons, the right of residence and establishment.


General references


IOM IDF Regional Guidelines for the Development of Bilateral Labour Agreements (BLAs) in the Southern African Development Community (SADC). Draft submitted to SADC ELS for approval. Pretoria: IOM.


