Background Note

Thematic Roundtable 1: Ensuring that migration is voluntary, orderly and regular

I. Guiding Questions

1. What can be done to promote the ratification and implementation by member States of international labour standards on the protection of migrant workers as well as free movement protocols?

2. How can African member States, working with stakeholders in countries of origin and destination, both individually and collectively, ensure decent work for African workers?

3. How can member States and other stakeholders establish effective mechanisms and platforms that facilitate mutual recognition of skills, qualifications and competencies?

II. Introduction

Unfortunately, most migration in Africa is driven by necessity rather than choice. People move due to conflict, persistent, sustainable development deficits, and a lack of decent work opportunities. As an adverse driver, the impacts of climate change are likely to increase peoples' need to migrate, diversify livelihoods and escape slow-onset disasters such as droughts.

The lack of regular migration pathways, both within and beyond the continent, means that African migrant workers, asylum seekers, and forcibly displaced persons often use the same migration routes, resulting in unsafe, disorderly and irregular migration. The growing number and scale of mixed migration flows make the identification and referral of migrants difficult. To improve certainty and predictability in migration procedures, improved digitalization and use of technology to support appropriate screening, assessment

and referral are needed. Rights-based approaches to screening migrants are critical, while efforts to increase training for border staff and reduce discretionary decision-making are necessary.

Labour migration in Africa is characterised mainly by the migration of workers to low-skill jobs in other African countries. Over 80% of labour migration flows of African nationals take place within the African continent. All countries are involved in labour migration flows as countries of origin, transit, or destination, often playing all three roles simultaneously.

Demand in economic sectors such as agriculture, fishing, mining and construction, services (domestic work, health care, cleaning, restaurants and hotels), and retail trade are significant drivers of labour mobility within the region.

Despite the existence of international labour standards relating to recruitment, national laws and their enforcement often fall short in protecting the rights of workers, particularly migrant workers. Data on fair recruitment issues in Africa are limited. However, in cases of complex labour migration procedures beyond the region, it is likely that African migrant workers pay significant costs. A recruitment cost survey found that migrant workers from Ghana paid an average of US$1,370 to work abroad, representing around two months' salary.[1] Therefore, it is necessary to ensure adequate monitoring and regulation of private recruitment agencies and to offer workers who are victims of malpractice access to remedies.

Upon arrival, migrants are often concentrated in the informal economy, which is characterized by decent work deficits.[2]

High-skilled migration beyond the continent and labour migration to the Middle East are emerging trends. Recent data suggests significant levels of feminization of migration in Africa (UNDESA).

Ensuring that migrant workers can develop and have their skills recognized in both countries of origin and destination is critical to harnessing their development and decent work potential. However, it is important to ensure that efforts to develop skills in countries of origin are relevant to and integrated into national skill systems, and should engage stakeholders, especially employers' and workers' organizations. A focus on skills for green jobs is especially important to support a just transition to green economies and societies.

The low capacity of national recognition bodies and processes in both sending and receiving countries has been one of the major barriers to skills portability and the recognition of migrant workers' skills. To access employment, migrant workers require not only relevant skills but also the ability to effectively communicate and validate these skills to potential employers (verifiable and transferable skills). Transferability ensures that skills are portable between jobs and easily recognized by employers across different sectors and regions.

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[1] https://www.ilo.org/publications/2019-recruitment-costs-pilot-survey-report-ghana-measuring-sdg-indicator

[2] ILO C143 Migrant Workers (Supplementary Provisions) Convention (1975): the term migrant worker describes a person who migrates or who has migrated from one country to another with a view to being employed otherwise than on his own account and includes any person regularly admitted as a migrant worker.

Effective governance of labour migration is grounded in international human rights standards[3], including labour standards.[4] Engaging all world-of-work actors (employers' organisations and workers' organizations and Ministries of Labour) in the implementation of the GCM is crucial.

III. Overview of Progress

Migration governance is hampered by power imbalances, limited international cooperation, and capacity constraints. However, significant efforts have been made by governments and stakeholders to address these limitations and advance GCM objectives.

Countries are addressing the adverse drivers of migration. African world-of-work actors of the AU, the ILO, the International Trade Union Confederation Africa (ITUC-Africa), and the International Organization of Employers (IOE) issued a Communiqué to the "First Africa Labour Migration Conference" (2023) which underlines that migration and mobility, particularly labour migration, should not be considered as a panacea for unemployment. It also recalls the need to address the root causes and structural drivers of migration and ensure that migration is a choice rather than a necessity.

The Kampala Declaration on Migration, Environment and Climate Change and its action plan have galvanized efforts to strengthen resilience to climate change and its impacts.

Other achievements include results from Migration Multi-Partner Trust Fund-funded Joint Programmes. The programme "Addressing Drivers and Facilitating Safe, Orderly and Regular Migration in the Contexts of Disasters and Climate Change in the IGAD Region"[5] helped facilitate pathways for regular migration in the IGAD region and minimize displacement risk in the context of climate change, environmental degradation and disasters.

The programme "The Gambia: Addressing the drivers and causes of migration-related vulnerabilities among border communities along the Trans-Gambia transport corridor"[6] supports communities living, working or travelling along the northern and southern parts of both The Gambia and Senegal, mitigating migration challenges and creating better skills development and entrepreneurship opportunities for youth, women and children.

In terms of regular migration pathways, the African Union (AU) is formulating and adopting measures to address regular migration pathways and protect the rights of African migrant workers. AU Member States

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[3] For this Roundtable, some of the most relevant ILO Conventions contributing to the improvement of working and living conditions of migrant workers, are: (i) the Private Employment Agencies Convention, 1997 (No. 181) which purpose is to "allow the operation of private employment agencies as well as to ensure the protection of the workers using their services"; (ii) the Domestic Workers Convention, 2011 (No. 189); (iii) the 2014 Protocol to the Forced Labour Convention (P 29); and (iv) the Violence and Harassment Convention, 2019 (No. 190).

[4] ILO Migration for Employment Convention (Revised), 1949 (No. 97)4; the Migrant Workers (Supplementary Provisions) Convention, 1975 (No. 143)4; and, the International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families (ICRMW)4 adopted in 1990 by the United Nations General Assembly.

[5] (jointly implemented by IOM, ILO, UNOPS, UNHCR) Addressing Drivers and Facilitating Safe, Orderly and Regular Migration in the Contexts of Disasters and Climate Change in the IGAD Region | United Nations Network on Migration

[6] (jointly implemented by ITC, IOM, UNDP, UNICEF) https://gambia.iom.int/news/united-nations-launches-landmark-project-addressing-migration-related-vulnerabilities-among-border-communities-along-trans-gambia-corridor

adopted a Protocol to the Treaty Establishing the African Economic Community Relating to the Free Movement of Persons, Right of Residence and Right of Establishment (AU Free Movement Protocol), which aims to facilitate entry measures for different categories of migrants and create new visa categories. However, the Protocol has only been ratified by four countries;[7] 15 ratifications are required for it to enter into force.[8]

The AU, ILO and IOM have been supporting African Member States through the Joint Labour Migration Programme (JLMP) to support the labour migration component of the African Union's Migration Policy Framework for Africa and its Plan of Action (2018-2030). This support has also contributed to implementing the labour migration provisions of the Free Movement Protocol,[9] promoting gender-responsive labour migration policies; ratifying relevant international labour standards; negotiating bilateral labour migration agreements (BLMAs); ensuring fair and ethical recruitment and decent employment of migrant workers; supporting migrant workers' access to social security benefits; ensuring skills mobility (anticipation, profiling, transfer, recognition and matching); and, improving labour migration statistics.

All eight RECs have developed mechanisms to promote the free movement of persons, but levels of implementation vary.[10] Recently, they have also developed labour migration policy frameworks, such as the SADC Labour Migration Action Plan (2020-2025).

African countries negotiate BLMAs separately and often find themselves in weak bargaining positions, resulting in agreements that do not adequately protect the rights of their nationals. In response, AU member States approved the "AU Guidelines on Developing Bilateral Labour Agreements (BLAs)" (2022). At the subregional level, IGAD member States adopted the "IGAD Regional Guidelines on Rights-Based Bilateral Labour Agreements" for the drafting, negotiating, implementing, monitoring, and evaluating bilateral labour agreements. They often have very limited consular presence abroad, limiting their ability to ensure follow-up on complaints of abuse and labour exploitation. However, many countries have adopted and implemented labour migration policies and strategies

The countries of the Gulf Cooperation Council,[11] Lebanon, Jordan and 25 African States[12] adopted the Doha Declaration on Labour Mobility (May 2024). This resulted from a Dialogue that included the participation of ITUC Africa, OATUU, Business Africa, the Arab League Trade Union and the RECs[13]. It establishes a framework for regular dialogue and cooperation to enhance interregional efforts and

[7] Rwanda, Niger, Sao Tome and Principe, and Mali

[8] 36403-sl-PROTOCOL_TO_THE_TREATY_ESTABLISHING_THE_AFRICAN_ECONOMIC_COMMUNITY_RELATING_TO_FREE_MOVEMENT_OF_PERSONS-1.pdf (au.int)

[9] AU "Labour Migration-Mobility Guidelines: Strategies to domesticate the labour migration-mobility related provisions of the AU Free Movement Protocol into regional and national legal and regulatory systems" (2018).

[10] AMU, COMESA, CEN-SAD, EAC, ECCAS, ECOWAS, IGAD, and SADC.

[11] United Arab Emirates, Bahrain, Saudi Arabia, Oman, Kuwait, Qatar, Jordan and Lebanon.

[12] Algeria, Libya, Democratic Republic of Congo, Sierra Leone, Burundi, Chad, Cote d'Ivoire, Republic of the Congo, Djibouti, Egypt, Eritrea, Ghana, Kenya, Morocco, Nigeria, Cameroon, Somalia, South Africa, Senegal, Tanzania, Tunisia, Uganda, Zambia, and Ethiopia.

[13] The Doha Dialogue Paves the Way for Improved Labor Mobility Governance Between Africa and the Middle East | International Labour Organization (ilo.org)

understanding, foster partnerships and improve the contractual work cycle of migrant workers while ensuring human rights-based protection measures.[14]

Trade unions have adopted bilateral agreements in countries of origin and destination to protect migrant workers (e.g. Mediterranean-Sub-Saharan Migration Trade Union Network --RSMMS), and use of administrative data to issue "Trade Union Passports" for migrant workers, building on the experience between Côte d'Ivoire Tunisia and Somalia-Ethiopia.

To address fair and ethical recruitment, the AU endorsed a "Fair and Ethical Recruitment Strategy for Africa" (2024)[15] and validated the "2021 Declaration on the Protection and Promotion of the Rights of Migrant Workers" (2022).[16] Additionally, the Indian Ocean region approved a "Code of Conduct and Self-Assessment Tool on the Fair and Ethical Recruitment of Migrant Workers".

African regions and countries have formulated and adopted "Skills Mobility Frameworks" to help them identify labour shortages and make informed labour market decisions at the sectoral, occupational, economic and skill levels. Strengthened labour market data can help identify skill needs: SADC has begun to develop a labour market observatory focused on labour migration and skills, while the Union du Maghreb Arabe released its first report on labour market statistics.

IV. Recommendations

1. Member States to regularly organise a Tripartite African Labour Migration Conference that serves as a platform to deliberate on and find joint solutions and positions to common labour migration challenges, including ratifying the AU Free Movement Protocol.

2. Member States to advance the ratification and effective implementation of the Migration for Employment Convention (Revised), 1949 (No. 97), Migrant Workers (Supplementary Provisions) Convention, 1975 (No. 143), Equality of Treatment (Social Security) Convention, 1962 (No. 118), Domestic Workers Convention, 2011 (No. 189), the Violence and Harassment Convention, 2019 (No. 190) and the 1990 International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families (ICRMW). This includes the implementation of the provisions of the African guiding principles on the human rights of migrants, refugees and asylum seekers;

3. Member States to use the AU Guidelines on Developing BLMAs and regional-level guidelines such as the IGAD Regional Guidelines on Rights-Based Bilateral Labour Agreements for drafting, negotiating, implementing, monitoring, and evaluating bilateral labour agreements;

4. The AUC to support RECs, member States and stakeholders, including employers' and workers' organizations in formulating, implementing, monitoring and evaluating policies and procedures in compliance with the ILO General principles and Operational Guidelines for Fair Recruitment and

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[14] Doha Declaration (au.int)

[15] African Union embraces youth employment and fair recruitment strategies | International Labour Organization (ilo.org)

[16] 41106-wd-DRAFT_DECLARATION_-ENGLISH.pdf (au.int);

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relevant International Labour Standards, in line with the AU Fair and Ethical Recruitment Strategy, and include implementing recruitment cost surveys in line with SDG indicator 10.7.1;

5. Member States to conclude and/or implement bilateral and multilateral Skills Mobility Partnership Frameworks, Agreements or Programmes on harmonization of labour competencies, recognition of qualifications and prior learning, and skills anticipation mechanisms, and to evaluate, undertake and assess labour market needs or skills assessments, and build efficient mechanisms for skills development, anticipation, recognition and matching.