



Labour Mobility and Regional Integration in East and Horn of Africa

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Labour Mobility and Regional Integration in East and Horn of Africa

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FOREWORD



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Labour mobility and labour migration are major drivers of the movement of people across borders in East and Horn of Africa (EHOA) – a region with high levels of mobility among youth, women and men. The EHOA hosts seven of the fifteen largest intracontinental mobility corridors. Demand for high- and low-skilled labour, economic differences between Member States and interpersonal networks prompt considerable intraregional migratory movements of

people searching for better livelihoods, both regularly and irregularly, and the trend is pointing upwards: the number of migrant workers in the EHOA region nearly doubled between 2010 and 2019, from 2.5 million to 4.7 million.

Labour migration, when governed in a safe, orderly, effective and sustainable way, can be a driving force for inclusive economic growth and sustainable development in countries of origin, transit, and destination. Regional economic communities (RECs) in the EHOA, namely the East African Community (EAC) and the Intergovernmental Authority on Development (IGAD), occupy a central space in ensuring policy coherence, promoting regional and harmonized national approaches to effective governance of labour migration, and coordinating relevant instruments. Through the EAC Common Market Protocol (CMP) and the IGAD Free Movement Protocol (FMP), which seek to remove barriers to and create a common market for free movement of goods, services and persons for the Member States and accelerate economic integration and social cohesion, both RECs recognize the centrality of labour migration.

Yet, despite the scale of the movements and efforts towards ensuring regular and safer migration for all, stark differences persist between Member States across the EHOA region. Specifically, the level of protection afforded to migrant workers and members of their families in several key dimensions, such as the portability of social security benefits and mutual skills recognition, varies substantially. This not only leads to inefficiencies in building a functioning labour mobility regime but also puts those on the move at risk, increasing the vulnerabilities of women, men and children; hindering migrant workers' regular access to labour markets; and potentially incentivizing irregular movements.

Cognizant of this fact, IOM, within the framework of the Better Regional Migration Management (BRMM) programme, which is funded by the Foreign, Commonwealth and Development Office of the United Kingdom, has commissioned this research report to

analyse the role of the EAC CMP and the IGAD FMP in facilitating labour mobility and labour migration in the EHoA region. The report provides an in-depth analysis of the policy context governing the rights of migrant workers and members of their families in the EHoA region within the framework of the two protocols, paying special attention to the experiences of Kenya, Rwanda and Uganda. The report discusses the opportunities and challenges of the overlapping REC memberships of Member States, namely Kenya and Uganda, for the implementation of the IGAD FMP and the acceleration of the EAC CMP in relation to labour migration. The authors also consider the impact of COVID-19 and gender dimensions on labour migration and its gendered outcomes. Finally, the report includes suggestions for the EAC, the IGAD and Member States on how to overcome the identified challenges.

Guided by the relevant regional and global initiatives addressing mobility and migration dimensions, such as the Agenda 2063: The Africa We Want, the African Union Free Movement of Persons Protocol, the Revised Migration Policy Framework for Africa, the 2030 Agenda for Sustainable Development, the Global Compact for Migration, and the relevant provisions in the EAC CMP and the IGAD FMP, this report makes an important contribution to the discussion around the crucial role of labour migration as a regular pathway for migration and potential catalyst for strengthening regional integration and social cohesion. The report further complements IOM's efforts to advance safe, orderly and humane labour migration governance that is gender and age sensitive across the region through the Regional Ministerial Forum for Migration on Harmonizing Labor Migration Policies in East and Horn of Africa and in cooperation with the two RECs and their Member States.

With this report, the authors have managed to distill approaches to strengthen regional common approaches and dialogue in the formulation and implementation of evidence-based, ethical and gender-sensitive harmonized labour migration policies. We hope that this report will incentivize key actors in the region to work together to use regional mechanisms and frameworks to advance the region's labour migration governance system to expand access to decent work for the benefit of all.

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This report on labour mobility and regional integration in East and Horn of Africa was developed in close coordination with and partnership between different stakeholders including research assistants of the authors, as well as experts at the IOM Regional Office for East and Horn of Africa and IOM country offices in Kenya, Rwanda and Uganda.

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ABBREVIATIONS AND ACRONYMS

ACBC	African Capacity Building Centre
BLA	bilateral labour agreement
BRMM	Better Regional Migration Management
CESTRAR	Centrale des Syndicats des Travailleurs du Rwanda (Rwanda Workers' Trade Union Confederation)
CMS	Common Market Scorecard
COMESA	Common Market of East and Southern Africa
COTU	Central Organization for Trade Unions
DGIE	Directorate General of Immigration and Emigration (Rwanda)
EAC	East African Community
EAC CMP	East African Community Protocol on the Establishment of the East African Community Common Market
EAC LMP	East African Community Labour Migration Policy
EAQFHE	East African Qualifications Framework for Higher Education
EEMIS	External Employment Management Information System (Uganda)
EHoA	East and Horn of Africa
FCDO	Foreign, Commonwealth and Development Office (United Kingdom)
GCC	Gulf Cooperation Council
IDP	internally displaced person
IGAD	Intergovernmental Authority on Development
IGAD FMP	Intergovernmental Authority on Development Protocol on Free Movement of Persons in the IGAD Region
KNCHR	Kenya National Commission on Human Rights

LMIS	labour market information system
MDAs	ministries, departments and agencies
MGLSD	Ministry of Gender, Labour and Social Development (Uganda)
MIGA	Migration Governance Architecture
MoFA	Ministry of Foreign Affairs (Uganda)
MRA	mutual recognition agreement
NADICOK	National Diaspora Council of Kenya
NCM	National Coordination Mechanism on Migration
NEA	National Employment Authority (Kenya)
NGO	non-governmental organization
NQF	national qualifications framework
NSSF	National Social Security Fund (Uganda)
ODL	Occupations in Demand List (Rwanda)
PEA	private employment agency
PLA	Platform for Labour Action
PoE	point of entry
RCP	regional consultative process on migration
RDB	Rwanda Development Board
REC	regional economic community
RMFM	Regional Ministerial Forum on Migration
RMPF	Regional Migration Policy Framework
RQF	Regional Qualifications Framework
TFEU	Treaty on the Functioning of the European Union
TVET	technical and vocational education and training
UNHCR	(Office of the) United Nations High Commissioner for Refugees
YESI	Youth Employment and Skilling Initiative

KEY FINDINGS AND POLICY SUGGESTIONS

Key findings

Policy suggestions

The national systems of Kenya, Uganda and Rwanda (to a varying degree) have put in place measures to safeguard the rights as well as facilitate the mobility of migrant workers and members of their families within the EHoA region.

Institute a regional framework on social security benefits and portability. Existing national initiatives on social security and portability are ad hoc in nature, and a regional process would harmonize practices and safeguard the rights of returning migrant workers. Attempts are now being made to update the approved EAC Council Directive on the Coordination of Social Security Benefits, which is a necessary first step in the process. This enables the Council to initiate discussions on broadening the scope of coverage in respect of the number of persons and the areas of social security covered at the national level.

By adopting measures to broaden social security protection to all categories of migrant workers, Rwanda created the Ejo Heza in 2018 as a voluntary investment scheme specifically targeting nationals and migrants engaged in the informal sector as well as the self-employed migrant workers.

Build the capacity of labour unions to safeguard the rights and conditions of service of their members. The capacity of the leadership of labour unions could be built through regional training courses on such issues as negotiation skills and effective protection of human rights and through regional forums that enable cross-learning among diverse labour unions.

There is a lack of pathways to employment for the youth in the region, although 20 per cent of the 127 million people of Kenya, Rwanda, the United Republic of Tanzania and Uganda are between the ages of 15 and 24 years. IGAD is developing the YESI. Within the EAC, a youth exchange programme has yet to be developed that will allow the youth to enjoy the freedoms of the CMP.

Facilitated pathways for youth to compete favourably for employment opportunities in the region could lead to multiple socioeconomic benefits. In this respect, the ongoing discussions to institute a youth exchange programme to create pathways to employment for the youth in EAC Partner States is a step in the right direction as is the IGAD YESI. As part of these initiatives, creating a mentorship pathway for the youth to build professional experience over time could strengthen the outcomes of the pathways.

Key findings	Policy suggestions
<p>Overlapping memberships have the potential to enhance access to a wider labour market, contributing to the development of the region. In 2021, the combined economy of the EHoA region grew by 3 per cent compared to 0.7 per cent growth rate recorded in 2020 at the height of the global pandemic. Kenya and Uganda, as members of the EAC and the IGAD, can negotiate access to the labour market for their citizens in other destinations in both regional blocs.</p>	<p>Existing platforms such as the RMFM should be used to brainstorm and share expertise by the EAC and IGAD Partner/Member States on how to enhance migrant rights protection, facilitate labour mobility, and harmonize policies and procedures to promote better regional integration that works for all, including migrant workers.</p>

INTRODUCTION

“If you find yourself in both blocs, that is a really big market and if you are really focused, you can benefit from the economies of scale. The advantage of a country that is in both outweighs the advantages of one that is in a single REC...if we are talking about contributions to sustain [an] REC, I do not think countries can fail to contribute to the two RECs if they are serious. The benefits the country will accrue [and] outweigh the contribution, so I do not think it should be a problem since they handle the same economic issues.”

Official, Ministry of Gender, Labour and Social Development (Uganda)

This report analyses the roles of the EAC CMP and the IGAD FMP in facilitating labour migration in the EHoA region. The report provides an in-depth analysis of the legal and policy context of protecting the rights of migrant workers in the EHoA region, focusing on the EAC CMP and IGAD FMP and national labour provisions of the case study countries – Kenya, Rwanda and Uganda – including gender considerations. It also discusses opportunities and challenges of overlapping memberships for the implementation of the IGAD FMP and acceleration of the EAC CMP in relation to labour migration and the rights of migrant workers based on the perspectives of Kenya and Uganda. It also explores the impact of overlapping memberships, taking into account the impact of COVID-19 on labour migration.

The need for this report stems from the critical role labour migration plays in the EHoA region, as countries explore ways of creating regular pathways for migration to strengthen regional integration. The report generates perspectives from Uganda and Kenya on some of the challenges and opportunities associated with overlapping memberships of the EAC and the IGAD. Rwanda was selected since its comprehensive legal instruments on labour migration can offer lessons and best practices to advance labour migration in the region.

The report is based on a desk review of existing regional and national reports and legal instruments on labour migration. In addition, 30 in-depth key informant interviews were conducted between November 2021 and February 2022 with respondents directly engaged in labour migration in institutions at regional and national level. This included government MDAs, RECs, especially the IGAD and the EAC, United Nations agencies, private recruitment agencies, trade unions, civil society organizations and research centres or organizations. The report has six sections:

Section one focuses on the significance of labour migration in the context of the EHoA region. The EAC’s rationale is geared towards facilitating and reinforcing sustainable economic, social, political and cultural integration of the polities of Partner States. The IGAD’s rationale is focused on exploring of mechanisms towards peaceful resolution of conflicts and environmental disasters in the region. Free movement of labour is recognized

by both RECs as an important factor to achieving their shared objectives, one of which is socioeconomic development. This provides a good entry point for analysis set out in this paper.

Section two maps out labour migration patterns in the EHoA region and beyond.

It highlights the migration corridors stemming from the region looking at source, transit and destination countries, as well as discusses the gendered nature of labour migration within the region, to the GCC and the countries in the Global North. Furthermore, it recognizes the transhumance mobility that dominates the IGAD region and discusses the self-reliance approaches adopted in refugee settings. Although the pandemic had a negative impact on labour migration in the region, remittance contribution to Kenya increased from USD 2.5 billion in 2019 to USD 3.7 billion at the end of 2021 against projections.

Section three focuses on the status of regional and national legal frameworks on migrant workers' rights in the region.

All three countries use data to identify their labour market needs by sector. They also prioritize qualified citizens over non-nationals when job opportunities arise in the country to harness their local labour market. When certain skills are found to be lacking in the country, EAC citizens are considered first, before expanding beyond the region. Mutual recognition of skills frameworks plays an important role in providing migrant workers access to other labour markets. The IGAD is still in the process of developing its RQF, while the EAC developed the EAQFHE in 2015. The EAC built on its long history of recognition of certificates established between Kenya, Uganda and the United Republic of Tanzania since the 1960s when the East Africa University established campuses in Kampala, Nairobi and Dar es Salaam. Although the harmonization process is slow, countries are negotiating MRAs with professional associations at the national level. Portability of social security is an ongoing challenge in the EAC region, as countries have different systems that are not advanced. Both Kenya and Uganda have similar adjunct laws on social security that considers migrant workers. However, undocumented migrants in Kenya and Uganda do not have access to protection as they do not meet the legal requirements to work in the host countries. The COVID-19 pandemic revealed challenges of existing national instruments on free movement. The border closures at the early stages of the pandemic exposed the lack of adequate guidelines for return, reintegration and readmission of nationals working and residing outside their countries of origin. As a result, national governments use regional platforms to develop guidelines to monitor the movement of all migrants including labour migrants.

Section four discusses regional and national labour migration governance structures and mechanisms, including implications of overlapping memberships.

Findings of the report indicate that regional and national governance systems play an important role in coordinating labour migration. Countries with overlapping memberships of both the EAC and the IGAD can benefit from access to a wider labour market and expanded stakeholders' platform. On the other hand, duplication of efforts and coordination challenges are among the key difficulties facing countries with dual memberships.

The report highlights the **key findings of the study**, showcasing that the three countries are in the process of creating an environment where free movement of workers is possible

by removing barriers, such as work permit fees for EAC citizens, and initiating the EAC Passport. The EAC has taken strategic steps to reach a consensus among Member States, and the experience could guide the IGAD on the implementation of its FMP provision on the removal of visa costs for Member States in phase 1 and on facilitating free movement of workers in phase 2. The EAC can equally benefit from the IGAD's experience in conflict management and resolution.

The report concludes by providing **key policy recommendations for different important stakeholders, including members of the EAC and the IGAD, to advance migrant workers' rights and turn overlapping memberships into opportunities to advance labour migration in the region.** The recommendations can be of great importance for policy-oriented platforms, such as the RMFM, established in 2020 by 11 States from EHoA region; it plays a key role in facilitating regional labour migration governance regime, allowing States to jointly address labour migration policies and protecting the human, labour, and social rights of migrant workers moving within and from Africa to the European Union, GCC and other countries.

This report is part of a series of reports produced by IOM through the BRMM project, covering the EHoA region. The BRMM, which is funded by the United Kingdom FCDO, aims to support regional integration and to facilitate labour migration for transformative, inclusive and sustainable growth in Somalia, South Sudan, Rwanda, Ethiopia, Uganda and Kenya.



1.

Overview of labour migration in East and Horn of Africa

1. OVERVIEW OF LABOUR MIGRATION IN EAST AND HORN OF AFRICA

Labour migration refers to the movement of persons within their own country or from one State to another for the purposes of taking up employment (IOM, 2019:123). Labour migrants move internally, intraregionally and internationally in search of income-generating employment opportunities. In 2019, the EHoA region reported around 4.7 million migrant workers (STATAFRIC). Between 2010 and 2019, the migrant labour force grew steadily, passing from 2.5 million to 4.7 million, which corresponds to an increase of 90 per cent over the reporting period. The region also hosts four of the ten countries on the continent with the largest number of immigrants (Uganda, Ethiopia, Kenya and South Sudan) (UNCTAD, 2018). Equally important is the fact that East Africa is a large and dynamic market with close to 177 million people (EAC Secretariat, n.d.b), the majority of whom are youth who are ready to enter the labour market or seek opportunities abroad due to increased unemployment in their countries of origin. Migrant workers and their families therefore are a crucial variable in the economic well-being of EHoA States as well as their destination countries.

Drivers of labour migration within the EHoA region include high unemployment rates in countries of origin, relative poverty and social networks in destination countries established over time (Samuel Hall et al., 2018). Most migrants adopt irregular pathways employing the services of migrant smugglers and therefore face a high risk of being trafficked (internally, intraregionally and internationally). The majority of migrant workers have at least secondary school qualifications and engage in the informal sector (AUC, 2021:28).

The EAC and the IGAD are important RECs in the EHoA, including from the perspectives of advancing labour migration. The EAC was established in 1967, dissolved in 1977 and re-established in 1992. It has seven Member States, namely Burundi, the Democratic Republic of the Congo, Kenya, Rwanda, South Sudan, Uganda and the United Republic of Tanzania). IGAD was established in 1996, replacing the Intergovernmental Authority on Drought and Development established in 1986. It has nine Member States – Djibouti, Eritrea, Ethiopia, Kenya, Somalia, South Sudan, the Sudan and Uganda.

The EAC CMP, which was established under Article 76 of the Treaty Establishing the East African Community, is very important in facilitating labour migration. Part D of the EAC CMP advocates for free movement of goods and factors of production, service, capital and labour. The EAC citizens can access a country visa free and have the right to establish and reside in other Partner States (EAC Secretariat, 2010).¹ Partner States have agreed to harmonize their national laws and policies to ensure free movement of persons is possible; however, the countries are at different stages of the harmonization process. Article 9 of the recently adopted IGAD FMP covers free movement of labour.

Understanding the regional approach to labour migration dynamics in the EAC and the IGAD within the context of free movement requires considering the conditions at member countries as well as the different factors that attract migrant workers to or from a particular

¹ See Article 7 of the EAC CMP.

country. These factors vary among member countries within the EHoA, influencing the choice of migration governance instruments. This assessment therefore analyses national migration laws to discern gaps vis à vis regional instruments and seeks to understand the incentives for bilateral cooperation on free labour migration and opportunities for adopting the regional approach to facilitate labour migration. The assessment further explores the potential of overlapping memberships to promote free mobility of labour and protect the rights of migrant workers.

Figure 1. Map of East and Horn of Africa



Source: IOM, 2021f.

Note: This map is for illustration purposes only. The boundaries and names shown and the designations used on this map do not imply official endorsement or acceptance by the International Organization for Migration.

1.1. Significance of migrant worker protection

Protection of migrant workers' rights is fundamental to the realization of the ambitions of the EAC and the IGAD. Parts D and E of the EAC CMP and Articles 5, 8, 9 and 11 of the IGAD FMP call for the rights of migrants to be upheld and harmonized at the national level.

Within the EHoA region, the mobility of labour and the conditions under which migrant workers may access employment opportunities in member countries or concerns regarding the establishment of businesses are provided for in legal and policy frameworks at two spatial levels (i.e. regional community and national levels). Both the EAC CMP and the IGAD FMP are explicit in providing binding directives to member countries on guaranteeing the rights of migrant workers and members of their families. The EAC CMP sets forth the removal of restrictions on the movement of labour (Part D) and rights of establishment and residence (Part E) as important towards strengthening governance of labour migration within the region (EAC Secretariat, 2010). The IGAD FMP also ensures that migrant workers have freedom of movement (Article 5), right to self-employment and other economic activities (Article 8), right to work (Article 9) and right to reside in a host country (Article 11) (IGAD, 2020a).

Migrant workers' rights are deemed to be protected if certain conditions are met.² The following list is not exhaustive, but indicative of some essential elements. Firstly, migrant workers ought to be able to cross national boundaries of member countries visa free, those borders must be accessible 24 hours a day and a standardized common system of identification must be in place. Secondly, migrant workers and their families have the right of residence and access to employment as well as other services, such as health, social benefits and education. Thirdly, their academic and professional qualifications ought to be fairly assessed and recognized. Further, they should neither be discriminated against on grounds of nationality nor experience discrimination in terms of access to employment, conditions of work and remuneration. There should be a standardized common system of identification. They should have access to services and social security benefits. Finally, they should enjoy the right to join labour associations and to participate in collective bargaining.

The EAC CMP outlines these freedoms and rights, which include free movement of goods, persons, labour, services and capital as well as the right of establishment and residence. The IGAD FMP also highlights the right of entry and the abolition of visa requirements, the right of movement of workers, and the right of residence and establishment as key components in coherent labour migration governance across the region.

1.2. Labour migration governance and migrant workers' protection within regional integration

Migration governance broadly refers to “the combined frameworks of legal norms, laws and regulations, policies and traditions as well as organizational structures (subnational, national, regional and international) and the relevant processes that shape and regulate States' approaches with regard to migration in all its forms, addressing rights and responsibilities and promoting international cooperation” (IOM, 2019). Similarly, the Migration Policy Framework for Africa (2018) defines migration governance as “the traditions and institutions by which authority on migration, mobility and nationality in a country are exercised, including the capacity of the government to effectively formulate and implement sound policies in these areas” (AUC, 2018a:29). The governance structures at the regional and national levels play a key role in ensuring that the adopted approaches are well coordinated and implemented effectively. This is in line with Objective 23 of the Global Compact for Safe, Orderly and Regular Migration on strengthening international cooperation and global partnerships for safe, orderly and regular migration (United Nations, 2018).

Migration governance provides the foundation for regional integration, and regional integration in turn enhances migration governance. Both the EAC and the IGAD have been gradually strengthening regional integration, which is essential for creating a foundation where free movement of goods, services, people, labour and capital can take place. Regional integration objectives in both RECs cover a range of commitments. The EAC Regional Integration has four pillars³ that have been promoting and strengthening

² Among the international instruments defining the scope of migrant workers' rights are: the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families, adopted by United Nations General Assembly resolution 45/158 of 18 December 1990; ILO Convention No. 97 concerning Migration for Employment; and ILO Convention No. 134 concerning Migrations in Abusive Conditions and the Promotion of Equality of Opportunity and Treatment of Migrant Workers.

³ The four pillars are as follows: (1) **Customs Union**, which aims to attract foreign direct investment into the region; (2) the **Common Market Protocol**, which oversees the movement of goods, people, labour, services and capital; (3) **Monetary Union**, which aims to attain a single regional currency for transactions within the common market; and (4) **Political Federation**, through which the EAC aims to establish a super State.

sustainable economic, social, political and cultural integration among Partner States since 2000. Although all four pillars are relevant and connected to free movement of labour, this assessment focuses on the second pillar, the **Common Market**, which governs the free movement of goods, people, labour, services and capital between Partner States including the right of residence and establishment without restrictions. The **EAC Vision 2050** articulates the steps to be taken by Partner States to achieve the African vision outlined on the African Union agenda and in other global development goals (EAC Secretariat, 2015b).

Regional integration in IGAD is focused on exploring peaceful solutions in the region rife with civil unrest and environmental disasters that led to large displacements and humanitarian concerns in the Member States (IGAD, 2016). IGAD has four primary pillars: Pillar 1: Agriculture, Natural Resources and Environment; Pillar 2: Economic Cooperation, Integration and Social Development; Pillar 3: Peace Security and Humanitarian Affairs; and Pillar 4: Corporate Development Services. Migration is covered under Pillar 2, which is coordinated by the Health and Social Development Programme along with education, sports, social protection, youth, labour affairs as well as population and development (IGAD, 2016:5). The recent endorsement of the IGAD FMP (2021) and the Djibouti Declaration on Labour, Employment and Labour Migration in the IGAD Region (October 2021) focuses on creating an environment where free movement can take place and where the rights of migrant workers in the region and countries of destination are protected (IGAD, 2021a). An essential element, outlined in the IGAD strategic infrastructure framework 2050 (IGAD, 2020e), is the development of key infrastructure in the region, including energy, transport, water, and information and communications technology.

The EAC and the IGAD are at different stages of the integration process with regard to free movement of persons as illustrated in Table 1.

Table 1. Free movement of persons in the East African Community and the Intergovernmental Authority on Development (state of play)

	East African Community	Intergovernmental Authority on Development
Community passport	Yes	No
Phase out of visas	Partial	No
Community identity card	Partial	No
Harmonization of academic and professional qualifications	Yes	No
Right of residence	EAC CMP (2010)	IGAD FMP (2021)
Right of establishment	EAC CMP (2010)	IGAD FMP (2021)
Single border post	Yes	No

Source: AUC, 2020b:54–55.

According to the African Union Commission's *African Integration Report*, the EAC has made progress towards facilitating free movement of persons, social integration, trade and infrastructure integration (AUC, 2020a). Partner States, such as Kenya, Uganda and Rwanda, are issuing community passports and identification cards. Across the EAC region, migrants from Partner States have the right to travel visa free to other Partner States. In addition, the right of residence is facilitated through fee waivers on residence permits. Community citizens also have the right to seek remunerative employment opportunities in other Partner States without being discriminated against on grounds of nationality. Similar rights are provided to members of their families.

The IGAD is taking steps to encourage Member States to ratify the FMP and start its implementation. In the absence of a fully ratified protocol, Member States have established bilateral agreements to abolish visa requirements for their nationals, encouraging free movement of persons (e.g. Kenya and Ethiopia; Djibouti and Ethiopia) (AUC, 2020a:57). Existing bilateral agreements can enhance the implementation of the IGAD FMP.

The IGAD RMPF (2012), for instance, guides Member States to develop national migration policies and strengthen migration governance, including capacity-building, which will facilitate greater regional cooperation towards better migration management (IGAD, 2012). The RMPF implementation tool, the **Migration Action Plan (2015–2020)**, has 12 priorities, of which priority 5 covers labour migration and protection of human rights of migrants within and outside the IGAD region, and priority 8 focuses on creating an environment where free movement can take place. The IGAD FMP was endorsed in 2021 as a flagship protocol, together with its implementation road map, which establishes labour migration as an integral part of regional integration,⁴ but it is pending ratification by Member States. There is a need to ensure that there is an operational migration governance structure within the two RECs to facilitate free movement of workers.

⁴ This information was relayed by an IGAD official during an interview.



2.

Labour migration patterns

2. LABOUR MIGRATION PATTERNS

Female and male labour migrants from the EHoA usually move within the region, to the rest of Africa, to the GCC⁵ and to countries in the Global North outside the continent. The region also experiences internal displacement and forced migration across borders (asylum seekers and refugees). Although the IGAD region also experiences labour migration, nomadic pastoralism is the key characteristic within the region. Gender and migration is an important area of interest given changing patterns, resulting in the feminization of migration. The migration experiences of women and men vary and continue to change due to economic, social, environmental and political factors (IOM, 2020d).

To analyse labour migration patterns in the region, it is essential to acknowledge the scope and diversity of the phenomenon. A migrant worker is an individual “who is to be engaged, is engaged or has been engaged in a remunerated activity in a State of which he or she is not a national” (OHCHR, 1990; IOM, 2019:136). This category includes persons with different legal status, who are commonly referred to as regular migrants. Irregular migrant workers also move within the region; though unauthorized, they enter or stay in a country for the purpose of employment (IOM, 2019:224). Refugees are another important category in the region. Recent trends indicate that countries in the region have been adopting and implementing policies that enhance refugees’ self-reliance, which include facilitating their participation in wage-earning employment (Abebe, 2021).

Migrant workers’ position in the labour market is determined, to a large extent, by their skill levels, which are significantly influenced by their gender, age, ability to carry out tasks, qualifications and experience (ILO, 2012:11). Highly skilled workers often have the experiences, tertiary-level education and professional qualifications to undertake the duties of particular jobs (Weinar and Von Koppenfels, 2020:10). Semi-skilled and low-skilled migrant workers often take up employments that require little or no formal skills, especially in the informal sector. Semi-skilled migrants have at least secondary school-level education or have taken up vocational training (UNCTAD, 2018:82). Low-skilled migrants often lack professional qualifications.

The definition of what constitutes a “skilled” migrant differs between the case study countries. Kenya and Rwanda conceptualize labour migrants’ skills by equating them with their levels of education and the formality of the economic activity being undertaken. Aspiring labour migrants to sectors that are deemed “professional” or “managerial” are accorded preferential treatment through privileged visa or work permit categories.⁶

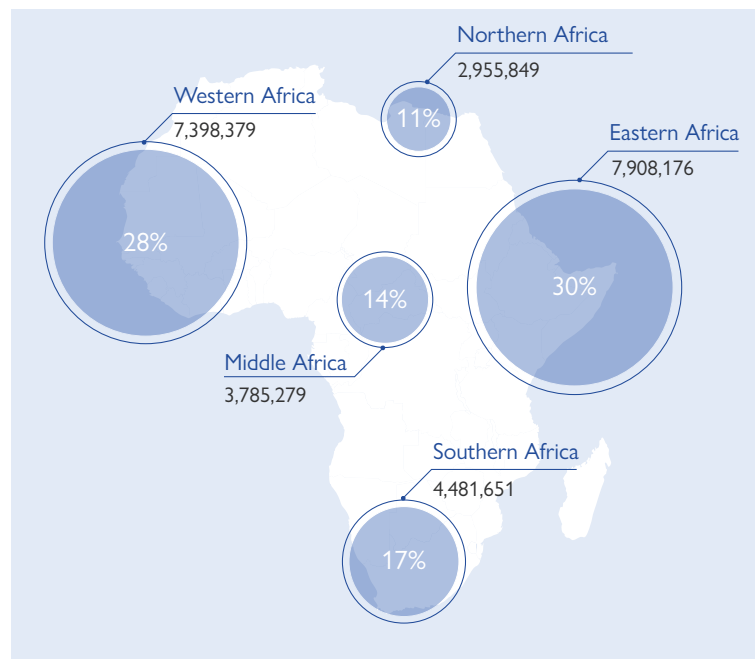
⁵ The Cooperation Council for the Arab States of the Gulf includes Bahrain, Kuwait, Oman, Qatar, Saudi Arabia and the United Arab Emirates. See www.gcc-sg.org/en-us/.

⁶ IOM defines a *skilled migrant worker* as “a migrant worker who has the appropriate skill level and specialization to carry out the tasks and duties of a given job”; a *highly skilled migrant worker* as “a migrant worker who has earned, by higher level education or occupational experience, the level of skill or qualifications typically needed to practice a highly skilled occupation”; and, “from the perspective of the country of origin”, a *qualified national* as “an emigrant with specific professional skills in demand in that country” (IOM, *Glossary on Migration* (Geneva, 2019), pp. 91, 165, 198). At the same time, the document recognizes that national definitions vary, “often determined by a range of factors such as labour market needs” (ibid., p. 198).

2.1. Overview of migrant workers

In 2019, Eastern Africa hosted 30 per cent of the international migrants on the continent compared to 28 per cent in West Africa, 17 per cent in Southern Africa, 14 per cent in Middle Africa (usually referred to as Central Africa) and 11 per cent in North Africa. Uganda, Kenya, Ethiopia and the Sudan combined host more than 1 million international migrants (Figure 2) (IOM and AUC, 2020:16–17). In the same year, female migrants made up 50 per cent of the migrant population in the region (ibid.:18). The total share of female migration has increased over time due to the employment opportunities available to them in the region and beyond. Migrants use various corridors by land, sea and air to access the destination countries. Economic drivers, such as job opportunities, attract both women and men to migrate to different destinations within the region across the continent and to other continents. The COVID-19 pandemic negatively impacted migratory patterns due to movement restrictions, many migrants losing their jobs and a reduction of remittances, among others. The subsequent sections provide a brief overview of these labour migration patterns within the EHoA with a focus on Kenya, Rwanda and Uganda, taking into consideration the context of the pandemic.

Figure 2. International migrants in Africa



Source: IOM and AUC, 2020.

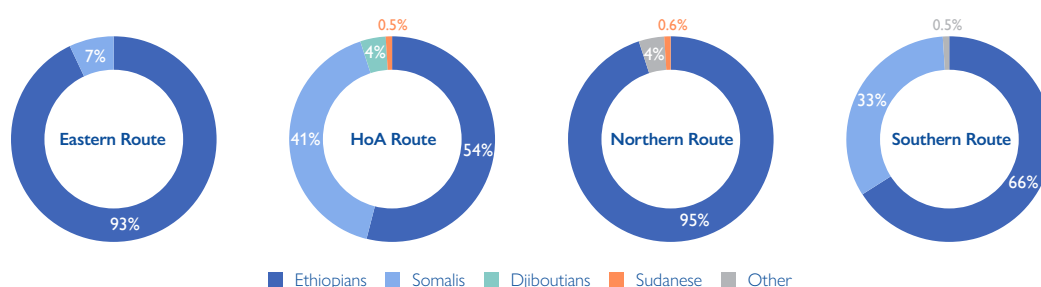
2.1.1. Labour migration within and from East and Horn of Africa

The number of migrant workers in the EAC increased from 1.14 million in 2008 (AUC, 2017) to 2.69 million in 2019 (EAC Secretariat, n.d.a). The easing of migration restrictions and the implementation of the free movement of persons provisions between Partner States have contributed to the increase of labour migration within the region. In the IGAD region, the movement of migrant workers increased from 1.59 million in 2010 to 3.29 million in 2019 (IGAD, 2021a:22). Migration patterns in the IGAD tend to

be voluntary, forced and irregular due to the economic, political and environmental factors (IGAD, 2021a). About 50 per cent of international migrants in EHoA are women, while the continental average is at 45 per cent.

There are four primary migration corridors from the EHoA region mostly dominated by irregular migrants seeking employment opportunities in various destination countries (see Figure 3) (IOM, 2021a:51).

Figure 3. Migration corridors from East and Horn of Africa by country of origin

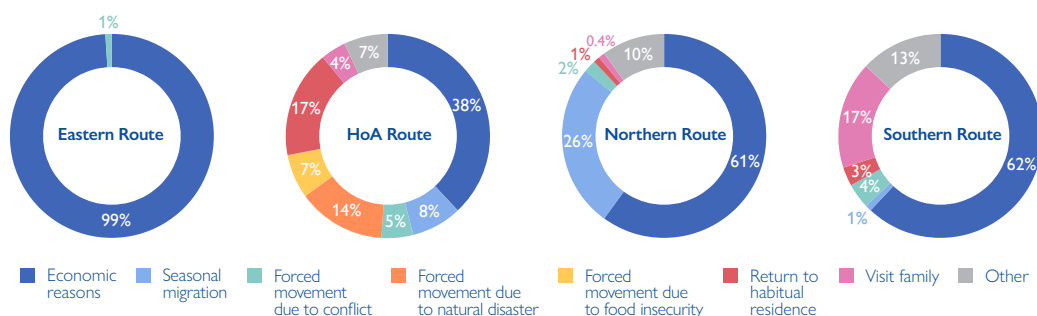


Source: IOM, 2021a:51.

As illustrated in Figure 3, the migration corridors are frequented by mixed migrants destined for different countries. The majority of the routes are dominated by Ethiopian and Somali nationals. The **eastern corridor** receives a larger flow of migrants from the HoA, bound for Middle Eastern countries, such as the United Arab Emirates, Kuwait, Qatar and Saudi Arabia, via Djibouti/Somalia and Yemen. The **HoA corridor** is the path for migration between countries within the region. Another major route is the **northern corridor**, frequented by migrants from the HoA bound for Europe via North Africa. The **southern corridor** is a recent route dominated by Ethiopian and Somali migrants destined for South Africa via Kenya and the United Republic of Tanzania (ibid.:53).

Most of the migrants move for economic reasons, while others move internally for a short period of time, as illustrated in Figure 4. However, a variation among the profiles of migrants using various corridors may be observed: most migration along the HoA and southern routes is driven by non-economic factors, while accounting for only 1 per cent of the movements along the eastern corridor and 29.4 per cent along the northern corridor.

Figure 4. Reasons for migrating by corridor



Source: IOM, 2021a:54.

Migrant workers move inter- and intraregionally as well as to international destinations outside Africa, both temporarily and permanently. **Intraregional migration** takes place within a regional economic community (UNCTAD, 2018:xxi) between neighbouring States, as illustrated in the case of migration between South Sudan and the Sudan, Kenya, and Uganda as well as Somalia and Djibouti. The intraregional migration within the EAC is a result of the removal of barriers, such as work permit fees for citizens of Partner States to ease access to the countries. **Interregional migration** is the movement of persons between regions (ibid.), as illustrated, for instance, by the migration of Burundians and Ethiopians to South Africa and Sudanese to Egypt. **International migration** involves movement across international borders (IOM, 2019:113), and the present study looks at migration from various African countries such as the migration from Kenya, Somalia, the Sudan and Uganda to the GCC countries as well as from Djibouti to Canada and France. An overview of the source and destination countries of EHoA nationals is outlined in Table 2.

Table 2. Main migration destinations of nationals from East and Horn of Africa

Country of origin	Intraregional destination	Interregional destination	International destination
Burundi ^a	Rwanda, Uganda, United Republic of Tanzania	Malawi, Democratic Republic of the Congo, South Africa	Belgium, Canada, Netherlands, Sweden
Djibouti ^b	–	–	Canada, France
Ethiopia ^c	Djibouti, Kenya, South Sudan, Sudan	South Africa	Bahrain, Kuwait, Lebanon, Oman, Qatar, Saudi Arabia, United Arab Emirates, United States
Kenya ^d	Rwanda, Sudan, Uganda, United Republic of Tanzania	Botswana, Democratic Republic of the Congo, Lesotho, South Africa, Zimbabwe	Australia, Bahrain, Canada, Germany, Kuwait, Qatar, Saudi Arabia, Switzerland, United Arab Emirates, United Kingdom, United States
Rwanda ^e	Burundi, Kenya, Uganda, United Republic of Tanzania	Democratic Republic of the Congo	Belgium, France, Germany, India, United Kingdom
Sudan ^f	Kenya, Uganda	Egypt	Canada, Germany, India, Kuwait, Malaysia, Pakistan, Qatar, Saudi Arabia, United Arab Emirates, United Kingdom, United States
South Sudan ^g	Ethiopia, Kenya, Sudan, Uganda	Chad	Australia, Canada, Saudi Arabia, United Arab Emirates, United States ^h
Somalia ⁱ	Djibouti, Ethiopia, Kenya, South Sudan, Uganda	South Africa	Australia, Canada, Kuwait, Malaysia, Netherlands, Norway, Qatar, Saudi Arabia, Sweden, United Arab Emirates, United States, Yemen
Uganda ^j	Burundi, Kenya, Rwanda, United Republic of Tanzania	South Africa, Sudan	Australia, Canada, Kuwait, Qatar, Saudi Arabia, Sweden, United Arab Emirates, United Kingdom, United States
United Republic of Tanzania ^k	Burundi, Kenya, Rwanda	Malawi, Mozambique, South Africa	Canada, United Kingdom, United States

Sources: a Samuel Hall et al., 2018.

b ILO, 2020b.

c ILO, 2017a.

d ILO, 2020c.

e DESA and UNICEF, 2014.

f ILO, 2020e.

g ILO, 2020d.

h Maastricht University, Maastricht Graduate School of Governance, 2017.

i ILO, 2020g.

j ILO, 2020f.

k Samuel Hall et. al, 2018.

Countries in the EHoA region are a mix of source countries that supply labour and destination countries that demand and attract labour. Migrants transit countries on their way to destination countries, and these countries are often located along the different migration corridors mentioned earlier (Council of Europe, Parliamentary Assembly, 2015). These migrants use the different migration corridors to access destination countries as discussed earlier in this section.

Migrants from **source countries** such as Burundi, Ethiopia, Kenya, Somalia, South Sudan and Uganda (ILO, 2020a) seek employment opportunities in selected countries within a region and beyond. Kenyan migrant workers, for instance, seek opportunities in international NGOs as well as in hospitality and finance sectors in Somalia, South Sudan, the United Republic of Tanzania, Uganda, Rwanda, the Sudan, South Africa, Lesotho, Botswana and Nigeria (IOM, 2018c). There are few Kenyans migrating to Djibouti and Ethiopia. They often work for international NGOs and United Nations agencies (ibid.). Kenyan migrants are valued within the region because of the various skills and qualifications they offer in different sectors (ILO, 2020c:13). They often take advantage of opportunities in other countries in the region and beyond.⁷

Ugandan nationals seek employment opportunities in Kenya, South Sudan and the United Republic of Tanzania. Some work in the hotel industry, but the majority are working in the informal sector.⁸ Ugandan diaspora members in the health sector often work in non-African countries, such as the United Kingdom and the United States (Marchand et al., 2017). Young Ugandans are often driven to migrate due to the lack of job opportunities, or due to low pay (Danish Trade Union Development Agency, 2019). The GCC has been a key region of destination for labour migrants from Uganda since 2005, as demand for labour in GCC has increased and employment opportunities in Uganda are limited.

Transit countries are located along the main migration corridors. Migrants seek opportunities in Europe via the northern corridor, South Africa via the Southern African corridor or Middle East via the eastern corridor. They include countries such as Djibouti, Ethiopia, Kenya, South Sudan, the Sudan and the United Republic of Tanzania.

Destination countries such as Kenya, Rwanda and Uganda attract a mix of regular and irregular migrants, with various skill levels seeking employment opportunities in various sectors of national economies (DRC and RMMS, 2016). There are significant migration flows between the capitals of some of the selected countries. Nairobi and Kigali, for instance, are considered major hubs in the EHoA region and attract large numbers of migrant workers from other Member States and also experience substantial bilateral flows. Rwanda is another destination for migrants, hosting 1.5 million migrants in 2019, of whom 800,000 were migrant workers over the age of 16 years (DTDA, 2021). This includes a mix of low-skilled migrants that engage in cross-border trade as well as skilled professionals from EAC Partner States (OECD and ILO, 2018:46). Kenya also attracts migrants due to its strategic position, growing and stable economy, emerging industries and social security.

⁷ This information was obtained from an interview with a NADICOK official in Kenya.

⁸ This information was given by a Ugandan MGLSD official during an interview.

Uganda attracts a variety of migrant workers, including from the EAC (notably Kenya), that work in management positions in various sectors, as well as skilled migrants from India and China, working in the manufacturing and infrastructural development sectors. The last census data of Uganda shows that 2 per cent of its population are immigrants (DESA, 2015). Labour migration to Uganda has been on the increase since the liberalization of entry restrictions including facilitated acquisition of visas for labour migrants from EAC countries (DAI Europe and Euro Trends, 2015).

Rwandan nationals migrated mainly between Burundi and the Democratic Republic of the Congo (formerly Zaire) prior to 1994. The 1994 genocide, in which nearly 1 million people were killed, also had significant effects on the country's economy and labour market. Development targets were re-evaluated. To respond to the economic challenges, the Government of Rwanda presented Vision 2020 in 1998, as well as the **National Development Policy Framework**, which set short- and long-term goals promoting private sector investments that will stimulate the growth of industries in the country. The Government has been capitalizing on migrant labour for the purposes of developing Rwanda's economy since 2000, making it a primary destination country for labour migrants (OECD and ILO, 2018:42).

2.1.2. Labour migration outside East and Horn of Africa

Labour migrants from the EHoA region also move to GCC countries, the Southern African region, and Europe and North America as a secondary form of migration.

Migration to the GCC is not a recent phenomenon for selected countries from the HoA. Nationals from Ethiopia, Somalia and the Sudan have a long history of migration to the GCC since the 1970s. Whereas labour migration from Kenya, Uganda and the United Republic of Tanzania is a more recent phenomenon, which started in 2005, as countries in the GCC had a demand for labour and these countries experience high unemployment rates especially among the youth (Atong et al., 2018). **In 2017, 28.1 million migrants were estimated to be living in GCC States, of whom 12 per cent were of African origin (ibid.:3).** Ethiopia and the Sudan have been major source countries of migrants bound for destinations, such as Kuwait, Qatar, Saudi Arabia and the United Arab Emirates (ibid.).

Although highly skilled migrants from the region also move for employment opportunities, the majority of the labour migrants are semi-skilled migrants. Many of them are women employed as domestic workers (ibid.:3–4). Male migrants mainly seek employment opportunities in the construction sector. These migration opportunities were a result of bilateral labour agreements between source and host countries to create regular and safe pathways for migration. Migrant protection is a primary concern for female migrant domestic workers in the GCC who are at risk of sexual and physical abuse (ibid.:4), as well as labour exploitation. The *kafala* system⁹ raises concerns about the protection measures in destination countries including the legal structures and institutions that are not strong

⁹ The *kafala* (sponsorship) system regulates the relationship between the employer and the worker in the GCC (Migrant Forum in Asia, Reform of the kafala (sponsorship) system, Policy Brief No. 2 (2012), available at <https://mfasia.org/policy-brief-no-2-reform-of-the-kafala-sponsorship-system/>).

enough to protect migrant workers. African trade unions and civil society organizations cannot guarantee that migrant workers are protected in destinations, as they are often not part of the negotiation process with the bilateral labour migration agreements where protective measures can be included. Source countries have adopted a few measures, such as blacklisting recruitment agencies, to protect their migrant workers and to establish measures for ethical recruitment that ensure the protection of migrant workers in destination countries (Atong et al., 2018:12). Major challenges facing source countries remain the provision of alternative means of income generation for citizens.

Migration to **Southern Africa** is both regular and irregular. Most migrants move to South Africa. Migrants using regular pathways are often highly skilled and looking for better employment opportunities. The southern migration corridor is dominated by irregular migrants from Ethiopia and Somalia. In 2017, it was estimated that 14,000 Ethiopian and Somali migrants moved to South Africa, which also hosted an estimated 120,000 Ethiopians the same year (Adugna, 2021).

EHOA migrant workers also move to selected countries in **Europe and North America**. Countries of origin often lack data on the number of their citizens in those countries. Work permit and visa-related data captured by the consular services of destination countries provides an estimate of the flow of migrants seeking regular pathways to the respective countries. Table 3 summarizes the data on inflows of migrants (including persons seeking asylum) from the EHOA region to selected Organisation for Economic Co-operation and Development countries in 2019. Top countries of destination were the United States, Türkiye, Canada, Germany and France.

Table 3. Migrant inflows from East and Horn of Africa to selected Organisation for Economic Co-operation and Development countries, 2019

	Australia	Japan	Canada	United States	Belgium	France	Germany	Italy	Sweden	Türkiye
Burundi	38	41	1 560	750	770	272	66	86	159	–
Djibouti	3	105	255	121	65	94	26	0	24	1 177
Ethiopia	262	282	2 470	7 928	182	335	1 249	335	1 100	2 266
Kenya	464	525	515	4 962	111	160	1 273	207	163	369
Rwanda	14	215	545	879	355	297	275	58	97	–
Somalia	61	39	3 275	5 924	1 094	668	4 036	882	2 002	10 290
Sudan	101	162	1 255	3 448	143	3 420	1 288	246	479	1 977
United Republic of Tanzania	48	248	225	624	71	33	428	76	79	150
TOTAL	991	1 617	10 100	24 636	2 791	5 279	8 641	1 890	4 103	16 229

Source: OECD, n.d.

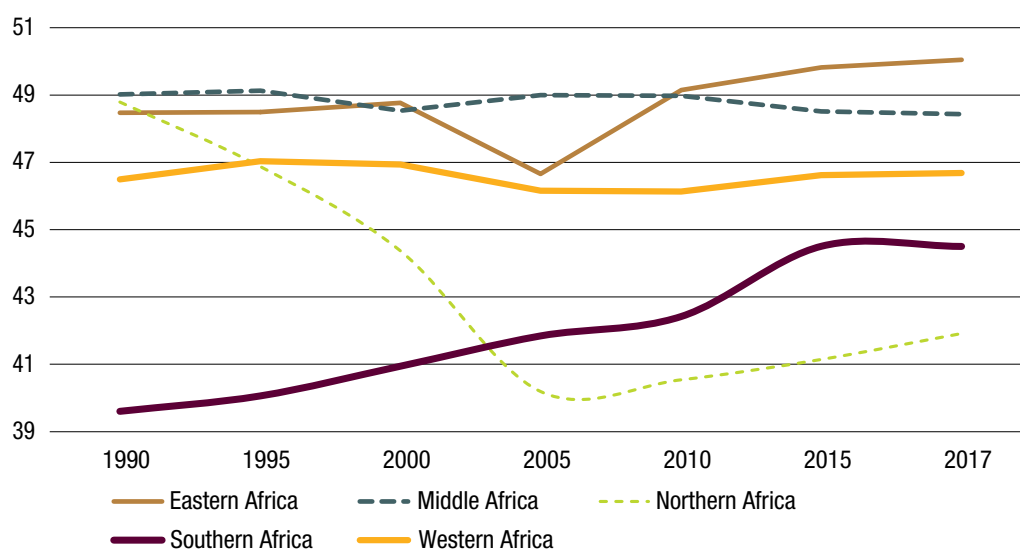
Note: Data for South Sudan is not listed; data for the United Kingdom is not available.

2.1.3. Labour migration and gender

Migration is a gendered process. Norms, access to resources and unequal power relations shape the migration experiences of women and men. Gender influences the migration process in terms of determining who migrates and the opportunities available to migrants as well as job options and wages (MMC, 2021). Although men dominate labour migration within the EHoA region, female migration has increased as more women take up formal employment due to the demand for services dominated by women, such as domestic work, nursing and teaching, among others, engaged in formal employment (UNCTAD, 2018:59); Diop and D'Aloisio, n.d.). Female migrants also contribute to the development of destination countries since they address service gaps in countries within the region and beyond as domestic workers and nurses. They also contribute to the development of their countries through remittances.

Figure 5 shows female migrant stock in Africa by subregion since the 1990s. The female international migrant stock in Eastern African in 2017 was said to have exceeded the continental average. However, this excludes migrants who have left the continent (UNCTAD, 2018:60).

Figure 5. Women migrant share of international migrant stock in Africa



Source: UNCTAD, 2018:61.

In the EAC, the number of female migrant workers increased from 667,565 in 2010 to 1.25 million in 2019, while the number of male migrant workers increased from 764,139 in 2010 to 1.44 million in 2019 (EAC Secretariat, n.d.a). Female migrants in the EAC engage in cross-border trade as well as take up formal and informal employment in neighbouring States within the EAC. **Meanwhile, the female migrant workers in the IGAD region increased from about 730,000 in 2010 to 1.56 million in 2019 compared to male migrant workers from about 86,000 in 2010 to 1.83 million in**

2019 (IGAD, 2021a:20). Women are mostly engaged in cross-border trade within the IGAD borders, selling products such as milk, chicken and eggs, grains, clothes, shoes as well as electronics products (IGAD, 2018a).

Further reasons for the different migration experiences between men and women can be attributed to gendered expectations on women regarding family responsibilities. Female migrants, for instance, need to factor family expectations into their decision to migrate where some have left their children behind to financially provide for the household. In addition to their employment in destination countries, female migrants often support their families in their home communities financially through remittances. Many female migrants are also exposed to different forms of gender-based violence. Gender needs to be mainstreamed into the regional frameworks and policies on migration to ensure it is considered in practice.

2.1.4. Forced displacement in East and Horn of Africa

The EHoA countries were hosting **4.9 million refugees** at the end of January 2022. The top five refugee hosting countries were **Uganda (1.5 million), the Sudan (1.1 million), Ethiopia (830,305), Kenya (540,068)** and **South Sudan (338,811)**. As of 24 January 2022, the region also hosted **12.3 million IDPs in Ethiopia (4.2 million), the Sudan (3.03 million), Somalia (2.9 million), South Sudan (2.01 million) and Burundi (113,408) (UNHCR, 2022)**. Drivers of displacement include conflict, economic instability, environmental disasters and climate change.

Countries in EHoA have been adopting and implementing policies that enhance refugees' access to employment, education and health care recently. In 2016, Rwanda also issued a national strategy on economic inclusion of refugees (Abebe, 2021) using schemes, such as the African Entrepreneur Collective Rwanda Trustee, which disburses microloans to refugee entrepreneurs engaged in the Inkomoko Refugee Entrepreneurship Programme (IOM et al., 2018:73) that supports business development for aspiring and existing refugee entrepreneurs.

Uganda's open-door refugee policy offers self-reliance opportunities to refugees including jobs that are partly inspired by the Global Compact on Refugees. Refugee entrepreneurs created job opportunities and new business markets in the country (ibid.:11). Uganda applies a broader definition of "skilled migrants" to include asylum seekers and refugees who work in the agriculture sector and other informal sectors. Particularly, the Settlement Transformation Agenda is a case in point. Adopted in 2015, the Agenda is aimed at facilitating refugees' self-reliance.

*"Labour migrants are skilled, and they train Ugandans and transfer skills. Many labour migrants work in the hospitality industry and provide services. They are talented people who facilitate access to services. They run businesses, obtain licences and taxes are paid to the Ugandan Government. Agriculture has been the backbone of Uganda and a number of refugees are running farms and that ensures increased food security and productivity to Uganda."*¹⁰

¹⁰ This was relayed by an official from the Office of the Prime Minister of Uganda in an interview.

The Government of Kenya initiated the Kalobeyi Integrated Settlement Development in Turkana County, in partnership with the World Bank and UNHCR, in 2016. This is perceived as an innovative model aligned with the Comprehensive Refugee Response Framework¹¹ that supports host communities and promotes self-reliance (Betts et al., 2020). The Kampala Declaration on Jobs and Livelihoods as Part of IGAD's Nairobi Process was initiated in 2019 with the aim of removing barriers to free movement of refugees and expanding their access to the labour market (REF, 2021:9). In 2021, the Refugee Bill extended access to education and employment to refugees "to contribute to the economic and social development of Kenya" (Kenya, Parliament of, 2019:991).

UNHCR noted that the existing legal frameworks do not foster pathways to employment for refugees, as access to work permits is still a challenge in countries such as Kenya. They also experience challenges accessing financial services, training and skills development opportunities, putting them at risk of poverty in the camps (ibid.). Organizations, such as African Entrepreneur Collective, are collaborating with refugee entrepreneurs in Kakuma–Kalobeyi and Dadaab, providing them with business and financial support (REF, 2021:13). This shows an interest in creating opportunities for refugees to be self-reliant and economically productive in various ways that contribute to the national development of the host country.

As the majority of the displaced are IDPs in the EHoA region similar to many parts of the world, different stakeholders pay increasing attention to finding solutions for this group, as evidenced by the report of the United Nations Secretary-General's High-Level Panel on Internal Displacement (2020). Among other things, the report calls for stakeholders to take the necessary action to facilitate IDPs' access to income and social protection systems like pensions and unemployment funds to enhance their ability for self-sufficiency (United Nations, 2021).

IOM and UNHCR developed the Policy Guide on Entrepreneurship for Migrants and Refugees in 2018, providing policy options including on formulation of cohesive strategies on entrepreneurship for migrants and refugees, optimizing the regulatory environment to support refugee and migrant entrepreneurs, enhancing entrepreneurial education and skills development, facilitating technology exchange and innovative start-ups, improving access to finance, and promoting awareness and networking (IOM et al., 2018).

2.1.5. Pastoralism in East and Horn of Africa

Pastoralism is predominant in about 75 per cent of the arid and semi-arid lands in the EHoA region (AFSA, 2017). **It is estimated that there are over 20 million people engaged in pastoralism in the HoA region alone (Musau, 2021:100), which accounts for up to 54 per cent of the GDP of some countries.** Some pastoralists move to urban areas

¹¹ The Comprehensive Refugee Response Framework is the implementation framework of the Global Compact on Refugees that provides a platform for the Global Compact rollout countries to expand opportunities to refugees including employment, livelihoods, education and skills development. Six of the pilot countries are in the EHoA region (UNHCR, Delivering the Global Compact on Refugees: Local approaches to inclusion, regional government-to-government conference, 31 October to 1 November (Addis Ababa, 2019)).

in search of markets for their livestock or related products, while others transit urban areas temporarily in search of work, especially if they experienced or anticipate adverse impact on their livelihoods (Wafula et al., 2022:2). Competition over resources between pastoralists, and pastoralists and sedentary (farming) communities at borders has been observed in Ethiopia, Somalia and the Sudan, and is exacerbated by the effects of climate change (e.g. droughts, floods and landslides).

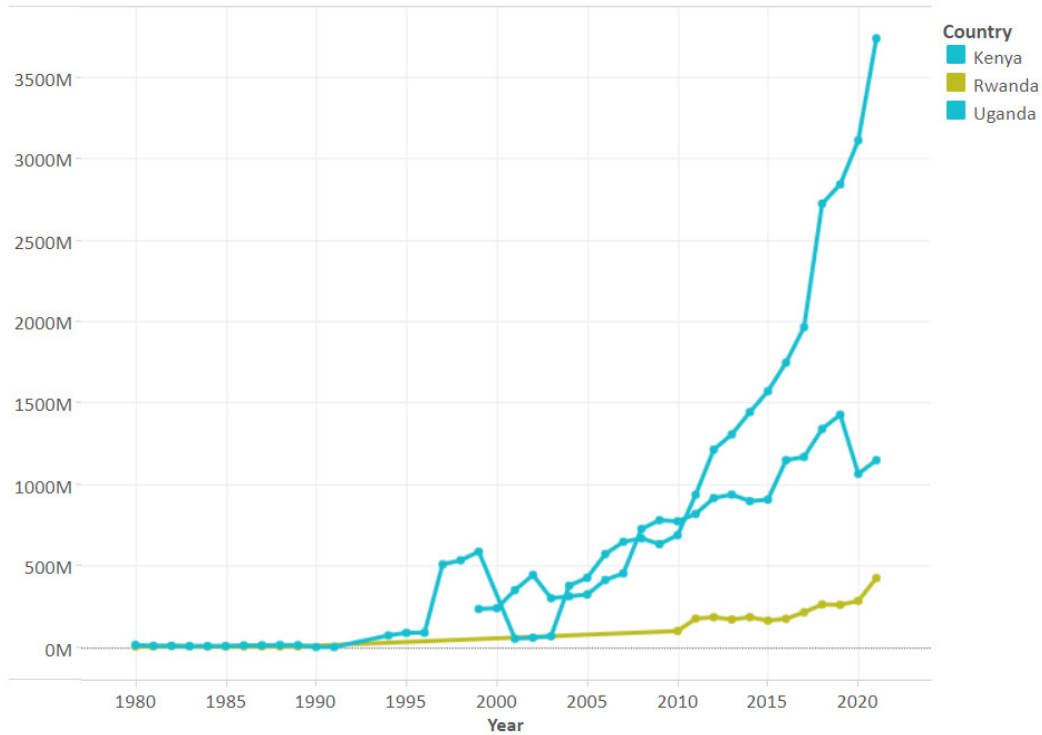
Resource scarcity triggers conflicts between groups, which leads to inter-communal tensions and can result in macroeconomic crises (e.g. inflation as a result of acute food insecurity) (Dersso, 2014; Obila and Pop, 2019). It is essential to balance the access to natural resources with providing support and protection to pastoral and other communities to ensure that cross-border mobility is safe and orderly, benefitting pastoral and host communities alike. The **IGAD Protocol on Transhumance**, adopted in 2021, seeks to exploit the full social and economic potential of the pastoral production system by facilitating free, safe and orderly cross-border mobility of livestock and herders so that they can adapt to climate change. The Protocol commits Member States to invest in resources to facilitate pastoral mobility and establish institutions to monitor and manage migration of pastoralists in the regions and harmonize national laws and policies on livestock and pastoral development, land use and governance, disease control and cross-border measures (IGAD, 2020b:7).

2.2. COVID-19 and labour migration in East and Horn of Africa

COVID-19 significantly impacted all migrants including migrant workers. **The closure of borders and strict health-related measures regarding testing and quarantine affected mobility in the Eastern corridor, for instance, which saw a 66 per cent drop in movements from 470,000 in 2019 to 160,000 in 2020 (IOM, 2021b:3).** Many migrants residing in the GCC lost their jobs as a result of the pandemic, leaving many stranded with limited options for return to their countries of origin. The pandemic revealed protection gaps for migrant workers in origin and destination countries and challenged the implementation of policies related to return. The pandemic incentivized countries to consider anticipating the impact of health emergencies on mobility and adopting measures to respond adequately. The pandemic also presents an opportunity to reimagine human mobility in general. It can also advance the 2030 Agenda of leaving no one behind and the aspirations for a prosperous Africa under Agenda 2063.

Remittances from labour migrants from the EHoA region, which contribute to the economic and social development of countries of origin and destination, were significantly impacted by the COVID-19 pandemic, as illustrated in Figure 6.

Figure 6. Annual remittance flows by country, 1980–2020



Source: MPI, n.d.

The volume of remittances in 2020 in Uganda, for example, was USD 200 million below the 2019 level (IFAD, 2022:5) due to the impact of the pandemic that led to the loss of jobs of Ugandan labour migrants especially those working in the GCC region (ibid.:15). **Remittances in Uganda represent 4 per cent of Uganda's national GDP. Similarly, Rwanda's remittances, following a consistent increase over previous years, fell from USD 261 million in 2019 to USD 241 million in 2020 (Mwai, 2021).** The experience of Kenya is different, since remittance flows to Kenya rather increased to USD 3.09 million at the end of 2020 compared to USD 2.5 million in 2019. **Money was transferred using mobile money (i.e. M-PESA), banks and money transfer networks, among others, mostly from North America and the rest of Africa (Central Bank of Kenya, 2021).** This increase went against a projected global decrease in remittances due to the pandemic (World Bank Group, 2021). The presented trend represents an average, however, and does not apply to all countries in equal measure.

In conclusion, the labour migration described in this section gives an overview of the different patterns observed across the EHoA region, and specifically in Kenya, Rwanda and Uganda. These labour migration profiles provide important information to enhance migrants' contributions to their host countries, including the protection of their rights

in the region. Both are critical to establishing a better labour migration system in the region. The subsequent section of the report discusses the opportunities for enhancing migrants' contribution to the economic and social growth of their host and origin countries – specifically through remittances and skills transfer. Improving protection of migrant workers' rights is also discussed, including in the context of unethical recruitment and involvement in illegal business and risky jobs. The discussion also considers discrimination based on age and gender.



3.

**East and Horn of
Africa's standpoint
on legal and policy
frameworks for the
protection of migrant
workers**

3. EAST AND HORN OF AFRICA'S STANDPOINT ON LEGAL AND POLICY FRAMEWORKS FOR THE PROTECTION OF MIGRANT WORKERS

Protection of migrant workers is a core principle underlying regional integration within the EAC and IGAD regions as expressed in their respective strategic documents. RECs and Member States are guided by international frameworks and conventions that ensure the rights of migrant workers are protected. These include the 1990 International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families; the 1949 Migration for Employment Convention (Revised) (No. 97), which mandates countries to develop national policies and laws on migrant workers including a tool that facilitates labour migration; and the 1975 Migrant Workers Recommendations (No. 151) and the 1975 Migrant Workers (Supplementary Provisions) Convention (No. 143), which outline provisions related to abusive conditions experienced by migrants and advocates for equal access to opportunities and treatments of all workers including migrants (IOM, 2018c:2–3).

The African Union Commission developed the Migration Policy Framework for Africa in 2006 and revised it in 2018. It has guided RECs and Member States in developing their legal instruments in relation to migration. The Migration Policy Framework for Africa recommends, among others, that countries ratify and domesticate the ILO conventions on labour migration and harmonize their laws and regulations to meet the international labour standards. Specifically, on migrant rights, the Migration Policy Framework for Africa recommends that countries should ensure that migrant workers have access to social protection and adopt a gender-sensitive and non-discriminatory approach when promoting equal opportunities and protection for all migrants (AUC, 2018a:35–36).

Both the EAC and IGAD protocols are guided by the international and continental instruments. Within the EAC CMP, members are required to adopt the principle of non-discrimination of nationals of other Partner States based on nationality with regard to employment (Article 10 (2)) as well as the right of residence and establishment (Article 13(2)). Article 3.5 of the IGAD FMP calls on Member States and IGAD to “devise instruments and mechanisms for protection of migrant workers against unfair recruitment practices including by intermediary bodies including private recruitment agencies and public employment services” (IGAD, 2020a:5). The Declaration on Labour, Employment and Labour Migration in the IGAD Region, signed on 21 October 2021, advocates for the speedy ratification of ILO conventions on the rights of migrants and their families, the implementation of Objective 23 of the Global Compact for Safe, Orderly and Regular Migration as well as the adoption of labour supervisory mechanisms that will track the employment and working conditions of migrant workers in countries of destination, among others. The declaration encourages IGAD Member States to develop a common position on BLAs between Member States, which can allow them to collectively work towards guaranteeing that rights of migrant workers are protected. The Network of African

National Human Rights Institutions was established in 2019¹² to strengthen engagements in migration and human rights issues for human rights institutes in IGAD Member States as well as in Egypt, Morocco and Nigeria.¹³

This section discusses migrant workers' rights in the region in two subsections. The first subsection (3.1) covers various normative laws that Member States have adopted that ensure that the rights of migrant workers are upheld. The second subsection (3.2) focuses on the implementation of national legal instruments to determine their effectiveness to provide protection to all migrant workers legally present in the host country.

3.1. Overview of policies: Protection of migrant workers in focus

The national policies and laws relating to migrant workers in Kenya, Rwanda and Uganda outline the rights of workers in general that extend to migrant workers. These rights include ensuring equal treatment for migrants that are legally present in the country. **National legal frameworks provide the foundation for equal treatment of migrant workers and nationals in Member States.** In Kenya, migrant workers are protected under Article 27(4) of the **Constitution of Kenya (2010)**, as they are entitled to equal treatment free from discrimination on the basis of race, sex, pregnancy, marital status, health status, ethnic or social origin, colour, age, disability, religion, conscience, belief, culture, dress, language or birth" (Kenya, Parliament of, 2010b:24). The **Employment Act (2007)** also extends equal treatment to its citizens and migrant workers and members of their families, especially in relation to leave days, pay, contracts, solving disputes and gender issues.

Uganda's **Equal Opportunity Act (2007)** ensures that all nationals and migrants resident in the country enjoy the fundamental human rights in the country, as outlined in the **Constitution of Uganda**. The **Employment Act (2006)** is a primary law governing employment-related issues that ensure that migrant workers and their families legally resident in the country receive equal treatment. Discussions are underway to expand the Employment Act to include domestic workers, labour migration issues and human trafficking.¹⁴ Rwanda's **Labour Law No.66/2018** (Article 9) protects migrant workers against discrimination in the workplace.¹⁵ The **National Labour Mobility Policy (2019)**, based on the Decent Work Agenda, protects migrant workers by ensuring there is no forced labour and that migrants have the right of association as well as access to and engagement in collective bargaining (Rwanda, Ministry of Public Service and Labour, 2019:28).

Trade unions and employer organizations or federations promote better labour relations in that they protect and promote freedom of association, representing all workers, including migrant workers. They are important in ensuring that migrant workers' rights are upheld while monitoring the implementation of policies that affect all workers including migrants (ILO, 2018). The trade unions that are operational in the three countries are the COTU

¹² The initiative is at the early stages of engagement and learning about the varied human rights issues in Member States.

¹³ This was according to an official from KNCHR in Kenya during an interview.

¹⁴ A PLA official in Uganda shared this information in an interview.

¹⁵ Article 9 also outlines general provisions on the rights of workers, while Chapter VI includes provisions related to the association of employees and employers.

in Kenya, CESTRAR in Rwanda and the National Organisation of Trade Unions in Uganda, which are all members of the East African Trade Union Confederation. They represent the rights of all workers including migrants by improving their economic and political conditions, facilitating the settling of disputes, encouraging good relations between employers and employees, and supporting the training of workers.

Under the respective national legislation of the countries selected for this study, migrant workers are allowed to *join trade unions and engage in collective bargaining*. Rwanda's national laws, for instance, permit migrant workers to be members of trade unions as well as use the Rwandan legal system to seek redress for any abuse of their conditions of work by employers through the **Labour Law (2018)**. The **Constitution of Kenya (2010)** and the **Labour Relations Act (2007)** allow migrant workers to join trade unions as well as engage in collective bargaining. The **Labour Unions Act (2006)** of Uganda allows workers to establish and join unions.

Responses from the study reveal that there are few labour migrants joining unions, as membership vary depending on whether the worker is employed in the formal or informal sector and on the wages they receive. While migrants working for an established organization, such as an international non-governmental organization, have access to this right, there is a low registration rate for low-skilled informal migrant workers.¹⁶ In Uganda, for instance:

"...only 3% of the [migrant] workers in the country have joined labour unions. This high apathy is attributed to highly skilled and irregular migrants who are not interested in joining unions. In addition, wages are too low already across board and few people are willing to pay fees to join unions".¹⁷

Apart from low membership, another issue is that trade unions offer limited protection to migrant workers due to the lack of a structured approach to addressing the concerns of all types of migrant workers (including those undocumented and in irregular situations) present in the country. Undocumented migrants in Kenya and Uganda do not have access to protection, as they are deemed to have committed a crime especially if they have not applied for a work permit in the host country.¹⁸ In contrast, in Rwanda, undocumented migrants and migrants in irregular situations have the right to access justice under the Constitution (OHCHR, 2020:5).

Migrant workers are encouraged to join trade unions based on their sectors in the host country, but they cannot form their own independent trade unions. By joining a trade union, they have a platform where their grievances can be heard. For instance, Rwanda has labour inspectors in every district working with CESTRAR to ensure that all workers' rights, including migrants' rights, are upheld in accordance with the law.¹⁹ Where labour-related

¹⁶ A Kenyan official from KNCHR relayed this information in an interview.

¹⁷ In an interview, this was explained by a PLA official in Uganda.

¹⁸ A KNCHR official revealed this situation in an interview in Kenya.

¹⁹ A CESTRAR official in Rwanda provided this information during an interview.

disputes arise, the National Industrial Courts in the respective countries handle these issues. Trade unions represent all workers, including migrants, on issues concerning wages and terms of their contracts, among others.

The pandemic also revealed weaknesses of some of the regulations to protect all workers, including migrants. In the case of Rwanda, employers could not retain all their staff when business activities were non-operational. This affected the bargaining power of the workers, as certain decisions were being taken in their absence or without their consultation. Workers were either forced to take leave of absence without pay or lose their jobs. Mitigating steps were taken by the Government of Rwanda to address this challenge, including by promoting social dialogue between workers and employers.²⁰ Through this tripartite engagement, some strategic decisions could be taken that met the needs of both parties. Key stakeholders continue to evaluate the implications of the emergency on the protection of workers including migrant workers.

While the existing laws provide for protection mechanisms extending to migrant workers in the host countries, implementation of the laws and policies faces challenges. The next section discusses the following key areas:

- (a) Access to labour market and framework for migrant workers' rights protection;
- (b) Mutual skills recognition;
- (c) Access and portability of social security;
- (d) Right of residence;
- (e) Right of establishment;
- (f) Gender considerations.

3.1.1. Access to labour markets and frameworks for migrant workers' rights

Access to the labour market is critical to ensuring migrant workers' rights. It entails removal of barriers to migration as well as ensuring that migrant workers are treated equally and fairly when engaging in employment in the destination country. An experience of other regional integration initiatives underlines the fundamental importance of removing barriers to mobility and ensuring unrestricted access to the labour market for facilitating labour migration across borders.²¹ A significant difference in the terms under which migrant workers may access the territories and labour markets of Member States can be observed in the EAC and the IGAD. Migrant workers and their families are allowed to move freely under Article 7²² of the EAC CMP, with a national ID or passport (EAC Secretariat, 2004), without discrimination based on employment, remuneration and other conditions of work on the grounds of nationality (Article 10) (EAC Secretariat, 2010). The EAC CMP also permits migrant workers' family members to apply and accept job opportunities in

²⁰ This information was from a CESTRAR official in Rwanda, shared in an interview.

²¹ This is in accordance with Article 45 of the TFEU, which states that "freedom of movement of workers shall be secured within the Union". In line with its provisions, except of limitations "on grounds of public policy, public security or public health", European Union nationals are protected from discrimination regarding accepting offers of employment, moving to another Member State for purpose of employment, acquiring legal residence and staying beyond the period of employment.

²² Article 7 states that free movement of persons guarantees free movement of citizens within the EAC territories with no requirement for visa and not to be discriminated on grounds of nationality.

a Partner State provided they apply for the work permit once the job is secured. Work permits and dependant passes for EAC nationals are processed for free. Labour offices in Partner States are to ensure reciprocity regarding the assistance given to citizens of Partner States who take up employment in their countries and encourage mutual employment of young migrant workers (Article 10) (ibid.).

The adoption of the IGAD FMP in 2021 can facilitate the free movement of persons including workers within the IGAD region. Phase 2 of the IGAD FMP aims to achieve the right to free movement of workers by 2031. The road map advises States to take steps, such as harmonizing laws, policies and procedures; identifying and classifying skills gaps; facilitating mutual recognition of education and training certificates; developing laws and policies to facilitate social security benefits for workers; facilitating portability of social security benefits; establishing transparent labour recruitment and admissions; and developing LMISs (IGAD, 2020a).

Phase 2 can only be implemented when the outcomes of phase 1 are completed as stipulated in the implementation framework of the protocol. The right of entry and abolition of visas is expected to be achieved among Member States by 2028. The Declaration on Labour, Employment and Labour Migration in the IGAD Region (2021) paved the way for the engagement with Member States to start the ratification process of the IGAD FMP.²³ These policy actions demonstrate that labour migration is among IGAD's priorities. The IGAD also adopted the Protocol on Transhumance, which aims to exploit the full social and economic potential of the pastoral production system in the region. Article 2 of the Protocol aims to facilitate "free, safe and orderly cross-border mobility of transhumant livestock and herders in search of pasture and water as an adaptation mechanism to climate change and weather variability within the IGAD region" (IGAD, 2020b).

Kenya, Rwanda and Uganda have instituted various legal instruments to guide migrant workers with regular status in their respective countries. Kenya was found to be 40 per cent compliant with the EAC CMP on free movement of workers, as the **Citizenship and Immigration Act (2011)** and its revised regulations in Kenya outline the requirements for migrant workers seeking employment or income-generating opportunities within the country. However, section 2 of the Act describes a foreign national as a person who is not a citizen of Kenya without distinguishing them from an EAC citizen (EAC Secretariat, 2018c:170). In Uganda, the **Constitution** allows all migrants from different countries to move freely into the country, including EAC nationals. Uganda's **Citizenship and Immigration Control Act (2000)** regulates matters related to citizenship, travel, identification documentation and immigration controls as well as the requirements for applying for a work permit (ILO, 2020f). **Law No. 66 of 30 August 2018 Regulating Labour in Rwanda** contains provisions that affect migrant workers and workers in general including the employment procedures for foreign migrant workers (Article 12), among others. Rwanda's **National Labour Mobility Policy (2019)** maintains skills for the labour market, among others. Once the migrant workers have secured employment opportunities in the respective countries, they are at liberty to explore other settlement options including

²³ This was according to the IGAD official during an interview.

the right of residence. Rwanda and Uganda were found to be 80 per cent compliant with the EAC CMP on free movement of workers as their laws were seen to extend equal treatment for workers from other Partner States (EAC Secretariat, 2018c:16).

3.1.2. Right of residence

Under the IGAD and EAC protocols, migrant workers have the right to reside in another member country with their families once they qualify under the national law of the host country.²⁴ Article 14 of the EAC CMP is implemented by the regulations outlined in Annex IV of the CMP. Citizens of IGAD Member States have the right of residence under Article 11 of the IGAD FMP to move with their families. In both cases, the right of residence can be restricted on the grounds of public policy, security or health in the host country (EAC Secretariat, 2010; IGAD, 2020a:10).

Annex IV of the EAC CMP states that an EAC migrant worker will be issued a residence permit within 30 days of entry into the country based on a successful work permit application. The migrant worker can apply using a joint standard travel document or a national ID card to provide a copy of the work permit and other supporting documentation. The residence permit shall not exceed the two years of the work permit. The renewal of the permit depends on the successful revival of the work permit at least 30 days before expiry. Competent national authorities can only deny a residence permit within the Partner States in writing (EAC Secretariat, 2010).

The constitutions of Kenya and Uganda, respectively, set forth measures that allow migrants to reside in any part of the respective country. For instance, Article 39 of the Constitution of Kenya (2010) repeals the Alien Restriction Act and permits freedom of movement and residence (Kago and Masinde, 2017:352). In Uganda:

“Free movement of persons [in Uganda] gives migrants the right of residence and establishment and so the moment a migrant falls within that category, the laws and the protocol protect you and vice versa.”²⁵

In Rwanda, the right of residence is outlined in Article 9 of **Law No. 17/99 on Immigration and Emigration** where a residence visa is the same as a residence permit. Migrant workers are issued with a temporary residence visa once they have met all the legal requirements of their visa. The National Migration Policy and Strategies aims to ease the facilitation process for residence by digitizing the procedures followed by an induction session for skilled workers and entrepreneurs who have acquired temporary residence to familiarize themselves with the national laws and policies related to labour, immigration and business, among others (Rwanda, National Security Service, Directorate General of Immigration and Emigration, 2019:14).

²⁴ Directive 2004/38/EC of the European Parliament and of the Council grants to all European Union citizens and members of their families who “move to or reside in” another Member State (Article 3) the right of residence for up to three months as well as longer (if they are employed or self-employed) (Article 7) and the right of permanent residence acquired after five years of continuous stay (Article 16). Freedom of movement of workers does not entail employment in public service for which citizenship of a given State may be required.

²⁵ This was explained by an MGLSD official in Uganda during an interview.

The time required for seeking permanent residency varies in all three countries under assessment. In Kenya, migrant workers can apply for permanent residency through marriage with a Kenyan national or if they have resided in the country with a valid permit for a minimum of three years. After seven years of legal residence, they can apply for citizenship but cannot vote.²⁶ In Uganda, a migrant can apply for permanent residence after 10 years of legal and uninterrupted residence in the country in accordance with the **Citizenship and Immigration Control Act**. To acquire citizenship, there are two pathways: (a) after at least 20 years of legal residence in the country; and (b) through marriage. The latter would require a marriage certificate and proof of subsisting marriage for five years or more (Uganda, Parliament of, 1999). Rwanda's Law No. 04/2011 on Immigration and Emigration allows migrant workers and their families to apply for permanent residency after five years of continuous temporary residence in the country (Rwanda, Parliament of, 2011). Rwanda has provided a number of pathways for immigrants to acquire citizenship at a fee provided they meet the conditions outlined in **Ministerial Order No. 007/01 Relating to Rwandan Nationality (2022)**.²⁷ A migrant worker can apply for citizenship through the following:

- As a **spouse**, by providing a marriage certificate, an identity document of the Rwandese spouse, including a curriculum vitae and at least three references, as well as a justification of shared common marital life for the last five years (Article 7);
- As a **stateless person**, provided the person does not pose a threat to national security and has no criminal record; a recommendation letter from the local administrative body has to be provided (Article 9);
- As an **immigrant** after 25 years of physical presence in the country (Article 10);
- As an **investor**, by providing proof of company registration in the country, a certificate of good conduct and proof that the investment activities will be sustainable in the country (Article 12);
- As a **migrant worker with special skills or talents**, with proof to the Director General of Immigration and Emigration that the skills/talents are in demand in the country (Article 13) (Rwanda, Ministry of Public Service and Labour, 2022; Rwanda, National Security Service, Directorate General of Immigration and Emigration, n.d.).

In the case of IGAD, prior to the endorsement of the IGAD FMP, there was no regional framework guiding the right of residence. Phase 3 of the IGAD FMP aims to achieve the right of residence by 2034 where IGAD citizens will have the right of residence under Article 11, allowing them to move with their families. Limitations may be put in place by the host Member State on the grounds of public policy, security, order, and health concerns or considerations (Rwanda, Ministry of Public Service and Labour, 2022).

²⁶ A Kenyan Immigration official explained this in an interview.

²⁷ For all categories, applicants must provide a birth certificate, a curriculum vitae and a copy of the residence permit supported by other specific documents required per category.

3.1.3. Right of establishment

The EAC CMP and the IGAD FMP adopt similar guiding principles regarding the right of establishment.²⁸ All migrant workers and their families within the respective RECs have the right to establish businesses; manage companies/firms; and engage in other private economic activities (Article 13 of the EAC CMP), professions and vocations (Article 8.2 of the IGAD FMP) as self-employed within the confines of a member country. They cannot be discriminated against on grounds of nationality, including in terms of access to social security benefits in the destination country for employed and self-employed persons. Firms and companies must meet the establishment requirements outlined in the national laws of the host country and should not be discredited for purposes of the establishment. The EAC Partner States are progressively harmonizing their national laws with administrative procedures and practices to eliminate any provisions that hinder the right of establishment, such as expanding corporate organizations and entry and residence of migrant workers employed by the established company in the host State within the region. Measures that protect the community's interest apply to the welfare of companies established in Partner States.

There are some similarities observed between the EAC CMP IGAD FMP on right of establishment. The Right of Establishment under the EAC CMP under Article 13 gives citizens of EAC and members of their families the right to take up economic activities, set up and manage a business in another Partner State. Whereas Part III of the IGAD FMP on the Right of Establishment to be achieved in phase 4 by 2037 will also give IGAD nationals and members of their families the right to establish a business, take up economic activities, provide services or take up any vocation or profession in another Member States provided they meet the national legal requirements (Article 8). Both protocols state that a self-employed person has the right to access social security in another member country (Article 8.3 of the IGAD FMP and Article 13.3(b) of the EAC CMP). In addition, the IGAD FMP (Article 8.8) and the EAC CMP (Article 13.11) agree that there is a need to remove restrictive measures in the national laws to ease the process on the right of establishment. Furthermore, the protocols state that measures should be in place that allow for the mutual recognition of licenses and certificates in host countries (Article 13.7 of the EAC CMP and Article 8.7 of the IGAD FMP).

Respondents in the study at the national level acknowledged that migrant workers have the right to establish a business in another host Partner State in the EAC. In Kenya, nationals of Rwanda are exempted from the requirements under the **Immigration Act** related to work or residence for trade, business or profession (Kenya, Parliament of, 2010a:75). Uganda's **Investment Code Act (2019)** considers the EAC nationals as domestic investors, allowing them more flexibility in establishing a business and strengthening regional integration between the Partner States. The Northern Corridor initiative has been instrumental in facilitating the right of establishment in Kenya, Uganda and Rwanda by removing the barriers to free movement, such as work permit fees (Gastorn and Masinde, 2017:372), and simplifying the process of registering a business by automating the procedures (Kenya,

²⁸ Articles 49–55 of TFEU provide for the right of establishment for all European Union nationals in the territory of another Member State. In particular, the right includes the right to self-employment as well as to setting up and managing companies or firms “constituted under civil or commercial law, including cooperative societies, and other legal persons governed by public or private law” (Article 54).

Ministry of East African Community and Regional Development, 2020). For instance, processing a business licence in Rwanda takes one day (World Bank Group, 2020a), while in Kenya it takes five days (World Bank Group, 2020b). Business registration is automated to speed up the process in all three countries.

3.1.4. Mutual recognition of skills

The IGAD FMP and the EAC CMP equally recognize the importance of harmonizing academic and professional qualifications through better labour policies, national laws and programmes.²⁹ A regional quality assurance system and a qualifications framework are needed to coordinate professional educational qualifications to create a common higher education area. A common approach will allow for “comparability, compatibility and mutual recognition of higher education and training systems as well as qualifications” within a region, promoting competition and innovation, among others, between higher education systems.

Within the EAC, the **EAQFHE**³⁰ is the mutual skills recognition framework that aligns and guides the NQFs of Partner States that are expected to accept the academic and professional qualifications granted jointly, experiences obtained, requirements met, and licences or certifications granted in another Partner State (Article 11, Paragraph 1 of the EAC CMP). Partner States are expected to integrate their curricula, examinations, standards, certifications, and accreditations of educational and training institutions of all EAC Partner States for easy recognition and movement of skilled labour within the community. There will be mutual recognition of the relevant experiences attained, requirements met, and licences and certificates granted to a company or firm from origin Partner States by all host Partner States (Article 13 of the EAC CMP). The application of these rights can be limited if they pose a threat to public policy, security and health in the host Partner State, and this shall be made known to the Partner State of the migrant's origin. Partner States are in the process of negotiating MRAs between professional associations that will play an instrumental role in the mutual recognition of skills. There are also ongoing discussions on launching a youth exchange programme to create pathways for employment for the youth in Partner States. This will require the Partner States to amend their national laws to include the programme (EAC Secretariat, 2018c:70).

In the EAC, the **Inter-University Council for East Africa** developed a frame of reference for the harmonization of the EAQFHE in collaboration with the national councils and commissions on higher education in the Partner States. This includes a regional quality assurance system with four operational tools (IUCEA, 2015). The **EAC Common Higher Education Area** was developed in 2017 as a regional quality assurance system to harmonize the NQFs (Werquin and Panzica, 2019:35). The Inter-University Council for East Africa enacted the MRAs for individual professions across the EAC (ibid.:13). In 2016, a regional model for coordinating fee structures in educational institutions was also developed to

²⁹ Article 53 of TFEU grants the right to the European Union bodies (the European Parliament and the Council) the right to issue directives “for the mutual recognition of diplomas, certificates and other evidence of formal qualifications”.

³⁰ The EAQFHE was designed to facilitate the establishment of a framework that EAC Partner States can use to compare their national higher education systems to be on a par with regional education schemes.

assist Partner States in adopting one strategy across the region (EAC Secretariat, 2017:70). The recent assessment of the EAC Development Strategy reveals that the Partner States have taken significant steps towards harmonizing education, curricula, accreditation of education systems and certification (EAC Secretariat, 2021:62).

In the IGAD, the **Djibouti Declaration on Regional Refugee Education in the IGAD Member States** sets forth that all refugees, returnees and host communities should have quality education. Member States have committed to recognize the qualifications of refugees and returnees at all levels of education. The **IGAD Regional Education Policy Framework (2020)** was developed as a tool to enhance cooperation between Member States and key stakeholders to promote education, science, technology and innovation. Under policy intervention area 5.3, covering tertiary and higher education, the IGAD advocates for the need to develop the **IGAD Education Credit Transfer System**, establish the **IGAD Council of Higher Education**, and encourage regional cooperation among **national higher education quality and relevance agencies** (IGAD, 2020c:24). Although no operational RQF in the IGAD was identified at the time of the study, there are processes taking place to develop one (IGAD, 2019). The IGAD and UNESCO held a consultative workshop in November 2019 to assess the NQFs in the IGAD Member States. The RQF aims to contribute to developing the economic, labour and educational opportunities for countries that share the same goal in providing a similar platform for monitoring and evaluating academic achievements to enhance regional labour expansion (ibid.).

The IGAD is currently developing **quality assurance mechanisms** and a standardized system for mutual recognition for skills and expertise targeted at the quality of teaching and teachers (IGAD, 2018b). Member States were urged to develop national quality standards or review their existing national quality standards that should capture learners' needs, and design **inclusive education management information systems** to assess regional skills demand and supply, particularly for TVET and higher education outputs (ibid.). The IGAD is also developing the YESI, which will be based on the results of an ongoing study about youth employment and trends in the region, as well as identifying existing challenges and potential opportunities that can be harnessed for youth and employment. Furthermore, the IGAD launched an undergraduate and postgraduate scholarship programme in 2021, targeting refugees, returnees and host communities in an effort to enhance inclusive and equitable education in the region and reward academic excellence for students that are from socially and economically disadvantaged backgrounds (IGAD, n.d.a).

Implementing the mutual recognition of skills is vital for migrant workers within the region as it expands their employment options across a wider area. It assures migrant workers that their skills are applicable in various settings. Migrant workers will bring on board new ways of thinking and working while contributing to their areas of expertise. Host countries will benefit from their contributions. Nevertheless, it is essential to understand how the various educational systems can be harmonized systematically.

3.1.5. Access to and portability of social security

Social protection and the portability of the social security contributions and benefits of migrant workers are an integral part of the African Union labour migration agenda, especially the Social Policy Framework (2006). Respondents from Uganda and Kenya acknowledged being part of the regional discussions on both frameworks that will help member countries to develop or refine their national policies on labour migration. There was no specific regional framework on social security benefits.

The EAC nationals engaging in self-employment in other Partner States and their families are entitled to join the **social security schemes** of host countries and must abide by the laws of the host country under Article 10 of the EAC CMP. Partner States are to make the necessary amendments to their national policies, laws and systems on social security to enable self-employed migrant workers who are citizens of other Partner States to benefit from social security and to transfer them once their employment contracts have ended.³¹ The process to update the draft EAC Council Directive on the Coordination of Social Security Benefits is underway for approval by the Council of Ministers, the body responsible for EAC affairs and planning and ultimate operationalization. The EAC Council Directive outlines the procedures on social security benefits for migrant workers who are employed and self-employed.³²

Most of the IGAD Member States, except for Kenya and Uganda, lack social security laws and policies for their own nationals and thus are not in the position to guarantee access for migrant workers. Phase 2 of the IGAD FMP focuses on ensuring that the nationals of Member States can contribute and receive social security benefits while they reside in another member country, as Member States are encouraged to form bilateral and regional agreements that facilitate portability of social benefits.

The national laws of host countries provide migrant workers access to social protection schemes where they voluntarily contribute to these schemes even while working overseas (Hagen-Zanker et al., 2017:4). Both Kenya and Uganda have very similar adjunct social security laws³³ that also consider migrant workers. The 2010 Kenyan Constitution (Article 43(1)e) guarantees that “every person has the right to social security”, providing protection of rights of workers, including migrant workers, and guaranteeing equal access to social security and protection for all workers in Kenya (Kenya, Parliament of, 2010b:31). The instruments guiding social security in Kenya include the **NSSF Act (2013)** and the **National Hospital Insurance Fund Act (1998)**. These are public insurance schemes in which citizens and migrants are expected to contribute to social security and health-care benefits, respectively, in accordance with the laws. The NSSF Act borrows heavily from national laws, including the Employment Act, ensuring no discrimination by gender, colour, ethnicity and disability.³⁴ Migrant workers are expected to be legally employed in the country to be able to contribute to and access these schemes.

³¹ This information was relayed by an EAC official in an interview.

³² This information was relayed by an EAC official in an interview.

³³ These laws are the Pensions Act (both Kenya and Uganda); Kenya's Retirement Benefits Act and Uganda's Retirement Benefits Regulatory Authority Act; and the National Social Security Fund in Uganda and Kenya as well as Kenya's Social Assistance Act, 2013.

³⁴ This was the statement of an NSSF official in Kenya in an interview.

“Migrants have access to social security unless they are members of social security schemes in their [countries] and can prove that they are remitting contributions, then they can seek exemption under the First Schedule of the NSSF Act (2013).”³⁵

Uganda has the **National Social Security Fund Act (1985)** and the **National Health Insurance Scheme Bill (2019)** (ISER, 2019:10). The bill aims to provide affordable health-care services to all residents in the country including migrant workers that contribute to the mandatory scheme, except for informal workers. The National Health Insurance Scheme Bill also coordinates health insurance companies including the private ones that are accredited by the Accreditation and Oversight Committee. Private health insurance companies were operating without sufficient regulations to monitor benefits including the contributions of labour migrants from the EAC as well as transferring their contributions at the end of their employment in the country.³⁶ Migrant workers are allowed to cash out their contributions when they are leaving the country.³⁷

All migrant workers in Rwanda are required to contribute to social security guided by the **National Social Security Policy (2009)** and the **Social Health Policy (2015)**. **Law No. 48 Governing the Organisation, Functioning and Management of Health Insurance Schemes in Rwanda (2015)** ensures that all workers (national or migrant) have health insurance. Under Article 3 of Law No. 48, migrant workers are required to subscribe to a scheme within 30 days upon starting employment to access public health services. Rwanda’s mandatory scheme is outlined under the **Law Governing the Organisation of Pension Schemes (2015)** for all salaried workers, including migrants. The scheme is voluntary for informal workers and self-employed persons. In addition, the law regulating labour requires employers to provide severance pay for all workers, without a clear distinction between migrant workers and nationals (IOM, 2021c).

Portability of social security contributions is equally important, as it can determine whether a migrant worker will contribute to the social security package. In the EAC region, bilateral agreements between countries within the region are encouraged to ensure portability of social security contributions. Laws in host countries should create a pathway that allows migrant workers to receive their accrued contributions before they leave the country (Hagen-Zanker et al., 2017:3). Alternatively, unilateral programmes from countries of origin can be created to facilitate social security contributions of nationals working in other countries.

During the COVID-19 pandemic, all three countries adopted response measures to ensure that all people had access to health insurance. Rwanda, for instance, removed the waiting time for health insurance protection (ISSA, 2021). Uganda included refugees in the vaccination campaign in March 2021 starting with priority groups (refugee health-care workers and refugees over 50 years old), with the result that by November 2021, 1.5 million refugees had received their first jabs. However, administrative hurdles, such as requiring an ID card, and physical barriers brought about by the distance between the camp and the nearest

³⁵ This was explained by an NSSF official in Kenya during an interview.

³⁶ This information was provided by a Ugandan MGLSD official in an interview.

³⁷ This information was provided by a Ugandan MGLSD official in an interview.

health centre, among others, blocked a few refugees from accessing vaccines (Kigozi and Greener, 2022). Kenya transitioned its health services to a digital platform, allowing people, including migrants, to access information online. In Kenya, the Ministry of Health (2021) announced that all people including refugees and migrants can equally access vaccines. The pandemic highlighted an existing challenge concerning access to affordable health care for migrants during emergencies, which requires further investigation.

3.1.6. Gender considerations

Gender is critical to labour migration discussions and the protection of migrants' rights as both women and girls and men and boys are part of the integration process.³⁸ Furthermore, understanding the challenges faced by women in integration is essential to designing gender-sensitive policies and programmes. Women and girls tend to make up the highest proportion of migrant workers. They are more susceptible to human rights abuses, including exploitation, poor and hazardous working conditions, violation of labour rights, human trafficking, intimidation and extortion at borders and sexual harassment.

The **EAC Vision 2050** and the **EAC Gender Policy (2018)** recognize that migration and the associated cross-border activities are riskier for women than men and aim to harmonize and mainstream gender into all EAC policies and programmes (EAC Secretariat, 2018a). Section 5.8 (Gender Equality in Employment and Labour Force) of the Gender Policy encourages labour migration between the Partner States, decent working conditions for all, and harmonization of Partner States' labour and employment policies, laws and frameworks. Partner States' migration policies are expected to guarantee equal treatment of men and women within the region, promote gender equity in the employment sector by enabling policy and legislation, and support and promote the participation of women in all sectors of labour provision and employment and across borders.

The EAC Gender Policy also aims to ease the management of intraregional mobility of men and women and boys and girls through advocacy on protection of migrants' rights aligned with the EAC Treaty provisions (ibid.:section 5.9). Partner States are expected to find effective ways of addressing irregular migration, enhance gender-sensitive observance of migrants' rights during and after migration episodes, and mainstream gender perspectives into migration management policies and strategies. The EAC Gender Ministry conducts gender audits to track the progress of gender mainstreaming at the national level.

The IGAD **Gender Strategy and Implementation Plan (2016–2020)** recognizes the implications of migration for gender equality. Accordingly, it advises Member States to put in place more gender-responsive laws and policies on migration to achieve gender equality in the region (IGAD, 2015:v). The strategy also proposes to strengthen the capacity of key stakeholders handling migration and other related issues concerning mobility, but there is limited evidence of how this process is being initiated at the Member State level.

³⁸ IOM's regional strategy aims to understand how gender interacts with migration, looking closely at mainstreaming gender into labour migration frameworks (IOM, *East and Horn of Africa Regional Strategy 2020–2024* (Geneva, 2020), p. 20).

It is important to understand how the national laws and policies are implemented to determine whether migrant workers are sufficiently protected in destination countries. The focus of the next section is on the implementation of labour migration policies in Kenya, Rwanda and Uganda, with a specific focus on migrant workers' rights.

3.2. Status of migrant workers' protection and critical factors to advance migrant workers' rights

While the previous section outlines the norms and standards that each REC and Member State have in place with regard to migrant workers and their rights, this section focuses on the realities of implementation of measures regarding labour migration within the three countries, drawing from the responses from field and existing secondary documents. The issues are discussed from the perspectives of the following key thematic areas: (a) labour migration data; (b) access to labour market; (c) mutual recognition of skills; (d) access to and portability of social security benefits; (e) diaspora engagement; (f) migrant workers' rights in the GCC; and (g) gender considerations.

3.2.1. Labour migration data

Real-time, reliable and comparable labour migration data is critical to identifying labour migration trends and skills gaps for the labour market in the country as well as influencing policy processes, among others. This data is equally indispensable in labour migration decision-making by prospective labour migrants. RECs depend on data from Member States to inform their regional approaches and strategies. Within the EAC, a migration statistics portal includes data on labour migrants disaggregated by gender from 2010 (EAC Secretariat, n.d.a). It also has a regional monitor that captures data every six months on workers issued with work permits. The data includes information on those that have access to social security benefits and those migrant workers moving with their families.³⁹ The data is used to inform regional discussions and decisions on labour migration-related issues. There are plans to expand the features to include migrant workers by profession.⁴⁰ The IGAD developed its Regional Strategy for the Development of Statistics (2021–2025), which aims to improve the quality of migration data at the Member State level (IGAD, 2021b).

Member States capture labour migration data through LMISs that were found to be present in all three countries but operated differently. Analysis of existing literature in Rwanda reveals that research is key to the implementation strategies adopted by the Government, especially the labour migration programmes mentioned earlier. Rwanda, in 2018, was found to be 50 per cent compliant with the EAC CMP in relation to developing an LMIS that requires all recruitment agencies to submit their data to the platform. Rwanda has three key platforms that capture labour market information: the **LMIS** with labour market information that is updated annually; the **Kora Job Portal**, managed by the Rwanda Development Board, which advertises jobs within the country; and the **National Labour Mobility Portal**, which captures some data on labour migration into and from the country. The **National Institute of Statistics of Rwanda** conducts biannual surveys on

³⁹ This information was given by an EAC official during an interview.

⁴⁰ An EAC official revealed this in an interview.

skills gaps in the country's labour sector and the results are used to identify sectors in need of skills that can be sourced from the EAC with different skills levels. In 2009, the National Skills Audit identified skills gaps in the private sector, while the Labour Force Survey piloted in 2016 used key questions, such as questions on immigration status and nationality, to monitor the immigration situation in the country in relation to the labour force (OECD and ILO, 2018:46-47). Rwanda's LMIS and ODL (Rwanda, Ministry of Public Service and Labour, 2013) support a balanced focus on both the region and beyond.

The labour migration systems in Uganda and Kenya are partially set up and primarily focus on migrant labour towards the GCC. In Uganda, the **EEMIS** captures some work permit administrative data focused on migrant workers towards the GCC, but there is limited data analysis (ILO, 2020f). Respondents revealed that there were efforts to decentralize the LMIS. Although Uganda has the EEMIS, its LMIS was not compliant with the EAC CMP LMIS provision, based on the 2018 East African CMS, as Uganda's labour law needed to be amended to include the LMIS framework (EAC Secretariat, 2018c:66). Kenya's LMIS⁴¹ captures a range of labour-related data, including those on available vacancies, jobs disaggregated by gender, skills supply and demand, training programmes within various institutions, periodic reports on key labour market indicators and available labour market services (Kenya, Ministry of Labour and Social Protection, 2023). The system also features a portal on labour migration information on the GCC, which, however, does not include labour migration-related data, but there are discussions taking place on how to integrate it into the existing system.⁴² Kenya was found to be 50 per cent compliant with the EAC CMP provision regarding the LMIS, as its system was not linked to those of other Partner States (EAC Secretariat, 2018c:66). Member countries have captured their respective labour market data related to skills, but data collection needs to be improved to meet the EAC CMP commitment on LMIS. At the regional level, there is limited data on labour migration from the EAC and IGAD regions. However, both RECs are building the capacities of statistical officers to strengthen migration-related data collection efforts. This includes training that was undertaken by IGAD officials in 2021 at the IOM ACBC in the United Republic of Tanzania.⁴³

3.2.2. Access to labour market

The EAC Partner States agreed to conduct a manpower survey to identify the skills gaps and needs in their national labour markets (Walusimbi-Mpanga and Bakunda, 2013). The survey provides data on the labour market conditions in Partner States that could inform regional or national approaches to labour migration opportunities especially for the youth. The three countries covered in the study conducted their manpower surveys in different years.⁴⁴ The survey in Uganda revealed that more jobs in the public sector (70.8%) than in the private sector (36.9%) remained unfilled due to budgetary constraints (47.5%) and long internal bureaucracy (28.1%) (Uganda Bureau of Statistics, 2018:59–60). In Rwanda, the workforce survey reported labour vacancies in the health sector (42.9%) and private businesses (36.2%). Similar to the trends in Uganda, these posts in Rwanda remained

⁴¹ Kenya's LMIS was launched in 2019 in partnership with IOM and is managed by the NEA.

⁴² In an interview, an official from NEA in Kenya shared this development.

⁴³ An IGAD official revealed this information in an interview.

⁴⁴ Rwanda conducted its manpower survey in 2013, Kenya in 2012 and Uganda in 2018. Kenya's survey was unavailable online at the time of the study.

vacant because of budget constraints (44.1%) and the lack of qualified applicants (20%) (Rwanda, Ministry of Public Service and Labour, and National Institute of Statistics of Rwanda, 2013a:73). The required skills and professions are outlined in their national laws and classified by the type of work permit (see Annex 2).

There are general terms of accessing labour markets in other Partner States where all three countries adopt similar approaches. In general, EAC citizens are not considered migrants but members free to move within the region. Once they have secured employment in another Partner State, their work permits are processed for free. There are also specific terms of access for skilled migrants that vary between the three countries, which are outlined in the subsequent section.⁴⁵

3.2.2.1. General terms of access

All migrant workers seeking employment opportunities in the EAC are required to apply for a work permit. Migrant workers from outside the EAC, including IGAD nationals and their families, are required to apply for a work permit or a dependents pass in their countries of origin at a fee. A migrant worker's spouse that has secured a job is required to apply for a work permit and meet the requirements outlined by the national law of the host country. All migrant workers need to provide supporting documents while applying for a permit. Rwanda requires EAC nationals applying for work permit H4 for semi-skilled artisans to provide evidence of work experience of a minimum of two years or a certificate from previous employment that supports their special skills. Nevertheless, respondents, in general, stated that Rwanda has a very open visa policy that attracts migrant labour from the region and across the globe because of the skills they can offer and the openness of the country to do business.⁴⁶

When migrant workers wish to change their employment, they must follow the legislative procedures that guide that process in all three countries while in the host country. They are expected to inform the relevant authorities and abide by the requirements outlined in the national laws. For instance, in Uganda, if the EAC labour migrants change jobs or if their contracts are ending, they are required to notify the immigration department within 15 days to apply for a new work permit or leave the country (Uganda, Parliament of, 2004). While, in Rwanda, migrant workers can change their employment and inform the DGIE while reapplying for a new work permit under the new employer (Rwanda, Parliament of, 2011).

There are unique circumstances when migrant workers are restricted in the respective countries. All three countries prohibit an employer from hiring a migrant worker who is unlawfully present in the country (Uganda, Parliament of, 2006:27). Kenya and Uganda restrict migrant workers from engaging in public service. Kenya's *Human Resource Policies and Procedures Manual for the Public Service* restricts the time frame in which a migrant worker can take up employment in the public sector to three years and the contract can only be renewed once.

⁴⁵ While the European Union treaties and directives set forth general principles (such as the freedom of movement), those are implemented by national authorities and invoked to address specific cases by domestic courts. As an overview of the application of Directive 2004/38/EC on the free movement in national case law concludes, divergent interpretations of the terms in the Directive pose a challenge to ensure effective enforcement of rights in each Member State (European Union Agency for Fundamental Rights (FRA), *Making EU Citizens' Rights a Reality: National Courts Enforcing Freedom of Movement and Related Rights* (Luxembourg, 2018), available at <https://op.europa.eu/en/publication-detail/-/publication/65ea3209-b0bb-11e8-99ee-01aa75ed71a1/language-en>).

⁴⁶ A DGIE official in Rwanda confirmed this in an interview.

Freedom of movement of IGAD nationals seeking employment opportunities in Kenya and Uganda depends on the relations and agreements between the source and host countries. All IGAD nationals bound for Kenya and Uganda are expected to apply for a work permit at a cost in their countries of origin once they have secured employment. Administratively, the implementation of the work permit process varies by nationality in the case of Kenya. For instance, Ethiopian and South Sudanese nationals can enter the country visa free. But when they secure a job, they are required to process the visa in their countries of origin at a fee.⁴⁷ For Somali nationals, they must apply for a referred visa that requires that they submit their documents to the:

“Nairobi Immigration Office [through the Inter-Ministerial Entry Permit Determination Committee] for verification and security checks with Interpol. [The verification is] to check if anyone has [a] history of terrorism involvement or cross-border crimes involvement. Once they are verified and accepted, they send the documents back then they can start the process of applying for a visa. Work permits for Somalis – we have a few applications as they need to be vetted highly [(e.g. those working with international NGOs based in Kenya with activities in Somalia)]”⁴⁸

Rwanda tends to restrict free movement and entry of labour for all migrants even from the EAC if they misused previous residence permits or visas, violated national laws, were involved in genocide, falsified information, had insufficient funds for support, posed a threat to national security, had criminal record, were associated with criminal activities or did not fulfil application requirements.⁴⁹ It also restricts labour migration to the Gulf countries, as, based on their research, protection is not guaranteed for labour migrants.

“The protection mechanism is to ensure that Rwandese nationals/graduates move under the safe ways/pathways framework as the dangers are known based on consultations and research.”⁵⁰

The Government of Rwanda is aware that there are some nationals who are still exploring labour opportunities in the Gulf⁵¹ and is considering BLAs that aim to include protective measures for their citizens abroad.

3.2.2.2. Access to employment for skilled migrant workers

In all three countries, qualified citizens are prioritized over non-nationals to capitalize on their local labour markets. When certain skills are lacking in the country, they are sourced from the EAC first and then expanded to other regions if none can be found within the EAC. Kenya and Uganda do not have specific programmes targeting skilled workers but prioritize their citizens first, then EAC nationals, when positions are available in the respective countries, before considering nationals from outside the region.

⁴⁷ This information was provided by an Immigration official in Kenya during an interview.

⁴⁸ This information was provided by an Immigration official in Kenya during an interview.

⁴⁹ A DGIE official in Kenya clarified this in an interview.

⁵⁰ An RDB official clarified this in an interview in Rwanda.

⁵¹ The potential countries have yet to be identified.

All three countries have adopted a classification system. Both Kenya and Rwanda were found to be 83 per cent compliant with the EAC CMP Annex Regulations 6 concerning work permits procedures.⁵² Rwanda's **Ministerial Order No. 01/19 of 25/02/2009 Determining the Recruitment Procedures of Foreign Workers** outlines the work permit process for all migrant workers including EAC citizens. Rwanda's work permit class system is very comprehensive and includes subclasses within a specific sector or profession. Rwanda allows all labour migrants to enter and reside in the country for a maximum of six months to search for employment opportunities in the country.

"[Migrant workers] can spend time looking for a job while their visas are still on. They are not required to leave the country to process the work permit. They just have to provide the documents to the relevant ministry processing work permits."⁵³

In Kenya, the EAC scorecard found no restrictions on work permits. The work permits in Kenya are classified in nine different categories. A migrant worker from outside the EAC will be required to apply for a work permit in his or her country of origin, whereas an EAC national can apply within Kenya. The eCitizen platform⁵⁴ eases the process of submitting documents online. It is estimated to take 24–38 working days to process a work permit (KenInvest, n.d.). Migrant workers in the country who have the required skill sets that are not listed in the classification system are allowed to apply for a one-year Class D work permit, which is not restricted to any sector. Employers must prove that there is no Kenyan citizen with the same qualifications and experience as the migrant applying for the job (IOM, 2018a).

In Uganda, the EAC scorecard revealed that the country was 17 per cent compliant (EAC Secretariat, 2018c:17) with the regulation on work permits. The Uganda Citizenship and Immigration Control Act (Article 54) still refers to a work permit as an entry permit (Uganda, Parliament of, 1999), which does not align with the EAC CMP term adopted in the other two countries. Furthermore, procedures regarding selected entry permits need to be amended (EAC Secretariat, 2018c:62), such as Class G, which requires a migrant worker with a job offer under any sector to apply outside of the country, while for other classes, the migrant can apply within the country (Uganda, Parliament of, 1999; Mutamba and Nsavyimana, 2019:87). Migrant workers with a contract exceeding 90 days are given 15 days to apply for an entry permit, while a special pass is issued to migrant workers who are undertaking a short-term contract of less than three months. The Government's e-immigration system allows non-nationals to submit their work permit applications as per the requirements outlined in the Citizenship and Immigration Control Act. In some instances, language barriers exist for migrant workers who do not speak English or Kiswahili.

When a particular skill set is lacking in the country, employers can source from within the EAC first, then beyond the region. Rwanda's **ODL** developed in 2013 based on the 2011 Manpower Survey provides an evolving list of skills demanded in the country by

⁵² Kenya's and Rwanda's systems enable EAC citizens to access work permits, issue special passes to workers with contracts not exceeding as well as those exceeding 90 days, and issue work permits to workers with contracts of more than 90 days within 30 days of application, for a period of two years and renewable.

⁵³ A CESTRAR official explained this in an interview in Rwanda.

⁵⁴ See www.ecitizen.go.ke/.

sector.⁵⁵ Rwanda's National Labour Mobility Policy (2019) also outlines specific short-term labour migration programmes that address skills shortages in selected sectors.⁵⁶ The skills assessment will depend on the labour market and is considered on a case-by-case basis. The policy also supports the temporary or permanent return of Rwandan nationals to contribute to nation-building while at the same time reinforcing the general education policy.

Rwanda labour migration programmes

There are three labour migration programmes in Rwanda:

- The **Skilled Workers Programme** provides temporary employment opportunities to foreign workers with skills needed in the country based on a nationwide assessment (Rwanda, National Security Service, Directorate General of Immigration and Emigration 2019:6).
- The **Skilled Workers in Occupations in Demand** programme targets migrant workers whose qualifications and skills are included in the ODL. A contract or an employer to sponsor one's visa is not required, as migrant workers are more likely to find employment in their respective fields more easily (ibid.:6–7). The workers are also issued with a temporary permanent residence permit that also serves as a work permit.
- The **Employer-sponsored Skilled Workers** programme reduces administrative barriers on employment practices among skilled workers but will require the employer to sponsor the migrant labour especially if their skills set is not identified under the ODL (ibid.:8).

The Government has developed options for migrant workers whose skills cannot be locally sourced, and the employer needs to recruit a migrant worker whose skills are not in the ODL. The position is publicly advertised first to shortlist citizens that may qualify. When no citizen can fill the position, the employer is given authorization to recruit a foreign worker.⁵⁷

3.2.3. Mutual recognition of skills

The mutual recognition of skills of professional bodies within the EAC region exists in each country and reviews the skills of the profession. An EAC migrant worker within a specific profession cannot move until his or her skills are accredited by the professional body.⁵⁸ The EAC Partner States have managed to create a common higher education area where students in higher learning institutions can transfer their credits to another institution within the EAC. TVET has also been harmonized in Partner States, supporting employment creation.⁵⁹ Therefore, mutual recognition of skills is key to ensuring that the skills of migrant workers give them the right to access more opportunities within a wider region.

⁵⁵ An RDB official provided this information in an interview in Rwanda.

⁵⁶ The National Labour Mobility Policy of Rwanda aligns with the national migration policies/laws, domestic labour policies, the National Employment Policy and the ODL to establish a more integrated labour structure that aids in facilitating entry and residency procedures for foreign investors and skilled migrants.

⁵⁷ This information was given by an RDB official in Rwanda in an interview.

⁵⁸ An IOM official in Rwanda explained this in an interview.

⁵⁹ An EAC official provided this information in an interview.

Kenya and Uganda share a long history of recognition of certificates, which is automatic and linked to the historical relations between the two countries and the United Republic of Tanzania since the 1960s. This was when the East Africa University established campuses in Kampala, Nairobi and Dar es Salaam. Nationals in these countries studied medicine, law and engineering in the three countries, making it easier to recognize the skills of these nationals.⁶⁰

“Every country has its own curriculum and qualification accreditation for skills. [Differences] in skills and academic qualifications [are] a major challenge for labour especially for low-skilled and unskilled workers.”⁶¹

The **Kenya National Qualification Framework**, which is coordinated and reviewed by the **Commission for University Education**,⁶² ensures that there is standardization and harmonization of the qualifications set by Kenya for both migrants and nationals within the expected skills and knowledge that can contribute to better labour demand and supply management (KNQA, 2018).

The **Uganda Higher Education Qualifications Framework** (Uganda, Ministry of Education and Sports, 2016) and the **Technical Vocational Education and Training Policy** (Uganda, Ministry of Education and Sports, 2019) of 2019 verify the skills, ensure the quality of TVET, develop work standards, regulate work programmes, and review the certificates and awards submitted by migrant workers through the Director of Industrial Training (ILO, 2021). The **National Council for Higher Education**, under the Ministry of Education and Sports, reviews Uganda’s qualifications framework,⁶³ working in partnership with representatives from councils and associations of different sectors. The National Council for Higher Education provides an equivalent certificate to professionals to take up employment.⁶⁴

Rwanda, on the other hand, developed in 2007 the **Rwandan National Qualifications Framework for Higher Education**. The Government requires that EAC nationals and other migrant workers obtain certificates of recognition of their academic and professional qualifications from the **Rwanda Education Board** and the **Higher Education Council**. The Council implements the framework and collaborates with different sector-based institutions to review documents of different professionals to make an informed decision.⁶⁵ Rwanda has transitioned from French to English. The demand for English-speaking personnel from Kenya, Uganda and Zimbabwe has grown especially in the education sector.⁶⁶

Although all three countries have national instruments to recognize skills, qualifications and experiences of nationals from other Partner States, the 2018 EAC scorecard found that all EAC Partner States were not fully compliant with the provision on mutual recognition

⁶⁰ An official from Uganda’s MoFA provided this information in an interview.

⁶¹ This was the statement of an official from COTU in Kenya during an interview.

⁶² An NEA official in Kenya provided this information in an interview.

⁶³ An official from the Office of the Prime Minister (of Uganda) provided this information during an interview.

⁶⁴ An MGLSD official in Uganda provided this information in an interview.

⁶⁵ An RDB official in Rwanda explained this process during an interview.

⁶⁶ This information was shared by an RDB official in Rwanda in an interview.

of skills. Kenya is in the process of negotiating MRAs with professional bodies⁶⁷ in the region. Rwanda still reviews the academic qualifications of nationals from other Partner States using the national procedures, whereas Uganda has yet to register some of the categories of professionals in health, teaching, science and engineering, as well as business administration, for instance, before they can take up any employment (EAC Secretariat, 2018c:17).

3.2.4. Access to and portability of social security benefits

Migrant workers have the right to access social security benefits in all three countries as mentioned earlier, but the subscription rate is still low among migrant workers in the informal sector. Migrant workers mostly employed in the informal economy in the region are less likely to contribute to the social security scheme due to their low wages. Migrant workers are temporarily present in a host country for the purposes of short-term employment in the informal sector and return to their home countries once their work is completed.⁶⁸ Undocumented migrants cannot enroll in or access health services and would be expected to pay out of pocket. They lack contracts, increasing their risks of exploitation while simultaneously limiting their access to health care, social insurance, work injury compensation and other occupational hazards. They tend to avoid health-care services due to their status in the country, language and cultural barriers, lack of health literacy and potential risk of deportation (WHO, 2019:6). Both low-skilled and informal migrant workers often lack information on the portability of their benefits, which may be linked to their level of education.⁶⁹ Migrant workers also do not have the habit of saving for the future. In Kenya:

"[Migrant workers are not] encouraged to save for the future due to lack of jobs and they do not have the resources to start a business at a small level to earn a living. When migrant workers go work in other countries, [the government or the relevant stakeholders] are not part of the preparation to return home. There are a few success stories of those who saved for the future compared to those who returned empty handed."⁷⁰

Rwanda created **Ejo Heza** in 2018 as a voluntary investment (or saving) scheme specifically targeting nationals and migrants engaged in the informal sector as well as the self-employed labour migrants. At the time of the study, the scheme had recorded 1 million subscribers (or pensioners).⁷¹

Portability of social security is an ongoing challenge in the EAC region, as countries have different systems in place that are not advanced.⁷² Kenya's **Emigrant Benefits Scheme** and Uganda's **Emigrant Grant** allow for portability based on reciprocity. In Kenya, migrant workers from the EAC can transfer their contributions when they return to their home

⁶⁷ These professional bodies include associations of engineers, veterinarians and lawyers.

⁶⁸ These are observations from interview responses in all three countries.

⁶⁹ A NADICOK official in Kenya relayed this information during an interview.

⁷⁰ This was the statement of a COTU official in Kenya during an interview.

⁷¹ An official from the Rwanda Social Security Board shared this information during an interview.

⁷² An official from the Rwanda Social Security Board shared this during an interview.

countries by lodging an application to request payments; they just need to provide a local address and a phone number for former employer or workmate in Kenya. The payments are then transferred using the Real Time Gross Settlement, which requires an active bank account of the applicant in their country of origin. The verification process is to reduce the risk of the funds bouncing back.⁷³ Uganda introduced the **Diaspora Connect** benefit, which allows Ugandans in the diaspora to remit their social security contributions to their NSSF accounts across the globe using a credit or debit card; the scheme accepts various currencies with a 3 per cent charge on the transaction amount (Uganda, NSSF, n.d.). This scheme is available to diaspora with accounts existing prior to leaving the country, and it is voluntary. The study did not find any similar schemes in Rwanda and Kenya, but national social security experts from Partner States continue to discuss solutions to address portability challenges.⁷⁴

For countries without a portability scheme, the EAC CMP encourages Partner States to sign bilateral agreements to allow for portability of social security benefits. Kenya and Uganda lack bilateral agreements on social security (IOM, 2018a). Rwanda, on the other hand, has a long-standing bilateral agreement on social security benefits with the Democratic Republic of the Congo and Burundi only since the 1970s, as they share similar systems and structures, making portability possible.

3.2.5. Diaspora engagement

At the regional level, the EAC and the IGAD recognize the role that the diaspora plays especially in terms of economic growth through the financial and social remittances they contribute to their respective countries of origin.⁷⁵ The diaspora members have the potential to contribute to national development if there are mechanisms in place to harness their engagement. Regional regulations, such as the draft EAC LMP, envision facilitation and coordination of labour migration as well as expansion of social protection coverage for migrant workers including the diaspora. At the national level, **Uganda's National Diaspora Policy** is currently being drafted and aims to engage its diaspora more strategically in the country's development. While **Rwanda's Diaspora Policy (2009)** encourages its citizens to seek employment opportunities abroad, the Government intends to provide prospective migrant workers with the necessary skills and knowledge to address their protection needs.⁷⁶ The focus is on building their capacities for securing decent employment within the EAC and beyond with protection guarantees.⁷⁷

Kenya's Diaspora Policy (2014) aims to engage the diaspora comprehensively in harnessing financial remittances for national development as well as, to some degree, social remittances, such as skills and knowledge. The policy also includes reintegration, and

⁷³ An NSSF official in Kenya explained this during an interview.

⁷⁴ An NSSF official in Kenya shared this information in an interview.

⁷⁵ A 2021 study on diaspora engagement in Eastern Europe and Central Asia provides an overview of policies, institutions and practices on engaging relatively new diasporas, which emerged since the 10 countries of the region gained independence in the early 1990s. Limited understanding of the potential of the diaspora, inadequate or missing policy framework, and low trust between migrants and the government have been identified as recurrent challenges (Fanny Tittel-Mosser, *Diaspora Engagement: Eastern Europe and Central Asia*, Regional Series (Brussels, European Union Global Diaspora Facility, 2021), p. 11).

⁷⁶ An IOM official in Rwanda shared this during an interview.

⁷⁷ This was revealed by an RDB official in Rwanda in an interview.

readmission as a targeted area of interest that would help to facilitate the return of Kenyan nationals. The Government is currently drafting the **National Labour Migration Policy** and the **Labour Migration Management Bill** aimed at facilitating employment for Kenyan nationals moving to other countries as well as to address some of the existing challenges experienced by labour migrants working in the country. It also recognizes the importance of Kenya's Vision 2030 and the Big 4 Agenda. The Government is further developing the **National Migration Policy**, which aims to be a general policy that covers all aspects of migration including labour migration as a priority area (IOM, 2018b).

3.2.6. Migrant workers' rights in the Gulf Cooperation Council

There is a strong policy focus on labour migration to the GCC in Kenya and Uganda. Migrant workers in the Gulf countries from Kenya and Uganda depend on the support and guidance of PEAs to ensure that the contracts they are signing provide them with the right protection in the process of facilitating labour migration opportunities.⁷⁸ The **National Employment Authority Act (2016)**⁷⁹ of Kenya created the NEA, which facilitates labour migration opportunities for Kenyans in the Gulf through registered PEAs, as well as reviews the employment contracts and ensures that all migrant workers undergo pre-departure training.⁸⁰ The PEAs also work in internal and cross-border areas (Kenya, Parliament of, 2007) regulated by the **Labour Institutions Act (2007)**. In 2014, the Act was amended to include recruitment for foreign employment, especially costs of recruitment, visa fees, airfare and surety bond that should be paid to by the agent or the employer (ibid.). The PEAs in Kenya and Uganda currently do not facilitate job opportunities in the EHoA region. However, there have been concerns regarding unethical recruitment practices of some PEAs facilitating employment opportunities in the GCC for nationals from other Partners States.

Uganda developed the **Employment (Recruitment of Ugandan Migrant Workers Abroad) Regulations (2005)** to oversee the operation of PEAs and the **Recruitment of Ugandan Migrant Workers Abroad Resolutions (2005)** to regulate labour externalization processes and procedures for Uganda nationals seeking employment opportunities in the Gulf countries.

"[In practice, the labour migration process] requires people to have passports and clearance from Interpol. On labour migration, the movement is more to the Middle East and domestic workers where [there is] a lot of exploitation, and that is why IGAD comes in and looks at negotiating as a bloc."⁸¹

The Government of Uganda is currently drafting the **Externalisation of Labour Bill** to establish mechanisms that protect its nationals working in Gulf countries. Trade unions can also play a critical role in ensuring that migrant workers are protected. However,

⁷⁸ This was according to a representative from the Uganda Association of External Recruitment Agencies who was interviewed for this study.

⁷⁹ The Act is an institutional framework for employment management as well as enhance employment promotion interventions. It also enhances access to employment for minorities, marginalized groups and the youth (Parliament of Kenya, National Employment Authority Act No. 3 of 2016).

⁸⁰ An official from the NEA in Kenya provided this information in an interview.

⁸¹ This was the statement of a Ugandan representative from PLA during an interview.

this remains a challenge given that trade unions have encountered issues in ensuring that migrant workers from their respective countries can join trade unions in the Gulf countries that can ensure their protection.

Labour migrants from Africa, including from the EHoA region, often experience verbal, emotional, psychological, sexual and physical abuses as well as acts of discrimination and exploitation (Demissie, 2018; Ayalew et al., 2018). To address this, the EAC and IGAD member countries have initiated measures to safeguard the rights of their labour migrants (e.g. blacklisting and banning labour migration to selected Gulf countries). In Kenya, for instance, the NEA has instituted procedures for vetting and monitoring of recruiters, signing of bilateral agreements, and mandatory pre-departure training and registration of labour migrants. Uganda adopted regulations guiding PEAs and labour externalization processes and procedures guiding the recruitment of Ugandan labour migrants to the Gulf countries. These measures equally aim to counter abuses while maximizing potential remittances. Respondents recommended a collective approach through the two RECs to negotiate and to sign bilateral agreements, as a bloc, with the Gulf countries.

Migrant workers' rights were challenged during the COVID-19 pandemic when many Kenyan and Ugandan diaspora in the GCC lost their jobs and were stranded with limited low-cost options to support migrant workers in distress as well as limited return to their respective home countries. The pandemic revealed that no specific programme existed, as the stranded migrant workers were expected to pay for their return tickets along with COVID-19-related costs (e.g. testing, quarantine at a hotel in the country). In 2021, the Government of Kenya began to review and revise the diaspora policy and partnered with social partners to develop a programme for migrants in the GCC.

Domestic workers from Uganda and Kenya were temporarily banned from seeking employment opportunities in Saudi Arabia in January 2016 (*Al Jazeera*, 2016) and September 2021 (Mutai, 2021), respectively, in an effort to protect them from abuse in employment that had been reported on social media and to put in place protective measures to prevent future abuses. Rwanda has imposed restrictions on its nationals seeking employment opportunities in the GCC after research revealed the challenges experienced by other EAC citizens.⁸²

Uganda and Kenya are individually negotiating BLAs with different countries, which may weaken their negotiating power if labour migrants can be sourced from neighbouring States with fewer restrictions. Strengthening the BLAs to ensure that migrant workers are well protected before they leave the country is key. National policies should be instrumental to facilitating migration to the GCC and focus on enhancing migrant rights and regional integration.

⁸² This was shared by an IOM official in Uganda during an interview.

3.2.7. Gender considerations

Based on key informant interviews, gender considerations represent a key area of interest in labour migration in all three countries, but mainstreaming gender into policy and practice takes time. Respondents are aware that women and men experience different challenges as migrants and in employment.⁸³ Therefore, the existing national laws and policies related to migration and labour are in the process of mainstreaming gender into policy and practice. In Uganda, all migrants seeking employment in the country are treated the same regardless of age and gender. At the same time, the Government of Uganda is conscious of the patterns of gendered migration to the GCC.

“There are more Ugandan women going abroad than men, and the justification is that the country currently has only one BLA, which is with Saudi Arabia, and this BLA is on domestic workers. The greatest percentage that have been recruited so far are female domestic workers (75% of the Ugandan workforce). So, the gender dimension of labour migration is something that is topical.”⁸⁴

The implementation of the law determines whether gender is sufficiently mainstreamed or gaps exist. For instance, in Kenya, the right of establishment is a challenge for male migrants who are dependants. When the primary migrant is female, processing the dependant pass for the husband may take longer.⁸⁵ The concern has been linked to reported cases of foreign men seeking dependant passes through their Kenyan spouses, and who are exposed to more scrutiny. This concern was not identified in the responses from Uganda and Rwanda. Gender considerations are difficult to measure and assess, unless cases are raised by migrant workers, when they believe they have experienced discrimination based on gender.

The Government of Rwanda, for instance, adopts a gendered approach in all legal instruments, including the Constitution, providing practical directives for workplaces to adopt gender-sensitive approaches.

“There is also a specific government entity in charge of monitoring and evaluation of gender mainstreaming across all sectors – that is, the Gender Monitoring Office under the Ministry of Gender and Family Promotion. Through continuous and strengthened collaboration and partnership among different institutions in charge of gender issues, they share best practices.”⁸⁶

IOM has finalized training modules focused on mainstreaming gender considerations into labour migration policy processes, from design to implementation. Under the Joint Labour Migration Programme, IOM aims to strengthen the capacities of Member States to mainstream gender into migration through the ACBC (IOM, 2022).

⁸³ In an interview, an MGLSD official in Uganda confirmed this.

⁸⁴ In an interview, an IOM official in Uganda shared this information.

⁸⁵ The same IOM official revealed this information.

⁸⁶ This was the statement of an official from Private Sector Federation (Rwanda) in an interview.

In conclusion, an overview of the existing legal instruments and their implementation reveals a variety of challenges and gaps in policy and practice at the national level. Regional instruments can guide member countries in various aspects to consider when addressing migrant worker protection. However, the harmonization process is slow in certain aspects, such as the portability of social security benefits, while others, such as mutual recognition of skills, are being developed. Although migrant workers' rights are at the centre of many of key regional and national legal instruments, implementation is affected by the policies and the social and economic environments in which they operate. The governance structures at the regional and national levels create a coordination platform where these instruments can be designed and applied. The next section of the report discusses the regional and national governance structures and how they interact to strengthen regional integration where labour migration can take place. The implications of overlapping REC memberships are also discussed.



4.

**National and regional
governance of labour
migration: Challenges
and opportunities**

4. NATIONAL AND REGIONAL GOVERNANCE OF LABOUR MIGRATION: CHALLENGES AND OPPORTUNITIES

Both the EAC and the IGAD continue to encourage unimpeded labour migration, albeit with some challenges. These attempts have taken the form of regional policy frameworks, border management systems and coordination mechanisms that have been adopted at the regional and national levels. In this process, countries with overlapping memberships of the EAC and the IGAD can benefit from being members of both RECs in terms of exchanging ideas and experiences, as well as access a large labour market space. It is equally important to be aware of the inconsistencies and limitations associated with overlapping memberships regarding labour migration. This section of the report focuses on:

- (a) Regional and national migration governance structures;
- (b) Implications of overlapping membership within the context of migration;
- (c) Challenges and inconsistencies of policies in practice, drawing from experiences from Kenya, Rwanda and Uganda.

4.1. Regional labour migration governance structures

Regional migration governance is a combination of formal and informal cooperation structures between Member States where there is an interplay between regionalism and trans-regionalism (Lavenex et al., 2016). It uses regional coordination mechanisms as a platform where stakeholders from within the region engage on common issues related to migration including developing regional strategies and approaches related to all forms of migration including labour. The regional migration governance structures vary between the EAC and the IGAD.

Within the EAC, there are different forums to address various forms of migration. Labour migration issues are discussed by technical officials and policymakers as well as permanent and undersecretaries at the **Forum for EAC Ministers Responsible for Labour and Employment**. The Forum has been held since 2009, where representatives from Partner States share national experiences on the harmonization processes as well as implementation challenges in the field of labour migration. The Forum has played an instrumental role in the development of regional strategies and documents related to labour and employment, including migration.⁸⁷

Immigration-related issues are handled by the **EAC Chiefs of Immigration** who focus on the development and harmonization procedures. The **EAC e-immigration information system** (Republic of Korea, National IT Industry Promotion Agency, and EAC Secretariat, 2012) seeks to ease border-crossing, encouraging free movement of labour (Article 12, EAC CMP) (EAC Secretariat, 2010). The **EAC Regional Strategic Framework for e-Immigration (2014)** guides the harmonization process for the e-immigration information system in Partner States, allowing for coherence with the EAC CMP to facilitate the automation of border control processes and create a common security space.

⁸⁷ See, for instance, the draft EAC Labour Migration Policy as well as the regional directives on social security benefits discussed in section 3.

The Chiefs of Immigration also influenced the development of the **One-Stop Border Posts Act (2016)** that has rendered the movement of goods, services and people more efficiently (EAC Secretariat, 2016). Through the Act, EAC nationals can travel with electronic readable IDs or the EAC passport. The One-Stop Border Posts Act is planned to be complemented by the **Integrated Border Management System** as well as the **e-Immigration Policy** that, once finalized, should strengthen immigration service delivery within the region (EAC Secretariat, 2021:64). Across these forums, the EAC Secretariat encourages regular policy dialogues on gender, employment and migration. It establishes and reinforces partnerships with stakeholders engaged in migration in East Africa to ensure gender-responsive programming and keep track of cross-border labour force using a database on current issues.

The IGAD **MIGA** was conceptualized in 2012 through the RMPF and initiated through the Migration Action Plan (2015–2020). It brought together Member State representatives in an aim to strengthen cooperation and coordination on migration management between key actors (ILO, 2021). The **IGAD Assembly of Heads of State and Government** is the primary decision-making organ that oversees the implementation of the MIGA through the Council of Ministers of Foreign Affairs, the Committee of Ambassadors and the IGAD Secretariat. The Ministerial Conference on Labour, Employment and Labour Migration has regularly brought together Member States, most recently in November 2021. The Conference facilitates the implementation of the IGAD FMP through knowledge-sharing as well as coordination efforts related to labour, employment and migration, which help build consensus towards a regional common approach (ibid.).

Intergovernmental Authority on Development Free Movement Protocol workplan

The workplan proposed in the framework of the IGAD FMP aims to facilitate the movement of persons including workers (IGAD, 2020a). Member States aim to identify and harmonize the laws, policies and procedures governing labour migration in conformity with the FMP (Articles 9 and 27); establish the different employment categories of professionals as stated in Article 10; promote the movement of workers and their dependants, children, and spouses (Article 9 (4), (5), (6) and (7)); align education and training certificates for mutual recognition to promote employment opportunities for IGAD citizens (Article 10); identify challenges and solutions regarding the accreditation of professional and technical qualifications (Article 10); design laws, policies and procedures that promote social security benefits for workers (Article 9 (2)) and the portability of social security benefits to citizens (workers) of other Member States residing or established in the host Member State (Article 9 (3)); develop clear labour recruitment and admissions procedures (Article 9 (1) and (2)); improve access to education, training and lifelong learning for IGAD citizens by ensuring the harmonization of curricula, examination, standards, accreditation and certification of educational and training institutions. Furthermore, the protocol aims to mutually recognize and accredit academic, technical and professional qualifications, certificates and licenses granted in other Member States (Article 10).

4.1.1. Regional coordination mechanisms

Within the EAC, regional labour migration is coordinated through the **Secretary General's Forum** by the Gender Department, which meets twice a year with their social partners,⁸⁸ adopting a tripartite consultation strategy. There is also the **Regional Monitoring Group**, which meets three to six months a year to assess the implementation of freedoms envisioned under the EAC CMP.

The EAC uses the **CMS** to measure the EAC Partner States' compliance with the provisions of the CMP, including free movement of persons and labour. The 2016 CMS highlighted that Partner States had undertaken several reforms to facilitate the implementation of the CMP, particularly related to the free movement of capital, goods and services (EAC Secretariat, 2016). The 2018 CMS (EAC Secretariat, 2018c) focused on tracking Partner States' implementation of the provisions related to the movement of labour and right of residence. The discussions at the Forum of EAC Ministers in October 2021 highlighted that the report outlined an action plan with key recommendations for Partner States to consider, guided by the Council of Ministers (ILO, 2021).

The EAC **Community Development Strategy reports** also track the progress of the implementation of the EAC CMP and have been providing strategic guidance to Partner States every five years since 2011.⁸⁹ The fifth strategy (2016–2021) focused on building a firm foundation that would transform the EAC into a stable, competitive and sustainable lower-middle-income region by 2021 (EAC Secretariat, 2017). One of the seven key priority areas included the enhancement of free movement of all factors of production and labour envisaged under the Common Market and Monetary Union Protocols (ibid.).

The IGAD uses the **Regional Strategy and Implementation Plan** to promote regional cooperation and integration and track the progress on the regional priority areas (IGAD, 2016). The IGAD has put in place the MIGA, consisting of the **Sectoral Inter-Ministerial Committee on Migration**, which includes two platforms that discuss labour migration in the region: the **Regional Migration Coordination Committee** and the **RCPs** (IGAD, 2012). The IGAD also has established the **Regional Technical Working Group on Harmonization of Migration Data**, which meets regularly to address the bottlenecks on migration data and identify standard definitions and concepts that can allow for comparability of data, data-sharing protocols, and guidelines, among others. There is an ongoing discussion to engage with the Horn of Africa Confederation of Trade Unions to establish a tripartite consultation on labour migration.^{90, 91}

⁸⁸ Social partners include, inter alia, the East African Employers Organisation, the East African Trade Union Confederation, the East African Legislative Assembly and the East African Civil Society Organizations' Forum.

⁸⁹ The EAC Vision 2050 is also in line with the Treaty Establishing the East African Community and outlines the overall guiding principle upon which the EAC Development Strategy is derived.

⁹⁰ This information was shared by an IGAD official during an interview.

⁹¹ In 2019, the Confederation of IGAD Employers was also launched in the presence of the Horn of Africa Confederation of Trade Unions and representatives from Member States. They will focus on strengthening economic integration among employer organizations from Member States. See Patrick Werquin and Francesco Panzica, *Migrant Workers' Skills Portability in Africa at Regional Economic Community and Continental Level: Guidance towards an African Qualifications Framework?* (Geneva, ILO, 2019).

The Djibouti Declaration further enhanced the regional approach to strengthening labour migration governance to establish the IGAD Ministerial Committee on Labour, Employment and Labour Migration. Issued In 2021, the Declaration focuses on seven pillars: labour and employment policy; ratification and domestication of international labour standards; promotion of rights of migrant workers; social dialogue; extending social protection for all; promoting gender equity and equality; and advancing regional coordination (Werquin and Panzica, 2019).

Two multi-year and multi-partner regional migration management-focused programmes operate within the EHoA region. One is the **Better Migration Management** programme⁹² has been operational since 2018, funded by the EU Trust Fund. It is implemented jointly in selected countries in the IGAD region by Deutsche Gesellschaft für Internationale Zusammenarbeit (GIZ), IOM and other key partners, such as the United Nations Office on Drugs and Crime, CIVPOL and the British Council. Better Migration Management focuses on strengthening the capacities of government agencies in creating a safe environment where migration can take place in a regular and orderly manner. It also supports migration governance in terms of policy and legislative development and protects vulnerable migrants on the move. IOM contributes to migration governance, capacity-building of national authorities on national and cross-border cooperation on anti-trafficking and smuggling, and the advocacy on safe pathways to migration, which includes protection of migrants. The human rights aspect is an essential element for migrants within the region.⁹³

The other programme is the **BRMM**, covering the EHoA region.⁹⁴ Launched by the IOM Regional Office for East and Horn of Africa in 2021, BRMM focuses on enhancing labour migration governance and protection of migrant workers and their families within the EHoA region through inter- and intraregional cooperation, adopting a whole-of-government approach. The BRMM also aims to support regional integration and facilitate labour migration for transformative, inclusive and sustainable growth in Ethiopia, Kenya, Somalia, South Sudan, Rwanda and Uganda. BRMM is funded by the United Kingdom FCDO.

4.1.2. National coordination mechanisms

All three countries covered in the study have coordination mechanisms specific to labour migration and migration in general. Rwanda's **National Labour Council** is a social dialogue platform coordinated by the Ministry of Public Service and Labour and its social partners engaging in labour migration issues.⁹⁵ The Ministry of Public Service and Labour undertakes annual assessments of the country's composition and labour skills needed in cooperation with employer and employee organizations, civil society organizations and district leaders. The DGIE coordinates the implementation of the National Migration Policy, including the ODL, and collaborates with the other MDAs in the implementation of the various migration programmes on labour migration (OECD and ILO, 2018:51).

⁹² See <https://eastandhornofafrica.iom.int/better-migration-management> to know more about the programme.

⁹³ The KNCHR, for example, is an implementing partner of the Better Migration Management programme in Kenya, ensuring that the human rights of migrant workers are upheld in the EHoA region.

⁹⁴ See <https://eastandhornofafrica.iom.int/better-regional-migration-management-brmm-program> for more information.

⁹⁵ Social partners include the RDB, the DGIE, and the Ministry of Foreign Affairs and International Cooperation, among others.

Both Kenya and Uganda have set up their respective **NCMs** in 2016 and 2015, respectively. The NCM, a product of the IGAD RMPF (2012), helps different State and non-State actors to coordinate on all migration issues through technical working groups, including on labour migration. In the case of Kenya, the Technical Working Group on Labour Migration, led by the Ministry of Labour, oversees the drafting of the National Labour Migration Policy and the Labour Migration Management Bill. The NEA facilitates labour exportation to the Gulf countries, and it is responsible for ensuring that ethical recruitment practices are adopted by registered PEAs operating in the country. There is limited evidence and information regarding the role of the NEA facilitating labour migration in the EAC and the IGAD. At a sectoral level, the technical working group guided by the Ministry of Labour is leading the drafting process of the **Labour Migration Management Bill** and the **National Labour Migration Policy**.

The NCMs are expected to improve observed limited interactions between national governance structures. This is despite the fact that national governance structures that have evolved in the past 10 years significantly improved the countries' migration management capacities as different stakeholders were involved.

In each country, there are multiple MDAs that handle migration. Rwanda's border management system, for example, is coordinated by the DGIE Border Management Union, which handles travel documents at the international PoEs that operate 24 hours. Rwanda accepts different forms of travel and identification documents, including machine-readable identity cards from nationals of Kenya and Uganda as well as passports as travel documents. Burundian and Tanzanian passports are recognized as travel documents at the entry and exit PoEs, since the two countries have not implemented the use of machine-readable identification cards. Automation of border management systems is consistent with the requirements of the EAC CMP to facilitate mobility within the REC.

In Uganda, border management and issuance of visa and work permits, among other services, are led by the Ministry of Internal Affairs through the National Citizenship and Immigration Board and the Directorate of Citizenship and Immigration Control, which also handles passport control and irregular migration cases. Diaspora issues are handled by the Ministry of Foreign Affairs, while the Ministry of Gender, Labour and Social Development oversees the labour externalization process, which is facilitated by recruitment agencies, ensuring that ethical recruitment practices are adopted by the agencies. The Government is in the process of placing machine-readable equipment along PoEs to digitize the border management system in compliance with the border management principles of the EAC CMP.

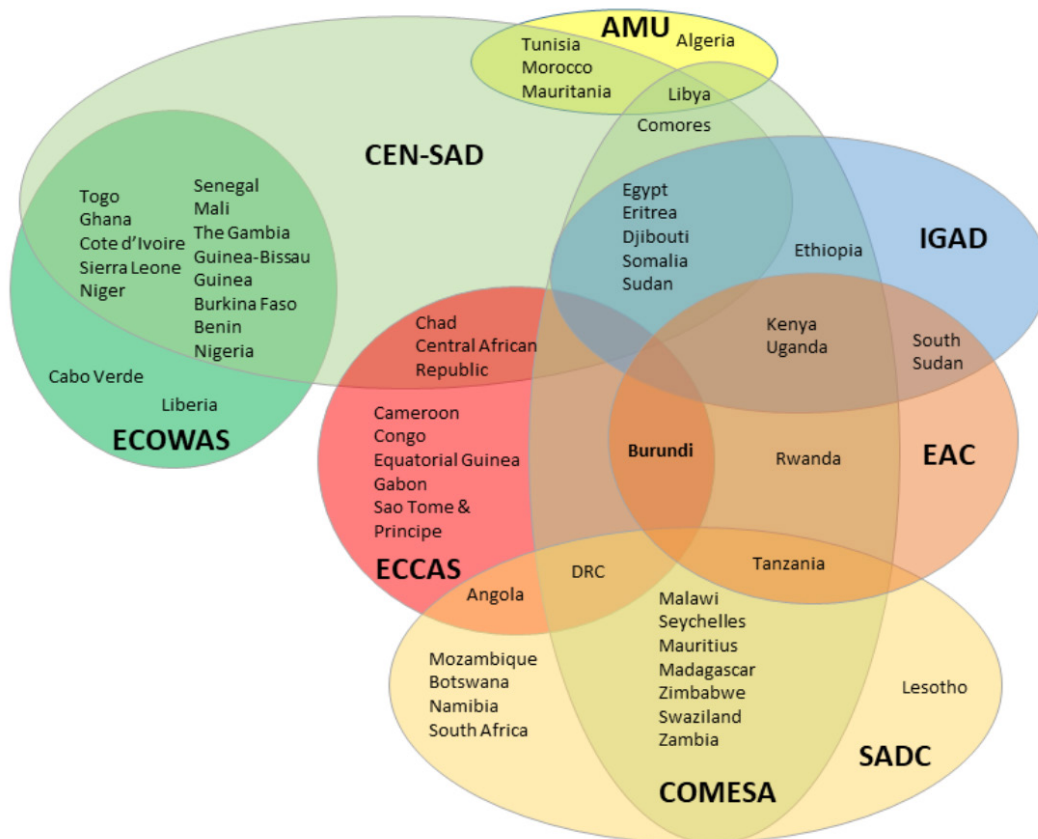
The Directorate of Immigration Services in Kenya coordinates immigration matters through the regional centres situated in varied locations in the country. Border management is handled by the Border Management Division under the Directorate of Immigration Services. The border management system captures information at its 40 PoEs. Immigration officers are stationed at international PoEs processing visas for immigrants only, as work permit applications are handled by the Work Permit Committee in Nairobi. The immigration systems in the country are in the process of being upgraded with machine-readable equipment at major border land, air, sea and lake PoEs, which will ease border-crossing for

EAC nationals, as this will allow them to use either passports or machine-readable IDs to cross borders.⁹⁶

4.2. Implications of overlapping memberships

Overlapping membership is common in different RECs across Africa. In the case of the EHoA region, Uganda and Kenya are members of the EAC, the IGAD and COMESA. The rest of the IGAD Member States, apart from Somalia, are also members of COMESA. Djibouti, Somalia and the Sudan are members of the Community of Sahel–Saharan States, in addition to being part of the IGAD. Eritrea is also a member of the Community.

Figure 7. Overlapping regional economic community memberships in Africa



Source: Capon, n.d.

Notes: (1) Swaziland is now officially known as Eswatini. (2) Tanzania is officially known as the United Republic of Tanzania. (3) The DRC is officially known as the Democratic Republic of the Congo, which is also a member of the EAC. (4) Comoros is also a member of the SADC.

Overlapping memberships can be beneficial, considering the fundamental ambitions of each REC. Some aspects of the core ambitions of both the EAC and the IGAD intersect, especially around socioeconomic development, although there are disparities in the focus of each REC. As noted earlier, the primary rationale of the EAC is to facilitate and

⁹⁶ This information was shared by an Immigration official in Kenya during an interview.

reinforce sustainable economic, social, political, and cultural integration of the polities that constitute the REC. The IGAD was established largely as a framework for the exploration of mechanisms towards peaceful resolution of conflicts and environmental disasters. Dual membership of these two RECs with somewhat disparate ambitions and objectives thus presents both benefits and challenges. Free movement of labour is central to achieving the ambition of achieving socioeconomic development, as shared by the two RECs which. Ultimately, it can make strong contributions to the realization of regional integration.

Regional integration is important for the development of a bloc, and the factors that bring countries together are based on variable geometry that allows them to optimize the integration benefits offered by different RECs including expanding the economic space that coordinates better on various fronts of regional integration. Focusing on the experiences of Kenya and Uganda, the next subsections outline the benefits and challenges of overlapping memberships in relation to labour migration as well as its implications on regional labour migration governance and migrant workers' rights.

4.2.1. Opportunities of overlapping memberships

Responses gathered for this study indicate that overlapping memberships bring key benefits to Kenya and Uganda in terms of providing access to a wider labour market, facilitating learning opportunities towards building common systems that respond to labour migration-related activities, as well as expanding platforms available to stakeholders and fast-tracking coherent continental regional integration.

Overlapping memberships can enhance access to a wider labour market, contributing to the development of the region. The EAC's and the IGAD's combined economies grew in 2021 by 3 per cent compared to 0.7 per cent growth rate recorded in 2020 during the height of the pandemic (African Development Bank, 2021:9). The pandemic had an adverse impact on national GDP across the world. Kenya's GDP in 2020 dropped to 1.4 per cent compared to 5.4 per cent in 2019 (African Development Bank, n.d.a) and Uganda's GDP declined in 2020 to 0.5 per cent from 7.5 per cent in 2019 (African Development Bank, n.d.b). Overlapping memberships enable Kenya and Uganda as members of the EAC and the IGAD to negotiate for labour market access for their citizens in other destinations.⁹⁷ There is broad political support for the ceding of some national political sovereignty in the interest of creating two supranational entities (i.e. EAC and IGAD) that guarantee a larger market for goods and services, broader labour market opportunities, and a pool of skills and expertise to drive innovation. A larger labour market will create more employment opportunities for all types of labour migrants including the unskilled across the region for members with the potential to increase the development of the wider bloc. There will be a need to consider developing training programmes through existing structures, such as TVET focused on skilling unskilled migrant workers as well as generating awareness of their rights within a wider bloc.

Labour migration programmes, such as the Skilled Workers Programme, have been established in Rwanda to target skilled migrants for sectors in demand in the wider region. The programmes are innovative approaches that can be adopted at a regional level in

⁹⁷ An MGLSD official in Uganda explained this in an interview.

both the EAC and the IGAD, with the aim of augmenting the options available to different cohorts of aspiring labour migrants within the wider labour market. The programmes can be expanded further to target different skill sets including pathways for the informal sector.

Second, **overlapping memberships can help to facilitate learning opportunities towards building common systems across the EHoA region.** For instance, all three countries have put in place measures that provide migrant workers with access to social security as outlined in section 3. Kenya and Uganda have developed systems for portability of social security contributions so that they may be claimed by migrant workers at the end of their employment contracts. Although some challenges⁹⁸ regarding the process continue to exist, those challenges can guide the IGAD to conceptualize similar social security systems in the region especially when the bloc is developing the regional framework on social security. The system can be expanded to ensure that migrant workers in the informal sector have access to different social security products, reducing their risks of falling into poverty either upon retirement or return to their countries of origin.

Best practices can also be extracted from Uganda's liberal policies that have integrated refugees into national policies and directives that permit the involvement of refugees in both the informal sector and the agriculture sector. This has enormously contributed to food security while minimizing the need for national subsidies to that category of forced migrants.⁹⁹ Refugees are an important source of labour, skills, expertise and entrepreneurial capabilities that could be applied upon arrival in host countries. Some refugees utilize the right of establishment to initiate businesses that employ labour from both the refugee population and Ugandans. The ODL in Rwanda mentioned earlier is a useful strategy that can be adopted in other countries to identify the relevant migrant skills needed.

Overlapping memberships also present learning opportunities regarding migration-related data, as the LMISs are currently being developed within the EHoA region. Data on LMIS must be based on a defined understanding of the purpose so that the information is collected at the right time and disseminated to the relevant users for purposes of facilitating information on labour supply and demand. A good LMIS should be intervention, observation, demand, and supply oriented so that it assists employees, employers, organizations and other stakeholders to make crucial decisions with regard to the labour market (Sorensen and Mas, 2016).

In addition, overlapping memberships present an opportunity to strengthen monitoring and evaluation approaches that track and guide Member States' activities related to labour migration. For instance, the EAC CMP scorecard system and the EAC Development Strategy reports described earlier are innovative tools for tracking the progress of different priorities, including free movement of labour. Rather than pitching achievers against non-performing members, these tools allow for cross-learning among members. The establishment of the EAC Regional Technical Working Group on Harmonization of Migration Data under the auspices of the cooperation programme on the development of

⁹⁸ The challenges include a low subscription rate among informal migrant workers and the portability of social security contributions.

⁹⁹ An official from the NCM in Uganda shared this in an interview.

migration statistics is a laudable step towards addressing the challenge of comparability of migration statistics within the REC. In turn, the IGAD Regional Technical Working Group on Harmonization of Migration Data demonstrates an interest in strengthening data to inform policy responses. The migration governance structures at the regional level (IGAD MIGA) and national level (NCMs and the National Labour Council) have underscored the importance of a coordinated response to migration management issues. Kenya and Uganda benefit from the various regional review reports as well as technical working groups as they work towards strengthening their migration data collection systems and removal of free movement barriers to open up more employment opportunities for their citizens.

At the national level, all three countries have created an environment where free movement of workers is possible by removing barriers, such as work permit fees for the nationals of Partner States, and by initiating the EAC passport. The process the EAC has taken to reach a consensus with its members could guide the IGAD, especially in Phase 1 of the implementation of the IGAD FMP that aims to remove visa costs for Member States. The EAC can also benefit from the IGAD experience in conflict management and resolution, where the IGAD has negotiated agreements with States in conflict and has developed the Comprehensive Peace Agreement in 2005. The EAC has also taken progressive steps towards building the regional economy in terms of trade, employment and free movement of goods, services, and persons. The IGAD and its Member States can benefit from the EAC best practices.¹⁰⁰

The COVID-19 pandemic has strengthened engagement between countries within the EAC and the IGAD, connected by trade, logistics and movement of persons. The pandemic helped members countries within the wider region to build a common response system where they engaged collectively on a strategic approach towards managing the impact of the pandemic while exploring ways to advance the policies and frameworks that facilitate labour migration and migrant workers' rights. Governments continue to discuss strategies to enable mobility while considering the limitations brought about by the pandemic. The finalization of the EAC LMP and the directive on social security is a significant step towards providing increased protection to migrant workers from Partner States. Member States' endorsement of the IGAD FMP testifies to their resolve to create an environment conducive to labour migration, and its ratification is essential for further harmonization. The Djibouti Declaration (2021) also shows the commitment of Member States to address labour migration concerns within the region. Kenya and Uganda have resumed efforts to finalize their national policies that include labour migration, as they factor in the significant impact the pandemic had on labour migration to and from their respective countries.

Overlapping memberships also present an opportunity for RECs to **fast-track coherent continental integration**. Results from the study found a positive assessment of the potential subregional integration holds for continental integration. The respondents also view that labour migration is a key contributor to the process of regional integration at the continental and regional levels. It is important to note that the EAC has a memorandum of understanding with COMESA and the Southern African Development Community to

¹⁰⁰ This was shared by an official of Uganda's MoFA during an interview.

work together on minimum integration aspects that also includes the free movement of persons.¹⁰¹ This same practice can be adopted between the EAC and the IGAD through the RMFM where the focus will be on fast-tracking processes related to labour migration. By extracting experiences from lessons learned and best practices, the IGAD will be able to institute measures to address bottlenecks towards free movement of labour, as the EAC explores alternative strategies to fast-track the EAC CMP commitments.

Finally, overlapping memberships can increase or expand the stakeholders' platform as illustrated by the regional migration coordination mechanisms. As noted in the regional governance section, regional migration governance structures with coordination mechanisms allow stakeholders to engage in discussions on labour migration and general migration issues. Uganda and Kenya are actively involved in both RECs in the discussions on different aspects of migration, including through the IGAD RCPs established in 2008 (IGAD, 2008) and the recent establishment of the EAC RCP on 17 February 2022 (EAC Secretariat, 2022). The RCPs have proven to be instrumental in developing and monitoring harmonization processes at the Member State level. Overlapping memberships present an opportunity for Kenya and Uganda to reap the benefits of different perspectives on labour migration issues from a wider pool of stakeholders. By expanding the stakeholder platform, actors can engage in developing common approaches that can be adopted across the EAC and the IGAD, such as return and reintegration programmes.¹⁰² In addition, the platform provides an opportunity for both RECs to align their protocols into one common approach focused on strengthening migrant workers' rights across the EHoA region.¹⁰³ The harmonization experiences of Kenya and Uganda can help guide the development of implementation plans for the IGAD FMP for the benefit of another Member State. At the same time, the IGAD can share experiences implementing the Protocol on Transhumance, among other valuable instruments. Despite these potential opportunities to be harnessed, it is essential to recognize the existing and potential challenges concerning overlapping memberships.

4.2.2. Challenges of overlapping memberships

There are two critical challenges identified concerning overlapping memberships: duplication of efforts and coordination challenges.

First, overlapping memberships increase the **risk of duplication of efforts** on policies, programmes, training and skills recognition (ILO, 2021:11). Countries may overstretch their commitments across the two RECs leading to human and financial resource constraints (Apiko et al., 2021). Kenya and Uganda are already engaging in activities within the EAC to strengthen their labour migration systems. The IGAD is at the early stages of developing the frameworks and needs to consider how to minimize duplication efforts. The IGAD and the EAC have taken some steps to reduce duplication of efforts by training statistical officers on migration data in the ACBC in the United Republic of Tanzania.

¹⁰¹ An EAC official provided this information in an interview.

¹⁰² This was explained by a COTU official in Kenya during an interview.

¹⁰³ In an interview, this was the statement of a PLA official in Uganda.

Secondly, **overlapping memberships present coordination challenges at the national level** (Dersso, 2014), especially in terms of harmonization. This is further complicated, where the approaches, terminology, legal instruments and institutional setups vary between the RECs that require alignment as well as resources (Ndomo, 2009:12). The two regional platforms are at different stages of developing their LMISs. The EAC partner States such as Rwanda, Kenya and Uganda have moderate-to-advanced LMISs that foster the free circulation of labour within the REC. In contrast, within the IGAD, although some countries generate information related to the labour market and employment at the national level, this is not fully integrated or developed to capture regionwide data (ILO, 2020a). Overlapping memberships of Kenya and Uganda, therefore, invariably yield lopsided benefits to IGAD labour migrants.¹⁰⁴ Kenya and Uganda also experience challenges in terms of harmonizing regional frameworks from the IGAD, as the harmonization process of the EAC is still ongoing.

Nonetheless, respondents expressed positive views on the benefits of overlapping memberships in establishing a more expansive regional labour migration governance space that ensures the rights of migrant workers are upheld. At the same time, the respondents recognized the potential challenges expected of overlapping memberships, which were also identified in some of the inconsistencies of the labour migration-related policies implemented in practice.

4.3. Challenges: Inconsistencies between policy and practice

This study reveals several challenges including inconsistencies in policies and practices in relation to labour migration within the case study countries. These challenges can be viewed from the perspectives of the institutional operations, harmonization processes and implementation strategies adopted at the national level. Informal migrant workers are at the centre of many of the challenges discussed in the sections that follow.

4.3.1. Institutional operations

As highlighted in section 3 of this report, migrant workers experience **administrative hurdles in their quest to access the labour markets of other Member States**. Observations by national stakeholders highlight the long-standing selectivity at the national level, which may be due to the steps taken by a country to remove barriers at a national level to attract skills and investment. Uganda, for example, has prioritized specific occupations based on demand-driven policies on national labour markets.

“Uganda [and other EAC Partner States] allows some occupations to move but not everybody. Each country defines the skills they would prefer moving to begin with. Until that is revised to include everybody, then we can confirm that there is indeed free movement of persons without any restrictions...Free movement does not mean you move anyhow, it is controlled and if there is any need, any partner State can put restrictions.”¹⁰⁵

¹⁰⁴ They have the potential of provoking what postfunctionalists refer to as a “backlash mechanism” locally against perceived unfairness due to the inability of their own citizens to access information on opportunities in the IGAD labour markets.

¹⁰⁵ This was explained by a MGLSD official in Uganda during an interview.

These challenges are analogous to those experienced within the European Union and the Economic Community of West African States where Member States simultaneously seek to realize their national priorities, especially when they are optimizing the outcomes of the labour market using an incentive system to attract skills and investors to their national labour markets. For instance, due to the high unemployment rate in Ghana, the country's Investment Promotion Centre Act, 2013 (Act 865) restricts the informal sector to only Ghanaians to reduce competition for jobs within this sector. On the other hand, the Nigeria Immigration Act 2015 (Section 36) requires permission from the Minister of Interior before any foreigner can accept employment or establish a business.

In addition, the **impact of the COVID-19 pandemic exposed the unregulated free movement regime of labour migration in the selected countries.** The border closures at the early stages of the pandemic revealed that governments lacked adequate guidelines for return, reintegration, and readmission of their nationals working or residing outside their countries of origin.¹⁰⁶ In the process of managing the impact of the pandemic, national governments started developing guidelines to monitor the movement of all migrants including migrant workers. In the case of Kenya, return and reintegration programmes are being developed to target migrants in distress in response to the impact of the pandemic especially the different containment measures that affected free movement of people, goods, services and capital (EAC Secretariat, 2021:64).

There are limited implementation mechanisms to address migrant worker protection within the region and those bound for the GCC. Based on the responses in the study, informal sector migrant workers continue to face higher risks in terms of wages, remuneration and other work-related issues due to their lack of awareness of their rights as migrant workers.

"If [a migrant worker] joins a company, and the employer takes [their] documents, [the migrant worker has the right to] report first to the police to state [that their] documents were taken by [the] employer. [But] [w]e favour our own, the migrant worker will look like they are on the wrong."¹⁰⁷

In Kenya, this was attributed to the fact that there is no operational national labour migration policy that would harmonize national laws with the EAC CMP provisions regarding the regulation of the rights and activities of migrant workers from Partner States. In addition, there is no clear structure how to handle low-skilled and unskilled migrant workers' concerns.¹⁰⁸ Furthermore, the informal sector migrant workers often lack awareness of their rights despite the national laws outlining their right to legal recourse through the existing legal structures of the host country. Therefore, the executive regulations exist without guiding principles on the steps a migrant worker should take to have their grievances heard and addressed. In the case of migrant workers in the Gulf, their rights are

¹⁰⁶ Examples of such guidelines may be found in several IOM reports. See IOM, COVID-19: Guidance for employers and business to enhance migrant worker protection during the current health crisis (Geneva, 2020) and IOM, *A Region on the Move: Mid-year Mobility Overview – January to June 2021* (Nairobi, Regional Data Hub for the East and Horn of Africa, 2021).

¹⁰⁷ A COTU official in Kenya explained this in an interview.

¹⁰⁸ A COTU official in Kenya shared this information in an interview.

also not sufficiently protected due to bad contracts and a lack of awareness of their rights. Female migrant workers, especially, have been known to experience intimidation from their employers and threats of deportation as explained in section 3.

Furthermore, **data collection structures at the national and regional levels are not fully functional.** The systems at the national level are not fully integrated or developed (Abebe, 2017) and therefore they are unable to share labour demand and supply information among member countries. At the national level, disaggregated data related to labour migration as well as the labour market and employment in the EHoA is still limited in terms of scope, as the data in Kenya and Uganda is mostly anecdotal.¹⁰⁹ In addition, the LMISs in both countries are primarily focused on labour migration opportunities in the Gulf and lack data on migrants from the EAC and or IGAD region.¹¹⁰ In the case of Kenya, the LMIS does not currently capture labour migration data, while Uganda collects selected information concerning labour migrants through the EEMIS. Also, trade unions lack access to labour migration data, making it difficult to support migrant workers in distress in destination countries. There are plans to decentralize the systems so that data is captured at the district level; however, this has yet to take place.

4.3.2. Harmonization processes

The harmonization issues identified in this study relate to access and portability of social security benefits and mutual skills recognition processes of regional instruments, which, some respondents argued, have been slow.¹¹¹ The IGAD FMP has yet to be ratified so the harmonization process has yet to start. In the EAC, not all Partner States are moving at the same rate. Kenya, Rwanda and Uganda are taking progressive steps to harmonizing the EAC CMP in relation to free movement of people and workers. Annex II of the EAC CMP only makes provision for free movement of skilled workers and does not cover low-skilled and unskilled workers in the informal sector.

“The informal sector is not adequately covered as well as the semi-skilled category. Due to this, what we have done is that all those categories that are not adequately covered in the CMP are being covered in an instrument which we are developing, called East African Labour Migration Policy, and this will therefore complement the efforts being done under the CMP. This will cover the informal sector and those others that are semi-skilled as well and those qualifications that are acquired outside formal training.”¹¹²

¹⁰⁹ An official from Uganda’s Ministry of Internal Affairs provided this information during an interview.

¹¹⁰ This information was from an official of the IOM regional office in Kenya, shared during an interview.

¹¹¹ In this context, it is worth considering the European Union’s approach. European regulation on social security of migrant workers dates back to 1958 and has been gradually developing, with Regulation No. 883/2004 of the European Parliament and of the Council on the coordination of social security systems, implemented by Regulation No. 987/2009, being a major step. Its approach is described in an ILO study as follows: “[R]ather than harmonizing the national social security systems, the EU provisions provide for their coordination. Every Member [S]tate is free to decide who is to be insured under its legislation, which benefits are granted and under what conditions, how these benefits are calculated and what contributions should be paid” (ILO, *Coordination of Social Security Systems in the European Union: An Explanatory Report on EC Regulation No. 883/2004 and Its Implementing Regulation No. 987/2009* (Budapest, 2010), p. 1).

¹¹² This was the statement of an EAC official during an interview.

There is also a lack of awareness of the protocols and policies related to labour migration, especially among low-skilled and unskilled migrant workers in the informal sector.¹¹³ The regional protocols and national policies are shared through various platforms including social media. However, given the technical nature of these protocols and policies, access to and understanding of them may be limited, for a migrant worker moving between States may be unable to understand.¹¹⁴ The labour migration-related protocols and policies, therefore, target a selected group of people, but there is limited evidence to showcase the level of understanding among different migrant groups, including low-skilled migrants.

Access to and portability of social security benefits for informal migrant workers remain a challenge. Informal migrant workers often take up short-term, low-paid seasonal work intending to return to their countries of origin with their earnings. All nationals and migrants are expected to contribute to the social security fund, but informal migrant workers are less likely to contribute to the social security schemes of the host country, as they would rather save their earnings and return to their countries of origin. The informal sector migrant workers also lacked awareness of the social security schemes they could contribute to in the destination countries, which may play a part in the low subscription rates. Regarding portability of social security contributions, respondents in Kenya and Uganda stated that it is possible through the Emigrant Benefit Schemes in the respective countries mentioned in section 3. However, Uganda's Emigrant Grant is not fully functional, as migrant workers in the country struggle to transfer their existing contributions when they return to their countries of origin. The Government of Uganda seeks to strengthen this through a coordination mechanism for social security under the legislation of the country.¹¹⁵ Respondents argued that there is a need to fast-track the finalization and development of the regional framework on social security to assist governments in harmonizing their existing instruments to facilitate the transfer of social security contributions.

There are two challenges associated with mutual recognition of skills. First, **the process is still slow, as countries are at different stages of implementation within the EAC** (Mutamba and Nsavyimana, 2019:88). Professional associations at the national level (e.g. lawyers and pharmaceutical associations) are still negotiating their MRAs (Kago and Masinde, 2017:350). Concerns have been raised regarding reciprocity of qualifications and experiences for lawyers from Rwanda seeking opportunities in other Partner States.¹¹⁶ The ongoing discussions include clarifying the harmonization of the MRAs within the national legal frameworks to remove this barrier at the national level.¹¹⁷ In the IGAD region, mutual recognition of skills is still at the early stages, as the RQF is still being developed.¹¹⁸ Migrant workers seeking employment opportunities in other Member States will face limitations due to the lack of NQFs.

¹¹³ This was according to a COTU official in Kenya during an interview.

¹¹⁴ In an interview, a COTU official in Kenya shared these insights.

¹¹⁵ An MGLSD official in Uganda shared this information during an interview.

¹¹⁶ This information was provided by an RDB official in Rwanda during an interview.

¹¹⁷ An IOM official in Rwanda shared this during an interview.

¹¹⁸ This information was obtained from a NADICOK official in Kenya in an interview.

Second, the study revealed that the youth lack pathways to employment in other Partner States and cannot enjoy the freedoms of the CMP, primarily if they work in the informal sector. Partner States still have quite restrictive policies when it comes to young graduates seeking an opportunity in another Partner State; they would be unable to compete with experienced professionals due to their lack of experience.¹¹⁹ The EAC was to develop and initiate the youth mobility programme to help young graduates seek and access employment and gain work experience in other Partner States, but this has yet to occur. The youth lack the required skills and expertise to take up opportunities in other countries compared with experienced migrant workers,¹²⁰ limiting their chances of being absorbed into the labour market and contributing to high unemployment and underemployment within the region (EAC Secretariat, 2017).

4.3.3. Implementation processes

At the national level, implementation challenges identified regard the lack of a facilitation system for labour migration within the EHoA, recruitment bottlenecks in selected case study countries, unethical practices by PEAs and issues concerning migrant workers' rights.

The study identified **no clear facilitation system for labour migration opportunities in the EHoA region, especially for low-skilled migrants**. Governments, through the PEAs, focus on facilitating opportunities for labour migration of skilled migrant workers to other Partner States in the EAC and the Gulf but not to other African countries, as illustrated by the few BLAs with other African countries (ILO, 2020a:21). Furthermore, there was limited evidence showing that low-skilled migrant workers engaged with PEAs when seeking employment opportunities within the EHoA region, revealing a gap in legal pathways to labour migration.

Finally, respondents flagged **unethical recruitment practices of PEAs of Partner States that were facilitating labour migration opportunities for nationals in other Partner States**.¹²¹ National PEAs are allowed to facilitate employment opportunities only for their citizens. Yet, there were some reported cases of PEAs promoting employment opportunities to the Gulf for nationals for other Partner States.¹²² The recruiting PEAs will not be liable for any challenges experienced by these migrants. Furthermore, it raises the impression of undermining the measures within the Partner States that restrict migration to the Gulf due to protection issues faced by their migrants. There is a gap in the policy and practice, indicating the lack of cross-checks to reduce such occurrences. Furthermore, it may affect relations between the Partner States and may threaten regional integration efforts.

¹¹⁹ An official from a United Nations agency revealed this information during an interview.

¹²⁰ An IOM official in Uganda shared this in an interview.

¹²¹ In June 2019, IOM brought together 100 regulators of recruitment from over 30 countries to Montreal, Canada, who elaborated 55 recommendations to improve the regulation of international recruitment of migrant workers. The Montreal Recommendations cover nine thematic areas, addressing factors of vulnerability and offering specific guidance on issues, including recruitment fees, registration and licensing of recruitment agents, inspections and enforcement of labour standards, access to grievance mechanisms and dispute resolution, and migrant welfare and assistance. See IOM, *The Montreal Recommendations on Recruitment: A Road Map towards Better Regulation* (Geneva, 2020).

¹²² An Immigration officer in Kenya provided this information in an interview.

In conclusion, the regional and national migration governance structures are at different stages of development at the IGAD, the EAC and Member State levels. They have proven to be essential for coordination between stakeholders on migration-related issues and that the rights of migrant workers are upheld in terms of policy and practice. These varied governance structures present opportunities to countries with overlapping REC memberships that could be harnessed for the benefit of creating and benefiting from a broader labour market space. However, they present structural challenges that need to be considered by all members, mainly when focusing efforts on regional integration.

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5. Conclusion

5. CONCLUSION

This mapping report provides an in-depth analysis of the nature, characteristics and patterns of labour migration within the EHoA region. The need for this mapping report stemmed from the fact that labour migration has become a critical area of importance in the EHoA region, as countries explore ways of creating regular pathways for migration to strengthen regional integration through the EAC CMP and the IGAD FMP. Migrant workers' rights are examined through the lens of existing migration governance structures both at the regional and national spatial levels. This approach allowed for an analysis of how labour migration could be better promoted and coordinated within the EHoA region. The mapping report also examines the implications of overlapping REC memberships of Kenya and Uganda for labour migration and the rights of migrant workers in the EAC and the IGAD. This section highlights the key findings of the report structured along the lines of migrant workers' rights at the regional and national levels and the implications of overlapping REC memberships.

5.1. Safeguarding migrant workers' rights at the regional level

The findings of the report indicate that there are regional instruments in place that focus on the right of visa-free entry, the right of residence, and the right of establishment for community citizens, migrant workers and members of their families. The EAC CMP facilitates free circulation of labour, access to employment opportunities in other Partner States, protection of rights of migrant workers and harmonization of labour policies, albeit with some gaps. The EAC established the **EAQFHE**, which guides the NQFs of Partner States in recognizing academic qualifications, licences and certifications in other Partner States, focusing on a few professional qualifications. The EAC is in the process of finalizing the **Council Directive on the Coordination of Social Security Benefits** to assist Partner States in aligning with a common approach to social security benefits. Moreover, the **EAC Vision 2050** and the **EAC Gender Policy (2018)** to harmonize and mainstream gender into all EAC policies and programmes are not comprehensively and uniformly implemented across the EAC.

In the IGAD, the **Djibouti Declaration on Labour, Employment and Labour Migration in the IGAD Region (October 2021)** provides a pathway for creating an environment where free movement can take place and where the rights of migrant workers in the region and countries of destination are protected. Phase 2 of the IGAD FMP is dedicated to facilitating free labour migration and protecting the rights of migrant workers by 2031. Moreover, the IGAD's planned approach to engaging with the GCC as a bloc on labour agreements and protection of rights of migrant workers has the potential to yield more effective positive outcomes than through BLAs with individual countries.

The IGAD is in the process of developing its **RQF** as well as **quality assurance mechanisms** and a standardized system for mutual recognition of skills and expertise to improve the quality of teaching and teachers and to support the development of NQFs of Member States, similar to those in the EAC. The IGAD does not have a regional framework on social security benefits, as selected Member States currently lack social security laws

that would be the foundation for a regional framework. Furthermore, the IGAD Gender Strategy and Implementation Plan (2016–2020) recognizes the implications of migration for gender equality and proposes steps to minimize vulnerabilities associated with gender issues related to labour migration .

5.2. Safeguarding migrant workers' rights at the national level

The three countries analysed for this study have instituted measures for safeguarding the rights as well as facilitating the mobility of migrant workers within EHoA region to varying degrees. Among prime achievements at the national level are visa-free travel, waivers for work permit fees, non-discriminatory access to labour markets, access to social security benefits, freedom to join labour unions, a national LMIS to support access to employment opportunities for migrant workers and national qualifications frameworks, among others. There are, however, disparities in approaches to the protection of migrant workers' rights across the three countries.

First, **mechanisms to protect migrant workers' rights are unavailable to undocumented or irregular migrants in Kenya and Uganda.** Such migrants are deemed to have committed a penal offence, especially if they have not applied for a work permit in the host country.

Second, **migrant workers can access social security systems in all three countries, but the portability of social security varies between the three countries.** Migrant workers need to be legally employed in Kenya to access and contribute to social security schemes and benefits; while in Rwanda, contribution to social security schemes is compulsory for formal sector workers but voluntary for informal sector workers. Portability of social security benefits in Rwanda is achieved through bilateral agreements with Burundi and the Democratic Republic of the Congo, whereas portability of social security contributions in Kenya and Uganda is based on reciprocity. Kenya's **Emigrant Benefits Scheme** triggers the transfer of social security contributions upon migrant workers' return to Kenya and requires cooperation with the migrant's country of origin. Uganda's **Emigrant Grant** provides a voluntary channel through which migrant workers could continue making contributions to their national social security schemes at home while they are abroad.

Third, **disparities have been observed regarding access to residence and employment in the countries under this study.** For instance, male migrants seeking a dependant pass in Kenya when the primary migrant worker is female find the process very cumbersome. The process is complex because the Government fears that this is an avenue that can be exploited by male foreign migrants to live in the country indefinitely. In Uganda, a migrant worker that has changed employers is required to lodge a fresh application for a work permit within 15 days. Migrant workers in Rwanda, on the other hand, are at liberty to change employers and continue to work with a new employer while applying for a new work permit in Rwanda.

Fourth, **unethical recruitment practices of PEAs have been identified in Partner States that are facilitating labour migration opportunities for nationals in other Partner States.** This can affect relations between Partner States and may threaten regional integration efforts. In addition, on diaspora, all **three countries have either policies or strategies in place to enhance their engagement with their diasporas;** however, these policies and strategies are skewed heavily towards harnessing remittances and skills in support of national development, with limited attention to the extension of rights and protection to citizens abroad.

Fifth, **national LMISs exist in all three countries but operate differently.** Rwanda has three key platforms capturing labour market information including the biannual survey on skills gaps. Rwanda's ODL identifies skills in demand in the country by sector, which can influence a migrant worker's decision to migrate to the country. In the case of Kenya, the LMIS does not currently capture labour migration data, while Uganda collects selected information concerning labour migrants bound for the GCC through the EEMIS.

Sixth, **pathways to employment for the youth in the region are lacking** despite a significant youth population in the region. Around 20 per cent of the 127 million people of Kenya, Rwanda, the United Republic of Tanzania and Uganda are between 15 and 24 years old (IOM, 2021c). Within the EAC, a youth exchange programme that will allow the youth to enjoy the freedoms of the CMP has yet to be developed. Youth working in the informal sector and young graduates seeking employment opportunities in another Partner State lack the experience to compete with experienced professionals. The IGAD is developing the YESI informed by the ongoing research on youth employment, trends, existing challenges and potential opportunities to be harnessed for the youth and employment. The IGAD under- and postgraduate scholarship programme launched in 2021 targeted refugees, returnees and host communities to enhance inclusive and equitable education in the region and to reward academic excellence.

The pandemic exposed some gaps and challenges on labour migration regarding migrant workers' rights, access to social security as well as return and reintegration programmes for stranded migrants. It also presented an opportunity for countries within the wider region to collaborate on strategies that facilitate free movement of people including workers.

5.2.1. Overlapping memberships

Overlapping memberships of the EAC and the IGAD bring some key benefits to Kenya and Uganda. First, **they have the potential to enhance access to a wider labour market, contributing to the development of the region,** as Kenya and Uganda can negotiate for labour market access for their citizens in other destinations. A larger labour market will create more employment opportunities for all types of labour migrants, including the unskilled, across the region for members with the potential to increase the development of the wider bloc. Second, **they can help facilitate learning opportunities towards building common systems across the EHoA region** on social security, mutual recognition of skills and strengthening data collection processes by sharing best practices and lessons learned within the wider bloc.

Finally, **overlapping memberships can increase or expand the stakeholders' platform** through the RCP in both the IGAD and the EAC, which can strengthen the development and harmonization processes at the Member State level. This can only be achieved through sharing of information, good practices and lessons learned between member countries. Overlapping memberships, however, increase the **risk of duplication of efforts** on policies and programmes, among others, thereby overstressing countries' commitments across the two RECs. Furthermore, **overlapping memberships present coordination challenges at the national level** in terms of harmonization and variations between terminology, legal instruments and institutional set-ups that require alignment as well as resources at the regional level. Therefore, members with overlapping memberships need to find a balance coordinating different activities between the RECs.

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6. Policy recommendations

6. POLICY RECOMMENDATIONS

Based on the key findings and conclusions of the assessment, the report makes the following recommendations to further protect the rights of migrant workers, facilitate better labour migration and harness the potential benefits that are embedded in overlapping memberships. The recommendations are arranged around the following key areas: migrant workers; overlapping membership; and gender considerations.

To advance **migrant workers' rights**, Kenya, Uganda and Rwanda should consider the following policy actions:

- (a) **Build the capacity of labour unions to safeguard the rights and conditions of service of their members.** While migrant workers are entitled to join labour unions, as part of their rights under the EAC CMP, the enrolment rates are extremely low across all categories of migrants but for disparate reasons. While informal sector workers are entitled to join labour unions in destination countries, they do not join partly due to the cost of subscription and lack of awareness of their rights. In the case of formal sector workers, they do not join either because they tend to negotiate the conditions of service directly with their employers or they fear losing their jobs if they were to join. Nonetheless, the role of labour unions is integral to the protection of the rights of migrant workers, as they negotiate fair wages and better conditions of service and provide legal representation to members when their rights are violated. The capacity of the leadership of labour unions could be built through regional training in such issues as negotiation skills and effective protection of human rights and through regional forums that enable cross-learning among diverse labour unions. Practical steps, such as sensitization of workers and sanctioning of employers who victimize workers for joining labour unions, can increase subscriptions to labour unions.¹²³
- (b) **Strengthen the LMIS at the national level.** Labour market information is critical to guide member countries on skills requirements as well as surpluses. Aspiring migrant workers rely on such data to make informed decisions about their labour migration options within the EHoA region. Disaggregated data is important to have a complete picture of profiles of migrant workers as well as trends and flows of migrant labour within the EHoA region. It is, therefore, essential that the capacity of national statistics departments be increased to be able to produce disaggregated data on migrant workers from and to other Member States of the EAC and the IGAD. Making collected data readily accessible to all stakeholders could be of benefit to all. In this respect, Rwanda's ODL system can provide a good example.

¹²³ Transnational trade union federations, such as the European Trade Union Confederation (www.etuc.org/), which was established in 1973 with 45 million members from 39 countries, are also important partners to the regional bodies, such as the European Union, the Council of Europe and the European Free Trade Association.

- (c) **Facilitated pathways for the youth to compete favourably for employment opportunities in the region could lead to multiple socioeconomic benefits.** In this respect, the ongoing discussions to institute a youth exchange programme to create pathways for employment for the youth in the EAC Partner States is a step in the right direction, as is the IGAD's YESI. As part of these initiatives, creating a mentorship pathway for the youth to build their professional experience over time could strengthen the outcomes of the pathways.
- (d) **Extend rights to diaspora members to ensure better protection of their rights.** Countries of origin could extend rights to their diaspora citizens by providing consular services, providing an avenue to protest against discrimination and racist abuses, and offering protection during crisis situations, among others. This approach can build mutual relationships between the diaspora and the homeland that invariably foster sending of both monetary and social remittances by diaspora members to their countries of origin.

The **EAC** and the **IGAD** should consider the following recommendations:

- (e) **Expand the scope of professions and sectors covered under the regional mutual skills recognition programme.** The current narrow focus on formal professional qualifications excludes most migrant workers within the EHoA region who tend to work in the informal sector. Documenting work experiences gained by workers in the informal sector is also a challenge. A formal mechanism for recognizing the broad spectrum of skills acquired in the course of informal employment could be considered. A bottom-up approach to developing such a mechanism at the national level in the first instance, with further scaling up to the regional level, is recommended. In addition, adding TVET qualifications and other categories of midrange professions will be more representative of the working population within the EAC. An important element of raising awareness of access to markets for professionals is the establishment of an online database on regulated professions.
- (f) **Institute a regional framework on social security benefits and portability.** Existing national initiatives on social security and portability are ad hoc in nature and a regional process would harmonize practices and safeguard the rights of returning migrant workers. The **EAC Council Directive on the Coordination of Social Security Benefits**, which is being developed, is a necessary first step in the process. The Council could initiate discussions on broadening the scope of coverage in respect of the number of persons covered and the areas of social security covered at the national level.
- (g) **Implement fully regional policy frameworks on facilitating labour migration.** Part D (free movement of persons and labour) and Part E (rights of establishment and residence) of the EAC CMP outline the rights of migrant workers and members of their families. Ensure that related policy initiatives,

such as the **Immigration Information Systems**, the **Regional Strategic Framework for e-Immigration (2014)**, the **e-Immigration Policy**, and the creation of the **one-stop border posts**, are uniformly implemented across all EAC Partner States. A regular reporting requirement for Partner States, especially through the existing EAC scorecard and the establishment of working groups, can help harmonize practices.

- (h) **Ensure that data from the common market scorecard is collected, analysed and disseminated annually.** Here, strengthening the capacity of the EAC Regional Technical Working Group on Harmonization of Migration Data to coordinate the generation of comparable migration data from Partner States is important. This can be achieved by expanding their competence through periodic training programmes, provision of technical support and peer-to-peer exchange events. Establishing a functional LMIS at the EAC level to synthesize labour market data produced by national LMISs can also help that process. It is also recommended to consider the creation of a thematic working group, bringing in national experts from the academic and think tank communities who could facilitate exchange of good practices in data analysis that could inform policymaking.
- (i) **Institute an RQF to facilitate the negotiation of MRAs among IGAD Member States.** Educational systems and professional qualifications programmes within the IGAD could benefit from a structure that enables comparability and weighting of qualifications and experiences obtained by prospective migrant workers. Such regional frameworks can help to harmonize national approaches and could facilitate a regional recognition of professions, which is critical to the free movement of workers.
- (j) **Establish a regional centre of excellence on labour migration focused on sustainable skills acquisition for members of the EHoA region to address skills gaps in the region.** The centre can be used for skills retention and for monitoring the skills of migrant workers by sector for regional development purposes. In addition, the centre of excellence can be used to capture the experiences of migrant workers in the informal sector, especially with regard to their rights. This could inform regional and national responses related to migrant worker rights. The EAC and the IGAD can start by commissioning a profiling study to map out existing centres within the region, the type of information they capture on labour migration and how they operate in order to conceptualize the design of the regional centre of excellence. The RMFM can provide an excellent platform to conceptualize and materialize it.

On **overlapping memberships**, the EAC and IGAD Member States could consider the following actions:

- (k) **Encourage cross-learning between the EAC and the IGAD on regional policy frameworks, initiatives and processes.** Existing platforms, such as the RMFM, could be used to brainstorm and share expertise on the nexus between regional integration and free labour migration across the two RECs. This creates an opportunity for cross-learning between the EAC and the IGAD to enhance migrant rights protection, facilitating labour migration and harmonizing their policies and procedures that can promote better regional integration that works for all, including migrant workers.

Finally, to ensure **gender considerations are taken into account**, the EAC and the IGAD could consider the following:

- (l) **Harmonize and mainstream gender into all regional policies and programmes.** While gender is increasingly being mainstreamed into national policy processes in Partner States, there is a need for a regional template at the EAC level to ensure coherence and compliance by Partner States. Similarly, mainstreaming gender into the four-staged process of the IGAD FMP is important to ensure that gender is considered as a cross-cutting issue throughout the implementation of the different phases of the IGAD FMP. This reflects the right of entry and abolition of visa requirements (2028), right of movement of workers (2031), right of residence (2034) and establishment (2037). This should be achieved through the collection of gender-disaggregated data, monitoring of the impact of adopted measures on the relative positions of women and men, and the identification of vulnerabilities that are specific to gender identity and expression.

ANNEXES

ANNEX 1: REGIONAL AND NATIONAL LEGAL INSTRUMENTS

LEGAL INSTRUMENTS	YEAR
EAST AFRICAN COMMUNITY	
Treaty for the Establishment of the East African Community	1999
Protocol on the Establishment of the East African Community Common Market	2009
Regional Strategic Framework for the e-Immigration	2014
EAC e-Immigration Policy	Draft
East African Community One Stop Border Posts Act	2016
East African Community One Stop Border Posts Regulations	2017
Gender Policy	2018
EAC Youth Policy	2013
EAC Child Policy	2016
Refugee Management Policy	Draft
EAC Council Directive on the Coordination of Social Security Benefits	Draft
EAC Labour Migration Policy	Draft
INTERGOVERNMENTAL AUTHORITY ON DEVELOPMENT	
IGAD Gender Mainstreaming Strategy	Draft
Regional Migration Policy Framework	2012
Migration Action Plan 2015–2020	2015
IGAD Free Movement Protocol	2021
KENYA	
National Hospital Insurance Fund Act	1998
Work Injury Benefits Act	2007
Labour Relations Act	2007
Labour Institutions Act	2007
Occupational Safety and Health Act	2007
Constitution of Kenya	2010
Citizenship and Immigration Act	2011
Industrial Court Act	2011
National Social Protection Policy (under review at the time of writing this report)	2012
National Social Security Fund Act	2013
National Hospital Insurance Fund Act	1998
Social Assistance Act	2013
Diaspora Policy	2014
National Migration Policy	Draft
Refugee Bill	2019
Labour Migration Management Bill	Draft
Labour Migration Policy	Draft

LEGAL INSTRUMENTS	YEAR
UGANDA	
National Social Security Fund	1985
Uganda Citizenship and Immigration Control Act	2000
Employment (Recruitment of Ugandan Migrant Workers Abroad) Regulations	2005
Recruitment of Ugandan Migrant Workers Abroad Resolutions	2005
Employment Act	2006
Labour Unions Act	2006
Labour Disputes Arbitration and Settlement Act	2006
Occupational Safety and Health Act	2006
Ugandan Vocational Qualifications Framework <ul style="list-style-type: none"> • Modular Transcript provides training to refugees and labour migrants to benefit from the local TVET institutions. • Worker's Practically Acquired Skills (PAS) provides partial qualifications for migrants working in the informal sector to develop practical skills 	2008
National Employment Policy for Uganda (under revision at the time of writing this report)	2011
National Development Plan and Vision 2040	2013
Uganda National Social Protection Policy	2015
National Health Insurance Scheme Bill	2019
Technical Vocational Education and Training (TVET) Policy	2019
National Diaspora Policy	Draft
National Migration Policy	Draft
Externalisation of Labour Bill	Draft
RWANDA	
Constitution of Rwanda (Revised in 2015)	2003
National Migration Policy and Strategy	2009
Diaspora Policy	2009
Ministerial Order No. 01/19 of 25/02/2009 Determining the Recruitment Procedures of Foreign Workers	2009
Law No. 04/2011 of 21/03/2011 on Immigration and Emigration (Revised in 2018)	2011
Ministerial Order No. 02/01 of 31/05/2011 Establishing Regulations and Procedures Implementing Immigration and Emigration Law	
Ministerial Order No. 03/01 Determining the Fees Charged on Travel Documents, Residence Permits, Visas, and Other Services Delivered by the Directorate General of Immigration and Emigration	2011
Ministerial Instructions No. 003/19.18 Determining Occupations in Demand List	2013
Presidential Order No. 70/01 of 03/12/2013 Establishing Border Posts	2013
Law No. 48 Governing the Organisation, Functioning and Management of Health Insurance Scheme in Rwanda	2015
Law Governing the Organization of Pension Schemes	2015
National Strategy for Transformation 2017–2024	2017
Law No 68 Determining Offences and Penalties in General	2018
National Contingency Plan for Population Influx	2018
Law No. 66 Regulating Labour in Rwanda	2018
Ministerial Order No. 06/01 Relating to Immigration and Emigration	2019
National Labour Mobility Policy	2019
Ministerial Order No. 007/01 Relating to Rwandan Nationality	2022

ANNEX 2: WORK PERMIT CLASS SYSTEM BY COUNTRY

KENYA		UGANDA		RWANDA	
Class	Work permit	Class	Work permit	Class	Work permit
A	Prospecting and mining	A	Government and diplomatic service	A	Prospecting and mining
B	Agriculture and animal husbandry	A2	Government contractors	B	Agriculture and related activities
C	Prescribed professions	B	Investment in agriculture	C	Prescribed professionals
D	Employment	C	Mining	D	Diplomats
F	Specific manufacturing	D	Business and trade	E	Government or parastatal employee
G	Specific trade, business and consultancy	E	Manufacturers	F	Specific manufacturing and processing
I	Approved religious or charitable activities	F	Professionals	G	Specific trade, business and services
K	Ordinary resident	G1	Volunteers, NGO workers and missionaries	H	Specific employment by specific employer
B	Refugees (Gratis)	GR	Employees	I	Approved religious activities
				J	Foreign worker with a refugee status in a foreign country and acquires a job in Rwanda
				K	Person with assured income
				M	Dependent pass
				N	Foreign staff/Founder of NGO with skills on the ODL
				O	Hospitality sector and related activities
				P	Voluntary and holiday worker
				Q	Defined assignment for a specific period
				R	Special pass (short-term employment)
				S	Frontier pass
				U	Students and occupational trainee
				W	Information technology and related activities
				X	Transport and logistics and other related activities
				Z	Other sectors not mentioned

ANNEX 3: LIST OF MINISTRIES, DEPARTMENTS AND AGENCIES INTERVIEWED

KENYA
• National Employment Authority
• Ministry of Labour and Social Protection
• Kenya National Commission on Human Rights
• Central Organization of Trade Unions
• National Diaspora Council of Kenya
• Directorate of Immigration
• National Social Security Fund
• International Organization for Migration Country Office in Kenya

UGANDA
• Ministry of Foreign Affairs
• Ministry of Gender, Labour and Social Development
• Uganda Bureau of Statistics
• Ministry of Internal Affairs
• International Labour Organization
• National Organisation of Trade Unions
• Platform for Labour Action
• National Coordination Mechanism, Office of the Prime Minister
• Uganda Association of External Recruitment Agencies
• International Organization for Migration Country Office in Uganda

RWANDA
• Ministry of Foreign Affairs and International Cooperation
• Ministry of Public Service and Labour
• Directorate of Immigration and Emigration
• Rwanda Development Board
• Rwanda Social Security Board
• Rwanda Law Reform Commission
• Rwanda Workers' Trade Union Confederation
• Private Sector Federation
• International Organization for Migration Country Office in Rwanda

OTHER STAKEHOLDERS
• International Organization for Migration Regional Office for East and Horn of Africa
• Intergovernmental Authority for Development
• East African Community Secretariat

ANNEX 4: INFORMATION SHEET AND INTERVIEW GUIDE

1A: INFORMATION SHEET PROVIDED TO RESPONDENTS

The IOM Regional Office for East and Horn of Africa recently launched the Better Regional Migration Management (BRMM), Labour migration and Regional Integration for Safe, Orderly and Humane Labour Migration in East and Horn of Africa programme funded by the FCDO to enhance labour migration governance and protection of migrant workers and their family members' human, social and labour rights through intra- and interregional cooperation.

Linda Adhiambo Oucho, PhD, and Leander Kandilige, PhD, have been commissioned by IOM Regional Office for East and Horn of Africa to undertake the mapping assessments to better understand labour migration, regional integration, and migrant workers' rights within the EAC and the IGAD region. The major objective of the mapping is to assess the potential impact of overlapping memberships on the feasibility of the implementation of the EAC Common Market Protocol (2010) and the IGAD Free Movement Protocol (2021). The mapping assessment will focus on Kenya and Uganda drawing lessons learned from Rwanda.

Considering the important role your institution/organization is playing in the field of labour migration, we have identified you as a key respondent to participate. We will therefore be very grateful if you could take time out of your busy schedule to answer the questions that we are going to ask you. The interview should take no longer than 90 minutes. Data will remain confidential and anonymous. The research team will guarantee the confidentiality of all information that you give to us. At the end of the interview, the data you provide will remain anonymous: this means that your name and address will not be recorded with your answers. The information will only be used for the purpose of scientific research. Your participation in the interview is entirely voluntary. You will be able to choose not to respond to questions you are uncomfortable with as well as terminate the interview at any time. As such, you have the right to withdraw from this interview at any time, without any consequences.

If you have any questions concerning the interview or the research, please reach us at: linda.oucho@amadpoc.org and leanderkandilige@gmail.com. This research instrument has been reviewed and approved by the IOM Regional Office for East and Horn of Africa. Thank you for your time and consideration.

1B: INTERVIEW GUIDE: GOVERNMENT OFFICIALS

BIODATA

Code:			
Name:			
Ministry/Department/Agency:			
Position:			
Date of Interview		Time:	
Interviewer:			
Additional Notes:			

GENERAL

All MDAs are expected to answer the questions below.

1. Describe the role of your department/ministry with regard to labour migration.
2. How would you describe the state of labour migration in your country?
3. What kind of information/data do you collect on labour migrants? Is it gender disaggregated? Have you noticed a trend (if any)? How often is data on labour migrants gathered?
4. How has the data on labour migration informed the focus of your department/ministry with regard to labour migration?

LABOUR MIGRATION PROCESSES/PROCEDURES
<i>Questions below can be answered by MDAs directly involved in labour migration procedures.</i>
5. What do you perceive as the contribution of migrant workers to your country's economy?
6. How are migrant workers from other Member States protected from discrimination on grounds of their nationality in relation to employment, remuneration, and other work and employment in your country?
7. What equipment is available to process identity cards electronically? <ol style="list-style-type: none"> a. Who has access or manages this equipment? Where are they located? b. How does it handle travel documents from citizens within EAC/IGAD? (Probe for the modalities for execution and how this might expedite the identification of a community citizen.)
8. Are labour migrants allowed to freely join labour associations and engage in collective bargaining within the labour laws of your State? (Probe for access social security benefits.)
9. What measures are in place to allow labour migrants to move with their spouses and children into your country? (Probe for whether spouses and children are also entitled to employment or to engage in any other economic activity within the laws of the host State.)
10. How do labour offices in your country ensure reciprocity in respect to assistance given to labour migrants from other Member States who pick up employment, especially the employment of young migrant workers?
11. What procedures are in place to respond to gender in terms of labour migration?
12. Under what circumstances do you tend to restrict free movement of labour into your country? (Probe for whether countries of origin of labour migrants are informed about such restrictions.)

SKILLS RECOGNITION
<i>Questions below apply to MDAs directly involved in recognition of skills.</i>
13. How does your country assess academic and professional qualifications granted, experience obtained, and licences or certifications granted in another Member State? <ol style="list-style-type: none"> a. Does it align with the EAC CMP and the IGAD FMP? Explain your response. b. What are some of the limitations and concerns and how can they be addressed? c. Who are the stakeholders involved in the process?
14. What discussions are taking place at the IGAD level to assess academic and professional qualifications granted, experience obtained, and licences or certifications granted in another Member State? (Only for respondents from Uganda and Kenya) <ol style="list-style-type: none"> a. Which actors are involved in the process? b. What are some of the emerging concerns for your country which is a member of IGAD/EAC?
15. How can the curricula, examinations, standards, certification, and accreditation of educational and training institutions be harmonized and integrated between EAC and IGAD Partner States? (Probe for their views on how this would allow for easy recognition and movement of skilled labour within the community.)

LEGAL INSTRUMENTS: REGIONAL AND NATIONAL LEVELS
<i>Questions below apply to MDAs involved in legal discussions related to labour migration at the national/regional level.</i>
16. How does your country perceive the idea of regional integration? <ol style="list-style-type: none"> a. What aspects of the EAC/IGAD protocols are currently being implemented in your country? Give examples where possible.
17. How does the involvement of your country in regional processes (IGAD and EAC) help the national labour migration and regional integration process? Are there any challenge associated with it?

<p>18. Describe how labour migration related activities are coordinated at a regional/national level.</p> <ol style="list-style-type: none"> What challenges have been experienced and lessons have been learned so far? What activities/discussions/programmes are in place or being considered at the EAC and/or IGAD level to respond to labour migration needs at the regional level. Explain your response.
<p>19. How have Partner/Member States harmonized their laws/policies/programmes with regional protocols of IGAD/EAC?</p> <ol style="list-style-type: none"> What challenges have been identified with regard to free movement of labour and regional integration within the EAC and/or IGAD region? Elaborate on your response.
<p>20. What measures have been put in place at the national level for labour migrants related to social security?</p> <ol style="list-style-type: none"> Are migrants from other Member States who are self-employed able to join and benefit from social security in your country? (Probe for whether spouses, children or dependants of self-employed nationals are also able to enjoy the same rights as the self-employed migrants.) Describe some of the challenges and/or best practices.
<p>21. How has gender been mainstreamed into labour migration related laws/policies?</p> <ol style="list-style-type: none"> How is it linked to national gender policies? How is it guided by the regional instruments within the EAC/IGAD?
<p>22. Describe the measures in place that allow labour migrants from other Member States to enjoy the right of establishment (i.e. to establish or manage companies or firms and to engage in other private economic activities as self-employed) within the confines of your country?</p> <ol style="list-style-type: none"> Do you have any examples? What best practices and lessons learned from the EAC CMP can be adopted in the implementation of the IGAD FMP?
<p>23. How are the rights of residence for nationals of Member States who have been lawfully admitted into your country safeguarded?</p> <ol style="list-style-type: none"> How do they align with the regional protocols (specify the protocols/provisions if known) (Probe for whether the same safeguards apply to the spouse, child and a dependant of a worker or self-employed migrant.) What opportunities or challenges are faced in the implementation of the EAC CMP approach to achieving the right of residence? What opportunities or challenges should be anticipated in the implementation of the IGAD FMP's approach to achieving the right of residence?
<p>24. How do your international borders operate?</p> <ol style="list-style-type: none"> Are they open, accessible and operational for 24 hours a day? (Probe for the effect of COVID-19 in meeting this requirement.) How have regional protocols strengthened regional cooperation in terms of border management?
<p>25. What system is operational to manage labour migration flows?</p> <ol style="list-style-type: none"> Is there an information-sharing system that exists between borders and local offices as well as between Member/Partner States? (Probe for if they have an automated centralized database for effective data management.) What regional guiding instruments have guided the development and management of information systems

CHALLENGES AND RECOMMENDATIONS	
26. What actions need to be taken to address the challenges, within the EAC/IGAD, related to	<ul style="list-style-type: none"> a. labour migration? b. regional integration? c. labour migrants' rights? d. harmonization of free movement protocols?
27. What needs to be done to accelerate the implementation of the EAC CMP and to guide the implementation of the IGAD FMP with regard to	<ul style="list-style-type: none"> a. labour migration? b. regional integration? c. labour migrants' rights?
28. How can overlapping membership commitments be addressed for Uganda/Kenya in the case of the EAC CMP and the IGAD FMP?	
29. What are the challenges of overlapping membership for Uganda/Kenya in the case of the EAC CMP and the IGAD FMP?	

1C: INTERVIEW GUIDE: SOCIAL AND DEVELOPMENT PARTNERS

GENERAL

1. What is your understanding of how regional integration in East and Horn of Africa is shaping labour migration in the region?	<ul style="list-style-type: none"> a. How is it understood at a regional/national level?
2. What role has your organization played in activities at the regional/national level related to	<ul style="list-style-type: none"> a. regional integration and/or b. labour migration?
3. What do migrant workers' rights mean in your context? How can these rights be safeguarded?	
4. What do you perceive as the challenges of overlapping membership for Uganda/Kenya in the case of the EAC CMP and the IGAD FMP?	

LEGAL PROCESSES AND PROCEDURES (REGIONAL AND NATIONAL)

5. What are the provisions in place to protect the rights of labour migrants and members of their families under the	<ul style="list-style-type: none"> a. EAC Common Market Protocol? b. IGAD Free Movement Protocol?
In your opinion, have Partner/Member States harmonized their policies/laws? Explain your response.	
6. How has your organization supported Partner/Member States to	<ul style="list-style-type: none"> a. design/implement national migration policies related to labour migration? b. ensure harmonization of policies at the regional level to ensure regional integration enhances better labour migration within the EAC/IGAD?
7. Describe the experiences from EAC Partner States with established labour migration regime in place.	<ul style="list-style-type: none"> a. How do they align with the EAC CMP's provisions?
8. What have been some of the gaps related to the implementation of the EAC CMP?	<ul style="list-style-type: none"> a. Do you think these gaps have been taken into consideration within the IGAD FMP? Explain your response. b. What are the anticipated gaps/limitations that should be taken into consideration with the implementation of the IGAD FMP?

<p>9. What is the profile of gender and labour migration in the EHoA?</p> <p>a. What are the regional and/or national instruments in place that respond to gender and labour migration?</p> <p>b. Do you have examples of some good practices where gender is considered in labour migration and regional integration?</p>
<p>10. What are your observations of some of the concerns/limitations and opportunities regarding countries with overlapping memberships?</p>
<p>11. What is the role of social and development partners in supporting the EAC and the IGAD to achieve their aims with regard to free labour migration and regional integration?</p> <p>a. Are there processes in place or being discussed on how these can be achieved? Explain your response.</p>

ACHIEVEMENTS, LIMITATIONS, RECOMMENDATIONS
<p>12. What are the major achievements by the EAC and the IGAD in promoting labour migration so far?</p>
<p>13. What are the key bottlenecks to the full realization of free labour migration within the East and Horn of Africa region?</p>
<p>14. How can gender considerations be addressed at the regional and national levels regarding labour migration and regional integration?</p>
<p>15. How can overlapping membership concerns be addressed?</p> <p>a. What discussions are taking place (if any) on this area of concern?</p>

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