

Migration policy frameworks in Africa

Tsion Tadesse Abebe



There are various migration policy frameworks and regimes on the African continent. These include policies developed by the African Union (AU) and the various regional economic communities, as well as those adopted by the AU in agreement with the European Union. It is important for policymakers and practitioners at continental, regional and country levels to have a clear understanding of these frameworks and how they form the basis of African migration policies.

Key points

- ▶ The Migration Policy Framework articulates the African Union's (AU) position on migration. It emphasises that well-managed migration has the potential to yield significant benefits to origin and destination countries.
- ▶ The AU should work with regional economic communities (RECs) to address the multiplicity of membership by countries in the different RECs. Overlapping membership impacts the implementation of migration frameworks, leads to a waste of resources and results in coordination challenges.
- ▶ The AU should engage with the European Union (EU) to counter the tendency to consider migration as a security concern. Only 8% of migrants in Europe are African, and there is no evidence that they constitute a major security threat. Most of these migrants are moving to Europe in search of better opportunities rather than to engage in violent activities.

Background

Migration within and out of Africa has been shaped by pre-colonial, colonial and post-colonial governance approaches. The trans-Atlantic slave trade (16th–19th century) saw the forcible movement of millions of Africans to the 'New World'.¹ The phenomenon of forcible movement within and from the continent continued throughout colonial rule, mainly to provide labour for the advancement of colonial economies.

Post-colonial African migration, on the other hand, is predominantly intra-regional. The majority of African migration occurs within the continent and particularly between neighbouring countries.² In 2015, 52% (18 million) of the 34 million Africa-born migrants lived within Africa.³ Côte d'Ivoire, South Africa and Nigeria are the leading destination countries, hosting 2.3, 2 and 0.9 million African migrants respectively.⁴ More recently, Gabon has also become an African migration destination,⁵ while Algeria and Morocco are emerging as destination countries.⁶

Africans also migrate to other parts of the world. In 2015, 14% (34 million) of the 244 million international migrants were born in Africa. They are located as follows: 52% in Africa, 27% in Europe, 12% in Asia, 7% in North America and 2% in Oceania. Between 2000 and 2015 Asia was the fastest growing destination for African migrants, with an average annual growth of 4.2%.⁷

Similar push and pull factors encourage intra-regional and inter-continental migration. Broadly speaking, the push factor can be summed up as the hope for a better life in terms of physical and economic security, while the pull factor is mainly demand for labour. Some of the influencing factors for intra-regional migration are geographic proximity, income differences, war, better connectivity, and environmental degradation. Established socio-economic ties that have existed since colonial times also play a significant role in facilitating especially Afro-European migration.

Migration can be either regular or irregular. Regular migration entails moving to another country after obtaining an official residence and/or work permit, which involves fulfilling the required procedures of the host country. Irregular migration implies moving to another country through unofficial means. Smugglers and traffickers play a major role in facilitating the journey of irregular migrants.

Smuggling refers to facilitating migrants' move to another country for profit. Smuggler–migrant relations come to an end when the migrant reaches his/her destination. Similarly, traffickers also assist migrants to move to another country. In contrast with smugglers, however, traffickers not only facilitate entrance into another country but also profit unlawfully from the labour and sexual services provided by trafficked migrants.⁸ The sale of human organs such as kidneys is another profit-making area for traffickers.

Migration has advantages and disadvantages for both sending and destination countries. Remittances are some of the biggest benefits of migration for African countries. In 2015, for instance, remittance flows to sub-Saharan Africa were US\$35.2 billion.⁹ On the other hand, the brain

drain is a devastating consequence of migration, as African countries continue to struggle from a dearth of skilled professionals. In 2013, for example, Ethiopia's minister of health stated that there were more Ethiopia-trained doctors practising medicine in Chicago, United States than in the entire Ethiopia.¹⁰

Development of migration frameworks in Africa

Africa is one of the first continents to have developed a legal regime on migration. In a bid to address the challenges faced by the large numbers of African refugees who were fleeing conflicts resulting from anti-colonial struggles,¹¹ the then Organisation of African Unity (OAU), now the African Union (AU), promulgated a regional convention on refugees. The 1969 OAU Convention Governing the Specific Aspects of Refugee Problems in Africa was the first regional refugee convention in the world and the only relevant binding instrument in the developing world.

The 1969 OAU Convention Governing the Specific Aspects of Refugee Problems in Africa was the first regional refugee convention in the world

The issue of migration was addressed again in the 1991 Treaty Establishing the African Economic Community (Abuja Treaty), which established the African Economic Community (AEC). Its objectives included strengthening existing Regional Economic Communities (RECs), establishing new RECs in regions without one, and harmonising their policies towards establishing the EAC. Currently, there are eight RECs/regional mechanisms (RMs) recognised by the AU.

The treaty also aimed to achieve sustainable economic development in Africa, transforming small and fractioned economies through regional integration.¹² The Abuja Treaty is thus an important legal framework for migration, as it is the first to focus on the free movement of persons and capital to enhance regional integration and development in Africa.

The AU adopted its two primary frameworks on migration in 2006. These are the Migration Policy Framework and the African Common Position on Migration and Development. Currently, the former is under revision following more than a decade of operationalisation. The adoption of these frameworks was prompted by increasing migration within and from Africa due to globalisation and deteriorating political, socio-economic and environmental conditions on the continent.

The Migration Policy Framework recognises that migration is one of the major topics in the 21st century. The framework articulates the AU's position on migration, which is that well-managed migration has the potential to yield significant benefits to origin and destination countries.

Similarly, the African Common Position on Migration and Development, which was developed in preparation for the Africa–Europe Ministerial

IN 2015 REMITTANCE
FLOWS TO SUB-SAHARAN
AFRICA WERE

US\$35.2
billion

Conference on Migration and Development in 2006, also reflects Africa's broader consensus on issues of migration and development. Among others, it calls on member states to harmonise their legislation with international conventions, protect the rights of migrants and enact policies on preventing discrimination, racism and xenophobia.

Since many of the countries affected by internal displacement are in Africa, the AU developed a convention to offer protection and assistance to Internally Displaced Persons (IDPs) specifically. The Convention for the Protection and Assistance of Internally Displaced Persons in Africa (Kampala Convention), adopted in 2009, is the first binding regional refugee convention in the world.

As irregular migration within and from Africa increases, so does the role of traffickers. Thus the fight against trafficking has been receiving greater attention internationally. The AU launched the AU Commission Initiative against Trafficking (AU.COMMIT), a continental campaign against human trafficking, in 2009. The campaign focuses on prevention, prosecution of traffickers and protection of victims.

Most RECs have been instrumental in implementing the Abuja Treaty, especially in terms of promoting free movement of people and capital

The importance of an effective legal migration system is emphasised by the fact that almost half of the 30 million Africans who left their countries of origin have stayed in Africa.¹³ Accordingly, in 2015 the AU adopted the Joint Labour Migration Programme (JLMP) with the objective of prioritising migration as a transformative force for Africa's development. Led by the AU, the initiative is supported by the United Nations Economic Commission for Africa (UNECA), the International Labour Organisation (ILO) and the International Organisation for Migration (IOM). The JLMP is the 'first global initiative focusing on supporting effective implementation of human mobility rules as key to development and integration in the increasingly significant Regional Economic Communities'.¹⁴

In Africa, RECs/RMs are equally important stakeholders in the development and implementation of migration frameworks. This is mainly owing to the fact that they have been the primary drivers of economic integration. Most have been instrumental in implementing the Abuja Treaty, especially in terms of promoting free movement of people and capital.

The Economic Community of West African States (ECOWAS) was among the first sub regional bodies to facilitate mobility. Its Protocol Relating to the Free Movement of Persons, Residence and Establishment was developed in response to the call by the ECOWAS Treaty for the abolition of obstacles to free movement of persons, services and capital. Similarly, the Southern African Development Community's (SADC) Protocol on the Facilitation of Movement of Persons focuses on the progressive elimination of obstacles to the freedom of movement.

ALMOST HALF OF THE
30 million
Africans
WHO LEFT THEIR
COUNTRIES OF ORIGIN
HAVE STAYED IN AFRICA

In addition, other regional blocs on the continent have also developed useful legal and policy frameworks for promoting migration. Among these is the Protocol on the Free Movement of Persons, Labour, Services, Rights of Establishment and Residence promulgated by the Common Market for Eastern and Southern Africa (COMESA), a free trade area consisting of countries in Eastern, Southern and Northern Africa. The East African Community (EAC) has a Common Market Protocol. Both protocols aim to eliminate obstacles to the movement of persons to accelerate economic integration and achieve a common market.

The Intergovernmental Authority on Development (IGAD), a bloc of countries in the Horn of Africa, the Nile Valley and the African Great Lakes Region, has developed a Regional Migration Policy Framework (IRMPF). It is focused on strengthening the normative, institutional and collaborative frameworks for managing migration in the region. Its objectives include supporting member states in formulating national migration policies and providing recommendations at different levels on managing migration.

Further, the Economic Community of Central African States (ECCAS), the Arab Maghreb Union (AMU) and the Community of Sahel-Saharan States (CEN-SAD) included free movement of people and capital provisions in their respective establishing treaties. CEN-SAD also drafted an agreement on Free Movement and Establishment of Persons within the Territory of Member States of the Community of Sahel-Saharan States.

Migration policies have been one of the major focus areas of collaboration between the AU and EU

The European Union (EU) has played a critical role in the development of migration policies on the continent. Since 2000, the AU and EU have adopted various frameworks on migration. The Cairo Action Plan (a supplement of the Cairo Declaration), adopted in 2000, focuses on addressing the root causes of migration and asylum seeking, as well as combatting racism and xenophobia. It includes priority actions such as supporting African countries in ensuring free intra-African mobility of labour and migration in the spirit of the Abuja Treaty, and collaborating in addressing the root causes of migration and asylum seeking in source, transit and recipient countries.

In 2006 the AU and EU adopted the Euro–African Dialogue on Migration and Development (Rabat Process). This process has four thematic pillars, namely organising mobility and legal migration; improving border management and combatting irregular migration; strengthening the synergies between migration and development; and promoting international protection.

In the same year, the Joint Africa–EU Declaration on Migration, which emphasises the importance of partnerships between countries of origin, transit and destination to better manage migration and development, was also concluded. The declaration underscores the need to address migration and its root causes through wider development and poverty-reduction strategies. The declaration is one of the earliest frameworks to discuss the nexus between migration, peace and security.

Again in 2006, the two continental organisations concluded the Ouagadougou Action Plan to Combat Trafficking in Human Beings Especially Women and Children. It is particularly concerned with sex tourism and other forms of sexual exploitation and abuse of women and children.

In 2007 the AU and EU signed the Joint Africa–EU Partnership on Migration, Mobility and Employment (Tripoli Process), which focuses on creating more and better jobs in Africa.

Prompted by the sharp increase in the flow of refugees, asylum seekers and irregular migrants into Europe, the AU and EU signed the EU–Horn of Africa Migration Route Initiative (Khartoum Process) in 2014 and the Action Plan of the Valletta Summit on Migration in 2015. The Khartoum Process focuses on addressing human trafficking and migrant smuggling, while the Action Plan of the Valletta Summit emphasises addressing the root causes of migration; advancing legal migration and mobility possibilities; preventing and fighting migrant smuggling; and strengthening the fight against irregular migration.

The Khartoum, Tripoli and Rabat processes form part of the Global Approach to Migration and Mobility (GAMM), which guides the EU’s external migration and asylum policy.

About the report

Migration is an important aspect of the policy formulation of the OAU/AU and RECs/RMs. The various frameworks cover a wide range of issues, including better management of migration; free movement of

persons, capital, IDPs and refugees; and human trafficking and human smuggling. Migration policies have also been one of the major focus areas of collaboration between the AU and EU. Yet research shows that there is a lack of comprehensive understanding of these policies.

The primary objective of this report is to address this gap. It presents summaries of migration policy frameworks adopted by African-based continental and regional policy institutions with the aim of enhancing the knowledge of stakeholders, including policymakers and practitioners, at continental, regional and national levels.

The report is divided into two sections:

- Africa's treaty laws on migration: This section covers the legislation adopted by the AU and RECs.
- Africa's soft laws on migration: This section focuses on non-binding frameworks adopted by the AU and RECs, and those developed in partnership between the AU and EU.

Nature and scope of Africa's migration frameworks

As discussed above, Africa's migration frameworks comprise legal, policy and coordination frameworks aimed at enhancing legal migration in a comprehensive manner. The legal provisions consist of hard laws in the form of treaties, protocols and conventions, as well as soft laws in the form of declarations. This section analyses the scope and content of the different legal frameworks.

Africa's treaty laws on migration

The treaty laws governing migration in Africa comprise AU legislation, the legislation of RECs/RMs and the national legislation of member states. Since African countries are also members of the UN, relevant UN legislation on migration is also applicable in Africa, but this section looks only at AU and REC/RM laws.

OAU Convention Governing the Specific Aspects of Refugee Problems in Africa (1969)

The OAU Convention Governing the Specific Aspects of Refugee Problems in Africa,¹⁵ which complements the 1951 UN Convention on Refugees, provides an expansive definition of refugees by including flight from aggression, occupation, foreign domination and events that lead to serious public disorder as grounds for claiming asylum.¹⁶ Similar to the 1951 UN Convention on Refugees, the OAU Convention obliges member states to receive refugees and secure the settlement of those who are unable or unwilling to return to their country of origin.

The convention re-affirms the principle of *non-refoulement* and places the responsibility on states unable to grant asylum to people who arrive at their frontiers, to work with other member states to obtain asylum for them. In addition, member states are encouraged to grant temporary residence to failed asylum seekers, pending their re-settlement.



ECOWAS, SADC, COMESA
AND IGAD HAVE ADOPTED
FREE MOVEMENT OF
PEOPLE PROTOCOLS

Cognisant of the tensions caused between countries by the refugee issue, the convention sets two guiding provisions. First, it states that the granting of asylum is a humanitarian and not a hostile action. Second, it provides guidance against subversive activities and requires refugees to conform to the laws and regulations of the host country and to any pertinent measure in safeguarding the country's public order.

The convention encourages voluntary repatriation of refugees and prohibits forcible repatriation. It also prohibits any attempt to repatriate refugees against their will. It obliges countries of origin to protect refugees' rights; including protection from being penalised for leaving their country. Host countries are required to issue travel documents to refugees lawfully staying in their territories in conformity with the pertinent international conventions and subject to exemption based on compelling reasons of national security or public order. Moreover, the convention underscores the need for national authorities to cooperate with the then OAU as well as with the Office of the United Nations High Commissioner for Refugees (UNHCR).

The Treaty Establishing the African Economic Community (Abuja Treaty, 1991)

The Abuja Treaty¹⁷ focuses on establishing the AEC through coordinating and harmonising policies among existing and future RECs. Its objectives are geared towards achieving self-reliant, endogenous and sustainable development that raises the standard of living of African people. Among its recommendations are establishing a framework for continental development to mobilise and utilise the human and material resources of Africa; and encouraging cooperation in all fields of human endeavour.¹⁸

Free movement of persons and capital is the key focus area of the treaty. It aims to achieve 'the gradual removal, among member states, of obstacles to the free trade movement of persons, goods, services and capital and the right of residence and establishment'.¹⁹ Chapter VI of the treaty is dedicated to free movement of persons, as well as rights of residence and establishment. It provides for six stages as modalities in establishing the AEC, where the fifth stage focuses on establishing the free movement of persons and rights of residence and establishment.

Currently, the AU is developing a protocol on the freedom of persons, which is expected to be adopted at its assembly meeting in January 2018.

AU Convention for the Protection and Assistance of Internally Displaced Persons in Africa (Kampala Convention, 2009)

The primary objectives of the Kampala Convention²⁰ are promoting and strengthening regional measures to tackle the root causes of internal displacement; and establishing a legal framework to prevent internal displacement and provide assistance and protection to IDPs. The convention also seeks to promote the development of relevant cooperation frameworks among member states to address internal displacement and its consequences.

The convention enumerates a number of obligations relating to states parties in terms of protection against internal displacement; protection and assistance to IDPs; and protection and assistance during internal displacement. It also sets out the obligations of international organisations and humanitarian agencies, including conformity with relevant international law and the legislation of the host nation; respect for the rights of IDPs in accordance with international law; and adherence to pertinent international principles, standards and codes of conduct.

Obligations pertaining to the AU are also stated in the convention, including support to member states to protect and assist IDPs, and the AU's right to intervene in a member state under grave circumstances, namely war crimes, genocide, and crimes against humanity (set out in Article 4(h) of the AU's Constitutive Act). In addition, the convention has a number of special provisions, including the obligations of states parties relating to sustainable return, local integration or relocation; compensation; registration and personal documentation of IDPs; and monitoring of and compliance with the convention. The convention also sets down rules for members of armed groups. Without legitimising such groups, it states the consequences of violating the rights of IDPs and provides a list of prohibited acts.

Regional Economic Communities and Mechanisms

The RECs' establishing treaties and protocols on free movement of people supplement the AU's migration provisions. Unlike AU treaties, which apply to all member states, RECs' treaties are limited to their membership. As indicated previously, RECs are regional groups of African states confirmed or established under

the 1991 Abuja Treaty with the purpose of facilitating regional economic integration between African states through the wider AEC.

To date, ECOWAS, SADC, COMESA and IGAD have adopted free movement of people protocols, while the EAC covers the issue in its common market protocol. ECCAS, AMU and CEN-SAD also include provisions for free of movement of people, capital and the right to establishment in their respective establishing treaties. The following section presents these protocols/ establishing treaties.

ECOWAS' Protocol Relating to Free Movement of Persons, Residence and Establishment (1979)

ECOWAS was established in 1975 and has 15 member states, namely Benin, Burkina Faso, Cabo Verde, Côte d'Ivoire, The Gambia, Ghana, Guinea, Guinea-Bissau, Liberia, Mali, Niger, Nigeria, Senegal, Sierra Leone and Togo.²¹

The ECOWAS' Protocol Relating to Free Movement of Persons, Residence and Establishment²² was established based on the Treaty of ECOWAS, which called on member states to abolish obstacles to free movement of persons, services and capital. It aims to achieve the free movement of persons, as well as the right of residence and establishment, through a three-phased approach, namely, (1) the right of entry and abolition of visas, (2) the right of residence; and (3) the right of establishment.

Any citizen of ECOWAS who holds a valid travel document and international health certificate can visit another member state for up to 90 days under the free visa requirement

According to the protocol, any citizen of ECOWAS who holds a valid travel document and international health certificate can visit another member state for up to 90 days under the free visa requirement. To facilitate the free movement of people, the protocol also includes movement of vehicles for the transportation of persons. Accordingly, private vehicles are allowed to enter the territory of another member state and remain for a maximum of 90 days, if the following is provided: valid driver's licence, ownership certificate and insurance policy, and an international customs carnet recognised in the community.

Commercial vehicles are allowed to enter the territory of another member state for a maximum of 15 days and all the documents stated under private vehicles must be presented. Commercial vehicles are not allowed to engage in commercial activities while in the territory of a member state other than their own. The protocol also reserves the right of member states to refuse entry to community citizens belonging to the category of inadmissible immigrants.

To achieve complete freedom of movement in the ECOWAS region, the following four supplementary protocols have been adopted:

SADC DEVELOPED
A PROTOCOL ON
FREE MOVEMENT
OF PERSONS IN

1995

IT WAS REPLACED IN

2005

BY THE SADC PROTOCOL
ON THE FACILITATION
OF MOVEMENT

- Supplementary Protocol on the Code of Conduct for the Implementation of the Protocol on Free Movement of Persons, the Right of Residence and Establishment (1985)
- Supplementary Protocol on the Second Phase (Right of Residence) (1986)
- Supplementary Protocol Amending and Complementing the Provisions of Article 7 of the Protocol on Free Movement, Right of Residence and Establishment (1989)
- Supplementary Protocol on the Implementation of the Third Phase (Right to Establishment) (1990)

ECOWAS has completed the first two phases of the protocol thus far, namely a visa-free region and the right of residence among its 15 member states.

SADC's Protocol on the Facilitation of Movement of Persons (2005)

SADC was established as a development coordinating conference in 1980 and became a development community in 1992. It has 16 member states, namely Angola, Botswana, the Comoros, the Democratic Republic of the Congo (DRC), Lesotho, Madagascar, Malawi, Mauritius, Mozambique, Namibia, Seychelles, South Africa, Swaziland, Tanzania, Zambia and Zimbabwe.

SADC developed a Protocol on Free Movement of Persons in 1995. As it was not supported by some member states, it was replaced in 2005²³ by the SADC Protocol on the Facilitation of Movement.²⁴

The current protocol aims at the progressive elimination of obstacles to the movement of persons from the region generally into and within the territories of states parties. Specifically, it focuses on facilitating the right of member states' citizens regarding (1) entry without visa and for a lawful purpose for a maximum period of 90 days; (2) permanent and temporary residence; and (3) establishment of oneself and working in the territory of another state party.

The protocol details states parties' commitment to a set of common actions in its implementation, including harmonising national laws and statutory rules and regulations. It also highlights a number of substantial and procedural issues relating to the implementation of the protocol, such as the need for national population registers; expedition of travel facilities (such as providing

travel documents and machine-readable passports to citizens, ensuring ease of transport, etc.); harmonisation of current immigration practices; and cooperation and mutual assistance.

The states also agree to remove visa requirements for member states' citizens subject to certain conditions, including the restriction of the duration of stay to 90 days; possession of valid travel permits; proof of sufficient means of support during the visit; and entry through an official port of entry. Residence in the territory of another state party is dependent on obtaining a residence permit from the host state based on an application (for such a residence permit) by the individual.

Concerning establishment, member states agree to grant permission to citizens of states parties who wish to exercise economic activities and professions, to establish and manage a profession, trade, business or calling. The protocol also expands on issues such as the treatment of goods accompanying a person who enters the community from a third state; and the management of asylum seekers and refugees.

EAC's Common Market Protocol (2010)

The EAC was established in 1967, dissolved in 1977 and re-established in 1992. It consists of six member states: Burundi, Kenya, Rwanda, South Sudan, Tanzania and Uganda.

The EAC Common Market Protocol emphasises the importance of the free movement of goods, persons and labour

The EAC Common Market Protocol (2010)²⁵ was signed following the entry into force of the Treaty for the Establishment of the EAC in 2010. It is an overarching framework that emphasises the importance of the free movement of goods, persons and labour, as well as the rights of establishment and residence as critical elements to accelerate economic growth and development in the common market. The protocol provides for the progressive implementation of different measures in these areas.

The protocol states that the free movement of goods is to be governed by the Customs Law of the Community as well as other pertinent EAC standards, rules and regulations. Signatories guarantee the right of free

movement to citizens of member states, including entry to and exit from their territories without any visa restrictions. In order to assist in the implementation of these and other provisions related to the free movement of persons, states agree to a common standard in issuing national identification and travel documents to their nationals.

States also agree to ensure the free movement of workers within their territories, including in applying for and accepting offers of employment. To facilitate the free movement of labour, states agree to harmonise and mutually recognise academic and professional qualifications, and to harmonise their labour policies, national laws and programmes.

The protocol provides for the right of establishment of citizens of member states who pursue economic activities, including as self-employed persons and those running businesses. It also guarantees the right of residence to such citizens and their dependents. Furthermore, states agree to remove any restrictions on the free movement of capital.

The protocol covers areas of cooperation between member states such as the protection of cross-border investments, economic and monetary policy coordination, harmonisation of social policies, environmental management, cooperation in statistics, research and technological development, and food security.

COMESA's Protocol on the Free Movement of Persons, Labour, Services, Rights of Establishment and Residence (2001)

COMESA was established in 1994 and replaced the Preferential Trade Area, which had existed since 1981. COMESA has 19 member states, namely Burundi, Comoros, DRC, Djibouti, Egypt, Eritrea, Ethiopia, Kenya, Libya, Madagascar, Malawi, Mauritius, Rwanda, Seychelles, Sudan, Swaziland, Uganda, Zambia and Zimbabwe.

The COMESA Protocol on the Free Movement of Persons, Labour, Services, Rights of Establishment and Residence²⁶ was developed to facilitate free movement of citizens of its member states to achieve a genuine common market. As a result, the protocol calls for the removal of restrictions on the free movement of persons, labour, services, rights of establishment and residence. It defines the scope of cooperation among member states to include the establishment

of mechanisms for free movement of citizens and employment, as well as the removal of all restrictions that hinder these activities.

The protocol stated that its member states agree to replace prior visa requirements with arrival visas in a bid to remove visa requirements within the common market. The maximum duration of stay in such cases is 90 days, which also applies to private vehicles registered in any of the territories of member states. The protocol states the aspiration of member states to fully eliminate visa requirements within six years of its entry into force.

In cases pertaining to citizen(s) whose entry is considered detrimental to national security or public health, each member state reserves the right of refusal of permission. Furthermore, member states are given the option to temporarily suspend, with prior notice to the COMESA secretary general, the relaxation of visa requirements and entry without visa requirements for up to 90 days on the grounds of public security or influx of persons as refugees arising from disturbances in the territory of another member state. The protocol highlights member states' agreement to cooperate in providing assistance to and managing refugees.

Cooperation in the prevention of and fight against criminal acts that involve abusing freedom of movement within the free market area is another issue covered by the protocol.

Regarding the free movement of workers, member states agree to progressively remove all restrictions to the movement of labour, except in the case of employment in the public service. Member states further agree to gradually work towards removing all restrictions to the right of establishment in their territories. Some of the proposed measures include drawing up a programme for the abolition of restrictions to the right of establishment within two years after adoption of the protocol, and issuing a directive for the detailed implementation of the general programme. Likewise, citizens of the Common Market have the right of residence in their territories within a timeframe to be determined by the council.

The Treaty Establishing the Economic Community of Central African States (ECCAS) (1983)

ECCAS was established in 1983, started operation in 1985, and became a REC in 1999.²⁷ It consisted of 11 member states, namely Angola, Burundi, Cameroon,

Central African Republic (CAR), Chad, Gabon, Equatorial Guinea, DRC, Republic of Congo, Rwanda and São Tomé and Príncipe.²⁸

The Protocol on Free Movement and Rights of Establishment of Nationals of Member States is included in Annex 7 of the Treaty Establishing the Economic Community of Central African States (1983). Article 40 of the treaty states that member states agree to facilitate the free of movement and right of establishment of their citizens within the community. Article 2 sets out the eradication of obstacles to free movement of people, services, goods and capital as one of its aims.²⁹

The protocol states that nationals of member states can enter another member state provided that they possess an identify card, passport, laissez-passer or international health record. If nationals present a sojourn card, they can also reside in another member state. The protocol includes the right of establishment of self-employed nationals as guided by each member state's legislation and regulation. ECCAS adopted initiatives to fast-track free movement of persons in 1990 and 2000.³⁰

Treaty Establishing the Community of Sahel-Saharan States (1998)³¹

CEN-SAD was established in 1998 and became a REC in 2000. It has 24 member states, namely Benin, Burkina Faso, CAR, Chad, the Comoros, Côte d'Ivoire, Djibouti, Egypt, Eritrea, The Gambia, Ghana, Guinea-Bissau, Libya, Mali, Mauritania, Morocco, Niger, Nigeria, Senegal, Sierra Leone, Somalia, Sudan, Togo and Tunisia.³²

One of the objectives of CEN-SAD is adopting the necessary measures to facilitate the free movement of persons, capital, freedom of residence, work, ownership and economic activity.³³ The treaty states that the rights, advantages and obligations of a member state's own citizens will apply to nationals of signatory countries as well.³⁴

The REC has also drafted an agreement on the Free Movement and Establishment of Persons within the territory of Member States of the Community of Sahel-Saharan States. It is not clear if it has been adopted yet.

The draft agreement explains that the following people from member states do not need a visa to enter another state: holders of diplomatic passports, special passports

and service passports; members of an official delegation; and the spouse and children of a resident who is in possession of a valid visa.

Ordinary passport holders are required to present the following upon entering another member state: entry visa, valid passport, medical certificate and clean criminal record. The draft agreement also stipulates that nationals of member states are guaranteed the right of establishment, but this depends on their purpose and duration of stay, as well as the laws and regulations of the host state.³⁵

The Arab Maghreb Union (1989)

AMU was established in 1989 with the overall objective of facilitating the economic and political integration of its member states (Algeria, Libya, Mauritania, Morocco and Tunisia). Its objectives include achieving free movement of persons, services, goods and capital of member states. In addition, it envisages achieving the right of establishment, ownership and exercise of economic activity. It also aims to attain free trade and movement of goods, commodities and services between member states.³⁶

Soft law provisions on migration: policies, frameworks and initiatives

In addition to the treaty law on migration promulgated by the AU and RECs, there are also a number of soft law provisions on migration on the continent. Although these policies, frameworks and initiatives are not treaties, they have a wider coverage in terms of membership because they do not require member states to become states parties *per se*. This does not mean that they are any less important, especially as they set out modalities and pathways for the implementation of the provisions of the various treaties.

Migration Policy Framework for Africa (2006)

The Migration Policy Framework for Africa³⁷ emphasises that well-managed migration holds benefits for both origin and designation countries. Mismanaged migration, on the contrary, can lead to tensions between host communities and migrants, and give rise to xenophobia, discrimination and other social pathologies. The framework lists deteriorating political, socio-economic and environmental conditions, as well as armed conflicts, insecurity, environmental degradation and poverty, as significant root causes

of mass migration and forced displacement in Africa. Adopted in 2006, the framework predicts that migration will be one of the major topics of the 21st century that will challenge African policymakers.

The Migration Policy Framework for Africa emphasises that well-managed migration holds benefits for both origin and destination countries

The framework focuses on the following nine thematic areas: labour migration, border management, irregular migration, forced displacement, human rights of migrants, internal migration, migration data, migration and development, and inter-state cooperation and partnership. Social aspects of migration such as health, environment, gender and conflict are also covered. Under each of the thematic areas, the framework provides policy recommendations for AU member states and RECs.

The African Common Position on Migration and Development (2006)

The African Common Position on Migration and Development³⁸ reflects Africa's broader consensus on issues of migration and development. It was developed mainly in preparation for the Africa–Europe Ministerial Conference on Migration and Development (2006) and was also presented at the UN High-Level Dialogue on International Migration and Development (2006).

The document covers key priority policy areas such as migration and development, human resources and the brain drain, remittances and trade. Migration and peace, security and stability, migration and human rights, gender, regional initiatives, and access to social services are also included.

The Common Position states that managing migration has become one of the challenges facing countries in the new millennium, as the number of migrants is increasing. Pointing out the greater diversity of migrants, it highlights the growing number of African women migrants. It also includes recommendations at national, continental and international levels.

It urges member states to mainstream migration in their development strategies and allocate the necessary financial resources to its implementation. It also calls on

member states to harmonise their national legislation with international conventions to ensure the rights of migrants are protected, and to enact policies on preventing discrimination, racism and xenophobia, among others.

The AU Commission Initiative against Trafficking (AU.COMMIT) Campaign (2009)

AU.COMMIT³⁹ aims to curb human trafficking on the continent. It hopes to galvanise activities undertaken by the AU Commission, including global, regional and national initiatives on more synergised and coordinated actions to combat trafficking in persons in Africa. The campaign was launched in the ECOWAS, SADC and IGAD regions.

AU.COMMIT is guided by five core principles: a victim protection approach, the best interest of the child, empowerment of women and girls, the root cause approach, and respect for AU and UN conventions. Its implementation plan follows a three-pronged approach, referred as the 'Three P Strategies': prevention of trafficking; protection of victims of trafficking; and prosecution of those involved in the crime of trafficking and related forms of abuse.

These strategies apply both 'hard' and 'soft' tools. While the former refers to legal reform, prosecution of criminals, disruption of crime networks, and coordination among countries of destination, transit, and origin; the latter consists of socio-economic development, poverty reduction, prevention, and protection of victims of human trafficking.

Joint Labour Migration Programme (JLMP) (2015)

The JLMP⁴⁰ is an AU-led initiative supported by the ILO, the IOM and UNECA. It was conceived as a global initiative to ensure effective migration and mobility in Africa, and prioritises migration as a transformative force for Africa's development.

Its overall objective is to strengthen the effective governance and regulation of labour migration and mobility in Africa; and working closely with key stakeholders such as governments, legislatures, workers, migrants, international organisations, non-governmental organisations and civil society organisations (CSOs).

The JLMP is the first international initiative focused on supporting effective implementation of human mobility rules as key to development and integration.

IGAD's Regional Migration Policy Framework (2012)

IGAD was established in 1996 and replaced the Intergovernmental Authority on Drought and Development, founded in 1986.⁴¹ IGAD consists of eight member states, namely Djibouti, Eritrea, Ethiopia, Kenya, Somalia, South Sudan, Sudan and Uganda.

IGAD's Regional Migration Policy Framework (IRMPF)⁴² aims to

[provide] a regional comprehensive approach to migration management; facilitate the harmonisation of policies in migration management at a regional and national level; provide a broad range of recommendations on various migration issues as guide to governments and above all to support member states' efforts in formulating national migration policies that address specific migration related challenges and concerns in a more comprehensive and holistic manner.⁴³

The framework focuses on addressing regional-specific concerns such as migration and pastoralism, migration and human security, and internal displacement owing to political instability. From a policy dimension, it serves as a coherent strategy to guide IGAD priorities in migration management programmes, emphasising the need for harmonised and systematic approaches while providing a space for variations among national policies.

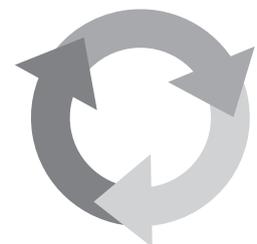
The framework is composed of three major parts. The first part provides the background and rationale for the IRMPF, and highlights various migration realities in the region, including types of migration and the major relevant continental policy frameworks (such as the AU's Regional African Migration Policy Framework). It discusses pertinent migration issues, including peace in the region, cooperation with other RECs, the state of regional integration in the region, and relevant IGAD institutions. A significant section of the first part is also dedicated to regional migration typologies and trends.

The second part details the following thematic issues, as well as recommended strategies to be adopted and implemented at various levels: labour migration, border management, irregular migration, forced displacement, human rights of migration, internal migration, migration data, migration and development, and inter-state cooperation and partnerships. It also addressed other social issues, such as health, education and human resources, nomadic pastoralism, culture, tourism, trade, human security and social protection, as well as the prioritisation of migration issues.

The third part discusses enabling institutional imperatives for implementing the IRMPF. To this end, the framework underscores the role of IGAD's institutional structures; the importance of harmonising migration legislatives and policies among IGAD's member states; and the need to develop a monitoring and evaluation mechanism.

AU-EU frameworks

Migration has been one of the AU and EU's areas of collaboration. In this respect they have adopted a number of frameworks, which are categorised as soft laws. These include the Cairo Action Plan; the Ouagadougou Action



AU.COMMIT'S
IMPLEMENTATION PLAN
FOLLOWS A THREE-
PRONGED APPROACH

Plan to Combat Trafficking in Human Beings, Especially Women and Children; the Rabat Process; the Joint Africa–EU Declaration on Migration and Development; and the Tripoli Process. In addition, the Khartoum Process and the Action Plan of the Valletta Summit have also been concluded.

Cairo Action Plan (2000)

The Cairo Action Plan⁴⁴ complements the Cairo Declaration, which was adopted following the First Africa–Europe Summit in Cairo in April 2000 under the aegis of the OAU and EU. In particular, it intended to achieve a new strategic dimension to the global partnership between the two regions, with a view to making it more beneficial to both sides against the background of rapid globalisation.

The Cairo Action Plan consists of a set of agreements covering issues such as ensuring regional economic cooperation and integration; integrating Africa into the world economy (through encouraging trade and investment; enhancing the private sector; addressing infrastructural problems; expanding the industrial base of African economies; facilitating access to development finances, research and technology; reducing the external debt of African countries, etc.); implementing peacebuilding, conflict prevention, management and resolution measures; and addressing challenges to sustainable development in Africa and poverty eradication.

To address the problems of refugees and displaced people, Africa and Europe agreed to implement a number of urgent actions

As one of its guiding priorities, the Cairo Action Plan identifies issues related to human rights; democratic principles and institutions; good governance; and the rule of law, including migration, refugees and IDPs. In the case of migration, the Action Plan includes a number of priority actions, which mainly consist of supporting African countries in ensuring free intra-African mobility of labour and migration in the spirit of the Abuja Treaty, and collaborating in addressing the root causes of migration and asylum seeking in source, transit and recipient countries.

Further, the action plan discusses the reciprocal integration of migrants, migrant rights and re-admission agreements between European and African countries. Other priority areas are recognising the need for measures to combat racism and xenophobia, and securing respect for the dignity and protection of migrants' rights, to which they are entitled under applicable international law, notably the right to fair treatment based on the principle of non-discrimination.

In order to address the problems of refugees and displaced people, Africa and Europe agreed to implement a number of urgent actions. These include full implementation of all relevant conventions; close cooperation in eradicating the root causes of migration; assistance in the voluntary return and reintegration of African refugees and displaced persons living in Africa; and support efforts by relevant actors to ensure the protection of the civilian and humanitarian character of refugee camps and settlements.

The Euro–African Dialogue on Migration and Development (Rabat Process, 2006)

The Rabat Process⁴⁵ is an inter-regional forum bringing together more than 60 countries from Europe and Northern, Western and Central Africa. The process was borne of the meeting of European and African ministers in charge of migration and development, which took place in Rabat in 2006. The two continents have been participating in a process of political dialogue with the underlying objective that such a platform will allow a joint response to the challenges caused by irregular migration flows, and identify opportunities for cooperation. The Rabat Process embraces a comprehensive approach to migration issues such as legal migration and, in particular, migration and development.

The Rabat Process has the overriding objective of serving as a platform for political cooperation among countries along the migration route between Europe and Northern, Western and Central Africa. It is based on the following five principles: working dialogue; flexible and balanced approach; coherent dialogue; committed partners; and shared responsibility.

It has three major focal points in each participating country; a steering committee tasked with strategically governing the process; and a supporting project, which is tasked with implementing specific objectives such

as supporting dialogue, coordination and knowledge development, and capacity development. The Consultation Framework of the Rabat Process is operationalised via three levels of dialogue: ministerial conferences; senior official meetings for debating strategic objectives; and thematic meetings.

The process deliberates on an evolving set of subjects on migration and dialogue, guided by the following four ministerial declarations: the Rabat Action Plan, which focuses on promoting strong cooperation between countries along the West African migration route; the Triennial Cooperation Programme (2008), which builds on previous thematic meetings on legal migration, irregular migration, and migration and development; the Dakar Strategy (2011), which advocates for the implementation of operational initiatives organised around five principles⁴⁶ and 10 priority objectives; and the Rome Programme (2014), which includes international protection as another thematic pillar and emphasises the link between migration and development, and the prevention of and fight against irregular migration and related crimes.

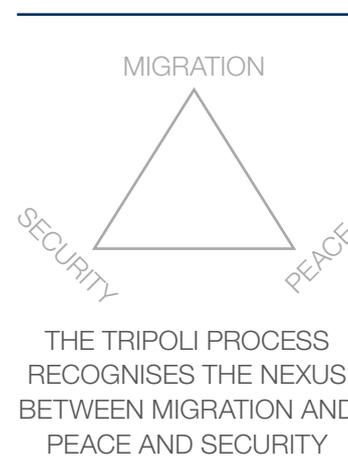
The Tripoli Process underscores the need to address migration and its root causes through broader development and poverty reduction strategies

The Rabat Process has four thematic pillars, namely organising mobility and legal migration; improving border management and combatting irregular migration; strengthening the synergies between migration and development; and promoting international protection.

Joint Africa–EU Declaration on Migration and Development (Tripoli Process, 2006)

The Tripoli Process⁴⁷ is a commitment to partnerships between countries of origin, transit and destination to better manage migration in a comprehensive, holistic and balanced manner, in a spirit of shared responsibility and cooperation. The declaration enumerates various key areas for cooperation, focusing on the opportunities and challenges of migration. These areas include migration and development; management of the challenges of migration, peace and security; adoption of policies on human resource shortages due to the brain drain; respect for individual human rights; best practices; and financing efforts through follow-up mechanisms.

On migration and development, the declaration underscores the need to address migration and its root causes through broader development and poverty reduction strategies. To this end, it sets out various developmental strategies, policies and efforts, such as the role of foreign direct investment; support to the Millennium Development Goals and the New Partnership for Africa's Development (NEPAD); the need to enhance policies in the areas of trade, agriculture and fisheries; the positive role of diasporas and remittances; and the importance of improving African access to European and regional markets.



The declaration identifies specific mechanisms to improve migration management, including providing assistance to African countries in the management of both South–South and South–North migratory movements; developing regional initiatives appropriate to the different migration routes both within Africa and from Africa to Europe; and ensuring policy coherence at international, regional and national levels.

The declaration is also cognisant of the nexus between migration and peace and security. It highlights a number of areas of cooperation between Africa and the EU, including cooperating in crisis management operations; strengthening Africa’s capacity to prevent and peacefully resolve conflicts; and ensuring post-conflict reconstruction at both the regional and subregional level through, inter alia, providing logistical support and availing funds for peacekeeping in a predictable manner.

The Tripoli process includes measures to facilitate regular migration, such as simplifying entry procedures for certain categories of people

Noting the impact of migration on human resources (through the brain drain), the declaration also highlights some areas of cooperation, including designing and implementing tailor-made policies that address the skills shortages caused by the brain drain; supporting programmes that foster mobility and the temporary return of members of the diasporas to their countries of origin that contribute to capacity building; developing mechanisms to benefit from the skills of African workers based in host countries; improving the working conditions of African professionals living in their home countries; improving education systems by making sure they are fit for the needs of African countries; and encouraging the movement of skilled African labour between host countries and countries of origin.

Concerning human rights and the well-being of the individual, the declaration states that these issues should be addressed through implementing and applying in a non-discriminatory manner core human rights instruments; disseminating information; employing measures against racism and xenophobia; respecting the dignity of migrants through various mechanisms, including applicable international law; deepening cooperation on reciprocal integration of legal migrants; reducing the vulnerability of female migrants and safeguarding their human rights, given the increasing feminisation of migration; preventing abusive practices and promoting decent and productive work conditions for migrants; enhancing the role of civil society in promoting integration and employment; and preventing discrimination.

In order to combat illegal migration, migrant smuggling and trafficking in human beings, the declaration underlines the need to support capacity building and projects in countries of origin and transit; bolster national legislation to criminalise these activities; implement the EU–Africa Joint Action Plan to Combat Trafficking in Human Beings, Especially Women and



THE OUAGADOUGOU
ACTION PLAN FOCUSES
SPECIFICALLY ON THE
CRITICAL SITUATION
OF WOMEN AND
CHILDREN IN AFRICA

Children; encourage cooperation among various relevant stakeholders, including agreements on pertinent issues related to illegal migrants; cooperate on developing border control measures; and conduct information campaigns targeting the local population and youth on the risks of illegal migration and trafficking.

It also includes measures to facilitate regular migration, such as simplifying entry procedures for certain categories of people; supporting initiatives that encourage regular migration; facilitating seasonal temporary migration between countries of origin and host countries as needed and appropriate; supporting African countries in developing policies on mobility and migration, including the employment of migrants and regional free movement of labour; and cooperating in conducting awareness campaigns on legal migration.

The declaration also looks at safeguarding refugees via regional protection; implementing relevant conventions; creating favourable conditions for returnees; and ensuring due access to an asylum process.

Ouagadougou Action Plan to Combat Trafficking in Human Beings, Especially Women and Children (2006)

The Ouagadougou Action Plan to Combat Trafficking in Human Beings, Especially Women and Children⁴⁸ is particularly concerned with the critical situation of women and children in Africa, including the increasing phenomenon of sex tourism and other forms of sexual exploitation and abuse of women and children. The Action Plan particularly takes note of the importance of a comprehensive regional and international approach in terms of effectively preventing and combatting trafficking in human beings, especially women and children. It lists a number of general principles as well as practical measures, including legal, policy and institutional frameworks aimed at addressing the challenges posed by human trafficking.

The Action Plan broadly puts forth a number of tasks and activities to be undertaken at the national level, including prevention and awareness raising; victim protection and assistance; provision of information on legal and other rights in countries of destination; due process regarding the prosecution of perpetrators of human trafficking and encouraging victims to testify against those who commit such crimes; and provision of medical assistance. It also consists of various normative dimensions geared towards supporting the fight against human trafficking, including

relevant legislative frameworks, policy development and law enforcement-related issues.

The Action Plan underscores the importance of cooperation and coordination, including multi-disciplinary coordination and cooperation at national and regional levels; the exchange of documentation on experiences and lessons learned regarding different facets of human trafficking; and enhanced bilateral and multilateral cooperation between different countries (of origin, transit and destination) and among governments, inter-governmental, international and non-governmental actors and CSOs. Moreover, the Action Plan points out to the need for states to develop regional action plans and for the establishment of a multi-stakeholder follow-up mechanism to combat trafficking and mobilise resources to the same end.

Joint Africa–EU Partnership on Migration, Mobility, and Employment (2007)

The Africa–EU Partnership on Migration, Mobility and Employment,⁴⁹ established under the umbrella of the Joint Africa–EU Strategy, focuses on creating more and better jobs in Africa and better managing migration flows. It has three priority actions.

Priority Action 1 focuses on the implementation of the Declaration of the Tripoli Ministerial Conference on Migration and Development. It seeks to achieve a number of objectives, namely facilitating mobility and free movement of people and managing legal migration between the two continents; addressing the root causes of migration; tackling the challenges posed by illegal or irregular migration; and addressing the problems of migrants residing in Europe.

Priority Action 2 relates to the implementation of the EU–Africa Plan of Action on Trafficking of Human Beings. It seeks to effectively combat trafficking in human beings through a victim-centred approach, in particular of women and children; to address the root causes of trafficking in human beings in countries of origin and destination; and to contribute to the empowerment of women and children.

Priority Action 3 focuses on the implementation of and follow-up to the 2004 Ouagadougou Declaration and Action Plan on Employment and Poverty Alleviation in Africa. It seeks to create more, more productive, and better jobs in Africa, in particular for youth and women, in line with the UN's 'Decent Work for all' Agenda.

EU–Horn of Africa Migration Route Initiative (Khartoum Process, 2014)

The Khartoum Process⁵⁰ is one of the inter-regional forums on migration and mobility, and mainly focuses on combatting human trafficking and smuggling. Within the overarching framework of the GAMM, the initiative was an outcome of the Ministerial Conference of the Khartoum Process held in 2014.

As a regional dialogue and cooperation process in the Horn of Africa/East Africa, this initiative aims to establish a continuous dialogue for enhanced cooperation on migration and mobility; identify and implement concrete projects to address trafficking in human beings and the smuggling of migrants; and give a new impetus to the regional collaboration between countries of origin, transit and destination regarding the migration route between the Horn of Africa and Europe. Within the context of these broader objectives, the Khartoum Process also aims to create a common understanding of human trafficking and smuggling of migrants; opportunities for balanced partnership; and a spirit of shared responsibility and enhanced cooperation.

This initiative includes a number of areas, such as developing bilateral and regional-level cooperation among participating countries; building national capacity in migration management and prevention measures; supporting horizontal coordination strategies among national actors involved in tackling human trafficking and people smuggling; providing assistance in improving the identification and prosecution of criminal networks, and enhancing the implementation of relevant legislative frameworks; supporting victims of trafficking and smuggling; promoting sustainable development to address the root causes of irregular migration; establishing a regional framework for return, including voluntary, and reintegration; and assisting countries in establishing and managing establishing centres and providing access to asylum processes.

Currently, 39⁵¹ countries are participating in the Khartoum Process – 30 from Europe and nine from the Horn, Eastern and Northern Africa. The AU Commission and the EU are among the observers.

The Khartoum Process is mandated by the 2015 Valletta Summit on Migration to monitor the implementation of the various initiatives and actions under the Valletta Action Plan for 2016–2018.

Valletta Summit on Migration Action Plan (2015)

The Valletta Summit Action Plan was developed in 2015 during the Valletta Summit on Migration, which brought together African and European heads of state and government. The summit was prompted by sharp increases in the flows of refugees, asylum seekers and irregular migrants. The Action Plan takes note of these developments and highlights the imperative of protecting and saving the lives of migrants and addressing the humanitarian consequences, as well as dealing with security challenges of affected countries.

Given these and other shared challenges Africa and Europe continue to face, the Action Plan emphasises the need for cooperation in terms of managing migration and mobility, based on a comprehensive approach rooted in the promotion of sustainable development. To this end, the Action Plan reiterates the commitment of the two regions to address the root causes of migration; to advance legal migration and mobility possibilities; to strengthen the fight against irregular migration; to prevent and fight migrant smuggling, eradicating trafficking in human beings; and to strengthen international protection and step up assistance.

The Valletta Summit was prompted by sharp increases in the flows of refugees, asylum seekers and irregular migrants

Pertinent actions to meet these commitments are to be pursued through bilateral and regional mechanisms such as the Rabat and Khartoum processes and the Migration and Mobility Dialogue. The Action Plan, associated with time-bound initiatives, focusing on the following issues: (1) the development benefits of migration, and the root causes of irregular migration and forced displacement; (2) legal migration and mobility; (3) protection and asylum; (4) prevention of and the fight against irregular migration, migrant smuggling and trafficking in human beings; and (5) return, readmission and reintegration.

The EU Emergency Trust Fund for stability and addressing root causes of irregular migration and displaced persons in Africa was also established during the Valletta Summit.

Conclusion and recommendations

Migration within and from Africa is expected to increase. The continent's high population growth and the absence of commensurate economic opportunities are some of the leading causes. In 2050 the working-age population of Africa is expected to hit 1.3 billion, and this growth is not being matched with appropriate livelihood opportunities or the provision of basic services, among others.⁵² Greater access to economic opportunities in destination countries, social networks, education and the media contribute towards increased mobility and aspirations to migrate.⁵³

As a result, there is no better time to emphasise the importance of managing migration. This is a process in which migration policy frameworks take centre stage – in harnessing the potential of regulated human movements, on the one hand, and tackling the adverse effects of illegal migration, human trafficking, etc. on the other. As this report shows, the AU and RECs have been engaged in the development of various migration policy frameworks for years.

These frameworks cover wide-ranging issues that have evolved over the years, ranging from advocating better management of migration to promoting free movement of persons and capital; from emphasising the need for a humanitarian approach to address refugees' issues to prioritising migration to transform Africa's development; from addressing human trafficking and human smuggling to stressing the nexus between migration and peace and security.

These and other pertinent policy priorities have also been reflected in the frameworks adopted in a broader context through the partnership between the AU and EU.

Of all the frameworks adopted by the AU, the Abuja Treaty could be considered the most implemented policy document. It served as the basis for the establishment of RECs such as ECCAS, AMU and CEN-SAD, and strengthened those that already existed. Significantly, the various RECs adopted protocols relating to the free movement of people, right to residence and establishment, as well as a common market protocol, on the basis of the Abuja Treaty. Those that did not manage to adopt such a protocol, included provisions for free movement of people and capital in their establishing treaties and key objectives.

These subregional experiments drive the development of a regional AU Protocol on Free Movement of Persons. The AU's draft protocol on freedom of persons, to be adopted in 2018, will provide an excellent opportunity to do just this.

To emphasise the importance of free movement of people, the AU also launched its continental passport in July 2016. The application of this should extend to as many Africans as possible.

Yet much as these frameworks and initiatives illustrate the aspirations of African policymakers to manage migration better, their implementation leaves much to be desired. To help African countries manage migration better and

In 2050
THE WORKING-AGE
POPULATION OF AFRICA IS
EXPECTED TO HIT
1.3 billion

accelerate the implementation of free movement of people and capital on the continent, the AU and RECs should consider the following points.

Firstly, the AU should work with RECs to address the issue of multiplicity of membership. Overlapping membership is common in many RECs: for instance, Uganda and Kenya are members of the EAC, COMESA and IGAD. The rest of the IGAD member states, with the exception of Somalia, are also members of COMESA. Djibouti, Eritrea, Somalia and Sudan are also members of CEN-SAD. The Comoros, the DRC, Madagascar, Malawi, Mauritius, Seychelles, Swaziland, Zambia and Zimbabwe are members of both SADC and COMESA. Egypt, Libya and Sudan are also members of COMESA. Libya, Mauritania, Morocco and Tunisia are members of both AMU and CEN-SAD. All 15 ECOWAS member states are members of the 29-member CEN-SAD.

These overlapping memberships affect the effective implementation of migration frameworks, lead to a waste of resources and cause coordination challenges.

Much as these frameworks and initiatives illustrate the aspirations of African policymakers to manage migration better, their implementation leaves much to be desired

A similar pattern is reflected in some of the AU–EU migration frameworks. Some countries have overlapping participation in the Rabat, Tripoli and Khartoum processes. For instance, all 26⁵⁴ African countries participating in the Rabat Process – with the exception of Algeria – are also part of the Tripoli Process. All nine⁵⁵ of the African countries participating in the Khartoum Process are also part of the Tripoli Process. Aligning participation in these processes is critical to facilitate their effective implementation.

Secondly, the AU should engage the EU in countering the emerging perspective in which many EU states over-securitise migration. This concept first surfaced following the 9/11 attacks. It classifies migrants (including Africans) in Western societies as a potential criminals and terrorists, and reinforces measures such as tighter border control, and strict immigration and asylum policies. This ‘undermines the policies geared towards managing international migration through international cooperation/partnerships for win–win outcomes for sending and receiving countries’.⁵⁶

Migration restrictions will only change the character of migration without lowering overall volumes of migration.⁵⁷ Above and beyond denying the positive contributions made by migrants in their host countries, such an approach also overlooks the fact that African migrants are among the minorities in Europe, representing only 8% of the migrants in Europe, and do not constitute a major security threat to Europe.

Instead of securitising the situation, the two neighbouring continents should collaborate in their efforts to achieve sustainable development, peace and security for their citizens, inter alia, through regulated and better managed migration.

Notes

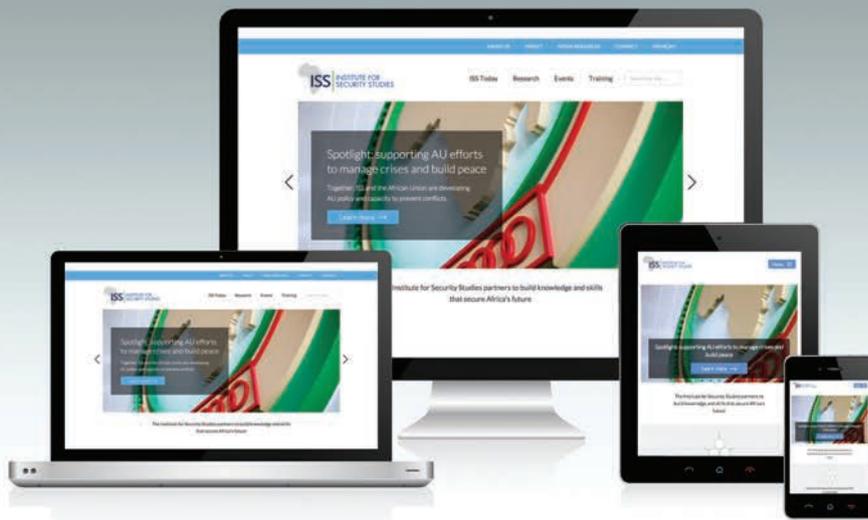
- 1 C Obi, African migration as the search for a wonderful world: an emerging trans-global security threat?, *African and Asian Studies*, 9, 2010, 128–148.
- 2 ML Flahaux & H de Hass, African migration: trends, patterns, drivers, *Comparative Migration Studies*, 2016.
- 3 United Nations (UN), Department of Economic and Social Affairs, International migration report 2015: highlights, 2016, http://www.un.org/en/development/desa/population/migration/publications/migrationreport/docs/MigrationReport2015_Highlights.pdf
- 4 J Gonzalez-Garcia et al., Sub-Saharan African migration patterns and spillovers, 2016, International Monetary Fund (IMF).
- 5 ML Flahaux & H de Hass, African migration: trends, patterns, drivers, *Comparative Migration Studies*, 2016.
- 6 TT Abebe, Morocco and Algeria's changing roles in managing migration, *ISS Today*, 14 September 2017, <https://issafrica.org/iss-today/morocco-and-algerias-changing-roles-in-managing-migration>
- 7 UN, Department of Economic and Social Affairs, International migration report 2015: highlights, 2016, http://www.un.org/en/development/desa/population/migration/publications/migrationreport/docs/MigrationReport2015_Highlights.pdf
- 8 A Gallagher, Trafficking, smuggling and human rights: tricks and treaties, *Forced Migration Review*, 12, 2002.
- 9 World Bank, Remittances to developing countries edge up slightly in 2015, Press Release, 13 April 2016, <http://www.worldbank.org/en/news/press-release/2016/04/13/remittances-to-developing-countries-edge-up-slightly-in-2015>
- 10 *Michigan News*, Battling brain drain: training doctors in Ethiopia, 23 September 2013, <http://ns.umich.edu/new/releases/21706-battling-brain-drain-training-doctors-in-ethiopia>
- 11 JO Moses Okello, The 1969 OAU Convention and the continuing challenge for the African Union, *Forced Migration Review*, 48, November 2014.
- 12 UN Economic Commission for Africa (UNECA), History of Africa's regional integration efforts, <https://www.uneca.org/oria/pages/history-africa%E2%80%99s-regional-integration-efforts>
- 13 International Labour Organization (ILO), The Joint labour migration program for Africa, 2015, http://www.ilo.org/addisababa/media-centre/pr/WCMS_402369/lang-en/index.htm
- 14 Ibid.
- 15 Organization of African Unity (OAU), OAU Convention Governing the Specific Aspects of Refugee Problems in Africa, 1969, http://www.achpr.org/files/instruments/refugee-convention/achpr_instr_conv_refug_eng.pdf
- 16 M Sharpe, The 1969 African Refugee Convention: innovations, misconceptions, and omissions, *McGill Law Journal*, 2012
- 17 OAU, Treaty Establishing the African Economic Community (Abuja Treaty), 1991, http://www.wipo.int/edocs/lexdocs/treaties/en/aec/trt_aec.pdf
- 18 Objective (b) and (c) of the Abuja Protocol.
- 19 OAU, Treaty Establishing the African Economic Community (Abuja Treaty), 1991, http://www.wipo.int/edocs/lexdocs/treaties/en/aec/trt_aec.pdf
- 20 African Union (AU), African Union Convention for the Protection and Assistance of Internally Displaced Persons in Africa (Kampala Convention), 2009, https://au.int/sites/default/files/treaties/7796-treaty-0039_-_kampala_convention_african_union_convention_for_the_protection_and_assistance_of_internally_displaced_persons_in_africa_e.pdf
- 21 When it was established it had 16 member states, including Mauritania, which left afterwards.
- 22 Economic Community of West African States (ECOWAS), Protocol Relating to Free Movement of Persons, Residence and Establishment, 1979, http://documentation.ecowas.int/download/en/legal_documents/protocols/PROTOCOL%20RELATING%20TO%20%20FREE%20MOVEMENT%20OF%20PERSONS.pdf
- 23 The Africa–EU Partnership, Mobility and circular migration, <http://www.africa-eu-partnership.org/en/areas-cooperation/migration-mobility-and-employment/mobility-and-circular-migration>
- 24 Southern Africa Development Community (SADC), Protocol on the Facilitation of Movement of Persons, 2005, http://www.sadc.int/files/9513/5292/8363/Protocol_on_Facilitation_of_Movement_of_Persons2005.pdf
- 25 East African Community, Common Market Protocol, 2010, <http://www.kituoachakatiba.org/sites/default/files/legal-resources/Common%20Market%20Protocol.pdf>
- 26 Common Market for Eastern and Southern Africa (COMESA), Protocol on the Free Movement of Persons, Labour, Services, Rights of Establishment and Resident, 2001, <http://zimbabwetradeforum.org.zw/wp-content/uploads/2012/07/COMESA-Protocol-on-Free-Movement-of-Persons.pdf>
- 27 AU, Economic Community of Central African States (ECCAS), <https://au.int/en/recs/eccas>
- 28 Ibid.
- 29 International Dialogue on Migration, Intersessional workshop on free movement of persons in regional integration processes, 2007, Supplemental materials
- 30 Ibid.
- 31 Ibid.
- 32 AU, CEN-SAD, <https://au.int/en/recs/censad>
- 33 Ibid.
- 34 UNECA, CEN-SAD: free movement of persons, <https://www.uneca.org/pages/cen-sad-free-movement-persons>
- 35 International Dialogue on Migration, Intersessional workshop on free movement of persons in regional integration processes, 2007, Supplemental materials
- 36 UNECA, AMU: free movement of persons, <https://www.uneca.org/pages/amu-free-movement-persons>
- 37 AU, The Migration Policy Framework for Africa, 2006, <http://www.unhcr.org/protection/migration/4d5258ab9/african-union-migration-policy-framework-africa.html>
- 38 AU, The African Common Position on Migration and Development, 2006, http://www.un.org/en/africa/osaa/pdf/au/cap_migrationanddev_2006.pdf
- 39 AU, The AU Commission Initiative against Trafficking (AU COMMIT) Campaign, 2009, <https://europafrica.files.wordpress.com/2008/10/au-commit-campaign-on-combating-human-trafficking-2009-2012.pdf>

- 40 AU Commission, ILO, International Migration Organization, UNECA, The Joint Labour Migration Programme (JLMP), 2015, http://www.ilo.org/wcmsp5/groups/public/---ed_norm/---relconf/documents/meetingdocument/wcms_423494.pdf
- 41 Intergovernmental Authority on Development (IGAD), About us, <https://igad.int/about-us/what-we-do>
- 42 IGAD, Regional Migration Policy Framework, 2012, <http://migration.igad.int/wp-content/uploads/2017/02/Regional-Migration-Policy-Framework1.pdf>
- 43 Ibid.
- 44 OAU and European Union (EU), The Cairo Action Plan, 2000, http://aei.pitt.edu/45279/1/Cairo_action_plan.pdf
- 45 AU and EU, The Euro–African Dialogue on Migration and Development (Rabat Process), 2006, <https://www.iom.int/euro-african-dialogue-migration-and-development-rabat-process>
- 46 The principles are working dialogue, flexible and balanced approach, coherent dialogue, committed partners and shared responsibility. It exhorts partner countries to ‘approach migration issues in a balanced way, in the spirit of shared responsibility’. See Rabat Process, About the Rabat Process, <https://www.rabat-process.org/en/about-rabat-process/70-strategic-framework>
- 47 AU and EU, Joint Africa–EU Declaration on Migration and Development, 2006, https://au.int/sites/default/files/pages/32899-file-4._the_joint_africa_eu_declaration_on_migration_and_development_2006.pdf
- 48 AU and EU, Ouagadougou Action Plan to Combat Trafficking in Human Beings, Especially Women and Children, 2006, <https://www.icrc.org/en/document/african-union-icrc-delegation-meets-african-policing-civilians-oversight-forum>
- 49 AU and EU, Joint Africa–EU Migration, Mobility and Employment – Action Plan, 2007, http://www.africa-eu-partnership.org/sites/default/files/documents/action_plan_mmd.pdf
- 50 International Organization for Migration (IOM), EU–Horn of Africa Migration Route Initiative (Khartoum Process), 2014, <https://www.iom.int/eu-horn-africa-migration-route-initiative-khartoum-process>
- 51 Austria, Belgium, Bulgaria, Croatia, Cyprus, Czech Republic, Denmark, Djibouti, Egypt, Ethiopia, Estonia, Finland, France, Germany, Greece, Hungary, Iceland, Ireland, Italy, Kenya, Libya, Lithuania, Luxembourg, Malta, Netherlands, Norway, Poland, Portugal, Romania, Slovakia, Somalia, South Sudan, Sudan, Spain, Sweden, Switzerland, Tunisia and the United Kingdom. See *ibid.*
- 52 Ibid, J Gonzalez-Garcia et al., 2016
- 53 ML Flahaux & H de Hass, African migration: trends, patterns, drivers, *Comparative Migration Studies*, 2016.
- 54 Algeria (observer status), Mauritania, Morocco, Tunisia, Cameroon, Central African Republic, Chad, Republic of Congo, Democratic Republic of the Congo, Equatorial Guinea, Gabon, São Tomé and Príncipe, Benin, Burkina Faso, Cabo Verde, Côte d’Ivoire, The Gambia, Ghana, Guinea, Guinea-Bissau, Liberia, Mali, Niger, Nigeria, Senegal, Sierra Leone, and Togo. See International Centre for Migration Policy Development, Participants, <https://www.icmpd.org/our-work/migration-dialogues/rabat-process/participants>
- 55 Djibouti, Egypt, Ethiopia, Kenya, Libya, Somalia, South Sudan, Sudan and Tunisia.
- 56 Ibid, C Obi, African migration as the search for a wonderful world: an emerging trans-global security threat? 2010
- 57 ML Flahaux & H de Hass , African migration: trends, patterns, drivers, *Comparative Migration Studies*, 2016

The Institute for Security Studies partners to build knowledge
and skills that secure Africa's future

Visit our website for the latest analysis, insight and news

www.issafrica.org



Step 1 Go to www.issafrica.org

Step 2 Go to bottom right of the ISS home page
and provide your subscription details

About ISS Africa Reports

The Africa Report series analyses human security problems and solutions at the continental level. The ISS collaborates with the African Union (AU), the AU's Peace and Security Council, and several regional economic communities. Supported by its office in Addis Ababa, this enables the ISS to provide insight into African and regional policy on terrorism, organised crime, peace operations, maritime security, peacebuilding, migration, and development and governance.

About the author

Tsion Tadesse Abebe is a senior researcher in the Institute for Security Studies' Migration Programme. Tsion was deputy director of the Africa Programme, UN-mandated University for Peace (UPEACE) in Addis Ababa and also lectured at the Institute for Peace and Security Studies (IPSS). She has a Master's degree in gender and peacebuilding from UPEACE, Costa Rica, and a certificate in international labour migration, economics, politics and ethics from the University of Oxford, UK.

About the ISS

The Institute for Security Studies (ISS) partners to build knowledge and skills that secure Africa's future. The ISS is an African non-profit with offices in South Africa, Kenya, Ethiopia and Senegal. Using its networks and influence, the ISS provides timely and credible research, practical training and technical assistance to governments and civil society.

Acknowledgements



This report was made possible with support from the Hanns Seidel Foundation. The ISS is also grateful for support from the other members of the ISS Partnership Forum: the European Union and the governments of Australia, Canada, Denmark, Finland, Ireland, the Netherlands, Norway, Sweden and the USA.

© 2017, Institute for Security Studies

Copyright in the volume as a whole is vested in the Institute for Security Studies and the authors, and no part may be reproduced in whole or in part without the express permission, in writing, of both the authors and the publishers.

The opinions expressed do not necessarily reflect those of the ISS, its trustees, members of the Advisory Council or donors. Authors contribute to ISS publications in their personal capacity.

Cover image: © BBC World Service

ISSN 1026-0404



9 771026 040004