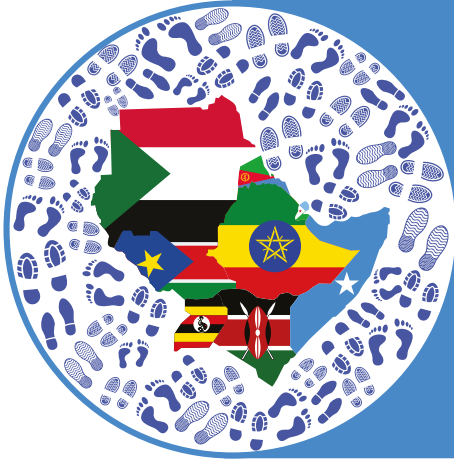




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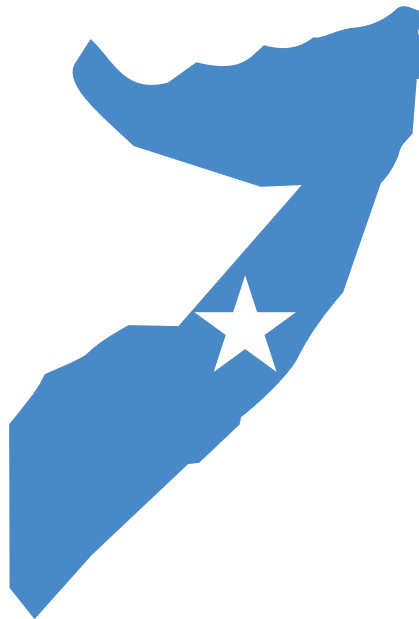


International  
Labour  
Organization



# An assessment of labour migration and mobility governance in the IGAD region Country report for

# Somalia



# FMPT

Free Movement of Persons and Transhumance  
in the IGAD Region: Improving Opportunities  
for Regular Labour Mobility



# **An assessment of labour migration and mobility governance in the IGAD region: Country report for Somalia**

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**Free Movement of Persons and Transhumance in the IGAD Region: Improving Opportunities for Regular Labour Mobility**

Funded by the European Union

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An assessment of labour migration and mobility governance in the IGAD region: Country report for Somalia

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## List of abbreviations and acronyms

<b>AMISOM</b>	African Union Mission in Somalia
<b>AU</b>	African Union
<b>BLA</b>	bilateral labour agreement
<b>BMZ</b>	German Federal Ministry for Economic Cooperation and Development
<b>CBS</b>	Central Bank of Somalia
<b>COMESA</b>	Common Market for Eastern and Southern Africa
<b>Djibouti Declaration</b>	Djibouti Declaration on Refugee Education (2017)
<b>EU</b>	European Union
<b>EUTF</b>	European Union Emergency Trust Fund for stability and addressing root causes of irregular migration and displaced persons in Africa
<b>FESTU</b>	Federation of Somali Trade Unions
<b>FGS</b>	Federal Government of Somalia
<b>GDP</b>	gross domestic product
<b>IDLO</b>	International and Development Law Organization
<b>IDP</b>	internally displaced person
<b>IGAD</b>	Intergovernmental Authority on Development
<b>ILO</b>	International Labour Organization
<b>IND</b>	Immigration and Naturalization Directorate
<b>IO</b>	International organization
<b>IOM</b>	International Organization for Migration
<b>MIDA</b>	Migration for Development in Africa

<b>MOECHE</b>	Ministry of Education, Culture and Higher Education
<b>MOFA</b>	Ministry of Foreign Affairs and International Cooperation
<b>MOI</b>	Ministry of Interior, Federal Affairs and Reconciliation
<b>MOHADM</b>	Ministry of Humanitarian Affairs and Disaster Management
<b>MOLSA</b>	Ministry of Labour and Social Affairs
<b>MOPIED</b>	Federal Ministry of Planning, Investment and Economic Development
<b>Nairobi Declaration</b>	Nairobi Declaration on Durable Solutions for Somalia Refugees and Reintegration of Returnees in Somalia (2017)
<b>NCM</b>	National Consultative Mechanism on Migration
<b>NCRI</b>	National Commission for Refugees and Internally Displaced Persons
<b>NGO</b>	non-governmental organization
<b>PEA</b>	private employment agency
<b>REC</b>	regional economic community
<b>SOCOTU</b>	Somali Congress of Trade Unions
<b>TBB</b>	Talent Beyond Boundaries
<b>TIP Report</b>	US State Department <i>Trafficking in Persons Report</i>
<b>TVET</b>	technical and vocational education and training
<b>UNHCR</b>	United Nations High Commissioner for Refugees
<b>UNODC</b>	United Nations Office on Drugs and Crime
<b>YES</b>	FGS and UN Joint Programme on Youth Employment Somalia

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# Foreword

The International Labour Organization (ILO) in close collaboration with the IGAD Secretariat has produced this report titled *Labour migration and mobility governance in the IGAD region: Country report for Somalia* as part of the project on “Free Movement of Persons and Transhumance in the IGAD Region: Improving Opportunities for Regular Labour Mobility” financed by the European Union. The report forms part of the knowledge-generation component of the project, and aims to generate an evidence base for improving labour migration and mobility governance in the Intergovernmental Authority on Development (IGAD) region, which is characterized by forced displacement, mixed migration flows, and limited options for regular labour migration and mobility.

However, increasing opportunities for labour mobility through an IGAD Free Movement of Persons Protocol is believed to promote regional integration and reduce pressure on national labour markets that are unable to provide sufficient decent work opportunities. In addition, countries of destination within IGAD could benefit from labour and skills that they require for socio-economic development. Furthermore, increased opportunities for legal migration are expected to lead to more migrants migrating safely and enjoying decent work opportunities. The monitoring and enforcement of migrants’ rights are also expected to be improved through the normative framework that such a Protocol will put in place.

In this context, the country report for Somalia highlights major trends and examines various policy and legal frameworks governing labour migration and mobility in the country using a comprehensive Analytical Framework developed for this study. The findings and recommendations of the study are structured around three major pillars and 12 thematic areas that are building blocks of labour migration and mobility governance. The first pillar, Strengthening Labour Migration Governance, examines national systems and capacities to collect and analyse labour migration data; capacity to develop and implement labour migration policies; the regulating of recruitment agencies; and improving coordination on migration issues at various levels. The second pillar, Advancing Opportunities for Regulated Labour Migration and Decent Work, assesses migrants’ access to labour markets, information, education, and finance, and facilitating the social inclusion and integration of migrants. The third pillar, Enhancing the Protection of Migrant Workers and their Families, reviews migrants’ rights, social security, labour inspection, and reception and return.

I believe the findings of the study will provide a comprehensive overview of migration and mobility governance in Somalia and significantly contribute to the development of the IGAD Free Movement of Persons Protocol, as well as its implementation once it is adopted.

**Alexio Musindo,**

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Djibouti, Somalia, South Sudan,  
Sudan and Special Representative  
for AU and UNECA



## Executive summary

The International Labour Organization (ILO) is implementing the European Union Emergency Trust Fund-funded project “Free Movement of Persons and Transhumance in the IGAD Region: Improving Opportunities for Regular Labour Mobility” *in collaboration with the Intergovernmental Authority on Authority (IGAD) and its Member States*. The project aims to improve opportunities through the development of models of intervention in the broader context of regional integration. In the long-term it is expected to extend decent work opportunities to current and potential migrants in the region, and further contribute to regional integration.

In this context, the ILO is conducting a series of studies to better understand the migration and labour market dynamics in the region, including the constraints and opportunities for employment creation and the causes of skills shortages. Labour migration and mobility governance assessments have been undertaken of the IGAD Member States, which are captured in country reports and a global report. These assessments should support the development and implementation of the IGAD Free Movement of Persons Protocol.

For these assessments an Analytical Framework was developed, which assesses policies, laws and practices on labour migration and mobility. The Analytical Framework is structured around three pillars that are building blocks for enhancing labour migration in the IGAD region:

- ▶ **Pillar I.** Strengthening labour migration governance;
- ▶ **Pillar II.** Advancing opportunities for regulated labour migration and decent work; and
- ▶ **Pillar III.** Enhancing the protection of migrant workers and their families.

Each pillar contains a set of thematic areas with guidelines that contribute towards achieving the respective pillar. The guidelines are derived from the:

- ▶ *ILO Multilateral Framework on Labour Migration: non-binding principles and guidelines for a rights-based approach to labour migration* (ILO, 2006);
- ▶ IGAD Regional Migration Policy Framework; and
- ▶ draft IGAD Free Movement of Persons Protocol.

The last part of the report contains pivotal recommendations for advancing the governance of labour migration in Somalia and the IGAD region, which are derived from the Analytical Framework assessment. Data for this assessment was gathered through desktop research and semi-structured interviews with government officials, a workers’ organization, international organisations (IOs), and the EU Delegation to Somalia. To this end, a field mission was undertaken to Mogadishu from 27 January to 1 February 2019.

## Overview of Somalia's migration trends and migration management

Somalia is a key country of origin for mixed migration in the Horn of Africa. Conflict, insecurity, poverty, and famine have led to massive emigration, especially over the last 20 years (RMMS, 2016). Somalia is the fifth-highest country of origin for refugees in the world, and more than a million Somali refugees reside in the Horn of Africa and Yemen (UNHCR, 2018a; 2018b). Somali labour migration takes place to neighbouring countries and South Africa, where Somalis often set up small businesses. Somali migrants also work as casual workers and domestic workers in the IGAD region and the Middle East. Return migration has increased in recent years as Somalia has become relatively more stable. The reintegration of returnees is challenged, however, by continuing insecurity, high levels of unemployment, environmental disasters, lack of basic services, and weak governance and rule of law. These factors have also contributed to significant internal displacement, and some returnees have become internally displaced upon their return to Somalia.

At the same time, Somalia hosts refugees and asylum-seekers, mostly from the Horn of Africa region and Yemen. While insecurity curtails labour migration to Somalia, international aid agencies and the African Union Mission in Somalia (AMISOM) have brought an influx of migrant workers. In addition, migrants from the IGAD region and the Middle East work in the hospitality, IT, and construction sectors, and also as domestic workers, teachers, and doctors.

The government ministries and agencies that play a role in migration and mobility governance in Somalia include the:

- ▶ Ministry of Labour and Social Affairs (MOLSA);
- ▶ Office of the Prime Minister, and its Special Envoy for Children's and Migrants Rights;
- ▶ Ministry of Interior, Reconciliation and Federal Affairs (MOI), and its National Commission for Refugees and Internally Displaced Persons (NCRI);
- ▶ Immigration and Naturalization Directorate (IND) of the Ministry of Internal Security;
- ▶ Ministry of Humanitarian Affairs and Disaster Management (MOHADH);
- ▶ Ministry of Foreign Affairs and International Cooperation (MOFA); and
- ▶ Federal Ministry of Planning, Investment and Economic Development (MOPIED).

Government agencies participate in the National Coordination Mechanism on Migration (NCM), which consists of the:

- ▶ High Level Task Force on Migration Management;
- ▶ Technical Task Force on Human Trafficking and Smuggling; and
- ▶ Technical Task Force on Return and Readmission.

The next section assesses Somalia's labour migration and mobility governance in line with the thematic areas of the Analytical Framework.

## Analytical framework analysis

### Pillar I. Strengthening labour migration governance

#### Thematic Area 1. Capacity to collect and analyse labour migration data

The MOPIED should produce labour market statistics in coordination with the MOLSA, but lacks the necessary capacity. The ILO plans to undertake a National Labour Force Survey with the Federal Government of Somalia (FGS) in 2019, and to use it to provide hands-on training to the FGS. The FGS should undertake regular labour market assessments to capture available skills and skills gaps, with a view to determine which sectors to open up for labour market access under the upcoming IGAD Free Movement of Persons Protocol, and to develop measures to attract critical skills.

The FGS' data on international migration is collected through immigration procedures and the issuing of work permits, but it is not analysed and applied to labour migration policy development. The MOLSA, MOPIED, and other relevant government agencies should be trained on labour migration data collection and analysis, and on applying it to labour migration policy development and implementation.

#### Thematic Area 2. Coordination on labour migration:

Little coordination on labour migration takes place, and tripartite consultation needs to be established. The FGS is yet to officially recognize an employers' organization as its tripartite partner. Two workers' organizations are working in parallel and vying for official recognition by the FGS. Inter-ministerial and NCM coordination on labour migration should be bolstered and serve to formulate clear labour migration policy objectives that will inform the FGS' participation in regional and continental exchanges on labour migration.

#### Thematic Area 3. Capacity to formulate and implement policy

Somalia does not have a migration policy or a labour migration policy. There are no policies or instruments to protect migrant workers in Somalia, or to protect labour migrants from Somalia. The draft updated Labour Code contains clauses that promote the protection of migrant workers in Somalia. The FGS should be trained on labour migration issues, with a view to develop a policy that captures labour migration policy objectives through a whole-of-government approach. The FGS, in consultation with partners, should decide on which policy instrument to use to achieve such objectives. Options include a migration policy, a labour migration policy, or an employment policy. The resulting policy should be aligned to the new National Development Plan, which is currently being developed and should commence in 2020. It should take into account employment, education, and other relevant national policies. The policy should comprehensively address the protection concerns of incoming and outgoing migrant workers, and the steps to put in place the necessary protection mechanisms. As it develops or updates various legal frameworks such as the Labour Code and the Immigration Law, the FGS should, where applicable, include the standards of:

- ▶ ILO Migration for Employment (Revised) Convention, 1949 (No. 97);

- ▶ ILO Migrant Workers (Supplementary Provisions) Convention, 1975 (No. 143);
- ▶ ILO Private Employment Agencies Convention, 1997 (No. 181);
- ▶ the 1990 International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families.

The ILO, the International Organization for Migration (IOM), and other partners should build the capacity of the FGS to implement the policy and related legal frameworks.

#### **Thematic Area 4. Regulating recruitment agency practices**

The lack of written employment contracts and the weak enforcement of employment contracts contribute to violations of labour rights in Somalia. The FGS should require written employment contracts in the new Labour Code that is being developed; ensure that the Labour Code also covers migrant workers; and build the MOLSA's capacities to enforce employment contracts. The FGS, with the support of the ILO, should develop a standardized licensing and monitoring system for private employment agencies (PEAs) that is informed by the standards of ILO Convention No. 181. The system should ensure that PEAs respect migrant workers' rights; that they provide migrant workers with written and understandable employment contracts; and that fees or other charges for recruitment and placement are not borne directly or indirectly by migrant workers. A complaint mechanism, through which migrants can raise complaints they may have with PEAs or their employers, should be set up, and migrant workers should receive pre-departure training.

### **Pillar II. Advancing opportunities for regulated labour migration and decent work**

#### **Thematic Area 1. Labour mobility schemes to support labour market needs**

The IND issues visas on arrival, including for business, work, and education and research. However, prior to travelling to Somalia a Visa on Arrival Approval Letter needs to be obtained from the IND through the visa applicant's representative or host in Somalia. Once a migrant worker enters Somalia with a visa on arrival, their employer has one month to apply for a work permit for the migrant worker from the MOLSA. A work permit enables a migrant worker to obtain a residence permit. Information on the work and residence permit process and costs could only be obtained orally from the MOLSA, and are not fully covered in the Foreign Employment Act, 2015. The admission, employment, and residency requirements for migrant workers should be placed on the IND website and the websites of Somali embassies, and the FGS should ensure that relevant government agencies are informed of immigration procedures, in order to provide employers and potential migrant workers with correct and up-to-date information. The FGS should consider reducing work permit and residence permit fees to aid labour migration and mobility.

The FGS should pass the draft Citizenship (Amendment) Bill, 2016, and thereby clarify uncertainties regarding obtaining citizenship and dual citizenship, which would be favourable for circular and return migration. And the FGS should include measures to enhance diaspora engagement, investment, and skills exchanges in a future labour migration/migration/employment policy.

## **Thematic Area 2. Supporting functions for participation in the labour market, including access to information, education, training, skills recognition, and finance**

IOs, non-governmental organizations (NGOs), and the FGS disseminate information to internally displaced persons (IDPs), refugees, returnees, and vulnerable migrants in Somalia, but not specifically to migrant workers. Migrants in Somalia can access education and training opportunities at their own cost. Technical and vocational education and training (TVET) is not standardized – the FGS should establish a Vocational Qualifications Authority that sets standards and regulates vocational institutions. There are no government systems for the recognition of migrants' skills, or efforts to harmonize Somalia's education and training systems with those of other IGAD Member States.

Remittances are a vital source of income for many Somali households and strengthens their resilience against man-made and natural disasters (Majid, Abdirahman, and Hassan, 2018). The FGS should finalize its Mobile Money Services Provider Licensing Regulations, with a view to enhance consumer protection, market competition, and reduce the cost of money transfers, and work with financial service providers to cap the transaction costs of remittances.

## **Thematic Area 3. Promoting social integration and inclusion**

The family members of migrant workers need to obtain their own work permits to access employment, and their children can access the national education system. There are no efforts geared towards integrating migrants, nor are there any public awareness-raising campaigns on the contribution of migrants to Somalia.

The FGS should consider regularizing irregular migrants with a view to enhance social integration and inclusion, as well as the contribution of migrants to the tax base.

## **Pillar III. Enhancing the protection of migrant workers and their families**

### **Thematic Area 1. Protection of migrant workers' rights**

Partners should support the FGS in developing the necessary capacity to protect the human and labour rights of migrants, which is impeded by weak governance and rule of law. The further stabilization and socio-economic development of Somalia is also key to the protection of human rights. The FGS should ensure that the numerous Somali laws that are currently being developed or updated – including the Immigration Law, the Labour Code, and the Penal Law – are aligned to international law and standards on the protection of migrants. To prevent forced labour and trafficking, the FGS should sign the UN Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children, 2000; develop an anti-trafficking law; and strengthen the investigation and prosecution of trafficking cases.

## **Thematic Area 2. Social security and social protection**

The FGS needs to develop a social security system. It should include migrant workers, and the FGS should strive to put in place measures that allow for the portability of social security benefits. The social protection policy, which is currently being developed with the support of the ILO, should also cover migrant workers and their concerns.

## **Thematic Area 3. Labour inspection for migrant workplaces**

The MOLSA reports that migrants' workplaces are being inspected. However, law enforcement and labour inspection systems are weak. The FGS, with the support of the ILO, should ensure that the Labour Code, which is being updated, covers the inspection of migrants' workplaces, in line with international standards. The ILO should train the labour inspectorate on labour rights – and on the new Labour Code, once it is adopted – and assist in enforcing the labour inspectorate's capacity to carry out labour inspection and enforce labour rights.

## **Thematic Area 4. Facilitating reception and return**

In recent years refugee returns have increased as Somalia has become relatively more stable. Stranded Somali migrants, in countries such as Libya and the Sudan, form part of the caseload of assisted returns. While assisted returns have generally received some support in Somalia, integration is undermined by lack of economic opportunities, social services, insecurity, climatic conditions, weak governance, and rule of law. Some returnees have become internally displaced and others may choose to remigrate.

Various policy frameworks are being developed to facilitate the return and reintegration of refugees and migrants, such as the National Action Plan on Durable Solutions for Somali Returnees and Internally Displaced Persons 2018–2020 and the planned return and readmission policy framework. They should be aligned to one another and the new National Development Plan. The further stabilization and socio-economic development of Somalia and increasing livelihood opportunities are also vital for successful return and reintegration.

Pre-departure training for Somali migrant workers needs to be introduced. Migrant workers in Somalia may receive on-arrival information and training from their employers, but there is no FGS mechanism to systematically inform them of their rights and obligations in Somalia. At a minimum, on-arrival information should be provided to incoming migrant workers, including on their rights, the cultural values in Somalia, and their access to services, such as education, health, and finance, as well as the dispute-settlement mechanisms available to them.





# 1. Introduction

“

*This report forms part of the knowledge-generation component of the project which aims to create an evidence base on labour migration and mobility governance in Somalia.*

The International Labour Organization (ILO) is implementing the project “Free Movement of Persons and Transhumance in the IGAD Region: Improving Opportunities for Regular Labour Mobility” in collaboration with the Intergovernmental Authority on Development (IGAD). The project is a key component of the European Union Emergency Trust Fund for Africa (EUTF) financed programme “Towards Free Movement of Persons and Transhumance in the IGAD Region”. The overall objective of the programme is to support the free movement of persons in the IGAD region, with a view to spurring regional economic integration and development.

The specific objective of the Free Movement of Persons and Transhumance in the IGAD Region: Improving Opportunities for Regular Labour Mobility project is to improve opportunities for regulated labour mobility and decent work within the IGAD Member States, through the development of models of intervention, in the broader context of the regional integration. In the long term, it is expected to extend decent work opportunities to current and potential migrants within the region, as well as to contribute to regional integration, strengthen the link between economic and job growth, and enhance the social and economic integration of migrants.

This report forms part of the knowledge-generation component of the project, which aims to create an evidence base on labour migration and mobility governance in the region. This should contribute to the development of the IGAD Free Movement of Persons Protocol, as well as to building the capacities of Member States to implement the Protocol, once it is adopted. To this end, labour migration and mobility assessments of the IGAD Member States have been undertaken to gain an overview of how labour migration and mobility are governed by these States, as well as to highlight areas that require reinforcement at the national and international levels. This exercise is expected to aid Somalia in aligning its

labour migration and mobility governance to the IGAD Free Movement of Persons Protocol and international labour and migrant protection standards.

The assessments capture:

- ▶ the key policies and laws that regulate labour migration and mobility;
- ▶ the roles and responsibilities of the ministries and agencies whose work touches on labour migration;
- ▶ the involvement of social partners; and
- ▶ the inter-ministerial and national coordination mechanisms on migration.

Comprehensive country assessment reports on Djibouti, Ethiopia, Kenya, Somalia, South Sudan, the Sudan, and Uganda have been developed, and follow the same structure and assessment exercise. This enables the identification of areas of commonality and divergence, as well as where capacities need to be strengthened or policies harmonized to pave the way for the implementation of the IGAD Free Movement of Persons Protocol. Moreover, a regional report captures the findings of the country reports; provides an overview of the governance of labour migration and mobility in the IGAD region; and details recommendations for how it can be advanced. The implementation of these recommendations should support the implementation of the IGAD Free Movement of Persons Protocol and aid countries in meeting IGAD and international labour migration governance standards.

The report commences in chapter 2 with an overview of the analytical framework employed in the study. This is followed by an overview of Somalia and its migration trends in chapter 3. Chapter 4 presents an overview of the roles and responsibilities of the key government ministries and agencies whose work touches on labour migration. Chapter 5 covers Somali's National Coordination Mechanism on Migration. Chapter 6 is an overview and assessment of Somalia's policies, laws, and practices on labour migration and mobility, as per the analytical framework presented in chapter 2.

The last part of the report contains key recommendations for advancing the governance of labour migration in Somalia and the IGAD region, which are derived from the analytical framework assessment. These recommendations, which include policy areas that need to be developed or capacities that need to be built, could be implemented by the Free Movement of Persons and Transhumance in the IGAD Region: Improving Opportunities for Regular Labour Mobility project, or by other actors, partners, or projects.

## 2. Methodology

“

*Analytical framework is structured around three pillars of strengthening labour migration governance; advancing opportunities for regulating labour migration and decent work; and enhancing the protection of migrant workers and their families.*

The research methodology employed for the assessments conducted in this study consists of interviews with key informants undertaken during field missions to the capitals of seven IGAD countries, for which semi-structured interview questionnaires were used. The organizations interviewed include:

- ▶ relevant government ministries and agencies;
- ▶ the IGAD Secretariat;
- ▶ international organizations (IOs);
- ▶ employers' and workers' organizations; and
- ▶ civil society organizations.

The field research was complemented by desktop research and interviews via Skype/phone. A field mission was undertaken to Mogadishu from 27 January to 1 February 2019. Appendix I. contains the list of key informants that were interviewed for this assessment.

In addition, an analytical framework was used to analyse the adherence of national laws, policies, practices, and coordination and consultation mechanisms on labour migration and mobility to the provisions of:

- ▶ the draft IGAD Free Movement of Persons Protocol;
- ▶ the IGAD Regional Migration Policy Framework; and

- ▶ ILO standards on labour migration as put forward in the *ILO Multilateral Framework on Labour Migration: Non-binding principles and guidelines for a rights-based approach to labour migration* (ILO, 2006).

The analytical framework is structured around three pillars, which are all building blocks for enhancing labour migration in the IGAD region:

- ▶ **Pillar I.** Strengthening labour migration governance;
- ▶ **Pillar II.** Advancing opportunities for regulated labour migration and decent work; and
- ▶ **Pillar III.** Enhancing the protection of migrant workers and their families.

Each pillar contains a set of thematic areas with guidelines that contribute towards achieving the respective pillars. These guidelines are derived from the three key documents mentioned above: the ILO Multilateral Framework on Labour Migration; the IGAD Regional Migration Policy Framework; and the draft IGAD Free Movement of Persons Protocol. In order to ease reading of this report, the analytical framework is presented in table 1 below.

In brief outline, the thematic areas of the three pillars are as follows:

- ▶ **Pillar I. Strengthening labour migration governance:**
  1. Capacity to collect, analyse, and share labour migration data;
  2. Coordination on labour migration;
  3. Capacity to formulate and implement policy; and
  4. Regulating employment agency practices.
- ▶ **Pillar II. Advancing opportunities for regulated labour migration and decent work:**
  1. Labour mobility schemes to support labour market needs;
  2. Supporting functions for participation in the labour market, including access to information, education, training, skills recognition, and finance; and
  3. Promoting social integration and inclusion.
- ▶ **Pillar III. Enhancing the protection of migrant workers and their families:**
  1. Protection of migrant workers' human rights;
  2. Social security and social protection;
  3. Labour inspection for migrant workplaces; and
  4. Facilitating reception and return.

In table 1, each thematic area contains a set of guidelines that are used to assess the relevant governance structures and mechanisms in the country. Certain thematic areas contain sub-headings, under which a set of related guidelines are captured to facilitate reading of the report.

In chapter 6 below, each thematic area and sub-heading will be expanded upon through "Overview" and "Assessment" passages. The Overview provides the background information that informed each Assessment, such as the relevant laws and policies. The Assessment contains an evaluation of how Somalia is faring with regards to each sub-heading and its related guidelines. In cases where information is limited, all the information is captured in the Assessment, and an Overview is not provided.

**TABLE 1.** Overview of guidelines related to the pillars and thematic areas of the study<sup>1</sup>

Pillar I. Strengthening labour migration governance
<b>Thematic Area 1. Capacity to collect, analyse, and share labour migration data</b>
<p><b><i>Labour market information and data: Guidelines</i></b></p> <p><b>ILO Multilateral Framework on Labour Migration</b></p> <p>5.1. Establishing systems and structures for periodic, objective labour market analyses that take into account gender issues and that include:</p> <ul style="list-style-type: none"> <li>5.1.1 sectorial, occupational and regional dimensions of labour shortages and their causes, and relevant issues of labour supply;</li> <li>5.1.2 shortages of skilled workers in both origin and destination countries, including in the public, health and education sectors; and</li> <li>5.1.3 long-term impact of demographic trends, especially ageing and population growth, on the demand for and supply of labour.</li> </ul>
<p><b><i>Labour migration data collection and analysis, and applying it to labour migration policy: Guidelines</i></b></p> <p><b>ILO Multilateral Framework on Labour Migration</b></p> <p>3.1. Improving government capacity and structures for collecting and analysing labour migration data, including sex-disaggregated and other data, and applying it to labour migration policy.</p>
<p><b><i>Sharing of labour market information and labour migration data and analysis at the regional level: Guidelines</i></b></p> <p><b>IGAD Regional Migration Policy Framework</b></p> <p>4.2. Regional Cooperation and Harmonization of Labour Migration Policies</p> <p><i>Recommended Strategies:</i></p> <p>iv. Institute routine data collection, analysis and exchange on labour flows, stock and needs in labour-supply vis-à-vis labour-demand countries in IGAD to eliminate skills mismatch and to maintain proper skills audit.</p>
<b>Thematic Area 2. Coordination on labour migration</b>
<p><b><i>Coordination of labour migration at national, regional, and continental levels: Guidelines</i></b></p> <p><b>ILO Multilateral Framework on Labour Migration</b></p> <p>2.2. Developing intergovernmental dialogue and cooperation on labour migration policy, in consultation with the social partners and civil society and migrant worker organizations.</p> <p>2.5. Establishing mechanisms for tripartite consultations at regional, international and multilateral levels.</p> <p>3.5. Collecting and exchanging profiles of good practices on labour migration on a continuing basis.</p> <p>4.7. Establishing a mechanism to ensure coordination and consultation among all ministries, authorities, and bodies involved with labour migration.</p>

<sup>1</sup> The numbering of the articles and clauses presented in this table are the same as the numbering in the documents they originate from.

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## IGAD Regional Migration Policy Framework

### 4.1. National Labour Migration Policies, Structures and Legislation

#### *Recommended Strategies:*

x. Establish formal national and IGAD-wide social dialogue mechanisms to address migrant labour issues (including social protection and social security benefits, insurance, compensation for employment due to injury and old age pension for labour migrants while working abroad and/or upon their return to the countries of origin).

### 4.2. Regional Cooperation and Harmonization of Labour Migration Policies

#### *Recommended Strategies:*

iii. Hold regular dialogue among IGAD Member States and between them and the Member States of contiguous RECs [regional economic communities] to enhance communication between countries of origin, transit countries, and destination through reviews of national policies and legislation.

## Thematic Area 3. Capacity to formulate and implement policy

### ***Labour migration policy development and implementation: Guidelines***

#### **ILO Multilateral Framework on Labour Migration**

- 4.2. Ensuring coherence between labour migration, employment, education and other national policies, in recognition of the wide social and economic implications of labour migration and in order to promote decent work for all and full, productive and freely chosen employment.
- 4.8. Ensuring that specific structures and mechanisms within these ministries have the necessary competencies and capacities to develop, formulate and implement labour migration policies, including, where possible, a special unit for issues involving migrant workers.
- 15.2. Expanding analyses of the contribution of labour migration and migrant workers to the economies of destination countries, including employment creation, capital formation, social security coverage and social welfare.

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### ***Policies that protect the rights of migrant workers, including bilateral labour agreements and gender-sensitive policies: Guidelines***

#### **ILO Multilateral Framework on Labour Migration**

- 4.4. Implementing policies that ensure that specific vulnerabilities faced by certain groups of migrant workers, including workers in an irregular situation, are addressed.
  - 4.5. Ensuring that labour migration policies are gender-sensitive and address the problems and particular abuses women often face in the migration process.
  - 5.3. Where appropriate, establishing policies and procedures to facilitate the movement of migrant workers through bilateral, regional or multilateral agreements.
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## ***Ratification and domestication of international labour migration Conventions: Guidelines***

### **IGAD Regional Migration Policy Framework**

#### 4.1. National Labour Migration Policies, Structures and Legislation

##### *Recommended Strategies:*

i. Promote the signing, ratification and domestication by the Member States of international instruments relating to labour (e.g. the ILO [Migration for Employment Convention (Revised), 1949] No. 97 and Migrant Workers (Supplementary Provisions) Convention, 1975] No. 143 and the 1990 International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families) through national legislation.

## **Thematic Area 4. Regulating employment agency practices**

### ***Employment contracts: Guidelines***

#### **ILO Multilateral Framework on Labour Migration**

- 10.3. Promoting the establishment of written employment contracts to serve as the basis for determining obligations and responsibilities and a mechanism for the registration of such contracts where this is necessary for the protection of migrant workers.
- 13.3. Ensuring that migrant workers receive understandable and enforceable employment contracts.

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### ***Licensing and monitoring of private employment agencies: Guidelines***

#### **ILO Multilateral Framework on Labour Migration**

- 13.1. Providing that recruitment and placement services operate in accordance with a standardized system of licensing or certification established in consultation with employers' and workers' organizations.
- 13.2. Providing that recruitment and placement services respect migrant workers' fundamental principles and rights.
- 13.5. Working to implement legislation and policies containing effective enforcement mechanisms and sanctions to deter unethical practices, including provisions for the prohibition of private employment agencies engaging in unethical practices and the suspension or withdrawal of their licences in case of violation.

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### ***Recruitment and placement fees: Guidelines***

#### **ILO Multilateral Framework on Labour Migration**

- 13.7. Providing that fees or other charges for recruitment and placement are not borne directly or indirectly by migrant workers.

## **Pillar II. Advancing opportunities for regulated labour migration and decent work**

### **Thematic Area 1. Labour mobility schemes to support labour market needs**

### ***Rules and regulations governing labour migration and mobility: Guidelines***

#### **ILO Multilateral Framework on Labour Migration**

- 5.2. Establish transparent policies for the admission, employment and residence of migrant workers based on clear criteria, including labour market needs.
- 5.5. Ensuring that temporary work schemes respond to established labour market needs, and that these schemes respect the principle of equal treatment between migrant and national workers.
- 12.3. Simplifying administrative procedures involved in the migration process and reducing processing costs to migrant workers and employers.
- 6.3. Promoting dialogue and consultation with employers' organizations on practical opportunities and challenges they confront in the employment of foreign workers.
- 6.4. Promoting dialogue and consultation with workers' organizations on particular concerns posed by labour migration and their role in assisting migrant workers.

#### **Draft IGAD Free Movement Protocol**

Part A: Free Movement of Persons and Labour

Article 3. Free Movement of Workers

3. For the purpose of this Article, the free movement of workers shall entitle a worker to:
  - d. stay in the territory of a Member State for the purpose of employment in accordance with the national laws and administrative procedures governing the employment of workers of that Member State;
8. The national laws and administrative procedures of a Member State shall not apply where the principal aim or effect is to deny citizens of other Member States the employment that has been offered.

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### ***Circular and return migration: Guidelines***

#### **ILO Multilateral Framework on Labour Migration:**

15.8. Adopting policies to encourage circular and return migration and reintegration into the country of origin, including by promoting temporary labour migration schemes and circulation-friendly visa policies.

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### ***Labour exchanges and critical skills: Guidelines***

#### **ILO Multilateral Framework on Labour Migration:**

15.7. Adopting measures to mitigate the loss of workers with critical skills, including by establishing guidelines for ethical recruitment.

#### **IGAD Regional Migration Policy Framework**

4.2. Regional Co-operation and Harmonization of Labour Migration Policies

*Recommended Strategies:*

vi. Establish bilateral and multilateral labour exchanges among IGAD Member States and with contiguous non-Member States of neighbouring RECs to employ or deploy temporarily human resources with scarce or desirable skills

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**Establishment and investment: Guidelines****Draft IGAD Free Movement Protocol:**

Part B: Rights of Establishment and Residence

Article 6. Rights of Establishment

11. For the purposes of this Article, the Member States shall:
- a. remove the administrative procedures and practices, resulting from national laws or from agreements previously concluded between the Member States, that form an obstacle to the right of establishment;
  - b. progressively remove any administrative procedures and practices resulting from national laws that restrict the right of establishment, in respect of the conditions for:
    - i. setting up agencies, branches or subsidiaries of companies or firms in their territories; and
    - ii. the entry of personnel of the companies or firms registered in another Member State into managerial or supervisory positions in agencies, branches or subsidiaries in that Member State.

**Thematic Area 2. Supporting functions for participation in the labour market, including access to information, education, training, skills recognition, and finance**

**Disseminating information to migrant workers: Guidelines****ILO Multilateral Framework on Labour Migration**

- 12.4. Promoting the participation of employers' and workers' organizations and other relevant non-governmental organizations in disseminating information to migrant workers.

**Education, training, skills recognition, the harmonization of qualifications, and access to finance: Guidelines**

**ILO Multilateral Framework on Labour Migration**

- 14.3. Improving the labour market position of migrant workers, for example, through the provision of vocational training and educational opportunities.
- 12.6. Promoting the recognition and accreditation of migrant workers' skills and qualifications and, where that is not possible, providing a means to have their skills and qualifications recognized.

**IGAD Regional Migration Policy Framework**

4.1. National Labour Migration Policies, Structures and Legislation

*Recommended Strategies:*

- ix. Facilitate the integration of migrants in the labour market including the education and training sector.

**Draft IGAD Free Movement Protocol**

Part A: Free Movement of Persons and Labour

Article 4. Harmonization and Mutual Recognition of Academic and Professional Qualifications

For the purpose of ensuring the free movement of labour, the Member States undertake to:

- a. mutually recognize the academic and professional qualifications granted, experience obtained, requirements met, licences or certifications granted, in other Member States; and
- b. harmonize their curricula, examinations, standards, certification and accreditation of educational and training institutions.

### **Facilitating remittances: Guidelines**

#### **ILO Multilateral Framework on Labour Migration**

15.6. Reducing the costs of remittance transfers, including by facilitating accessible financial services, reducing transaction fees, providing tax incentives and promoting greater competition between financial institutions.

### **Thematic Area 3. Promoting social integration and inclusion**

#### **Public education and awareness-raising campaigns on the contribution of migrants: Guidelines**

#### **ILO Multilateral Framework on Labour Migration**

14.9. Promoting public education and awareness-raising campaigns regarding the contributions migrant workers make to the countries in which they are employed, in order to facilitate their integration into society.

#### **IGAD Regional Migration Policy Framework**

4.1. National Labour Migration Policies, Structures and Legislation

##### *Recommended Strategies:*

vi. Promote integration of migrants by enhancing local citizenry, inclusive policies and engaging with societies in destination countries; address discrimination and xenophobia through civic education and awareness-raising campaigns.

#### **Family reunification, and access to employment for family members and education for children: Guidelines**

#### **ILO Multilateral Framework on Labour Migration**

14.10. Facilitating the reunification of family members of migrant workers as far as possible, in accordance with national laws and practice.

14.12. Facilitating the integration of migrant workers' children into the national education system.

#### **Draft IGAD Free Movement Protocol**

Part A: Free Movement of Persons and Labour

Article 3. Free Movement of Workers

5. A worker shall have the right to be accompanied by a spouse and a child, and:
  - a. a spouse who accompanies the worker shall be entitled to be employed as a worker or to engage in any economic activity;
  - b. as a self-employed person in the territory of that Member State;
  - c. child who accompanies the worker shall be entitled to be employed as a worker or to engage in any economic activity as a self-employed person in the territory of that Member State subject to the age limits under the national laws of that Member State

### **Pillar III. Enhancing the protection of migrant workers and their families**

#### **Thematic Area 1. Protection of migrant workers' human rights**

***Protecting the human rights of migrants: Guidelines*****ILO Multilateral Framework on Labour Migration**

- 8.1. Governments should ensure that national laws and practice that promote and protect human rights apply to all migrant workers and that they are respected by all concerned.
- 8.2. Information should be provided to migrant workers on their human rights and obligations and assisting them with defending their rights.
- 8.3. Governments should provide effective enforcement mechanisms for the protection of migrant workers' human rights and provide training on human rights to all government officials involved in migration.
- 10.5. Providing for effective remedies to all migrant workers for violation of their rights, and creating effective and accessible channels for all migrant workers to lodge complaints and seek remedy without discrimination, intimidation or retaliation.
- 10.7. Providing effective sanctions and penalties for all those responsible for violating migrant workers' rights.

**Draft IGAD Free Movement Protocol**

## Part A: Free Movement of Persons and Labour

## Article 1. Free Movement of Persons

- 1.3. The Member States shall, in accordance with their national laws, guarantee the protection of the citizens of the other Member States while in their territories.

***Protecting migrants from forced labour and exploitation: Guidelines*****ILO Multilateral Framework on Labour Migration**

- 8.4.2. Legislation and policies should be adopted, implemented and enforced to protect migrant workers from conditions of exploitation and forced labour, including debt bondage and trafficking, particularly migrant workers in an irregular situation or other groups of migrant workers who are particularly vulnerable to such conditions.

**Thematic Area 2. Social security and social protection*****National labour laws and social protection laws applying to migrant workers: Guidelines*****ILO Multilateral Framework on Labour Migration**

- 9.8. Adopting measures to ensure that national labour legislation and social laws and regulations cover all male and female migrant workers, including domestic workers and other vulnerable groups, in particular in the areas of employment, maternity protection, wages, occupational safety and health and other conditions of work, in accordance with relevant ILO instruments.

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***Social security coverage and portability: Guidelines***

**ILO Multilateral Framework on Labour Migration**

- 9.9. Entering into bilateral, regional or multilateral agreements to provide social security coverage and benefits, as well as portability of social security entitlements, to regular migrant workers and, as appropriate, to migrant workers in an irregular situation.

**Draft IGAD Free Movement Protocol**

Part A: Free Movement of Persons and Labour

Article 3. Free Movement of Workers

- 3.3. For the purpose of this Article, the free movement of workers shall entitle a worker to:
- f. enjoy the rights and benefits of social security as accorded to the workers of the host Member.

Part B: Rights of Establishment and Residence

Article 6. Rights of Establishment

3. For the purposes of paragraph 1, the right of establishment shall entitle:
- b. a self-employed person who is in the territory of another Member State to join a social security scheme of that Member State in accordance with the national laws of that Member State.

**Thematic Area 3. Labour inspection for migrant workplaces**

**ILO Multilateral Framework on Labour Migration**

- 10.1. Extending labour inspection to all workplaces where migrant workers are employed, in order to effectively monitor their working conditions and supervise compliance with employment contracts.
- 10.2. Ensuring that the labour inspectorate or relevant competent authorities have the necessary resources and that labour inspection staff is adequately trained in addressing migrant workers' rights and in the different needs of men and women migrant workers.

**Thematic Area 4. Facilitating reception and return**

**ILO Multilateral Framework on Labour Migration**

- 12.1. Facilitating migrant workers' departure, journey, and reception by providing, in a language they understand, information, training and assistance prior to their departure and on arrival concerning the migration process, their rights and the general conditions of life and work in the destination country.
- 12.2. Wherever possible facilitate migrant workers' return by providing information, training, and assistance prior to their departure and on arrival in their home country concerning the return process, the journey and reintegration.
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## 3. Overview of Somalia and its migration trends

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*Conflict has been the major factor driving migration in Somalia as deteriorating security conditions caused significant rural-urban migration.*

Somalia shares land borders with Djibouti, Ethiopia, and Kenya, and sea borders with the Gulf of Aden in the North and the Indian Ocean in the East. Since the collapse of Mohamed Siad Barre's regime in 1991, Somalia has been struggling to secure peace and foster development, with inter-clan conflict and terrorism posing major obstacles. In 2012, the Federal Government of Somalia (FGS) was established within the framework of the Provisional Constitution, and the country has been inching towards stability (World Bank, 2018a; BBC, 2018). Somalia plans to hold in 2020 its first one-person-one-vote election since 1969, (Somali Partnership Forum, 2018). The FGS is developing an electoral law and new constitution to support this electoral process. Obstacles to the further stabilization of Somalia include continued insurgency, violent extremism, climate change and drought, weak governance and rule of law, and a shortfall in economic opportunities and social services.

Somalia has a total land area of 637,657 square kilometres and a population of 11,031,386 people (CIA, 2018). More than half of the population lives in poverty, and the World Bank classifies Somalia as a low-income country (World Bank, 2018a; 2018b). Agriculture is the mainstay of the economy, with livestock accounting for approximately 40 per cent of gross domestic product (GDP) and more than 50 per cent of export earnings. A large part of the population are pastoralists. Remittances and telecommunications are further important contributors to the economy (CIA, 2018). Somalia received an estimated US\$1.4 billion in remittances in 2015, which contributed 23 per cent towards GDP (World Bank, 2016). Remittances serve as a lifeline for many families in Somalia, and have been facilitated by the widespread use of the Internet and mobile money transfers in recent years (Ridgwell, 2017). Somalia has a large diaspora, estimated to be around 1–1.5 million people, with the United Kingdom, the Netherlands, Norway, Sweden, the United States, Canada, Australia,

and Malaysia hosting diaspora communities. The diaspora has strong ties with Somalia, and their remittances bolster education, health care, infrastructure, and private enterprise in Somalia (RMMS, 2016).

Somaliland, which today encompasses the administrative regions of Awdal, Woqooyi Galbeed, Togdheer, Sanaag, and Sool, was proclaimed an independent Republic in 1991 by northern clans. It has remained fairly stable, operates independently, and holds its own municipal, parliamentary, and presidential elections. It continues to seek recognition as an independent country. Puntland, comprising the regions of Bari, Nugaal, and northern Mudug, operates as a semi-autonomous state, and has been self-governing since 1998, but does not seek independence (CIA, 2018).

Conflict has been an important factor driving internal migration in Somalia, as deteriorating security conditions caused significant rural-to-urban migration. Business has been growing in Somalia's capital, Mogadishu, with supermarkets springing up, gas stations being installed, and flights running from Ethiopia, Kenya, and Turkey, but security concerns continue to curtail economic development (CIA, 2018). Moreover, acute drought cut GDP growth in 2017, and led to significant food insecurity for more than 6 million people (World Bank, 2018a). Somalia's GDP for 2017, at official exchange rate, was US\$7.382 billion, while its real growth rate was 1.8 per cent for 2017 (CIA, 2018). More than 70 per cent of the population is under 30, and youth unemployment stands at 67 per cent (RMMS, 2016). Low levels of economic growth hamper youth employment, while a lack of skills in the labour market impedes growth (Avis and Herbert, 2016, p. 9).

Somalia stands out as a country of origin for mixed migration in the Horn of Africa. Conflict, insecurity, poverty, and famine have led to massive emigration, especially over the last 20 years (RMMS, 2016). Somalia is the fifth-highest country of origin for refugees in the world (UNHCR, 2018a). According to United Nations High Commissioner for Refugees (UNHCR) data, as of 31 August 2018 there are 1,084,071 Somali refugees in the Horn of Africa and Yemen. Kenya hosts the majority of Somali refugees (518,944 – 47.9 per cent); followed by Ethiopia (257,283 – 23.7 per cent); Yemen (256,363 – 23.6 per cent); Uganda (37,193 – 3.4 per cent); Djibouti (12,139 – 1.1 per cent); and Eritrea (2,149 – 0.2 per cent) (UNHCR, 2018b). Due to the insecurity in Somalia, as well as religious and historic ties, Somalis have received *prima facie* refugee status in some neighbouring countries, including Djibouti and Yemen.

Somalia also hosts African refugees and asylum-seekers. As of 30 June 2018, it had 31,473 registered refugees and asylum-seekers, including from Yemen, Ethiopia, Syria, Eritrea, and Tanzania, with the number of refugees and asylum-seekers having increased by 14 per cent since August 2017 (MMC, 2018). Yemenis receive *prima facie* refugee status in Somalia (IGAD, 2018a, pp. 18–19).

Return migration of Somalis has been increasing in recent years. Relatively more stable and secure conditions in Somalia, as well as the November 2013 Tripartite Agreement Governing the Voluntary Repatriation of Somali Refugees Living in Kenya between Kenya, Somalia, and the UNHCR, ushered in a period of refugee returns to Somalia. In 2014–2018, 87,051 Somali refugee returns took place (UNHCR, 2018d). This includes returns from Yemen, where war has raged for a number of years and pushed Somalis to return home. In a country battling conflict, poverty, and low levels of socio-economic development, the sustainable reintegration

of returnees is a major challenge. A dearth of infrastructure and livelihood opportunities may result in returnees choosing to re-migrate (MGSOG, 2017, pp. 3–4).

Moreover, Somalia faces significant internal displacement. The population is highly vulnerable to natural and man-made shocks due to insecurity, weak governance, and very low levels of socio-economic development. The causes and effects of displacement are interlinked. Conflict; environmental disasters, such as droughts and floods; food and livelihood insecurity, weak governance; and lack of development have all contributed to past and current displacement (IDMC, 2018). In 2017, drought was a leading push factor for internal displacement, and lack of food and water secondary push factors (REACH, 2018). At the end of February 2018 there were 2,648,000 internally displaced persons (IDPs) in Somalia (UNHCR, 2018a).

The US Department of State's *Trafficking in Persons Report 2018 ("TIP Report")*, classifies Somalia as a source, transit, and destination country for men, women, and children exploited in forced labour and sex trafficking. Statistics on Somalia's trafficking situation are very limited, but some trends are highlighted in the TIP Report. In Somaliland, female recruiters and intermediaries facilitate the transportation of victims to Puntland, Djibouti, and Ethiopia for domestic servitude and sex trafficking. The Al Shabab are known to engage in trafficking, through forced recruitment. Most trafficking networks are operated by a mixture of Somali, Djiboutian, Eritrean, and North African traffickers. Somali women are taken to the Middle East, sometimes via Djibouti, where they are exposed to domestic servitude and forced prostitution. Somali men are subjected to forced labour, as herders and labourers in the Gulf States. Somali children are taken to Saudi Arabia and Djibouti and engaged in forced begging. Ethiopians in northern Somalia may fall victim to exploitation or trafficking, as they search for employment to finance their journey to the Middle East. Ethiopian children may be forced to beg when they travel to Somaliland looking for work (US Department of State, 2018).

Somalia's National Development Plan 2017–2019 recognizes that the lack of sustainable economic opportunities for the youth is a major driver of out-migration, and states that two-thirds of Somali youth wish to migrate in search of livelihood opportunities abroad. Better security, economic opportunities, and living conditions are important pull factors causing Somalis to join the mixed migration flows from the Horn of Africa to the Gulf countries, Europe, and South Africa. Three main migration routes stand out: crossing by sea to Yemen and moving on to the Gulf countries; moving south through Kenya to South Africa; and west through the Sudan and Libya in hope of crossing the Mediterranean Sea and reaching Europe (RMMS, 2016). Migrants on these migration routes generally use the services of smugglers and are exposed to various human rights abuses, including extortion, sexual violence, torture, and trafficking (Spagna, 2017). Most Somalis who arrive in Europe seek asylum, with the most popular countries of asylum including Germany, Sweden, Austria, Belgium, Finland, and France. In 2015, 63 per cent of Somali asylum applications were successful in Europe (RMMS, 2016).

Very little information exists on the labour migration of Somalis, as well as labour migration to Somalia. Somalis are known for their entrepreneurial skills, and for setting up businesses and small shops in Ethiopia, Kenya, South Africa, and Uganda. In South Africa their economic success has fuelled tension with local communities, and they have been victims to xenophobic attacks. In Yemen they work as farmers, herders, and traders. They also work as casual

workers and domestic workers in the IGAD region, Yemen, the Gulf countries, and the Middle East. Moreover, pastoralists move across borders in the region to trade and find pasture and water for their livestock, according to the seasons (Avis and Herbert, 2016, p. 25).

Labour migration to Somalia is limited due to insecurity. According to the Ministry of Labour and Social Affairs (MOLSA) there are about 25,000 migrant workers in Mogadishu, of whom some are regular migrants with work permits. Many of these migrant workers originate from the IGAD region and the Middle East. The MOLSA reports that approximately 7,000 work permits were issued in 2018, mainly to nationals of Kenya, Uganda, India, the United Kingdom, Pakistan, and Bangladesh. Migrants in Somalia work in hotels and construction; as cleaners, teachers, and doctors; and for the United Nations (UN) and international non-governmental organizations (NGOs). Ethiopian migrants in Somalia tend to work as masons, builders, electricians, domestic workers, and on farms. Kenyan migrants work as teachers and lecturers at the university and for IOs. Indian migrants often work as medical practitioners. War in Syria has brought Syrian migrants to Somalia, some of whom are highly skilled and also work in the health sector. The African Union Mission in Somalia (AMISOM), a regional peace-keeping mission in Somalia, has brought an influx of migrant workers, such as soldiers and service providers that cater for AMISOM, including cooks, IT workers, and plumbers.

Somalia joined the Common Market for Eastern and Southern Africa (COMESA) in July 2018. COMESA has 21 Member States, and has taken steps to facilitate labour mobility and migration among its Member States as part of its regional integration objectives. COMESA's Protocol on the Gradual Relaxation and Eventual Elimination of Visa Requirements, 1984, is in force, but is not fully implemented. Its Protocol on Free Movement of Persons, Labour, Services, the Right of Establishment and Residence was adopted in 2001, but has only been ratified by Burundi and signed by Kenya, Rwanda, and Zimbabwe (COMESA, 2017, p. 4).

Somalia is a Member State of IGAD, which has been deeply engaged in peace efforts in Somalia and in promoting the rights of Somali refugees in the region. The IGAD Heads of State and Government Special Summit on Durable Solutions for Somali Refugees on 25 March 2017 adopted the Nairobi Declaration on Durable Solutions for Somalia Refugees and Reintegration of Returnees in Somalia ("the Nairobi Declaration"), and its accompanying Action Plan. The Action Plan, inter alia, promotes investment in skills development for refugees, as well as self-reliance, resilience, and access to employment. In December 2017, a regional IGAD conference on improving education for refugees, built on the pledges of the Action Plan, and adopted the Djibouti Declaration on Refugee Education ("the Djibouti Declaration"). Commitments made in the Djibouti Declaration include ensuring that refugees, returnees, and host communities have access to quality education, and that the qualifications of refugees and returnees across all levels of education will be validated. On 20–22 March 2018, IGAD Ministers reviewed progress of the Action Plan at the first regional stocktaking meeting on the Plan. Progress achieved thus far included the ongoing development of national plans to implement the Nairobi Action Plan (EUTF, 2018). In their communiqué on the meeting, IGAD Ministers vowed to finalize the development of their national action plans by the end of 2018, and agreed that the next regional thematic meeting will focus on refugee livelihoods (IGAD, 2018a, p. 56). In March 2019, IGAD ministers met in Kampala for the Ministerial Thematic Meeting on Livelihoods and Self-reliance for Refugees, Returnees and Host Communities. In the resulting Kampala Declaration on Jobs, Livelihoods and Self-



reliance for Refugees, Returnees and Host Communities in the IGAD Region, Member States inter alia agreed to review, develop, and amend national policies and legislation in order to enhance access to labour markets, including by simplifying procedures for work permits and access to self-employment and business opportunities.

Moreover, IGAD is developing a protocol to allow for the free movement of persons among its members. Beyond Somalia, IGAD's Member States include Djibouti, Ethiopia, Kenya, South Sudan, the Sudan, and Uganda – while Eritrea's membership is at present still suspended. Skills recognition and access to employment for refugees will be important topics to include in discussions on the development of the Protocol. Such measures are important to enhance the self-reliance and resilience of refugees in the region, as well as to harness the potential development impact of the free movement of persons on the region.

## 4. Overview of the roles and responsibilities of the key ministries and agencies

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*A number of ministries play a role in labour migration including Office of Prime Minister, Labour, Internal Security, Federal Affairs and Reconciliation, Humanitarian Affairs, Foreign Affairs and Planning.*

### **The Office of the Prime Minister**

The Office of the Prime Minister facilitates coordination between different government agencies and is also engaged in coordination with regards to durable solutions. The Special Envoy for Children's and Migrants' Rights falls within the Office of the Prime Minister and plays a coordinating role in migration management, especially with regards to assisting stranded and returned migrants.

### **The Ministry of Labour and Social Affairs (MOLSA)**

The MOLSA guides policy on labour administration and vocational training. It issues work permits and undertakes labour inspection.

### **Ministry of Interior, Federal Affairs and Reconciliation (MOI)**

The National Commission for Refugees and Internally Displaced Persons (NCRI) falls within the MOI. The NCRI is in charge of overseeing all matters related to Somali refugees outside of Somalia and IDPs in Somalia. It also works on issues pertaining to Somali returnees, and is tasked with overseeing durable solutions for returnees and IDPs in Somalia.

## **Ministry of Internal Security**

The Immigration and Naturalization Directorate (IND) forms part of the Ministry of Internal Security. The IND manages Somalia's borders and the movement of persons across its borders. The IND issues entry visas, and temporary and permanent residence permits. The IND is also responsible for issuing passports and other travel documents to Somalis. Regulations on the role and responsibilities of the IND have been developed and are being reviewed by the Council of Ministers.

## **The Ministry of Humanitarian Affairs and Disaster Management (MOHADM)**

The MOHADM develops and oversees the implementation of policies on humanitarian assistance. In this regard it is also engaged in the coordination of support to IDPs and returnees.

## **The Ministry of Foreign Affairs and International Cooperation (MOFA)**

The Consular Affairs Unit of MOFA is responsible for safeguarding the interests and safety of Somalis abroad. It states on its website that Somalis abroad can obtain assistance from the Somali Consular Department in the Somali Foreign Ministry or from Somalia's foreign representation. Assistance can include: advice and information; reissuing of lost or stolen Somali passports; measures in connection with serious illness or death of a Somali citizen abroad; and measures in connection with major accidents and disasters involving Somali citizens abroad (MOFA, 2015).

Moreover, MOFA has a Diaspora Department that leads the Government's engagement with the diaspora.

## **The Federal Ministry of Planning, Investment and Economic Development (MOPIED)**

MOPIED guides national development planning and undertakes relevant coordination between the line ministries.

## 5. National Coordination Mechanism on Migration

“

*National coordinating mechanism is not well established in Somalia.*

On 19 May 2016 the Prime Minister announced the creation of three task forces – the High-Level Task Force on Migration Management; the Technical Task Force on Human Trafficking and Smuggling; and the Technical Task Force on Return and Readmission – which would work to improve migration management. They should collectively constitute the Somali National Coordination Mechanism on Migration (NCM), and are supported by the Office of the Special Envoy for Children’s and Migrants’ Rights. The Task Forces received training on migration management from the International Organization for Migration (IOM) in 2016 (Altai Consulting and RMMS, 2017, pp. 25–26). However, since the new Somali Government came into power in 2017, interest in these task forces appears to have waned, and they are not functioning as an established NCM.

The High-Level Task Force on Migration Management was envisioned to operate at the political level, enjoy the participation of ministers, and report to the Prime Minister. It should be led by the Ministry of Internal Security, and co-chaired by the MOI and MOFA.<sup>2</sup> It was tasked with developing migration-related policies and legislation in line with international standards and laws, as well as promoting regular migration through collaboration with partner countries and stakeholders. The Task Force’s members include:

- ▶ the IND and the Criminal Investigation Department of the Ministry of Internal Security;
- ▶ the MOFA; the Ministry of Justice and its Office of the Attorney General and Corrections Corps;
- ▶ the MOI;
- ▶ the Ministry of Information;
- ▶ the MOPIED; and
- ▶ the Special Envoy for Children’s and Migrants’ Rights (Altai Consulting and RMMS, 2017, p. 25).

The Technical Task Force on Human Trafficking and Smuggling should be led by the Ministry of Internal Security and the Ministry of Justice. It was tasked with developing strategies to

<sup>2</sup> The names of a number of ministries were changed in 2017. The current names of the ministries are reflected in this report, which may be different to the names that some ministries had when the task forces were formed.

implement migration-related policies and legislation; programmes to aid border control and prevent irregular migration; and measures to enhance the investigation and prosecution of trafficking and smuggling. Its members include:

- ▶ the IND, the Criminal Investigation Department, and the Police, which fall under the Ministry of Internal Security;
- ▶ the Ministry of Justice and its Office of the Attorney General and Corrections Corps;
- ▶ the MOI;
- ▶ the Ministry of Information; and
- ▶ the Special Envoy for Children’s and Migrants’ Rights (Altai Consulting and RMMS, 2017, p. 25).

The Technical Task Force on Return and Readmission should be led by the Ministry of Internal Security and supported by the ministries of Interior, Justice, Foreign Affairs, and Health as well as the Office of the Special Envoy for Children’s and Migrants’ Rights. It is involved in coordinating the return and readmission of Somalis to Somalia. The Task Force’s members include:

- ▶ the IND;
- ▶ the Criminal Investigation Department;
- ▶ the Police;
- ▶ the Ministry of Justice;
- ▶ the MOFA;
- ▶ the MOI;
- ▶ the Ministry of Health; and
- ▶ the Special Envoy for Children’s and Migrants’ Rights (Altai Consulting and RMMS, 2017, p. 26).

Discussions with informants indicate that the terms of reference of the task forces are still being developed, and that they have been meeting infrequently. The Technical Task Force on Return and Readmission appears to be the most active, and has been involved in the repatriation of stranded Somali migrants from countries such as Libya. The IOM provided that Task Force with training on return, readmission, and reintegration in May 2018.

The UNHCR, the IOM, the Office of the Special Envoy for Children’s and Migrants’ Rights, and the NCRI are working on establishing a Mogadishu-level Mixed Migration Task Force, to complement the federal High-Level Task Force on Migration Management. It is expected to serve as a forum for the FGS, IOs, NGOs, and other partners to discuss and exchange information on mixed migration trends, as well as their related activities and programmes. It is not yet clear how the Mixed Migration Task Force will be linked to the NCM or coordinate with the NCM.

## 6. Analytical framework analysis

### 6.1 Pillar I. Strengthening labour migration governance

#### 6.1.1 Thematic Area 1. Capacity to collect, analyse, and share labour migration data

##### 6.1.1.1 Labour market information and data

###### *Overview*

The Department of Statistics in the MOPIED is responsible for statistical production and should produce labour market statistics in coordination with the MOLSA. However, the FGS lacks statistical production capacities. A National Employment Policy is currently being developed by the FGS, with the support of the ILO, under the FGS and UN Joint Programme on Youth Employment Somalia (YES). The Policy is expected to provide some momentum for enhancing the statistical production capacities of the FGS.

In general, labour market surveys are undertaken by the MOLSA in conjunction with the MOPIED. The Ministry of Education, Culture and Higher Education (MOECHE) highlighted that labour market surveys are undertaken at times for specific development projects, to determine which skills are needed in the labour market for a specific region in Somalia. Labour market surveys are not undertaken at regular intervals to collect data on the same variables. The MOECHE indicated that they would like to undertake an assessment to collect data on the skills that are available (or lacking) in the national labour market, and also to create a profile of the employed, including in which sectors they are working and the skills they possess. Under the YES programme the ILO is conducting a National Labour Force Survey with the FGS in 2019.

The BMZ (German Federal Ministry for Economic Cooperation and Development) and Save the Children Somalia completed a Labour Market Skills Survey of Mogadishu in January 2018. It collected data on skill gaps in the labour market, including the specific types of jobs that are available in different locations and the level of skills that are required.

The Education Sector Strategic Plan 2018–2020 states that a labour market survey will be undertaken to identify skills that are in high demand in the labour market. This will be one of the measures taken to fine tune technical and vocational education and training (TVET) programmes, to ensure that they equip trainees with marketable skills that translate into meaningful income-generating activities.

**Assessment**

The MOLSA is not collecting or analysing labour market data, and its statistical production capacities need to be developed. In order to enhance the collection and analysis of labour market data the capacities of the MOLSA and of the Department of Statistics in the MOPIED need to be bolstered. The ILO plans to use the upcoming National Labour Force Survey to provide hands-on training to these actors in this area.

**6.1.1.2 Labour migration data collection and analysis, and applying it to labour migration policy****Assessment**

The last census was undertaken in 2013. Data on international migration is not collected, apart from data collected through immigration procedures. The IND collects data on international migration and labour migration by overseeing movements into and out of the country and by granting Somali citizenship.

The MOLSA collects data on migrant workers in Somalia through the issuing of work permits, which it captures in an electronic database. It contains the following categories of information:

- ▶ name;
- ▶ gender;
- ▶ nationality;
- ▶ date of entry into Somalia;
- ▶ salary;
- ▶ end date of the migrant worker's contract;
- ▶ the employer's name; and
- ▶ duties and responsibilities of the migrant worker.

Labour migration data is only shared between ministries upon request. In general labour migration data is not analysed with a view to applying it to labour migration policy.

**6.1.1.3 Sharing of labour market information and labour migration data and analysis at the regional level****Assessment**

Somalia does not have a skills inventory or a comprehensive system to identify current and future skills gaps. According to the FGS, it had a skills inventory prior to the collapse of Mohamed Siad Barre's regime, and the MOLSA is in the process of restarting a mechanism to build a skills inventory. The FGS needs to develop the necessary capacities to collect data on available skills, analyse it, and identify existing and future skills gaps. Interviews with informants suggest that there is a general consensus among the FGS that skills in all areas are lacking. Regular data collection, sharing and analysis of labour flows, stocks, and needs between Somalia and the IGAD countries is not undertaken.

## 6.1.2 Thematic Area 2. Coordination on labour migration

### 6.1.2.1 Coordination of labour migration at national, regional and continental levels

#### *Overview*

Migrant workers do not belong to trade unions in Somalia and tripartite consultation does not take place in Somalia. The FGS has a working relationship with the Somali Congress of Trade Unions (SOCOTU), which has 11 affiliated union members. The ILO and the International Trade Unions Confederation recognize the Federation of Somali Trade Unions (FESTU) as their official interlocutor in Somalia, in terms of the designated workers' organizations they collaborate with. The FESTU represents 12 trade union organizations in different economic sectors, including trade unions representing the agricultural sector and electricians. The FESTU and SOCOTU are working in parallel, and there is no officially recognized employers' organization in Somalia. The ILO, through its office in Somalia, is encouraging the development of tripartite consultation. During the interview for this study, the FESTU requested training on international labour law. The MOLSA indicated that they would like trade unions in Somalia to receive leadership training and peer-to-peer training from successful trade union movements in other countries, such as South Africa.

Inter-ministerial coordination on labour migration does not appear to be taking place in Somalia. Labour migration is at times discussed in IGAD and COMESA meetings, such as the Regional Consultative Process meetings. But there are no systems in place to regularly share labour migration data or information between the IGAD Member States.

Moreover, exchanges on labour migration data, policy, and practice takes place at African Union (AU) meetings. The AU has increasingly focused on migration and serves as a useful forum for bringing together origin, transit, and destination countries. In the past two years the AU has held numerous migration consultations as it reviewed the AU Migration Policy Framework; developed the AU Protocol to the Treaty Establishing the African Economic Community Relating to Free Movement of Persons, Right of Residence and Establishment; and cultivated inputs for the Global Compact on Migration. With the implementation of the revised AU Migration Policy Framework for Africa and its associated Action Plan (2018–2030) having commenced in 2018, and its strong focus on labour migration and the free movement of persons, the AU will continue to serve as central forum for exchanges on labour migration laws, policies, and practice.

#### *Assessment*

Coordination on labour migration needs to be strengthened at national, regional, and continental levels. Inter-ministerial coordination on labour migration needs to take place, with a view to shaping labour migration objectives and taking steps to achieve such objectives. In addition, effective exchanges and collaboration on labour migration are needed at the regional and continental levels, which would help in meeting Somalia's objectives. Tripartite consultation needs to be established to effectively work towards the protection of labour rights in Somalia.



## 6.1.3 Thematic Area 3. Capacity to formulate and implement policy

### 6.1.3.1 Labour migration policy development and implementation

#### *Overview*

Somalia does not have a migration policy or a labour migration policy. Discussions with informants indicate that the FGS has expressed interest in developing a migration policy, which would bolster migration and development, curtail irregular migration, and enhance the protection of migrants. A roadmap for the development of a migration policy was produced by the Office of the Special Envoy for Children's and Migrants' Rights at the end of 2018. However, there appears to be a lack of broad-based support from relevant ministries for the development of a migration policy. A further challenge is the fact that no ministry is clearly in charge of coordinating migration issues and driving forward the development of the migration policy. Various ministries and government agencies play a role in coordinating issues related to migration, including the MOLSA, the IND, the Office of the Special Envoy for Children's and Migrants' Rights, the NCRI, and the MOHADM.

Somalia's National Development Plan 2017–2019 promotes regular labour migration from Somalia, as a means to address dangerous irregular migration from Somalia and outlines the Government's labour migration priorities, which include the following:

- ▶ establishing a body that identifies the skills sets of Somalis and that negotiates agreements with other countries that can benefit from the labour migration of Somalis;
- ▶ private agencies connecting aspiring migrants with employment opportunities abroad (FGS, 2016, p. 156).

#### *Assessment*

The new National Development Plan, which should commence in 2020, is currently being developed. It should incorporate rights-based labour migration objectives and the promotion of decent work. The FGS, with the support of partners, should develop a policy that captures labour migration policy objectives and related legal frameworks and activities. In this regard, it should decide on which policy instruments to employ. Options include a labour migration policy, a migration policy, and/or an employment policy. The resulting policy should be in sync with the objectives and activities of the next National Development Plan. Equally important is developing the capacities of the MOLSA and other relevant government agencies to implement the policy and related laws.

### 6.1.3.2 Policies that protect the rights of migrant workers, including bilateral labour agreements and gender-sensitive policies

#### *Overview*

Somalia does not have policies in place to protect the rights of migrant workers in Somalia or Somalis working abroad. Important parts of Somalia's legal framework date back to the period prior to 1991, and are out of date and no longer applied. The Somali Immigration Law is from 1966 and the Labour Code is from 1972, and are being updated. The revised draft

Immigration Law is at present being reviewed by the Council of Ministers, who is expected to submit it to the Parliament for promulgation.

Somalia had a bilateral labour agreement (BLA) with Saudi Arabia in 1983, but it is no longer implemented. The FGS is developing a BLA with Qatar, and the ILO is providing technical support to the FGS in this regard.

### ***Assessment***

Somalia lacks policies and the necessary institutional capacities to protect migrant workers in Somalia. The ongoing revision of the Labour Code, which is supported by the ILO, is expected to apply to migrant workers in Somalia, and contains clauses that offer some protection to migrant workers. The 2015 Foreign Employment Act, which regulates labour migration to Somalia, does not contain any mechanisms to offer protection to migrant workers in Somalia, and only details the procedures related to obtaining work permits for migrant workers.

Labour migration from Somalia is currently unregulated, and the exploitation of Somali labour migrants has been reported in labour migration flows to the Gulf countries and the Middle East. There is an urgent need for the FGS, with the support of partners, to develop a regulatory framework that governs labour migration from Somalia and aids the protection of Somali migrant workers. To implement such a framework, the necessary institutional capacities of the FGS will also need to be built, including capacities and mechanisms to monitor the implementation of BLAs.

### **6.1.3.3 Ratification and domestication of international labour migration Conventions**

#### ***Assessment***

Somalia has not signed the ILO Migration for Employment Convention (Revised), 1949 (No. 97) of the Migrant Workers (Supplementary Provisions) Convention, 1975 (No. 143). Nor has it signed the 1990 International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families. The FGS is considering acceding to these Conventions.

The FGS should, as far as possible, include the provisions of these Conventions in the various legal frameworks that it is currently updating or developing, as well as in the migration-related policies it will develop in future. The ILO and other partners should support the FGS in developing the necessary institutional capacities, policies, and legal frameworks to ratify, report on, and implement these Conventions.

## **6.1.4 Thematic Area 4. Regulating employment agency practices**

### **6.1.4.1 Employment contracts**

#### ***Overview***

The Labour Code, 1972, covers individual employment contracts in chapter 3. Employment contracts should specify the following information:

- ▶ the worker's name and the name of their father;
- ▶ the worker's address, occupation, age, and sex;
- ▶ the employer's name and address;
- ▶ the type of contract and its duration;
- ▶ working hours and workplace;
- ▶ the worker's remuneration; and
- ▶ procedures for suspension or termination of the contract.

A written employment contract needs to be approved by the competent district labour inspectorate in order for it to be valid. The competent official should ensure that the contract conforms to the Labour Code and is read to the contract parties, and if necessary, translated. (This latter requirement is not specified further in the law, but presumably the contract needs to be translated into a language that the contract parties understand.)

### ***Assessment***

The Labour Code, 1972, promotes the establishment of written employment contracts to serve as the basis for determining obligations and responsibilities. However, the Labour Code is very old and no longer actively being applied. It also does not require all employment entitlements to be specified, such as annual, sick, and maternity leave.

The Labour Code is being revised and the new Labour Code is expected to regulate employment contracts, and to apply to migrant workers. The FESTU reports that the lack of employment contracts is a common problem in Somalia, as well as the enforcement of employment contracts.

#### **6.1.4.2 Licensing and monitoring of private employment agencies**

### ***Assessment***

Somalia has not signed ILO Private Employment Agencies Convention, 1997 (No. 181). There is no official policy or law regulating private employment agencies (PEAs). According to the MOLSA, PEAs register with the Ministry by visiting their office, and providing them with information on their activities. This allows PEAs to facilitate the movement of migrant workers, including the labour migration of doctors and IT professionals to Somalia from countries such as Kenya, Syria, and Uganda. PEAs need to reapply for registration with the MOLSA every year.

#### **6.1.4.3 Recruitment and placement fees**

### ***Assessment***

There is no legal framework preventing fees or other charges for recruitment and placement to be borne directly or indirectly by migrant workers – which runs counter to Convention No. 181. A legal framework to regulate PEAs should be developed, and it should indicate that recruitment and placement may not be borne directly or indirectly by migrant workers. The legal framework would need to be accompanied by an appropriate monitoring mechanism.

## 6.2 Pillar II. Advancing opportunities for regulated labour migration and decent work

### 6.2.1 Thematic Area 1. Labour mobility schemes to support labour market needs

#### 6.2.1.1 Rules and regulations governing labour migration and mobility

##### *Overview*

According to the department's website, the IND issues visas on arrival to all foreign visitors at Somalia's official ports of entry. The visas on arrival that are issued include: Transit Visa; Business Visa; Tourism Visa; Work Permit; Education and Research Visa; Temporary Residence; and Permanent Residence (<http://immigration.gov.so/en/visa/>). However, even though the visa may be issued upon arrival, the visa application process must be put in motion prior to arrival.

First, the visa applicant's representative in Somalia, such as their business partner or company representative, needs to apply for a Visa on Arrival Approval Letter with the IND. It should include the:

- ▶ name, nationality, passport number, and email address of the visitor;
- ▶ the purpose of the visit;
- ▶ the address in Somalia;
- ▶ a letter guaranteeing the security of the visitor;
- ▶ a passport copy; and
- ▶ a return air travel ticket.

The website of the IND states that the request will be processed within two working days, and that a hard copy of the Visa on Arrival Approval Letter is given to the representative in Somalia, and a soft copy is emailed to the applicant.

In order to acquire a visa on arrival the following documents need to be provided:

- ▶ the Visa on Arrival Approval Letter (valid for 14 days from the date of issuance);
- ▶ a valid passport with minimum of six months' validity;
- ▶ a return flight ticket;
- ▶ two recent passport sized photographs; and
- ▶ a visa application form.

The costs of the visas are not specified on the website (IND, date unknown).

According to the MOLSA, the visas on arrival issued by the IND for work only allows a migrant worker to enter Somalia, and gives the employer one month to apply for a work permit for the migrant worker after they enter the country. In order to obtain the work entry permit from the IND (prior to the migrant worker entering the country) the employer submits a request to the MOLSA for the migrant worker to enter and work in Somalia. The employer

needs to provide the MOLSA with the qualifications of the migrant worker; the job description of the prospective migrant worker; and a document attesting to the good character of the prospective migrant worker (character statement). The MOLSA then checks that the position the migrant worker is to perform cannot be filled by a Somali citizen. If a Somali citizen is available to perform the position, and they have equal qualifications to the prospective migrant worker, the Somali citizen needs to be given the position. This rule is captured in Article 3(c) of the Foreign Employment Act, 2015, which states that the MOLSA cannot grant a work permit for a position that can be filled by a Somali citizen. Moreover, the MOLSA stated during the interview for this study that certain occupations are reserved for Somali citizens, such as that of “driver”. The list of these positions is not captured in any known legal document. The MOLSA admits that this requirement is not always strictly enforced, and that they plan to increase enforcement of it. Once the above requirements have been met, the MOLSA writes a letter to IND to authorize the migrant worker to enter Somalia.

The work entry permit granted by the IND provides the migrant worker with a one month stay in Somalia, within which a work permit needs to be obtained. To acquire a work permit the employer needs to provide a letter of support to register the migrant worker with the MOLSA, as well as the migrant worker’s contract; a photo; and a character statement. A six-month work permit costs US\$360 and a one-year permit costs US\$540. Article 10 of the Foreign Employment Act, 2015, states that work permits can be renewed for one year at a time, and that such requests need to be made to the Registrar. Article 16 states that a work permit holder who wishes to change their employment needs to obtain permission from the MOLSA.

A work permit enables a migrant worker to obtain a residence permit from the IND. A six-month residence permit costs US\$400 and a one-year residence permit costs US\$800.

### ***Assessment***

Immigration procedures should be simplified and information on immigration procedures should be made easily accessible. For this study, comprehensive information on immigration procedures could only be obtained through interviews with government agencies, as they are not captured fully in any written document or on any website.

Tripartite consultation is not taking place in Somalia, and can therefore not be utilized to simplify immigration procedures. Moreover, migrant workers and foreign employers are not members of workers’ and employers’ organizations in Somalia.

Consultations with the private sector and migrant workers in Somalia could take place to gather information on the obstacles they face in accessing investment opportunities and the labour market in Somalia, with a view to simplifying procedures.

The admission, employment, and residence requirements for migrant workers in Somalia – including for work permits – should be captured on the IND website. A link to the IND website should be placed on the websites of Somali embassies, or the same information should be placed on the websites of the Somali embassies in different countries. The websites of Somali embassies are likely to be one of the first places that prospective investors and migrant workers will look for information.

Relevant government agencies, such as the MOFA, MOLSA, and IND, should be informed of immigration procedures in order to provide employers and potential migrant workers with correct and up-to-date information. Work permit and residence permit fees are costly, and the FGS should consider reducing them to aid labour migration and mobility.

The national laws and administrative procedures do not have the principal aim to deny citizens of other IGAD Member States employment that has been offered to them, but a work permit will only be granted if a national cannot fill the position that the permit is being requested for. In this sense the requirements for work permits respond to labour market needs. Further clarity is needed regarding certain occupations that are open to Somali citizens only.

### 6.2.1.2 Circular and return migration

#### *Overview*

The FGS is making efforts to allow for dual citizenship, which is considered favourable for circular migration. The Provisional Constitution of 2012 states in article 8(3) that a Somali cannot be deprived of their Somali citizenship if they become a citizen of another country. However, the current Citizenship Law of 1962 does not allow for dual citizenship, and taking on the citizenship of another country can result in losing Somali citizenship. Citizenship can also only be passed on through a Somali father, and not a Somali mother. The MOI has developed the draft Citizenship (Amendment) Bill, 2016, which once passed by Parliament, will provide for dual citizenship, and allow Somali mothers to pass on citizenship.

The Somali diaspora have been returning to Somalia to contribute their knowledge and skills through the IOM Migration for Development in Africa (MIDA) programme since 2009. The programme – which has received funding from the governments of Finland, Italy, Japan, and Sweden – provides capacity and technical skills support to the federal and regional governments of Somalia through the deployment of diaspora experts. Two hundred diaspora professionals have been deployed to date (IOM, 2018a). Support through the MIDA programme is aligned to Somalia's National Development Plan and currently focuses on four key sectors: health, public finance management, education, and justice. Through MIDA, various government agencies, including the ministries of Health, Finance, Planning, Interior, Justice, and Foreign Affairs, have received technical support (MIDA, 2016). According to IOM, Somali MIDA participants have tended to stay much longer in Somalia than MIDA programme participants from the diasporas of other countries tend to stay in their countries of origin. The Somali participants generally sign one-year employment contracts, which in some cases have been extended for a second or third year. Some diaspora professionals have decided to remain in Somalia, establish their lives and to contribute to the development of Somalia over the longer term. MIDA also recruits local interns and local experts to work alongside the diaspora experts, with a view to ensuring sustainability of skills and knowledge transfer. Some local experts have also stayed on to continue working with the government agencies they were initially deployed with through MIDA. Moreover, according to IOM, interns employed through MIDA have around a 90 per cent success rates in obtaining employment after their participation in the programme. Youth unemployment is a great challenge in Somalia, and the MIDA programme tries to contribute to the curtailing of that issue.

### **Assessment**

The diaspora have been returning to Somalia to contribute to the development of their country, including through the MIDA programme. The further stabilization of Somalia, including through enhancing security, would further aid circular and return migration. Moreover, passing the draft Citizenship (Amendment) Bill, 2016, and thereby clarifying uncertainties regarding obtaining citizenship and dual citizenship, would be favourable to circular migration.

#### **6.2.1.3 Labour exchanges and critical skills**

##### **Assessment**

Somalia's security situation limits its possibilities to engage in labour exchanges. The MOECHE liaises with governments such as those of China, Egypt, Ethiopia, the Russian Federation, and Yemen to offer scholarships to Somalis to pursue tertiary or postgraduate studies abroad. Labour exchanges in the form of teacher exchanges take place between the University of Djibouti, the University of Nairobi, and the University of Somalia. Somalia does not have a database on available or critical skills, nor does it have measures in place to attract specific skills.

The March 2018 *First Annual Progress Report* on the implementation of the Nairobi Declaration and its associated Plan of Action states that the UNHCR plans to expand refugee labour mobility from the IGAD Member States through its partnership with Talent Beyond Boundaries (TBB). TBB is an organization that connects skilled refugees to employers globally. Refugees can register free of charge on its online platform – the Talent Catalogue – at <https://tbbtalent.org>. The Talent Catalogue collects information on registrants' employment experience, education, skills, and language capabilities in order to connect them with employers (TBB, 2018). TBB may serve as an opportunity to enhance the labour mobility of skilled Somali refugees.

#### **6.2.1.4 Establishment and investment**

##### **Assessment**

Due to the security challenges in Somalia, establishment and investment remains limited. No Somali laws that discriminate against IGAD nationals with regards to establishment and investment could be obtained for this assessment.

## 6.2.2 Thematic Area 2. Supporting functions for participation in the labour market, including access to information, education, training, skills recognition, and finance

### 6.2.2.1 Disseminating information to migrant workers

#### *Assessment*

IOs, NGOs, and the FGS disseminate information to IDPs, refugees, returnees, and vulnerable migrants, but not specifically to migrant workers in Somalia. Potential migrants in Somalia may receive information on the dangers of irregular migration from IOs and NGOs.

### 6.2.2.2 Education, training, skills recognition, and the harmonization of qualifications

#### *Assessment*

According to the MOECHE, migrants are allowed to access the education system and training opportunities in Somalia at their own cost. At present there are no government-owned TVET centres in Somalia (BMZ and Save the Children Somalia, 2018). While various training institutes exist, there is no agency that ensures that training is streamlined and that specific standards are met. The FGS plans to form a Vocational Qualifications Authority to set standards and regulate vocational institutions.

Recommendations of the BMZ and Save the Children Somalia 2018 Labour Market Survey include the development of a National Vocational Qualifications Framework for Somalia, and the certification of TVET skills by the MOECHE through a standardized certification process. In interviews, the MOECHE stated that the skills and qualifications of migrants are automatically recognized in Somalia.

There are currently no efforts to harmonize Somalia's education and training systems with those of other IGAD Member States. The FGS would like to pursue such efforts in future, with the necessary support, as its own capacities are limited.

### 6.2.2.3 Facilitating remittances

#### *Overview*

The Somali diaspora are estimated to remit approximately US\$1.3 billion to Somalia every year (Ridgwell, 2017). Remittances constitute 50 per cent of Somalia's gross national income annually (Isaacs, 2017, p. 38). Remittances serve as an essential safety net for many Somalis, and are an important factor in determining the resilience of communities to natural and man-made shocks, such as drought and famine. Remittances enhance access to food, and also fund health and education needs, in addition to business and property investments. There are big differences in the amounts of remittances that households or individuals receive, as well as the frequency of these flows. When remittances are received regularly, they enhance access to credit. Individuals are able to obtain loans or goods on credit, as



lenders and business persons are confident such clients will be able to make repayments on a regular basis (Majid, Abdirahman, and Hassan, 2018).

A 2017 study by Leon Isaacs on remittances in countries of the African, Caribbean, and Pacific Group of States points out that irregular migration from Somalia is one of the reasons for remittances to be sent to Somalia through informal means. Somali migrants in an irregular status do not have the means to access formal channels for remitting in countries of destination. Formal identification is required in many countries to meet “know your customer” requirements that are necessary for cross border transfers through official channels. The lack of a formal banking sector in Somalia is a further reason. Mobile money transfers and online remitting services are popular means of remitting to Somalia.

Fears regarding money laundering and potential links to terrorism have led to the closing of Somali remittances companies’ bank accounts in Australia, Canada, the United Kingdom, and the United States (World Bank, 2016). In September 2017 the Bill and Melinda Gates Foundation expressed their confidence in remittance transfers to Somalia by donating US\$1 million to 1,000 families affected by drought in Somalia, using the services of the remittance company Dahabshiil and mobile phone companies Somtel and eDahab (Ridgwell, 2017).

The World Bank has been supporting the Central Bank of Somalia (CBS) to build its capacities in regulating and supervising money transfer businesses, including through strengthening the capacities of its Licensing and Supervision Department. The World Bank supported the CBS in developing new regulations and guidelines for the money transfer sector, which falls under the regulatory regime established by Somalia’s Anti-Money Laundering and Countering the Financing of Terrorism Act, 2016 (World Bank 2016). The 2017 study by Isaacs recommends supporting the CBS in the development of a mobile money licensing and regulatory framework, which should enhance consumer protection and market competition, and possibly reduce the cost of money transfers. According to Isaacs (2017), the CBS has developed draft Mobile Money Services Provider Licensing Regulations (2015), but needs support to fine tune it further.

In Somalia’s National Development Plan 2017–2019 the FGS commits to working with financial service providers to cap the transaction costs of remittances; to provide tax advantages for diaspora investment in the country; and to undertake financial reforms to limit the obstacles to diaspora investment.

### ***Assessment***

Remittances are a vital source of income to many Somali households, and key to enhancing the resilience of communities in Somalia. The FGS, with the support of partners, should continue to facilitate remittances to Somalia, including by reducing the transaction costs of remittances.

## 6.2.3 Thematic Area 3. Promoting social integration and inclusion

### 6.2.3.1 Public education and awareness-raising campaigns on the contribution of migrants

#### *Assessment*

There are no education or public awareness-raising campaigns regarding the contribution that migrant workers are making to Somalia.

### 6.2.3.2 Family reunification, and access to employment for family members and education for children

#### *Assessment*

Due to the security situation, migrant workers do not normally wish for their families to join them in Somalia. And anyone who wishes to work in Somalia needs to obtain their own work permit. Migrants' children can access the national education system. However, this appears to be limited due to lack of capacities to cater for the Somali population's education needs.

## 6.3 Pillar III. Enhancing the protection of migrant workers and their families

### 6.3.1 Thematic Area 1. Protection of migrant workers' rights

#### 6.3.1.1 Protecting the rights of migrants

##### *Overview*

Human rights are enshrined in Somalia's Provisional Constitution of 2012, which in principle applies to all persons in Somalia. The Constitution establishes a Human Rights Commission in Article 41, which should monitor human rights, investigate allegations of human rights violations, and ensure that human rights obligations are met. However, the enforcement of human rights in Somalia is severely challenged by lack of security and weak governance.

The Office of the Special Envoy for Children's and Migrants' Rights is mandated to advocate for the rights of Somali migrants at regional and international levels, and advises the FGS on migration issues (Altai Consulting and RMMS, 2017, p. 23).

As noted above, Somalia's existing Labour Code is from 1972, and is currently being revised with the support of the ILO. It is expected that the new Labour Code will address workers' rights, including those of migrants. A 2017 report by the FESTU finds that ensuring human rights and workers' rights in Somalia is a major challenge. The reports list a number of common labour rights abuses. Written employment contracts are often not provided, and workers are recruited orally and fired orally. This has led to unfair dismissals, and workers

being denied their rights, such as sick leave and maternity leave. Other labour rights abuses include forced overtime work, not paying salaries, and discrimination in the workplace, especially against women, such as certain jobs being reserved for men only (FESTU, 2017, pp. 10–14).

### **Assessment**

The FGS does not at present have the capacity to protect and enforce the human or labour rights of migrants. In order to develop this capacity, the FGS will require incremental institution building over time. Moreover, the further stabilization and socio-economic development of Somalia will be key to this process. At present the FGS is primarily concerned with security objectives and working towards meeting the basic needs of Somali citizens. Protecting the rights of migrants is therefore not one of the FGS' top priorities, and migrants' rights are threatened by insecurity and weak governance and rule of law in Somalia.

#### **6.3.1.2 Protecting migrants from forced labour and exploitation**

##### **Overview**

The Labour Code, 1972, forbids forced or compulsory labour in article 6, with the exception of service required by the law, such as for the national defence forces; in the event of a national disaster; or service required by a prison sentence. Somalia's Provisional Constitution of 2012 prohibits slavery, servitude, trafficking, and forced labour for any purpose (article 14). The Penal Code of 1963 criminalizes labour trafficking in Article 464, and prescribes penalties of six months to five years imprisonment. Slavery is criminalized in Article 455, which prescribes penalties of between five to 20 years imprisonment (US Department of State, 2018). The Penal Code is being reviewed to effectively address current challenges, such as human trafficking, terrorism, piracy, and money laundering. The US Department of State *TIP Report 2018* states that Somali authorities did not make any discernible efforts to reduce the demand for forced labour.

Somalia has not signed the UN Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children, 2000, and has not developed an anti-trafficking law. So far, no trafficking crimes have been prosecuted under Somalia's existing laws.

In August 2018 the UN Office on Drugs and Crime (UNODC) Regional Office for Eastern Africa completed a series of three five-day training workshops for Somali Police Force officers on "Investigation Tactics for Trafficking in Persons and Smuggling of Migrants Cases" (UNODC, 2018).

There is no national referral mechanism to assist trafficked persons. Some do, however, receive support from IOs and the FGS, such as food, clothing, shelter, legal support, medical aid, counselling, and reintegration services (US Department of State, 2018).

## **Assessment**

Somalia should sign the UN Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children, 2000; develop an anti-trafficking law; and strengthen the investigation and prosecution of trafficking cases. In addition, governance in Somalia needs to be strengthened and law enforcement capacities bolstered to protect migrants from forced labour and exploitation.

## **6.3.2 Thematic Area 2. Social security and social protection**

### **6.3.2.1 National labour laws and social protection laws applying to migrant workers**

#### **Assessment**

Many national laws that touch on labour migration – such as the Labour Code, 1972, and Immigration Law, 1966 – are decades old and in the process of being updated. The new laws that are being developed should apply to migrant workers and be aligned to international standards on the protection of migrant workers.

### **6.3.2.2 Social Security coverage and portability**

#### **Assessment**

Social security provisions are not yet in place in Somalia, and therefore migrant workers do not benefit from social security or the portability of social security benefits. The ILO is supporting Somalia with the development of a social protection policy.

## **6.3.3 Thematic Area 3. Labour inspection for migrant workplaces**

### **6.3.3.1 Labour inspection for migrant workplaces**

#### **Assessment**

The Labour Code, 1972, provides for labour inspection. However, law enforcement is weak, and the MOLSA's weak inspection system further hampers the enforcement of labour law (FESTU, 2017, p. 21). The US Department of State's *TIP Report 2018* states that government funding was not provided to any agencies for labour inspection, and that no inspectors were employed to enforce labour laws. According to the MOLSA, there are labour inspectors, who do inspect the workplaces of migrants; check that they have contracts and work permits; and assess the state of their working conditions. Such inspections normally take place every six months. Prior to an inspection taking place, a company will be informed in writing that the inspection will take place.

### 6.3.4 Thematic Area 4. Facilitating reception and return

#### Overview

##### *Return and reintegration*

Relatively more stable and secure conditions in Somalia, as well as the *November 2013* Tripartite Agreement Governing the Voluntary Repatriation of Somali Refugees Living in Kenya between Kenya, Somalia, and the UNHCR ushered in a period of refugee returns to Somalia. Between 2014 to 2018, 87,051 refugee returns took place to Somalia. Included in this figure is the voluntary repatriation of 82,840 refugees from Kenya; 3,053 assisted spontaneous returns from Yemen; and 1,158 returns from other countries, namely 696 from Djibouti; 353 from Libya; 64 from the Sudan; 34 from Eritrea, as well as returns from Pakistan, the Gambia, Angola, Cambodia, and other countries. Spontaneous returns that were not assisted by the UNHCR are not included in this figure (UNHCR, 2018d).

According to the UNHCR, as of December 2018 the returnee assistance package consists of:

- ▶ a Reinstallation Cash Grant of US\$200 per person;
- ▶ a subsistence allowance of US\$200 per family, which is given one month after arrival in the area of return and then every month for a period of six months;
- ▶ six months of food rations by the World Food Programme; and
- ▶ a US\$1000 shelter package in the case of proof of ownership of land, permission to construct on land, or rental agreements at reasonable rates.

Non-food items are also provided; and so is assistance for education.

While assisted returns have generally received some support upon their return to Somalia, rebuilding their lives in Somalia remains difficult. Insecurity; weak governance and rule of law, especially with regards to land and property rights; and lack of employment and basic services are some of the challenges they face. In certain cases, the assistance that returnees receive may cause tension with host and IDP communities, which compounds the challenge of the reintegration of returnees. And some refugee returnees have become internally displaced, inflating Somalia's significant problem of internal displacement. At the end of February 2018 there were 2,648,000 IDPs in Somalia. Internal displacement in Somalia increased by 125 per cent between 2015 and mid-2018 (UNHCR, 2018a). Reasons for the displacement of refugee returnees include their property being occupied, or their area of origin being too insecure for them to return to. Other factors that have caused internal displacement in Somalia are drought, food insecurity, and water shortages (REACH, 2018).

The FGS' efforts to address the challenge of internal displacement and the reintegration of returnees, include the 2018 development of a draft national policy on refugee returnees and IDPs by the NCRI. The NCRI also developed the National Action Plan on Durable Solutions for Somalia Returnees and IDPs 2018–2020. The objectives of the Action Plan include strengthening the capacity of civilian structures in the areas of return, and peaceful returns and equal access to security for all Somalis living in areas of return. An inter-ministerial coordination mechanism on durable solutions for IDPs and returnees has been set up, in which the MOPIED, the NCRI, and the Office of the Prime Minister participate.

The multi-stakeholder project “RE-INTEG: Enhancing Somalia’s responsiveness to the management and reintegration of mixed migration flows” aims to support the integration of refugee returnees to Somalia and offer durable solutions to IDPs. The project runs from 2017 to 2020 and is funded by the EUTF to the amount of €50 million. Partners involved in the project include the Banadir Regional Administration, the Somali Innovation and Development Organization, the Somali Women’s Development Centre, the UN Development Programme, UN-Habitat, UNHCR, IOM, and the International and Development Law Organization (IDLO).

Through the RE-INTEG project the IDLO has supported the FGS with the development of the Draft Interim Housing, Land and Property Protocol for Returnees and IDPs, as well as Draft Eviction Guidelines. Access to housing and land are major challenges faced by returnees and IDPs. Discussions with informants indicated that evictions, which are often violent, are prevalent. In 2018 approximately 300,000 evictions took place – 85 per cent of which occurred in Mogadishu. During these evictions, IDPs that are occupying land are removed. In some cases, IDPs that are paying rent are forced to leave, as landlords prefer to rent their property to returnees that can pay higher rates. The Draft Evictions Guidelines are aimed at creating specific eviction procedures that do not infringe upon the human rights of the persons who are being evicted.

Another group of returnees are Somali migrants who became stranded abroad. Over the reporting period of the US Department of State *TIP Report 2018*, the FGS, with support from the EU, facilitated the repatriation of 24 Somali migrants from Libya. It also provided medical attention to repatriated citizens, while other federal authorities provided psychosocial support (US Department of State, 2018). The Technical Task Force on Return and Readmission has been supporting the return of stranded migrants to Somalia. A return and readmission policy framework, which will focus on stranded migrants, is foreseen and expected to be developed by the Special Envoy for Children’s and Migrants’ Rights. In March 2018 the EU–IOM Joint Initiative for Migrant Protection and Reintegration in Horn of Africa (also known as the “Reintegration Facility”) was launched in Somalia. The Reintegration Facility will help approximately 1,000 stranded Somalia migrants reintegrate into Somalia upon their return home (IOM, 2018b). Through this project, assisted voluntary returns are taking place to Somalia from Libya, South Sudan, and the Sudan. Upon their return to Somalia, returnees receive reintegration support, such as psychosocial support and economic assistance. The Reintegration Facility has also provided training to the Technical Task Force on Return and Readmission, and is developing Standard Operating Procedures on the return and readmission of stranded migrants, which will need to be aligned to the return and readmission policy framework.

#### *Pre-departure training*

Pre-departure training for Somali migrant workers is not taking place. Pre-departure training – especially for migrant workers migrating to the Gulf countries and the Middle East, where exploitation has been reported – should be provided and form part of the requirements for PEAs to send migrant workers abroad. Such training could be delivered by different actors, such as CSOs, trade unions, or private companies. A pre-departure training curriculum should be developed that includes training on migrants’ rights; health and safety issues; basic financial literacy; conditions in the country of destination; and information on how migrants can seek help in case of distress.

The UNHCR, or its partners, provides information and counselling to Somali refugees in countries of asylum who are considering return. In Kenya, for example, the Norwegian Refugee Council runs return help desks in the Dadaab and Kakuma refugee camps, where prospective returnees can receive information and have their questions answered. UNHCR Somalia is in regular contact with colleagues in countries of asylum to gather, compile, and share relevant information to inform returns. This includes general information about the security and political situation in the areas of return; the services available in these areas; and the direct return support provided by the UNHCR.

### *On-arrival training*

On-arrival training for incoming migrant workers is not provided by the FGS. Employers in Somalia may provide training and information to the migrant workers they employ. Given the various challenges in Somalia, it may be difficult to prioritize such training at present. Therefore, it is suggested that on-arrival information be provided to incoming migrant workers, including on their rights; the cultural values in Somalia; their access to services, such as education, health, and finance; and the dispute settlement mechanisms available to them. This information could be provided by the IND to migrants arriving at the airport, as well as by the MOLSA when a work permit is applied for.

### **Assessment**

Various policy frameworks are emerging to facilitate the return and reintegration of refugees and migrants, such as the National Action Plan on Durable Solutions for Somali Returnees and IDPs 2018–2020 and the planned return and readmission policy framework. It is important that these policy frameworks are aligned to one another and to the new national development plan, which is currently being developed. Moreover, the implementation of these policy frameworks should be sufficiently resourced and well-coordinated among the various actors involved, including the Federal Government and federal states, IOs, and NGOs.

Successful return and reintegration will also depend on whether Somalia continues to further stabilize and whether socio-economic development and job creation take place. Returnees and local communities are in need of employment and basic services, and their relations will be influenced by their access to housing, education, health services, and income-generating opportunities. Lack of these services and opportunities may lead to conflict, further displacement, and international migration.

The FGS needs to develop a regulatory framework for PEAs, and ensure that migrant workers receive pre-departure training. In addition, on-arrival information should be provided to incoming migrant workers.

## 7. Recommendations

### Pillar I. Strengthening labour migration governance

#### Thematic Area 1. Capacity to collect, analyse, and share labour migration data

- ▶ The FGS and partners, such as the ILO, should collaborate to build the statistical production capacities of the FGS. The MOLSA, MOPIED, and other relevant government ministries and agencies should be trained on labour migration data collection and analysis, as well as applying it to labour migration policy development and implementation.
- ▶ The ILO should use the upcoming National Labour Force Survey as an opportunity to develop the capacities and experience of the MOLSA and the MOPIED to conduct such a survey, and include a specific module on labour migration developed by the ILO.
- ▶ The FGS should undertake regular labour market assessments to capture available skills and skills gaps. This should serve as a basis for determining which sectors Somalia should open up for labour market access under the upcoming IGAD Free Movement of Persons Protocol, and for developing measures to attract critical skills. Information on surplus skills that are identified should also serve as a basis for developing labour migration schemes from Somalia.

#### Thematic Area 2. Coordination on labour migration

- ▶ The FGS should establish tripartite consultation and the ILO should provide the tripartite institutions with training on international labour standards and their application, as well as labour migration, including fundamental principles and rights at work and the protection of migrant workers.
- ▶ The FGS should establish inter-ministerial coordination on migration and labour migration, with a view to shaping labour migration objectives; determining the steps to achieve such objectives; and promoting effective exchanges and collaboration at regional and continental levels on labour migration, so as to help in meeting these objectives.
- ▶ The NCM should meet regularly, discuss labour migration, and support the FGS in developing clear labour migration policy objectives. The MOLSA should participate in the NCM meetings. The NCM should map out how labour migration is linked to – or could positively impact on – Somalia's key migration and/or development issues, such as youth unemployment, irregular migration from Somalia, and enhancing diaspora engagement and remittances.
- ▶ The relevant regional economic communities and the AU should institute the sharing of labour market information as well as profiles of good practices on labour migration in existing forums, such as the IGAD Regional Consultative Process, the COMESA Regional Consultative Process, AU meetings, and meetings of the Joint Labour Migration Program for Africa.



### Thematic Area 3. Capacity to formulate and implement policy

- ▶ The ILO and the IOM should develop the capacities of the MOLSA and other relevant government agencies to develop and implement a future migration or labour migration policy and related laws.
- ▶ They should provide the Office of the Prime Minister, MOLSA, MOI, MOFA, and other relevant government agencies, including those in the federal states, with comprehensive training on labour migration and the protection of migrants' rights. The training should include:
  - the formulation and implementation of BLAs;
  - the regulation of PEAs;
  - migrants' rights;
  - protection mechanisms for migrant workers;
  - the social integration of migrants;
  - enhancing the development impact of remittances; and
  - diaspora engagement.

The training should also cover relevant international standards, including:

- ILO Migration for Employment (Revised) Convention, 1949 (No. 97);
  - ILO Migrant Workers (Supplementary Provisions) Convention, 1975 (No. 143);
  - ILO Private Employment Agencies Convention, 1997 (No. 181);
  - ILO Domestic Workers Convention, 2011 (No. 189); and
  - the 1990 International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families.
- ▶ The FGS should, where applicable, include the standards and provisions of the ILO Conventions No. 97, No. 143, and No. 181 as well as the 1990 International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families in the various legal frameworks that it is currently updating or developing, such as the Labour Code and the Immigration Law. The ILO and other partners should support the FGS in developing the necessary institutional capacities, policies, and legal frameworks to accede to, report on, and implement these Conventions.
  - ▶ The FGS, with the support of partners, should develop a legal framework and the necessary capacities and monitoring mechanisms to regulate labour migration from Somalia, and promote the protection of migrant workers.
  - ▶ The FGS, with the support of the ILO, IOM, and other partners, should decide on an appropriate policy tool to capture labour migration policy objectives, which could be a labour migration policy, a migration policy, or a national employment policy. The future policy should be in sync with the objectives and activities of the new National Development Plan. Moreover, it should take into account employment, education, and other national policies, in recognition of the wide social and economic implications of labour migration and the need to have synchronized, mutually reinforcing policies. It should therefore be developed through a whole-of-government approach that engages the NCM members, as well as academia, civil society, and social partners.
  - ▶ As part of the policy development process, research should be undertaken on labour migration to Somalia, including: the profile of labour migrants; the obstacles they face to

work and invest in Somalia; and the contributions they make to Somalia, such as providing critical skills, creating employment, and boosting business. Research should also be undertaken on Somali labour migration, including: where they migrate to; what work they do; which protection challenges they face; how their labour mobility opportunities can be enhanced; and the contribution they make to Somalia's development. This research should serve as an evidence base for developing the policy. The policy should comprehensively address the protection concerns of incoming migrant workers and outgoing Somali migrant workers, as well as the steps to put in place the necessary protection mechanisms.

- ▶ The FGS should include labour migration objectives and the promotion of decent work in the new National Development Plan, which is currently being developed.
- ▶ To allow for the effective implementation of a future labour migration policy, the FGS should clearly define the roles and responsibilities of the various government agencies with regard to labour migration, including the federal states, as well as the coordination mechanisms between them.

#### **Thematic Area 4. Regulating employment agency practices**

- ▶ The FGS should require written employment contracts in the new Labour Code that is being developed, and build its capacities to enforce employment contracts.
- ▶ The FGS should develop a standardized licensing and monitoring system for PEAs that contains the standards and provisions of ILO Convention No. 181, including: ensuring that PEAs respect migrant workers' rights; that PEAs provide migrant workers with written and understandable employment contracts; and that fees or other charges for recruitment and placement are not borne directly or indirectly by migrant workers.
- ▶ The FGS, with the support of the ILO, should develop a standard pre-departure training curriculum with modules for specific countries of destination or specific sectors, and which will serve to inform Somali migrant workers of their rights and obligations, as well as health and safety issues; basic financial literacy; conditions in the country of destination; and information on how migrants can seek help in case of distress.
- ▶ The FGS should ensure that migrant workers receive pre-departure training.
- ▶ The FGS should develop complaint mechanisms through which migrants can raise complaints they may have with PEAs or their employers.

### **Pillar II. Advancing opportunities for regulated labour migration and decent work**

#### **Thematic Area 1. Labour mobility schemes to support labour market needs**

- ▶ The FGS should simplify immigration procedures through consultations with the private sector and migrant workers in Somalia. Such consultations could serve to identify obstacles to investment and labour migration, and ways in which such obstacles could be addressed.
- ▶ The FGS should consider reducing work permit and residence permit fees to aid labour migration and mobility.
- ▶ The FGS should make information on the admission, employment, and residence requirements for migrant workers – and the related costs and procedures – easily accessible. It could

be captured on the IND website. The Somali embassies in important countries of origin for migrant workers should have websites, and these websites should also contain this information.

- ▶ The FGS should ensure that relevant government agencies, such as the MOFA, MOLSA, and IND, are informed of immigration procedures in order to provide employers and potential migrant workers with correct and up-to-date information.
- ▶ The FGS should pass the draft Citizenship (Amendment) Bill, 2016, and thereby clarify uncertainties regarding obtaining citizenship and dual citizenship.
- ▶ The FGS should implement its intentions expressed in the National Development Plan 2017–2019 to provide tax advantages for diaspora investment in the country, and to undertake financial reforms to limit the obstacles to diaspora investment.
- ▶ The FGS should include measures to enhance diaspora engagement, investment, and skills exchanges in a future labour migration policy.

## **Thematic Area 2. Supporting functions for participation in the labour market, including access to information, education, training, skills recognition, and finance**

- ▶ The FGS, IOs, and NGOs should proactively disseminate information to migrant workers in Somalia on their rights and on the opportunities available to them to facilitate their integration into the labour market and society.
- ▶ The FGS should establish a Vocational Qualifications Authority to set skill qualification standards and regulates vocational institutions.
- ▶ The FGS should ensure that a standardized certification process for TVET skills is developed and that migrant workers have access to it.
- ▶ The FGS should finalize its Mobile Money Services Provider Licensing Regulations, with a view to enhance consumer protection, market competition, and reduce the cost of money transfers.
- ▶ The FGS should implement its intentions expressed in the National Development Plan 2017–2019 to work with financial service providers to cap the transaction costs of remittances.

## **Thematic Area 3. Promoting social integration and inclusion**

- ▶ The FGS should consider regularizing irregular migrants in Somalia with a view to enhance social integration and inclusion, as well as to enhance the contribution of migrants to the tax base. In Somalia the tax base remains very low, which makes it difficult for the Government to provide services (World Bank, 2017).

## **Pillar III. Enhancing the protection of migrant workers and their families**

### **Thematic Area 1. Protection of migrant workers' rights**

- ▶ The FGS should ensure that the numerous Somali laws that are currently being developed or updated – including the Immigration Law, the Labour Code, and the Penal Law – are aligned to international law and standards on the protection of migrants.

- ▶ The rights of migrant workers should be specified in all legislation that affects migrant workers. Complaint mechanisms for migrant workers should be specified in these legal frameworks, as well as mechanisms to enforce their rights. The Office of the Special Envoy for Children's and Migrants' Rights could play a coordinating role in this process, and ensure that migrants' rights are mainstreamed across the legal frameworks and policies that impact on migrants, including the rights of Somali migrant workers and of migrant workers in Somalia.
- ▶ The FGS, with the support of partners, should strengthen labour inspection services and law enforcement in order to enhance the protection of workers' rights.
- ▶ The FGS should ratify the UN **Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children**, 2000, and develop an anti-trafficking law in line with the Protocol, with the support of partners.
- ▶ The FGS should strengthen the investigation and prosecution of trafficking cases, as well as the protection of trafficked persons.

## Thematic Area 2. Social security and social protection

- ▶ The FGS should ensure that the social security system it develops applies to migrant workers in Somalia, and strive to put in place measures that allow for the portability of social security benefits.
- ▶ The FGS should include migrants and their concerns in the social protection policy that it is developing.

## Thematic Area 3. Labour inspection for migrant workplaces

- ▶ The FGS, with the support of the ILO, should ensure that the Labour Code, which is being updated, covers the inspection of migrants' workplaces, in line with international standards.
- ▶ The ILO should train the labour inspectorate on labour rights and on the new Labour Code, once it is adopted, and also assist in reinforcing the labour inspectorate's capacity to carry out labour inspection and enforce labour rights.

## Thematic Area 4. Facilitating reception and return

- ▶ The FGS should ensure that the various policy frameworks that are being developed to facilitate the return and reintegration of refugees and migrants – such as the National Action Plan on Durable Solutions for Somali Returnees and IDPs 2018–2020 and the planned return and readmission policy framework – are aligned to one another as well as to the new National Development Plan. Moreover, the implementation of these policy frameworks should be sufficiently resourced and well-coordinated between the various actors involved, including the Federal Government and federal states, IOs, and NGOs.
- ▶ The FGS and employers should provide incoming migrant workers with information on their rights; the cultural values in Somalia; and their access to services, such as education, health, and finance, as well as their access to the dispute settlement mechanisms available. This information could be provided by the IND to migrants arriving at the airport, as well as by the MOLSA when a work permit is applied for.

# Appendix I. List of key informants

## EU Delegation to Somalia

Anders Guettou Djurfeldt, Programme Manager, Migration and Displacement

## Federation of Somali Trade Unions

Adam Osman Omar, Chairman of Agricultural Department

## Deutsche Gesellschaft für Internationale Zusammenarbeit /German Development Agency (GIZ)

Silke Hampson, GIZ Regional Coordinator for Kenya and Somalia for the Better Migration Management Programme

Fridah Kibuko, Better Migration Management Project, Programme Officer Kenya/Somalia

Janet Ondieki, Better Migration Management Project, Project Officer Kenya/Somalia

## Intergovernmental Authority on Development

Charles Obila, Migration Officer

## International Labour Organization

Syed Saad Hussain Gilani, Head, ILO Mogadishu Office

Abdulkadir Ali, Technical Officer

## International Organization for Migration

Jo Rispoli, Regional Labour Migration Specialist

Amy Edwards, Programme Manager for Migrants Assistance and Protection

Camilla Petra, Programme coordinator, Migrants Assistance and Protection programme

Mirkka Henttonen, Head of Labour Mobility and Human Development

## Ministry of Education, Culture and Higher Education

Abdiaziz Nor Mohamed, Director for TVET

## Ministry of Foreign Affairs and International Cooperation

Abdinur M. Salad Madey, Head of Section, IGAD Affairs

## Ministry of Labour and Social Affairs

Mohamed Adde, Director General

Abdirizak Moalim Elmi, Director of the Labour and Foreign Workers, Office of the Private Sector and Foreign Workers

## United Nations

Said Osman, Acting Coordinator for Joint Programme of Youth Employment Somalia

## United Nations Development Programme

Sherif El Tokali, Assistant Resident Representative

Jess Garaña, Durable Solutions Specialist, Economic Recovery and Development Unit

Mohamed Hassan Dakane, Monitoring and Evaluation Specialist, Joint Programme of Youth Employment in Somalia, Economic Recovery and Development Portfolio.

## United Nations High Commissioner for Refugees

Peter Opio Patrick, Livelihoods Officer

Andrea Bruhn Bové, Protection Officer (Solutions)

## United Nations Office on Drugs and Crime

Maria Temesvari, Crime Prevention and Criminal Justice Officer, Transnational Organized Crime, Illicit Trafficking and Terrorism Programmes, Regional Office for Eastern Africa

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