



International
Labour
Organization



Better
Regional
Migration
Management



EAEO

EAST AFRICAN EMPLOYERS ORGANISATION



POLICY FRAMEWORK

Sustainable
Migration

FOREWORD BY CHAIRPERSON

To get a better sense of the actual realities in respect of migration in the sub region, the East African Employees Organization (EAEO) with the support of the International Labour Organization (ILO) through the Foreign, Commonwealth and Development Office (FCDO) funded Better Regional Migration Management project, commissioned a mapping exercise to identify the key issues from an employer's perspective. The exercise focused on three countries United Republic of Tanzania, Kenya, and Uganda. I believe that this was a hugely important exercise, and it arms the EAEO and Employers and Business Membership Organization (EBMO) in the region with critical intelligence that can inform policy debates, nationally and within the region.

The central challenge of the strategic approach of EBMOs in the region is to exemplify through policy advocacy and practice how the role of labour migration can be, in a broader social and economic context, beneficial, sustainable and positively impactful. Three critical factors have been identified which impede this goal.

First, labour market data on migrant workers is extremely scant and limits evidence-based policy making.

Second, policy makers do not seem to appreciate the socio-economic benefits of labour immigration.

Third, labour migration is intertwined with security concerns and politics which limit opportunities for employers' engagement.

Lack of good data is a key issue policy makers are faced with. Without a clear understanding of the number of different migrant workers in the country, let alone their economic activities, policy makers are unable to correctly analyse labour supply and demand while business cannot leverage the economic potential of migrant workers effectively.

More work also needs to be done to demonstrate the upside that migrant workers bring. In the absence of robust labour market data of migrant workers, policy makers appear to be unaware of the benefits that labour immigrants can provide. Labour migration is often still seen more negatively by Governments at a country level. This can be partly explained by security and border control concerns given East Africa's long-standing history of ethnic conflicts and in the context of high domestic unemployment. Policy makers can also see free movement of labour as a threat due to popular fears among the electorate that "migrants steal jobs."

In this, business has a key role by promoting the view that well-managed labour migration can and will play an important role in the social and economic development of both the sending and destination countries in the region. That it benefits destination countries by addressing their labour and skills shortages, thus contributing to economic growth and development, and it also improves the socio-economic situation in the countries of origin through the transfer of remittances, migrant's skills and knowledge acquired abroad.

The role of the private sector in managing migration policy is fundamental, at an operational and strategic level.

There is also current opportunity. The African Continental Free Trade Agreement (AfCFTA) signed in 2021, provides great potential to majorly boost intra-African production, intra-African consumption, and intra-African export. Mobility and skills are part of this changed calculus. Effective migration policy responses by East African Community (EAC) can put the region ahead of the pack and can drive greater opportunities through AfCFTA.

Getting this right can over time results in not only increased mobility in the region but ensures that it happens in a safe, inclusive way. Migrants would be regular and documented, more would be better prepared for employment abroad and more would be placed in supportive environments where they can work more productively. Ideally, more would also return with skills and capacities for their own economic independence in the private economy and contribute to their home country's development. Subject to supportive domestic or regional policy, some migrant workers could also remain in destination countries adding value to skills shortages or moving up the economic ladder.

Done right in the region, migration can be *win-win* for everybody.

Salahi Salim Salahi
Chairperson
East Africa Employers Organization (EAEO)

INTRODUCTION

The EAEO was established in 2010 and comprises the following employers' and business membership organizations:

- ▶ Federation of Kenya Employers (FKE-Kenya)
- ▶ Association of United Republic of Tanzania Employers (ATE-United Republic of Tanzania)
- ▶ Federation of Uganda Employers (FUE-Uganda)
- ▶ Burundi Association of Employers (AEB-Burundi)
- ▶ Private Sector Federation of Rwanda (PSF-Rwanda) and
- ▶ Zanzibar Employers Association (ZEA-Zanzibar)

The core mandate of the EAEO is to represent and promote the interests of employers at the regional level and articulate employers' issues in the EAC. Over the past few years, the EAEO has progressed from being a platform within the East African Business Council (EABC) into a full-fledged regional organization, with Secretariat based in Arusha, United Republic of Tanzania.

One of the main issues advocated by the EAEO since its establishment is the free movement of persons and labour as provided for in the EAC-CMP which came into force on 1 July 2010. Under the Protocol, member states guarantee movement to citizens of member states from their territories without any visa restrictions. To facilitate this, member states agree to a common standard in issuing national identification and travel documents, ensure free movement of workers within their territories, and commit to the abolition of discrimination based on nationality in regard to employment, remuneration, and other conditions of employment. To facilitate the implementation of the free movement of labour, member states also agree to harmonize and mutually recognise academic and professional qualifications and to harmonize their labour policies, national laws, and programmes.

Achieving the free movement of persons on the continent was also a key aim of the 1991 Abuja Treaty, which established the African Economic Community (AEC). It was one of the goals in agreements on African economic integration and the African Union (AU)'s Agenda 2063. In January 2018, the member states of the AU agreed on the Protocol to the Treaty establishing the African Economic Community Relating to Free Movement of Persons, Right of Residence and Right of Establishment. The continental agendas also state that the process of implementing free movement must begin with Africa's sub-regions. Other than EAC-CMP, there are three other regional economic communities (REC) in East Africa – the Common Market for Eastern and Southern Africa (COMESA), the Intergovernmental Authority on Development (IGAD) and the Southern African Development Community (SADC) that promote labour migration as a vehicle for regional integration through an array of protocols, policies, and action plans.

In pursuing the above agenda in recent years, the EAEO has been able to register, as a contributing factor, the following achievements:

- ▶ The introduction of an East African Passport as a common standard travel document within East Africa;
- ▶ Launch of the International East African Passport E-Passport by some EAC member states;
- ▶ Waiver of work permit fees for East Africans in Uganda, Rwanda and Kenya.

Despite the above, there remains some significant issues and constraints facing workers and employers in utilizing the free movement of workers across the EAC member states, across the region and indeed across the continent. Employers are also facing a shortage of labour, skills and access to the skills and competencies needed to fill the gap within the EAC. EAEO believe that these issues could be addressed through well planned national skilled development policies, regional skills recognition framework and well-managed labour mobility policy. EAEO strongly believes that with their knowledge of the emerging market and employment trends as well as their practical experience of the regulatory framework, employers are able to provide essential inputs in formulating such effective labour market and labour mobility policies in addressing current and future challenges.

This EAEO policy framework sets out the objectives for a fair and effective approach to regional migration and is guided by the following frameworks:

- ▶ Common African Position (CAP) on the global compact for safe, orderly and regulatory migration.
- ▶ Migration Policy Framework for Africa and Plan of Action 2018 – 2030
- ▶ Protocol to the Treaty Establishing the African Economic Community Relating to the Free Movement of Persons, Right of Residence and Right of Establishment 2018 (AU Free Movement Protocol).
- ▶ East African Community Common Market Protocol (EAC-CMP) on Free Movement of Persons 2010.
- ▶ The COMESA Protocol on the Free Movement of Persons, Labour, Services, the Right of Establishment and Residence 2001 (COMESA Protocol)¹.
- ▶ The SADC Labour Migration Policy Framework 2014 and Labour Migration Action Plan 2020 – 2025.
- ▶ IGAD's Regional Migration Policy Framework 2012 and Migration Action Plan 2015 – 2020, and
- ▶ East African Employers Organization (EAEO) and East African Trade Union Confederation (EATUC) Joint Position Paper on Free Movement of Labour in the East African Community (EAC) region, 2014.
- ▶ East African Business Council (EABC) Policy Agenda 2021-2022 on "Free Movement of Workers".
- ▶ The East African Employers Organization (EAEO) position paper on Skill Development in the East African Community (EAC), April 2017.
- ▶ The outcome of the 42nd Annual Conference of Employers' Organizations from East, Central and Southern Africa, 2018.

¹ As of 2022, only four of COMESA's 19 Member States have signed the Protocol.

- ▶ The International Organization of Employers (IOE) position paper on migration, 2018,
- ▶ The key messages, outcomes and recommendations of the African Employers consultation 27 May 2021, East African Employers consultation 22 & 23 Feb 2022, serve as inputs into the African Employers' Declaration for the GCM Regional Follow-up and Review for Africa.
- ▶ The African Employers' Declaration (2022 forthcoming)

The EAEO present the following migration policy framework which shall serve as a guiding document and reference point for EAEO member employers' organization in the national, regional, continental and global discussions on migration policy development, management, implementation and cooperation, including the implementation of the:

- ▶ Migration Policy Framework for Africa and Plan of Actions 2018 – 2030,
- ▶ AU's Free Movement of Persons Protocol or "Protocol to the Treaty establishing the African Economic Community relating to the Free Movement of Persons, Right of Residence and Right of Establishment" 2018,
- ▶ EAC-CMP,
- ▶ UN's GCM.

AfCFTA, which came into effect in 2021 has the potential to majorly boost intra-African production, intra-African consumption and intra-African export. In the next 25 years, Africa's manufacturing sector is expected to double in size. There are huge opportunities and the EAEO believe that now is the time to create fair and effective migration policies that can act as a booster to intra-African trade.

CURRENT CONTEXT

Migration into and out of Africa is an important demographic dynamic closely tied to broader social, economic and political processes. Due to the multitude of "push-pull" factors in the continent, labour migration has been steadily on the rise. The third edition of the African Union's Report on Labour Migration Statistics in Africa (2019)² indicates international labour migration³ in Africa has increased from 17.2 million in 2010 to 26.3 million in 2019, and significantly, 77 per cent of the international migrants in Africa in 2019 occurred among people of working age, that is persons aged 15 years and older.

Movement across national borders to search for work is one of the key drivers of international migration in Africa. The number of migrant workers grew from 9.5 million in 2010 to 14.5 million in 2019. East Africa has long been a major destination for migrants from within Africa and other

² African Union, Report on Labour Migration Statistic in Africa, 3rd edition, 2019. Available https://au.int/sites/default/files/documents/41182-doc-254_261-EN06.pdf

³ Labour migration in East Africa is linked to mixed migration flows which include asylum seekers, refugees, irregular migrants, migrant workers and so on.

regions, hosting approximately 4.1 million migrant workers, the second highest after West Africa (4.3 million)⁴. Intraregional migration in East Africa is driven by the growing demand for both high and low-skilled labour. As East African economies, such as Kenya, are becoming increasingly diversified, demand for workers in the services industry, for example, has drawn migrant workers from other East African countries, including United Republic of Tanzania and Uganda.

East Africa also continues to experience considerable levels of outward labour migration, driven by poverty, low wages, and high unemployment. It is, increasingly, a significant origin of low and semi-skilled migrant workers especially going to Gulf Cooperation Council (GCC) States.

The cross-border movement of labour is a key pillar of economic integration and development in Africa as it ensures availability of skills and labour where needed to spur investment and economic development⁵. As the four RECs in East Africa - COMESA, EAC, IGAD and SADC are promoting labour mobility as a vehicle for greater regional economic integration with free movement protocols, policies and action plans in place, it has also resulted in a complex and multi-layered labour market governance architecture at the regional level.

EMPLOYERS' PERSPECTIVES

EAEO strongly believes that well-managed labour migration plays an important role in the social and economic development of both sending and destination countries in Africa. It benefits destination countries by addressing their labour and skills shortages, thus contributing to economic growth and development, and it also improves the social-economic in the countries of origin through the transfer of remittances and migrant's skills and knowledge acquired abroad.

EAEO considers that labour mobility within the east African region must be taken seriously and urges regulatory changes to facilitate mobility and optimise the benefits it can bring to East African economies and their people. Employers and businesses need flexibility and agility in the workforce, diversity as well as skills and competencies. They want the migration eco-systems to be more efficient and business-friendly as businesses need to transfer and deploy people quickly but the inconsistent and cumbersome processes and procedures for obtaining work permits often act as barriers to the movement of people cross-border for work. Furthermore, labour migration is often perceived negatively and consequently viewed through a security and safety lens, rather than an asset for growth and development.

The impact of COVID-19 on the economy and societies has changed the migration landscape. These developments have not only created new challenges for employers and migrant workers, but they have also highlighted the policy and governance gaps, exacerbated the skills shortages and intensified human rights vulnerabilities.⁶The increasing scale of economic migration within Africa is an undoubted consequence for employers in the region. It is therefore important to put in place well thought and practical policies for harnessing the developmental benefits of migration including strengthening legal framework, ensuring responsible recruitment, and promoting skills development and recognition schemes.

⁴Ibid 2

⁵African Union Commission, International Labour Organization, International Organization for Migration, United Nations Economic Commission for Africa (AUC-ILO-IOM-ECA), Labour Migration Governance for Development and Integration in Africa: A Bold New Initiative, Programme brief (2015), p. 4. Available from www.ilo.org/wcmsp5/groups/public/-/africa/documents/meetingdocument/wcms_345393.pdf

⁶IOE, The key role of Labour Migration in the post-Covid recovery, July 2021 Available <https://www.ioe-emp.org/index.php?eID=dumpFile&t=f&f=155887&token=2817e3b1055ef1831083024b6503fed9dec6342>

The COVID-19 pandemic has caused significant changes in the way that enterprises think about their future workforce, a change facilitated especially by the growth in remote work. For some enterprises, this shift gives them a newfound flexibility to find the workers who best fit the business. In the past, enterprises drew from a talent pool in a defined geographical area. Now, they are rethinking this limitation because of the newfound confidence in the productivity of remote workers as well as the widespread acceptance of remote work. This allows these employers to expand their worker search from local to national, and in some cases even global.

The declining interrelationship of location and work presents both opportunities and challenges for enterprises in east Africa. One of the biggest opportunities is that it allows employers to access a deeper and more diverse pool of skills. This is especially important for African enterprises that often encounter shortages of select skills in the local labour market. The flip side of this opportunity, however, is that African employers will increasingly have to compete with enterprises from around the world for workers with certain skill sets. The competition for certain types of workers, especially those with tradable, remote skills such as information technology workers, will become increasingly global.

EAEO believes that the migration policy should be predictable, transparent, and adaptable to meet the fast-changing requirements of the business and the different groups of workers. Different mechanisms should be in place for different categories of migrant workers. The immigration systems should be revamped based on the current migration and employment patterns. EAEO also believes that the participation of the private sector in public-private dialogue is essential to the development of well-regulated migration systems. Employers, being a user of the national migration system, are a valuable source of information in the development of coherent and consistent migration policies that facilitate the safe and productive movement of labour across the regions and continent⁷.

In this context, four priorities drive the EAEO policy framework for sustainable labour migration:

1. ACCELERATE THE IMPLEMENTATION OF THE (EAC-CMP) ON THE FREE MOVEMENT OF WORKERS.

The Common Market Protocol (CMP) which came into force on 1st July 2010 provides for free movement of persons, labour, services, capital and goods across the EAC. EAEO welcomes the integration process as the facilitation of all factors of production to freely move across a common market within the EAC, it is considered to be a driving force for economic growth and job creation in the region.

Under the provisions of Article 10 of EAC-CMP, the member states guarantee the free movement of workers, who are citizens of the other Partner States, within their territories. Employers benefit from free labour mobility by having better chances of matching job requirements with skills and qualifications when recruiting new employees, thus improving productivity and efficiency.

⁷ IOE Position Paper on Labour Migration, Dec 2018.

Available <https://www.ioe-emp.org/index.php?elD=dumpFile&t=f&f=135034&token=ea736cf36b21aab3ee1ee4fa5847991ba8082ff8>

However, after more than a decade since the commencement of the EAC-CMP, both workers and employers are still constrained in their efforts to utilize the freedom of movement of workers. Different member states impose different restrictions on the free movement of workers within the region, for example, United Republic of Tanzania charges all non-United Republic of Tanzanian nationals US \$1,600, regardless of their REC membership and Uganda charges non-Ugandan nationals between US\$400 to US\$3,000 depending on the class of the work permit. Even though Kenya issues work permits for free to all citizens of EAC member states, it put restrictions on the age to a minimum of 35 years and a monthly salary above US\$2000 making it almost impossible for young people to be beneficiaries. Additionally, the free movement of workers in the Protocol only applies to qualified skilled workers as provided in the Schedule⁸ which has never been revised.

Other challenges include too many categories of work permits, lengthy, inconsistent, and bureaucratic processes for obtaining work permits and dependent visas that can be marred by corruptive practices. There are significant difficulties in implementing intra-company transfers with only short-term work permits permissible and a limited number of occupations listed in the Schedule. Overall different work permit systems and regimes among the EAC member states make mobility, even within the same company, a challenge.

The existing labour laws and policies are also outdated, lack flexibility, and lack the agility to quickly adapt to the fast-changing needs of the labour market. With the devastating impact of the COVID-19 pandemic, businesses struggle to find the right skills for their current needs.

RECOMMENDATIONS

1.1 Harmonization of labour, migration laws, regulations, policies and procedures

Labour migration policies and legislation that incorporate appropriate labour standards and responds to the needs of the labour market benefit both employers and workers and their families. Regional cooperation and harmonization of labour migration policies can foster regular labour migration to meet the supply and demand of labour markets, promote the enforcement of labour standards, reduce recourse to irregular migration and contribute to the social and economic development of both the country of origin and host country.

The EAEO urges all EAC member states, together with social partners and stakeholders to develop a roadmap for harmonization of the labour and migration laws, policies, and programmes to facilitate the free movement of labour within the EAC community including guidance, tools as well as monitoring and evaluation. The roadmap, inter alia, shall include the following initiatives:

- ▶ to review their respective immigration, employment and migration laws and policies and align them with the EAC Common Market Protocol;
- ▶ to review and harmonize fees and classification and procedures of work and residence permits and forms as stipulated in the Common Market Protocol, including rights of establishment and business;
- ▶ to improve bilateral and multilateral agreements among member states including

⁸ Refer to the Schedule on Free Movement of Workers-Annex II of the EAC-CMP

processes for obtaining a work permit, workers movement and intra-company transfer among member states;

- ▶ to abolish all fees on work permits and resident permits for citizens of EAC member states;
- ▶ to revise and open up more occupations in the Schedule on Free Movement of Workers after consultation with social partners;
- ▶ to share and exchange labour migration data and information to support evidence-based planning and policy development and implementation of the free movement of workers;
- ▶ to improve inter-ministerial coordination and mainstreaming migration in all the strategies of relevant ministries particularly the Ministry of Labour, Foreign Affairs or Immigration, Economy and Trade, and so on.

1.2 Leverage the use of technology to improve migration management

EAC member states should collectively utilise technology to improve the governance and management of labour migration. Digitization of migration and recruitment processes will help in streamlining, coordinating and accelerating movement and the matching of skills, enforcing transparency, credibility and regular migration channels at both national and regional levels. It also helps in collecting up to date data and information which are key to developing policies and implementation of the EAC-CMP on the free movement of workers. In this regard, EAEO proposes:

- ▶ EAC member states to digitalise labour migration including recruitment and immigration processes ,for example work permit application, payment of fee, renewal and so on
- ▶ Create a centralized database at the EAC regional level to collect, analyse and share data and information concerning work permit issuance and migration flows within the region as well as in and out of the region;
- ▶ Establish an EAC immigration portal including a one-stop centre for the application of work or resident permits to facilitate the free movement of workers within the EAC member states;
- ▶ Enhance the resources and capacity of the relevant ministries and agencies.

1.3 Collection and sharing of Labour Migration data and information

Labour migration data including data and analysis on labour supply, labour demand, and skills shortages are insufficient. Data is a key tool in developing effective labour migration strategies and policies. Such policies need to be informed by the sharing of labour market information and labour migration data and analysis at the regional level. Member states need information on one another's labour demand and supply, and labour migration flows, to facilitate mutually beneficial labour migration and mobility that matches labour market needs and realities. However, in most EAC member states, except Kenya and United Republic of Tanzania, labour migration data are incomplete.⁹ There is also no established regional labour market information system. Even

⁹ Kenya and United Republic of Tanzania have better Labour Market Information System (KLMIS) among the most advanced in the region and is publicly available at <https://www.labourmarket.go.ke>. and https://www.nbs.go.tz/nbs/takwimu/labour/Employment_Estimates_for_United_Republic_of_Tanzania_Mainland2018.pdf

though labour market information may be exchanged ad hoc or at meetings between the EAC Partner States, there are no routine exchanges on labour flows, stocks, and needs in labour supply and demand in the region.

In addition, member states are facing various challenges including lack of capacity, resources, expertise, coordination and retention of skilled staff in collecting and managing data¹⁰. In this regard, the EAEO proposes:

- ▶ Establish a Regional Labour Market Information System and mainstream the labour migration data to be facilitated by the EAC Secretariat;
- ▶ Digitalization in the collection, management and sharing of labour market data and information;
- ▶ EAC member states to enhance resources and institutional capacity in data collection and management for example, providing relevant training to the respective institution, agencies and social partners;
- ▶ Better and more established means of sharing of labour migration data and information with employers, through the EAEO and EABC;
- ▶ Institutionalise regular discussions and routine sharing of data and analysis on labour supply, labour demand, and skills shortages among member states.¹¹

2. SKILLS DEVELOPMENT PROGRAMMES, SKILLS RECOGNITION SCHEMES AND SKILLS MATCHING FRAMEWORKS THAT RESPOND TO LABOUR MARKET REALITIES

To remain competitive in global markets, employers require a readily available pool of talented workers equipped with the right knowledge and skills to be employable and work in productive, secure jobs which grow enterprises and economies. To this end, mechanisms for skills development and mutual recognition of certified skills offer win-win solutions for employers, job seekers and economies at large.

The “Agenda 2063” of the AU created the Tripartite Free Trade Area between COMESA, the SADC and the EAC. It implies free movement of goods, capital and people, including workers. It is therefore essential to identify the qualifications needed, to foster the education, qualification, skills and competency and to establish a mechanism for skill mobility and skills matching. Most regional economic communities including the EAC currently lack the competent labour force needed to spur investment and economic development.¹²

Matching the supply of skilled labour with demand on a regional basis is a critical need for regional integration. There is however a skills gap within the EAC of “mismatch” and “inadequate” skills. National education systems often do not align with labour market needs, and public education and training do not lead to employment. This situation leads to skills mismatch, both within and outside the region, and often lead to low-skilled employment for migrant workers.

¹⁰ ILO, FMPT An assessment of labour migration and mobility governance in the IGAD region, 2020.

¹¹ The recent agreement by the EAC member states to establish the EAC Regional Consultative Process (RCP) on Migration as a permanent forum for addressing migration issues in the EAC should include the collection and sharing of data, information and good practices in labour migration governance and management to facilitate the free movement of workers.

¹² ILO, 2019, Migrant workers’ skills portability in Africa at Regional Economic Community and Continental level: Guidance towards an African qualification framework?

Skills development policies at the EAC level is provided under Article 5 of the EAC Treaty.¹³ There have been various initiatives both at the national and EAC level to classify skills, competencies, qualifications and occupations through the development of qualification frameworks including the Mutual Recognition Agreements (MRAs) and bilateral Memorandums of Understanding (MoUs). However, due to fragmented frameworks, lack of legal framework and coordination, and because not every member is part of every agreement, they have not resulted in a significant positive impact on the education and training systems, employability of graduates, and performance of the business and employment sectors.¹⁴

The role of the informal economy, which is the biggest employer and provider of apprenticeship in the African economy, with 80 per cent of the labour force, should also not be ignored. The informal and agricultural sectors need to be harnessed and their potential for skills development promoted for structural transformation and job creation.

The private sector plays a critical role to identify the needed skills that match the reality of the demand in the local labour market and pathways for employers and businesses in accessing talent. In this regard, EAEO believes that the involvement of employers in identifying and responding to current and future skills shortages will be essential in formulating effective labour market and labour mobility policies and in addressing current and future challenges.

RECOMMENDATIONS

2.1 Harmonize Education and Skills Framework in the region

- ▶ Strengthen the EAC Qualifications framework for higher education and the national qualifications frameworks within the member states to facilitate the harmonization of education and curriculum between the countries, including finalising the regional qualification framework for Technical and Vocational Education and Training (TVET) for the EAC;
- ▶ Based on the EAC Qualification framework, a Regional EAC Skills Framework should be developed to facilitate mutual recognition of skills, certification, qualifications and competencies. This will help standardization and harmonization across the member states making it easy for mobility, recognition and matching of skills across the region;
- ▶ Streamlining bilateral and regional agreements (MRAs) on mutual recognition of skills and profession, including validation of prior learning and acknowledgment of work experience;

2.2 Enhance collaboration with other Regional Economic Community (REC)

- ▶ Improving bilateral and multilateral agreements with other RECs to expand and facilitate mutual recognition of skills and qualifications. The transport sector in East Africa offers a good example of how mutual recognition of skills across the RECs can foster mobility, trade and integration. Through the Tripartite Transport and Transit Facilitation Programme (TTTFP), the driving curricular has been harmonized (for example a Uganda truck driver can now drive through COMESA, SADC and EAC);

¹³ Article 5 of the EAC Treaty that came into force in July 2000, in which Partner States undertakes concerted measures to foster co-operation in education and training within the Community through harmonization of curricula, examination, certification and accreditation of education and training institutions in the Partner States.

¹⁴ EAEO's position paper on Skill Development in the EAC, April 2017. Available <https://aspyee.org/sites/default/files/2021-10/EAEO%20-%20skilling%20EAC%20Position%20Paper%20Nov%202017%20-%20A4%20Brochure.pdf>

- ▶ Exchange experience with other REC such as cooperation within ECOWAS or COMESA for the free movement of workers within the region. The experiences in facilitating regional skills recognition schemes of the EAC will provide other RECs with important insights and lessons learnt.

2.3 Setting up-skill assessment and skill anticipation system

Skill assessment and skill anticipation are essential to address skill shortage and identify skills to meet future needs, thus reducing skill mismatch. An effective skill assessment and skill anticipation system require employers' engagement, in which employers can provide useful data and information to feed into policy action.

2.4 Digitalization of labour market data and skills training

- ▶ Labour Market data and information provide the essential basis for employment and labour policies. They are needed to ensure that the skills systems and labour migration and employment policies are responsive to the needs of the labour market.¹⁵ A structured mechanism for data collection, sharing and dissemination at the national level including identification of critical skills is recommended.
- ▶ With the advance of technology, digital platforms can serve as a unique tool to gather data on labour markets and skills, including the informal economy. EBMOs and their members that participate directly in the labour market can contribute to both data collection and verification, including job availability, skill and labour needed.
- ▶ Employers should have access to labour market information to source required skills as and when needed, particularly for recruitment and workforce training.
- ▶ The surge in the use of digital platforms has not only created new avenues for data collection and dissemination but to deliver skills training and certifications and boost digital literacy. The IFC estimates that there is a "\$130 billion opportunity ...to provide digital skills across Sub-Saharan Africa until 2030." They note that the "largest opportunities are in business-to-business and business-to-government training for basic and intermediate skills."¹⁶ Many platforms already offer digital skills and literacy training and demonstrate the huge opportunities available to disseminate digital information and skills.

3. RESPONSIBLE RECRUITMENT PRACTICES AND MIGRANT WORKERS' PROTECTION

Migration in and from East African countries is associated with many risks and vulnerabilities. Due to limited regular migration channels, movements in the region are largely irregular and touches all countries of Eastern Africa to a certain extent. Human smuggling and trafficking in persons contribute significantly to irregular movements in the East and Horn of Africa and remains a global concern and a threat to peace and security in the EAC.¹⁷

¹⁵ IOE, Employers' Organizations Guide on Fostering Labour Migration Governance in Africa, Draft, 2021.

¹⁶ L.E.K. Consulting and International Finance Corporation, "Digital Skills in Sub-Saharan Africa: Spotlight on Ghana," pg. 5, available at: https://www.ifc.org/wps/wcm/connect/ed6362b3-aa34-42ac-ae9f-c739904951b1/Digital+Skills_Final_WEB_5-7-19.pdf?MOD=AJPERES.

¹⁷ Maastricht University, "Study on Migration Routes in the East and Horn of Africa," 2017. <https://i.unu.edu/media/migration.unu.edu/publication/4717/Migration-Routes-East-and-Horn-of-Africa.pdf>

Considering that skilled migrants may move more freely between EAC countries, the low-skilled or unskilled irregular migrants are the most vulnerable to discrimination, exploitation and abuse. In addition, there has been increasing concern of fraudulent and abusive practices of the recruitment agencies and the exploitation and abuse of East African migrant workers in the Gulf countries. Various initiatives and measures have been taken at both national and regional levels to address the issues; however, they do not seem to be very comprehensive and effective due to a lack of capacities, resources, political willingness and regional cooperation.¹⁸

The COVID-19 crisis has shed light on a serious concern to businesses in Africa: informality. Most of the migrant workers who are now in difficult situations were working in the informal economy or hired through informal channels. In addition to ensuring better migration experiences for workers, there is a strong business case for companies to uphold responsible recruitment and employment practices. Unethical recruitment can result in enormous administrative, legal and reputational costs for businesses. In addition to violation of laws and regulations, reputational risk has become a major issue for both employers and labour recruiters as it can easily put them out of the market. On the other hand, fair recruitment is likely to lead to the selection of meritorious candidates over those who are merely able to pay high recruitment costs. This contributes to higher productivity, efficiency and competitiveness.

RECOMMENDATIONS

3.1 Regional Cooperation

Partnerships between source and host countries are required to foster safe and fair labour migration. Bilateral agreements should be put in place to ensure that labour migration takes place in accordance with the agreed principles and procedures including the protection of migrant workers.

The ILO operational guidelines for fair recruitment, as well as its related definition of recruitment fees and related costs, provide a sound framework for national legislatures and social partners in promoting fair recruitment. Recruitment fees should not be borne by the worker, governments should find solutions to reduce these costs to a minimum.

3.2 Strengthen Policy and regulatory framework

Most of the regulatory framework in East African countries tend to focus on immigration and security control rather than productive labour migration. Member states have not developed effective frameworks for labour migration, including the protection of migrant workers.

Most of the potential migrant workers lack accurate information about job opportunities in destination countries and rely on information provided by friends or recruitment agencies. Due to the demand, there has been an increase in the number of recruitment agencies that recruit East Africans for job placements in other countries, especially in the Gulf States. In addition, there are also many individual middlemen and syndicates, who operate as recruiters in the migration industry. When regulated appropriately, private employment and recruitment services improve

¹⁸ Ibid

labour-market functioning by matching job seekers to suitable vacancies. However, member states do not have adequate regulatory frameworks for these services, or simply do not enforce them. This resulted in deception practices that trap workers into debt bondage and sub-standard working conditions.

EAEO considers it important to develop strategies for promoting safe and regular labour migration, enhancing regulation of the market and protecting migrant workers from abuses by recruitment agencies and employers. Appropriate and effective regulations at the national level are required. Align national laws, policies and regulations; bilateral and multilateral agreements; and voluntary codes of conduct with the ILO General Principles and Operational Guidelines for Fair Recruitment.

3.3 Formalise informal economies

The contribution of the informal economy in East Africa is very significant. While some may want to avoid registration and taxation, many people work in the informal sector through necessity, not a choice. Most of the irregular migrants constitute the precarious, underpaid, informal workers. EAEO strongly believes that the formalisation of the informal economy and status of the migrant workers would not only contribute to raising tax revenues but to improve the skills and productivity of the economic activities, scale up the small enterprises, boost and diversify production and improve the income and well-being of the workers. With better protected and integrated migrant workers, the private sector would also benefit from higher productivity and access to a broader pool of qualified workers.

EAEO proposes and urges EAC member states to adopt and implement enabling laws and regulations that are conducive to transitioning from the informal to the formal economies, including the formalisation of the status of the migrant workers in the informal sector.

3.4 Capacity building

One of the main issues in all countries in the East African region in dealing with migration management, including irregular migration, smuggling and trafficking, is the lack of resources and capacity at the institutional level. Very often when a new policy is handed over to the relevant ministries or agencies for implementation, it cannot be implemented due to lack of resources or capacities. Adding to the complexity is a high turnover among public officials such as directors and senior officials at a high government level. The newly appointed officials do not understand the landscape and do not prioritise the implementation of the policy commitment. EAEO thus proposes that member states step up resources and strengthen the capacities of the relevant institution and the officials including providing tools and training to the newly appointed senior officials, labour inspectors, police and other enforcement agencies.

4. ENHANCED SOCIAL DIALOGUE AND CONSULTATION

In our globalized world and as all stakeholders adapt to new realities, it is now high time for stronger collaboration between employers and government on labour migration issues. The private sector relies extensively on labour and skill mobility and has an important stake in working with governments in the development of coherent and consistent migration policies that facilitate the safe and orderly movement of labour across the entire skills spectrum.

All employers and workers benefit from clear, transparent, and efficient labour migration policies that permit the movement of workers when and where they are needed. EBMOs are best placed to assess labour mobility through their membership networks and to advocate policy options to meet current and forecasted demand. Furthermore, EBMOs have a uniquely central role in being able to educate and mobilize their membership bases to pursue the necessary skills and labour mobility reform at the regional, national, and enterprise levels.

Despite the obvious advantages for businesses, in most East African countries the private sector has largely been absent from migration policy debate at the national, regional or global level. In some countries, they were brought into the migration discourse only when there was a crisis. The consultations should not only happen in times of crisis, but it is also important to engage the employers and businesses from the outset of any initiative or policy discussion.

Tripartite consultation takes place at the EAC level. Labour ministries of the Partner States, the EATUC, and the EAEO participate in such consultations, though formal tripartite structures have not been established. The EATUC and EAEO collaborate on a number of issues and have collectively brought to the attention of the EAC Secretariat and the East African Legislative Assembly issues of common concern, through research and advocacy. These include obstacles to the free movement of persons and the recommendation to standardize work permit applications across the EAC.¹⁹

The creation of a separate Business Mechanism at the Global Forum on Migration and Development (GFMD) is a positive sign for the inclusion of businesses in global dialogues. To support and facilitate the global dialogue, regional and national dialogue is important to improve the relevance and impact of any policy initiatives.

RECOMMENDATIONS

4.1 Institutional mechanism for regular dialogue

Given that businesses form the backbone of economies, it would serve governments well to ensure that any decisions on migration policies are made in consultation with the private sector, through employers' organizations. Employers should be effectively engaged and involved in the development and implementation of the national, regional and global migration policy framework and action plan, as well as in the evaluation and review processes.

¹⁹ ILO, An assessment of labour migration and mobility governance in the IGAD region: Country report for Kenya, 2020.

At the national level, member states should put in place national tripartite mechanisms for regular and organised dialogue with social partners for effective and continuous engagement that enable employers to proactively voice their recommendations and proposals at the policy level with their governments to have a real impact.

The recent agreement of the member states to establish the EAC Regional Consultative Process (RCP) on Migration as a permanent forum for addressing migration issues in the EAC is a good initiative to enhance the regional coordination to facilitate the free movement of workers. It is essential to ensure the engagement and participation of employers through the EAEO in this regional forum on migration.

4.2 Capacity building of employers' organization

To effectively engage in policy debate, respond to Government policies proposals and put forward recommendations advocating for clear, transparent and predictable labour migration policies that support the free movement of workers and skill mobility, EBMO must have the resources, competency and network to carry out advocacy activities such as conducting the survey, research, and draft evidence-based policy position. Most EBMOs in the region are still lacking the required capacity to engage in effective policy advocacy.

EAEO calls for programmes and activities to strengthen the capacity of regional and national employers' organizations in evidence-based advocacy are required to enable their effective engagement and participation in the policymaking process for labour migration at both national and regional levels.

CONCLUSION

Clear, transparent, efficient and well-implemented migration policies are an integral part of the legal and regulatory framework necessary to support business environments that are conducive to economic growth and development.

In this EAEO Policy framework and in line with the outcome of the 42nd Annual Conference of Employers' Organizations from East, Central and Southern Africa, 2018, reiterating the readiness of employers to engage in labour migration policy advocacy and calling for more dialogue, in particular in the framework of creating more and better jobs through regional integration and labour migration, the EAEO calls for acceleration of regional integration to advance labour mobility and the free movement of workers across East Africa, particularly within EAC. The EAEO also calls on EAC member states to work in close collaboration with employers' organizations and employers in regional policy development and harmonization at the national level.

The EAEO applauds the recent agreement of the member states to establish the EAC (RCP) on Migration as a permanent forum for addressing migration issues in the EAC, urges for the realisation of such initiative and calls for the inclusion of employers, through the EAEO in the RCP.