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Promoting free movement in West Africa for regional integration and development: stepping up efforts to harmonise migration policies

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*This Policy Brief is based on the study “A Survey on Migration Policies in West Africa”¹ carried out by ICMPD and IOM and commissioned by the Swiss Agency for Development and Cooperation (SDC) and the ECOWAS Commission, which analyses **current policies, practices and trends in the area of migration in the fifteen ECOWAS Member States.***

Executive summary

Migration mostly takes place in the region: The share of migration flows within West Africa is seven times greater than migration flows from West African countries to other parts of the world. Exactly forty years ago, West African countries² launched a regional integration process through the Economic Community of West African States (ECOWAS). In this framework, governments have shown a growing interest and readiness in meeting the challenges and opportunities linked to migration and interrelated development processes. Key ECOWAS strategic documents acknowledge the potential of free movement and migration, if adequately managed, for development and regional integration. The 1979 ECOWAS Protocol relating to the Free Movement of Persons, the Rights of Residence and Establishment (Protocol A/P.1/5/79) and its supplementary protocols set the legal framework for migration within West Africa.

This policy brief argues that there is a **significant delay among Member States in transposing the 1979 Protocol and supplementary protocols** into law. While the right of entry and the abolition of visa requirements for a 90-day stay have been implemented in all countries, less progress can be noted with regard to the Right of Residence and the Right of Establishment. In the area of emigration, this policy brief shows that **labour emigration and employment abroad is only partly organised**. Furthermore, the information and services on the different aspects of the migration process and living/working conditions abroad that is provided by diplomatic representations abroad lack continuity. Nevertheless, ECOWAS Member States are committed to addressing migration, demonstrated by the fact that the large majority of ECOWAS Member States are developing or planning to develop a **national migration policy or strategy**.

Background of the study

There is not enough data or information available to be able to paint a complete picture of the migration policies and practices currently in place in West Africa, or of the instruments and mechanisms in place to implement them.⁴ The study “A Survey on Migration Policies in West Africa” attempts to narrow this knowledge and data gap. The key objective was to analyse the current policies, practices and trends in the area of migration in the fifteen ECOWAS Member States. It aims to provide a better understanding of the migration policies West African countries already have in place and highlight where coherent frameworks are missing. It also seeks to assist

Migration mostly takes place in the region

Slow progress in implementing the ECOWAS protocols on free movement

Majority of ECOWAS Member States are developing or planning to develop national migration policy

Lack of knowledge base on existing migration policies and practices in West Africa

states in identifying a future direction and common ground for addressing migration issues in global, regional, and national debates.

Specifically, the study looks at existing policies and institutional frameworks regarding immigration and emigration, as well as regional and international cooperation on migration. The study also assesses the steps countries have taken to ensure that their migration framework is comprehensive and able to respond to their specific needs and challenges. Furthermore, it examines the level of harmonisation between their national migration policies and the regional integration process as stipulated in the ECOWAS framework on migration.

This study, carried out by ICMPD and IOM and requested by the Swiss Agency for Development and Cooperation (SDC) and the ECOWAS Commission, applied a methodology consisting of conducting semi-structured face-to-face and telephone interviews, desk research, and a comparative analysis.

Six main findings of the study and policy recommendations

Thirty-six years after the adoption of the 1979 Protocol relating to the Free Movement of Persons, the Right of Residence and Establishment, several factors are still impeding effective mobility within the ECOWAS region.

1. There is a significant delay among countries in the region in transposing the 1979 Protocol and supplementary protocols into law. To date, most of the ECOWAS Member States have not yet adapted their legislation to the 1979 Protocols and supplementary protocols, and adherence to the protocol is assigned to administrative practices only. Although the right of entry and the abolition of visa requirements for a 90-day stay have been implemented in all countries, less progress can be noted when it comes to the right of residence and the right of establishment. Only four countries grant a specific residence permit to nationals from ECOWAS Member States. Similarly, in most countries, the national labour legislation does not set specific provisions for access to employment by ECOWAS citizens, which jeopardises the implementation of the right of residence. Hence, national legislation on the entry and stay of foreigners on the state's territory should be updated in order to fully transpose the 1979 Protocol relating to the Free Movement of Persons, the Right of Residence and Establishment and supplementary protocols into law.
2. **The 2008 ECOWAS Common Approach** does not set deadlines for the implementation of the recommended actions and is not accompanied by a monitoring framework with defined objectives, outputs, and activities. This does not, however, prevent an assessment of the alignment of Member States' policies to the six principles of the Common Approach. As noted above, the free movement of persons within the region and beyond still faces various challenges. **General immigration provisions include a number of gaps.** Some of the existing national laws are outdated or imprecise in terms of guaranteeing the observance of international human rights or the application of transparent procedures. **In terms of facilitating access to labour markets, ECOWAS Member States' labour markets are protected through labour market tests or quotas.** In some of the countries, labour legislation is ambiguous on the conditions and procedural steps required to grant work permits, thereby enabling arbitrary decisions by public authorities. In others, national legislation contravenes international law provisions, particularly regarding the principle of non-discrimination. One of the main obstacles is the lack of information on labour market needs which points to the fact that research on national labour market requirements needs to be increased to ensure that labour migration policies are

Aims of the study

A need to update national legislation on the entry and stay of foreigners

Monitoring of the implementation of the 2008 ECOWAS Common Approach

Lack of national labour migration research and information systems

in line with the country's needs.

3. **Emigration is in general less regulated and very few countries have adopted comprehensive policies in this regard.** In the area of labour migration, initiatives to identify and assess potential new countries of destination and to promote employment of nationals abroad are quite limited. Countries have mainly focused on labour agreements. With regard to **migration and development**, most countries have adopted policies to limit the negative effects of brain drain, and although less than half of the countries have adopted policies specifically targeting the diaspora, most of them have put in place measures to facilitate remittance transfers and to build trust and enhance dialogue between the state and its diaspora. These include setting up institutions dedicated to diaspora dialogue, establishing diaspora councils and holding summits with diaspora members. Some countries have facilitated the exercise of diaspora members' political rights through dual citizenship and voting rights. However, a **lack of detailed and up-to-date information on diaspora groups** hinders the effectiveness of migration and development initiatives. In addition, building trust between the government and its diaspora requires offering protection and assistance services to nationals abroad via their diplomatic and consular missions.
4. **Actions against trafficking in persons is one of the most developed migration areas;** almost all Member States have put policies in place that are aligned with the UN Convention against Transnational Organized Crime (2000) and its Protocol on Trafficking in Persons. Almost half of them have established bodies that focus on actions against trafficking in persons, and a network of ECOWAS National Focal Points on combating trafficking, coordinated by the ECOWAS Secretariat in Abuja, has been meeting every year since 2007 (with the exception of 2013) to review progress in implementing regional plans of action to combat trafficking. **However, results are mixed when it comes to the protection of the rights of migrants.** The majority of countries have ratified the 1990 Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families. However, efforts to protect migrants at risk are limited in scope in most of the countries where public authorities rely mainly on NGOs to provide support to victims. Similarly, policies to protect nationals abroad or potential emigrants are inadequate. Diplomatic and consular posts offer limited support, while activities to provide information on the different aspects of the migration process and living/working conditions abroad lack continuity.
5. **Regarding the principle of policy harmonisation, the study shows that most countries lack a comprehensive national migration policy,** with only six countries currently in the process of drafting a national policy. However, almost all countries plan to develop a national migration policy, which could act as a precursor to the planned regional common migration policy. Conversely, a common migration policy could stimulate the development of national migration policies. Another important aspect in deepening policy harmonisation is the alignment of migration and development policies. Although the study did not analyse to which extent migration concerns are mainstreamed in development planning processes and vice versa, the fact that the large majority of countries mention migration in strategic development documents should also be noted as being an important step. **The adoption of a coherent approach which would include migration in other public sector policies faces various obstacles in the countries analysed.** In addition, inter-institutional coordination on general migration matters is still missing, and in cases where inter-institutional coordination mechanisms are in place, they have been established for the purpose of developing a national migration policy. If, and how, these mechanisms

Majority of countries have activities to reach out to their diaspora in place

Progress in addressing trafficking in persons

Need to strengthen diplomatic and consular capacities to provide information and services

Majority of countries plan to develop a national migration strategy

will be kept on after the adoption of the national migration policy and its potential for the implementation of the policy remains to be seen. It is recommended to **reinforce intra-governmental coordination** between key stakeholders on migration by establishing permanent inter-institutional committees and to further harmonise migration management with other policy areas by factoring migration into national development plans.

6. One of the obstacles that stand in the way of the adoption of a coherent approach to migration is that **governments do not have the data required for sound policymaking**. Migration and remittance statistics in the region tend to be imprecise. Remittance transfers through informal channels are always difficult to capture, but it is estimated that informal remittance flows could equal or exceed official figures in Sub-Saharan Africa.⁵ Moreover, none of the countries indicated that they have undertaken an assessment of national labour market needs, and very few have undertaken a mapping exercise of their diaspora. In a similar vein, national authorities have not yet identified professional qualifications that can be promoted abroad, or those that should not be promoted. Set against this background, collection of data on migration and its analysis should be strengthened, with a particular focus on the diaspora, so as to enable the development of sound policies in line with the country's needs. In addition, interaction between academic actors and government agencies should be promoted to stimulate new approaches on migration and the development of well-informed policies.

Access to the study and contact information

English: www.icmpd.org/survey-migration-policies-west-africa
French: www.icmpd.org/enquete-politiques-migratoires-afrique-ouest
Portuguese: www.icmpd.org/estudo-politicas-migracao-africa-ocidental

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¹ Alexandre Devillard, Alessia Bacchi, Marion Noack (2015), A Survey on Migration Policies in West Africa", IOM: Dakar, Vienna: ICMPD.

² West Africa comprises Benin, Burkina Faso, Cape Verde, Côte d'Ivoire, The Gambia, Ghana, Guinea, Guinea-Bissau, Liberia, Mali, Mauritania, Niger, Nigeria, Senegal, Sierra Leone, and Togo. Apart from Mauritania, all these West African countries and at the same time ECOWAS Member States are the subject of this study.

³ The key legal instrument of the Economic Community of West African States (ECOWAS) is the 1975 ECOWAS Treaty and its revision in 1993, and the most important strategic document on migration is the 2008 ECOWAS Common Approach on Migration. These are further described in the comparative analysis of this study, along with the 1979 ECOWAS Protocol on the Free Movement of Persons, the Right of Residence and Establishment and subsequent supplementary protocols.

⁴ The study published by the ACP Observatory on Migration provides an overview on intra-regional labour migration policies established and implemented by ECOWAS Member States. See Awumbila, M. et al., *Across Artificial Borders: An assessment of labour migration in the ECOWAS region*, 2014, Geneva, International Organization for Migration.

⁵ Ratha, D.K. et al., *Leveraging Migration for Africa: Remittances, Skills, and Investments*. Washington DC: The International Bank for Reconstruction and Development/The World Bank, <http://www.afdb.org/fileadmin/uploads/afdb/Documents/Generic-Documents/Leveraging%20Migration-P4-rev-3.31.2011.pdf>, 2011, (accessed 31 July 2014).

Reinforce inter-institutional coordination

Need to strengthen data collection and analysis on migration