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FREE MOVEMENT IN AFRICA – TIME TO CELEBRATE?

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On 29 January 2018 the AU adopted the Protocol to the Treaty Establishing the African Economic Community Relating to Free Movement of Persons, Right of Residence and Establishment, and its Implementation Roadmap. The movement of people for work and trade is central to the AU’s mission of economic integration, which it views as a key pathway to development. The drive for the continental free movement of persons originates from the Organisation for African Unity Lagos Plan of Action for the Economic Development of Africa, 1980-2000, and is perpetuated by leading AU development instruments, including the Abuja Treaty, Agenda 2063, and the Continental Free Trade Area Agreement.

The AU recognises 8 Regional Economic Communities (RECs) as building blocks of continental integration, and has encouraged the adoption of free movement protocols, which would eventually be harmonised and culminate into continent wide free movement. Although most RECs have adopted free movement agreements, few have implemented them.

The East African Community (EAC) and the Economic Community of West African States (ECOWAS) are the only RECs that have adopted common passports and are implementing comprehensive free movement regimes that provide for the rights to residence and establishment. These phases entail the ability to move to another state, apply for jobs, set up a business, practice a profession and be accompanied by family members, and are necessary for deep economic integration and the development gains it holds. While their achievements are laudable, they have struggled with the uniform implementation of these advanced phases across their Member States. As in Europe, security concerns, the protection of the labour market, public purse, and critical skills, have hampered free movement. Moreover, the lack of effective supra national enforcement mechanisms and sanctions have, at times, given way to the selective implementation of commitments.

Furthermore, while most REC protocols capture the political vision of comprehensive free movement, with the rights to enter, reside, work and set up businesses, they often fail to cover the intricate interstate cooperation mechanisms that the implementation of these rights would require. For such cooperation the rules and procedures that govern the harmonisation of immigration procedures, border management and education systems, as

well as the mutual recognition of experience and qualifications gained, common standards for working conditions, and the portability of social security benefits, would need to be specified. Consequently, most RECs still need to develop the tools to implement their protocols, once they are launched.

The AU, like the RECs, is only as strong as its Member States, who ultimately decide on the shape, size, and implementation of commitments. The AU Protocol will enter into force once it has been ratified by 15 Member States, which according to its Roadmap should occur in 2018. The Protocol has three successive phases, commencing with the abolishment of visa requirements and visa free entry for up to 90 days, or more if permitted through other regional or bilateral arrangements. The right to residence follows in phase 2, while the right to seek and accept employment is captured in a separate article. Phase 3 on the right of establishment allows for the practice of a profession, setting up a business or performing an economic activity as a self-employed person. The Roadmap states that the timelines for phase 2 and 3 will be determined once the implementation of previous phases have been assessed. The Roadmap incorporates the principle of variable geometry, whereby states can implement the Protocol's provisions at different speeds and times, and regional and bilateral arrangements can be used for accelerated implementation.

Overall, the systems and procedures that will facilitate the enjoyment of the Protocols' provisions across the continent, still need to be developed, or harmonised among Member States. Effective monitoring and enforcement of free movement commitments will be a further challenge.

Nevertheless, the AU's adoption of the Protocol and the Migration Policy Framework for Africa (MPFA) and its Action Plan (2018-2030) in January 2018, sends an important message. Africa is charting its migration narrative, and it has a strong focus on the promotion of migration and development.

The donor driven focus on combatting irregular migration, from and in Africa, through strengthening border management and the securitisation of migration, risks having the net effect of simply making it harder to move, driving the demand for smuggling services, and undermining livelihoods. The ability of people to travel across borders to engage in trade and labour, in a safe and regular way, is important for economic development, as well as resilience.

The MPFA and its Action Plan presents an opportunity to support Africa's efforts to promote migration and development. This comprehensive framework enlists AU programmes, such as the Joint Labour Migration Programme (JLMP), that aim to create key building blocks for the

free movement of persons. The JLMP, inter alia, supports the enhancement of labour migration statistics, skills recognition and the portability of social security benefits, through activities with RECs and Member States. While continent wide free movement will not be achieved over night, important, incremental steps are being taken to aid regular migration and mobility, which contribute to Africa's economic integration and development.

So, is it time to celebrate a new beginning?

The Africa Visa Openness reports tells a progressive tale, with countries on average becoming more open to each other, travel easing, and visa free entry on the rise. We can expect countries that score high on visa openness to be the forerunners with implementing the first phase of the Protocol, such as Rwanda and Mauritius. Seychelles leads the way as the only country to offer visa free access to all Africans.

Countries that fear they may be flooded, such as South Africa, are likely to drag their feet, as are countries that face political instability and rely on heavy security apparatus to retain power.

The subsequent, more demanding phases of the Protocol, will be more easily implemented among states that already share relatively high levels of integration, such as the EAC and ECOWAS Member States. And as integration intensifies, the same bottlenecks will arise and imperil progress.

At the end of the day, free movement will flourish if African states decide to put their heads down, and do the difficult and complicated work of harmonising laws, policies and administrative procedures across sectors and borders. Europe's aid will not make free movement work in Africa. Africa will, if it wants to.

Related links:

- [*A Survey on Migration Policies in West Africa \(2015\)*](#) Download [en fr pt](#)
- [*MME on the Move: A Stocktaking of Migration, Mobility, Employment and Higher Education in Six African Regional Economic Communities \(2013\)*](#) Download [en fr](#)
- *Support to Free Movement of Persons and Migration in West Africa* ([FMM West Africa](#))
- [*The Rabat Process*](#)
- [*The Khartoum Process*](#)
- *MIEUX activities in Sub-Saharan Africa and North Africa*

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