



A Survey on Migration Policies in West Africa

Second Edition



IOM International Organization for Migration
OIM Organisation Internationale pour les Migrations
OIM Organización Internacional para las Migraciones

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A Survey on Migration Policies in West Africa

Second Edition

Prepared by the International Centre for Migration Policy Development, Vienna – Austria and the International Organization for Migration (Regional Office for West and Central Africa), Dakar – Senegal

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Abstract

This survey analyses the current policies, practices, and trends in the area of migration in the fifteen ECOWAS Member States. It therefore attempts to both provide a better understanding of the migration policies West African countries already have in place and highlight where coherent frameworks are lacking. The analysis shows that thirty-five 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 inter-regional mobility within the ECOWAS region. Member States face a significant delay 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 as regards the Right of Residence, the Right of Establishment and access to employment. In the area of emigration, the study shows that labour emigration and employment abroad is regulated only to a limited extent. Furthermore, information and services on the different aspects of the migration process and living/working conditions abroad provided by diplomatic representations abroad lack continuity. Nevertheless, ECOWAS Member States aim to address migration which is evidenced by the fact that the large majority of ECOWAS Member States are explicitly planning to develop a national migration policy or strategy.

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Foreword



Migration in West Africa is part of its history, everyday life, and culture. Eighty-four per cent of migration flows today take place in the region and hence contribute to regional integration and to the further strengthening of the Economic Community of West African States (ECOWAS). This South-South migration is seven times greater than migration flows from West African countries to other parts of the world. Not only is migration a powerful poverty reduction and development tool for all countries in the region, the remittances which it produces serve as effective income diversification and a way of improving living conditions for vulnerable households.

This publication provides an overview of the migration situation and the related policy frameworks in the fifteen ECOWAS Member States. Its timing is apt, coming as it does while the ECOWAS is in the midst of revising the Protocol on Free Movement of People, and we will use this study to draw important lessons for the future. Creating a regional labour market with facilitated access to employment in ECOWAS Member States for all ECOWAS citizens is a major challenge, but also one which we gladly accept and are meeting head-on.

It is equally important to underline the strong momentum on the part of all ECOWAS Member States considering developing national migration policy. This endeavour shows that ECOWAS Member States are aware of the importance of ensuring a concerted approach to migration issues within a framework of permanent dialogue.

I wish to thank and commend the Swiss Agency for Development and Cooperation (SDC) for providing the financial resources to support the research and production of this study and for its continuous support to ECOWAS initiatives in the field of migration management. I would also like to thank the International Centre for Migration Policy Development (ICMPD) and the International Organization for Migration (IOM) for their excellent work and collaboration on this study.

Kadré Désiré Ouedraogo

**President
ECOWAS Commission**

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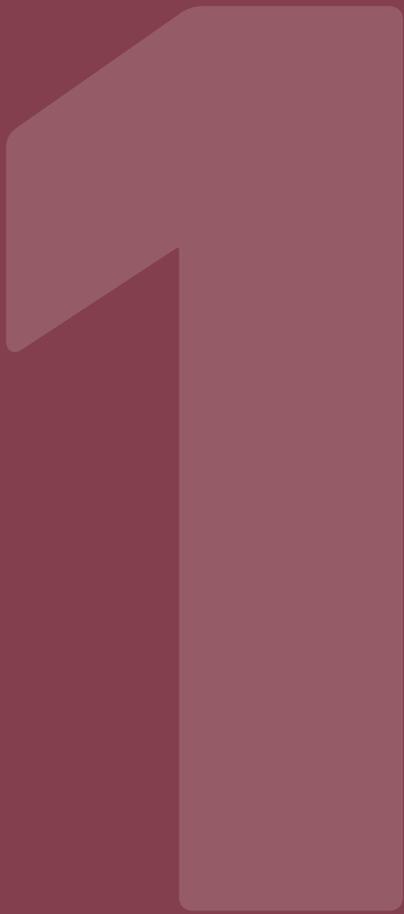
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List of Acronyms

AFIDRA	<i>Association pour la formation, l'insertion et le développement rural en Afrique</i>
AIDE	<i>Association des initiatives de développement</i>
AGEPE	Preliminary declaration to the public employment services
AGUIPE	Guinean Agency for the Promotion of Employment
AME	<i>Association malienne des expulsés</i>
AMEJD	<i>Association malienne pour l'environnement, la jeunesse et le développement</i>
AMIC	<i>Amigos de Criança</i>
ANEJ	Youth Employment Agency
ANIDA	<i>Agence nationale d'insertion et de développement agricole</i>
ANSD	<i>Agence nationale de la Statistique et de la Démographie (Sénégal)</i>
APERP	Project for the Support of Employment Promotion and Poverty Reduction
ARTD	<i>Association retour, travail, dignité</i>
ASCODE	<i>Association pour le Co développement</i>
ATS	Automated Transfer System
AVRR	Assisted Voluntary Return and Reintegration programme
BCAEO	Central Bank of the West African States
CAMPO	Centre for Migrant Support in the Origin Country
CARUD	Campaign Against Rural Urban Drift
CEDAG	Child & Environment Development Association
CERMID	Centre for Studies and Research on International Migration and Development
CERPAC	Combined Expatriate Residence Permit and Aliens Card
CIGEM	Centre for Migration Information and management
CIPRES	Inter-African Conference on Social Insurance
CIREFI	Centre for Information, Discussion and Exchange on the Crossing of Frontiers and Immigration
CODM	<i>Centre d'orientation et de documentation sur les migrations</i>
CONGAD	<i>Conseil des organisations non-gouvernementales d'appui au développement</i>
CPLP	Community of Portuguese Language Countries
CRC	Constitutional Review Commission
CSD	Central Securities Depository
DEFI	<i>Développement par l'éducation la formation et l'insertion</i>
ECOWAS	Economic Community of West African States
ENAMI	National Survey of Migration in Niger
ESS	Eurest Support Services
EU	European Union
FAISE	Support Fund for Investments of Senegalese Abroad

FKTC	First Kuwaiti Trading Company
FRONTEX	European Agency for the Management of Operational Cooperation at the External Borders of the Member States of the European Union
GAMJOBS	The Gambia Priority Employment Programme
GCC	Gulf Cooperation Council
GDN	Global Development Network
GFMD	Global Forum on Migration and Development
GID	Gambia Immigration Department
GIEPA	Gambia Investment and Export Promotion Agency
GIS	Ghana Immigration Service
GLMM	Gulf Labour Markets and Migration
GOANA	La Grande offensive agricole pour la nourriture et l'abondance
GRDR	<i>Grupo de Investigação e Realização no Desenvolvimento Rural</i>
GSS	Ghana Statistical Service
GTTI	Gambia technical Training Institute
HDI	Human Development Index
ICMPD	International Centre for Migration Policy Development
ILMD	International Labour Migration Desk
ILO	International Labour Organization
IMSCM	Inter-Ministerial Steering Committee on Migration
IOM	International Organization for Migration
IPPR	Institute for Public Policy Research
IPSD	Italian Public Security Department
LEADS	Linkage with Experts and Academics in the Diaspora
MIDA	Migration for Development in Africa
MIDWA	Migration Dialogue for West Africa
MIEUX	Migration EU Expertise
Migration DRC	Development Research Centre on Migration
MME	Migration, Mobility and Employment Partnership
MTM	Mediterranean Transit Migration Dialogue
NAATIP	National Agency Against Trafficking of Persons
NAPTIP	National Agency for Prohibition of Traffic in Persons and Other Related Matters
NBS	National Bureau of Statistics
NCFRMI	National Commission for Refugees, Migrants and Internally Displaced Persons
NEDI	National Enterprise Development Initiatives
NELEX	National Electronic Labour Exchange
NIDO	Nigerians in the Diaspora Organisation
NNVS	Nigerian National Volunteer Service
NPC	National Planning Commission
NPopC	National Population Commission
NTF	National Task Force against Trafficking in Persons
NUC	National Universities Commission

OECD	Organisation for Economic Co-operation and Development
OHCHR	Office of the High Commissioner for Human Rights
PAEI	Assistance Programme to Independent Employment
PAGE	Programme for Accelerated Growth and Employment
PAISD	<i>Programme d'Appui aux Initiatives de Solidarité pour le Développement</i>
PAPES	<i>Plateforme d'appui aux petites entreprises du Sénégal</i>
PDCI	Democratic Party of Côte d'Ivoire
PEA	Private employment agency
PIRS	Passenger Information Registration System
PSE	<i>Plan Sénégal Emergente</i>
RADDHO	<i>Rencontre africaine pour la défense des droits de l'homme</i>
RAJGUI	<i>Réseau Afrique Jeunesse de Guinée</i>
RAVEC	<i>Recensement Administrative à caractère d'état civil</i>
REFMAP	<i>Réseau des Femmes du Fleuve Mano pour la Paix</i>
REVA	<i>Retour volontaire vers l'agriculture</i>
RGPH	National Population and Housing Census
RICODEV	Strengthening of the co-development initiatives in the region of Cacheu
ROME	Operational Register of Occupations
SCAPE	<i>Stratégie de croissance accélérée et de promotion de l'emploi</i>
SEF	Foreigners and Borders Service
SIGEM	Information System for Efficient Migration Management
STR	Subject to Regularization
SWAC	Sahel and West African Club
TIN	Tax Identification Number
TOKTEN	Transfer of Knowledge through Expatriate Nationals
TWP	Temporary Work Permit
UEMOA	West African Economic and Monetary Union
UN	United Nations
UNDP	United Nations Development Programme
UNECA	United Nations Economic Commission for Africa
UNHCR	United Nations High Commissioner for Refugees
UNODC	United Nations Office on Drugs and Crime
WACPS	Women and Children Protection Section
WAEMU	West African Economic and Monetary Union
WAN	West African Network
WAPCCO	West African Police Chiefs' Committee



Introduction

1. Introduction

West Africa is characterised by – among other factors – a fast growing population and steadily increasing urbanisation. These factors affect migration patterns in the region and require collective responses by West African countries¹ that work together in the framework of the regional integration process launched almost forty years ago through the Economic Community of West African States (ECOWAS). In recent years, West African governments have shown a growing interest and readiness to handle challenges related to migration as well as to better take advantage of the inherent development potential of migration. Key ECOWAS strategic documents acknowledge the potential of free movement and migration, and, if adequately managed, for development and regional integration.² The 1979 ECOWAS Protocol relating to the Free Movement of Persons, the Right of Residence and Establishment (Protocol A/P.1/5/79) and its supplementary protocols set the legal framework on migration within West Africa.

However, mobility in the region and regional integration are still being hampered by the different levels of economic development, inadequate infrastructure, and differences in migration and customs laws and currencies. One of the main implications of this is that the full implementation of the Rights of Residence and Establishment as set down in the 1979 ECOWAS Protocol relating to the Free Movement of Persons and its supplementary protocols has only partially been achieved.

Neither enough data and accessible information exists to have a complete picture on the migration policies and practices currently in place in West Africa, nor the instruments and mechanisms to implement them.³ This study contributes to narrowing this knowledge and data gap. It attempts to both provide a better understanding of the migration policies West African countries already have in place and highlight where coherent frameworks are lacking. It is also intended to assist states in identifying their future direction and common ground for addressing migration issues in global, regional, and national debates. Therefore, the key objective of this study is to analyse the current policies, practices, and trends in the area of migration in the fifteen ECOWAS Member States. Specifically, the study identifies the migration policies in these countries and the underlying institutional framework in which migration policies are implemented, as well as the regional and international cooperation on migration. In terms of immigration policies, the focus is on labour and irregular immigration, and protection of migrants at risk. In regard to emigration policies, this study focuses on labour emigration, migration and development, and protection of nationals abroad and potential emigrants. The study also assesses the steps countries have taken to

¹ 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. The ECOWAS Member States, which are the subject of this study, are all these West African countries except Mauritania.

² 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.

³ 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.

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.

1.1 Methodological approach

This study, requested by the Swiss Agency for Development and Cooperation (SDC) and the ECOWAS Commission, was conducted from November 2012 to October 2014, with the data collection phase being undertaken between June 2013 and January 2014. Legal and institutional changes at national level that took place before June 2014 are also reflected. The methodology adopted for this study was based on a fact-finding approach whereby first-hand data was complemented with secondary source data. The methodology consisted of conducting semi-structured face-to-face and telephone interviews, desk research, and a comparative analysis.

First, the research team conducted surveys targeting key government stakeholders in the fifteen countries analysed.⁴ The surveys were based on a semi-structured questionnaire (which can be found in Annex I) covering the institutional framework for migration, immigration, and emigration policies; legislation and administrative practices; and international, regional, and bilateral cooperation on migration. Second, the findings were substantiated with data from available public sources and thereon country chapters were drafted. First-hand information from the International Centre for Migration Policy Development (ICMPD) and the International Organization for Migration (IOM) projects in the region was also included. Afterwards, the research team identified patterns in common to the countries in the comparative analysis. The objectives of this comparative analysis were to: a) identify current trends concerning the coverage of migration themes in each country's policy framework; b) assess the steps taken to ensure a comprehensive migration framework, including cooperation and coordination between central and local governmental stakeholders; and c) analyse the level of harmonisation between the analysed countries' policies and the ECOWAS's framework on migration, in particular with the 1979 ECOWAS Protocol relating to the Free Movement of Persons, the Right of Residence and Establishment and its supplementary protocols, and the 2008 ECOWAS Common Approach on Migration. As a final step, the country chapters and the comparative analysis were also reviewed by the government stakeholders in the fifteen countries and the ECOWAS Free Movement of Persons Directorate to check for factual inaccuracies or missing elements.

This methodological approach enabled the research team to get a comprehensive overview of the migration frameworks and policies in West Africa. However, this study does have some limitations. First, it presents the development (and current status quo) of migration policies and frameworks in West African countries over a limited period of time. These policies and frameworks are constantly evolving and may have changed since the time the data was first collected.

Second, the dynamics of migration are more difficult to capture than other demographic categories of population change due to the multifaceted nature of human mobility. West African migration data is no exception; migration statistics might be outdated in some countries or not comparable due to varying

⁴ The study covers the fifteen current ECOWAS Member States.

methods of data collection. Hence, population censuses were chosen as the main data source in the country chapters in order to ensure a certain level of comparability. In addition, remittance statistics tend to be unreliable given the significance of informal transfers, particularly for intra-regional flows. These data limitations should be taken into account when looking at the migration and remittance trends presented in this study.

Third, by analysing the information collected through the surveys, it became evident that some respondents' answers were contradictory. This may be explained by the substantial rotation of civil servants. To complement and review the surveys' findings, the research team conducted extensive desk research using public sources and analysed legal and administrative texts. However, the extent to which public information is available for the countries involved varies from one to the next.

Finally, certain issues were beyond the scope of this study. This study only analyses the mechanisms put in place to ensure coordination and cooperation between institutions within the government and does not assess the implementation and impact of these mechanisms. An analysis of the coherence between migration and development policies in the countries would require further research. Furthermore, this study does not assess in detail the level of implementation of the 1979 ECOWAS Protocol relating to the Free Movement of Persons, the Right of Residence and Establishment and its supplementary protocols, nor the 2008 ECOWAS Common Approach on Migration, but rather provides an overview of the main achievements and shortcomings. As a last point, it should be noted that displacement and refugee movements are generally outside the scope of this study, but had to be taken into account in some cases as they are an important part of a country's migration situation.

2

Comparative
Analysis

2. Comparative analysis

2.1 Data and key migration trends in the ECOWAS region

2.1.1 Socio-economic and geopolitical context

West Africa is characterised by high population growth and a dynamic economy but weak socio-economic conditions. Since 2005, the region's population has grown rapidly, reaching 301.4 million in 2010, with a median age of 18 years.⁵ In addition, since 2005, and in stark contrast to regions that have been affected by the current world economic crisis, the region has experienced strong economic growth that outpaces its demographic growth.⁶ With the exception of Benin, Cape Verde, and Guinea-Bissau, at the beginning of 2014, every one of the ECOWAS countries had a growth rate greater than 5%. The ECOWAS region has the highest GDP growth rates among the five Regional Economic Communities in Africa, but is heavily dependent on demand in trade partner countries. Growth has also been largely uneven, with great disparities across the ECOWAS Member States. Poor living conditions still prevail as a result of an uneven distribution of wealth.⁷ According to the Human Development Index (HDI) from 2012, only Cape Verde and Ghana qualify as having a medium human development, while the other ECOWAS Member States are classified as having a low human development.⁸ In addition, the high level of unemployment continues to be of concern. According to the United Nations Economic Commission for Africa (UNECA), in 2010 the unemployment rate in West Africa was estimated to be on average between 10% and 20% (2013). Moreover, a large proportion of the population has a vulnerable occupation (79% in 2009) and is employed in the informal job market.

The region is affected by recurring insecurity and instability. Over the past decades, several armed conflicts have taken place in the region (e.g. in Côte d'Ivoire 2002-2007, Liberia 1999-2003, Mali 2012-present, Nigeria in 1996, and Sierra Leone 1991-2002). According to the Failed States Index 2013, most of the countries (i.e. Burkina Faso, Guinea, Guinea-Bissau, Côte d'Ivoire, Liberia, Niger, Nigeria, and Sierra Leone) are at risk of experiencing conflicts or collapse.⁹ Transnational criminality, smuggling of arms and drugs, piracy, insurgencies, and kidnapping are all major threats to the region's security. Some countries are affected by humanitarian crises resulting from the military conflict in Mali, religious extremist activities in Nigeria, the 2012 *coup d'état* after the military unrest in 2010 and failed coup of 2011

⁵ United Nations, Department of Economic and Social Affairs, 'UN DESA World Population Prospects: The 2012 Revision', <http://esa.un.org/unpd/wpp/Excel-Data/population.htm>, 2013, (accessed 27 March 2014).

⁶ Growth rate for the region is estimated 6.7% in 2013 and 7.4% in 2014. See: AfDB, OECD, UNDP, UNECA, *African Economic Outlook 2013*, Regional Edition, 2013.

⁷ United Nations Economic Commission for Africa sub-regional office for West Africa ECA/SRO-WA, *Economic and Social Situation in West Africa in 2011-2012 and Outlook for 2013*, March 2013, Abidjan, Côte d'Ivoire.

⁸ United Nations Development Programme, *Human Development Report 2014, Sustaining Human Progress: Reducing Vulnerabilities and Building Resilience*, 2014, <http://hdr.undp.org/en/2014-report/download>, (accessed 29 July 2014).

⁹ The Fund for Peace, 'Failed States Index 2013' [online data source], <http://ffp.statesindex.org/rankings-2013-sortable>, (accessed 28 March 2014).

in Guinea-Bissau, and drought and cyclical food insecurity in the Sahel region, particularly in Niger and Burkina Faso.¹⁰

Table 1: Key Demographic and Economic Indicators

Country	Real GDP Growth 2014 (projected)	Human Development Index Ranking 2012	Failed States Index 2013	Country Population (Thousands) 2012	Average annual rate of population change (percentage) 2005-2010	Percentage of population in urban areas	Annual rate of change of the urban population (percentage) 2010-2015
Benin	4.6	165	77.9	9,510	3.0	41.9	3.7
Burkina Faso	6.8	183	90.2	15,540	2.9	25.7	5.9
Cape Verde	4.6	132	73.7	488	0.4	61.8	2.0
Côte d'Ivoire	9.8	168	103.5	18,977	1.7	50.6	3.7
The Gambia	5.1	165	81.8	1,681	3.1	56.3	4.3
Ghana	8.7	135	69.1	24,263	2.5	50.7	3.4
Guinea	5.6	178	101.3	10,876	2.5	34.9	3.8
Guinea-Bissau	3.5	176	101.1	1,587	2.2	45.2	4.1
Liberia	5.4	174	95.1	3,958	3.8	47.8	3.4
Mali	5.1	182	89.3	13,986	3.2	36.0	5.1
Niger	6.5	186	99.0	15,894	3.7	17.6	5.1
Nigeria	7.3	153	100.7	159,708	2.7	43.5	4.7
Senegal	5.1	154	81.4	12,951	2.8	42.2	3.6
Sierra Leone	12.1	177	91.2	5,752	2.3	38.2	2.7
Togo	5.5	159	87.8	6,306	2.6	37.5	3.8

Source: African Development Bank Group, Development Centre of the Organisations for Economic Co-operation and Development, United Nations Development Programme, Economic Commission for Africa, Fund for Peace, United Nations, Department of Economic and Social Affairs.¹¹

2.1.2 National migration data collection systems

It is in general **problematic to compare migration data across ECOWAS Member States resulting from data collection shortcomings**. All ECOWAS countries have been collecting statistical data on immigration through national population and housing censuses. However, only in some cases, such as the National Population and Housing Censuses in Ghana and Guinea-Bissau, were questions on emigration also included. In addition, some countries have conducted living standards and migration surveys which

¹⁰ United Nations Economic Commission for Africa sub-regional office for West Africa ECA/SRO-WA, 2013, op. cit.

¹¹ *Column 1*: African Development Bank Group, Development Centre of the Organisations for Economic Co-operation and Development, United Nations Development Programme, and Economic Commission for Africa, *African Economic Outlook 2013 Regional Edition*, http://www.africaneconomicoutlook.org/fileadmin/uploads/aeo/PDF/Regional_Edition/West_Africa_2013_en.pdf, 2013, (accessed 28 March 2014); *Column 2*: United Nations Development Programme, 2014, op. cit.; *Column 3*: Fund for Peace, op. cit.; *Column 4-5*: United Nations, Department of Economic and Social Affairs, 'World Population Prospects: The 2012 Revision', op. cit.; *Columns 6-7*: United Nations, Department of Economic and Social Affairs, 'World Urbanization Prospects: The 2014 Revision', <http://esa.un.org/unpd/wup/>, 2014, (accessed 29 July 2014).

provide additional information.¹²

The advantage of the population and housing census data is that it includes all immigrants, irrespective of their legal status. The main disadvantage of the census data is that national censuses are not conducted regularly: the most recent ones in Benin and Senegal both took place in 2002, and in Guinea and Côte d'Ivoire they were carried out in 1996 and 1998 respectively. Hence, it is very difficult to estimate migration trends based on this data. In most cases, ECOWAS Member States' population censuses collect data on the immigrant stock, i.e. individuals who were born abroad and reside in the considered country, regardless of their nationality, and the foreigners stock. In addition, most censuses disaggregate both immigrant and foreigners stock by nationality. However, several countries, such as Benin, Guinea, Sierra Leone and Togo only collect and/or publish data on the foreigner stock. In Guinea-Bissau on the contrary, data on the immigration stock exist, including foreign immigrants, but censuses do not include statistics on the total number of foreigners residing in the country.

As regards figures on the emigrant population, different data sources are presented in the country chapters, such as data referred to in research reports and unpublished data from diplomatic and consular posts or national authorities. The sources of this data are not clearly established: they often originate from consular or electoral registers. In addition, it is difficult to know whether the estimates include emigrants, i.e. nationals abroad, or individuals who have their roots in the country but were granted the citizenship of the residence country. Other data sources of the origin country often do not exist, albeit with some exceptions: in Niger, a survey was conducted which includes information on emigrants; in Ghana, the 2010 census reports on emigrants abroad, but provides an underestimation of the emigrant population; the census of Guinea-Bissau includes information on the emigrant population; and the Senegalese Household Survey from 2001 provides an indication of emigrant flows. Most of the available data is collected by the countries of residence. However, in this case, individuals who possess citizenship of the destination country and those whom are irregular migrants are *ipso facto* not taken into account.

As a result and to allow for comparability, we mainly present migration data from the World Bank Bilateral Migration and Remittances database (2010) in the comparative chapter and compare it in some cases with the data available at national level (see table 2). The individual country chapters refer to the latest data source available at national level.

2.1.3 Migration patterns and trends

Population movements mostly take place within the region.¹³ The data indicates that 84% of migration movements in West Africa are directed towards another country in the region, which is seven times greater than migration flows from West African countries to other parts of the world.¹⁴ Only four countries had emigrant populations who chose an OECD country as their top destination: Portugal for Cape Verde, Spain for The Gambia, Portugal for Guinea-Bissau, and the United States for Nigeria. This is confirmed

¹² For an overview on data collection systems in ECOWAS countries see Awumbila, M. et al., *Across Artificial Borders: An assessment of labour migration in the ECOWAS region*, 2014, Geneva, International Organization for Migration (annex 2 and 3).

¹³ Lanneau, G. and A. Scarlett, *Le bien être des migrants en Afrique de l'ouest, Document de travail du Rapport Etat de la Migration dans le Monde 2013*, IOM, 2013.

¹⁴ Sahel and West African Club (SWAC), Organisation for Economic Co-operation and Development (OECD), *The Economic and Regional Context of West African Migrations*, <http://www.oecd.org/migration/38481393.pdf>, 2006, (accessed 29 July 2014).

by data on the origin of migrants residing in the countries in 2010. In most cases, the top origin countries are other West African countries. The only exception is Cape Verde, which mostly hosts migrants from São Tomé and Príncipe (see table 3 below).

Migratory movements are part of West Africa's history and date back to the pre-colonial era. Geographical proximity, together with socio-cultural and economic ties linking the countries and populations of West Africa, has facilitated long-distance movements.¹⁵ Before the colonial era, intra-regional mobility was not restrained by the territorial boundaries later established during the colonial period and which also separated ethnic groups living in different countries. Yet, even though national borders have been established, migratory movements across borders have continued, mostly in the form of labour migration. After independence, South-South and South-North migratory flows developed simultaneously as both agricultural export-oriented countries in Africa and European industrial countries looked to satisfy their labour demands. The two main destination countries during the 1960s and 1970s were Côte d'Ivoire and Nigeria. Recurring economic crises have led to changes in the migration strategies of major destination countries and often coincided with periods of economic growth in neighbouring countries, which has also resulted in changing migration patterns.

Nowadays, all ECOWAS Member States are countries of emigration and immigration (see table 2 below). In absolute terms, Côte d'Ivoire has the highest number of immigrants with 2,406,700 among which 2,350,024 originate from other ECOWAS countries, followed by Ghana with 1,851,800 migrants residing in the country. Table 2 below clearly shows that The Gambia and Côte d'Ivoire have the largest share of immigrants in relation to size of population. On the other hand, Nigeria, which hosts the third-largest immigrant population in absolute terms, only has 0.7% of immigrants among their population due to its large overall population (the country is home to over half of the entire population of the ECOWAS region). Mali and Niger also rank very low in terms of proportion of immigrants. However, it is important to note the distinction between an immigrant and a foreigner as well as the fact that a number of countries censuses only estimate the foreigners stock and not the immigrant stock (see section 2.1.2 on the national data collection systems).

Burkina Faso, Côte d'Ivoire, and Mali have the largest emigrant population residing abroad in absolute numbers, according to World Bank data. As percentage of their population, Cape Verde, Togo, and Liberia have the largest share of emigrants. The table also shows that some countries, such as Burkina Faso, Côte d'Ivoire, Ghana, and Nigeria, have both a large immigrant *and* emigrant population. Mali and Cape Verde, and to some extent also Liberia, again, are predominantly countries of emigration.

Tables 3 and 4 show the **migration corridors**, i.e. the most popular destination countries for migrants from a certain country. Migrants from Burkina Faso prefer to migrate to Côte d'Ivoire (1,310,892), which means that almost 95% of all migrants from Burkina Faso who move within the ECOWAS region choose to go to Côte d'Ivoire. The situation is similar for migrants from Sierra Leone, who mainly migrate to Guinea.

¹⁵ Agyei, J., E. Clotey, *Operationalizing ECOWAS Protocol on Free Movement of People among the Member States: Issues of Convergence, Divergence and Prospects for Sub-Regional Integration*, 2007.

Table 2: Key migration data

Country	Immigrant Stock 2010 (World Bank)	Foreigners Stock (Census data)	Stock of immigrants as percentage of population 2010 (World Bank)	Stock of foreigners as percentage of population (Census data)	Emigrant Stocks 2010	Stock of emigrants as percentage of population 2010
Benin	232,000	141,595	2.5	2.1	531,600	5.8
Burkina Faso	1,043,000	60,074	6.4	0.5	1,576,400	9.7
Cape Verde	12,100	15,000	2.4	2.9	192,500	37.5
Côte d'Ivoire	2,406,700	2,163,644	11.2	n/a	1,170,900	5.4
The Gambia	290,100	119,776	16.6	8.0	64,900	3.7
Ghana	1,851,800	600,049	7.6	2.0	824,900	3.4
Guinea	394,600	264,787	3.8	3.7	532,700	5.2
Guinea-Bissau	19,200	1,316	1.2	0.1	111,300	6.8
Liberia	96,300	68,688	2.3	2.0	431,900	10.5
Mali	162,700	160,216	1.2	1.1	1,012,700	7.6
Niger	202,200	88,067	1.3	0.8	386,900	2.4
Nigeria	1,127,700	999,273	0.7	0.7	1,000,000	0.6
Senegal	210,100	43,651	1.6	0.5	636,200	4.9
Sierra Leone	106,800	88,876	1.8	1.8	267,000	4.6
Togo	185,400	241,212	2.7	4.1	368,700	18.7

Source: World Bank, Census Data¹⁶

¹⁶ World Bank, *Migration and Remittances Factbook 2011*, <http://econ.worldbank.org/WBSITE/EXTERNAL/EXTDEC/EXTDECPR OSPECTS/0,,contentMDK:21352016~isCURL:Y~menuPK:3145470~pagePK:64165401~piPK:64165026~theSitePK:476883.00.html>, 2010, (accessed 23 March 2014); Benin-National Population and Housing Census (2002), Burkina Faso-National Population and Housing Census (2006), Cape Verde-National Population and Housing Census (2010), Côte d'Ivoire-National Population and Housing Census (1998), The Gambia-Population and Housing Census (2003), Guinea-General Population and Housing Census (1996), Guinea-Bissau-National Population and Housing Census (2009), Liberia-Population and Housing Census (2008), Mali-National Population and Housing Census (2009), Niger-National Population and Housing Census (2001), Nigeria-Population and Housing Census (2006), Senegal-National Population and Housing Census (2002), Sierra Leone-Population and Housing Census (2004), Togo-National Population and Housing Census (2010).

Table 3: Bilateral Estimates of Migrant Stocks in 2010: ECOWAS Countries as Country of Origin

Source country	Benin	Burkina Faso	Cape Verde	Côte d'Ivoire	The Gambia	Ghana	Guinea	Guinea-Bissau
Top seven destination countries	Nigeria	Côte d'Ivoire	Portugal	Burkina Faso	Spain	Nigeria	Côte d'Ivoire	Portugal
	238,561	1,310,892	63,403	842,931	18,112	186,015	134,171	30,225
	Togo	Other South	France	Other South	United States	Côte d'Ivoire	Senegal	Senegal
	74,336	1,67,834	23,197	113,393	7,472	111,001	80,773	24,155
	Côte d'Ivoire	Niger	United States	Mali	Nigeria	United States	Sierra Leone	The Gambia
	62,371	29,881	20,855	77,549	6,509	110,931	69,127	20,158
	Other South	Mali	Mozambique	France	Senegal	United Kingdom	The Gambia	France
	54,669	22,365	20,702	71,334	5,881	96,795	58,625	8,653
	Gabon	Italy	Angola	Italy	United Kingdom	Burkina Faso	Other South	Spain
	32,173	11,651	13,219	22,276	5,198	50,217	51,552	7,462
Niger	Benin	Netherlands	Italy	Germany	Italy	Liberia	Other South	
27,691	10,606	11,467	22,276	4,049	49,931	49,944	6,741	
France	Nigeria	Senegal	United States	Sweden	Other South	France	Nigeria	
17,163	8,307	9,315	9,388	3,358	49,835	22,124	4,847	
To ECOWAS countries	412,630	1,382,524	14,319	932,493	18,364	410,335	420,043	53,530
To other countries	119,537	195,747	178,213	239,658	46,541	415,080	113,265	57,844
Source country	Liberia	Mali	Niger	Nigeria	Senegal	Sierra Leone	Togo	
Top seven destination countries	Guinea	Côte d'Ivoire	Nigeria	United States	The Gambia	Guinea	Nigeria	
	189,437	440,960	87,529	210,647	177,306	157,067	115,791	
	Côte d'Ivoire	Nigeria	Côte d'Ivoire	United Kingdom	France	United Kingdom	Côte d'Ivoire	
	74,734	133,464	84,705	150,918	91,446	22,898	56,527	
	United States	Other South	Benin	Chad	Italy	Other South	Benin	
	66,652	98,799	80,789	114,025	81,424	21,659	51,302	
	Other South	Niger	Other South	Cameroon	Mauritania	United States	Other South	
	37,453	69,790	40,831	78,292	64,557	17,549	33,991	
	Sierra Leone	France	Chad	Italy	Spain	Liberia	Burkina Faso	
	24,887	68,786	38,468	52,845	51,672	12,086	23,993	
Nigeria	Burkina Faso	Burkina Faso	Benin	Other South	Germany	France		
19,321	68,295	19,885	47,553	41,185	8,407	21,722		
Germany	Gabon	Togo	Other South	Côte d'Ivoire	Netherlands	Germany		
4,202	31,306	17,315	47,162	33,250	4,659	18,123		
To ECOWAS countries	309,002	763,503	297,429	142,931	245,356	178,861	265,615	
To other countries	123,314	250,257	89,902	857,592	391,277	88,348	103,419	

Source: World Bank¹⁷

¹⁷ Rathna, D. K., W. Shaw, *South-South Migration and Remittances. Working paper 102*. Washington DC: World Bank, updated with additional data for 71 destination countries as described in the *Migration and Remittances Factbook*, <http://siteresources.worldbank.org/INTPROSPECTS/Resources/334934-1110315015165/SouthSouthMigrationandRemittances.pdf>, 2007, (accessed 20 March 2014); data available here: World Bank, 'Bilateral Migration and Remittances', <http://econ.worldbank.org/WBSITE/EXTERNAL/EXTDEC/EXTDECPROSPPECTS/0,,contentMDK:22803131~pagePK:64165401~piPK:64165026~theSitePK:476883,00.html>, 2010, (accessed 20 March 2014).

Table 4: Bilateral Estimates of Migrant Stocks in 2010: West African Countries as Country of Destination

Destination country	Benin	Burkina Faso	Cape Verde	Côte d'Ivoire	Guinea	Guinea-Bissau	The Gambia
Top seven source countries	Niger	Ivory Coast	São Tomé and Príncipe	Burkina Faso	Liberia	Senegal	Senegal
	Togo	Mali	Angola	Mali	Sierra Leone	Guinea	Guinea
	Nigeria	Ghana	Guinea-Bissau	Guinea	Mali	Other South	Guinea-Bissau
	Other South	Other South	Other South	Ghana	Senegal	The Gambia	Mali
	Burkina Faso	Togo	Portugal	Niger	Other South	Portugal	Other South
	France	Niger	Senegal	Liberia	Guinea-Bissau	Mauritania	Mauritania
	Other North	Benin	Italy	Benin	Ivory Coast	Cape Verde	Sierra Leone
From ECOWAS countries	190,250	1,011,834	2,176	2,350,024	382,210	15,984	272,653
From other countries	41,786	31,201	9,877	56,689	12,347	3,260	17,451
Destination country	Liberia	Mali	Niger	Nigeria	Senegal	Sierra Leone	Togo
Top seven source countries	Guinea	Côte d'Ivoire	Mali	Benin	Guinea	Guinea	Benin
	Ghana	Burkina Faso	Nigeria	Other South	Mauritania	Liberia	Ghana
	Sierra Leone	Guinea	Burkina Faso	Ghana	Guinea-Bissau	The Gambia	Other South
	Other South	Senegal	Benin	Mali	Other South	Nigeria	Nigeria
	Ivory Coast	Mauritania	Other South	Togo	Mali	Other South	Niger
	Lebanon	Niger	Togo	Niger	France	Ghana	France
	Nigeria	Gabon	Ghana	Chad	Cape Verde	Lebanon	Mali
From ECOWAS countries	85,542	142,342	176,877	823,742	137,626	102,643	153,029
From other countries	10,768	20,335	25,286	303,926	72,435	4,133	32,373

Source: World Bank¹⁸¹⁸ Ibid. Bilateral migrant stocks by source countries are unavailable for Ghana.

2.1.3.1 Labour migration

Labour migration is the dominant form of migration flows in the ECOWAS region. Despite the fact that labour migration patterns are changing in response to the discovery of new natural resources and the establishment of new industries, the main direction of flows are from the North to the South, i.e. from Sahel West African countries to mineral and plantation rich countries on the coast.¹⁹

Labour migration in the ECOWAS region includes temporary, seasonal, and permanent migration, as well as short-term cross-border movements. Seasonal migration is common in the agro-pastoral Sahel region. For example, migration from Burkina Faso to Côte d'Ivoire for the purpose of agricultural or informal trade activities follows this pattern. Similarly, emigration from Niger to neighbouring countries comprises mostly seasonal migrants who work in the agricultural sector.²⁰ In general, migration flows in the ECOWAS region involve movements from one rural area to another as well as from rural areas to urban areas.

Migrants originating from the same country tend to work in the same labour market niches. Burkinabe, Malian, and Ghanaian nationals in Côte d'Ivoire; Guineans, Malians, and Lebanese nationals in Liberia; Guineans, Malians, and Mauritanian nationals in Senegal; and Pakistani and Lebanese nationals in Togo, all exemplify this pattern.²¹

In general, it is very difficult to compare and compile information on migrants' occupations, mainly because there is scarce information in some countries, and destination countries also classify occupations differently. Similar to the local population in the ECOWAS countries and as further described in the country chapters, it can be stated that the **vast majority of foreigners work in low-skilled positions in the informal sector**, which does not provide migrants with the opportunity to regularise their immigration status (with the exception of Côte d'Ivoire). Trade and agriculture are the most common sectors of immigrants residing in ECOWAS countries.

¹⁹ Awumbila, 2014, op. cit.

²⁰ See country chapter.

²¹ Côte d'Ivoire: Burkinabe nationals mostly work in the agricultural sector; Malians in the agricultural sector, but also in the herding, fishing, industry, service, and trade sectors; and Ghanaians in the fishing, trade, and service sectors. Liberia: Guineans and Malians work as petty traders, craftsmen, and plantation workers; and Lebanese nationals in the trade sector. Senegal: Guineans work in the fruit and vegetable trade, as well as in the transport sector. Malian women specialise in selling paintings, while Malian men are mainly active in the cola nut business. Mauritanian nationals, before the 1989 conflict, traditionally controlled a large part of the retail trade. Ivorians, Beninese and Togolese are generally employed in higher-skilled positions. Togo: Pakistani and Lebanese nationals own shops and other business establishments.

Table 5: Sectors of occupation of immigrants and emigrants

Occupations of immigrants	Country	Occupations of emigrants
<ul style="list-style-type: none"> Trade and catering Agriculture 	Benin	<ul style="list-style-type: none"> High-skilled 'intellectual' jobs (Gabon, educational sector) Low- and medium-skilled urban jobs Trade, fishing (Gabon, Côte d'Ivoire), agriculture Medical sector
<ul style="list-style-type: none"> Agriculture Trade and craft sector (in urban areas) 	Burkina Faso	<ul style="list-style-type: none"> Agriculture
<ul style="list-style-type: none"> Construction sector, security guards (migrants from ECOWAS countries) Trade (Chinese migrants) Tourism (Lebanese and Europeans) 	Cape Verde	<ul style="list-style-type: none"> Construction, domestic sector, industry, services, hospitality work (in OECD countries) Medical sector
<ul style="list-style-type: none"> Agriculture, herding, fishing Industry, services and trade Education sector 	Côte d'Ivoire	–
<ul style="list-style-type: none"> Retail, wholesale, and tourism Agriculture, mining, and fishing Manufacturing (10%), financial and business services (5%) Public sector (mainly as teachers) 	The Gambia	<ul style="list-style-type: none"> Medical sector Low-skilled jobs
<ul style="list-style-type: none"> Agricultural, forestry and fisheries sector Wholesale and retail Repairing motor vehicles Informal sector, self-employed 	Ghana	<ul style="list-style-type: none"> Retail and sales Construction and agriculture Mechanics, electricians, carpenters Medical sector
<ul style="list-style-type: none"> Mining sector Fishing industry Small businesses and trade 	Guinea	<ul style="list-style-type: none"> Agricultural sector Small trade and businesses
<ul style="list-style-type: none"> Construction Trade Fishing 	Guinea-Bissau	<ul style="list-style-type: none"> Agriculture and teachers (in Cape Verde) Bank sector (Senegal) Construction, hospitality and domestic work (Portugal) Health professionals, high school teachers, and, to a smaller extent, lawyers (Portugal)
<ul style="list-style-type: none"> Petty trading and larger scale trade (Lebanese nationals) Crafts Plantation work 	Liberia	<ul style="list-style-type: none"> Medical sector
<ul style="list-style-type: none"> Informal sector 	Mali	<ul style="list-style-type: none"> Trade, agriculture, fishing, industry (Côte d'Ivoire) Herding (Algeria, Libya) Manual labourers (France)
<ul style="list-style-type: none"> Energy sector Construction Domestic and hospitality work Trade and business 	Niger	<ul style="list-style-type: none"> Agriculture (in neighbouring countries) Industrial, trade, hospitality, and health sectors (in OECD countries)
<ul style="list-style-type: none"> Informal market Medical sector 	Nigeria	<ul style="list-style-type: none"> Health, real estate, wholesale (in OECD countries)
<ul style="list-style-type: none"> Fruit and vegetable trade, transport sector (Guinean nationals) Selling paintings (Malian women) Higher-skilled occupations (from Côte d'Ivoire, Benin, and Togo) 	Senegal	–

• Mining sector	Sierra Leone	• Medical sector • Other high-skilled occupations
• Informal labour market	Togo	• Education and health sectors

Source: Based on information from the country chapters

It could not be determined whether any of the countries has undertaken an assessment of national labour market needs. However, as reflected in recent policy documents/projects, Ghana, Nigeria, and Togo plan to conduct studies to identify labour shortages in the national labour market. Government respondents to our survey have different perceptions of workforce shortages in terms of sector and job type, which indicate that a comprehensive assessment is needed.

2.1.3.2 Other migratory flows

Although outside the scope of this study, refugee movements and displacement should be mentioned, as the **civil wars and humanitarian crises that have occurred during the past several years have generated thousands of refugees and internally displaced people.** According to the Office of the United Nations High Commissioner for Refugees (UNHCR), in 2013, Mali was the main source country of refugees and internally displaced persons in the region.²² In 2010, Guinea-Bissau was the country with the highest proportion of refugees in its immigrant population, followed by Sierra Leone and Liberia (40.7%, 16.9%, and 13.8%, respectively). Political tensions in Togo and Côte d'Ivoire, as well as conflicts in Nigeria and Ghana have caused displacements. Moreover, West African migrants have been subject to forced mass expulsions by the host countries in the region.²³

Smuggling²⁴ of West African migrants is rare in the region due to the absence of legal restrictions to movement,²⁵ but it is often detected along the routes to Western Europe through North Africa or the Canary Islands. Irregular migration flows along the West Mediterranean and the Central Mediterranean routes²⁶ through North Africa and across the Mediterranean Sea have gained importance since Spain and Italy began to apply stricter visa regimes in the 1990s. The journey through the desert and by boat is difficult and therefore necessitates assistance from smugglers.²⁷ However, recent data shows a

²² United Nations High Commissioner for Refugees, 'Statistical Snapshot West Africa, mid-2013', [online data source], <http://www.unhcr.org/pages/49e45a9c6.html#>, (accessed 31 July 2014).

²³ For instance, Senegal expelled Guineans in 1967; Côte d'Ivoire expelled about 16,000 Beninese in 1964; Sierra-Leone, and later Guinea and Côte d'Ivoire, expelled Ghanaian fishermen in 1968. In early-1979, Togolese farmers were expelled from Ghana and Côte d'Ivoire. Ghana expelled all illegal aliens without a valid residence permit on 2 December 1969. The largest case of mass expulsion of undocumented aliens took place in Nigeria in 1983 and 1985. In 1998 and 1999, Malian fishermen and Burkinabe farmers were expelled from Côte d'Ivoire. For a complete list, see Yaro, J.A., Migration in West Africa: Patterns, Issues and Challenges, Centre for Migration Studies at the University of Ghana, Accra, 2008.

²⁴ The 'Protocol against the Smuggling of Migrants by Land, Sea and Air, supplementing the United Nations Convention against Transnational Organized Crime' defines the smuggling of migrants as the "procurement, in order to obtain, directly or indirectly, a financial or other material benefit, of the illegal entry of a person into a State Party of which the person is not a national or a permanent resident." (Article 3). United Nations Office on Drugs and Crime, New York, United Nations, <http://www.unodc.org/documents/treaties/UNTOC/Publications/TOC%20Convention/TOCebook-e.pdf>, 2004, (accessed 23 March 2014).

²⁵ As described in the next sub-chapter, the ECOWAS migration framework allows free entry in the territories of Member States to citizens of ECOWAS countries.

²⁶ International Centre for Migration Policy Development, 'MTM Map on Irregular and Mixed Migration Routes', [online data source], <http://www.imap-migration.org/index.php?id=470>, (accessed 7 April 2014).

²⁷ United Nations Office on Drugs and Crime, The role of organized crime in the smuggling of migrants from West Africa to the European Union, New York, United Nations Office on Drugs and Crime, 2011.

decrease in irregular migration from the region towards Europe, and a change of migration routes as a result of FRONTEX²⁸ operations. According to the United Nations Office on Drugs and Crime (UNODC), in 2011 9.35% (17,665) of irregular migrants detected in Europe originated from West African countries, which is about 33% less than the figure for 2010.²⁹

According to de Haas, irregular migrants from Africa mostly move on their own initiative with the support of small networks of smugglers instead of international criminal syndicates.³⁰ However, trafficking³¹ and smuggling activities usually overlap; migrants can start their journey voluntarily with the help of smugglers but end up being trafficked.³² As shown in the country chapters and in reports by the UNODC, victims of trafficking who have been identified in the region are mainly West African nationals, with the exception of Filipino victims detected in Côte d'Ivoire and a limited number of instances in trafficking of Chinese victims in Ghana.³³ **Studies show that the trafficking of children for forced labour is common in the region.**³⁴ To mention a few examples, trafficking in children has been identified from Benin for the purpose of domestic, commercial, and agricultural work in Nigeria, Gabon, and Côte d'Ivoire; and from ECOWAS countries to Cape Verde and Guinea, with the main reasons being exploitation in prostitution and domestic servitude. From countries with significant Muslim populations, such as Burkina Faso, The Gambia, Guinea, Guinea-Bissau, and Niger, boys are sent to other largely Muslim countries such as Senegal or Mali for Koranic education and may be involved in trafficking for exploitation through begging, a phenomenon that has also been identified internally within Nigeria. Moreover, the trafficking of West African nationals accounts for a significant share of the total amount of human trafficking in Western and Central Europe. West Africans accounted for about 14% of the total number of victims detected between 2007 and 2010. Victims mainly originate from Nigeria, but victims from Ghana, Guinea, and Sierra Leone also figure in the statistics.³⁵ Trafficking in West African girls to the Middle East and the United States has also been reported.³⁶

²⁸ European Agency for the Management of Operational Cooperation at the External Borders of the Member States of the European Union.

²⁹ *Ibid.*, *Transnational Organized Crime in West Africa: A Threat Assessment*, Vienna, United Nations Office on Drugs and Crime, 2013.

³⁰ De Haas, H., *The myth of invasion Irregular migration from West Africa to the Maghreb and the European Union*, IMI research report, Oxford, International Migration Institute, 2007.

³¹ The 'Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children supplementing the United Nations Convention against Transnational Organized Crime' defines trafficking in persons as follows: "the recruitment, transportation, transfer, harbouring or receipt of persons, by means of the threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person, for the purpose of exploitation. Exploitation shall include, at a minimum, the exploitation of the prostitution of others or other forms of sexual exploitation, forced labour or services, slavery or practices similar to slavery, servitude or the removal of organs" (Article 3, paragraph a).

³² *Ibid.*; United Nations Office on Drugs and Crime, 2011, *op. cit.*

³³ United Nations Office on Drugs and Crime, *Global Report on Trafficking in Persons*, New York, United Nations Office on Drugs and Crime, 2012.

³⁴ Sawadogo, W. R., 'The Challenges of Transnational Human Trafficking in West Africa' in *African Studies Quarterly*, 13, 1-2, 2012, pp. 95-115.

³⁵ *Ibid.*; United Nations Office on Drugs and Crime, 2012, *op. cit.*

³⁶ United Nations Office on Drugs and Crime, 2012, *op. cit.*; Sawadogo, 2012, *op. cit.*

2.1.3.3 Characteristics of migrants

Table 6: Special migrant groups

Country	Females as percentage of immigrants 2010 (World Bank data)	Females as percentage of immigrants 2010 (national data)	Refugees as percentage of immigrants 2010	Emigration rate of tertiary-educated population
Benin	45.5	approx. 40	4.0	11.3
Burkina Faso	50.8	49.6	0.1	2.6
Cape Verde	50.4	-	0.0	67.5
Côte d'Ivoire	45.1	29.6	1.1	5.7
The Gambia	50.5	57	4.9	63.3
Ghana	41.8	45.5	2.2	46.9
Guinea	53.1	-	7.2	11.3
Guinea-Bissau	50.0	-	40.7	24.4
Liberia	45.1	38.5	13.8	45.0
Mali	47.6	47.5	6.1	15.0
Niger	53.9	36	0.2	6.0
Nigeria	47.4	42	0.8	10.7
Senegal	51.2	45.5	9.8	17.7
Sierra Leone	45.7	45.6	16.9	52.5
Togo	50.2	49.2	2.1	5.4

Source: World Bank, country chapters³⁷

World Bank macro data on migrants in the region shows a gender balance – in all countries, the share of female immigrants in 2010 was around 50 per cent. The census data, as presented in the country chapters and the table above, shows a dominance of male immigrants. However, this may also be due to the fact that the data is in some cases outdated and the participation of women in migration is likely to have increased since the last census. **Among immigrants from ECOWAS countries** (as opposed to the previous numbers which showed immigrants in general), a recent study published by the ACP Observatory on Migration which refers to national census data shows **a dominance of men** in all countries where data was available (Cape Verde, Ghana, Liberia, Sierra Leone, and Togo), except in Burkina Faso. In Cape Verde, the share of males among ECOWAS immigrants is very high at 87.2%.³⁸

Migrant women tend to work in certain niches. For example, immigrant women in Niger tend to work in areas where due to cultural traditions Nigerien women are not employed, such as the domestic and hos-

³⁷ Column 1,3, 4: World Bank, 2011, op .cit.; Column 2: data from country chapters, namely: Benin-Population and Housing Census (2002), Burkina Faso-Population and Housing Census (2006), The Gambia-Migration and Urbanisation survey (2009), Ghana-Population and Housing Census (2010), Côte d'Ivoire-Population and Housing Census (1998), Liberia-Population and Housing Census (2008), Mali-Population and Housing Census (2009), Niger-Population and Housing Census (2001), Nigeria-Population and Housing Census (2006), Senegal-Population and Housing Census (2002), Sierra Leone-Population and Housing Census (2004), and Togo-Population and Housing Census (2010).

³⁸ Awumbila et al., 2014, op. cit., p. 33.

pitality sectors. Immigrant women from Mali often specialise in selling paintings in the markets of Dakar, Senegal.³⁹ The recent study by the ACP Observatory on Migration shows that migration for the reason of trade and commerce is female dominated.⁴⁰ The share of women also differs depending on the country of origin. In Benin, for example, among Togolese immigrants women are twice as numerous as men.⁴¹

Migration flows involve both skilled and unskilled workers. However, migrants from ECOWAS countries tend to have a low level of education. A very high share of Malians and Nigeriens residing in Burkina Faso have not received any formal education (83.2% and 71.7% respectively).⁴² Highly-skilled migrants move mostly to developed countries (see box 1 below). Nevertheless, migration in the ECOWAS region also involves highly-skilled individuals, for example, Beninese teachers in Gabon⁴³ and Togolese emigrants teaching in schools in Nigeria and Ghana.⁴⁴ In four countries, the overall rate of tertiary-educated emigrants surpasses 40% (in Liberia, Ghana, The Gambia, and Cape Verde with 45%, 46.9%, 63.3%, and 67.5% respectively), which could lead to 'brain drain'. Moreover, student migration in the ECOWAS region seems to be common; Nigerians studying in Ghana, Togolese students in Benin, Burkinabe in Côte d'Ivoire, and students from Côte d'Ivoire in Burkina Faso.⁴⁵

Box 1: Skilled emigration from selected ECOWAS countries

Ghana has an exceptionally high rate of skilled emigration (46%). It is estimated that 56% of doctors and 24% of nurses trained in Ghana are employed abroad, mainly in the U.K. and the U.S.⁴⁶ The consequences for the national health system are severe. In 2002, the estimated vacancy levels made up to 65% for doctors, 68% for nurses, and 56.6% for pharmacists.⁴⁷ Similar consequences are likely to be experienced in the education system. It is believed that over 60% of faculty positions in polytechnics and 40% in public universities are vacant.⁴⁸

In Cape Verde, as well as low-skilled migration, brain drain also constitutes a problem. With regard to the health sector, OECD data estimated the emigration rate of medical doctors at 41.7% and that of nurses at 38.9%.⁴⁹

With regard to the health sector in Liberia, OECD data shows a very high risk of brain drain: the

³⁹ See country chapter on Niger.

⁴⁰ Awumbila et al., 2014, op. cit., p. 20.

⁴¹ See country chapter on Benin.

⁴² See country chapter on Burkina Faso.

⁴³ See country chapter on Benin.

⁴⁴ Awumbila et al., 2014, op. cit., p. 34.

⁴⁵ Ibid, pp. 34-35.

⁴⁶ Quartey, P., *Migration in Ghana. A migration Profile*, Geneva, International Organization for Migration, 2009, p. 71.

⁴⁷ International Organization for Migration, *National Profile of Migration of Health Professionals – Ghana*, Geneva, International Organization for Migration, 2011, p. 6.

⁴⁸ Asare, P., *Labour Migration in Ghana*, Ghana, Friedrich Ebert Stiftung, 2012, p. 8.

⁴⁹ Organisation for Economic Co-operation and Development, 'Immigrant Health Workers in OECD Countries in the Broader Context of Highly Skilled Migration' in *International Migration Outlook – SOPEMI*, 2007, p. 214.

emigration rate of medical doctors was estimated at 54.2 % and that of nurses at 66.9%.⁵⁰

Brain drain is also an acute problem in Sierra Leone. The civil war led to massive departures of the most educated nationals. In the post-conflict era, the poor state of the country's infrastructure, a lack of opportunities for economic development, low wages and a difficult working environment further served as push factors for high-skilled individuals.⁵¹ In 2000, the most recent year for which data is available, some 52.5% of tertiary-educated nationals were residing abroad.⁵² With regard to the health sector, OECD data showed the extent of the brain drain phenomenon: the emigration rate of medical doctors was estimated to be as high as 58.4% and that of nurses to be as high as 56.3%.⁵³

It has been argued that the risk of brain drain remained limited in Niger.⁵⁴ According to OECD data regarding migration in the health sector, the emigration rate of nurses was estimated at 0.8% and that of medical doctors at 6.5%.⁵⁵ However, it was also estimated that skilled migrants represented 49% of all Nigerien migrants, which constitutes an extremely high percentage when compared to the average skill level of the national population.⁵⁶

Source: Country chapters

2.1.3.4 Remittances

Concerning remittance flows to the countries examined, only Nigeria appeared among the top fifty receiving countries in the world in October 2013, ranked 6th with \$21 billion. It is followed by Senegal and Mali, ranked 64th and 98th respectively. Despite this, remittances do constitute an important source of income for all of the countries. As shown in Table 4 below, in some cases remittances represent more than 7% of the country's GDP. In three countries, this percentage is much higher (Liberia 20.4%, The Gambia 15.4%, and Senegal 11.4%). This data does not include remittances transferred through informal channels, and the total inflows, therefore, should be considered to be higher.

According to World Bank data, **most of the reported overall remittances flows to West Africa originate from other countries in the region.** However, only in seven cases does the overall documented amount originating from ECOWAS Member States exceed the overall documented amount sent from other countries outside the region, which might be due to a significant amount of informal and unidentified flows and the lower levels of income in West African countries. In more than half of the countries, remittances

⁵⁰ Ibid., p. 213.

⁵¹ Republic of Sierra Leone, European Community, *Country Strategy Paper and National Indicative Programme for the Period 2008-2013, Annex 4: Country Migration Profile*, p. 74.

⁵² Larsen, S., *Labour Migration Assessment Report. Sierra Leone*, IOM, 2012.

⁵³ Organisation for Economic Co-operation and Development, 2007, op. cit., p. 214.

⁵⁴ Maga, H. I., *Les migrations hautement qualifiées depuis et vers le Niger: état des lieux et tentatives explicatives*, San Domenico di Fiesole, Institut universitaire européen, CARIM, 2010, p. 11.

⁵⁵ Organisation for Economic Co-operation and Development, 2007, op. cit., p. 214.

⁵⁶ Maga, 2010, op. cit., pp. 10-11.

sent from the top ECOWAS countries (Benin, Burkina Faso, Côte d'Ivoire, Guinea, Liberia, Mali, Niger, and Togo) exceed those sent from the top OECD countries. The highest remittance flows to the majority of the countries come from a West African country, although an OECD country is the top sending country in seven cases (Cape Verde, The Gambia, Ghana, Guinea-Bissau, Liberia, Nigeria, and Senegal).

Table 7: Remittances Flows

Country	Remittances as a share of GDP (%)	Migrant remittance Inflows (USD million), 2012
Liberia	20.4	359,99
The Gambia	15.4	141,99
Senegal	11.4	1,613,91
Togo	8.8	336,60
Cape Verde	8.8	166,73
Nigeria	7.9	20,633,32
Mali	7.6	784,11
Guinea-Bissau	5.1	45,89
Benin	2.3	171,96
Niger	2.0	134,29
Sierra Leone	1.6	60,99
Côte d'Ivoire	1.5	373,84
Burkina Faso	1.2	120,34
Guinea	1.0	66,30
Ghana	0.3	137,95

Source: World Bank⁵⁷

Regarding the use of remittances in the fifteen countries, the findings show that these are mostly used for private consumption, healthcare, and the education of siblings and children. Usually these expenditures are dismissed by academic scholars and development actors as mere consumptive investments, as they do not generate employment or economic return, as opposed to productive investments.⁵⁸ However, some studies have highlighted the role of consumption for development, since it supports the well-being of the migrant's household, for example, in terms of health and education, and may increase the demand for local products and services.⁵⁹

In some countries, the situation is different. In Togo, between 3% and 7% of remittance inflows are used for investment purposes, in Ghana between 17% and 25%, and in Benin 28% goes toward investment. Similarly, in Nigeria, some remittances are used to set up businesses.

⁵⁷ World Bank, 'Annual Remittances Data, Inflows, updated April 2014', [online data source], Washington DC, World Bank, <http://go.worldbank.org/092X1CHHD0>, (accessed 31 July 2014).

⁵⁸ Productive investments generate employment and economic return while consumptive investments concern a capital transfer more than capital creation, such as the purchase of land.

⁵⁹ Conway, D., and J. H. Cohen, 'Consequences of Migration and Remittances for Mexican Transnational Communities' in *Economic Geography* 74/1, 1998, pp. 26-44.

Table 8: Remittance Estimates for 2012: West African Countries as Receiving Countries (USD millions)

Receiving country	Benin	Burkina Faso	Cape Verde	Côte d'Ivoire	The Gambia	Ghana	Guinea	Guinea-Bissau								
Top ten remittance-sending countries	Nigeria	72.55	Côte d'Ivoire	101.60	Portugal	59.18	Burkina Faso	196.41	Spain	27.96	United States	33.10	Côte d'Ivoire	15.14	Portugal	15.73
	Togo	20.91	Other North	17.80	France	24.23	France	4.107	United States	14.23	United Kingdom	24.97	Senegal	9.37	Senegal	5.54
	Other North	20.83	Italy	2.36	United States	24.15	Other North	35.17	United Kingdom	8.54	Nigeria	21.22	Other North	8.30	France	5.46
	Côte d'Ivoire	17.86	Niger	2.16	Mozambique	13.51	Mali	18.07	Germany	7.01	Italy	12.28	France	7.72	The Gambia	4.53
	Gabon	15.50	Mali	1.62	Netherlands	12.72	Italy	12.23	Sweden	5.95	Côte d'Ivoire	11.99	Sierra Leone	6.89	Spain	4.39
	France	12.34	France	1.14	Angola	9.09	Senegal	6.28	Nigeria	4.67	Germany	9.28	Other North	6.65	Other North	2.08
	Niger	7.79	Germany	0.83	Senegal	6.08	Germany	2.64	Senegal	4.08	Other North	7.04	Liberia	4.98	Nigeria	1.15
	Italy	1.90	Benin	0.81	Italy	5.90	United Kingdom	2.13	Norway	2.75	Canada	5.92	Spain	4.11	Guinea	0.57
	Burkina Faso	1.83	Nigeria	0.68	Spain	4.85	Canada	1.62	Other North	1.99	Burkina Faso	5.42	United States	2.66	Germany	0.49
	Rep. Congo	1.83	Gabon	0.52	Other North	4.27	Gabon	1.43	France	1.92	Togo	4.24	Mali	1.64	Mauritania	0.48
From ECOWAS countries	121.83	106.91	9.35	217.35	12.77	45.44	45.92	12.22								
From other countries	57.35	23.44	167.46	107.74	76.48	92.59	28.85	29.97								
Receiving country	Liberia	Mali	Niger	Nigeria	Senegal	Sierra Leone	Togo									
Top ten remittance-sending countries	United States	165.84	Côte d'Ivoire	152.69	Nigeria	26.64	United States	6,125.95	France	289.96	Guinea	25.32	Nigeria	76.45		
	Guinea	79.76	France	73.01	Côte d'Ivoire	23.84	United Kingdom	3,842.34	Italy	246.76	United Kingdom	14.15	France	41.20		
	Côte d'Ivoire	36.24	Nigeria	49.31	Benin	22.43	Chad	1,391.26	The Gambia	245.53	United States	12.99	Germany	36.61		
	Other North	29.68	Other North	48.65	Other North	17.61	Italy	1,288.38	Spain	154.49	Other North	5.83	Ivory Coast	34.97		
	Nigeria	10.26	Burkina Faso	22.30	Chad	10.23	Cameroon	961.91	Mauritania	93.97	Germany	5.54	Benin	31.38		
	Sierra Leone	9.98	Niger	21.45	Burkina Faso	5.23	Spain	933.54	Other North	73.07	Netherlands	3.20	Other North	29.91		
	Germany	9.23	Spain	21.31	Togo	4.32	Other North	704.36	United States	61.27	Canada	2.13	Gabon	16.23		
	Netherlands	4.89	Gabon	20.69	France	3.99	Germany	613.43	Gabon	48.16	Liberia	1.84	Burkina Faso	14.00		
	Australia	4.68	Senegal	6.23	United States	1.66	Ireland	607.53	Côte d'Ivoire	46.04	Australia	1.61	United States	8.28		
	Italy	4.68	Mauritania	4.79	Mali	1.46	Benin	580.21	Mali	16.47	Italy	0.88	Niger	8.24		
From ECOWAS countries	136.51	262.80	84.26	1,744.18	340.19	28.96	166.68									
From other countries	235.88	181.65	38.11	18,824.11	1,026.62	50.06	154.03									

Source: World Bank⁶⁰

⁶⁰ World Bank, *Bilateral Remittance Estimates for 2012 using Migrant Stocks, Host Country Incomes, and Origin Country Incomes (millions of US\$) (May 2013 Version)*, <http://econ.worldbank.org/WBSITE/EXTERNAL/EXTDEC/EXTDECPROSPETS/0,,contentMDK:22803131~pagePK:64165401~piPK:64165026~theSitePK:476883,00.html>, 2013, (accessed 22 January 2014).

2.2 Regional strategic framework on migration

ECOWAS has established the main strategic framework regulating migration in West Africa. ECOWAS was created in 1975 to facilitate the creation of a common socio-economic space for West Africans. As shown in the section below, the Community has, since its establishment, acknowledged the importance of regional migration in strengthening the integration of its Member States.

2.2.1 ECOWAS Treaty

The Treaty establishing ECOWAS was signed in Lagos on 28 May 1975. Article 27 states the long-term objective of establishing a Community citizenship, which should be granted automatically to all Member States' nationals. Seven years later, the Supplementary Protocol A/SP3/5/82 set out the definition of a Community Citizen. The Treaty was revised on 24 July 1993 in order to pursue the following goals: a) promote cooperation and integration between Member States to establish an economic union in West Africa, b) maintain and enhance economic stability, c) foster relations among Member States, and d) contribute to the development of the African continent.

As stated in Article 3 of the revised Treaty, the Community considers the “*removal between Member States, of obstacles to the free movement of persons, goods, services and capital, and to the right of residence and establishment*” one of its major goals. Article 59 of the revised Treaty establishes ECOWAS citizenship and affirms the right of citizens of the Community to entry, residence, and establishment: “*Citizens of the community shall have the right of entry, residence and establishment and Member States undertake to recognise these rights of Community citizens in their territories in accordance with the provisions of the Protocols relating thereto*”.

2.2.2 1979 ECOWAS Protocol relating to the Free Movement of Persons, the Right of Residence and Establishment and supplementary protocols

Four years after the establishment of the Community in 1979, the ECOWAS Member States signed the Protocol on Free Movement of Persons, the Right of Residence and Establishment in Dakar to enable free movement of ECOWAS citizens⁶¹ within the region. The protocol stipulates the right of Community citizens to enter, reside, and establish businesses in Member States, to be granted over a transitional period of 15 years through three phases. Phase I eliminated the need for visas for stays of up to 90 days in ECOWAS Member States by Community citizens. Phase II regulated Community citizens' right of residence on Community territory for the purpose of seeking and taking up paid employment. Phase III aims at facilitating the establishment of businesses through the right of Community citizens to carry out economic activities in other ECOWAS Member States. The protocol was further complemented by four supplementary protocols with a view to operationalising the three phases. Phase I came into force in 1980 with the ratification of the 1979 Protocol by all Member States, while Phase II came into force in 1986. Phase III has not yet been implemented.⁶²

⁶¹ See Protocol A/P3/5/82 relating to the definition of Community citizenship for the definition of a Community citizen.

⁶² Adepoju, A., A. Boulton and M. Levin, 'Promoting Integration through Mobility: Free Movement under ECOWAS' in *New Issues in Refugee Research*, 150, Geneva, 2007.

The four supplementary protocols are the following:

- the Supplementary Protocol A/SP.1/7/85 on the Code of Conduct for the implementation of the Protocol on Free Movement, Right of Residence and Establishment;
- the Supplementary Protocol A/SP.1/7/86 on the second phase (Right of Residence) of the Protocol on Free Movement, Right of Residence and Establishment;
- the Supplementary Protocol A/SP.1/6/89 amending and complementing the provisions of Article 7 of the Protocol on Free Movement, Right of Residence and Establishment; and
- the Supplementary Protocol A/SP.2/5/90 on the implementation of the Third Phase (Right of Establishment) of the Protocol on Free Movement, Right of Residence and Establishment.

In addition, in 1985, the 'Decision A/DEC.2/7/85 on the Establishment of a Travel Certificate for ECOWAS Member States' was adopted. Furthermore, in 1990, the 'Decision C/DEC.3/12/92 on the Introduction of a Harmonized Immigration and Emigration Form in ECOWAS Member States' was adopted, which sets the requirement for ECOWAS Member States to establish a harmonised immigration and emigration form.

It should be noted that, at the time of writing, a revision of the ECOWAS Protocols relating to the Free Movement was underway. The details of the approved and envisaged changes are referred to in the subsections below. Furthermore, the development of a regional migration policy is planned based on the conviction that a strong regulatory framework on migration will help to overcome the challenges in the implementation of the 1979 Protocol relating to the Free Movement of Persons and the Rights of Residency and Establishment and its supplementary protocols.

2.2.3 Right of entry

The right of entry is mostly regulated by the 1979 Protocol, but some provisions related to expulsion and repatriation are also included in the 1985 Supplementary Protocol and the 1986 Supplementary Protocol. The right of entry entitles each Community citizen to enter Member States other than their country of origin without a visa for stays of up to 90 days, provided they possess a valid travel document and an international health certificate. To further promote cross-border movement, ECOWAS adopted two instruments: in 1985, a standardised **ECOWAS travel certificate**, valid for two years and renewable for a further two years, and in 2000, a uniform **ECOWAS passport** establishing a five-year transitional period during which national passports could be used in conjunction. However, the effectiveness of the ECOWAS protocols in facilitating mobility for citizens of ECOWAS countries is limited by restrictive national inadmissibility laws.

As highlighted in a paper by the UNHCR, the provisions concerning **expulsion** also hypothetically undermine the purpose of the entire framework: to promote free movement in the region and the right of entry to Community citizens.⁶³ The protocols set various parameters to guarantee that expulsions, as well as repatriations, are carried out according to international human rights standards. Member States are obliged to notify the Executive Secretary of ECOWAS of expulsion and repatriation decisions, to bear the related expenses, to return the migrant's property to him/her, to provide reasonable time to leave the country, and to grant the right of appeal. It also prohibits collective or 'en masse' expulsions. However, as

⁶³ Ibid.

to the grounds for individual expulsions,⁶⁴ Member States have full discretionary authority. Apart from national security, public order or morality, and public health, other grounds for individual expulsions refer to the non-fulfilment of 'an essential condition for the issuance or validity of their authorisation of residence or work permit' and to 'the laws and regulations applicable in the host Member State' without specifying the essential conditions or any limit to the applicable domestic laws and regulations.

The 1986 Supplementary Protocol calls for Member States to cooperate in preventing **'illegal or clandestine movement' and the employment of irregular migrant workers**. To this aim, it sets a series of measures that Member States should put in place, such as actions against the dissemination of misleading information on migration and sanctions on smugglers, traffickers, and employers of irregular migrant workers.

During the forty-fifth Ordinary Session of the Authority of Heads of State and Government of the ECOWAS in Accra on 10 July 2014, the introduction of the biometric identity card for community citizens was approved. A related Supplementary Act is to be signed by the ECOWAS Member States. The authority "[...] directs the Ministers in charge of Security to review all the security implications of the measure prior to the signing of the Supplementary Acts."⁶⁵ Awareness-raising and sensitisation programmes in Member States are planned to be conducted to facilitate the implementation and use of these biometric identity cards.⁶⁶

2.2.4 Right of residence

The 1986 Supplementary Protocol regulates Community citizens' right of residence for the purpose of seeking and taking up income-earning employment. This includes the right to apply for jobs, to travel freely for this purpose in a Member State, to reside in one of the Member States in order to take up employment, and to live in a Member State after having been employed there.

The right of residence implies **equal treatment** of immigrant Community citizens and nationals of the host Member State in relation to taking up employment or practicing a profession. They should be granted equal treatment in terms of the security of the employment and possibilities of re-employment if the job is terminated for economic reasons. In the latter case, ECOWAS citizens shall be given priority over other workers newly admitted to the host country. Community citizens shall also enjoy equal treatment in the provision of access to social, cultural, and health facilities, as well as to general and professional education for themselves and for their children.

The protocol provides various means to facilitate the exercise of this right, such as an ECOWAS residence card or a residence permit obtained from the host Member State. Moreover, Member States are required to harmonise the rules and regulations on the issuance of the residence card or permit. They should also set up appropriate public organs to deal with the movement of workers and their families. These should be responsible for formulating policies; providing information to employers and migrants

⁶⁴ Article 14 of the 1986 Supplementary Protocol A/SP:1/7/86 on the Second Phase (Right of Residence).

⁶⁵ ECOWAS Heads of State, *Final Communiqué: Forty-Fifth Ordinary Session of the Authority of ECOWAS Heads of State and Government*, Ghana, Accra, 10 July 2014.

⁶⁶ ECOWAS Ministers in charge of Security, *Ministerial Meeting of ECOWAS Ministers in charge of Security*, Niger, Niamey, 25 February 2014.

on policies, laws, and regulations relating to migration; and recommending adoption laws, regulations, and other measures necessary to apply the provisions of the protocol. The protocol also aims to facilitate the transfer of migrant workers' earnings and savings, particularly migrant workers' savings at the time they decide to leave the host Member State. During the abovementioned forty-fifth Ordinary Session of the Authority of Heads of State and Government of the ECOWAS in July 2014, the abolition of the residence permit was agreed upon, which will contribute further to the full implementation of the right of residence for ECOWAS citizens.⁶⁷

2.2.5 Right of establishment

The 1990 Supplementary Protocol defines the right of establishment as the right 'granted to a citizen who is a national of the member state to settle or establish in another member state other than his state of origin, and to have access to economic activities, to carry out these activities as well as to set up and manage enterprises, and in particular companies, under the same conditions as defined by the legislation of the host member state for its own nationals'.

As with the right of residence, the provisions of the right of establishment ensure **equal treatment** of nationals and Community citizens. Member States shall accord non-discriminatory treatment to nationals and companies of other Member States and are forbidden to order discriminatory confiscation or expropriation of assets and capital. If property is confiscated, expropriated, or nationalised, Member States shall provide compensation.

In order to encourage Community citizens to carry out economic activities on ECOWAS territory, **Member States are required to introduce measures to further intra-community trade**, such as export financing and export credit guarantee institutions, a regional payment mechanism, and harmonisation of national legislation, administrative rules, and regulations governing the promotion and protection of investments. As regards foreign exchange transactions, the protocol forbids Member States from taking exchange control measures unless there is a serious economic issue or a balance of payments problem.

⁶⁷ ECOWAS Heads of State, 2014, op. cit.

Table 9: Major Provisions on the Rights of Entry, Residence and Establishment in the 1979 Protocol and Four Supplementary Protocols

Right of Entry	
1979 Protocol	<ul style="list-style-type: none"> • Community citizens have the right to enter, reside, and establish businesses on the territory of Member States (Article 2). • A valid travel document and international health certificate are obligatory to enter a Member State (Article 3). • Member States should notify the citizen concerned, the citizen's government, and the Executive Secretary of ECOWAS of expulsion and repatriation decisions (Article 11). • The expenses incurred in the expulsion of a citizen shall be borne by the expelling Member State (Article 11). • In case of expulsion, the security of the citizen concerned, as well as that of his/her family, shall be guaranteed, and his/her property protected and returned to him/her (Article 11). • Member States have the right to refuse admission to their territory Community citizens deemed inadmissible under domestic law (Article 4).
1985 Supplementary Protocol	<ul style="list-style-type: none"> • Clandestine or illegal immigrants can enjoy and exercise their fundamental rights (Article 3). • Any expulsion order shall be enforced in a humane manner without injury to the person, rights, or property of the immigrant (Article 3). • Repatriation should take place under legal and properly controlled procedures (Article 3). • Any person under an expulsion order shall be given a reasonable period of time to return to his/her country of origin (Article 3).
1986 Supplementary Protocol	<ul style="list-style-type: none"> • Migrant workers and their families may not be affected by collective or 'en masse' expulsions (Article 13). • Grounds for individual expulsion are: <ul style="list-style-type: none"> • a) posing a threat to national security, public order, or public morality; or • b) non-fulfilment of an essential condition for the issuance or validity of the residence or work permit in accordance with the laws and regulations applicable in the host Member State (Article 14). • Member States shall grant the expelled Community citizen a reasonable period of time to allow him/her to collect any salaries or other allowances due to him/her from his/her employer, to settle any contractual commitments, and to obtain authorisation to go to a country other than his/her country of origin (when needed for reasons of personal security) (Article 14). • In case of expulsion, the authorities of the host Member State shall bear the resulting expenses (Article 14). • The expelled immigrant and members of his/her family have the right to appeal the expulsion decision, which suspends the expulsion order (Article 15). • No expulsion order may be carried out without ensuring that all fundamental rights of the migrant worker are respected (Article 16).

Right of Residence

1986
Supplementary
Protocol

- Community citizens who are nationals of other Member States have the right of residence on the territory of a Member State for the purpose of seeking and taking up income-earning employment (Article 2).
 - The right of residence includes the right to apply for jobs, to travel freely for this purpose on the territory of Member States, to reside in one of the Member States in order to take up employment, and to live in a Member State after having been employed there (Article 3).
-
- An ECOWAS residence card or residence permit shall be required and obtained from the host Member State (Article 5).
 - The processing of the application for the ECOWAS residence card or residence permit shall not delay the immediate execution of employment contracts already concluded by applicants (Article 8).
 - Member States shall harmonise within one year from the protocol's entry into force the rules and regulations on the conditions for the issuance of the residence card or permit (Article 9).
 - Member States shall set up appropriate public organs to deal with the problems relating to the movement of workers and their families. These organs will be responsible for formulating policies; providing information to employers and migrants on policies, laws, and regulations relating to migration; and recommending for adoption laws, regulations, and other measures necessary to facilitate the application of the provisions of the protocol (Article 20).
-
- Immigrant Community citizens and nationals of the host Member State shall receive equal treatment in terms of employment or practicing their profession, such as security of employment and possibilities of re-employment in case of loss of job for economic reasons. In case of the latter, they shall be given priority over other workers newly admitted to the host country (Article 23).
 - Equal treatment for Community citizens is also catered for in terms of access to social, cultural, and health facilities; to training and advanced professional training; to institutions of general and professional education; and to professional training centres for their children (Article 23).
 - Member States shall allow the transfer of all or part of the migrant's earnings or savings, in particular the amounts which remain outstanding to migrant workers when they finally leave the host Member State (Article 17).
-
- Member States should put in place measures to stop the illegal or clandestine movement and employment of migrant workers, such as measures that fight the dissemination of misleading information on migration, and sanctions on smugglers, traffickers, and employers of irregular migrant workers (Article 22).

Right of Establishment	
1990 Supplementary Protocol	<ul style="list-style-type: none"> • The right of establishment is defined as the right granted to a citizen who is a national of a Member State to settle in another Member State other than his/her state of origin, to have access to and be able to carry out economic activities, and to set up and manage enterprises under the same conditions as defined by the legislation of the host Member State for its own nationals (Article 1). • The right of establishment includes equal treatment for nationals of the host member state and nationals/companies of other Member States (Article 4). • Equal treatment implies equal access to non-salaried activities and the exercise of such activities, as well as the establishment and management of enterprises subject to the same conditions stipulated by the laws and regulations of the country for its own nationals (Article 2). <p style="text-align: center;">-----</p> <ul style="list-style-type: none"> • Companies with their headquarters, central seat of administration, or principal establishment within the Community shall be considered in the same category as individual nationals of Member States (Article 3). • Discriminatory confiscation or expropriation of assets and capital are forbidden, and Member States shall provide compensation for any act of confiscation, expropriation, or nationalisation (Article 7). <p style="text-align: center;">-----</p> <ul style="list-style-type: none"> • Member States are obliged to introduce measures to facilitate intra-community trade such as export financing, export credit guarantee institutions, and a regional payment mechanism, and to harmonise their national legislation and administrative rules and regulations governing the promotion and protection of investments (Articles 8 and 9). • Member States are forbidden to take exchange control measures unless there is a serious economic issue or balance of payments problem (Article 10). • In foreign exchange transactions, Member States shall refrain from taking discriminatory measures and from according preferential treatment to nationals of third countries (Article 11).

2.2.6 Implementation of the protocols related to free movement

Although the protocols establishing the right of entry and the right of residence came into force 34 years and 28 years ago respectively, the related rules and regulations are not yet harmonised across the countries. In most of the countries, the legislation does not even contain specific provisions concerning ECOWAS citizens, and responsibility for adherence to the protocols is assigned to administrative practices (see table 10 below). In some cases, this is due to outdated legislation on the entry, stay, and residence of foreigners adopted before the issuance of the 1979 Protocol and its supplementary protocols (i.e. in Burkina Faso, Liberia, Niger, Senegal, Sierra Leone, and Togo). The oldest laws in force are in Sierra Leone and Liberia. These date back to the 1960s and early-1970s and contain provisions undermining human rights and the principle of non-discrimination. In three countries, an amendment of the current legal framework is explicitly considered in the draft National Migration Policies (in Liberia, Nigeria, and Sierra Leone).

Concerning the right of entry, all countries have implemented the abolition of visa and entry requirements for a 90-day stay, as can be seen in table 10 below.⁶⁸ In addition, ECOWAS Member States have implemented additional measures, such as the ECOWAS Travel Certificate, the harmonised 'Immigration and Emigration Form of ECOWAS Member States', and the ECOWAS passport.⁶⁹ Less progress can be noted as regards the implementation of Phase II (Right of Residence) and Phase III (Right of Establishment).

⁶⁸ Adepoju, A., A. Boulton, and M. Levin, 2007, op. cit.

⁶⁹ Awumbila et.al., 2014, op. cit., pp. 66-67.

Both the ECOWAS Commission and the Member States are aware of the challenges restricting the right of entry, such as harassment at border crossing points, and intend to address them, as stated in the reports of official ECOWAS meetings.⁷⁰ Planned measures to facilitate free movement include the installation of immigration booths for ECOWAS citizens and the establishment of information centres at ECOWAS borders. In addition, the approval of the introduction of the national biometric identity card mentioned above means that this will replace the ECOWAS Travel Certificate. Furthermore, the ECOWAS Commission calls upon Member States to review their national legislation on the right of entry, residence, and establishment.⁷¹

⁷⁰ ECOWAS Ministers in charge of Security, 2014, op. cit.; ECOWAS Ministers in charge of Security, *Ministerial Meeting of ECOWAS Ministers in charge of Security*, Côte d'Ivoire, Abidjan, 25 June 2012.

⁷¹ ECOWAS Ministers in charge of Security, 2012, op. cit.; ECOWAS Commission, *55th Meeting of the Committee on Trade, Customs and Free Movement of Persons*, Côte d'Ivoire, Abidjan, 7-10 October 2013.

Table 10: Specific provisions for ECOWAS nationals

Country	Status of ratification of ECOWAS Free Movement Protocols					Specific actions taken			Reference to ECOWAS nationals in national law
	1979 Protocol	1985 Suppl. Protocol	1986 Suppl. Protocol	1989 Suppl. Protocol	1990 Suppl. Protocol	Abolition of visa & entry requirements for stays up to 90 days	ECOWAS travel certificate	ECOWAS passport	
Benin	✓	✓	-	-	✓	✓	-	✓	• Specific residence permit for ECOWAS nationals, rights attached are not defined.
Burkina Faso	✓	✓	✓	✓	✓	✓	✓	-	• No, no specific residence/stay permit is in place. However, in practice they do not have to apply for the common stay permit (plus family members can join and enjoy full access to the labour market).
Cape Verde	✓	✓	-	✓	✓	✓	-	-	• Negotiation of the relevant ECOWAS protocols may occur as Cape Verde argues that their specific situation requires regulation of admission.
Côte d'Ivoire	✓	✓	✓	-	✓	✓	-	✓	• Not requested to obtain a residence permit (only identification document is needed).
The Gambia	✓	✓	✓	✓	✓	✓	✓	-	• Yes, specific residence permit for ECOWAS nationals.
Ghana	✓	✓	✓	✓	✓	✓	✓	✓	• Explicit reference to the absence of visa requirements.
Guinea	✓	✓	✓	✓	✓	✓	✓	✓	• No specific status is defined.
Guinea-Bissau	✓	✓	✓	✓	✓	✓	-	✓	• No.
Liberia	✓	✓	✓	✓	✓	✓	-	✓	• No. (The draft National Policy on Migration provides for an amendment of the immigration law).
Mali	✓	✓	✓	✓	✓	✓	-	-	• No, but administrative practices respect the right to enter and establish.
Niger	✓	✓	✓	-	✓	✓	✓	✓	• No.
Nigeria	✓	✓	✓	✓	✓	✓	✓	✓	• No, but administrative practices grant ECOWAS nationals an ECOWAS Residence Card, valid for 5 years and renewable. (The draft National Migration Policy envisions a review of the immigration law).
Senegal	✓	✓	✓	✓	✓	✓	-	✓	• No.
Sierra Leone	✓	✓	✓	✓	✓	✓	✓	✓	• No (drafting a new immigration legislation is considered).
Togo	✓	✓	✓	✓	✓	✓	-	✓	• No.

Source: ECOWAS, Awumbila et al., country chapters⁷²

⁷² Column 2-6: Economic Community Of West African States, Annex to the 2012 Annual Report, Integration and Political Stability in West Africa, Abuja, http://events.ecowas.int/wp-content/uploads/2013/03/2012-Annual-Report_Annexes_English_final.pdf (accessed 28 June 2014), 2012; Column 7-10: Awumbila et al., 2014, op. cit., pp. 65, 67; column 11: information taken from country chapters.

As regards the right of residence, a specific residence permit for ECOWAS citizens is granted only in Benin, Burkina Faso, Côte d'Ivoire, The Gambia, and Nigeria. Côte d'Ivoire's legal provisions go even further than only including the obligations contained in the Protocols as ECOWAS Member State nationals are not requested to obtain a residence permit. In other countries, the requirements for issuing residence cards or permits for ECOWAS nationals are similar to those for other foreigners. The Cape Verdean authorities aim to review the ECOWAS protocols as stated in its National Immigration Strategy in order to authorise derogations to the principle of free circulation. As stated above, this challenge regarding the residence status of ECOWAS citizens was addressed by the approved abolition of the residence permit in July 2014.⁷³

Although *en masse* expulsion is prohibited, the 1986 Supplementary Protocol grants Member States the right to expel individual ECOWAS citizens in accordance with the laws and regulations applicable in the host Member State (Article 14). **The grounds for expulsion are similar across the countries but they are not harmonised at the regional level.** They range from the threat to public order and criminal behaviour (in Benin, Burkina Faso, Niger, Senegal, and Sierra Leone) to violation of immigration rules (in Ghana, Guinea, Côte d'Ivoire, Liberia, and Mali). Togo's legislation does not specify the grounds for expulsion, while Liberia's law violates the principle of non-discrimination since it allows deportation for political or health reasons. In addition, expulsions that took place in the past (from Nigeria in 1983 and 1985, and Côte d'Ivoire in 1999) did not follow the obligations assumed under international human right treaties.⁷⁴

In the majority of the countries, the national labour legislation does not set specific provisions for access to employment for ECOWAS citizens (i.e. in Benin, Burkina Faso, Ghana, Guinea, Côte d'Ivoire, Mali, Senegal, Sierra Leone, and Togo), with the common labour immigration system therefore also applying to them, although administrative practices seem to apply a tolerant approach. On the other hand, the Guinean Labour Code from 2014 explicitly states that ECOWAS Member States' nationals are not under an obligation to obtain a work authorisation, and in Côte d'Ivoire, although not explicitly stated, ECOWAS Member State nationals are also not required to obtain a work authorisation. In Liberia, the draft National Migration Policy envisages the amendment of the current labour legislation to ensure full implementation of the ECOWAS protocols, and in Mali, full access of ECOWAS Member States' nationals to the labour market is common practice as long as the migrant worker possesses a valid identity document.

Although the ECOWAS Free Movement Protocols provide for equal treatment in terms of employment, Member States' nationals are still exposed to discriminatory practices. First, in almost all of the countries, labour legislation requires foreign workers to hold a work permit. Second, with the exception of Guinea, Mali, Senegal, and Togo, a labour market test or quota system is officially in place. As long as these practices are applied to nationals from ECOWAS Member States, they contravene the right of residence and establishment, since it excludes any restriction to the national labour market for immigrants from ECOWAS Member States. As shown in the recent study carried out by the ACP Observatory on Migration, some sectors of employment are reserved for nationals, which creates discontentment among some ECOWAS Member States. Togo, for example, which does not prevent foreigners from working in various sectors of its economy, is not happy about the fact that Ghana legally restricts the employment of foreigners in certain sectors (marketplace trading, petty trading, hawking, kiosk trade, operation of

⁷³ ECOWAS Heads of State, 2014, op. cit.

⁷⁴ Ibid.

taxi and car hire services, pool betting, and operation of beauty salons and barber shops). In Mali, the restricted sectors are health, law, and public services.⁷⁵

Regarding implementation of the ECOWAS protocols relating to the free movement of persons, freedom of residence, and establishment, mention must be made of the Multipartite Agreement for the Local Integration of Liberian and Sierra Leonean Refugees in Nigeria, which was signed in 2007 by Liberia, Sierra Leone, Nigeria, ECOWAS, and UNHCR. The ECOWAS Treaty and its subsequent Protocols on free movement and residence are not refugee instruments. Nevertheless, their provisions are equally applicable to all nationals of ECOWAS Member States, including refugees.⁷⁶ In practice, the use of the ECOWAS Protocols for the benefit of Sierra Leonean and Liberian refugees has been ensured through a regional strategy developed and implemented by UNHCR and partnering international organisations, ECOWAS, and the seven countries with the most refugees: Côte d'Ivoire, The Gambia, Ghana, Guinea, Liberia, Nigeria, and Sierra Leone.⁷⁷ The regional strategy focused on residual refugee caseloads, despite the end of the armed civil conflicts in Sierra Leone and Liberia and the subsequent implementation of large-scale voluntary repatriations. In 2008, approximately 14,000 Sierra Leonean and 79,000 Liberian refugees still resided in West African countries under asylum status.⁷⁸ For those who expressed the desire to remain in the countries of asylum, naturalisation was generally not a realistic option. In such a context, to which must be added the imminence of the cessation process (under which refugees would cease to be entitled to international protection), local integration through the ECOWAS free movement and residence regime was accepted by all the governments concerned – with the exception of Ghana – as the most adequate solution to be implemented.⁷⁹

2.2.7 ECOWAS Common Approach on Migration

In January 2008, the Community adopted the ECOWAS Common Approach on Migration (the 'Common Approach').⁸⁰ This is a non-binding document that acts as an overarching framework on migration. Although the Common Approach encompasses major aspects of migration (i.e. intra-regional mobility, management of regular migration, the fight against irregular migration, and gender-mainstreaming of migration policies), its declared objective is to establish a link between migration and development. The Common Approach is based on six principles:

a) *Free movement of persons within the ECOWAS zone is one of the fundamental priorities of the ECOWAS Member States' integration policy.* The document explicitly makes a connection between intra-regional mobility and migration towards European countries when it states that the free movement of persons within the ECOWAS zone is a prerequisite for regional integration, and that it contributes to reducing migratory pressures beyond ECOWAS borders.

⁷⁵ Ibid., pp. 71-74.

⁷⁶ Adepaju, A., A. Boulton and M. Levin, 2007, op. cit., pp. 16-17.

⁷⁷ Salducci, G., *Towards the Local Integration of Liberian and Sierra Leonean refugees in West Africa through enhancing self-reliance and promoting Regional integration: Regional Framework*, Office of the United Nations High Commissioner for Refugees, 2008; Boulton, A., 'Local Integration in West Africa' in *Forced Migration Review*, 33, 2009, p. 33.

⁷⁸ Salducci, 2008, op. cit., p. 3.

⁷⁹ Ibid., p. 4.

⁸⁰ ECOWAS Commission, 33rd Ordinary Session of the Head of State and Government, Ouagadougou, 18 January 2008. *ECOWAS Common Approach on Migration*.

b) *Legal migration towards other regions of the world contributes to ECOWAS Member States' development.* The document explicitly calls on Member States to cooperate in managing migration which would enable access to labour markets in regions other than West Africa.

c) *Combating human trafficking is a moral and humanitarian imperative.* The Common Approach links the fight against human trafficking to the ratification of the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children (Palermo Protocol) supplementing the UN Convention on Transnational Organized Crime.

d) *Harmonising policies at the relevant levels is essential.* The Common Approach considers three levels of policy coherence: at the regional level, i.e. between bilateral agreements signed by Member States and ECOWAS community texts and protocols; at the international level, i.e. between the economic, trade, and development aid policies of northern countries and the migratory policies of said countries; and at the national level, i.e. between national migration management policies and sector development policies.

e) *The rights of migrants, asylum seekers and refugees must be protected.* The document reiterates the call to ratify the UN Convention on the Protection of the Rights of Migrant Workers and Members of their Families, which, together with the establishment of regional integration mechanisms, is considered one of the main means of protection.

f) *The gender dimension of migration must be recognised.* States must collect and analyse gender-disaggregated data on the profiles of migrants and ensure the inclusion of gender dimensions in their migration policies.

The Common Approach includes **migration and development action plans** that define a series of initiatives aimed at operationalising the above principles. Among these, mention is worth making of a regional fund to finance cross-border cooperation in order to promote regional mobility and a regional territorial planning strategy to be defined by the ECOWAS Commission. This latter strategy aims to create the basis for evenly spread development within the region, covering areas which are uninhabited and/or unexploited due to a lack of adequate infrastructure.

Concerning measures targeting the West African diaspora, the document focuses mostly on skilled migrants, and the need to fight brain drain and harness the potential of remittances for development. On the harmonisation of migration and development policies, the document only suggests two areas to be explored: the link between irregular migration by sea and protection/conservation of fishery resources, and the link between exporting subsidised or used products to West Africa and the unemployment rate in the region. In taking into account the gender dimension of migration, the document recommends that states encourage women to become entrepreneurs.

Finally, cooperation between Member States, host countries, and transit countries is considered a central issue, especially in fighting human trafficking and protecting victims. The document also calls on Member States to put in place mechanisms for granting the rights of residence and establishment to refugees from ECOWAS countries. Indeed, many refugees in West African countries are ECOWAS citizens; as per the 1979 Protocol, they should be able to reside in ECOWAS Member States regardless of their refugee status.

2.3 Migration policies in ECOWAS Member States

The nature of migration policies entails two dimensions: an internal dimension affecting the national territory and an external one that relates to the country's foreign affairs. According to the traditional approach, immigration-related issues, such as border and immigration management, are addressed as internal issues due to the effects of immigrant inflow on the national economy, security, and society. Emigration-related issues, such as the protection of and relations with nationals abroad or potential emigrants, are usually considered part of the country's foreign affairs.⁸¹ However, this distinction may result in simplistic measures since one can discern between an external dimension of immigration policies and an internal dimension of emigration policies. For example, immigration policies require collaboration with the country of origin of the foreigners residing in the territory.⁸² It has become evident that policies need to address the links between emigrants and the development of the national economy, as well as internal sector policies. If the internal and external dimensions are addressed separately, migration policies as a whole may contain inconsistencies, and therefore produce ineffective results. Due to their twofold nature, migration policy processes involve a number of different ministries and stakeholders. A framework that ensures a coherent and all-inclusive approach involving all key stakeholders necessitates policy coordination between central and local authorities. At the same time, a comprehensive national migration strategy that addresses both policy dimensions would give them a common direction.

Table 11: National migration policies

Country	Comprehensive national migration policy (adopted or drafted)	Migration/development integrated
Benin	No, but → National Policy for Beninese abroad	No
Burkina Faso	Yes (Draft) → Draft National migration strategy 2014-2025, incl. action plan 2014-2016	Yes
Cape Verde	No, but → National Immigration Strategy and National Emigration Strategy	Yes, the National Immigration Strategy follows the national development plan.
Côte d'Ivoire	No → National migration policy is planned	Yes
The Gambia	No → National Migration Policy is planned	Yes
Ghana	Yes (Draft) → Draft National Migration Policy	Yes
Guinea	No → National Migration Policy is planned	No → inclusion of migration issues in the development plan is planned
Guinea-Bissau	No	Yes

⁸¹ De Somer, M., 'Trends and gaps in the academic literature on EU labour migration policies' in Liberty and Security in Europe Papers, 50, 2012.

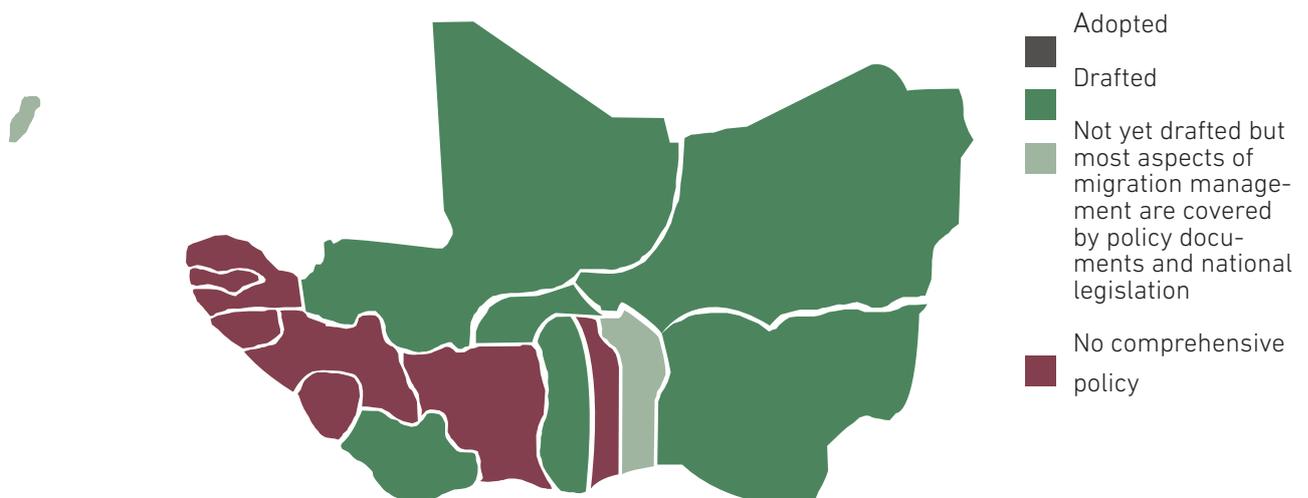
⁸² Geddes, A., Migration as Foreign Policy? The External Dimension of EU Action on Migration and Asylum, Swedish Institute for European Policy Studies (SIEPS), 2009.

Liberia	Yes (Draft) → National Policy on Migration	Yes → Diaspora was consulted during the planning process
Mali	No → Drafting has already started and the National Population Policy deals with migration	Yes
Niger	Yes (Draft) → National Policy on Migration	Yes
Nigeria	Yes (Draft) → National Migration Policy	Yes
Senegal	No	Yes
Sierra Leone	No	Yes
Togo	No, but → Currently drafting a Migration and Development strategy	Yes

Source: Country chapters

At the time of drafting this study, most of the countries did not have a comprehensive national migration strategy in place. The exceptions to this were Burkina Faso, Ghana, Liberia, Mali, Niger, and Nigeria, all of which were in the process of drafting a national migration policy.⁸³ In the other countries, these migration policies are based on strategic documents that only address parts of migration, which results in an unbalanced approach that may neglect key migration aspects (e.g. emigration issues in Côte d'Ivoire and Guinea, and human trafficking and protection of migrants at risk in Togo). Nevertheless, as the table above shows, **almost all ECOWAS Member States**, with the exception of Senegal, Sierra Leone, and Guinea-Bissau, **are explicitly planning to develop a national migration policy or have a similar adequate strategic framework in place.**

Figure 1: Comprehensive National Migration Policy

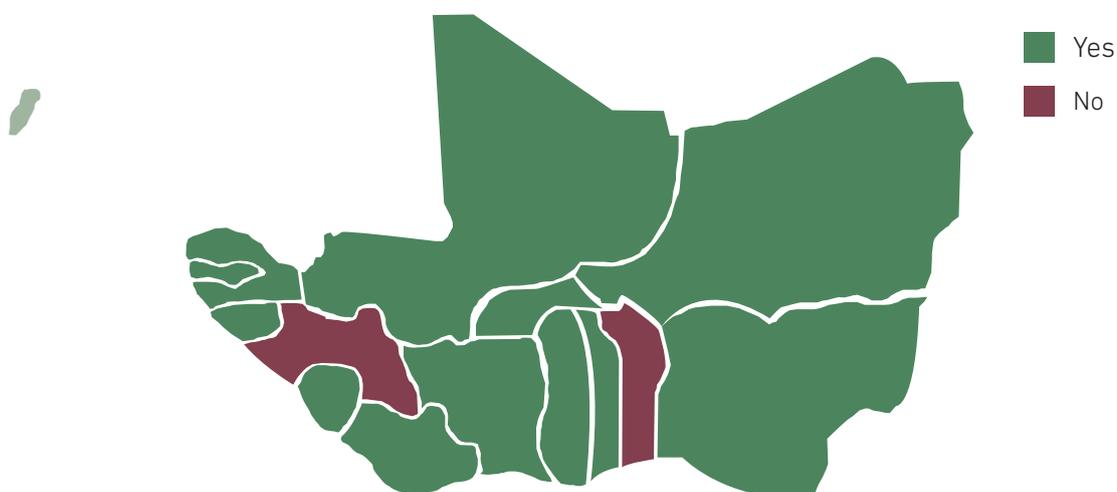


Source: Country chapters

⁸³ After the finalising of this study, the Malian authorities released information about the adoption of the national migration policy and its action plan (in September 2014).

The nature of migration and the context in which it takes place are key elements that determine the actual impact of migration on national development. This impact is not univocal. Rather, it can be beneficial in some spheres and harmful in others. In order to maximise the benefits of migration and mitigate its negative consequences for a country, the policies of relevant sectors (health, education, agriculture, etc.) need to take migration into account. Mainstreaming migration into development planning ensures that the effects of migration on development and the effects of development actions on migration are considered. According to the findings, **almost all countries have included migration in key development documents** (see table 11 above and figure 2 below). The study did not assess to which extent migration issues are included in key development documents, but this high number of countries shows that migration is considered an important development issue.

Figure 2: Migration mentioned in national development strategies



Source: Country chapters

2.3.1 Institutional framework on migration

Table 12: Inter-institutional coordination mechanisms

Country	Focal point for migration policy	Inter-institutional coordination mechanism in place
Benin	No	No
Burkina Faso	Formally not yet, but the Ministry of Economy and Finances led the National Migration Strategy development process (the document also entrusts the same Ministry with the responsibility of coordinating migration policy matters).	No, but planned for the future (see column to the left)
Cape Verde	Immigration Coordination Unit within the office of the Vice Prime Minister.	Yes
Côte d'Ivoire	No	Yes: Joint Ministerial Committee on the Fight against Trafficking, Exploitation, and Child Labour

The Gambia	Immigration Department under the Ministry of Interior	Yes: <ul style="list-style-type: none"> National Platform on Migration Issues National Agency Against Trafficking of Persons (NAATIP) National Task Force against Trafficking in Persons (NTF) Expatriate Quota Allocation Board
Ghana	No, but the Inter-Ministerial Steering Committee on Migration may be maintained after the National Migration Policy is finalised.	Yes: <ul style="list-style-type: none"> Inter-Ministerial Steering Committee on Migration – develops the National Migration Policy Immigrant Quota Committee – deals with work permit applications Human Trafficking Management Board
Guinea	Yes, an inter-ministerial commission was officially established to develop a national migration policy.	Yes (see column to the left)
Guinea- Bissau	Yes, National Migration Platform (but very few meetings held).	Yes
Liberia	No	Yes: <ul style="list-style-type: none"> National Migration Policy Taskforce – drafted the national migration policy Anti-Human Trafficking Taskforce
Mali	No	Yes: <ul style="list-style-type: none"> As part of the steering of the Centre for Migration Information and Management (CIGEM)
Niger	Yes, Inter-ministerial Committee on Migration Policy Development under the Ministry of Interior.	Yes: <ul style="list-style-type: none"> Inter-ministerial Committee on Migration Policy Development
Nigeria	Yes, National Commission for Refugees, Migrants and Internally Displaced Persons (NCFRMI).	Yes: <ul style="list-style-type: none"> National Commission for Refugees, Migrants and Internally Displaced Persons (NCFRMI) Technical Working Group – for the drafting process of the National Migration Policy and the National Labour Policy
Senegal	No	Yes: <ul style="list-style-type: none"> National Commission of Job Offers – implementation of bilateral agreements Committee – Support Fund for Investments of Senegalese Abroad
Sierra Leone	No	Yes: <ul style="list-style-type: none"> Work Permit Committee Inter-Ministerial Committee on Human Trafficking National Task Force on Human Trafficking
Togo	No	Yes: <ul style="list-style-type: none"> Unit in Charge of the Diaspora Programme (composed of several ministries)

Source: Country chapters

The institutional landscape of the countries presents a picture of fragmentation. Migration-related responsibilities are allocated among a number of ministries and public agencies according to the above-mentioned traditional configuration. This common scheme involves the following task allocation: immigration and border management under the responsibility of the Ministry of Interior/Security, labour immigration under the Ministry of Labour, the fight against trafficking in persons under the Ministry of

Social/Family Affairs or the Ministry of Justice, and the protection of and relations with nationals abroad under the Ministry of Foreign Affairs. Other governmental bodies with a role in migration-related matters, such as the Ministry of Finance, the Ministry of Planning, and the National Statistics and Demography Agency, have responsibilities related to remittances, mainstreaming migration into development planning, and migration data analysis.

Across the countries studied, three specific migration policy aspects have dedicated institutions.

Some countries have established agencies mandated to facilitate the matching of labour demand and supply in the country (i.e. Benin, Burkina Faso, Cape Verde, Ghana, The Gambia, Senegal, and Togo). Most of the countries have developed institutions responsible for relations with the diaspora. These can be specific ministries (as is the case in Cape Verde, Côte d'Ivoire, The Gambia, Guinea, Mali, and Senegal), state agencies/departments (as in Benin, Burkina Faso, Guinea-Bissau, Nigeria, and Sierra Leone), or diaspora councils (such as those in Benin, Mali, Niger, and Nigeria). Finally, several of the countries have established specific bodies for the fight against trafficking in persons (Côte d'Ivoire, The Gambia, Guinea, Liberia, Nigeria, Senegal, and Sierra Leone).

Government ministries and agencies work rather independently from each other and in most of the countries, no ministry or unit within the government is mandated to coordinate migration issues.

However, almost all of the countries have established inter-ministerial committees on migration to cover specific issues or to develop migration policies (see table 12 above). These inter-institutional migration committees may be kept on after the adoption of the respective national migration policies. In Mali, the Technical and Steering Committees of the Centre for Migration Information and Management (CIGEM) includes relevant ministries as well as external partners.

2.3.2 Immigration: national policy framework and institutional practices

This study focuses on three main areas of immigration policies: labour immigration, irregular immigration, and protection of immigrants at risk.

2.3.2.1 General immigration provisions

Table 13: Identified gaps in the immigration framework

Country	Identified gaps
Benin	<ul style="list-style-type: none"> No provisions on the status of family members Requirement for stay permit: proof that the applicant does not have any sexual transmissible diseases For foreigners who wish to leave their place of residence, the delivery of an authorisation is required
Burkina Faso	<ul style="list-style-type: none"> Provisions on the procedures for the delivery of a stay permit are missing No specific status is defined for long-term residents and migrants' family members
Cape Verde	<ul style="list-style-type: none"> Migrants' rights as regards education, demonstrate, strike, and trade unions are restricted (<i>the Cape Verdean legislation is currently being revised with a view to implementing the National Immigration Strategy, and improvements are foreseen as regards the facilitation of family reunification, better access to health and social services, and integration programmes</i>)
Côte d'Ivoire	<ul style="list-style-type: none"> Access of foreigners to land ownership is not clearly regulated

The Gambia	<ul style="list-style-type: none"> • Lack of precision for obtaining stay and resident permits • No details attached to family reunification (although it is mentioned)
Ghana	<ul style="list-style-type: none"> • Detention foreseen when an immigration officer has doubts regarding the right of entry of a person; no maximum detention period or juridical guarantees foreseen • Conditions for granting residence insufficiently defined
Guinea	<ul style="list-style-type: none"> • Provisions for family reunification are only defined in the case of family members of Guinean nationals and foreign experts (foreigners who are employed by state institutions)
Guinea-Bissau	<ul style="list-style-type: none"> • Equal rights between foreigners and nationals “based on reciprocity”
Liberia	<ul style="list-style-type: none"> • Family reunification not foreseen • Discriminatory access to citizenship only for those who are “Negro or of Negro descent” • Procedures for obtaining immigrant status not clearly defined (<i>the draft National Policy on Migration does include amendment of the immigration law</i>)
Mali	<ul style="list-style-type: none"> • Lack of precision for obtaining stay and resident permits • No details attached to family reunification (although it is mentioned)
Niger	<ul style="list-style-type: none"> • Only one type of stay permit with a limited duration of 2 years • No provisions as regards family migration
Nigeria	<ul style="list-style-type: none"> • Procedures and conditions for granting and renewing residence permit are insufficiently defined; duration of the permit is not specified • Family migration is not addressed (<i>in practice, foreigners apply for a special permit/card which is valid for 2 years and is renewable</i>).
Senegal	<ul style="list-style-type: none"> • Absence of provisions regarding the validity length of residence authorisation and status of long-term residents
Sierra Leone	<ul style="list-style-type: none"> • No detailed provisions or conditions regarding granting permits, durations, renewal, or withdrawal • No provisions regarding family reunification
Togo	<ul style="list-style-type: none"> • Conditions and procedures for the delivery of visas and permits and the rights attached to the different statuses are not clearly defined

Source: Country chapters

The immigration provisions vary among the ECOWAS countries. In some cases, the applicant for a residence permit must provide a medical certificate and an extract from the police register and pay fees (Benin, Guinea, and Togo). In Liberia, Senegal, and Togo, it is more difficult for foreigners to receive a residence permit than in other countries since an official application should be made before entering the state.

As table 13 shows, **a number of gaps have been identified in the current national legislative framework.** In most cases, procedures and requirements for obtaining a residence or stay permit are insufficiently defined. Quite importantly, the right to family reunification is also not mentioned in a number of cases and if it is, the attached provisions and conditions are not specified. In addition, some discriminatory regulations have also been identified, such as the access to citizenship in Liberia only for those who are “Negro or of Negro descent”, while the Liberian legislation prohibits immigration to persons who are “feeble-minded”, “insane”, etc. In practice, a tolerant approach is followed, which, however, does not diminish the importance of anchoring the rights in national law.

2.3.2.2 Labour migration

The national legislations protect the labour markets in the countries either through labour market tests (as in Benin, Côte d’Ivoire, Liberia, Niger, and Sierra Leone), which have not yet been fully im-

plemented, or quota systems (e.g. in Nigeria, with the exception of temporary employment of “experts with specialised skills services”). For example, in Niger the employer is obliged to organise training for national staff to replace the foreign worker who was hired based on the absence in the national workforce of available workers with similar competences. In Liberia, the employer has to demonstrate that no national worker could be found and has to take into consideration and give preference to a list of qualified Liberians provided by the Ministry of Labour (this regulation excludes administrative, supervisory or technical professions, or agricultural or unskilled labour). In Côte d’Ivoire, the job offer has to be published in a national newspaper for one month before starting the recruitment of a foreign worker. In Ghana, although the Immigrant Quota Committee reviews the work permit applications and provides recommendations to the Minister of Interior, labour immigration is not regulated through a quota system. The term ‘quota’ refers to the right of a company, granted by the Committee, to employ a certain number of migrant workers depending on the foreign participation of the company and its capital. In The Gambia, the Expatriate Quota Allocation Board encourages businesses to hire qualified Gambian staff. For the privilege of hiring expatriates, businesses are required to pay both an annual tax and a fee. The number of non-Gambians that businesses can employ has to be below 20%. If a company intends to hire a foreign worker exceeding the 20% it has to prove, by publishing a vacancy announcement, that no qualified Gambian could be found in the national workforce.

In some countries, the labour legislation lacks precision concerning the conditions and procedural steps to grant a work permit (i.e. in Benin, Burkina Faso, Cape Verde, Ghana, Niger, and Togo). This could give room to arbitrary decisions by the authorities appointed to decide on the entry of foreign workers. In Guinea, the labour legislation does not include any specific conditions regarding the access of foreigners to the labour market nor to employment rights.

Very few countries consider foreign workers to be crucial to meeting national labour market needs. One exception can be seen in the draft National Policy of Ghana which considers the need for foreign labour in the country’s oil industry.

The link between residence permit and work permit differs according to the country in question: in some countries the employee can change the employer, while in others the residence permit is bound to the work permit. For example, migrant workers in Burkina Faso can freely change employers and sectors of employment. In contrast to this, work permits in Ghana are tied to a specific employer, which implies that the migrant worker cannot change employer or type of employment without the approval of the Immigrant Quota Committee. Therefore, it is only after indefinite residence status is granted (after a minimum stay of five years) that the migrant worker has free access to the labour market. In Guinea, the delivery of a long-stay visa, which is a condition for staying, is subject to the prior delivery of a work authorisation. A similar approach is applied in Nigeria. This implies that without access to formal employment, which is rarely the case, migrant workers remain in an irregular situation. In Liberia, a review of this situation is stipulated in the draft National Migration Policy. In Senegal, it is explicitly stated that the end of the work contract does not automatically lead to a removal of the stay permit.

In Niger and Sierra Leone, the labour code stipulates that work authorisations are to be delivered before entering the country (in the case of Sierra Leone, six months before entering the country), although this is not followed in practice.

Some national labour codes ensure equal treatment of national and foreign workers regarding their

rights and obligations (as is the case in Burkina Faso, Cape Verde, Ghana, Guinea-Bissau, Côte d'Ivoire, Liberia, Mali, Nigeria, Senegal, and Togo). **One limitation concerns the ability to have an executive role in trade unions.** In some countries, these positions are reserved for foreigners that either have resided in the country for a period determined by law and/or originate from countries with which there are reciprocal agreements in this regard (this is the case in Burkina Faso, Côte d'Ivoire, Guinea, The Gambia, Mali, Niger, Senegal, and Togo), or for nationals in general (Burkina Faso, Liberia). This limitation could hinder the full representation of foreign workers' needs and interests in trade unions. In addition, Cape Verde limits the right to assemble, demonstrate, and strike, and the Liberian Labour Law states that equal treatment is provided to foreign nationals only if they are in a regular situation. Also in Liberia, the Ministry of Labour has the right to withhold work permits for nationals from countries where no reciprocal rights of employment are applied.

Besides the principle of equal treatment, **some countries have also adopted additional measures to protect migrant workers.** In Côte d'Ivoire and Mali, the contract has to be approved by a competent national authority in order to ensure that it does not include any provisions that contravene imperative norms and that the worker understands and agrees with its full content. In The Gambia and Senegal, the employer is obliged to pay for the cost of travel to the work station and return after the contract has ended.

2.3.2.3 Irregular migration

A coherent approach towards irregular migrants seems to be missing in the region. The national legislation in all countries penalises irregular stay and its facilitation (prosecution of migrant smugglers and those who falsify visas and travel documents), although in practice the approach to irregular migration and stay differs. In Benin, Cape Verde, and Ghana individuals who have entered/stayed in the country irregularly are fined, while in Burkina Faso, Côte d'Ivoire, Guinea, Mali, Niger, Senegal, and Togo individuals are fined and imprisoned. In Sierra Leone, a prison sentence, but no fine, awaits irregular migrants. The maximum duration of imprisonment also differs widely, from 15 days in Niger, to two years in Senegal and up to five years in Côte d'Ivoire.

The level of concern as regards irregular migration also differs from country to country. While it is not considered a threat in most of the countries, such as Burkina Faso or Guinea, the National Immigration Strategy of Cape Verde stresses that irregular migration is an increasing concern for the country. In The Gambia, an official warning has been issued by the government to landlords not to allow any foreigner to stay in their premises without a valid passport, visa, visitor's pass, Alien Card, or residence permit. In Guinea-Bissau, police forces organise operations to detect and detain irregular migrants while in Mali, the common practice when apprehending irregular immigrants is to refer them to the competent diplomatic or consular post which issues the migrants with an identity document.

Irregular stay is considered a criminal offence in Burkina Faso, Côte d'Ivoire, Niger, and Senegal. However, **irregular migration, or rather irregular stay, seems to be tolerated in practice.** Most countries apply regularisations (i.e. Benin, Burkina Faso, Ghana, The Gambia, Guinea, Côte d'Ivoire Liberia, and Sierra Leone) especially regarding ECOWAS nationals and upon payment of a fee.

Several countries plan to review the current legislative framework applying to irregular migration. Ghana's current legislation and policy towards irregular migration focuses on control, but the draft Na-

tional Migration Strategy envisages the adoption of a more comprehensive approach which includes opening more legal migration channels and taking into account the human rights of irregular migrants. In the case of Liberia and Nigeria, the legislation on irregular migration is outdated and subject to review, as envisaged in the draft National Migration Policy of both countries.

The legislation in Côte d'Ivoire, despite its restrictive character, protects certain categories of foreigners against deportation. This includes those who are under 21 years, those who have been residing in the country since they were 10 years of age, or for more than 15 years as well as spouses of Ivorian nationals.

Beninese, Cape Verdean, and Nigerian authorities seem to return foreign nationals more often than other ECOWAS countries on the grounds of absence of visa, fraudulent travel documents, and irregular entry/stay. In the case of Nigeria, an increased number of deportations of mostly Chadians and Nigeriens have been noted.

As regards the support provided to migrants returning to their country of origin, half of the countries have concluded readmission agreements, mainly with European countries, but also with neighbouring countries (as in the case of Benin, Nigeria, Senegal, and Sierra Leone).⁸⁴ Benin, Burkina Faso, Côte d'Ivoire, Ghana, Mali, Niger, and Senegal are all implementing Assisted Voluntary Return Programmes.

Border management capacities are limited in the region. In the case of Sierra Leone, only 33 out of more than 400 border crossing points are controlled. Border management is given high priority in Cape Verde and Ghana, and is also recognised in the Liberian draft National Migration Policy. Both Ghana and Liberia plan to strengthen joint cross-border patrols with their respective neighbouring countries. Niger and Mali have jointly patrolled their common border since 2007. As the recent study of the ACP Observatory on Migration states, travellers often face administrative hindrances and harassment at border checkpoints. In addition, the study highlights that the privileges of the Free Movement Protocols have been abused in some cases for smuggling goods and to trade narcotics, which has led to resentment in the destination countries.⁸⁵

2.3.2.4 Migrants at risk

Regarding the smuggling of migrants and trafficking in persons, apart from Sierra Leone, all of the countries have ratified the United Nations Convention against Transnational Organized Crime (2000) and its Protocol on Trafficking in Persons (Palermo Protocol), while its Protocol against the Smuggling of Migrants by Land, Sea and Air has been ratified by all countries, apart from Guinea-Bissau. In most of the countries, the legislation punishes traffickers through fines and/or penalties (i.e. in Benin, Burkina Faso, The Gambia, Ghana, Côte d'Ivoire, Liberia, Mali, Niger, and Senegal). In Burkina Faso, reference is also made to forced begging.

⁸⁴ Benin has signed readmission agreements with France; Nigeria with Ireland, Italy, Spain, and Switzerland; and Senegal with France, Spain, and Mauritania. Moreover, Senegal is negotiating a readmission agreement with Italy and a Mobility Partnership with the European Union that includes return and readmission mechanisms, as is Sierra Leone with the U.K. and the Netherlands.

⁸⁵ Awumbila et al., 2014, op. cit., pp. 74-75

As regards trafficking in persons, **following the ratification of the convention and the protocol, most of the countries have adopted action plans and/or legal texts against trafficking in persons, with the exception of Cape Verde.** On the whole, the Palermo Protocol's definition of trafficking in persons, and the included procedural steps for prosecution and penalties have been transposed into national law. It is stated in Cape Verde's National Immigration Strategy that the adoption of an anti-trafficking law is planned. However, the legislation of Benin, Côte d'Ivoire, Guinea, and Togo focus only on child trafficking and exploitation and have no provisions regarding the trafficking of adults.

At the institutional level, several countries have established specific bodies for combating trafficking in persons (i.e. Côte d'Ivoire, The Gambia, Guinea, Liberia, Nigeria, Senegal, and Sierra Leone). Bilateral agreements to strengthen cooperation in the fight against child trafficking have been signed between a number of countries. In addition, thirteen countries are part of the 2007 multilateral cooperation agreement on the fight against child trafficking in West Africa (Benin, Burkina Faso, Cote d'Ivoire, Ghana, Guinea, Guinea-Bissau, Liberia, Mali, Niger, Nigeria, Senegal, Sierra Leone, and Togo).⁸⁶

Most of the countries have established protection mechanisms for victims of trafficking (i.e. Benin, Burkina Faso, Cape Verde, Côte d'Ivoire, The Gambia, Ghana, Guinea-Bissau, Mali, Niger, Nigeria, Senegal, and Togo). In Burkina Faso, Guinea-Bissau, and Senegal, the possibility to obtain permanent or temporary residence for victims of human trafficking is also part of the legal text. In Cape Verde, national authorities run temporary shelters and protection and reintegration centres in order to assist child victims. However, the implementation of protection measures remains limited in most of the countries where public authorities mainly rely on NGOs to provide support to victims (i.e. in Côte d'Ivoire, Ghana, Guinea, Liberia, Mali, Niger, Sierra Leone, and Togo). In addition, some countries have implemented awareness-raising campaigns to prevent human trafficking. In Benin and Burkina Faso, for example, campaigns have been implemented and police officers are regularly trained on matters relating to child trafficking.

⁸⁶ According to the ECOWAS Member States National Focal Points on ant-trafficking, the following agreements have been signed or were being negotiated at the time of writing: Côte d'Ivoire, Mali (1 September 2000): bilateral agreement signed in Bouake; Senegal, Mali, (2004): bilateral agreement against the cross-border trafficking of children; Burkina Faso, Mali (25 June 2004): bilateral cooperation agreement against cross-border trafficking of children; Benin, Nigeria (9 June 2005): bilateral cooperation agreement to suppress and punish trafficking with emphasis on women and children; Guinea, Mali (16 June 2005): bilateral agreement against cross-border trafficking; Burkina Faso, Côte d'Ivoire (24 October 2012): cooperation agreement to combat cross-border trafficking and the signing of a joint declaration known as the Ouagadougou Declaration; Senegal, The Gambia (2013): bilateral agreement against the cross-border trafficking of children; Cote d'Ivoire, Ghana: bilateral agreement in the fight against child trafficking; Guinea-Bissau, Guinea: bilateral agreement; Guinea-Bissau, Gambia: bilateral agreement; Nigeria, Benin: bilateral agreement; Niger, Nigeria: bilateral agreement; Togo, Ghana: bilateral agreement; Togo, Benin: bilateral agreement; Togo, Nigeria: bilateral agreement; The Gambia, Ghana: Cooperation and Mutual Assistance Agreement on the protection of children from cross-border trafficking and a Memorandum of Understanding yet to be finalised/adopted; Ghana, Mali: draft agreement is being developed and discussed; Guinea: intends to sign bilateral agreements with Senegal, Sierra Leone, Liberia, Guinea-Bissau, and Côte d'Ivoire; Senegal, Guinea-Bissau: proposed bilateral cooperation agreement to combat child trafficking is being validated, and also to combat the cross-border flows of children between the two countries; Togo, Gabon: proposed agreement being discussed on combating child trafficking. Benin has signed bilateral agreements with Nigeria and Congo; Mali with Burkina Faso and Côte d'Ivoire; Senegal with Guinea-Bissau and Spain; and Togo with Benin, Burkina Faso, Ghana, and Nigeria. See ECOWAS Commission TIP Unit (forthcoming), *Annual Synthesis Report on the Implementation of the ECOWAS Plan of Action to Combat Trafficking in Persons 2012/2013*, Abuja: ECOWAS Commission.

Box 2: Protection for victims of trafficking in Nigeria

The National Agency for the Prohibition of Traffic in Persons and Other Related Matters (NAPTIP) has established nine shelters across the country. Victims are provided with initial screening assistance, medical care and psychological services, legal assistance, vocational training, and education.⁸⁷ In the case of child trafficking, family tracing is conducted in cooperation with relevant diplomatic and consular posts in Nigeria. A Victim's Trust Fund was established in 2009, primarily financed by confiscated assets from traffickers. In 2012, it provided USD 22,000 to victims of trafficking.⁸⁸

Prevention activities have taken the form of extensive media campaigns, advocacy meetings with community leaders, town hall meetings to share information with the population, and training sessions for public officials.⁸⁹

Source: Country chapter on Nigeria

2.3.3 Emigration: national policy framework and institutional practices

This study focuses on three main areas of emigration policies: labour emigration, migration and development, and the protection of nationals abroad and potential emigrants, although the distinction between these three areas is quite blurred. Policies regulating labour emigration affect the potential contribution of migrants to the development of their country of origin. For instance, bilateral agreements to avoid double taxation, transferability of pension benefits, and recognition of qualifications improve the situation of migrants abroad and support them to work and conduct business simultaneously in both the country of origin and the country of destination and to transfer social, financial, and intellectual resources to their homeland.

Similarly, protection of and support to migrant workers abroad and potential emigrants is crucial for fostering the country's development. Studies have demonstrated that emigrants' contribution to their homeland's development is amplified by their well-being and integration in the country of destination.⁹⁰ While the protection of migrants and their rights is mainly the duty of the country of residence, it can also be considered part of a quid pro quo informal agreement that is naturally established between emigrants and the government of their country of origin. Migrants who do not feel protected and supported by their country of origin are less willing to contribute to its development.⁹¹

⁸⁷ U.S. Department of State, *Trafficking in Persons Report 2013*, Washington, 2013, p. 286

⁸⁸ *Ibid.*, p. 287.

⁸⁹ *Ibid.*, p. 286; Bowers, M. M., *Room for Improvement: Nigeria's Approach to Trafficking*, 2012, p. 9.

⁹⁰ De Haas, H., *Engaging Diasporas: How Governments and Development Agencies Can Support Diaspora Involvement in the Development of Origin Countries*, Oxford, International Migration Institute, 2006.

⁹¹ Bach, J., 'Extending Political Rights to Citizens Abroad: Implications for the Nation-State', International Affairs Working Paper, 2011-02, New York, 2011.

2.3.3.1 Labour migration

Initiatives in the region for the promotion of employment of nationals abroad are quite limited. In almost all the countries examined, national authorities have yet to identify competencies that could be promoted abroad, or those that should not be promoted. Likewise, the identification and assessment of existing and potential new countries of destination remain limited. The exceptions to this are Cape Verde, Ghana, Mali, Senegal, and Togo.

Cape Verde's Emigration Strategy for Development provides for an analysis of the labour market in established and recent countries of destination and for improved mechanisms to match supply and demand on the international labour market. Ghana is piloting a labour market database for job-matching within the ECOWAS region and a system for the recruitment of workers for employment in Italy. Mali has set up a system that compiles job offers abroad. Senegal has established an 'Operational Register of Occupations' and an 'Information System for Efficient Migration Management'. Currently, no labour attachés are appointed at any of the countries' embassies or consulates abroad.

The Labour Migration Policy of Nigeria provides comprehensive guidelines in the area of labour emigration.⁹² It recognises the need for a national labour market assessment, to regulate and monitor the activities of private employment agencies, and aims to limit the promotion of employment abroad to sectors of the economy where migration does not impede national economic and social development. It also envisages measures to protect migrant workers before their departure and in the various countries of destination.

The Senegalese authorities have developed a large number of activities related to labour emigration. A database of occupations and Senegalese candidates for emigration has been established, employment sectors have been identified in the countries with which Senegal has bilateral agreements, and a Youth Employment Agency supervises the selection and recruitment of candidates. Similar activities have also been initiated by the Togolese authorities.

In Burkina Faso, the draft National Migration Strategy recognises the absence of a strategy regarding the promotion of employment abroad without translating this into concrete policy measures. The only employment abroad which should be explicitly fostered is that which increases the number of Burkinabe employed in International Organisations.

Diplomatic initiatives concerning labour emigration are quite advanced in the region. Almost half of the countries have concluded bilateral labour agreements facilitating nationals' access to the labour market of partner countries that are not ECOWAS Member States (this is the case for Benin, Burkina Faso, Cape Verde, The Gambia, Guinea-Bissau, Côte d'Ivoire, Mali, Niger, Senegal, and Sierra Leone).⁹³ Benin, Burkina Faso, Côte d'Ivoire, Mali, Niger, Senegal, and Togo are part of the Inter-African Conference on Social Insurance (CIPRES) Multilateral Convention on Social Insurance, a regional social security con-

⁹² At the time of writing, the Labour Migration Policy of Nigeria has been finalised but not adopted yet.

⁹³ For example, Benin has signed bilateral agreements with France and Kuwait; Burkina Faso with France, Italy, the U.K., and Jamaica; Côte d'Ivoire with Angola, Gabon, and Sao Tomé and Príncipe; The Gambia with Qatar and Guinea; Guinea-Bissau with Spain; Mali with Spain, Libya, Mauritania, Niger, and Cameroon; Niger with Algeria, Libya, Morocco, and Tunisia; Senegal with France, Gabon, Mauritania, Morocco, Saudi Arabia, Kuwait, and Spain; and Sierra Leone with Cuba, China, and India.

vention.⁹⁴ At the bilateral level, social security agreements have been concluded by Benin, Burkina Faso, Cape Verde, Guinea-Bissau, Côte d'Ivoire, Guinea, Mali, Niger, Senegal, and Togo.⁹⁵

Recruitment abroad through private employment agencies is regulated by law in some of the countries (Burkina Faso, Ghana, Liberia, Mali, Nigeria, and Togo). In Côte d'Ivoire, the Labour Code only mentions the possibility for private agencies to operate without specifying any details. In Liberia, the Labour Law includes provisions that ban any active recruitment activities targeting Liberian nationals. Sierra Leone has concluded several bilateral recruitment agreements with private companies operating in the Middle East that include protection measures. Ghana's Labour Act limits the recruitment services of private agencies to those countries with which Ghana has established bilateral agreements. **However, the regulation of these private recruitment agencies seems limited in practice** and they often operate outside the control of national authorities, as is the case in Burkina Faso, and also Ghana, where there are 127 licensed agencies, but an estimated 250 active agencies in total.

2.3.3.2 Migration and development

Concerning measures to limit the effects of brain drain, projects encouraging the temporary return of highly skilled emigrants are being carried out in most of the countries (i.e. in Benin, Cape Verde, Ghana, Niger, Mali, Nigeria, Senegal, Sierra Leone, and Togo; also, at the time of writing, Guinea-Bissau was in the process of developing such a project). In addition, a majority of the countries have established reintegration programmes for returnees (Benin, Cape Verde, Côte d'Ivoire, Ghana, The Gambia, Guinea, Liberia, Mali, Senegal, Sierra Leone, and Togo). However, due to a lack of funds, they are generally implemented with the assistance of international organisations or NGOs. Moreover, some countries are in the process of putting in place policies to prevent brain drain. These include the improvement of salaries and other incentives to retain highly skilled workers (Ghana, Nigeria, and Sierra Leone), the recruitment of young graduates (Niger), the promotion of circular migration and reducing the effects of brain waste (Ghana), and bilateral labour agreements based on ethical recruitment principles (Liberia).

Less than half of the countries have adopted policies specifically targeting their diaspora (i.e. Benin, Burkina Faso, Cape Verde, Mali, Niger, and Togo). Even fewer have **mapped, i.e. identified and analysed**, their diaspora. Mali, Niger, and Nigeria have attempted to collect data, but with few results, while Burkina Faso plans to establish a 'Migration Observatory' as presented in its draft National Migration Strategy. Since 2007, Senegal has been continuously mapping its diaspora through various measures, such as on-line registration, consular registers, and diaspora associations.

Most of the countries have put in place **measures to build trust** between the state and the diaspora. As

⁹⁴ Convention multilatérale de sécurité sociale de la Conférence interafricaine de la prévoyance sociale (CIPRES Convention). The CIPRES Convention covers the following branches of social security: medical care and sickness benefits, maternity benefits, invalidity benefits, old-age benefits, survivors' benefits, employment injury and professional sickness benefits, and family benefits. The convention recognises the principle of equal treatment, states that the individual is subject to the social security legislation of the country of employment, and ensures maintenance of acquired rights and provision of benefits abroad, and maintenance of rights in the course of acquisition. Among the mentioned countries, four have ratified the convention, namely Burkina Faso, Mali, Niger, and Togo.

⁹⁵ Benin has concluded social security agreements with France, Niger, Côte d'Ivoire, Burkina Faso, Senegal, and Togo; Burkina Faso with Mali and Côte d'Ivoire; Côte d'Ivoire with Burkina Faso, Benin, Togo, Mali, Niger, and Senegal; Guinea with France; Mali with France, Burkina Faso, Guinea, Mauritania, Senegal, Togo, and the Netherlands; Niger with France; Senegal with France, Mali, and Mauritania; and Togo with France.

noted above, many have developed institutions in charge of diaspora relations. These can be specific ministries (as is the case in Cape Verde, Côte d'Ivoire, The Gambia, Guinea, Mali, and Senegal) or state agencies or departments (Benin, Burkina Faso, Guinea-Bissau, Nigeria, and Sierra Leone). Some countries have also established diaspora councils (i.e. Benin, Burkina Faso, Mali, Niger, and Nigeria). In Mali, visits to the main countries of destination of the Malian diaspora are organised.

In some cases, national legislation allows for voting from abroad (i.e. in Benin, Burkina Faso, Cape Verde, Côte d'Ivoire, Ghana, Mali, and Senegal) or dual citizenship (Benin, Burkina Faso, Cape Verde, Ghana, Mali, and Nigeria). In Niger, the possibility of holding dual citizenship is envisaged and a legislative proposal had been submitted to the Nigerien parliament at the time of writing this study. Other measures include summits or forums with diaspora members (as organised by The Gambia, Ghana, Mali, and Niger), summer camps (Senegal), and the celebration of a 'Diaspora Day' (Nigeria). Ghana has also introduced the right of abode for those who have lost Ghanaian citizenship as well as to persons of African descent in the diaspora.

Concerning policies related to migrant remittances, the countries mainly endeavour to facilitate their transfer to the country of origin (as is the case in Benin, Burkina Faso, Côte d'Ivoire, Ghana, Guinea, Liberia, Mali, Niger, Nigeria, Senegal, and Sierra Leone). About half of the countries have put in place measures to incentivise investments or voluntary contributions to development (Benin, Cape Verde, Ghana, Mali, Niger, Nigeria, and Senegal). Data on remittances is collected mostly through partnerships with banks or money transfer service providers, and which therefore does not include information on remittances channelled through informal transfers.

In Burkina Faso, migration and development is a central component of its draft National Migration Strategy and its Action Plan, which provide the framework for diaspora engagement, promoting investments and skills transfer, and enhancing cooperation between diaspora associations and local authorities. The Cape Verdean National Emigration Strategy for Development contains similar content.

2.3.3.3 Migrants' protection

Throughout the region, the implementation of protection policies towards nationals abroad or potential emigrants seems to be undermined by financial constraints. Some of the countries have undertaken initiatives to inform potential emigrants about the different aspects of the migration process, legal migration opportunities, and living/work conditions abroad (i.e. Burkina Faso, Cape Verde, Côte d'Ivoire, Ghana, Guinea, Mali, Senegal, Sierra Leone, and Togo). Nigeria plans to establish migrant resource centres and to implement pre-departure information campaigns.

Only a limited number of initiatives are carried out by diplomatic and consular posts to ensure the protection of migrants. Most countries only have a small number of consular or diplomatic representations abroad. For example, there are 34 Burkinabe representations abroad, and five out of these are in ECOWAS countries. However, the draft plan of action on migration does mention the opening of a new representation in a destination country every two years. Benin's National Policy for Beninese Nationals Abroad has as a central objective the protection of migrants' rights and interests, and provides for recourse to local lawyers for consular and diplomatic posts in order to protect nationals abroad. In Cape Verde, consular capacities are very limited, but a Community Solidarity Fund has been established to provide assistance to diaspora associations that work towards migrants' integration and protection in destination countries. Nigeria also envisages the establishment of a migrant welfare fund.

Reintegration assistance to returning migrants is only provided in some cases. Beneficiaries of a state programme in Benin must have been registered at the representations abroad for a minimum of 10 years in order to be eligible for assistance. In addition, financial assistance is mostly limited to craftsmen, the self-employed, and business people. The Burkinabe authorities aim to disseminate information on the legislation on access to land. The Gambian, Ghanaian, and Togolese authorities have organised the return of child victims of human trafficking, provided temporary shelter and medical treatment, and conducted family tracing. In Mali, assistance to returnees involves a number of local associations which benefit from financial and in-kind support from the Directorate General for Malians Abroad and the *Centre d'information et de Gestion des Migrations* (CIGEM). In addition, the National Employment Agency provides technical and financial support to facilitate the integration of returnees into the labour market. Reception and Information Desks have been set up at Bamako airport and Kayes train station. The Gambia is specifically concerned about irregular emigration of the youth and has implemented awareness raising and youth employment programmes.

2.3.4 International, regional, and bilateral cooperation on migration

In contrast to other transnational issues, such as trade and finance, when it comes to migration, states have so far been reluctant to be bound by global legal instruments, with most preferring to maintain full authority. The only exception to this is the protection of refugees, which is regulated by a formal framework based on a multilateral treaty.⁹⁶ Other multilateral conventions on migration have not gained wide support and have been ratified by only a comparatively small number of countries.⁹⁷ **As a consequence, migration governance does not have a comprehensive institutionalised regime at the global level.** There are attempts to establish an international normative regime on migration and the protection of migrants' rights based on international human rights law and customary international law.⁹⁸ However, migration governance remains primarily at the regional or bilateral level via inter-state agreements.

The lack of an institutionalised framework on migration has contributed to the proliferation of informal mechanisms for inter-state cooperation at both the global and regional level. International dialogues on migration, such as the Global Forum on Migration and Development and the UN High Level Dialogue on Migration, operate in conjunction with regional forums (i.e. regional migration dialogues or regional consultative processes on migration). These forums aim at improving coordination between states on migration through information platforms and the exchange of good practices. Although they are not binding, these informal mechanisms influence how states respond to migration by increasing their understanding, enabling consensus building, building capacity, and facilitating networks and partnerships on this topic.

All the countries analysed have ratified most of the international legal instruments protecting human rights. These include the 1966 International Covenant on Civil and Political Rights, the 1966 International Covenant on Economic, Social and Cultural Rights, the 1979 Convention on the Elimination of All Forms of Discrimination against Women, and the 1989 Convention on the Rights of the Child.

⁹⁶ The 1951 Convention on the Status of Refugees.

⁹⁷ For instance, the 1990 UN Treaty on the Rights of All Migrant Workers and Their Families has not yet been ratified by any major migrant-receiving states.

⁹⁸ Betts, A., *Migration Governance: Alternative Futures*, Background Paper for IOM's World Migration Report, Geneva, International Organization for Migration, 2010.

However, the major international conventions on migration have received less support in the region.

Although almost all of the countries have ratified the 2000 United Nations Convention against Transnational Organized Crime and its protocols on trafficking in persons and the smuggling of migrants, but other instruments are still awaiting ratification or have not yet even been signed. The 1990 Convention on the Protection of the Rights of All Migrant Workers and Members of their Families has been ratified by eight countries (Burkina Faso, Cape Verde, Ghana, Guinea, Mali, Niger, Nigeria, and Senegal), which is, compared to other parts of the world, a high ratification rate; Benin, Guinea-Bissau, Liberia, Sierra Leone, and Togo have all signed but not yet ratified the Convention. The two major ILO conventions dealing with international migration for employment, one which sets international standards to protect migrants and one which promotes equal treatment, appear to be particularly divisive. The 1975 Supplementary Provisions of the ILO Convention on Migrant Workers C 143 has been ratified by only four of the countries studied (Benin, Burkina Faso, Guinea, and Togo).

Bilateral governance on migration, based on inter-state agreements, focuses on labour migration and social security.

As previously mentioned, more than half of the countries have concluded bilateral labour agreements facilitating nationals' access to the labour market of partner countries that are not ECOWAS Member States (i.e. Benin, Burkina Faso, Cape Verde, Guinea-Bissau, Côte d'Ivoire, Mali, Niger, Senegal, and Sierra Leone).⁹⁹ Regional governance on social security is based on the ECOWAS General Convention on Social Security and a number of West African countries are also part of the regional CIPRES Multilateral Convention on Social Security (which has been ratified by Mali, Niger, Burkina Faso, and Togo, and signed but not ratified by Côte d'Ivoire, Benin, and Senegal). A number of countries have also concluded bilateral agreements in this area (Benin, Burkina Faso, Cape Verde, Côte d'Ivoire, The Gambia, Guinea-Bissau, Guinea, Mali, Niger, Senegal, and Togo). Ghana and Liberia have not signed any social security agreements with destination countries. Only a few countries have concluded bilateral readmission agreements establishing the procedures to return irregular migrants to their countries of origin (those who have concluded such agreements are: Benin, Cape Verde, Nigeria, Senegal, and Sierra Leone). These agreements are mainly with European countries, but some have also been concluded with neighbouring countries. Benin, Mali, Senegal, and Togo have also concluded bilateral agreements to strengthen cooperation in the fight against child trafficking.

All of the countries analysed participate in the three migration dialogues in the region. These are: a) the **Migration Dialogue for West Africa (MIDWA), initiated in 2001** to discuss common migration concerns in a regional context in order to accelerate ECOWAS regional integration;¹⁰⁰ b) the **Euro-African Migration and Development Process (Rabat Process)**, established in 2006 to bring together the countries of the West African migration route spanning from Central Africa to Northern Europe;¹⁰¹ c) the **Migration, Mobility and Employment Partnership (MME)**, which was promoting cooperation between

⁹⁹ See footnote 84.

¹⁰⁰ The MIDWA process addresses five key areas: a) promotion of peace and stability in West Africa and protection of migrants' rights; b) contribution of migrants to the development of their country of origin; c) poverty alleviation in emigration areas; d) information, sensitisation, and research on the different aspects of international migration in West Africa, and e) intra-regional, and inter-regional cooperation.

¹⁰¹ The Rabat Process' participant countries cooperate through the implementation of numerous bilateral, sub-regional, regional, and multilateral initiatives on migration. The main output is the Dakar Strategy that sets ten priority objectives founded on the three pillars of the process: a) facilitating legal migration, b) fighting against irregular migration, and c) strengthening the synergies between migration and development.

African states and the Member States of the European Union between 2007 and 2013.¹⁰² Cape Verde, Ghana, Mali, Niger, Nigeria, and Senegal also participate in the Mediterranean Transit Migration Dialogue (MTM), which was initiated in 2002.¹⁰³

The study's survey included a section on the role of migration dialogues in policy development. It provided the respondents with an opportunity to give feedback on dialogues' contribution to their national policies on migration. Respondents could also express their views on migration in the context of development, and in particular, highlight which sector policy aspects are considered a priority. **For most of the countries analysed, the international and regional migration dialogues have had a substantial impact on their national migration policy development.** Some countries referred to concrete results in the survey. These include: a revised law on nationality (Côte d'Ivoire), improved inter-departmental cooperation on migration and development (also Côte d'Ivoire), strengthened cooperation in dealing with transnational crime (Ghana), enhanced capacities (Guinea), a newly developed national migration policy (Liberia and Sierra Leone), increased dialogue with European countries (Mali), and enhanced knowledge of the diaspora (Senegal). The Global Forum on Migration and Development (GFMD) appears to have had a particularly strong influence on four main areas: policy formulation, the drafting of laws, bilateral partnerships, and institutional awareness on migration.

All of the countries support a strong role for migration in a new post-2015 development agenda. Respondents also indicated several migration priority areas to be addressed within the Migration Dialogue for West Africa: internal migration (in the case of Burkina Faso); the needs of migrants who are not part of mass movements (also Burkina Faso); migration and development, e.g. reintegration of returnees, remittances, social rights, and social cohesion (Burkina Faso, Côte d'Ivoire, Guinea, Nigeria, Senegal, and Togo); protection of nationals abroad (Ghana); migration and trade (Liberia); workers' rights and social protection (Senegal); inter-state coordination to facilitate labour migration (Cape Verde); the effects of climate change on migration (Niger); reciprocity between countries of origin and destination for the integration of migrants (Côte d'Ivoire); mainstreaming gender into migration (Guinea and Cape Verde); integration of immigrants (Cape Verde); and irregular migration and smuggling (Guinea, Liberia, and Sierra Leone). As observed in the corresponding tables in the country chapters, the areas identified are strongly linked to the institutional focus of the respondents.

Finally, a common feature across almost all of the countries and institutions was the request for more involvement of civil society actors in the UN High-Level Dialogue on Migration and Development.¹⁰⁴ It was felt that this would strengthen the partnership between civil society and government on migration policies (Senegal), ensure transparency (Côte d'Ivoire), and bring attention to the group most affected by migration (Liberia). However, a respondent from the Ministry of Foreign Affairs of Niger also pointed out that civil society actors may be politicised and promote their own interests, which could hinder the progress of formulating national policies and the promotion of the country's development.

¹⁰² The format of the new partnership on migration and mobility between the EU and Africa is currently under consideration.

¹⁰³ Since its inception in 2002, the MTM dialogue offers a flexible, consultative platform for migration officials from countries of origin, transit, and destination along the migration routes in Africa, Europe, and the Middle East. Initially focusing on transit migration, the MTM has extended its scope over the past years to cover the various aspects of irregular and mixed migration, as well as migration and development.

¹⁰⁴ The survey was carried out before the UN High-Level Dialogue on Migration and Development in 2013.

3

Concluding Remarks and Recommendations

3. Concluding remarks and recommendations

Thirty-five 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 inter-regional mobility within the ECOWAS region. First, 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 according to the 1979 Protocols and supplementary protocols, and adherence to the protocol is assigned to administrative practices. 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 as regards 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.

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 prevent assessment of the alignment of Member States' policies to the six principles of the Common Approach. As can be seen 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. As concerns 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 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. **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 in the region, and countries have mainly focused on labour agreements. As regards **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 the diplomatic and consular missions, which are still at an embryonic stage.

The fight against human trafficking is the most developed migration area; 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 human trafficking, 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. Furthermore, comprehensive information strategies have yet to be developed.

Regarding the principle of policy harmonisation, the study shows that most countries lacked a comprehensive national migration policy, with there being only six countries that are in the process of drafting a national policy. However, almost all countries plan to develop a national migration policy which could be the 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 assessed as an important step.

The adoption of a coherent approach that includes migration in other public sector policies faces various obstacles in the countries analysed. First, governments do not have the data needed for sound policymaking. Migration and remittance statistics in the region tend to be outdated and 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.¹⁰⁵ 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 the qualifications that can be promoted abroad, nor those that should not be promoted. In addition, inter-institutional coordination on general migration matters is still missing, and if 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 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.

¹⁰⁵ 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).

3.1 Recommendations

Based on the study's findings, the research team put forward the following recommendations for the development of a comprehensive and coherent framework on migration. The table below identifies specific actions for governments in relation to four different groups of stakeholders.

1. State Institutions
1.1 Update national legislation on the entry and stay of foreigners on the state's territory 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.
1.2 Reinforce intra-governmental coordination between key stakeholders on migration by establishing permanent inter-ministerial committees.
1.3 Ensure harmonisation of migration management and other policy areas by factoring migration into national development plans and reinforcing coordination between key stakeholders at the central and local level.
1.4 Ensure a migrant-centred approach in all migration strategies and initiatives, respecting migrants' human rights throughout the migration cycle, with a special emphasis on vulnerable migrants.
2. International Organisations
2.1 Devote resources to projects that strengthen transnational links between the diaspora and their homeland beyond usual migration areas such as remittances and brain drain.
2.2 Commission policy-relevant research and distribute reports widely to contribute to the global and regional migration debates.
2.3 Promote policy coherence in global and regional migration dialogues to ensure that economic, trade, and development aid policies are harmonised with migratory policies.
3. Civil Society Organisations
3.1 Support networking and cooperation between migration-specialised organisations and development organisations, and between diaspora organisations and local development organisations. Create visibility for such initiatives in order to stimulate governments to do the same.
3.2 Put in place consultative processes with diaspora representatives so as to allow them to participate in and voice their views on national development planning.
3.3 Support civil society organisations in their sensitisation and advocacy initiatives that promote holistic migration approaches and protect migrants' rights.
3.4 Build the capacities of civil society organisations in order to strengthen their ability to utilise and participate in national, regional, and global dialogues on migration.
4. Academia
4.1 Strengthen data collection and analysis on migration, particularly on the diaspora, so as to enable the development of sound policies on emigration in line with the country's needs.
4.2 Enhance interaction between academic actors and government agencies to stimulate new approaches on migration and the development of well-informed policies.
4.3 Increase research on the negative and positive effects of migration on development in order to enrich current development policy discussions.
4.4 Increase research on national labour market requirements to ensure that labour migration policies are in line with the country's needs.

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Country Chapters

4. Country Chapters

4.1 Benin

4.1.1 Migration trends

4.1.1.1 Immigration

Although the presence of foreigners in Benin remains limited, it has risen over the past decades and, as Professor John Igue puts it, “Benin, an old country of emigration, is becoming a land of immigration”.¹⁰⁶ Indeed, the country presents a number of attractive factors, such as its political stability since 1990, its maritime coast, and its location in the prosperity zone of West Africa.

Data	Year	Absolute numbers	% of the Total Population
National Population and Housing Census (RGPH) ¹⁰⁷	2002	141,595 foreigners ¹⁰⁸	2.1%
	1992	36,765 foreigners ¹⁰⁹	0.8%
	1979	41,284 foreigners ¹¹⁰	1.2%

4.1.1.1.1 Characteristics of immigrants/foreigners

Countries of origin:	The vast majority of immigrants are nationals from West African countries, primarily Niger (34.8%), Togo (22.1%), Nigeria (20.5%) and, to a lesser extent, Burkina Faso (4.6%).
Settlements:	Cotonou (36.8%), Alibori (19.1%), Borgou region (11.8%). In the case of Cotonou, foreigners are estimated to represent as much as 7.8% of the city's population. ¹¹¹
Socio-demographic profile:	Males represent around 60% of foreign nationals. In the case of Togolese nationals, female migrants are almost twice as numerous as males. ¹¹²
Socio-economic profile and sectors of employment:	<ul style="list-style-type: none">• Migrants generally have little formal education: 19.5% have primary education and 16.4% have secondary or higher education.¹¹³• Most foreigners are employed within the trade and catering sector (54.1%) and in agriculture (22.6%).¹¹⁴

¹⁰⁶ Igue, J., *Les Béninois de la diaspora. Cas du Ghana, de la Côte d'Ivoire et du Gabon*, République du Bénin, UNFPA, 2008, p. 7.

¹⁰⁷ *Recensement général de la population et de l'habitation*.

¹⁰⁸ INSAE, *Recensement général de la population et de l'habitation. Analyse des résultats. Tome 3 : caractéristiques socioculturelles et économiques*, 2003, p. 73.

¹⁰⁹ *Ibid.*, p. 77.

¹¹⁰ *Ibid.*

¹¹¹ *Ibid.*, pp. 76-77.

¹¹² *Ibid.*, p. 75.

¹¹³ *Ibid.*, p. 78.

¹¹⁴ *Ibid.*, p. 78.

Vulnerable groups:

- It appears that trafficking is primarily an internal phenomenon.
- There has been evidence with regards to human trafficking to suggest that women and girls from Nigeria, Guinea, Togo, and Niger are forced into prostitution.¹¹⁵

4.1.1.2 Emigration

Benin has long been a country of emigration, with flows which have traditionally been composed of high-skilled nationals and directed towards French-speaking West African countries. Over time, the patterns of Beninese emigration have changed significantly. From the late-1950s to the early-1980s, Beninese migrants in West Africa were subject to six waves of mass expulsions.¹¹⁶ Arguably, no other West African state has experienced such widespread forced return of its nationals. These recurrent mass expulsions, and the evolution of the economic and political context in Benin and countries of destination, have led to a diversification of emigration flows that has taken two forms. First, migration does not concern only high-skilled individuals anymore but also includes low- and medium-skilled workers. Second, the countries of destination of Beninese migrants have widened, within and beyond West and Central Africa.

Beninese authorities have not conducted a comprehensive mapping of the country's diaspora and estimates of the number of nationals abroad vary greatly from one source to another.

Data	Year	Estimates
General estimates from research reports ¹¹⁷	2006-2012	3 million nationals abroad
Data from diplomatic and consular posts (unpublished)	2011	4,384,686 nationals abroad ¹¹⁸
UN Trends in International Migrant Stock ¹¹⁹	2013	Beninese emigrant stock estimated at 480,580

¹¹⁵ UNODC, *Measures to Combat Trafficking in Human Beings in Benin, Nigeria and Togo*, 2006; U.S. Department of State, *Trafficking in Persons Report 2013*, 2013, pp. 89-90.

¹¹⁶ Expulsions from Côte d'Ivoire in 1958 (an estimated 17,000 nationals were expelled), Congo in 1962 (3,000 expelled), Niger (6,918 expelled), Ghana in 1969 (5,000 expelled), Gabon in 1978 (10,558 expelled) and Nigeria in 1983 (45,000 expelled). Igue, J., 2008, op.cit., p. 20.

¹¹⁷ Ba, H., Kouton, E. F., *Etude sur le profil migratoire du Bénin. Rapport final*, Ministère du Développement, de l'Economie et des Finances, 2006, p. 20; Igue, J., 2008, op. cit., p. 21 ; BCEAO, *Enquête sur les transferts de fonds des migrants*, 2012, p. 23.

¹¹⁸ Toudegnon, T., *Migration au Bénin. Profil national 2011*, IOM, 2011, p. 48.

¹¹⁹ United Nations, Department of Economic and Social Affairs, Population Division, 'Trends in International Migrant Stock: Migrants by Destination and Origin', 2013.

4.1.1.2.1 Characteristics of emigrants/nationals abroad

Countries of destination/residence:

Stock

- It is generally agreed that the vast majority of migrants – around 90% – reside in African countries, primarily in West Africa, and to a lesser extent in Central Africa.
- Nigeria, Côte d'Ivoire, Ghana, Gabon and Togo are important countries of residence for Beninese nationals.¹²⁰
- Migration flows towards Libya appears to have been small: in 2012, IOM reported 109 Benin returnees fleeing from the Libyan civil war.¹²¹
- The OECD international migration database identifies France (7,923 registered Beninese nationals in 2009), Italy (2,534 in 2010) and Germany (1,678 in 2011) as the only countries where the Beninese presence is worth mentioning.¹²² No data is available for the U.S. or Canada. The OECD database also fails to provide an estimate of migrants in an irregular situation or of those holding the nationality of the country of residence. For instance, many Beninese nationals also hold French nationality. According to Benin's consular data, 30,000 nationals reside in France.¹²³

Recent emigration flows

- According to Igue, emigration to Ghana has virtually stopped and emigration towards Gabon and Côte d'Ivoire has dropped significantly in the last few years.¹²⁴ The author argues that Nigeria remains the only significant attractive country of destination in Africa, for seasonal migration mainly, while most recent migration flows are directed towards OECD Member States.¹²⁵
- The OECD database shows an increase of Beninese migration flows over the 2000s¹²⁶, although no information can be provided on whether OECD countries have replaced West and Central African states as the main countries of destination of Beninese migrants due to the fact that the former have adopted restrictive immigration policies, while migration within the ECOWAS region is governed by a principle of freedom of circulation and generally follows a *laissez faire* approach.

¹²⁰ Ba, H., Kouton, E. F., 2006, op. cit., p. 20 ; Igue, J., 2008, op.cit., p. 21 ; Toudegnon, T., 2011, op.cit., p. 48.

¹²¹ Aghazarm, C., Quesada, P. and Tishler, S., *Migrants Caught in Crisis: the IOM Experience in Libya*, IOM, 2012, p. 14.

¹²² OECD, 'International Migration Database'. The OECD migration database collects information on stay/ resident permits and population registers.

¹²³ Igue, J., *Les pistes d'implication de la diaspora béninoise au financement du développement national. Premier rapport d'étape*, 2013, p. 4.

¹²⁴ Igue, J., 2008, op. cit., p. 41.

¹²⁵ Ibid., p. 42; p. 184.

¹²⁶ OECD, 'International Migration Database'.

Education level/ sectors of employment:	<ul style="list-style-type: none"> • The sectors of employment engaged in by Beninese migrants are not known. • J. Igue, who has studied the situation of Beninese migrants in Côte d'Ivoire, Gabon and Ghana, identifies five main types of occupations: high-skilled "intellectual" occupations, low- and medium-skilled urban jobs, small trade, fishing, and agriculture.¹²⁷ • Skilled occupations were mainly found in Gabon, in the education sector, but it has decreased over time as Beninese teachers have retired and the work conditions have deteriorated.¹²⁸ • Fishing is the main occupation of Beninese migrants residing in Gabon and Côte d'Ivoire.¹²⁹ • The other aforementioned types of jobs are found in all West and Central African countries of destination.¹³⁰ • Data concerning the skills of Beninese migrants in the OECD is scarce, and therefore, an eventual brain drain phenomenon is difficult to assess. With regard to the health sector, however, OECD data shows a significant risk of brain drain: circa 2000, the emigration rate of nurses was estimated at 3.2% and that of medical doctors at 40.9%.¹³¹
Remittances:	<ul style="list-style-type: none"> • Remittances were estimated by the World Bank at 157 million USD in 2013.¹³² • The majority of transfers are done through formal channels, although an estimated two households in five use informal transfer mechanisms.¹³³ • The majority of remittances are sent from African countries (62.7%), primarily from Nigeria, Ghana, Côte d'Ivoire, Senegal, Gabon and the Republic of the Congo. 29.2% of remittances were estimated to have been sent from EU Member States.¹³⁴ • 29.6% of remittances are used for consumption, 23% for housing investments, and 28% for other investment purposes.¹³⁵ Individual and collective initiatives of the diaspora in the social field compensate, to a certain extent, for the limited capacities of the state.
Vulnerable groups:	International trafficking of Beninese nationals primarily concerns children, who are forced into domestic, commercial and agricultural work in Nigeria, Gabon, Côte d'Ivoire, and, to a lesser extent, in other West and Central African countries such as Ghana and Cameroon.

4.1.2 Migration policy

Although Benin lacks a comprehensive migration strategy, most aspects of migration management are covered by policy documents and the national legislation. However, a number of gaps can be identified. With regard to emigration management, a National Policy for Beninese Nationals Abroad¹³⁶ was adopted in 2000 which focuses on the protection of the rights and interests of Beninese migrants and the relationship between migration and development, but which fails to cover most labour migration related issues. Immigration policies are also incomplete. On the whole, one may argue that policy documents

¹²⁷ Igue, J., 2008, op. cit., p. 135.

¹²⁸ Ibid., p. 138.

¹²⁹ Ibid., p. 145.

¹³⁰ Ibid., pp. 141-143; pp. 154-155.

¹³¹ OECD, 'Immigrant Health Workers in OECD Countries in the Broader Context of Highly Skilled Migration', *International Migration Outlook – SOPEMI 2007*, 2007, p. 214.

¹³² World Bank, 'Remittances Data', 2013.

¹³³ BCEAO, *Enquête sur les transferts de fonds des migrants*, 2012, p. 15; p. 21.

¹³⁴ Ibid., p. 23.

¹³⁵ Ibid., p. 25.

¹³⁶ *Politique nationale pour les Béninois de l'étranger*.

and legislation generally exist, but their implementation remains limited. The national development plan¹³⁷ (SCRP 2011-2015) does not mention migration issues.

4.1.2.1 Institutional framework on migration

Governmental stakeholders involved

Ministry	Agency, Directorate, Unit	Responsibilities
Ministry of Interior of Public Security ¹³⁸	Directorate of Emigration and Immigration ¹³⁹	<ul style="list-style-type: none"> Immigration management
Ministry of Labour and Public Service ¹⁴⁰		<ul style="list-style-type: none"> Delivery of work permits to foreign workers
Ministry of Micro-Finance, Youth Employment and Women ¹⁴¹	National Employment Agency ¹⁴²	<ul style="list-style-type: none"> Matching the labour demand and supply Assistance to returning migrants Information dissemination to potential migrants and nationals recruited for employment abroad
Ministry of Foreign Affairs, African Integration, Francophony, and Beninese Abroad ¹⁴³	National Agency for Beninese Abroad ¹⁴⁴	<ul style="list-style-type: none"> Relations with nationals abroad Information dissemination Assistance to returning migrants
	Directorate of Relations with Beninese Abroad ¹⁴⁵	<ul style="list-style-type: none"> Protection of nationals abroad
Ministry of Family		<ul style="list-style-type: none"> Fight against trafficking in persons

Diaspora issues are also dealt with by an independent and private structure, the High Council for Beninese Abroad¹⁴⁶ which was established in 2000 (see section 4.1.2.3.2).

¹³⁷ *Stratégie de croissance pour la réduction de la pauvreté.*

¹³⁸ *Ministère de l'Intérieur et de la Sécurité publique.*

¹³⁹ *Direction de l'émigration et de l'immigration.*

¹⁴⁰ *Ministère du Travail et de la Fonction publique.*

¹⁴¹ *Ministère de la de la Micro-finance, de l'Emploi des jeunes et des Femmes.*

¹⁴² *Agence nationale de l'emploi.*

¹⁴³ *Ministère des Affaires étrangères, de l'Intégration africaine, de la Francophonie et des Béninois de l'extérieur.*

¹⁴⁴ *Agence nationale des Béninois de l'extérieur.*

¹⁴⁵ *Direction des relations avec les Béninois de l'extérieur.*

¹⁴⁶ *Haut Conseil des Béninois de l'extérieur.*

4.1.2.2 Immigration: national policy framework and institutional practices

4.1.2.2.1 General immigration provisions

Legislation/Policy Framework	Description
Law No. 86-012 of 31 January 1986 on the regime applicable to foreigners in Benin ¹⁴⁷	Law, Art. 3 establishes a distinction between the status of non-immigrant foreigners and that of immigrant foreigners.
Regulation No. 218 of 3 November 1992 on the stay permit and the conditions of its delivery ¹⁴⁸	<p><i>Non-immigrant status</i></p> <p>Law, Art. 4: Non-immigrant foreigners include individuals staying on the national territory for a period not exceeding three months.</p> <p>Law, Art. 17; Art. 18: Depending on the duration of their stay, non-immigrant foreigners are requested to obtain the delivery of a tourist or a stay visa.</p> <p><i>Immigrant status</i></p> <p>Law, Art. 20: Within three months of entry, foreigners have to request the delivery of a stay permit.</p> <p>Law, Art. 6 to Art. 9 distinguish between three types of stay permits:</p> <ul style="list-style-type: none"> • temporary resident stay permit, valid for a maximum period of one year and renewable two times; • ordinary resident stay permit, valid for a maximum period of three years and renewable; and • a privileged resident permit, valid for ten years and renewable off-right. <p>Reg. Art. 6; Art. 7:</p> <ul style="list-style-type: none"> • temporary resident stay permits are delivered to newcomers; • ordinary residence stay permits are delivered to foreigners who have been residing in Benin for a minimum period of three years; and • privileged resident permits are primarily delivered to foreigners who have resided in Benin for ten years as well as to spouses of Beninese nationals. <p>In addition to this common legal regime, Reg. Art. 8 foresees the delivery of a specific residence permit to ECOWAS Member States nationals.</p> <p>Reg. Art. 9; Art. 12: Among conditions of delivery of stay and residence permits, the following is required:</p> <ul style="list-style-type: none"> • a morality investigation is conducted by the Directorate of Home Intelligence Services and territory Surveillance¹⁴⁹ or police services; • proof of the activity exercised in Benin (work contract, university registration, etc.); • production of a criminal record; • a repatriation guarantee; • an application fee of 10.000 CFA francs; and • "a medical certificate from less than three months establishing that the individual is not affected by any sexual transmissible disease".

The rights attached to the specific ECOWAS residence permit are not foreseen by the legislation. It is also notable that, with the exception of spouses of Beninese nationals, the legislation does not include provisions on the status of family members.

The proof that the applicant does not have any sexual transmissible diseases, which is a requirement for granting a stay permit, is likely to constitute a breach of Benin's international obligations. International

¹⁴⁷ Loi No. 86-012 portant régime des étrangers en République populaire du Bénin.

¹⁴⁸ Arrêté No. 218 instituant la carte de séjour au Bénin et précisant les conditions de la délivrance.

¹⁴⁹ Direction des renseignements généraux et de la surveillance du territoire.

organisations such as IOM and WHO have issued opinions that firmly condemn such restrictive practices.¹⁵⁰

Decree No. 77-45 of 4 March 1977 issuing regulation regarding the movement of foreigners¹⁵¹ requires the delivery of a special authorisation for foreigners to leave their place of residence. This constitutes a breach of the principle of freedom of movement within the territory of a given state, which is internationally recognised to migrants in a regular situation. Although national authorities claim that these regulations are obsolete, the principle of good administration would require that they be repealed. Over the past decades, the ILO, in its review of the implementation of Convention C 143 (1975) has constantly raised the need to adopt the necessary measures to repeal Decree No. 77-45.¹⁵²

4.1.2.2.2 Labour migration

Access to national labour market

Legislation/Policy Framework	Description
Law No. 86-012 of 31 January 1986 on the regime applicable to foreigners in Benin	Law, Art. 21; Reg. Art. 9 request that in addition to common immigration conditions, migrant workers have their work contract authorised by the competent services of the Ministry of Labour. Specific conditions and procedural steps are not considered.
Regulation No. 218 of 3 November 1992 on the stay permit and the conditions of its delivery	
Labour Code, 1998	<p>Art. 28: The exercise of a salaried activity by foreigners is subject to the delivery of a work permit, valid for one year, and is renewable.</p> <p>Art. 29 specifies that the request of a work permit can be rejected when the competences of the worker do not correspond to the needs of the national economy. In other words, the possibility of a labour market test is foreseen, although its modalities are not clearly stated.</p> <p>Art. 28 explicitly guarantees that loss of employment does not affect the validity of the work permit, and therefore, the legal status of the migrant worker in Benin.</p> <p>Art. 13; Art. 14 state that work contracts implying the establishment of the worker outside his/her place of usual residence are to be approved by the competent services of the Ministry of Labour. The purpose of this procedure is to ensure that the free will of the worker and his/her rights are respected, notably through a review of the work conditions stated in the contract.</p>

To some extent, Beninese legislation lacks precision. Conditions and procedural steps for the delivery of a work permit are not clearly stated. Moreover, rights and obligations of the migrant worker, including the possibility to freely change employer, sector of activity, and geographical area of employment are not specified. Access of family members to the labour market is not regulated, and the specific status of ECOWAS Member States nationals is not explicitly considered.

Art. 12 of Law No. 86-013 of 26 February 1986 concerning the General Statute of Permanent Agents of

¹⁵⁰ UNAIDS, IOM, UNAIDS/IOM Statement on HIV/AIDS-related Travel Restrictions, 2004.

¹⁵¹ *Décret No. 77-45 du 4 mars 1977, portant réglementation de la circulation des étrangers.*

¹⁵² ILO, Comments of the Committee of Experts, Benin, C 143.

the State¹⁵³ provides that only Benin nationals can be nominated in state employment. As repeatedly noted by the ILO, such a broad restriction of foreigners' access to public employment is likely to constitute a breach of Convention C 143, which only permits restrictions on the access of foreigners provided that the exceptions relate to "limited categories of employment" or functions, and that they are necessary "in the interest of the State".¹⁵⁴

Rights within employment

Legislation/Policy Framework	Description
Labour Code, 1998	<p>Art. 2 provides for equal treatment with nationals. Foreigners, regardless of their legal status, benefit from all obligations and rights from the labour legislation as a principle.</p> <p>Art. 82 states that all foreigners can join a trade union and administrative and executive functions can be performed by foreigners residing legally on the national territory, provided they enjoy their civic rights.</p>

Such provisions constitute an improvement of the condition of foreign workers in Benin. Before the adoption of the current Labour Code in 1998, administrative and executive functions within trade unions were reserved for Beninese nationals and nationals of countries with which agreements with reciprocity clauses had been concluded.

4.1.2.2.3 Irregular migration

Legislation/Policy Framework	Description
Law No. 86-012 of 31 January 1986 on the regime applicable to foreigners in Benin	<p>Art. 29 Refoulement is foreseen for foreigners who are not in possession of the requested documents to enter the country.</p> <p>Art. 32; Art. 33: The Minister of Interior is competent to cancel a stay permit, refuse the delivery or renewal of a visa, refuse stay, and expel foreigners. With the exception of foreigners who have been condemned to a prison penalty, the grounds on which such administrative sanctions can be taken are not specified.</p> <p>Art. 34: Irregular stay exposes the considered individual to a fine.</p>

In practice, regularisation is only possible during the first week of entry or expiration of the stay documents upon payment of a fine.

Benin's national authorities appear to adopt expulsion orders more often than most West African countries. In 2012, 166 individuals were returned to their country of origin on the grounds of absence of visa, fraudulent travel documents, and irregular entry/stay. In addition, Benin judicial authorities prosecute migrant smugglers as well as those who falsify visas and travel documents. In most cases, expelled individuals hold falsified Schengen visas or passports. It is therefore likely that most expelled migrants are individuals seeking irregular entry in EU Member States through Benin. According to officials interviewed, expulsion based on the sole absence of a stay permit is rare.

¹⁵³ Loi No. 86-013 du 26 février 1986 portant statut général des agents permanents de l'Etat.

¹⁵⁴ ILO, Comments of the Committee of Experts, Benin, C143.

4.1.2.2.4 Migrants at risk

Legislation/Policy Framework	Description
Law No. 2006-04 on the conditions of transportation of minors and the repression of child trafficking ¹⁵⁵	The Law criminalises all forms of child trafficking and Art. 21 foresees penalties for offenders of 10 to 20 years of imprisonment as well as fines. Law, Art. 9; Art. 10 state that foreign children entering Benin without their legal guardians must carry an authorisation approved by the competent authorities of the country of origin which states the purpose and duration of stay in the country.
Decree No. 2009-694 of 31 December 2009 on the specific conditions of entry of foreign children on the territory of the Republic of Benin ¹⁵⁶	Law, Art. 19: Offenders are subject to penalties of two to five years of imprisonment as well as fines between 500,000 and 2,500,000 CFA francs. Reg. Art. 7; Art. 8 include protection mechanisms for unaccompanied minors, which are to be implemented in cooperation with the competent authorities of the relevant countries of origin.

To date, no legislation specifically targeting adult trafficking has been adopted. A proposal for a law is currently being drafted. The Penal Code and the Labour Code include several criminal offenses that partially cover adult trafficking, such as the prohibition of facilitation of prostitution and forced labour. However, the penalties foreseen do not appear to be sufficiently stringent to face the challenges of the crime of trafficking.¹⁵⁷

In practice, efforts of the national authorities concentrate on child trafficking. A temporary shelter is run by public authorities, which provides legal, medical and psychological services. Long-term shelters are run by NGOs. A variety of awareness-raising activities have been implemented over the years and police forces are regularly trained on child trafficking. With regard to the prosecution, protection and prevention of adult trafficking, no specific measures have been undertaken.¹⁵⁸

In 2005, Benin concluded a bilateral agreement with Nigeria on the prevention, repression and suppression of human trafficking, in particular women and children. The agreement includes measures related to the prosecution of offenders as well as mechanisms to identify and protect victims and to ensure their repatriation and reinsertion in the country of origin. On 20 September 2011, an agreement was signed with the Republic of Congo to prevent transnational child trafficking. The agreement covers the areas of prosecution, protection and prevention of trafficking. It includes cooperation mechanisms, notably with regard to judicial procedures and repatriation of child victims.

4.1.2.3 Emigration

4.1.2.3.1 Labour migration

Benin lacks a labour migration policy. National authorities are yet to identify competencies that can be promoted abroad or decide on those for which promotion should not actively be undertaken. However,

¹⁵⁵ Loi No. 2006-04 portant conditions de déplacement des mineurs et répression de la traite des enfants en République du Bénin.

¹⁵⁶ Décret No. 2009-694 du 31 décembre 2009 portant conditions particulières d'entrée des enfants étrangers sur le territoire de la République du Bénin.

¹⁵⁷ U.S. Department of State, *Trafficking in Persons Report 2013*, 2013, pp. 89-90.

¹⁵⁸ Ibid.

initial steps have been taken in this regard with the establishment of an Operational Register of Occupations (ROME)¹⁵⁹ in 2011 and the publication of a study on the Beninese diaspora, which analyses in details the patterns of emigration to Côte d'Ivoire, Gabon and Ghana.¹⁶⁰ Activities related to the identification and assessment of existing and potential new countries of destination are non-existent and promotion activities in the current countries of destination remain limited, despite the conclusion of some labour migration related bilateral agreements.

Recruitment system

The National Employment Agency is entrusted with the duty of accommodating to accompany jobseekers within both the national and the international labour market. In practice, national employment services are yet to develop capacities to place national workers abroad.

Although the legislation does not include any provisions regulating the activities of private employment agencies, several agencies operate in Benin, such as *Afrique Conseil*, *Gestion d'Entreprise en Culture Africaine*, *LC Out Placement*, etc. These agencies generally focus on the placement of high-skilled workers in African countries. Two agencies, *Accès Canada Bénin* and *Canada sans détour*, specialise in facilitating migration of Beninese salaried and self-employed workers to Canada.

Bilateral labour agreements

Benin has concluded several bilateral agreements that include provisions regarding entry and stay of migrant workers. The most notable and comprehensive is the Agreement on Concerted Management of Migratory Flows and Co-Development concluded with France in 2009 (see section 4.1.3. for more details).

4.1.2.3.2 Migration and development

The period 1999-2000 is the starting point of the development of a migration and development strategy in Benin. On 6 December 2000, a National Policy for Beninese Nationals Abroad¹⁶¹ was adopted by the Council of Ministers. The policy goes beyond issues related to the relationship between migration and development and includes elements related to the protection of Beninese emigrants (see section 4.1.2.3.3). With regard to migration and development, the main objectives of the National Policy are the following:

- to promote cultural activities abroad and develop Beninese schools in major countries of destination;
- to facilitate the reinsertion of returning migrants;
- to reduce the brain drain phenomenon and attract competences from the diaspora;
- to mobilise the resources of nationals abroad for the economic development of the country, in particular through the institution of a diaspora bank, a solidarity fund, and fiscal incentives; and
- to increase the participation of nationals abroad in Benin's political life.

¹⁵⁹ *Répertoire opérationnel des emplois et métiers.*

¹⁶⁰ John Igue's *Les Béninois de la diaspora. Cas du Ghana, de la Côte d'Ivoire et du Gabon*, République du Bénin, UNFPA, 2008.

¹⁶¹ *Politique nationale pour les Béninois de l'extérieur.*

Institutional developments

On 29 December 2000, a National Agency for Beninese Abroad was created and placed under the authority of the Ministry of Foreign Affairs, African Integration, Francophony, and Beninese Abroad.¹⁶² The main function of the Agency is to organise the relationship between the State and nationals abroad as well as their associations. More specifically, it is entrusted with the following duties:

- to assist and advice nationals abroad for an improved level of participation in the economic and social development of Benin;
- to initiate development projects that include the participation of nationals abroad;
- to initiate projects to maintain the relationship between nationals abroad and their country of origin; and
- to develop and maintain a database of nationals abroad.

A High Council of Beninese Abroad was also created in 2000. The High Council is not a public institution but an independent private structure that aims to regroup nationals abroad with a view to facilitating their participation in national political life, protecting their rights and interests, and promoting investment in Benin. It also implements cultural, economic and sports exchanges between Benin and migrants' countries of residence. At local level – in countries of residence – the High Council is organised into sections (including a community assembly, a community council and a community office) in which members of diaspora associations and nationals registered at consular and diplomatic posts can participate. Members can be elected at the instance of the High Council and participate in the different activities of the structure. At central level, the High Council is composed of a general assembly that meets every two years, a coordination committee, and an executive office.

Mobilising and channelling remittances for development

In 2012, a survey covering 1,510 households provided a better understanding of remittances sent to Benin.¹⁶³ A report which looks into means of increasing the participation of migrants in the national development, and analyses the different types of diaspora associations and the projects they implement, is currently being drafted.¹⁶⁴

Measures to support the engagement of the diaspora for development purposes do not include specific fiscal regimes, although incentives foreseen by the Investment Code apply to Beninese residing abroad. To date, the planned establishment of a Bank of Beninese Abroad for Investment¹⁶⁵ has yet to be realised. In 2011, the general assembly of the High Council of Beninese Abroad created a diaspora fund based on voluntary contributions from its members. In addition, public authorities have focused on improving the competition among private operators with a view to lowering transfer costs.

¹⁶² *Décret No. 2000-653 du 29 décembre 2000 portant attributions, organisation et fonctionnement de l'Agence nationale des Béninois de l'étranger.*

¹⁶³ BCEAO, 2012, op. cit.

¹⁶⁴ Igue, J., 2013, op. cit.

¹⁶⁵ *Banque des Béninois de l'étranger pour le développement.*

Diaspora outreach and confidence-building measures

Although a comprehensive database of Beninese abroad is yet to be developed, efforts have been undertaken to better understand the patterns and characteristics of Beninese emigration. A study on the Beninese diaspora, which analyses in detail the characteristics of Beninese migrants in the Côte d'Ivoire, Gabon and Ghana, was published in 2008.¹⁶⁶

Regarding the maintenance and improvement of relationships between the state and its nationals abroad, dual/multiple citizenship is recognised, as is the right to participate in national elections. The general assembly of the High Council of Beninese Abroad meets on a regular basis. To date, 27 sections exist in countries of destination and extension to other countries is planned.

Addressing the challenges of highly-skilled migration

Policies related to the brain drain phenomenon and the circulation/return of high-skilled migrants are primarily implemented through the UNDP-run TOKTEN (Transfer of Knowledge through Expatriate Nationals) programme, which sees the temporary return of skilled nationals in order to contribute to development projects in their country of origin, and the IOM-led programme Migration for Development in Africa (MIDA). The MIDA programme includes the development of a database for the registration of migrants willing to participate in the programme, a repertory of the needs that may be satisfied through the use of migrants' expertise, and a pilot project seeking the temporary return of high-skilled Beninese migrants to participate in development activities, mainly in the health sector.

4.1.2.3.3 Migrants' protection

The protection of migrants' rights and interests is a central objective of the National Policy for Beninese Nationals Abroad, which specifically refers to the conclusion of bilateral agreements with countries of destination, recourse to local lawyers through by consular and diplomatic posts to protect nationals abroad, and the adoption of mechanisms to facilitate the reintegration of returning migrants.

Institutional developments

The mandate of the National Agency for Beninese Abroad focuses on information dissemination and assistance to returning migrants. Protection of nationals abroad is the competency of the Directorate of Relations with Beninese Abroad, which is also placed under the authority of the Ministry of Foreign Affairs, African Integration, Francophony and Beninese Abroad. The Directorate is charged with the responsibility of assisting migrant workers in case of work conflicts and of repatriating destitute migrants. The High Council of Beninese Abroad is also entrusted with responsibilities concerning protection of Beninese interests abroad and prevention of discriminatory practices. Finally, the National Employment Agency should provide information on living and working conditions abroad to potential migrants and nationals recruited for employment abroad. In practice, however, due to the fact that the agency does not have the capacity to place workers on the international labour market, such information dissemination activities are by their nature limited. Established private employment agencies focusing on the placement of high-

¹⁶⁶ John Igue's *Les Béninois de la diaspora. Cas du Ghana, de la Côte d'Ivoire et du Gabon*, République du Bénin, UNFPA, 2008.

skilled workers also include information sharing as part of their services.

Assistance to returning migrants

Returning migrants benefit from general assistance programmes from the National Employment Agency, including the Assistance Programme for Integration and Employment Development (AIDE)¹⁶⁷ and the Programme for support of Self-Employment (PAEI).¹⁶⁸ In addition, specific programmes have been developed by the National Agency for Beninese Abroad. In principle, benefactors must be registered with consular and diplomatic posts and have resided abroad for a minimum of ten years. They must also establish the durable character of their return. Assistance to salaried workers is limited to the diffusion of information on job opportunities and the publication of their professional profile on the Agency's website. Craftsmen receive additional support, which includes loans, and assistance in the development and follow-up of business projects. Limited assistance is also given to other self-employed returnees.

Social security agreements

Benin has signed but not yet ratified the inter-African social security convention (CIPRES Multilateral Convention on Social Security).¹⁶⁹ At bilateral level, social security conventions have been concluded with France, Niger, Côte d'Ivoire, Burkina Faso, Senegal, and Togo.

Protection of victims of trafficking and most vulnerable migrants

Regarding trafficking-related policies and the protection of children, the general national framework has already been presented in section 4.1.2.2.4. Special mention can be made here of the Village Committees, which have been established throughout the national territory since 1999 with a view to "providing "social surveillance" or social control of the activities and movement of the village children".¹⁷⁰ In addition, Law No. 2006-04 on the Conditions of Transportation of Minors and the Repression of Child Trafficking, and its implementation regulations, mean that Beninese children leaving the national territory without their legal guardians are requested to carry an authorisation approved by the mayor of the place of residence stating the reason(s) for and duration of the stay abroad.¹⁷¹ Offenders are subject to penalties of two to five years of imprisonment as well as fines of between 500,000 and 2,500,000 CFA francs.¹⁷² The legislation also includes protection mechanisms for unaccompanied minors.¹⁷³

¹⁶⁷ *Programme d'aide à l'insertion et au développement de l'embauche.*

¹⁶⁸ *Programme d'appui à l'emploi indépendant.*

¹⁶⁹ *Convention multilatérale de sécurité sociale de la Conférence interafricaine de la prévoyance sociale.*

¹⁷⁰ UNODC, *Measures to Combat Trafficking in Human Beings in Benin, Nigeria and Togo*, 2006, p. 80.

¹⁷¹ Law No. 2006-04 on the conditions of transportation of minors and the repression of child trafficking, art. 12; Decree No. 2009-696 of 31 December 2009 on the modalities of delivery of the administrative authorisation for Beninese children to exit the territory of Benin Republic (*Décret No. 2009-696 du 31 décembre 2009 portant modalités de délivrance de l'autorisation administrative de sortie des enfants béninois du territoire de la République du Bénin*), art. 3; art. 4; art. 5.

¹⁷² Law No. 2006-04 on the conditions of transportation of minors and the repression of child trafficking, art. 18.

¹⁷³ Decree No. 2009-696 of 31 December 2009 on the modalities of delivery of the administrative authorisation for Beninese children to exit the territory of Benin Republic, art. 14.

4.1.3 International, regional, and bilateral cooperation

International conventions

Among the most relevant international conventions protecting human rights, Benin has ratified:

- the International Covenant on Civil and Political Rights (1966);
- the International Covenant on Economic, Social and Cultural Rights (1966);
- the Convention on the Elimination of All Forms of Discrimination against Women (1979);
- the Convention on the Rights of the Child (1989);
- 31 ILO Conventions (including the Migrant Workers (Supplementary Provisions) Convention C 143 (1975)); and
- the United Nations Convention against Transnational Organized Crime (2000) and its Protocols on trafficking in persons and smuggling of migrants.

Benin has signed, but not yet ratified, the Convention on the Protection of the Rights of All Migrant Workers and Members of their Families (1990).

In addition to these global conventions, Benin is bound by ECOWAS texts, including its Treaty (1975) and its subsequent protocols regarding free movement of persons, residence and establishment.

Bilateral Agreements on Labour Migration

- France: The 1992 Convention on Circulation and Stay of Persons¹⁷⁴ addresses the delivery of the same stay/residence permit to family members in case of family reunification (instead of temporary stay permit) and the possibility to obtain a 10-year residence permit after three years of stay in the country (instead of five years under French administrative law).
- France: The 2007 Agreement on Concerted Management of Migratory Flows and Co-Development¹⁷⁵:
 - a) Beninese graduates wishing to gain professional experience in France are granted a temporary stay authorisation¹⁷⁶ off-right, which is valid for six months and is renewable. Graduates who eventually find a job that corresponds to their training are authorised to stay in a more permanent manner.
 - b) A list of 16 occupations is included, for which the delivery of a stay permit is not subject to the application of the labour market test. This provision primarily concerns higher-level technical jobs, although some medium-skilled occupations are also included.
 - c) A number of provisions concern assistance in the reintegration of Beninese migrants in their country of origin.
 - d) Assistance in the development of a migration observatory is addressed.
 - e) Promotion of the involvement of the diaspora in the development of Benin is considered.

¹⁷⁴ Convention relative à la circulation et au séjour des personnes entre le Bénin et la France signée le 21 décembre 1992.

¹⁷⁵ Accord relatif à la gestion concertée des flux migratoires et au codéveloppement entre le Bénin et la France signé le 28 novembre 2007.

¹⁷⁶ *Autorisation provisoire de séjour.*

- f) Cooperation in the area of border management is addressed.
- g) Procedures to facilitate readmission of nationals in an irregular situation are included.
- h) The funding of development projects is addressed.
- Kuwait: The 2009 agreement does not include provisions that guarantee a privileged access to the national labour market, but does set out the establishment of a working group to consider the implementation of cooperation mechanisms, vocational training, and capacity building in the area of employment.

Bilateral agreements concerning trafficking in persons

- Nigeria: The bilateral agreement on the prevention, repression and suppression of human trafficking, in particular women and children, was signed in 2009 and includes measures related to prosecution of offenders as well as mechanisms to identify and protect victims and ensure their repatriation and reinsertion in the country of origin.
- Republic of Congo: Signed in 2011, the agreement to prevent transnational child trafficking covers the areas of prosecution, protection and prevention of the crime of trafficking and includes cooperation mechanisms, notably with regard to judicial procedures and repatriation of child victims.

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4.1.5 List of interlocutors

Name of respondent	Position	Institution
Adam el-Hadji, A. M.	Director General	National Agency for Beninese Abroad ¹⁷⁷
Metognon, A. T.	Head of Department Partnership and Cooperation	National Employment Agency ¹⁷⁸
Gomina, D.	Assistant Director, Child Protection	Ministry of Family ¹⁷⁹
Adja, E.	Director, interim	International Observatory on remittances ¹⁸⁰
Atchou, D.	Director, Direction of Emigration and Immigration	Ministry of Interior of Public Security ¹⁸¹
Yao, P.	Director, Direction of Relations with Beninese Abroad	Ministry of Foreign Affairs, African Integration, Francophony, and Beninese Abroad ¹⁸²
Koukpaki, F.	Associate Director for Human Rights	Ministry of Justice and Human Rights ¹⁸³
Bello, A. R.	Officer for Studies and Statistics	Central Bank of West African States (BCEAO) ¹⁸⁴

¹⁷⁷ Agence nationale des Béninois de l'extérieur.

¹⁷⁸ Agence nationale pour l'emploi.

¹⁷⁹ Ministère de la famille.

¹⁸⁰ Observatoire International des transferts de fonds des migrants.

¹⁸¹ Ministère de l'Intérieur et de la Sécurité publique.

¹⁸² Ministère des Affaires étrangères, de l'Intégration africaine, de la Francophonie et des Béninois de l'extérieur.

¹⁸³ Ministère de la Justice et des Droits de l'homme.

¹⁸⁴ La Banque Centrale des Etats de l'Afrique de l'Ouest (BCEAO).

4.2 Burkina Faso

4.2.1 Migration trends

4.2.1.1 Immigration

In terms of immigration flows, Burkina Faso can be characterised as a country of transit for migrants from Côte d'Ivoire, Ghana, Guinea, Mali, and Senegal travelling through Niger towards Algeria, Libya, and eventually to European countries.¹⁸⁵ It is also a country of immigration, although the presence of foreigners in the country remains limited.

Data	Year	Absolute numbers	% of the Total Population
National Population and Housing Census (RGPH) ¹⁸⁶	1996	61,650 foreigners ¹⁸⁷	0.6%
	2006	60,074 foreigners ¹⁸⁸	0.5%

4.2.1.1.1 Characteristics of immigrants/foreigners

Countries of origin:	The vast majority of foreigners residing in Burkina Faso are nationals from ECOWAS Member States, primarily from Mali (8,886), Togo (3,668), Niger (3,406), Benin (3,019), and Nigeria (2,762). ¹⁸⁹
Settlements:	<ul style="list-style-type: none"> Maliens, Nigeriens, and Beninés tend to be overrepresented in rural areas. Nigeriens and Togoléses nationaux reside mostly in urban areas.¹⁹⁰
Socio-demographic profile:	<ul style="list-style-type: none"> Statistics show a slight predominance of men (50.4%) over women. In the case of Malian and Togoléses migrants, however, women are more numerous than men.¹⁹¹
Socio-economic profile and sectors of employment:	<ul style="list-style-type: none"> Most migrants have a low level of education. Maliens and Nigeriens, in particular, do not have formal education in 83.2% and 71.7% of the cases. Nationals from Gabon, Congo, Chad, and the RDC tend to have higher education.¹⁹² Foreigners are mostly employed in the agriculture sector and, in urban areas, in the trade and craft sectors.¹⁹³

¹⁸⁵ Bolouvi, G-M., 'Niger – A Crossroad of African Migration Networks' in Trémolières, M. (ed.), *Regional Challenges of West African Migration. African and European Perspectives*, OECD, 2009, p. 202.

¹⁸⁶ *Recensement général de la population et de l'habitation*.

¹⁸⁷ Dabire, B., Kone, H., Lougue, S., *Recensement général de la population et de l'habitation de 2006. Analyse des résultats définitifs. Thème 8: migrations*, Ministère de l'Economie et des Finances, 2009, p. 102.

¹⁸⁸ Ibid.

¹⁸⁹ Ibid., p. 103.

¹⁹⁰ Ibid., p. 104.

¹⁹¹ Ibid.

¹⁹² Ibid., pp. 106-107.

¹⁹³ Ministère de l'Economie et des Finances, *Stratégie nationale de migration 2014-2025, avant-projet*, 2013a, p. 19.

Vulnerable groups:	<ul style="list-style-type: none"> • Most foreign victims of trafficking are children from countries of the region, such as Benin, Ghana, Mali, Guinea, and Nigeria. Malian children are also trafficked through Burkina Faso into Côte d'Ivoire.¹⁹⁴ • In addition, according to the U.S. Department of State Trafficking in Persons Report 2013, "women from other West African countries, including Nigeria, Togo, Benin, and Niger, are fraudulently recruited for employment in Burkina Faso and subsequently subjected to situations of forced prostitution, forced labour in restaurants, or domestic servitude in private homes".¹⁹⁵
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4.2.1.2 Emigration

Although emigration has always been a major component of Burkina Faso's demography, the stock of nationals abroad is difficult to estimate. Neither the 2006 RGPH nor previous specific studies on migration¹⁹⁶ include satisfactory data in this regard.

Data	Year	Estimates
Government Report to the UN Migrant Workers Committee (Data sources unidentified)	1996	Migrant stock of 30.7% of the national population, which corresponds to 3 million individuals. ¹⁹⁷
Data collected by diplomatic and consular posts	2013	Officials interviewed referred to an estimated migrant stock of 12 million, a number which, in their opinion, was an underestimation (this figure may, however, refer to the entire diaspora community rather than to just migrants living abroad).
UN Trends in International Migrant Stock	2013	1.6 million

¹⁹⁴ The Protection Project, *A Human Rights Report on Trafficking in Persons, especially Women and Children, Burkina Faso Country Report*, 2010; U.S. Department of State, *Trafficking in Persons Report 2013*, 2013, pp. 109-110.

¹⁹⁵ U.S. Department of State, 2013, op .cit., pp. 109-110.

¹⁹⁶ For instance, the UERD's *Enquête sur les migrations, l'insertion urbaine et l'environnement au Burkina Faso* from 2000.

¹⁹⁷ Burkina Faso, *Initial Report to the Committee on the Protection of the Rights of all Migrant Workers and Members of Their Families*, 2012, p. 8.

4.2.1.2.1 Characteristics of emigrants/nationals abroad

Countries of destination/ residence:	<ul style="list-style-type: none"> • Predominance of one country of destination: Côte d'Ivoire. • Estimates of the Burkinabe population in Côte d'Ivoire vary from 1.5 million, according to the UN <i>Trends in International Migrant Stock</i>,¹⁹⁸ to 3.5 million, according to officials interviewed for the purpose of the present study. • Remaining Burkinabe migrants mainly reside in other ECOWAS Member States, such as Ghana, Mali, Niger, and Benin. It is generally considered that the migrant stock in such countries is incomparable to the presence of Burkinabe nationals in Côte d'Ivoire. • Beyond ECOWAS Member States, Burkinabe migration remains low. • Migration towards Libya appears to have been limited, although some evidence of it does exist: in 2012, IOM reported 1,661 Burkinabe returnees fleeing from the Libyan civil war.¹⁹⁹ • The number of Burkinabe migrants in OECD countries is low. The OECD migration database identifies Italy (13,051 registered Burkinabe nationals in 2010), France (3,505 in 2009), Germany (1,254 in 2010) and Spain (1,267 in 2010) as the only countries where the Burkinabe presence is worth mentioning.²⁰⁰
Socio-demographic profile:	<ul style="list-style-type: none"> • Recent migration flows appear to be mainly composed of young men (17 to 35 years old).²⁰¹
Education level/ sectors of employment:	<ul style="list-style-type: none"> • In Côte d'Ivoire, Burkinabe nationals are mostly employed in the agriculture sector. • Data concerning the skills of Burkinabe migrants in the OECD is scarce, and therefore, a potential eventual brain drain phenomenon is difficult to assess. With regard to the health sector, however, OECD data shows a limited risk of brain drain: the emigration rate of nurses was estimated at 0.3% and that of medical doctors at 7.6%.²⁰²
Remittances:	<ul style="list-style-type: none"> • In 2013, the World Bank estimated the amount of remittances sent to the country at 141 million USD.²⁰³ • According to Ratha et al., the majority of remittances are sent from non-African countries.²⁰⁴ This may seem surprising given the limited character of Burkinabe migration flows outside of West and Central Africa. An explanation may be found in the high proportion of informal transfers (approximately 90%) from Burkinabe migrants residing in other African states.²⁰⁵ • Remittances appear to be mainly used for food, education, health, and the purchase of houses (this use concerns mainly remittances sent from non-African countries).²⁰⁶

¹⁹⁸ United Nations, Department of Economic and Social Affairs, Population Division, 'Trends in International Migrant Stock: Migrants by Destination and Origin', 2013.

¹⁹⁹ Aghazarm, C., Quesada, P. and Tishler, S., *Migrants Caught in Crisis: the IOM Experience in Libya*, IOM, 2012, p. 14.

²⁰⁰ OECD, 'International Migration Database'. The OECD migration database collects information on stay/resident permits and population registers.

²⁰¹ Burkina Faso, European Commission, *Document de stratégie pays et programme indicatif national pour la période 2008-2013*, 2008.

²⁰² OECD, 'Immigrant Health Workers in OECD Countries in the Broader Context of Highly Skilled Migration', *International Migration Outlook – SOPEMI 2007*, 2007, p. 214.

²⁰³ World Bank, 'Remittances Data', 2013.

²⁰⁴ Ratha, D. et al., *Leveraging Migration for Africa. Remittances, Skills, and Investments*, The International Bank for Reconstruction and Development / The World Bank, 2011, p. 61.

²⁰⁵ *Ibid.*, p. 79.

²⁰⁶ *Ibid.*, p. 64.

Vulnerable groups:

- International trafficking of Burkinabe nationals mainly concerns children transported to Côte d'Ivoire, Mali, and Niger, where they are subsequently used in forced labour or sex work.
- According to the U.S. Department of State, "to a lesser extent, traffickers recruit women for ostensibly legitimate employment in Europe and subsequently subject them to forced prostitution".²⁰⁷

Although there has been a diversification of countries of destinations over time, Burkinabe emigration flows remain vastly dependent of a single country of destination: Côte d'Ivoire. Already during colonial times, Upper Volta was used as a labour reserve for agriculture exploitation in coastal regions, including Côte d'Ivoire. After the independence of the two countries, labour migration from Upper Volta towards Côte d'Ivoire remained significant.²⁰⁸ During the 1980s and the 1990s, growing economic difficulties and social unrest in Côte d'Ivoire led to a more restrictive immigration policy following the nationalist concept of "Ivoireness" (*Ivoirité*).²⁰⁹ Between 1996 and 2002, massive returns to Burkina Faso occurred. In particular, the attempted coup d'état of 2002 led to the officially recorded return of 360,000 Burkinabe nationals.²¹⁰

The existing shortage of land in Burkina Faso led numerous returnees to establish themselves in the South-West region of the country, where the land was more unexploited.²¹¹ Despite the dramatic circumstances in which many returns occurred, settlements in Burkina Faso have generally not been permanent. While statistical data shows a rise of returns during the period 1996–2002, during the years that following, returns diminished and emigration flows towards Côte d'Ivoire rose again.²¹² Although there is variety of forms of migration towards Côte d'Ivoire, circular migration – or repeated temporary stay in both countries – is a major trend for migrants employed in the agricultural and informal trade sectors.²¹³

4.2.2 Migration policy

To date, Burkina Faso has few formalised elements of a migration policy, and the legislation governing immigration lacks comprehensiveness. In practice, a tolerant approach to immigration is applied. With regard to emigration, policy developments remain limited.

Nevertheless, Burkina Faso has undertaken important efforts over the past years to fill the gaps in its migration policy. A National Migration Strategy²¹⁴ for the years 2014–2025 has been drafted under the supervision of the Ministry of Economy and Finances.²¹⁵ This general policy document is accompanied by

²⁰⁷ U.S. Department of State, 2013, op. cit., p. 109.

²⁰⁸ Courtin, F. et al., 'La crise ivoirienne et les migrants burkinabés. L'effet boomerang d'une migration internationale', *Afrique contemporaine*, 2010,4, p. 15.

²⁰⁹ Ibid., pp. 15–16.

²¹⁰ Ibid., p. 17.

²¹¹ Ibid., p. 18.

²¹² Zanou, B. and Lougue, S., Impact de la crise ivoirienne sur les migrations de retour au Burkina Faso, 2009, pp. 5–7.

²¹³ Neya, S., 'De la migration à la circulation, le cas des migrants burkinabè "partagés" entre le Burkina Faso et la Côte d'Ivoire', 2010, Dakar, Senegal ; Zanou, B. and Lougue, S., 2009, op cit.

²¹⁴ *Stratégie nationale de migration*.

²¹⁵ *Ministère de l'Economie et des Finances*.

a detailed Plan of Action²¹⁶ for the years 2014-2016. Migration is also referred to in a number of national development plans, including the Strategy of Accelerated Growth and Durable Development.²¹⁷

4.2.2.1 Institutional framework on migration

Governmental stakeholders involved

Ministry	Agency, Directorate, Unit	Responsibilities
Ministry of Territorial Administration and Security ²¹⁸	Directorate of State Security ²¹⁹	<ul style="list-style-type: none"> Immigration management
Ministry of Public Employment, Labour and Social Security ²²⁰	National Employment Agency ²²¹	<ul style="list-style-type: none"> Match labour demand and supply Certification of foreigners' work contracts
Ministry of Foreign Affairs and Regional Cooperation ²²²	Permanent Secretariat of the High Council for Burkinabes abroad ²²³	<ul style="list-style-type: none"> Emigration policy
Ministry of Social Action and National Solidarity ²²⁴		<ul style="list-style-type: none"> Fight against trafficking in persons
Ministry of Economy and Finances ²²⁵	General Directorate of Economy and Planning (Directorate of Population Policies) ²²⁶	<ul style="list-style-type: none"> Leading institution in the development of the National Migration Strategy

Inter-institutional coordination

Migration management in Burkina Faso is undertaken by distinct ministries and public institutions, with there being little consultation or cooperation between them. The need to improve coordination among public institutions involved in migration management is recognised by the draft National Migration Strategy. This document envisions the institution of a follow-up committee to ensure the correct implementation of the national policy.²²⁷ It also entrusts the General Directorate of Economy and Planning²²⁸ within the Ministry of Economy and Finances with the general responsibility of organising coordination in migration policy matters.²²⁹

²¹⁶ *Plan d'actions en matière de migration.*

²¹⁷ *Stratégie de croissance accélérée et de développement durable.*

²¹⁸ *Ministère de l'Administration territoriale et de la Sécurité.*

²¹⁹ *Direction de la Sûreté de l'Etat.*

²²⁰ *Ministère de la Fonction publique, du Travail et de la Sécurité sociale.*

²²¹ *Agence Nationale pour l'Emploi.*

²²² *Ministère des Affaires étrangères et de la Coopération régionale.*

²²³ *Secrétariat permanent du Conseil supérieur des Burkinabè de l'étranger.*

²²⁴ *Ministère de l'Action sociale et de la Solidarité nationale.*

²²⁵ *Ministère de l'Economie et des Finances.*

²²⁶ *Direction générale de l'Economie et de la Planification (Direction des Politiques de population).*

²²⁷ *Ministère de l'Economie et des Finances, 2013a, op. cit., p. 19; p. 44.*

²²⁸ *Direction générale de l'Economie et de la Planification.*

²²⁹ *Ministère de l'Economie et des Finances, 2013a, op. cit., pp. 44-45.*

4.2.2.2 Immigration: national policy framework and institutional practices

4.2.2.2.1 General immigration provisions

Legislation/Policy Framework	Description
Ordinance No. 84-49 of 4 August 1984 setting conditions of entry, residence, and exit for Burkina Faso citizens and foreign nationals ²³⁰	It mainly stipulates that immigration to Burkina Faso is subject to the delivery of a visa and a stay permit, ²³¹ with the exception of nationals from certain states that enjoy preferential treatment (Art. 3; Art. 5). The stay permit is to be requested after entry on the national territory, within the first 15 days of stay (Art. 6).

Ordinance No. 84-49 does not include provisions on the conditions and procedural steps to be undertaken for the delivery of the stay permit, its duration and eventual renewal. There is no specific status foreseen for long-term residents, migrants' family members, and ECOWAS Member States nationals. Officials interviewed for the purpose of the present study recognised that the existing legislation is not sufficiently comprehensive and does not allow the challenges of contemporary migration management to be addressed. Although the draft National Migration Strategy does not explicitly plan to amend the law, Ordinance No. 84-49 is currently being reviewed by commissions put in place in early 2014.

As already mentioned, Burkina Faso applies a tolerant immigration policy. ECOWAS Member States nationals are not required to obtain the common stay permit. Family members (spouse and children) can join the migrant in Burkina Faso, where they also enjoy full access to the national labour market.²³² However, ECOWAS Member States nationals are not granted specific stay/residence permits.

Burkina Faso has concluded bilateral agreements including provisions on entry and stay/residence with the following countries: Côte d'Ivoire, Mali, Niger, and France. These agreements are based on reciprocity and generally apply equally to Burkinabes in these countries and foreigners from these countries in Burkina Faso. A review of these agreements is presented in section 4.2.3.

²³⁰ *Ordonnance No. 84-49 du 4 août 1984 fixant les conditions d'entrée, de séjour et de sortie du Burkina Faso des nationaux et des étrangers.*

²³¹ *Carnet de séjour.*

²³² *Ibid.*, pp. 23-24.

4.2.2.2.2 Labour migration

Access to national labour market

Legislation/Policy Framework	Description
Regulation No. 98 of 15 February 1967 on conditions of employment and modalities of declaration of workers movements ²³³	<p>Art. 5: Work contracts for foreign workers are subject to the authorisation of the Director of Labour.</p> <p>Art. 6: A Placement Commission,²³⁴ which includes the Director of Labour, the Director of Education, as well as representatives of workers and employers, shall be consulted and provide advice based on the situation of the labour market before the Director of Labour decides on the delivery of the work authorisation.</p> <p>Art. 4: In the case of high unemployment in a given profession, foreigners belonging to that profession shall not be provided with employment seeker cards.²³⁵</p>
Labour Code, 2008	<p>Art. 56: Migrants' work contracts are subject to the review of labour inspection services.</p> <p>Art. 57: The procedure is to be initiated by the employer within 30 days of the beginning of employment. In the case that the employer does not comply with this obligation, the contract is considered null. The worker is entitled to seek legal damages, and the cost of his/her eventual repatriation is to be paid by the employer, who faces additional sanctions.</p>

The regulation of foreigners' access to the labour market lacks precision. More specifically, there is a need to establish mechanisms to organise the relationship between the norms regulating access to the labour market and general immigration rules. In addition, art. 4 of Regulation No. 98 of 1967 is likely to constitute a breach of Burkina Faso's international commitments.

In practice, foreign workers have full access to the labour market in the sense that they can freely change employers and sectors of employment.²³⁶ Family members of migrant workers are also granted full access to the national labour market.²³⁷

Rights within employment

Legislation/Policy Framework	Description
Labour Code, 2008	<p>Art. 2 provides for equal treatment with nationals. Foreigners, regardless of their legal status, benefit from all obligations and rights from the labour legislation as a principle.</p> <p>Art. 281 includes an exception to the principle of equal treatment concerning trade unions. While all foreigners can join a trade union, only those who have stayed in Burkina Faso for a minimum of five years can perform administrative and executive functions.</p>

²³³ Arrêté No. 98 du 15 février 1967 fixant les conditions d'embauchage des entreprises et les modalités de déclaration de mouvement des travailleurs.

²³⁴ Commission de placement.

²³⁵ Cartes de demandeur d'emploi.

²³⁶ Burkina Faso, 2012, op. cit., p. 25.

²³⁷ Ibid., pp. 23-24.

Nationals of countries with which Burkina Faso has concluded reciprocal agreements can also perform administrative and executive functions within trade unions.

4.2.2.2.3 Irregular migration

Legislation/Policy Framework	Description
Regulation No. 98 of 15 February 1967 on conditions of employment and modalities of declaration of workers movements	Art. 8; Art. 9: Deportation is foreseen for foreigners who are not in the possession of the requested documents to enter the country, as well as removal from the national territory of those in an irregular situation. Art. 11: Irregular stay is considered a criminal offence, which exposes the individual to a fine and imprisonment for one to six months.
Law No. 029-2008 of 26 June 2008 on Trafficking in Persons and Assimilated Practices ²³⁸	Art. 10; Art. 11; Art. 12: Smugglers, as well as those who falsify visas, travel documents, and stay permits, are subject to penalties of five to ten years' imprisonment.

Irregular migration is not considered a threat to Burkina Faso by the national authorities, and as a general rule, a laissez faire policy is applied. Removal of foreigners is rare, and not based on their irregular immigration status but rather on the existence of a considered threat to public order.²³⁹ In addition, foreigners in an irregular situation can regularise their situation after paying a fine.

With regard to the fight against the smuggling of migrants, the capacities of the Directorate of State Security and the Border Police Directorate, the main institutions in charge of border control, are limited due to understaffing and limited equipment. According to an IOM assessment of border management in Burkina Faso conducted in 2012, border officials also lack specialised training.²⁴⁰ Since 2013, capacity development efforts have been undertaken, mainly targeting improved standards for treatment of asylum seekers.

4.2.2.2.4 Migrants at risk

Legislation/Policy Framework	Description
Law No. 029-2008 on Trafficking in Persons and Assimilated Practices ²⁴¹	Art. 1; Art. 2; Art. 7 follow the definition of trafficking in persons adopted by the Palermo Protocol and complement it by a specific offence regarding the exploitation of begging. Art. 4; Art. 5; Art. 6: In the case of "classical trafficking", the law foresees imprisonment comprised of between five years and life detention, but does not specifically include financial sanctions. Art. 8: In the case of exploitation of begging, the penalties are two to five years imprisonment, as well as fines of between 500,000 and 2,000,000 CFA francs. Art. 22 recognises the possibility for foreign victims of trafficking to obtain temporary or permanent residence in Burkina Faso.

On the whole, the trafficking legislation is well-grounded despite its brevity – which may impede the activities of law enforcement authorities – and the absence of a specific national body entrusted with the responsibility of implementing the national trafficking policy.

²³⁸ Loi No. 029-2008 du 26 juin 2008 portant lutte contre la traite des personnes et les pratiques assimilées.

²³⁹ Burkina Faso, 2012, op. cit., p. 27.

²⁴⁰ IOM, *Burkina Faso: évaluation des structures de gestion de la migration et des frontières*, 2013, pp. 43-47.

²⁴¹ Loi No. 029-2008 portant lutte contre la traite des personnes et les pratiques assimilées.

In practical terms, efforts have been made regarding prosecution, protection – notably through shelters providing food, health, and psychosocial services – and prevention in the fight against trafficking in persons. In most cases, the victims identified are children involved in internal trafficking.²⁴² However, over the past few years, foreign victims have also been identified and national authorities have collaborated with the relevant diplomatic posts to organise their repatriation.²⁴³ Awareness-raising activities have been implemented, including open-forum discussions, film screenings, theatre forums, radio programmes, etc.²⁴⁴

4.2.2.3 Emigration

4.2.2.3.1 Labour migration

Burkina Faso lacks a labour migration policy. National authorities are yet to identify competencies that can be promoted abroad, as well as those for which promotion should not be undertaken. Activities related to the identification and assessment of existing and potential new countries of destination for labour migrants are non-existent. Promotion activities in countries of destination remain limited despite the conclusion of several labour migration related bilateral agreements (see section 4.2.3. for details).

Although the draft National Migration Strategy and its subsequent Action Plan recognise the absence of a strategy regarding the promotion of employment abroad,²⁴⁵ the documents do not envision specific activities in this regard, with the exception of the planned enhancement of employment of nationals in international organisations.²⁴⁶ While the draft National Migration Strategy does refer to the risk that the emigration of workers may pose to the economic and social development of the country,²⁴⁷ it does not translate this assumption into specific policy measures.

As previously mentioned, little is known about labour emigration trends and the characteristics of Burkinabe migrant workers. It is therefore difficult for national authorities to identify priorities and adopt adequate policy measures. One of the planned measures of the draft National Migration Strategy to deal with this situation is the establishment of a Migration Observatory²⁴⁸ in the coming years (in 2015, a pilot phase is to be implemented).²⁴⁹

Although the National Employment Agency is responsible for the placement of Burkinabe workers abroad, to date, it has not had the capacities to perform such activities. Regarding private employment agencies, the Labour Code of 2008 foresees a licensing system²⁵⁰ and states that the collection of fees by private employment agencies from workers is forbidden in principle, although derogations may be

²⁴² U.S. Department of State, 2013, op. cit., p. 110.

²⁴³ U.S. Department of State, *Trafficking in Persons Report 2012*, 2012, p. 102

²⁴⁴ U.S. Department of State, 2013, op. cit., p. 110.

²⁴⁵ Ministère de l'Economie et des Finances, Plan d'actions en matière de migration 2014-2016, avant-projet, 2013b, p. 70.

²⁴⁶ Ministère de l'Economie et des Finances, 2013a, op. cit., p. 31; *ibid.*, pp. 78-79.

²⁴⁷ Ministère de l'Economie et des Finances, 2013a, pp. 29-30.

²⁴⁸ *Observatoire sur les migrations*.

²⁴⁹ Ministère de l'Economie et des Finances, 2013b, op. cit., p. 92.

²⁵⁰ Labour Code, 2008, art. 24

authorised by the Minister of Labour for certain categories of workers.²⁵¹ In practice, however, private employment agencies tend to operate outside the control of national authorities.

4.2.2.3.2 Migration and development

Diaspora outreach and confidence-building measures

In the past few years, some limited initiatives have been undertaken in the area of migration and development. The most notable of these is the creation of the High Council for Burkinabe abroad.²⁵²

According to Decree No. 2007-308, the objectives of the Council are the following:

- to bring together all Burkinabes abroad without any distinction;
- to ensure full participation of Burkinabes abroad in the economic, social, and cultural development of Burkina Faso;
- to facilitate their integration into national life;
- to participate in the promotion of the influence of Burkina Faso in the world;
- to promote understanding and respect of the conventions, laws, and regulations of countries of destination;
- to promote the development of social activities in order to improve the living conditions of Burkinabes abroad;
- to assist Burkinabe associations within the limits of existing means; and
- to promote cultural and sport activities among Burkinabe communities abroad.²⁵³

The Council is composed of two institutions, a general assembly and a permanent secretariat, with the former being composed of members of the diaspora elected for a mandate of three years – renewable – in their country of residence.²⁵⁴ The Decree foresees meetings of the general assembly every three years.²⁵⁵ The latest General Assembly was held in March 2014.

Burkina Faso's legislation recognises the principle of dual/multiple citizenship, as well as the right of nationals abroad to participate in national elections. However, due to difficulties in organising the electoral process in diplomatic and consular posts, the decision was made to postpone participation in national elections until 2015.

Mobilising and channelling remittances for development

The main efforts of the public authorities have focused on improving transparency and competition among private operators with a view to lowering transfer costs.

²⁵¹ Ibid., art. 27.

²⁵² *Conseil supérieur des Burkinabé de l'étranger*.

²⁵³ Decree No. 2007-308 on the Creation, Attributions, Organisation and Functioning of the High Council for Burkinabe abroad, art. 2.

²⁵⁴ Ibid., art. 5.

²⁵⁵ Ibid., art. 7.

Migration and development in the draft National Migration Strategy

Migration and development is a central component of the draft National Migration Strategy and its Action Plan. A great number of activities are envisioned, including:

- the organisation of a forum on the skills and expertise of the diaspora;
- the development of a framework for concerted action in order to enhance the contribution of the diaspora to the development of the country;
- the organisation of information events in countries of destination on investment opportunities in Burkina Faso;
- the production of leaflets on investment opportunities in Burkina Faso;
- the development of a framework for concerted action between migrants and local authorities in order to promote investments at the local level; and
- the organisation of forums to promote foreign investments.²⁵⁶

*4.2.2.3.3 Migrants' protection**Information dissemination*

Some activities have been implemented in order to provide migrants with reliable and accurate information about the different aspects of the migration process.²⁵⁷ Mention can be made of the Guide for Burkinabes abroad²⁵⁸, published in 2012, which includes advice on migration procedures and provides information on the services offered by national authorities. In addition, local NGOs such as the Centre for Studies and Research on International Migration and Development (CERMID)²⁵⁹ organise information dissemination events.²⁶⁰

Providing the population with information on the mechanisms of legal migration and the dangers of illegal migration is one of the priorities of the draft National Migration Strategy.²⁶¹ Its subsequent Plan of Action lists a number of activities to be implemented in this regard, such as information sessions targeting selected groups (traditional leaders, public agents, journalists, young leaders, students, and pupils) as well as "theatre forums", film screenings movie projections, television and radio programmes, television series, and printed materials.²⁶²

Protection in countries of destination

Due to the small number of diplomatic and consular posts (27 embassies and seven general consulates),

²⁵⁶ Ministère de l'Economie et des Finances, 2013b, op. cit., pp. 73-76.

²⁵⁷ Ibid., p. 30.

²⁵⁸ *Guide du Burkinabé de l'étranger*.

²⁵⁹ *Centre d'études et de recherches sur les migrations internationales et le développement*.

²⁶⁰ CERMID, 'Rapport oral du CERMID sur l'état de la protection des droits des travailleurs migrants au Burkina Faso en 2013', Information from civil society organisations to the UN to the Committee on the Protection of the Rights of all Migrant Workers and Members of Their Families, 2013.

²⁶¹ Ministère de l'Economie et des Finances, 2013a, op. cit., p. 43.

²⁶² Ministère de l'Economie et des Finances, 2013b, op. cit., pp. 44-60.

protection activities abroad are limited. For instance, and despite the importance of intra-regional migration, Burkina Faso only has diplomatic and consular posts in five ECOWAS Member States. There used to be a labour attaché appointed to Côte d'Ivoire, but this position has now been vacant for a number of years. The Plan of Action of the draft National Migration Strategy envisions the opening of one new consular and/or diplomatic post in countries of destination every two years, starting in 2014. An assessment of the human resources and equipment needs of the diplomatic and consular representations is also undertaken.

Assistance to returning migrants

Despite the massive return of Burkinabe emigrants – mainly from Côte d'Ivoire – over the past decades, the national authorities have opted for ad hoc measures rather than putting into action a comprehensive policy.²⁶³ The draft National Migration Strategy mainly considers the issue of returning migration from the angle of access to land and plans to disseminate information on the legislation applicable in this regard.

Social security agreements

Burkina Faso has ratified the inter-African social security convention²⁶⁴ (CIPRES Convention). At bilateral level, social security conventions have been concluded with Mali and Côte d'Ivoire. It is worth noting that no convention has been concluded with France on these issues.

4.2.3 International, regional, and bilateral cooperation

International conventions

Burkina Faso has ratified all the main international conventions protecting human rights in general and migrants' rights more specifically. This includes:

- the International Covenant on Civil and Political Rights (1966);
- the International Covenant on Economic, Social and Cultural Rights (1966);
- the Convention on the Elimination of All Forms of Discrimination against Women (1979);
- the Convention on the Rights of the Child (1989);
- 39 ILO Conventions (including the two specific ILO conventions on migrant workers: C 97(1949) and C 143 (1975));
- the Convention on the Protection of the Rights of All Migrant Workers and Members of their Families (1990); and
- the United Nations Convention against Transnational Organized Crime (2000) and its Protocols on trafficking in persons and smuggling of migrants.

²⁶³ Committee on the Protection of the Rights of All Migrant Workers and Members of Their Families, 'Observations finales concernant le rapport initial du Burkina Faso, adoptées par le Comité à sa dix-neuvième session', 2013, pp. 6-7.

²⁶⁴ *Convention multilatérale de sécurité sociale de la Conférence interafricaine de la prévoyance sociale.*

In addition to these global conventions, Burkina Faso is bound by ECOWAS texts, including its Treaty (1975) and its subsequent protocols regarding free movement of persons, residence, and establishment.

Bilateral agreements

Burkina Faso has signed several bilateral agreements on migration-related matters. Before the institution of ECOWAS, conventions were concluded with Côte d'Ivoire, Mali, and Niger.

Convention	Description
Convention with Côte d'Ivoire, 1960 ²⁶⁵	A Convention specifically dedicated to the conditions of recruitment and employment of Voltaic migrants in Côte d'Ivoire. Its application was suspended in 1974 due to absence of respect for a number of the convention's provisions.
Convention with Niger, 1964 ²⁶⁶	This Convention states that nationals from the considered countries can enter and reside on the territory of the other state party without the need for a visa or a stay/resident permit. The only requirement is the possession of an identity document from the country of nationality.
Convention with Mali, 1969 ²⁶⁷	According to Burkina Faso authorities, this Convention, despite its favourable provisions, did not have a significant impact in practice.

On the whole, one should recognise that bilateral conventions on migration-related matters concluded with West African countries have fallen into obsolescence. As noted in the Plan of Action of the draft National Migration Strategy, all the labour migration agreements concluded with other African countries over the years "have either been denounced or abandoned due to the non-respect of their provisions by the considered parties".²⁶⁸

In this context, the policy option envisioned by the national authorities is to privilege multilateral relations over bilateral agreements.²⁶⁹ Within West African countries, cooperation on labour migration matters is to be addressed through ECOWAS institutions. Beyond the West African region, bilateral relations with countries of destination – which may or may not take the form of bilateral agreements – remain one of the main tools for migration management, especially in regard to the recruitment, entry, and stay of migrant workers.

With regard to entry, stay, and employment, the most comprehensive bilateral framework exists with France. Two main conventions should be mentioned:

- the 1992 Convention on Circulation and Stay of Persons,²⁷⁰ which includes a few derogations to common French immigration legislation: it foresees the delivery of the same stay/residence per-

²⁶⁵ *Convention relative aux conditions d'engagement et d'emploi des travailleurs voltaïques en Côte d'Ivoire, signée le 9 mars 1960.*

²⁶⁶ *Protocole d'accord (délimitation des frontières, mouvements des populations, coopération entre les autorités frontalières) entre le Niger et la Haute-Volta signée le 23 juin 1964.*

²⁶⁷ *Convention d'établissement et de circulation entre la République du Mali et la Haute-Volta du 30 septembre 1969.*

²⁶⁸ Ministère de l'Économie et des Finances, 2013b, op. cit., p. 30.

²⁶⁹ Ibid.

²⁷⁰ *Convention entre le Burkina Faso et la France relative à la circulation et au séjour des personnes signée le 14 septembre 1992.*

- mit to family members in case of family reunification (instead of a temporary stay permit under French administrative law), as well as the possibility to obtain a 10-year residence permit after three years of stay in the country (instead of five years under French administrative law); and
- the 2009 Agreement on Concerted Management of Migratory Flows and Co-Development²⁷¹ which:
 - a) provides that Burkinabe graduates wishing to supplement their education with a first professional experience in France are granted a temporary stay authorisation²⁷² off-right, valid for six months and renewable (graduates who eventually find a job that corresponds to their education are authorised to stay in a more permanent manner in France);
 - b) includes a list of 64 occupations for which the delivery of a stay permit is not subject to the application of the labour market test. This provision concerns primarily higher-level technical jobs, although a few less-skilled occupations are also included;²⁷³
 - c) includes a number of provisions concerning assistance to the reintegration of Burkinabe migrants in their country of origin;
 - d) provides for assistance in the development of a migration observatory;
 - e) aims to promote involvement of the diaspora in the development of Burkina Faso;
 - f) targets cooperation in the area of border management;
 - g) contains procedures to facilitate readmission of nationals in an irregular situation; and
 - h) specifies the funding of development projects.

Cooperation with other OECD Member States, including the U.S., Germany, and Malta, mostly focuses on border management and the attempt to reduce irregular migration.

271 Accord entre la France et le Burkina Faso relatif à la gestion concertée des flux migratoires et au développement solidaire signé le 10 janvier 2009.

272 Autorisation provisoire de séjour.

273 In the case of French nationals seeking employment in Burkina Faso, the agreement sets a principle according to which no labour market test is imposed, regardless of the type of occupation.

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4.2.5 List of interlocutors

Name of respondent	Position	Institution
Sawadogo, H.	Head of Directorate of Population Policies	Ministry of Economy and Finances, Directorate of Population Policies ²⁷⁴
Bonkougou, Z.	Head of Department, Research and Training in Population and Development	
Bassole, F.	Responsible for the Support Unit	
Sawadogo, S.	Researcher	
Nombre, C.	Director for Emergency Management	Ministry of Social Action and National Solidarity ²⁷⁵
Kabore, W. P.	Adviser, Directorate of Consular Affairs	Ministry of Foreign Affairs and Regional Cooperation ²⁷⁶
Ouedraogo, L.	Director	Permanent Secretariat of the High Council for Burkinabe abroad ²⁷⁷
Sawadogo, H.	Labour Inspector, Directorate of Social Welfare	Ministry of Public Employment, Labour and Social Security ²⁷⁸
Sorgho, E. A.	Commissioner of Police, Chief of the Migration Division	Ministry of Territorial Administration and Security and Civil Protection ²⁷⁹

²⁷⁴ *Ministère de l'Économie et des Finances, Direction des Politiques de la Population.*

²⁷⁵ *Ministère de l'Action sociale et de la Solidarité nationale.*

²⁷⁶ *Ministère des Affaires étrangères et de la Coopération.*

²⁷⁷ *Secrétariat permanent du Conseil supérieur des Burkinabè de l'étranger.*

²⁷⁸ *Ministère de la Fonction publique, du Travail et de la Sécurité sociale.*

²⁷⁹ *Ministère de l'Administration territoriale et de la Sécurité.*

4.3 Cape Verde

4.3.1 Migration trends

4.3.1.1 Immigration

Although Cape Verde is not traditionally a country of immigration, since the 1990s, it has increasingly become a country of transit as well as a country of destination. This is due to several factors, including steady economic growth, political stability, higher salaries than in most West African countries, facilitated entry for ECOWAS Member States nationals, and the geographical situation of the country at the crossroads of three continents, Africa, Europe and America.²⁸⁰

Data	Year	Absolute numbers	% of the Total Population
National Population and Census ²⁸¹	2000	4,661 foreign residents ²⁸²	1.1%
National Population and Census	2010	15,000 foreign residents ²⁸³	2.9%

The actual migrant stock could be higher given that 10,912 regular migrants are registered and estimates of the number of foreigners in an irregular situation are between 10,000 and 20,000.²⁸⁴

4.3.1.1.1 Characteristics of immigrants/foreigners

Countries of origin:	The vast majority of foreigners are ECOWAS Member States nationals, mainly from Guinea-Bissau, as well as Senegal and Guinea. ²⁸⁵ They also constitute the majority of irregular migrants in the country.
Settlements:	Principally Praia and, to a lesser extent, Sal and Boa Vista Islands. ²⁸⁶
Socio-demographic profile:	<ul style="list-style-type: none"> West African migrants are mostly males, although a tendency towards the feminisation of migration has been noted. Among Europeans, Chinese and Lebanese, family migration is common.²⁸⁷

²⁸⁰ Cape Verde, European Commission, *Document de stratégie pays et programme indicatif national pour la période 2008-2013*, 2008.

²⁸¹ Instituto Nacional de Estatísticas, *Recenseamento general da população e de habitação - Censo 2010, Resumo dos principais resultados por meio de residência e concelho*, 2010.

²⁸² Carvalho, F. A., *Migração em Cabo Verde, Perfil nacional 2009*, IOM, 2010, p. 31.

²⁸³ Instituto Nacional de Estatísticas, 2010, op. cit.

²⁸⁴ Data provided by national authorities interviewed for the purpose of the present study.

²⁸⁵ Cape Verde, European Commission, 2008, op. cit.; *ibid.*

²⁸⁶ Instituto Nacional de Estatísticas, 2010, op. cit.

²⁸⁷ Cape Verde, European Commission, 2008, op. cit.

Socio-economic profile and sectors of employment:	<ul style="list-style-type: none"> • West African migrants tend to be employed within the construction sector, as well as in security. They also work as small traders and, to a lesser extent, within the hospitality industry.²⁸⁸ • A number of Chinese nationals – whose immigration is organised through cooperation between Cape Verdean and Chinese authorities – reside in Cape Verde, where they play a significant role in the trade sector. • Europeans and Lebanese (often originating from West African states in the latter case) are often involved in the tourist industry.²⁸⁹
Vulnerable groups:	<ul style="list-style-type: none"> • Trafficking in Cape Verde appears to be mainly an internal phenomenon. • The latest U.S. Department of State Trafficking in Persons Reports note the possible existence of West African boys and girls exploited in prostitution in Santa Maria, Praia, and Mindelo.²⁹⁰

In many instances, West African migrants consider – or initially consider – Cape Verde as a country of transit in their attempt to reach European borders.²⁹¹ Due to the increased international cooperation in the area of border management, irregular migration through Cape Verde has decreased.²⁹² The country is therefore gradually becoming a country of immigration.

4.3.1.2 Emigration

Cape Verde has long been a country of emigration, with an extensive diaspora spread over Africa, America and Europe. Early migration flows were directed towards the American continent – notably, the U.S., Brazil, and Argentina – as well as Senegal, Sao Tomé and Príncipe, Angola, and Guinea-Bissau.²⁹³ Since the 1960s, Portugal has become the predominant country of destination.²⁹⁴ Since the independence of the country in 1975, diversification of migration flows has also occurred, notably to other European countries such as France, Luxembourg, Italy, the Netherlands, Germany, Spain, Switzerland, etc.²⁹⁵

Data	Year	Estimates
General estimates from national authorities (data sources unidentified)	2000	500,000 nationals residing abroad, which was higher than the population recorded in the country at the time (450,000). ²⁹⁶

²⁸⁸ Carvalho, F. A., 2010, op. cit., p. 36.

²⁸⁹ Cape Verde, European Commission, 2008, op. cit.

²⁹⁰ U.S. Department of State, *Trafficking in Persons Report 2013*, 2013, p. 123; U.S. Department of State, *Trafficking in Persons Report 2012*, 2012, p. 112; U.S. Department of State, *Trafficking in Persons Report 2011*, 2011.

²⁹¹ Cape Verde, European Commission, 2008, op. cit.

²⁹² ICMPD, *Cabo Verde, Avaliação das necessidades em matéria de asilo e migração*, 2009, pp. 22-25.

²⁹³ IOM, ICMPD, *MTM: a Dialogue in Action. Linking Emigrant Communities for More Development. Inventory of Institutional Capacities and Practices. The Cape Verdean Experience*, 2010, p. 3; Cape Verde, European Commission, 2008, op. cit.

²⁹⁴ Peixoto, J. and Sabino, C., 'Immigration, the Labour Market and Policy in Portugal: Trends and Prospects', *IDEA Working Papers*, 2009, p. 11.

²⁹⁵ Cape Verde, European Commission, 2008, op. cit.

²⁹⁶ ICMPD, IOM, 2010, op. cit., p. 5.

4.3.1.2.1 Characteristics of emigrants/nationals abroad

Countries of destination/ residence:	<p><i>Emigrant stock</i></p> <ul style="list-style-type: none"> • The U.S. is generally considered the main country of residence of Cape Verdeans. Estimates are, however, difficult to present. While national authorities provide an estimate of approximately 265,000 residents,²⁹⁷ the U.S. national census of 2000 only recorded a presence of 80,000 Cape Verdeans in the country.²⁹⁸ • Portugal appears to be the second main country of residence. According to the OECD Migration Database, an estimated 45,500 nationals were residing in Portugal in 2011.²⁹⁹ OECD data shows a decrease of registered Cape Verdeans over the past few years, after a peak of 69,000 in 2005.³⁰⁰ National estimates provided by consular authorities in Portugal suggest a resident population of 105,000.³⁰¹ • Other European countries of residence include France (13,000 regular residents as per OECD estimates), Italy (4,600), Spain (3,300), and Luxembourg (2,500).³⁰² Cape Verdean national authorities generally provide higher estimates, suggesting that the overall national population in Europe amounts to 185,000.³⁰³ • With regard to African states, data generally lacks precision and reliability. It seems, however, that Angola (45,000 estimated Cape Verdean residents) and Senegal (25,000) have most of the migrant stock.³⁰⁴ <p><i>Emigration flows</i></p> <ul style="list-style-type: none"> • Regarding emigration flows, there is a general consensus that the number has decreased over the past decades. This is due to the improvement of living conditions in the country and restrictive immigration policies in EU Member States.³⁰⁵ • African states have become generally less attractive. Indeed, an increase in the number of Cape Verdeans returning from Sao Tomé and Príncipe, Angola, Senegal, and Guinea-Bissau has been recorded.³⁰⁶ • Current migration flows are therefore mainly directed towards OECD member states, primarily Portugal (4,000 yearly inflows from 2000 to 2011) and, to a lesser extent, the U.S. (1,500 yearly inflows from 2000 to 2011).³⁰⁷
Socio-demographic profile:	<ul style="list-style-type: none"> • For the period 1995-2000, migrants were mostly young adult males. Women were predominantly under 24 and over 44 years old.³⁰⁸

²⁹⁷ Carling, J., *Policy Challenges facing Cape Verde in the Areas of Migration and Diaspora Contributions to Development*, PRIO Papers, 2008, p. 19.

²⁹⁸ Such a discrepancy can probably be explained to a certain extent by the large number of Cape Verdeans who have acquired U.S. citizenship.

²⁹⁹ OECD, 'International Migration Database'. The OECD migration database collects information on stay/resident permits and population registers.

³⁰⁰ This development can be explained by a corresponding increase in the number of naturalisations – implying removal from registers – which leads to OECD data underestimating the Cape Verdean presence in the country.

³⁰¹ Cape Verde, European Commission, 2008, op. cit.

³⁰² OECD, 'International Migration Database'.

³⁰³ Cape Verde, European Commission, 2008, op. cit.

³⁰⁴ IOM, ICMPD, 2010, op. cit., p. 5.

³⁰⁵ Cape Verde, European Commission, 2008, op. cit.

³⁰⁶ Ibid.; IOM, ICMPD, 2010, op. cit., p. 4; Evora, I., 'Migration or Diaspora? Perceptions of the Cape Verdean Dispersion in the World', *CESA Working Papers*, No. 115, 2013.

³⁰⁷ OECD, 'International Migration Database'.

³⁰⁸ Carvalho, F. A., 2010, op. cit., p. 48.

Education level/ sectors of employment:	<ul style="list-style-type: none"> • Cape Verdean migration is dominated by low-skilled nationals. • In Portugal, an estimated 80% migrants have primary education, or lower, and 15% are illiterate.³⁰⁹ They are mostly employed in the construction and domestic sectors.³¹⁰ • In the OECD as a whole, construction also predominates, followed by industry, services, and hospitality work.³¹¹ • As well as low-skilled migration, brain drain also constitutes a problem for Cape Verde. With regards to the health sector, OECD data has estimated the emigration rate of medical doctors at 41.7% and that of nurses at 38.9%.³¹²
Remittances:	<ul style="list-style-type: none"> • The latest World Bank data provides an estimate of 173 million USD for 2013, corresponding to 8.8% of the national GDP.³¹³ • Remittances are primarily sent from Portugal, France, and the U.S., generally through formal channels.³¹⁴ • Used for consumption purposes and to invest in real estate, small businesses (such as shops and taxis), and the tourism industry.³¹⁵ It is believed that around 30% of foreign investments originate from the diaspora.³¹⁶
Vulnerable groups:	<ul style="list-style-type: none"> • According to the U.S. Department of State Trafficking in Persons Reports, international trafficking of Cape Verdeans mainly concerns a very specific form of exploitation: forced transport of drugs, towards Europe, as well as Brazil.³¹⁷

4.3.2 Migration policy

Although immigration in Cape Verde is a more recent phenomenon than emigration, both issues are covered by national policies. A National Immigration Strategy³¹⁸ was adopted in 2012, which follows the general guidelines of the national development plan (DECRP II) of 2008.³¹⁹ Given the recent adoption of the National Immigration Strategy and its subsequent plan of action (2013-2016), its content is yet to be fully implemented.

Regarding emigration, a National Emigration Strategy for Development³²⁰ was adopted in November 2013, which has the following main objectives:

- encouraging the participation of the diaspora in the economic and social development of the country;
- improving relations between migrants and national residents in Cape Verde;
- protecting migrants' rights and interests and including migrants in the development of the policies considered; and

³⁰⁹ Peixoto, J. and Sabino, C., 2009, op. cit., p. 23.

³¹⁰ Ibid., p. 29.

³¹¹ Carvalho, F. A., 2010, op. cit., p. 50.

³¹² OECD, 'Immigrant Health Workers in OECD Countries in the Broader Context of Highly Skilled Migration' in International Migration Outlook – SOPEMI 2007, 2007, p. 214.

³¹³ World Bank, 'Remittances Data 2013', 2013.

³¹⁴ Cape Verde, European Commission, 2008, op. cit.; Carling, J., op. cit., 2008, p. 32; IOM, ICMPD, op. cit., 2010, pp. 6-7.

³¹⁵ Cape Verde, European Commission, 2008, ibid.; Carling, J., 2008, ibid., p. 37.

³¹⁶ ICMPD, IOM, 2010, op. cit., p. 8.

³¹⁷ U.S. Department of State, 2013, op. cit., p. 123; U.S. Department of State, 2012, op. cit., p. 112; U.S. Department of State, 2011, op. cit.

³¹⁸ *Estratégia nacional de imigração.*

³¹⁹ *Documento de estratégia de crescimento e redução da pobreza – II.*

³²⁰ *Estratégia Nacional de Emigração para o Desenvolvimento.*

- improving coherence of migration policies and developing institutional capacities.

4.3.2.1 Institutional framework on migration

Involved governmental stakeholders

Ministry	Agency, Directorate, Unit	Responsibilities
Ministry of Internal Administration ³²¹	Directorate of Foreigners and Borders ³²² National Police ³²³	<ul style="list-style-type: none"> • Immigration management
Ministry of Defence ³²⁴	Coastguard ³²⁵	<ul style="list-style-type: none"> • Border management
Ministry of Employment, Youth and Human Resources Development ³²⁶	General Directorate of Labour ³²⁷ General Directorate of Employment ³²⁸ General Labour Inspection ³²⁹	<ul style="list-style-type: none"> • Delivery of work authorisations to foreign workers • Ensuring respect for labour legislation
	Cape Verdean Institute for Children and Adolescents ³³⁰	<ul style="list-style-type: none"> • Protection of children, including victims of trafficking
Ministry of Communities ³³¹	General Directorate of Communities ³³²	<ul style="list-style-type: none"> • Liaison with the diaspora • Assistance of migrants and returnees
Ministry of Foreign Affairs ³³³	Diplomatic and consular posts	<ul style="list-style-type: none"> • General role of protection of nationals abroad
Institute of Social Security ³³⁴	N/A	<ul style="list-style-type: none"> • Provision of social rights to migrants
Local municipalities	N/A	<ul style="list-style-type: none"> • Competencies concerning public services provided to returnees and foreigners

Inter-institutional coordination

Coordination of immigration is organised through the Immigration Coordination Unit³³⁵ within the Office of the Vice Prime Minister.

³²¹ *Ministério da Administração Interna.*

³²² *Direcção de Estrangeiros e Fronteiras.*

³²³ *Polícia Nacional.*

³²⁴ *Ministério da Defesa Nacional.*

³²⁵ *Guarda Costeira.*

³²⁶ *Ministério da Juventude, Emprego e Desenvolvimento dos Recursos Humanos.*

³²⁷ *Direcção Geral do Trabalho.*

³²⁸ *Direcção Geral do Emprego.*

³²⁹ *Inspecção Geral do Trabalho.*

³³⁰ *Instituto Caboverdiano da Criança e do Adolescente.*

³³¹ *Ministério das Comunidades.*

³³² *Direcção Geral das Comunidades.*

³³³ *Ministério das Relações Exteriores.*

³³⁴ *Instituto Nacional da Previdência Social.*

³³⁵ *Unidade de Coordenação da Imigração.*

4.3.2.2 Immigration: national policy framework and institutional practices

4.3.2.2.1 General immigration provisions

Legislation/Policy Framework	Description
Decree Law No. 6/97 of 5 May 1997 Relating to the Legal Situation of Foreigners on the National Territory ³³⁶	<p>Art. 27; art. 30: In principle, entry of the national territory is subject to the granting of a visa – with an exception being made, notably, for nationals from countries with which Cape Verde has concluded agreements in this respect.</p> <p>The Decree Law distinguishes between two main types of stay: temporary stay and residence.</p> <p>Art. 41: A temporary stay implies the delivery of a temporary visa³³⁷ valid for a maximum period of 180 days.</p> <p>Art. 24; art. 40: The granting of the temporary visa is subject to proof of sufficient means of living, as well as the production of a medical certificate, an extract from the police register and documents establishing the purpose of stay – which may include studies or business.</p> <p>Art. 42: The resident status, materialised by a residence visa³³⁸ and a residence authorisation,³³⁹ concerns “foreigners who intend to reside on a habitual basis on the national territory”.</p> <p>Art. 44: The residence visa authorises entry and stay until the final decision is made by competent authorities on the granting of the residence authorisation.</p> <p>Art. 48: The residence authorisation may be valid for a period “superior to three years, ten years, or may be permanent” depending on the duration of regular and consecutive stay of the foreigner in the country (five, ten, or twenty years).</p> <p>Art. 47: Other conditions for delivery of the residence authorisation include respect for the national legislation, existence of sufficient financial means, public health imperatives, the purpose of residence and its “feasibility”, as well as existing relatives – nationals or foreigners – residing in the country.</p>

The Decree Law, which limits the rights of migrants in a regular situation to education, to assemble, to demonstrate, to strike, and also to trade union rights,³⁴⁰ constitutes a breach of Cape Verde’s international obligations. According to national authorities, in practice, and despite existing legal provisions, migrants in an irregular situation benefit from the considered rights.

The Cape Verdean legislation on immigration is currently being revised with a view to implementing the National Immigration Strategy of 2012. The two main goals of this are: increasing immigration control and improving the protection of migrants’ rights and interests.

Regarding the first objective, a central component is the envisaged renegotiation of the relevant ECOWAS protocols in order for Cape Verdean authorities to increase their capacities to regulate the admission of member states’ nationals on the national territory.³⁴¹ National authorities argue that the specific situation of Cape Verde – an island state – justifies the possibility of the country derogating, to a certain extent,

³³⁶ *Decreto Legislativo nº 6/97, de 05 de Maio – Regula a Situação Jurídica do Estrangeiro no Território Nacional.*

³³⁷ *Visto temporário.*

³³⁸ *Visto de residência.*

³³⁹ *Autorização de residência.*

³⁴⁰ Decree Law No. 6/97 of 5 May 1997 Relating to the Legal Situation of Foreigners on the National Territory, art. 8 - art. 10.

³⁴¹ Unidade de Coordenação da Imigração, *Estratégia Nacional de Imigração*, 2012, p. 23.

the principle of free circulation among ECOWAS Member States.³⁴² Other measures include the implementation of a foreigners' register, as well as mechanisms related to border management and irregular migration (see section 4.3.2.2.3.).³⁴³

Elements concerning the protection of migrants' rights and interests include specific measures applicable to migrant workers (see section 4.3.2.2.2.) as well as vulnerable migrants, such as victims of trafficking (see section 4.3.2.2.4.). More general measures concern the improvement of migrants' integration within the Cape Verdean society. In this respect, the National Immigration Strategy envisages:

- the facilitation of family reunification;
- the improvement of access to health and social services; and
- the institution of migrant resource centres and programmes to introduce migrants to Cape Verdean culture, including mandatory Portuguese language lessons.³⁴⁴

4.3.2.2.2 Labour migration

Access to the national labour market

Access of foreigners to the national labour market is insufficiently regulated by Cape Verdean legislation. Decree Law No 6/97 of 5 May 1997 Relating to the Legal Situation of Foreigners on the National Territory does not include specific provisions in this regard and the Labour Code of 2007 simply sets the principle of a work authorisation to be delivered by the General Employment Directorate without detailing the grounds on which such an authorisation shall be granted.³⁴⁵

The National Immigration Strategy intends to fill the gaps in the existing legislation through a specific law and the institution of the principle according to which access of foreigners to employment is subject to the needs of the national labour market.³⁴⁶

Rights within employment

Regarding the rights of foreigners within employment, the Labour Code does provide for equal treatment with nationals, although the formulation of the principle is quite vague. Article 15-2 states that foreign workers in a regular situation, as well as those who, in one way or another, fall under the jurisdiction of the labour legislation, have the same rights and duties as nationals.

Moreover, and, although the Labour Code does not refer to nationality in this regard, Decree Law No. 6/97

³⁴² This position is based on article 68 of the ECOWAS Treaty, which reads as follows: "Member States, taking into consideration the economic social difficulties that may arise in certain Member States, particularly island and land-locked States, agree to grant them where appropriate, special treatment in respect of the application of certain provisions of this Treaty and to accord them any other assistance they may need". It should be noted in this respect that Cape Verde is not bound by the ECOWAS Brown Card scheme, the compulsory third-party liability insurance cover against accidents involving vehicles travelling across the West African sub-region.

³⁴³ Unidade de Coordenação da Imigração, 2012, op. cit., p. 24, p. 29.

³⁴⁴ Ibid., p. 26, p. 45.

³⁴⁵ Labour Code, 2007, art. 283.

³⁴⁶ Unidade de Coordenação da Imigração, 2012, op. cit., p. 27.

of 5 May 1997 Relating to the Legal Situation of Foreigners on the National Territory limits to migrants in a regular situation, trade union rights, as well as, more generally, the right to assemble, to demonstrate, and to strike,³⁴⁷ which constitutes a breach of Cape Verde's international obligations.

The National Immigration Strategy includes elements to improve the protection of migrant workers' rights and interests, such as the institution of a model work contract for foreigners, the recognition of foreigners' qualifications and the conclusion of social security agreements with countries of origin.³⁴⁸

4.3.2.2.3 Irregular migration

Legislation/Policy Framework	Description
Decree Law No. 6/97 of 5 May 1997 Relating to the Legal Situation of Foreigners on the National Territory ³⁴⁹	Art. 68 organises the procedures of administrative deportation in case of illegal entry and/or stay. Art. 72; Art. 73 foresee judicial expulsion in case of threat to public order or as a secondary penalty in case of conviction for a crime in Cape Verde. Art. 115 – Art. 123: Fines are foreseen in case of violation of the Decree's provisions.

In practice, more than 2000 foreigners were deported from 2006 to 2008, most of them nationals from ECOWAS Member States, such as The Gambia, Ghana, Guinea-Bissau, Guinea, Nigeria, and Senegal.³⁵⁰ That being said, ICMPD noted in 2009 that national authorities had a relatively lenient approach to the presence of irregular migrant workers in Cape Verde.³⁵¹ This may have changed over the past few years. Indeed, the National Immigration Strategy reveals concerns of the country with regard to irregular migration, as it has increased over the past years.

The National Immigration Strategy foresees:

- the definition of clear grounds to refuse entry;³⁵²
- the adoption of a specific law on irregular migration;³⁵³
- the revision of the ECOWAS protocols in order to authorise derogations to the principle of free circulation;³⁵⁴
- the conclusion of readmission agreements with the main countries of origin; and
- increased cooperation at regional level as well as with international organisations in the field of irregular migration.³⁵⁵

³⁴⁷ Decree Law No. 6/97 of 5 May 1997, op. cit., art. 8 - art. 10.

³⁴⁸ Unidade de Coordenação da Imigração, 2012, op. cit., p. 27.

³⁴⁹ *Decreto Legislativo n° 6/97, de 05 de Maio – Regula a Situação Jurídica do Estrangeiro no Território Nacional.*

³⁵⁰ ICMPD, 2009, op. cit., p. 27.

³⁵¹ *Ibid.*, p. 32.

³⁵² Unidade de Coordenação da Imigração, 2012, op. cit., p. 24.

³⁵³ *Ibid.*, p. 29.

³⁵⁴ *Ibid.*, pp. 23-24.

³⁵⁵ *Ibid.*, p. 29, p. 33.

Next to these restrictive measures, the Strategy also foresees the adoption of clear mechanisms to regularise long-term irregular foreign residents.³⁵⁶

Regarding border management and, more specifically, cooperation with countries of destination of irregular migrants transiting through Cape Verde and its territorial waters, cooperation agreements have been concluded with FRONTEX, Portugal, Spain, and the U.S. Mention can also be made of the SEA HORSE project, which includes Spain, Mauritania, Morocco, and Senegal, and aims to strengthen border management through operational cooperation, staff training, and the sharing of best practices. Training of border police staff are also organised in cooperation with Portugal, Spain, and France.³⁵⁷

4.3.2.2.4 Migrants at risk

Although Cape Verde has ratified the Palermo Protocol on trafficking, it has yet to adopt a specific law in this respect. To date, the crime of trafficking in persons is partially covered by the Labour Code, which prohibits forced labour,³⁵⁸ and the Penal Code, which punishes slavery and the facilitation of prostitution of children under 16.³⁵⁹ Some gaps exist with regard to the definition of crime, as well as penalties, which are considered to be insufficiently stringent.³⁶⁰ In practice, few cases have been prosecuted.

Protection and prevention activities are mainly the responsibility of the Cape Verdean Institute for Children and Adolescents, under the authority of the Ministry of Employment, Youth and Human Resources Development. In 2012, a specific unit for the prevention and elimination of child labour, as well as a National Committee for the Eradication of Child Labour in Cape Verde, were established.³⁶¹

Public authorities run a number of temporary shelters and protection and reintegration centres to assist child victims. In addition, the Cape Verdean Institute for Children and Adolescents implements a project called Nos Kasa with the objective of reducing the vulnerability of street children to exploitation.³⁶²

The National Immigration Strategy plans to fill the gaps in existing legislation and practices. It foresees:

- the adoption of an anti-trafficking law and plan of action;
- the institution of a data collection system;
- the improvement of the national authorities' capacities with regard to the identification and prosecution of trafficking cases;
- the adoption of a formal referral system; and
- partnerships with relevant NGOs and associations.³⁶³

³⁵⁶ Ibid., p. 24.

³⁵⁷ ICMPD, 2009, op. cit., pp. 17-18.

³⁵⁸ Labour Code, 2007, art. 14.

³⁵⁹ Penal Code, art. 148, art. 271.

³⁶⁰ U.S. Department of State, 2013, op. cit., p. 123.

³⁶¹ Ibid., pp. 123-124.

³⁶² Ibid., p. 123.

³⁶³ Unidade de Coordenação da Imigração, 2012, op. cit., pp. 29-30.

4.3.2.3 Emigration

4.3.2.3.1 Labour migration

The National Emigration Strategy for Development,³⁶⁴ adopted in November 2013, includes a rather comprehensive set of measures related to labour migration. With a view to opening new legal channels for labour migration and to consolidating existing ones, the Strategy includes the following aims:

- analyse the labour market of established and potential countries of destination;
- improve mechanisms to match offer and demand on the international labour market;
- monitor the implementation of existing bilateral labour agreements;
- consider the conclusion of new bilateral labour agreements; and
- consider the training of workers for employment abroad.

Cape Verde has concluded bilateral labour agreements with three of the main countries of destination in Europe: Portugal, France, and Spain.

Convention	Description
Protocol on Temporary Migration of Cape Verdean Workers in Portugal, 1997 ³⁶⁵	<p>Art. 2: Work contracts are established for a maximum of one year; renewal within a limit of three years.</p> <p>The Protocol does not explicitly provide for privileged access of Cape Verdean workers to the Portuguese labour market. Derogations to the Portuguese labour migration legislation are not foreseen, and employment of Cape Verdean workers is subject to the “necessities of the [Portuguese] employment policy” (Art. 7-2).</p> <p>Art. 7 organises in detail the process of selection and recruitment of workers through close cooperation between the Employment and Vocational Institute of Portugal³⁶⁶ and the General Directorate of Communities³⁶⁷ in Cape Verde.</p> <p>Art. 7-5 mentions the minimum content of the work contract, which includes the conditions of remuneration, healthcare provisions, housing (when applicable), and the duty of the employer to cover travel expenses.</p> <p>The Mobility Partnership between the EU and Cape Verde makes reference to a possible extension of the scope of the 1997 Protocol.³⁶⁸ Negotiations between the two parties remain pending in this regard.</p>
Cooperation Agreement on Immigration Matters between Spain and Cape Verde, 2007 ³⁶⁹	<p>The Agreement does not provide for privileged access to the national labour market.</p> <p>Art. 3 foresees the promotion of labour migration on the basis of labour market studies and the communication by Spanish authorities of job vacancies to their Cape Verdean counterparts.</p>

³⁶⁴ *Estratégia Nacional de Emigração para o Desenvolvimento.*

³⁶⁵ *Protocolo sobre Emigração Temporária de Trabalhadores Cabo-Verdianos para a Prestação de Trabalho em Portugal, 18 de Fevereiro de 1997.*

³⁶⁶ *Instituto do Emprego e Formação Profissional.*

³⁶⁷ Previously *Instituto de Apoio ao Emigrante.*

³⁶⁸ Cape Verde, Council of the EU, *Joint Declaration on a Mobility Partnership between the European Union and the Republic of Cape Verde, 21 May 2008*, 2008, p. 9.

³⁶⁹ *Acuerdo de Cooperación en material de inmigración entre España y Cabo Verde, 20 de marzo de 2007.*

Agreement on Concerted Management of Migratory Flows and Mutually-Supportive Development between France and Cape Verde, 2008³⁷⁰

Art. 3.2.3 refers to a list of 40 occupations for which the delivery of a stay permit is not subject to the application of the labour market test. This provision concerns primarily higher-level technical jobs, although several low and medium-skilled occupations are included.

Art. 3.1: Cape Verdean who have graduated from French higher education institutions and wish to supplement their education with a first professional experience in France are granted a temporary stay authorisation³⁷¹ off-right, valid for nine months. Graduates who eventually find a job that corresponds to their training are authorised to stay in a more permanent manner.

Art. 3.2.1 provides that young graduates (French or Cape Verdean), aged 18 to 35, who wish to supplement their professional experience in the other state party are granted a temporary stay authorisation, valid for a maximum period of 18 months, without application of the labour market test. A quota of 100 admissions per year is set.

The Mobility Partnership between the EU and Cape Verde also refers to a proposal of Luxembourg to “study the possibility of setting up an initiative on temporary circular migration with Cape Verde”.³⁷²

4.3.2.3.2 Migration and development

Although those initiatives in the area of migration and development that have been adopted over the years have been significant, they may nevertheless appear rather limited when compared to the demographic and economic importance of the Cape Verdean diaspora. That being said, the recently adopted National Emigration Strategy for Development includes a comprehensive and ambitious programme in this regard.

At the institutional level, the Ministry of Communities and its General Directorate of Communities are charged with responsibilities concerning the cooperation with the diaspora and assistance to returning migrants.³⁷³

Diaspora outreach and measures to support the engagement of the diaspora for development

The Constitution authorises dual/multiple citizenship. Cape Verdeans abroad benefit from general incentives intended to promote foreign investment. They are also granted limited specific fiscal incentives in case of return – mainly applicable to vehicles. In 2005, an Investment Code for Emigrants was drafted but never adopted.³⁷⁴ A social bank, Novo Banco, was established in 2010.

As a general rule, the investment climate for diaspora members and returnees in Cape Verde is not considered attractive. According to Akesson:

Interest rates are high, periods of repayment are short, and demands on collateral securities are excessive. The majority of the banks are Portuguese-owned and they obviously have little

³⁷⁰ *Accord entre la France et le Cap-Vert relatif à la gestion concertée des flux migratoires et au développement solidaire, 24 novembre 2008.*

³⁷¹ *Autorisation provisoire de séjour.*

³⁷² Cape Verde, Council of the EU, 2008, op. cit., p. 10.

³⁷³ ICMPD, 2009, op. cit., p. 35; IOM, ICMPD, 2010, op. cit., p. 14.

³⁷⁴ IOM, ICMPD, 2010, op. cit., pp. 10-11.

trust in Cape Verdean small-scale entrepreneurs. This situation restricts not only returnees' investments, but all kinds of small-scale entrepreneurship.³⁷⁵

Projects concerning the involvement of skilled migrants in the development of Cape Verde mainly include the DIAS³⁷⁶ programme, which foresees the temporary return of skilled nationals to contribute to development projects in their country of origin.³⁷⁷

Assistance to returning migrants

The general competency of assistance to returning migrants is in the hands of local municipalities. It has been noted that the conditions of assistance may vary depending on local priorities and that returning migrants may not be aware of the existing services.³⁷⁸ With regard to forced returnees, a programme was set-up by the Institute of Communities in 2003 to assess the competencies of the considered individuals and to provide assistance in the development of their socio-economic projects.³⁷⁹ Mention can also be made of the project "Temporary Return of Qualified Nationals".

Migration and development activities within bilateral agreements

The agreement with Spain of 2007 envisions:

- the provision of technical assistance for the improvement of transfer services;
- the stimulation of remittances development potential; and
- support to the engagement of the diaspora in the economic and social development of the country.³⁸⁰

The agreement with France of 2008 includes similar objectives:

- reduce the cost of remittances;
- promote productive investment;
- mobilise the skills of high-skilled diaspora members; and
- support local development projects and young people's initiatives.³⁸¹

Migration and development in the National Emigration Strategy for Development

Among the variety of measures envisioned by the National Emigration Strategy for Development, the following can be mentioned:

³⁷⁵ Akesson, L., 'Making Migrants Responsible for Development: Cape Verdean Returnees and Northern Migration Policies', *Africa Spectrum*, Vol. 41, No1, 2011, pp. 68-69.

³⁷⁶ *Diáspora para o Desenvolvimento de Cabo Verde*.

³⁷⁷ ICMPSD, 2009, op. cit., p. 35; Carvalho, F. A., 2010, op. cit., p. 71.

³⁷⁸ Carling, J., 2008, op. cit., p. 40.

³⁷⁹ Carvalho, F. A., 2010, op. cit., p. 71.

³⁸⁰ *Acuerdo de Cooperación en materia de inmigración entre España y Cabo Verde, 2007*, op. cit., art. 7.

³⁸¹ *Accord entre la France et le Cap-Vert relatif à la gestion concertée des flux migratoires et au développement solidaire, 2008*, op. cit., art. 7.

- improving the understanding of the diaspora, notably through the creation of an Observatory of Migration,³⁸² a survey of nationals residing abroad, and a mapping of diaspora associations;
- strengthening the relations between the diaspora and Cape Verde, notably through the development of cultural events, information dissemination among nationals abroad, promotion of dialogue, consultation of diaspora members, and assistance to the diaspora association network;
- understanding the mechanisms and impact of remittances, facilitate and reduce the cost of transfers;
- stimulating investments from the diaspora; and
- mapping and mobilising existing competencies abroad, notably through temporary return schemes.

4.3.2.3.3 Migrants' protection

Information dissemination

A core component of the initiatives undertaken by Cape Verde regarding the protection of its migrants is the development of information-sharing programmes in order to provide individuals with reliable and accurate information about the different aspects of the migration process. These programmes are functionally two-fold: they include general information dissemination for potential migrants and pre-departure orientation courses for individuals who are about to leave the country.

In most cases, these activities are organised in cooperation with the EU and several Member States, including Portugal, Spain, and Luxembourg. For instance, the Centre for Migrant Support in the Origin Country (CAMPO)³⁸³ was established in 2008 with the specific objective of providing information on migration towards Portugal.³⁸⁴ Following the proposals of the Mobility Partnership between the EU and Cape Verde, the activities of CAMPO were extended to other important countries of destination.³⁸⁵ A working group was also set-up with Luxembourg³⁸⁶ with the objective of developing initiatives in Cape Verde to facilitate social and economic integration in Luxembourg.³⁸⁷

The bilateral agreement concluded with Spain includes several provisions regarding protection, such as pre-departure trainings for migrants and further training upon arrival in Spain, with a view to facilitating their integration in the country of destination.³⁸⁸

Protection in countries of destination

A Community Solidarity Fund³⁸⁹ was established to assist activities of diaspora associations in favour of

³⁸² *Observatório das Migrações.*

³⁸³ *Centro de Apoio ao Migrante no País de Origem.*

³⁸⁴ ICMPD, 2009, op. cit., p. 35; Carvalho, F. A., 2010, op. cit., pp. 71-72.

³⁸⁵ Council of the EU, 2008, op. cit., p. 8.

³⁸⁶ *Grupo de Trabalho para as Questões de Imigração Cabo Verde/Luxemburgo.*

³⁸⁷ Carvalho, F. A., 2010, op. cit., p. 70.

³⁸⁸ *Acuerdo de Cooperación en materia de inmigración entre España y Cabo Verde*, 2007, op. cit., art. 6.

³⁸⁹ *Fundo de Solidariedade das Comunidades or FSC.*

migrants' integration in countries of destination.³⁹⁰ It must be noted that direct assistance to migrants by the Cape Verdean consulate is very limited, due to the small amount of resources available.

Social security agreements

Cape Verde has concluded social security arrangements with the following countries: Brazil, France, Italy, Luxembourg, the Netherlands, Portugal, Senegal, Spain, and Sweden.³⁹¹ It is not part of the inter-African social security convention (CIPRES Convention).³⁹²

4.3.3 International, regional, and bilateral cooperation

International conventions

Among most relevant international conventions protecting human rights, Cape Verde has ratified:

- the International Covenant on Civil and Political Rights (1966);
- the International Covenant on Economic, Social and Cultural Rights (1966);
- the Convention on the Elimination of All Forms of Discrimination against Women (1979);
- the Convention on the Rights of the Child (1989);
- 13 ILO Conventions (it has not, however, ratified the two specific ILO conventions on migrant workers, C 97 (1949) and C 143 (1975));
- the Convention on the Protection of the Rights of All Migrant Workers and Members of their Families (1990); and
- the United Nations Convention against Transnational Organized Crime (2000) and its Protocols on trafficking in persons and smuggling of migrants.

As well as these global conventions, Cape Verde is bound by ECOWAS texts, including its Treaty (1975) and its subsequent protocols regarding free movement of persons, residence, and establishment.

Cooperation with EU Member States

Cape Verde cooperates closely with the EU and, among its member states, mainly with Portugal, France, Spain and Luxembourg, on most areas of migration management, including labour migration,³⁹³ migration and development,³⁹⁴ protection,³⁹⁵ and irregular migration.³⁹⁶

Cooperation takes the form of bilateral agreements on migration, the content of which may be more or less comprehensive, social security arrangements, as well as an assistance to the development and

³⁹⁰ Carvalho, F. A., 2010, op. cit., p. 76.

³⁹¹ IOM, ICMPD, 2010, op. cit., p. 13.

³⁹² *Convention multilatérale de sécurité sociale de la Conférence interafricaine de la prévoyance sociale.*

³⁹³ See section 4.3.2.3.1.

³⁹⁴ See section 4.3.2.3.2.

³⁹⁵ See section 4.3.2.3.3.

³⁹⁶ See section 4.3.2.2.3.

implementation of specific programmes, such as the migrant resource centre CAMPO³⁹⁷ with regard to protection and legal migration, the project DIAS³⁹⁸ in the area of migration and development, and SEA HORSE³⁹⁹ with regard to border management.

Cooperation between Cape Verde and selected EU Member States has a general coordination framework: the Mobility Partnership concluded in 2008. Moreover, a readmission agreement was concluded in 2013 with the EU. Prior to this date, such agreements existed with France and Spain.

³⁹⁷ See section 4.3.2.3.3.

³⁹⁸ See section 4.3.2.3.2.

³⁹⁹ See section 4.3.2.2.3.

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4.3.5 List of interlocutors

Name of respondent	Position	Institution
Carvalho, F.	General Directorate of Communities ⁴⁰⁰	Ministry of Communities ⁴⁰¹
Barros, C.	Coordinator	Immigration Coordinating Unit ⁴⁰²
Santos, A.	Director General of Consular Affairs and Treaties ⁴⁰³	Ministry of Foreign Affairs ⁴⁰⁴
Gonçalves, C.	Deputy National Director of Political Affairs and Cooperation ⁴⁰⁵	Ministry of Foreign Affairs
Semedo H.	Directorate of Foreigners and Borders ⁴⁰⁶	Ministry of Internal Administration ⁴⁰⁷
Fernandes, R.	Statistics of the External Sector ⁴⁰⁸	Bank of Cape Verde
Ramos, M.	General Directorate of Labour ⁴⁰⁹	Ministry of Employment, Youth and Human Resources Development ⁴¹⁰
Delgado, O.	General Directorate of Employment ⁴¹¹	Ministry of Employment, Youth and Human Resources Development

⁴⁰⁰ *Director Geral das Comunidades*

⁴⁰¹ *Ministério das Comunidades*

⁴⁰² *Unidade de Coordenação da Imigração*

⁴⁰³ *Directora Geral de Assuntos Consulares e Tratados*

⁴⁰⁴ *Ministério das Relações Exteriores*

⁴⁰⁵ *Director Nacional Adjunto dos Assuntos Políticos e Cooperação*

⁴⁰⁶ *Direcção de Estrangeiros e Fronteiras*

⁴⁰⁷ *Ministério da Administração Interna*

⁴⁰⁸ *Técnica da Área Estatísticas do Sector Externo*

⁴⁰⁹ *Direcção Geral do Trabalho*

⁴¹⁰ *Ministério da Juventude, Emprego e Desenvolvimento dos Recursos Humanos*

⁴¹¹ *Direcção Geral do Emprego.*

4.4 Côte d'Ivoire

4.4.1 Migration trends

4.4.1.1 Immigration

Côte d'Ivoire has a long history as a country of immigration. Although it has lost some of its appeal over time, it remains an important country of destination, and one of the main countries of residence for ECOWAS Member States nationals.

Since colonial times and the development of the plantation sector, the economy of the country has largely been reliant on foreign labour force. Workers from neighbouring countries with limited natural resources and an overabundance of workforce, such as, primarily, Burkina Faso (previously French Upper Volta Haute-Volta), have greatly contributed to the national economic development of Côte d'Ivoire.⁴¹² After its independence in 1960 and up until the mid-1980s/early 1990s when the country was struck by economic crisis, immigration was promoted by national authorities and thus continued to be high.⁴¹³ As forest resources started to be used up, the productivity of plantations started to decrease and the price of cacao on the international market fell, which ignited an economic crisis.⁴¹⁴ Côte d'Ivoire became progressively less attractive for West African workers. Simultaneously, increasingly restrictive policies toward foreigners were adopted.

The most reliable data on immigration and foreigners' presence in Côte d'Ivoire is found in the National Population and Housing Census (RGPH)⁴¹⁵ of 1998. Although a new census was planned for 2008, it was postponed due to political unrest. In 2014, the latest population census was finally undertaken – its results are yet to be published. It must be underlined that the political crisis that Côte d'Ivoire endured during the past decade is likely to have further altered immigration flows. The data from RGPH 1998 should therefore be read with the utmost caution.

Data	Year	Absolute numbers	% of the Total Population
National Population and Housing Census (RGPH)	1998	Immigrant stock: 2,163,644 individuals ⁴¹⁶	26%
		Foreign resident population: 4,000,047	
Consular data from countries of origin	1998 to 2006	7,800,000 foreign residents from the main ECOWAS countries of origin	N/A

⁴¹² Merabet, O. *Etude sur le profil migratoire de la Côte d'Ivoire. Rapport final*, European Commission, Civipol, Transtec, 2006, p. 12.

⁴¹³ *Ibid.*, pp. 15-16.

⁴¹⁴ Skogseth, G., *Côte d'Ivoire: Ethnicity, Ivoirité and Conflict*, 2006, p. 13; *ibid.*, p. 43.

⁴¹⁵ *Recensement général de la population et de l'habitat*.

⁴¹⁶ This corresponds to residents born abroad, regardless of their nationality. Nationals make up only 2% of the immigrant stock, with the remaining 98% being composed of foreigners.

4.4.1.1.1 Characteristics of immigrants/foreigners

Countries of origin:	<ul style="list-style-type: none"> • According to the RGPH 1998, the large majority of foreigners (99%) were nationals of African countries, primarily ECOWAS Member States. Burkina Faso was the main country of origin, with an estimated 56% of recorded foreigners in 1998. Other significant countries of origin included Mali (19.8%), Guinea (5.8%), Ghana (3.3%) and Benin (2.7%). Foreigners from outside of African countries were mainly French and Lebanese nationals. • ECOWAS Member States' consular posts estimates – displayed in the table below – show that the number of foreigners is in fact twice higher than that indicated by the RGPH 1998.⁴¹⁷ It should be noted, however, that, with the exception of Mali, these estimates are not based on precise statistical mapping and their reliability is therefore questionable. 																																
	<table border="1" style="width: 100%; border-collapse: collapse;"> <thead> <tr style="background-color: #800000; color: white;"> <th>Country</th> <th>Year</th> <th>Consular posts estimates</th> <th>RGPH 1998</th> </tr> </thead> <tbody> <tr> <td style="background-color: #008000; color: white;">Benin</td> <td style="text-align: center;">2002</td> <td style="text-align: center;">600,000</td> <td style="text-align: center;">108,001</td> </tr> <tr> <td style="background-color: #008000; color: white;">Burkina Faso</td> <td style="text-align: center;">1998</td> <td style="text-align: center;">3,400,000</td> <td style="text-align: center;">2,240,026</td> </tr> <tr> <td style="background-color: #008000; color: white;">Ghana</td> <td style="text-align: center;">2006</td> <td style="text-align: center;">600,000</td> <td style="text-align: center;">132,002</td> </tr> <tr> <td style="background-color: #008000; color: white;">Guinea</td> <td style="text-align: center;">1998</td> <td style="text-align: center;">1,000,000</td> <td style="text-align: center;">228,003</td> </tr> <tr> <td style="background-color: #008000; color: white;">Mali</td> <td style="text-align: center;">2001</td> <td style="text-align: center;">1,700,000</td> <td style="text-align: center;">792,009</td> </tr> <tr> <td style="background-color: #008000; color: white;">Nigeria</td> <td style="text-align: center;">2006</td> <td style="text-align: center;">500,000</td> <td style="text-align: center;">72,001</td> </tr> <tr style="background-color: #008000; color: white;"> <td>Total</td> <td></td> <td style="text-align: center;">7,800,000</td> <td style="text-align: center;">3,572,042</td> </tr> </tbody> </table>	Country	Year	Consular posts estimates	RGPH 1998	Benin	2002	600,000	108,001	Burkina Faso	1998	3,400,000	2,240,026	Ghana	2006	600,000	132,002	Guinea	1998	1,000,000	228,003	Mali	2001	1,700,000	792,009	Nigeria	2006	500,000	72,001	Total		7,800,000	3,572,042
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Total		7,800,000	3,572,042																														
Settlements:	Foreigners mainly reside in rural regions: Sud-Comoé, Bas-Sassandra, Moyen-Cavally, Moyen-Comocé, and Haut-Sassandra. ⁴¹⁸ In Tabou's department (located in Bas-Sassandra), for instance, the number of foreigners was estimated to be as high as 54% of the population in 1998. ⁴¹⁹																																
Socio-demographic profile:	High predominance of men (71.4%) (RGPH 1998).																																
Socio-economic profile and sectors of employment:	<p>As a general rule, foreigners are less educated than nationals. In 1998, more than 3/4 of foreigners were illiterate, while the proportion of illiteracy among nationals was estimated at 57%.⁴²⁰</p> <p>Burkinabe nationals mostly work in agriculture (73.5%). Malians are also employed in the agricultural sector but their activities also extend to herding, fishing, industry, and services and trade. Ghanaians are mainly employed within the fishing sector, and trade and services.⁴²¹</p> <p>The majority of foreigners are employed in low-skilled jobs. Following its independence, Côte d'Ivoire also needed higher-skilled workers, notably within the education sector. At the beginning of the 1980s, several thousand foreign teachers were employed, in both the public and the private education sector.⁴²² The presence of such foreign workers has since declined significantly.</p>																																

⁴¹⁷ Merabet, O., 2006, op. cit.

⁴¹⁸ Konan, S. Y., *Migration en Côte d'Ivoire. Profil national 2009*, IOM, 2009, p. 46.

⁴¹⁹ Babo, A., 'Conflits fonciers, ethnicité politique et guerre en Côte d'Ivoire', *Alternatives Sud*, 2010, p. 99.

⁴²⁰ Zanou, B., 'Analyse des résultats: tome 2 migrations', *Recensement Général de la Population et de l'Habitat de 1998*, Institut National de la Statistique, 2001, pp. 89-90.

⁴²¹ Merabet, O., 2006, op. cit., p. 19 ; Konan, S. Y., 2009, op. cit., p. 48.

⁴²² Merabet, O., 2006, op. cit., p. 16.

Vulnerable groups:

Trafficking in persons appears to be mainly an internal phenomenon affecting children.⁴²³

Despite the lack of reliable data,⁴²⁴ it is probable that Côte d'Ivoire is also one of the main countries of destination for victims of trafficking in West Africa.

According to the U.S. Department of State, boys from Ghana, Mali, Burkina Faso, Togo and Benin are exploited within the agricultural sector. They are also found in mines, construction and carpentry. Girls from Ghana, Togo and Benin are exploited as domestic workers and street vendors. Girls and women from Ghana and Nigeria are also forced into prostitution.⁴²⁵

A crucial question concerns the evolution of immigration flows and migrant stock during the 2000s. The RGPH 1998 showed a decline of immigration flows in comparison to the previous census of 1988. With regard to the first decade of the 2000s, which was marked by constant political unrest, no precise data can be provided. Between 1999 and 2002 massive returns of foreigners to their countries of origin occurred. For instance, the attempted coup d'état in 2002 led to the return of an estimated 360,000 Burkinabe nationals.⁴²⁶ It appears that Burkinabes, as well as Malians, have quickly re-emigrated to Côte d'Ivoire, either in a permanent way or in a more temporary manner following circular migration patterns.⁴²⁷ In the case of Guinean and Beninese nationals, however, the number of returns to Côte d'Ivoire is believed to have been less.⁴²⁸

More than in any other West African country, the issue of foreigners in an irregular situation relates directly to the country's immigration legislation. In Côte d'Ivoire, this legislation has been amended several times over the years. From 2000 to 2006, only 4,833 stay permits were delivered, which implies that there is a preponderance of foreigners in an irregular situation.⁴²⁹ According to S. Y. Konan's estimates, in 1999, a little fewer than 1.5 million foreigners did not have a regular immigration status.⁴³⁰ Since 2007, however, ECOWAS Member States nationals are not requested to hold a stay/residence permit to reside in Côte d'Ivoire.⁴³¹ One can therefore assume that the large majority of foreigners, although working in the informal sector, are in a regular situation.

4.4.1.2 Emigration

Very little is known about emigration trends of Ivorian nationals. The absence of specific studies and the limited political interest in the matter can probably be explained by two factors. First, immigration represents such a fundamental issue for the country that it can easily overshadow emigration-related matters. Second, it is generally recognised that emigration of Ivorians remains a limited phenomenon, although relevant reliable data is yet to be collected.

⁴²³ U.S. Department of State, *Trafficking in Persons Report 2013*, 2013, p. 141.

⁴²⁴ Konan, S. Y., 2009, op. cit., p. 51.

⁴²⁵ U.S. Department of State, 2013, op. cit., p. 141.

⁴²⁶ Courtin, F. et al., 'La crise ivoirienne et les migrants burkinabés. L'effet boomerang d'une migration internationale', *Afrique Contemporaine*, 2010,4, p. 17.

⁴²⁷ Neya, S., 'De la migration à la circulation, le cas des migrants burkinabè "partagés" entre le Burkina Faso et la Côte d'Ivoire', 2010; Zanou, B. and Lougue, S., *Impact de la crise ivoirienne sur les migrations de retour au Burkina Faso*, 2009; Merabet, O., 2006, op. cit., p. 20.

⁴²⁸ Merabet, O., 2006, op. cit., p. 20.

⁴²⁹ Konan, S. Y., 2009, op. cit., p. 47.

⁴³⁰ Ibid., p. 51.

⁴³¹ See section 4.4.2.2.1.

Data	Year	Estimates
Consular and diplomatic posts	2006	161,430 Ivorians abroad ⁴³²
	2009	240,900 Ivorians abroad ⁴³³
Mutual Insurance of Ivorians Abroad ⁴³⁴	2009	1,500,000 nationals abroad. ⁴³⁵ Although the reliability of this source is questionable, Ivorian public officials often consider this figure realistic.

4.4.1.2.1 Characteristics of emigrants/nationals abroad

Countries of destination/ residence:	<p>It appears that Ivorian migration is mainly directed towards OECD Member States rather than to other African states, which are said to only host 7.5% of Ivorian nationals.⁴³⁶ According to consular registers, 49.8% of Ivorians residing abroad were living in France in 2009, followed by the U.S. (20.8%) and Italy (8.3%). Senegal is the first country of destination in Africa (2%).⁴³⁷ It should be noted, however, that the capacity of consular registers to show the geographical spread of Ivorian migrants can be questioned, as it is quite likely that the level of under-registration within consulates varies from one country to another.</p> <p>According to the OECD migration database,⁴³⁸ there were 43,609 Ivorian nationals in France in 2009 and 22,665 in Italy in 2010. It should be noted that the database does not include data concerning the U.S.</p> <p>It is probable that emigration flows of Ivorian nationals towards other ECOWAS Member States are underestimated (see remittances data below).</p>
Education level/ sectors of employment:	<p>While it appears that migration flows are dominated by lower-educated (47.6%) and high-educated individuals (30.7%),⁴³⁹ it is difficult to assess whether there is a significant risk of brain drain in Côte d'Ivoire.</p> <p>According to OECD data, the emigration rate of nurses was estimated at 4.2% and that of medical doctors at 11.1%.⁴⁴⁰</p> <p>Irregular migration is believed to be limited, not only due to the existing dynamic of push-pull factors, but also to the absence of established smuggling networks.⁴⁴¹</p>
Remittances:	<p>World Bank data provides an estimate of 408 million USD in 2013.⁴⁴² Burkina Faso and Benin are the main countries of origin in this respect, after France.⁴⁴³ Such data would tend to show that emigration towards other ECOWAS Member States is underestimated. However, these remittances may be sent by Burkinabe and Beninese nationals as well.</p>
Vulnerable groups:	<p>International trafficking of Ivorian nationals appears to be limited.⁴⁴⁴</p>

⁴³² Merabet, O., 2006, op. cit., p. 21.

⁴³³ Konan, S. Y., 2009, op. cit., p. 61.

⁴³⁴ *Mutuelle des Ivoiriens de l'étranger*.

⁴³⁵ Konan, S. Y., 2009, op. cit., p. 61.

⁴³⁶ Ibid.

⁴³⁷ Ibid.

⁴³⁸ OECD, 'International Migration Database'. The OECD migration database collects information on stay/resident permits and population registers.

⁴³⁹ Konan, S. Y., 2009, op. cit., p. 57.

⁴⁴⁰ OECD, 'Immigrant Health Workers in OECD Countries in the Broader Context of Highly Skilled Migration', *International Migration Outlook – SOPEMI 2007*, 2007, pp. 212-213.

⁴⁴¹ Konan, S. Y., 2009, op. cit., p. 58.

⁴⁴² World Bank, 'Remittances Data', 2013.

⁴⁴³ Konan, S. Y., 2009, op. cit., p. 63.

⁴⁴⁴ U.S. Department of State, 2013, op. cit., p. 141.

4.4.2 Migration policy

Côte d'Ivoire lacks a comprehensive national migration policy. Immigration issues are generally dealt with in detail by the respective legislation. One can see an increase in the level of attention being paid to the issue of trafficking, although the focus remains on child victims rather than on the whole spectrum of trafficking in persons. Regarding emigration, on the contrary, policies are close to non-existent.

Promising initiatives can nevertheless be found. The current National Development Plan includes migration and envisages the adoption of a general migration policy, a specific migration and development policy, and the establishment of a National Migration Office.⁴⁴⁵

4.4.2.1 Institutional framework on migration

Governmental stakeholders involved

Ministry	Responsibilities
Ministry of Interior of Security ⁴⁴⁶	<ul style="list-style-type: none"> Immigration management
Ministry of Planning and Development ⁴⁴⁷	<ul style="list-style-type: none"> Population policies
Ministry of Employment, Social Affairs and Vocational Training ⁴⁴⁸	<ul style="list-style-type: none"> Delivery of work authorisation to foreign workers
Ministry of Foreign Affairs ⁴⁴⁹	<ul style="list-style-type: none"> Protection of nationals abroad
Ministry of African Integration and Ivorians Abroad ⁴⁵⁰	<ul style="list-style-type: none"> Relations with the diaspora
Ministry of Employment, Social Affairs and Vocational Training and the Ministry of Solidarity, Family, Women, and Children ⁴⁵¹	<ul style="list-style-type: none"> Fight against trafficking in persons

Inter-institutional coordination

Migration management in Côte d'Ivoire is undertaken by distinct ministries and public institutions, with there being little consultation and cooperation between them. The only inter-ministerial authority is the Joint Ministerial Committee on the Fight against Trafficking, Exploitation and Child Labour.⁴⁵²

⁴⁴⁵ République de Côte d'Ivoire, *Plan national de développement national 2012-2015, Tome 3: visions de développement et orientations stratégiques*, 2012a, pp. 68; 86; 40; République de Côte d'Ivoire, *Plan national de développement national 2012-2015, Tome 4: matrices d'actions prioritaires*, 2012b, pp. 28; 29; 158.

⁴⁴⁶ Ministère de l'Intérieur et de la Sécurité.

⁴⁴⁷ Ministère du Plan et du Développement.

⁴⁴⁸ Ministère de l'Emploi, des Affaires sociales et de la Formation.

⁴⁴⁹ Ministère des Affaires étrangères.

⁴⁵⁰ Ministère de l'Intégration africaine et des Ivoiriens de l'extérieur.

⁴⁵¹ Ministère et de la Solidarité de la Famille, de la Femme et de l'Enfant.

⁴⁵² Comité interministériel de lutte contre la traite, l'exploitation et le travail des enfants.

4.4.2.2 Immigration: national policy framework and institutional practices

4.4.2.1.1 General immigration provisions

The regulation of immigration-related matters is a central issue within Ivorian politics, which goes further than the regulation of entry and stay of foreigners and their access to the national labour market. Indeed, since the late-1990s the most discussed, controversial and pressing issues have related to the access of foreigners to land ownership, the identification of nationals and foreigners, naturalisation and access to political rights.

Entry and stay for a period not exceeding three months

Legislation/Policy Framework	Description
Law No. 90-437 of 13 May 1990 regarding Entry and Stay of Foreigners in Côte d'Ivoire ⁴⁵³	Art. 4 distinguishes between nationals from countries subject to visa obligations and those who are simply requested to hold a valid passport.
Regulations and circulars of 1993 and 1995 regarding conditions of entry of foreigners of foreigners for a stay of less than 90 days in Côte d'Ivoire ⁴⁵⁴	A distinction is made between countries for which the visa is directly delivered by the competent consular post and those for which consular posts are requested to consult the Ministry of Interior.
Law No. 2004-303 of 3 May 2004 modifying the Law No. 2002-03 of 3 January 2002 regarding Identification of Persons and Stay of Foreigners in Côte d'Ivoire ⁴⁵⁵	Art. 8: In absence of a passport, a Permit of Free Circulation ⁴⁵⁶ can be delivered to ECOWAS Member States nationals. In practice, however, this mechanism has never been implemented.

Stay exceeding three months

Legislation/Policy Framework	Description
Law No. 90-437 of 13 May 1990 regarding Entry and Stay of Foreigners in Côte d'Ivoire	This Law foresaw a unique stay permit ⁴⁵⁷ for all foreigners – including ECOWAS Member States nationals – valid for one year. Art. 11 includes a list of foreigners that were granted the stay permit off-right: <ul style="list-style-type: none"> • foreigners married to Ivorian nationals; • foreign parents of an Ivorian child residing in Côte d'Ivoire; • spouse and children less than 21 of migrants under the family reunification scheme; and • foreigners who have stayed regularly for more than ten years in Côte d'Ivoire, etc. This off-right scheme, which remains applicable, gives to the considered individuals a guarantee of stability for their stay in Côte d'Ivoire (except in the case of family reunification, where the status of the spouse and children follows that of the initial migrant).

⁴⁵³ Loi No. 90-147 du 29 mai 1990 relative à l'entrée et au séjour des étrangers en Côte d'Ivoire.

⁴⁵⁴ Arrêté No. 66/AE du 16 février 1993 et circulaires No. 1402/AE/AJC et 1817/AEAJC des 7 et 10 février 1995, Conditions d'entrée des étrangers en Côte d'Ivoire pour un séjour de moins de 90 jours.

⁴⁵⁵ Loi No. 2004-303 du 3 mai 2004 portant modification de la loi No. 2002-03 du 3 janvier 2002 relative à l'identification des personnes et au séjour des étrangers en Côte d'Ivoire.

⁴⁵⁶ Permis de libre circulation.

⁴⁵⁷ Carte de séjour.

Law No. 2002-03 regarding Identification of Persons and Stay of Foreigners in Côte d'Ivoire ⁴⁵⁸	This Law provided additional guarantees to the stay of foreigners, extending the duration of the stay permit up to five years.
Law No. 2004-303 of 3 May 2004 modifying the Law No. 2002-03 of 3 January 2002 regarding Identification of Persons and Stay of Foreigners in Côte d'Ivoire	This Law made a distinction between ECOWAS Member States nationals, who were granted a resident permit ⁴⁵⁹ and other foreigners who had to request the stay permit. ⁴⁶⁰
Ordinance No. 2007-604 of 8 November 2007 regarding the Suppression of the Stay Permit ⁴⁶¹	Art. 2 states that ECOWAS Member States' nationals are no longer requested to obtain a residence permit. In order to reside legally in Côte d'Ivoire, they now only need to hold "documents of identification delivered by their country of origin or their consular representation". Art. 3: Non-ECOWAS Member States nationals remain subject to the residence permit regime.

As shown in the table above, the 1990 Law has been amended a number of times over the years. These amendments have continually improved the rights of foreigners. In particular, the adoption of the 2007 Ordinance constitutes a major advancement: the realisation of a true regime of free circulation and residence that goes even further in this regard than the provisions of the ECOWAS norms.

Access of foreigners to land ownership

While the legislation regarding the entry and stay of foreigners is generally well-grounded and has followed a liberal path, the same cannot be said for the issue of access to land. This central and dramatic issue shows the complexity of the matter: first, distinctions are made between traditional customary law and the law of the state, and second, between autochthones (those originating from the referred to land), allochthones (Ivorian internal migrants), and foreigners. Traditionally, land is considered a sacred and inalienable collective property, the use of which can only be transferred to non-autochthones (nationals or foreigners) following the regime of tutoring (*tutorat*).⁴⁶² This traditional customary regime has remained the most common means to transfer the use of land: in 2009, 98% of transactions were estimated to have followed the traditional custom.⁴⁶³

During the 1990s, tensions began to arise between autochthones and the land users – either internal Ivorian migrants or foreigners. The latter had over the years often obtained a better economic status than their tutors. In the context of economic crisis, the former started to develop strategies of re-appropriation of the land. These conflicts notably led to the evacuation/banishment of thousands of foreigners, mostly Burkinabe nationals. In the late-1990s, an estimated 15,000 Burkinabe farmers were forced to leave chased away from the Tabou region.⁴⁶⁴ As noted by A. Babo, "the duration of their banishment was

⁴⁵⁸ Loi No. 2002-03 du 3 janvier 2002 relative à l'identification des personnes et au séjour des étrangers en Côte d'Ivoire.

⁴⁵⁹ Carte de résident.

⁴⁶⁰ Carte de séjour.

⁴⁶¹ Ordonnance No. 2007-604 du 8 novembre 2007 portant suppression de la carte de séjour.

⁴⁶² Desdoigts, A. and Kouassi Kouadio, H., *Déforestation, migrations, saturation et réformes foncières: la Côte d'Ivoire entre résilience rurale et litiges fonciers*, 2012, pp. 2-3.

⁴⁶³ Ibid., p. 2.

⁴⁶⁴ Babo, A., 2010, op. cit., pp. 101-104.

artificially prolonged given that in 2007, Burkinabe farmers were still facing difficulties in returning to their plantations".⁴⁶⁵

Since the independence of the country, Ivorian authorities have made attempts to regulate the access to land. In 1968 a law was proposed following the integrationist principle, according to which "the land belongs to the one who promotes it".⁴⁶⁶ Due to the resistance of traditional leaders, this law was never adopted.⁴⁶⁷ Three decades later, the economic and political climate had changed dramatically. While in 1968, the goal of the state was to facilitate the integration of foreigners and internal migrants, in 1998, the country was subject to a severe economic and political crisis, and the nationalistic concept of Ivoirité gained prominence. Law No. 98-750 of 23 December 1998 regarding access to Rural Land⁴⁶⁸ is a perfect example of the concept of Ivoirité embodied in the legislation. Its article 1 reads as follows:

The rural land tenure is composed by all lands, cultivated or not. It is a national patrimony to which each person, physical or moral, can have access to. However, only the state, local public authorities and Ivorian physical persons can be owners.

It also includes a provision stating that landed property rights acquired before the Law that do not meet the criteria of property access stated by article 1 are to be maintained, but cannot be transmitted through inheritance. This extremely harsh transitive provision, which would have eventually led to a purge of all foreign-held land, was amended in 2004. As a consequence, landed property rights can now be transmitted by inheritance even when acquired in contradiction to article 1.⁴⁶⁹ This constitutes a significant improvement, although the fundamentals of the 1998 law remain untouched. In practice, legal disputes are common between autochthones and migrants, with each party referring either to traditional customary law or national law to support their argument.⁴⁷⁰

Nationality, ethnicity and political rights

Another crucial issue since the 1990s concerns the relationship between nationality, ethnicity and political rights. Since the independence of Côte d'Ivoire, ECOWAS Member States nationals have been authorised to participate in political elections despite constitutional provisions that reserve the right to vote for nationals only. Within the single party system of Houphouët-Boigny, foreigners, and especially Burkinabes, constituted a political clientele for the ruling party, the Democratic Party of Côte d'Ivoire (PDCI).⁴⁷¹ After the Houphouët-Boigny era, his successor, Henri Konan Bédié attempted to pass a law explicitly recognising the right to vote for ECOWAS Member States nationals; in other words, institutionalising the political strategy of his predecessor.⁴⁷² This attempt failed, and the electoral law of 1994 reserved,

⁴⁶⁵ Ibid., p. 104.

⁴⁶⁶ "La terre appartient à celui qui la met en valeur".

⁴⁶⁷ Desdoigts, A. and Kouassi Kouadio, H., 2012, op. cit., p. 3.

⁴⁶⁸ Loi No. 98-750 du 23 décembre 1998 relative au domaine foncier rural.

⁴⁶⁹ Loi portant amendement de l'article 26 de la loi No. 98-750 du 23 décembre 1998 relative au domaine foncier rural, 28 juillet 2004, art. 1.

⁴⁷⁰ Desdoigts, A. and Kouassi Kouadio, H., 2012, op. cit., pp. 13; 19.

⁴⁷¹ Bredeloup, S., 'La Côte d'Ivoire ou l'étrange destin de l'étranger', *Revue européenne des migrations internationales*, 19, 2, 2003, p. 9.

⁴⁷² Ibid., p. 10.

in conformity with the constitution, the right to vote to nationals.⁴⁷³

This only constituted the first step. A second step was the progressive development of the concept of *Ivoirité* and the application of the myth of ethnic purity – the distinction between “real” and “false” Ivoirians – to national political life. The electoral law of 1994 included restrictive conditions for the eligibility of the President of the Republic, following the ideal of ethnic purity. The ruling party’s objective was to evict the then main political opponent and current President, Alassane Ouattara.⁴⁷⁴

A third and rather confusing approach was the mix between the strategy of a political clientele including foreigners and the concept of *Ivoirité*. Since the Code of nationality of 1972, the law of blood prevails, and, for individuals born in Côte d'Ivoire to foreign parents, acquisition of nationality by declaration is no longer an option. The Code does recognise the possibility of naturalisation.⁴⁷⁵ In practice, however, few naturalisations were carried out following the legal procedure. However, many fraudulent practices occurred – encouraged to some extent by the authorities – in order for foreigners to obtain national identity cards.⁴⁷⁶ At the same time, in the context of the ethnic purity obsession, the question of distinction between foreigners and nationals became central. Several laws were adopted between 1998 and 2004 to improve the mechanisms of identification of nationals and foreigners through national identity cards and stay permits.⁴⁷⁷

4.4.2.2.2 Labour migration

Access to national labour market

Legislation/Policy Framework	Description
Law No. 2002-03 of 3 January 2002 regarding Identification of Persons and Stay of Foreigners in Côte d'Ivoire	Art. 11 sets the principle that a stay permit ⁴⁷⁸ is required for the exercise of a salaried activity, as well as a visa of the work contract granted by the “authority in charge of controlling the stay of foreigners” (in other words, the Ministry of Interior).

⁴⁷³ Loi No. 94-642 du 13 décembre 1994 portant Code électoral.

⁴⁷⁴ Bredeloup, S., 2003, op. cit., p. 10.

⁴⁷⁵ Loi No. 61-415 du 14 décembre 1961 portant code de la nationalité ivoirienne modifiée par la loi No. 72-852 du 21 décembre 1972.

⁴⁷⁶ Bredeloup, S., 2003, op. cit., pp. 10; 13.

⁴⁷⁷ See, for example, *Exposé des motifs du projet de loi relative à l'identification des personnes en Côte d'Ivoire et abrogeant la loi No. 98-448 du 4 août 1998*, 2001.

⁴⁷⁸ *Titre de séjour*.

Regulation No. 64-21 of 15 June 2004 modifying Regulation No. 1437 of 19 February 2004 relating to the Regulation of Recruitment and Visa Fees for Work Contracts of Non Nationals⁴⁷⁹

Art. 2 requires the employer to make a preliminary declaration to the public employment services⁴⁸⁰ (AGEPE) and to publish the job offer in question in a national newspaper for a duration of one month before starting the recruitment process.

Art. 3: The work contract – or letter of employment – must be approved by the AGEPE.

Art. 4: The decision must be taken within eight days and is based on the situation of the labour market.

Art. 3: Within the first three months of his/her employment, the worker must request a work card.⁴⁸¹

The common policy on employment of foreigners is based on the mechanism of the labour market test. However, the essential question concerns the employment of ECOWAS Member States nationals. As seen above, Ordinance No. 2007-604 of 8 November 2007 regarding the Suppression of the Stay Permit states the principle that ECOWAS Member States nationals do not need a residence permit to stay in Côte d'Ivoire; they are requested only to hold "documents of identification" delivered by their country of origin.⁴⁸² No mention is made of their access to employment. Whether this means that they are still requested to obtain a work authorisation or can access the labour market freely is not entirely clear. In order to answer this question, it should be noted that the relevant ECOWAS protocols exclude the principle of the labour market test. In addition to this, the 2007 Ordinance is more favourable to ECOWAS Member States nationals than the protocols. Finally, without full right of access to the labour market, the liberal provision of the 2007 Ordinance would be stripped of its content. It therefore seems correct to assume that ECOWAS Member States nationals are not requested to obtain a work authorisation in order to be employed in Côte d'Ivoire.

The overwhelming majority of ECOWAS Member States nationals are employed within the informal sector. In most West African countries, foreigners are generally in an irregular situation because their employment in the informal sector does not allow them to obtain a stay permit. In Côte d'Ivoire, if the logic of the 2007 Ordinance is followed to its conclusion, it may be the opposite: ECOWAS Member States nationals, who do not need a stay permit, cannot be in an irregular situation even though they may work in the informal sector.

⁴⁷⁹ Arrêté No. 64-21 du 15 juin 2004 portant modification de l'arrêté No. 1437 du 19 février 2004 relatif à la réglementation du recrutement et des frais de visa du contrat des personnels non nationaux.

⁴⁸⁰ Agence d'études et de promotion de l'emploi.

⁴⁸¹ Carte de travail.

⁴⁸² Ordinance No. 2007-604 of 8 November 2007 regarding the Suppression of the Stay Permit, art. 2.

Rights within employment

Legislation/Policy Framework	Description
Labour Code	<p>Art. 2 provides for equal treatment with nationals. As a principle, foreigners, regardless of their legal status, benefit from all obligations and rights from the labour legislation.</p> <p>Art. 55.1 includes an exception to the principle of equal treatment concerning trade unions. While all foreigners can join a trade union, only those who have stayed in Côte d'Ivoire for a minimum of three years or those nationals from states with which Côte d'Ivoire has concluded reciprocal agreements can fulfil administration and direction functions.</p> <p>Art. 26.1; Art. 26.2 impose on the employer the duty to cover the cost of travel from the place of residence to the place of work, as well as the cost of return travel at the end of the work contract or in the case of vacating the post.</p>

4.4.2.2.3 Irregular migration

Legislation/Policy Framework	Description
Law No. 90-437 of 13 May 1990 regarding Entry and Stay of Foreigners in Côte d'Ivoire	Art. 15: Deportation is foreseen for foreigners who enter and/or stay in the country without the required documentation.
Law No. 2004-303 of 3 May 2004 modifying the Law No. 2002-03 of 3 January 2002 regarding Identification of Persons and Stay of Foreigners in Côte d'Ivoire	<p>Art. 15: Irregular stay constitutes a criminal offence, punishable by one to five years of imprisonment and a fine.</p> <p>Foreigners threatening public order can be expelled and criminals banished from the country for a period of five years, or, in the case of recidivism, for life.</p> <p>Art. 16: Facilitating the stay of foreigners in an irregular situation and allowing them to perform any civil act is also punishable by imprisonment and a fine.</p>

Although the Ivorian legislation is extremely restrictive with regard to matters relating to irregular migration, it should be noted that Law No. 90-437 of 13 May 1990 regarding the Entry and Stay of Foreigners in Côte d'Ivoire protects certain categories of foreigners against expulsion, including those aged under 21 years, those who have been residing in Côte d'Ivoire since they were 10 years old or for more than 15 years, as well as spouses of Ivorian nationals.⁴⁸³ In addition, irregular migration in Côte d'Ivoire can be considered to be *de facto* a constricted problem since Ordinance No. 2007-604 of 8 November 2007 regarding the Suppression of the Stay Permit has set the principle that ECOWAS Member States nationals do not need to hold a residence permit to legally stay in Côte d'Ivoire.

4.4.2.2.4 Migrants at risk

Legislation/Policy Framework	Description
Penal Code	<p>Art. 378: Forced labour of children and adults is prohibited and punishable by one to five years imprisonment.</p> <p>Art. 376: Contracts that deprive the freedom of to a third person are prohibited and expose the offenders to five to ten years' imprisonment.</p> <p>Art. 335 to Art. 337: Exploitation of adults and children in prostitution carries a punishment of one to ten years imprisonment.</p>

⁴⁸³ Law No. 90-437 of 13 May 1990 regarding Entry and Stay of Foreigners in Côte d'Ivoire, art. 17.

Law No. 2010-272 pertaining to the Prohibition of Child Trafficking and the Worst Forms of Child Labour⁴⁸⁴

The 2010 Law covers the issue of child trafficking in quite a comprehensive manner, but, as indicated in its title, does not include provisions regarding trafficking of adults.

Art. 18 to Art. 34: Offenders are subject to penalties of a maximum of 20 years of imprisonment, as well as fines.

Art. 40: The state and local communities are responsible for the protection of victims through the provision of food, shelter, health care, psychological support, reinsertion, and, if applicable, repatriation.

At the institutional level, two specific bodies were established in 2011: the Joint Ministerial Committee on the Fight against Trafficking, Exploitation and Child Labour and the National Monitoring Committee on Actions to Fight Trafficking, Exploitation and Child Labour.⁴⁸⁵ The Joint Ministerial Committee is chaired by the Minister of Employment and is entrusted with the responsibility of conceiving, coordinating and implementing anti-trafficking and child labour policies. The National Monitoring Committee is composed of national and international organisations active in the protection of children and workers, and has the mission of following up on and evaluating the Government's actions.

A National Plan of Action 2012-2014 to Fight Trafficking, Exploitation and Child Labour⁴⁸⁶ has also been adopted, and revolves around four main axes: prevention, protection, prosecution, and follow-up. As indicated by its title, the objectives of the Action Plan focus on children. The issue of trafficking of adults is not considered.

Regarding implementation measures, the U.S. Department of State's latest *Trafficking in Persons Report* noted that "the Government of Côte d'Ivoire conducted 15 investigations, commenced eight prosecutions and convicted two trafficking offenders" in 2012.⁴⁸⁷ Also in 2012, the training of judges was initiated in cooperation with the ILO.⁴⁸⁸ Regarding protection, the national authorities rely mainly on NGO-run shelters, with which formalised referral mechanisms are yet to be developed. Repatriation is organised on an *ad hoc* basis in cooperation with the relevant diplomatic and consular posts, and local communities.⁴⁸⁹ In the past few years, several nationwide awareness campaigns have been organised.

4.4.2.3 Emigration

4.4.2.3.1 Labour migration

With regard to labour migration, national authorities are yet to identify the competencies to be promoted abroad and those for which promotion should not be undertaken. Activities related to the identification and assessment of existing and potential new countries of destination are non-existent and public employment services do not have the means to match demand and supply on the international labour market. The Labour Code foresees the possibility for private employment agencies to operate,⁴⁹⁰ although

⁴⁸⁴ Loi No. 2010-272 portant interdiction de la traite et des pires formes de travail des enfants.

⁴⁸⁵ Comité national de surveillance des actions de lutte contre la traite, l'exploitation et le travail des enfants.

⁴⁸⁶ Plan d'action 2012-2014 de lutte contre la traite, l'exploitation et le travail des enfants.

⁴⁸⁷ U.S. Department of State, 2013, op. cit. p. 142.

⁴⁸⁸ Ibid.

⁴⁸⁹ Ibid.

⁴⁹⁰ Labour Code, art. 11-1; 11-2.

to date, no specific legislation has been adopted to regulate this sector. In practice, the role of private employment agencies is mostly limited to the national labour market.

4.4.2.3.2 Migration and development

A migration and development policy has yet to be developed. There are no mechanisms to facilitate the involvement of the diaspora in the economic and social life of the country, although it should be noted that Ivorians residing abroad can participate in presidential elections. Mechanisms to better channel migrants' remittances are also lacking, although efforts have been made to lower the cost of transfers. Finally, the issue of brain drain has yet to be addressed at political level.

4.4.2.3.3 Migrants' protection

Social security agreements

Côte d'Ivoire has concluded a social security agreement with France. Several payment agreements between social security authorities have also been concluded over the years (with Burkina Faso, Benin, Togo, Mali, Niger and Senegal). Côte d'Ivoire has signed the inter-African social security convention (CIPRES Convention),⁴⁹¹ but is still yet to ratify it.

Future policy initiatives

Although there is a lack of emigration policies, national authorities have expressed the will to move forward in this regard. First of all, at institutional level, the Ministry of African Integration and Ivorians Abroad has been created. Furthermore, the current National Development Plan includes a series of emigration-related objectives to be adopted in the coming years: a general migration policy is to be adopted, a specific migration and development policy is to be developed, and a National Migration Office is to be put in place.⁴⁹² Finally, the Plan seeks to promote the circulation and establishment of Ivorian nationals in African countries.⁴⁹³

4.4.3 International, regional, and bilateral cooperation

International conventions

Among most relevant international conventions protecting human rights, Côte d'Ivoire has ratified:

- the International Covenant on Civil and Political Rights (1966);
- the International Covenant on Economic, Social and Cultural Rights (1966);
- the Convention on the Elimination of All Forms of Discrimination against Women (1979);
- the Convention on the Rights of the Child (1989); and
- 34 ILO Conventions.

⁴⁹¹ *Convention multilatérale de sécurité sociale de la Conférence interafricaine de la prévoyance sociale.*

⁴⁹² République de Côte d'Ivoire, 2012a, op. cit., pp. 40; 68; République de Côte d'Ivoire, 2012b, op. cit., p. 158.

⁴⁹³ République de Côte d'Ivoire, 2012a, p. 86.

Côte d'Ivoire has not ratified the two ILO conventions specifically on migrant workers (C 97 (1949) and C 143 (1975), nor has it signed or ratified the Convention on the Protection of the Rights of All Migrant Workers and Members of their Families (1990). It has ratified both the United Nations Convention against Transnational Organized Crime (2000) and its Protocol on trafficking in persons, but not the Protocol on smuggling of migrants.

As well as these global conventions, Côte d'Ivoire is bound by ECOWAS texts, including its Treaty (1975) and its subsequent protocols regarding the free movement of persons, residence and establishment.

Bilateral agreements

Côte d'Ivoire's institutionalised bilateral relations on migration-related matters are limited. The main bilateral agreement in the area of entry and stay is that which has been concluded with France. This agreement, the 1992 Convention on Circulation and Stay of Persons between Côte d'Ivoire and France,⁴⁹⁴ includes some derogations to common French immigration legislation: providing for the delivery of the same stay/residence permit to family members in case of family reunification (instead of a temporary stay permit under French administrative law), as well as the possibility to obtain a 10 year residence permit after three years of stay in the country (instead of five years under French administrative law). A social security convention has also been concluded with France in 1985.

In 1960, a convention was signed with Burkina Faso (Upper Volta at the time), Côte d'Ivoire's main supplier of foreign labour. The convention was specifically dedicated to the conditions of recruitment and employment of Voltaic migrants in Côte d'Ivoire.⁴⁹⁵ Its application was suspended in 1974 due to the absence of respect for a number of the convention's provisions.

⁴⁹⁴ Convention entre la Côte d'Ivoire et la France relative à la circulation et au séjour des personnes, 21 septembre 1992.

⁴⁹⁵ Convention relative aux conditions d'engagement et d'emploi des travailleurs voltaïques en Côte d'Ivoire, signée le 9 mars 1960.

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4.4.5 List of interlocutors

Name of respondent	Position	Institution
B. Ogni Kanga	Technical Advisor	Ministry of African Integration and Ivorians Abroad ⁴⁹⁶
H. Sobo Nianke	Clerk	Ministry of Justice and Human Rights ⁴⁹⁷
M. Kouadio	Head of Department, Balance of Payments, Treasury Department	Ministry of Economy and Finance ⁴⁹⁸
F. Foa Bi Zaro		Agency for Research and Employment Promotion ⁴⁹⁹
E. Aka Doré Désiré	Head of Division for Demography	National Statistics Institute ⁵⁰⁰
D. Kouide	Head of Department, Documentation and Archives	Investment promotion centre ⁵⁰¹

⁴⁹⁶ *Ministère de l'Intégration africaine et des Ivoiriens de l'extérieur.*

⁴⁹⁷ *Ministère de la Justice et des Droits de l'homme.*

⁴⁹⁸ *Ministère de l'Économie et des Finances.*

⁴⁹⁹ *Agence d'études et de promotion de l'emploi.*

⁵⁰⁰ *Institut national de la statistique.*

⁵⁰¹ *Centre de promotion des investissements en Côte d'Ivoire.*

4.5 The Gambia

4.5.1 Migration trends

4.5.1.1 Immigration

Data	Year	Absolute numbers	% of the Total Population
Population and Housing Census ⁵⁰²	2003	119,776 foreign born	8%

4.5.1.1.1 Characteristics of immigrants/foreigners

Countries of origin:	According to the 2003 census data, 93% came from West African countries, with the following being the main countries of origin: Senegal (50%), Guinea (20%), Guinea-Bissau (8%), Mali (6%), Cameroon (3%), Mauritania (3%), and Nigeria (3%). The country also hosts an important share of immigrants from other ECOWAS countries, such as Sierra Leone. According to government officials interviewed, Indian and Lebanese nationals also reside in The Gambia in relatively large numbers.
Settlements:	Urban and coastal areas. ⁵⁰³
Socio-demographic profile:	According to the Household Poverty Surveys 2003 and 2010, migrants are predominantly male (57%), with differences according to the respective countries of origin. ⁵⁰⁴
Socio-economic profile and sectors of employment:	According to the Household Poverty Surveys 2003 and 2010, the distribution of migrant workers according to sector is different compared to that of the national population. Retail, wholesale and tourism are the most important employment sectors (43%), followed by agriculture, mining, and fishing (16%), manufacturing (10%), and finance and business services (5%). More migrant workers are employed in business compared to the native population (25% compared to 14% respectively) or own a business (4%, versus 1% among the native population). 3% of migrant workers are employed in the public sector, mainly as teachers. ⁵⁰⁵ On average, skill levels are similar to Gambian nationals but with a higher share of individuals who received no formal education and those who are higher-skilled. According to government officials interviewed, a high proportion of Senegalese immigrants work as petty traders, Lebanese immigrants tend to work in the business sector and in the service industries, and many Nigerian and Indian immigrants own supermarkets and export cashew nuts from The Gambia.
Vulnerable groups:	As regards human trafficking, "The Gambia is a source, transit, and destination country for women and children subjected to forced labor and sex trafficking". ⁵⁰⁶ The Gambia serves as a destination for women and children trafficked from countries such as Senegal, Sierra Leone, Liberia, Ghana, Nigeria, Guinea-Bissau, Guinea, and Benin.

⁵⁰² Gambia Bureau of Statistics, *2003 Population and Housing Census*.

⁵⁰³ Gajigo, O., Verdier-Chouchane, A., *Immigrants, Skills and Wages in the Gambian Labor Market*, Working Paper Series No. 203, African Development Bank, 2014.

⁵⁰⁴ Gambia Bureau of Statistics, *Migration and Urbanisation Survey 2009. Household and Migration Analysis*. 2012.

⁵⁰⁵ Gajigo, O., Verdier-Chouchane, A., 2014, op.cit.

⁵⁰⁶ U.S. Department of State, *Trafficking in Persons Report 2013*, 2013, p. 173

4.5.1.2 Emigration

Data	Year	Estimates
World Bank Migration and Remittances Factbook 2011 ⁵⁰⁷	2010	64,905 Gambians residing abroad

4.5.1.2.1 Characteristics of emigrants/nationals abroad

Countries of destination/ residence:	<ul style="list-style-type: none"> • According to the World Bank Migration and Remittances Factbook 2011,⁵⁰⁸ the five main countries of destination are Spain (18,112), the United States (7,472), Nigeria (6,509), Senegal (5,881), and the United Kingdom (5,198), followed by a significant presence in EU countries (mainly Germany and Sweden). Unofficial estimates of the Gambian-born population in the U.S. are nearly twice as high as official statistics.⁵⁰⁹ • EUROSTAT data suggests that, in 2013, the three biggest registered communities of Gambian-born population in the EU⁵¹⁰ were in: Spain (18,103), Sweden (4,285), and Italy (1,231) – states such as the United Kingdom or Germany have not provided data for that year. • In the case of Spain, the biggest community of Gambian-born residents is in Catalonia. The Gambian community in Spain increased steadily between 2000 and 2009. Since then, due to the economic crisis and the lack of employment opportunities in Spain, the immigration flow has stagnated.⁵¹¹
Socio-demographic profile:	<ul style="list-style-type: none"> • The Migration and Urbanisation Survey of 2009 suggests that 78% of Gambians abroad were male, whereas only an estimated 22% were female. In addition, the findings of the survey indicate that almost 30% of all Gambians abroad left The Gambia between the age of 20 and 24.⁵¹² • In the case of Spain, 80% of Gambians are men.⁵¹³
Education level/ sectors of employment:	<ul style="list-style-type: none"> • According to Docquier and Marfouk, in 2000, The Gambia had the second largest emigration rate of tertiary-educated population in sub-Saharan Africa (63%).⁵¹⁴ Moreover, data compiled by Clemens and Pettersson indicated that 53% of all physicians and 66% of all professional nurses born in The Gambia were practicing outside the country in 2000.⁵¹⁵ • In the case of Spain, the level of education of Gambians is rather low as most come from rural areas. This was also confirmed by the government officials interviewed and also applies to Gambians residing in Italy.

⁵⁰⁷ World Bank, *Migration and Remittances Factbook 2011*, 2010

⁵⁰⁸ Ibid.

⁵⁰⁹ Kebbeh, C.O., 'The Gambia: Migration in Africa's "Smiling Coast"', *Migration Policy Group*, 5 August 2013, 2013.

⁵¹⁰ Eurostat website: <http://epp.eurostat.ec.europa.eu/portal/page/portal/eurostat/home/>

⁵¹¹ Spanish National Institute of Statistics (INE) website: <http://www.ine.es>

⁵¹² Gambia Bureau of Statistics, 2012, op. cit.

⁵¹³ INE, op. cit.

⁵¹⁴ Docquier, F., Marfouk, A. 'Measuring International Migration by Educational Attainment' in *1990-2000: International Migration, Remittances and the Brain Drain*, pp. 151-199, 2006.

⁵¹⁵ Clemens, M., Pettersson, G., *Medical Leave: A new database of health professional emigration from Africa*. Centre for Global Development Working Paper No. 95, August 2006.

Remittances:	For 2010, the remittances inflow represented 11% of GDP, while the remittances outflow amounted to 5.5%. ⁵¹⁶ According to the IMF, remittances have decreased in the last years due to the Gambian exchange rate directives and the economic crisis, but this negative impact has been offset by the decrease in the price of fuel and other commodities. ⁵¹⁷ The Central Bank of Gambia ⁵¹⁸ estimated remittances at USD 96 million in 2012, while the IMF estimated remittances at USD 148 million (in 2013). ⁵¹⁹
Vulnerable groups:	Senegal is an important country of destination for children trafficked for domestic servitude and forced begging. The Netherlands, Italy and Lebanon are also destinations of persons trafficked from The Gambia. In addition, internal trafficking for the purpose of labour, including forced begging, and sexual exploitation also takes place, especially from rural areas to tourist and other commercial areas. Victims of forced begging are mostly children and in the case of sexual exploitation women aged between 25 and 40 years.

4.5.2 Migration policy

The Gambian government plans to develop a national migration strategy and has undertaken a number of steps towards the development of a national migration strategy, e.g. conducting the 'Migration and Urbanisation Survey 2009 – Household and Migration Analysis'. In addition, a National Platform on Migration Issues has been established (described further below).

The Gambia includes migration as part of its National Development Agenda. The Programme for Accelerated Growth and Employment (PAGE) 2012-2015 underlines this by ensuring the future creation of a National Migration Policy,⁵²⁰ and, by linking migration and development, migration is to contribute to achieving development objectives: "Migration better managed and mainstreamed in national development policies and plans will help enhance the attainment of PAGE objectives".⁵²¹

This Agenda is based on Vision 2020, the 25-year plan that has governed Gambian politics and policies since 1996. Migration is mentioned as part of the long-term objectives of this vision: "The attainment of objective in the size of households, the continuity of efforts to increase life-expectancy and a consistent set of policies to control immigration should ensure a totally manageable population that will contribute fully to the development objectives of Vision 2020."⁵²² The link between migration and employment, in particular youth employment, is one of the priority areas of the Gambian approach (see section on labour emigration).

This focus on migration is further developed in the part of the document which addresses strategic issues: "Critical factors affecting population growth include a high fertility rate, a decreased rate of mortality and migration both within our borders and from neighbouring countries. (...) Efforts shall continue to control migration from outside our borders whilst creating sufficient conditions for a proper integration of foreigners who are legal residents of The Gambia. Increased industrialisation and a spatial distribu-

⁵¹⁶ UNDP, 'Human Development Report 2013', 2013, p. 184.

⁵¹⁷ IMF, Country Report No. 13/289, p. 10.

⁵¹⁸ Central Bank of Gambia, 'Balance of Payments 2012 and 2013', 2012.

⁵¹⁹ IOM, 'Gambia: country profile'.

⁵²⁰ Republic of The Gambia, Programme for Accelerated Growth and Employment 2012-2015 (PAGE), p. 121

⁵²¹ Ibid., p. 36.

⁵²² Republic of The Gambia, Vision 2020, Part I: Long-Term Objectives.

tion of industry shall complement efforts to curb rural-urban migration.”⁵²³

4.5.2.1 Institutional framework on migration

Governmental stakeholders involved

Ministry	Agency, Direction, Unit	Responsibilities
Ministry of Interior	Gambia Immigration Department (GID) Police	<ul style="list-style-type: none"> Immigration management for national development⁵²⁴ Naturalisation and registration process Entry clearance and visas, passport issuance Professional Standards Unit (established in 2008 as a means for Gambians and non-Gambians to lodge complaints when their rights have been violated by an immigration officer)
Gambia Bureau of Statistics	Semi-autonomous statistics agency under the Department of State for Finance and Economic Affairs	<ul style="list-style-type: none"> Collects and analyses national data on migration
Ministry of Justice	National Agency against Trafficking in Persons	<ul style="list-style-type: none"> Administers the provisions of the 2007 Trafficking in Persons Act Investigates reports of trafficking activities Protection of victim rights Compiles databases and lists of trafficking cases, offenders and victims
Ministry of Foreign Affairs, International Cooperation and Gambians Abroad		<ul style="list-style-type: none"> Consular assistance to Gambians living abroad Bilateral, regional and international agreements on migration Identification and repatriation of Gambians living abroad Deploys an <i>ad hoc</i> division in charge of involving Gambian communities abroad in national development strategies⁵²⁵
Ministry of Health	Department of Social Welfare	<ul style="list-style-type: none"> Assistance to child trafficking victims
Ministry of Trade, Industry, Regional Integration, and Employment	Department of Labour Employment Unit	<ul style="list-style-type: none"> Migrant workers Labour inspections at workplaces (number of employed and registered foreign workers and working conditions)
Ministry of Youth and Sports		<ul style="list-style-type: none"> Youth development programmes Raising awareness on the risks of (irregular) migration
Central Bank of The Gambia		<ul style="list-style-type: none"> Publishes quarterly data on remittances in their balance of payments

Inter-institutional coordination

The Immigration Department under the Ministry of Interior is the lead organisation responsible for the management of migration flows in The Gambia. Inter-institutional coordination on migration issues mainly takes place on an *ad hoc* basis through information-sharing between the institutions mentioned above. A National Platform on Migration Issues was established in order to discuss migration in the

⁵²³ Ibid., Part III: Strategic Issues.

⁵²⁴ Gambia Immigration Department website, 'Our Vision and Mission', http://www.gid.gov.gm/index.php?option=com_content&view=article&id=17&Itemid=38.

⁵²⁵ Ministry of Foreign Affairs, International Cooperation and Gambians Abroad website, 'Organization Structure', http://www.mofa.gov.gm/index.php?option=com_content&view=article&id=19:orgstruc&catid=5:about-us&Itemid=39.

country and its challenge and some meetings have taken place already. The further institutionalisation of the platform is pending as the Gambian government awaits financial support for this activity. According to the state officials interviewed, a national migration policy, once it has materialised, would address inter-institutional coordination.

The National Agency Against Trafficking of Persons (NAATIP) under the Ministry of Justice is one example of institutionalised inter-ministerial cooperation as it consists of several government agencies.⁵²⁶ Furthermore, a National Task Force against Trafficking in Persons (NTF) was established in 2004.⁵²⁷ The NTF consists of technical staff involved in combatting human trafficking activities.

Furthermore, the Expatriate Quota Allocation Board, as described further below, consists of various different ministries and institutions, namely the Ministry of Trade/Department of Labour, the Ministry of Interior, the Gambian chamber of Commerce and Industry, the Gambian Revenue Authority, the Gambia Investment and Export Promotion Agency (GIEPA), the Ministry of Finance, and the Personal Management Office (deals with human resources of the government agencies).

4.5.2.2 Immigration: national policy framework and institutional practices

4.5.2.2.1 General immigration provisions

The Immigration Act provides the legal framework for immigration and includes the following entry and residence permits and provisions⁵²⁸:

Type	Description
Visa	<p><u>ECOWAS nationals</u></p> <ul style="list-style-type: none"> Period of 90 days visa free applies <p><u>Non-ECOWAS nationals</u></p> <p>Different provisions apply related to the country of origin or residence:</p> <ul style="list-style-type: none"> for a number of countries, entry clearance⁵²⁹ by the Director General of Immigration is required; for some countries both visa and entry clearance is required; and in some cases (several Western European countries and the U.S.) a visa is issued upon arrival. <p>The visa can be extended for two more months.</p>

⁵²⁶ The board members are: Chairman of the Board, NAATIP, Ministry of Trade, Industry and Employment, Ministry of Interior, Ministry of Foreign Affairs, National Intelligence Agency, Gambia Immigration Department, Department of Social Welfare, Christian Council, Supreme Islamic Council, Child Protection Alliance, Gambia Police Force, and Gambia Chamber of Commerce and Industry.

⁵²⁷ The NTF members are: NAATIP, Department of Social Welfare, Department of Labour, Gambia Policy Force, Interpol, Child Fund, Child Welfare Unit Police, UNICEF, Centre for Street Children and Child Trafficking Studies, Ministry of Foreign Affairs, Ministry of Basic and Secondary Education, Ministry of Interior, Child & Environment Development Association (CEDAG), West African Network (WAN), and Customs.

⁵²⁸ The 'Immigration Act', the main piece of legislation in this field, was not accessible and the information as stated in this sub-section is based on interviews with government officials, complemented by information available on the website of the Gambian Ministry of Interior.

⁵²⁹ Entry clearance' means the person wishing to visit The Gambia has to apply to the Director General of Immigration and the application is then vetted at the clearance office. A prescribed fee of GMD 1,000 (USD 22) is paid before the issuance of the entry clearance.

Residence Permit A	<ul style="list-style-type: none"> Valid for one year, renewable (request for renewal has to be made at least four months before expiry of the previous permit) Applicable to students and retired civil servants, who must not engage in any work during their stay Fee of GMD 1,100 (USD 25) applies to both ECOWAS and non-ECOWAS nationals
Residence Permit B	<ul style="list-style-type: none"> Issued to both ECOWAS and non-ECOWAS nationals to work and reside in The Gambia Applies to Foreign skilled workers⁵³⁰, valid for one year, renewable Includes access to the labour market The applicable fee differs for non-ECOWAS and ECOWAS nationals (GMD 1,300 (USD 30) for ECOWAS nationals and GMD 1,800 (USD 40) for non-ECOWAS nationals).
Residence Permit B Gratis	Issued to foreigners invited by the government.
Naturalisation	<p>The following is required in order to apply:</p> <ul style="list-style-type: none"> legal residence in The Gambia for a period of not less than fifteen years; a recent copy of certificate of character; the provision of two referees; and the payment of a fee.

The requirements to be granted a residence permit are as follows: applicants must be staying in The Gambia not less than three months and must be in the possession of a valid travel document and, in the case of non-ECOWAS nationals, an alien's card. In addition, applicants must provide a certificate which proves 'good character' and have sufficient means to stay in The Gambia. For residence permit B, a Tax Identification Number (TIN) card is required.

Legal sources do not fully cover the decision-making process for immigrants' status and leave out the rights attached to different immigration statuses. These shortcomings are expected to be dealt with in the National Migration Policy, which is planned to be developed in the near future, as explained in the PAGE and as confirmed by the state officials interviewed for the purpose of this study.

4.5.2.2.2 *Labour migration*

The Immigration Act, the 2007 Labour Act, and the Payroll Act define the legal framework for labour immigration and the employment of foreign workers in The Gambia. The procedural requirements as defined in the Immigration Act are described in section 4.5.2.2.1.

The 2007 Labour Act does not make any reference to the employment of foreign workers and the state officials interviewed confirmed that the same rights apply within employment. According to these officials, it is, however, difficult to assess whether the treatment of foreign workers actually corresponds to the set national standards, especially as regards businesses run by foreigners.

The Payroll Act determines the taxes an employer has to pay in order to compensate for the employment of foreign workers. The Expatriate Quota Allocation Board was established to encourage businesses to hire qualified Gambian staff. When hiring expatriates, businesses are required to pay an annual tax as well as a fee (GMD 10,000 (USD 224) for ECOWAS citizens, GMD 40,000 (USD 896) for non-ECOWAS na-

⁵³⁰ As per the 2007 Labour Act, a "skilled worker" means an employee "who through acquisition, programmed or otherwise, of knowledge, attitude and behaviour, has special ability to do something".

tionals). Businesses are only allowed to employ up to 20% non-Gambians workers. If a company wishes to exceed this 20%, it has to prove that no qualified Gambian can be found in the national workforce (by publishing the job vacancy announcement).

4.5.2.2.3 Irregular migration

The GID has a special unit that deals with irregular immigration, the 'Illegal Migration Unit'. This unit is in charge of identifying suspected routes, and it also monitors harbours that may be used by migrants.

The Gambia addresses the issue of irregular stay in the country mainly through fines and subsequent regularisation of foreigners staying irregularly in The Gambia. In 2009, the Government issued a “stern warning to all landlords in The Gambia not to allow any foreigner to stay in their premises, being a compound, lodge, hotel, or any other dwelling place, without a valid passport, visa, visitors pass (laissez passé), Alien Card, or residential permit”.⁵³¹ According to government officials interviewed, foreigners become irregular by overstaying their visa. To regularise a stay through the payment of a fee to purchase a new residence permit (different for ECOWAS and non-ECOWAS nationals) is common practice and forced returns are rare.

4.5.2.2.4 Migrants at risk

Legislation/Policy Framework	Description
<p>Trafficking in Persons Act, 2007</p>	<p>Section 28 (2) – Trafficking in persons means:</p> <ul style="list-style-type: none"> a. The recruitment of, provisions of, transportation of, transfer of, harboring of, receipt of, or trading in persons; b. The use of threat, force or other forms of coercion, abduction, kidnapping, fraud, deception, the abuse of power, or a position of vulnerability; or c. The giving or receipt of payments or benefits to achieve the consent of a person having control over another person, for the purpose of exploitation within or across national borders. <p>Trafficking in persons also includes:</p> <ul style="list-style-type: none"> a. Placement for sale, bonded placement, temporary placement, placement for service, where exploitation by another person is the motivating factor; and b. Transportation of another person within and across an international border for the purpose of exploiting the person’s prostitution.

Human trafficking is prohibited in The Gambia by the 2007 Trafficking in Persons Act. The Act also establishes the NAATIP and regulates its composition, powers, functions, and responsibilities. The Act prohibits all forms of trafficking in persons and provides for penalties (life imprisonment for trafficking persons under 18 years, or when the trafficking includes the rape or death of the victim of trafficking, and a minimum of 15 years imprisonment for trafficking in adults). Provisions concerning the protection of victims of trafficking include ensuring non-discrimination, access to adequate medical, psychological and legal services, and takes into account safety and integrity when dealing with victims of trafficking (as defined in the Trafficking in Persons Act 2007 Part 1X section 45). Gambian legislation was reinforced in October 2010 through an amendment that increases the prescribed penalties to 50 years to life imprisonment for all forms of trafficking. Two further pieces of legislation aim at defending migrants at risk. These are The

⁵³¹ Marenah, S., 'GID warns against harbouring foreigners', *Gambia News Community*, 2 October 2009.

Gambia's 2005 Children's Act that prohibits child trafficking and the 2003 Tourism Offenses Act, which provides for sexual offenses of tourists against children, as well as for the prohibition of trafficking in children (which carries a penalty of 10 years in prison without the option of paying a fine).

The National Agency against Trafficking in Persons under the Ministry of Justice has been operational since February 2012. As mentioned above, the NAATIP has been operational since 2004. The implemented activities are built on the four pillars of prevention, protection, prosecution, and partnership. In addition, the government has updated the four-year national action plan on trafficking covering 2012-2016. In the area of prevention, awareness-raising campaigns are implemented in cooperation with civil society organisations, the Gambia Immigration Board, and the Police. To give a few examples, awareness-raising campaigns targeting border posts have been organised, training sessions for parliamentarians, judges, magistrates, schools, and law enforcement academies have been conducted, and public campaigns on radio and television have been disseminated. Although some investigations regarding potential trafficking crimes have been conducted in the past few years, they have largely failed to identify victims or initiate prosecutions and generally prosecution remains difficult. The Department of Social Welfare is responsible for the provision of shelter, family tracing, psychosocial support, and therapeutic services. Furthermore, efforts are also made to identify potential victims of trafficking. For example, foreign children who are found without parental care or a responsible adult in The Gambia are repatriated to their countries of origin.

In terms of protection for refugees and asylum seekers, the Refugee Act, passed in 2008, intends to make better provision for the management of refugee matters through the establishment of the Gambia Commission for Refugees.

4.5.2.3 Emigration

4.5.2.3.1 Labour migration

Legislation/Policy Framework	Description
Labour Act, 2007	Sections 33-36: Labour-only subcontracting without an exemption is forbidden. "A person who commits an offence under subsection (1) is liable to a fine non exceeding five hundred dalasis for each day of each defence or [...] to both imprisonment and to deportation from The Gambia if he or she is not a citizen of The Gambia."

The 2007 Labour Act regulates labour-only subcontracting which would also apply to foreign private recruitment agencies in the case that they do not possess a certificate of exemption.

The Gambia has signed bilateral agreements with Spain and Italy on irregular migration which have a component related to labour migration. In addition, agreements have been signed with both Qatar and Taiwan (more details under section 4.5.3). The agreement with Qatar signed in 2010 focuses on "regulating the Employment of Gambian Workers in the State of Qatar".⁵³² The agreement includes the provision of job-related information to potential migrants in advance, visa and travel facilitation, stipulated rights for sending remittances, etc.

⁵³² Gulf Labour Markets and Migration (GLMM), 'Gambia – Qatar Agreement regulating the Employment of Gambian Workers in the State of Qatar', 2010.

The emigration of workers, especially among the youth is of concern to The Gambia. In the framework of the Spain/ECOWAS Fund on Migration and Development, a project was implemented which focuses on the prevention of irregular migration and the integration of returnees in the labour market. The initiative aimed to reduce youth irregular migration through apprenticeship training, skills development, employment creation, and counseling for returned or in risk youth. Organised with the Ministry of Trade, Regional Integration and Employment in partnership with the Department of Immigration (Ministry of Interior), the specific objectives were “to raise awareness on the importance of skills acquisitions and the migration risks, and to integrate the repatriated youth, creating opportunities for further education and training”.⁵³³

Another government initiative, which is being phased out at the time of writing, is The Gambia Priority Employment Programme (GAMJOBS). The overall objective of this programme was to create an enabling environment for employment creation. The National Youth Service Scheme which started in 1996 was created to provide youth with skills for employment. It emphasises self-reliance and aims to discourage irregular migration. In addition, the so-called ‘Green Industry’ project intends to create employment in the agricultural field, whilst the Campaign Against Rural Urban Drift (CARUD) was established with the objective of reducing rural-urban migration by creating avenues for employment for Gambian youth in the area of poultry and agriculture. Furthermore, the National Enterprise Development Initiatives (NEDI) is tasked with empowering Gambian youth through the provision of training and loans for entrepreneurship, also with the aim of reducing irregular emigration.⁵³⁴

4.5.2.3.2 *Migration and development*

In recent years, the Gambian government has increased its efforts to intensify relations with the Gambian diaspora and to include remittances as part of the socio-economic development goals of the country. For this purpose, a two-day meeting with the Gambian Diaspora with the name ‘Harnessing Diaspora Engagement’ was organised in 2012. In the words of Ousmani Sonko, Minister of Interior of The Gambia, the meeting aimed at “laying a comprehensive and substantial collaboration that seeks to pave the way for more substantial development”.⁵³⁵ This kind of initiative may be considered particularly important as there has been a history of tension between the Gambian Diaspora and the Government, especially since the 1994 military coup.

Addressing the challenges of highly skilled migration

The high emigration rate is of concern for the Gambian government. The shortage of qualified nationals is considered as negatively impacting on the progress towards achieving the Millennium Development Goals, particularly in the areas of health, education, and agriculture. To address this issue, a number of initiatives have been implemented to promote the employment of the youth population (see sub-section above).⁵³⁶

⁵³³ Euromed-Migration, ‘Spain/ECOWAS Fund for Migration and Development’, p.18

⁵³⁴ Ousmani Sonko, Statement of the Honourable Minister of the Interior of the Republic of the Gambia on the High Level Meeting on Migration and Development At The 68th United Nations General Assembly Meeting in New York, 3 October 2013.

⁵³⁵ Ibid.

⁵³⁶ Ibid.

4.5.2.3.3 Migrants' protection

In addition to the initiatives described above targeting the youth, the National Youth Policy (2009-2018) acknowledges the risks of irregular migration. "One current socio-economic problem confronting Gambian youth is illegal migration. In addition to the curbing of illegal migration, the new youth policy will start making plans for returning Gambian youth as western governments make immigration laws more stringent." Recommended strategies are: "(1) Special attention should be given to illegal migration and special strategies employed to integrate these returnees into mainstream society and provide them with marketable skills to enable them become economically productive in a bid to deter them from taking the risk of going to Europe again. (2) The Department of immigration should work closely with the Department of Youth and Sports and other relevant authorities to launch an aggressive advocacy programme that will sensitise the youth on the dangers of illegal migration and teach them how they can legally migrate with the proper skills training."⁵³⁷

The previously mentioned bilateral agreements with Spain and Italy include a protection component for Gambian migrants. The objective of developing capabilities in the Gambian Government in order to better manage their migratory outflows, to provide assistance to their citizens abroad, and to assist their return is also included in these agreements.

A cooperation project between Spain and the GID, the Gambia technical Training Institute (GTTI), and targeted local communities in the country aimed at providing employable skills to returnees and youths at risk, integrating returnees into their communities, building capacities of implementing stakeholders, alerting the population on the risks of irregular migration, and creating, managing, and sharing data on irregular migration. The final beneficiaries of this project were 480 returnees, 320 youths at risk of migration, and civil servants of the implementing institutions. According to the EU Gambia Annual Report 2013,⁵³⁸ the main activities so far have been:

- a national consultation with stakeholders on irregular migration;
- the recruitment and placement of returnees and youths at risk in the regions;
- the preparation of a training manual on career guidance and counselling; and
- building the capacities of immigration officers and developing training courses for beneficiaries through the establishment of rehabilitation and counselling centres in Tanjeh, Basse, and Farafenni.

However, as stated by the government officials interviewed for the present study, the assistance offered to returnees is yet not sufficient and in particular an orientation centre for the first days after return is needed.

4.5.3 International, regional, and bilateral cooperation

The Gambia has ratified several conventions protecting human rights, including:

537 Republic of The Gambia, National Youth Policy (2009-2018), 2009, p. 24f

538 European Union, EU-Gambia Annual Report 2013, 2013, p. 28.

- the United Nations Convention against Transnational Organized Crime (2000) and its Protocols to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children and against the Smuggling of Migrants by Land, Sea and Air;
- the International Covenant on Civil and Political Rights (1966)⁵³⁹;
- the International Covenant on Economic, Social and Cultural Rights (1966);
- the Convention on the Elimination of All Forms of Discrimination against Women (1979); and
- the Convention on the Rights of the Child (1989).

In addition, The Gambia has also ratified the African Charter on the Rights and Welfare of the Child. As well as these global conventions, The Gambia is also bound by ECOWAS texts, including its Treaty (1975) and its subsequent protocols regarding free movement of persons, residence and establishment. The Gambia is yet to sign the Joint ECOWAS/ECCAS Regional Plan of Action to Combat Trafficking in Persons, especially Women and Children and the Multilateral Cooperation Agreement to Combat Trafficking in Persons, Especially Women and Children in West and Central Africa.

In the last few years, The Gambia has signed migration-related agreements with Spain, Italy,⁵⁴⁰ Qatar, Senegal, and Taiwan. In 2006, Spain and The Gambia signed a Framework Cooperation Agreement in Migration and Development in order to address irregular immigration. In this bilateral agreement it is stated that "The Contracting Parties shall encourage the legal recruitment of nationals of the other Contracting Party in its territory, prior analysis of their labour markets and complementarity of these, when the qualifications of nationals of the Contracting Party of origin meet the needs of companies and employers in the host Contracting Party".⁵⁴¹ Negotiations on a Social Security Agreement are ongoing. A bilateral agreement on combatting irregular migration were made between Italy and The Gambia in 2010. Since then, periodic capacity building and training for Gambian Immigration personnel has taken place in Italy (more than 65 Gambian personnel have completed these courses in Italy since 2010). Furthermore, Italy has provided The Gambia with equipment. The bilateral agreement with the Republic of China (Taiwan)⁵⁴² deals with cooperation in immigration affairs and the prevention of human trafficking through the exchange of documents.⁵⁴³

The Gambia has also built inter-state relations with Ghana and Senegal. A Memorandum of Understanding with Senegal to combat cross-border trafficking crimes between the two countries has been signed. In addition, Senegal and The Gambia have concluded an agreement on preferred entry and stay.

⁵³⁹ With a reservation in respect of article 14(3)(d) of the Covenant in question.

⁵⁴⁰ Spanish Official Journal, 'Spain and Gambia Framework Cooperation Agreement in Migration', 28 December 2006. The agreement is available here (in Spanish): http://www.boe.es/diario_boe/txt.php?id=BOE-A-2006-22782

⁵⁴¹ Ibid., (translation by the author).

⁵⁴² Faal, M., 'Gambia, Taiwan sign agreement on immigration', Daily Observer, 18 October 2012.

⁵⁴³ This agreement may have been frozen as The Gambia has recently withdrawn official diplomatic recognition of Taiwan (December 2013).

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4.5.5 List of interlocutors

Name of respondent	Position	Institution
Tangara, A.	Deputy Permanent Secretary	Ministry of the Interior
Kalsum Cham, O.	Senior Assistant Secretary	
Sowe, O.	Deputy Permanent Secretary	Ministry of Foreign Affairs
Jallow, A.	Labour Economist, Employment Unit	Ministry of Trade, Industry, Regional Integration and Employment
Jawara Ceesay, T.	Executive Director	National Agency Agency Against Trafficking in Persons (NAATIP)
Baboucarr Mboob, P.	Director General	Gambia Immigration Department (GID)

4.6 Ghana

4.6.1 Migration trends

4.6.1.1 Immigration

Data	Year	Absolute numbers	% of the Total Population
Population and Housing Censuses	2000	740,191 foreigners ⁵⁴⁴	3.9%
	2010	600,049 foreigners ⁵⁴⁵	2.4%
United Nations, <i>Trends in International Migrant Stock: Migrants by Age and Sex</i>	2000	1,504,715 immigrants	8%
	2010	1,851,814 immigrants	6.5%

The significant decrease (-14%) of the foreign population over the past decade, shown by the population censuses, is surprising.⁵⁴⁶ One would have rather expected that the demographic, economic and political situation in both Ghana and other ECOWAS countries of origin would have led to an increase in the foreign population in the country. This credible scenario is reflected in UN data, which also provides higher estimates of the immigrant stock in Ghana. Two opposite conclusions can be drawn from these conflicting estimates: in the first case, Ghana's role as a country of destination is declining, while in the second case, the country's role as a destination country is significant and even increasing. Most academic and international organisations' reports follow the second conclusion.⁵⁴⁷

4.6.1.1.1 Characteristics of immigrants/foreigners

Countries of origin:	<ul style="list-style-type: none"> The majority of foreigners are ECOWAS Member States' nationals.⁵⁴⁸ It is believed that Nigeria constitutes the first country of origin for immigrants.⁵⁴⁹
Settlements:	According to the Ghana Statistical Service (GSS), nearly 60% of the foreign population (58.4%) reside in the Greater Accra (20.2%), Ashanti (16.7%), Northern (11.4%) and Brong-Ahafo (10.1%) regions. ⁵⁵⁰

⁵⁴⁴ Ghana Statistical Service, *Population Data Analysis Reports. Vol. 1 Socio-Economic and Demographic Trends Analysis*, 2005, p. xviii.

⁵⁴⁵ Ghana Statistical Service, *2010 Population and Housing Census. National Analytical Report*, 2013, p. 207.

⁵⁴⁶ A – partial – explanation for this situation was put forward by officials interviewed for the purpose of the present study, who suggested that many ECOWAS Member States nationals claimed to be Ghanaian nationals when surveyed during the 2010 population census as they were not in a regular situation.

⁵⁴⁷ In this regard, it is thought that the security and political stability that prevails in the country, as well as its significant and steady economic growth, makes Ghana a potentially attractive country of destination. The recent discovery of offshore oil reserves would tend to confirm this assertion. Moreover, as underlined by Quartey, "increasing immigration to Ghana has also been attributed to broader shifts in the migration landscape, as a result of the decline of Côte d'Ivoire as a migration pole due to social and political instability and the resulting economic deterioration", Quartey, P., *Migration in Ghana. A migration Profile*, IOM, 2009, p. 75.

⁵⁴⁸ According to the GSS, 86% of foreigners are Africans, among which 68.3% are nationals from ECOWAS Member States. Ghana Statistical Service, 2013, op. cit., p. 227.

⁵⁴⁹ In their draft National Migration Policy, Ghanaian authorities mention that "Nigerians alone accounted for 20.1 percent of all immigrants in the country".

⁵⁵⁰ Ghana Statistical Services, 2013, op.cit., p. 206.

Socio-demographic profile:	According to the GSS, the foreign population is young (with 45% being aged between 15 and 29) and there is a slight predominance of male migrants over women (54.5% to 45.5%). ⁵⁵¹
Socio-economic profile and sectors of employment:	<p>Foreigners tend to be overrepresented within both the least educated (40% of migrants have never attended school, as compared to 28.5% of Ghanaian nationals) and the most educated (4.7% have a bachelor's degree, as compared to 2.5% of nationals).⁵⁵²</p> <p>Similarly to Ghanaian nationals, immigrants are predominately employed within the informal sector (83% compared to 82% for the whole population).</p> <p>According to the GSS, foreigners mainly work within the agricultural, forestry and fisheries sector (37.3%) and in wholesale and retail, and repair of motor vehicles and motorcycles (24.5%).⁵⁵³ In most cases, they are self-employed (58.8%).⁵⁵⁴</p>
Vulnerable groups:	<p>Although Ghana is a country that is a source of sexual exploitation and forced labour, as well as a country of transit and destination, trafficking in persons remains mainly internal to the country, and primarily concerns children.⁵⁵⁵</p> <p>Concerning trafficking of foreigners in Ghana, the U.S. Department of State states that victims are mainly nationals from the region subjected to forced labour in agriculture and domestic work.⁵⁵⁶</p>

4.6.1.2 Emigration

Data	Year	Estimates
Population and Housing Census	2010	250,624 nationals (15 years and older) residing abroad. ⁵⁵⁷
Quartey, P., Migration in Ghana. A migration Profile	2009	Figures ranging between 1.5 and 3 million. ⁵⁵⁸

Estimates of Ghanaian migrant stock vary to a great extent depending on the sources. Sufficient material is missing to value one estimate over another, but there is nevertheless little doubt that the population census data tends to underestimate it. Despite their unquestionable utility, household surveys present a number of biases, including under-registration, as families that migrate as a whole cannot be included.

⁵⁵¹ Ibid., p. 214.

⁵⁵² Ibid.

⁵⁵³ Ibid., p. 278.

⁵⁵⁴ Ibid, p. 279. Strangely, in another section of its report, the GSS mention that the non-Ghanaian "heads of agricultural households" were only 1.5%. See *ibid.*, p. 295.

⁵⁵⁵ Sertich, M. and Heemskerk, M., 'Ghana's Human Trafficking Act: Successes and Shortcomings in Six Years of Implementation', *Human Rights Brief* 19, no. 1, 2011, p. 2.

⁵⁵⁶ U.S. Department of State, *Trafficking in Persons Report 2013*, 2013, p. 178.

⁵⁵⁷ Ghana Statistical Service, 2013, *op. cit.* p. 220.

⁵⁵⁸ See Quartey, P., 2009, *op. cit.*, pp. 57-58.

4.6.1.2.1 Characteristics of emigrants/nationals abroad

Countries of destination/ residence:	<ul style="list-style-type: none"> • It is acknowledged that the vast majority of Ghanaian migrants (over 70%) reside in ECOWAS Member States, primarily in Côte d'Ivoire, Nigeria, Burkina Faso and Togo. Around 20% of migrants reside in OECD countries.⁵⁵⁹ • The 2010 Population and Housing Census produced different results. According to the GSS, the majority of migrants (over 60%) reside in Europe and the American continent.⁵⁶⁰ • Another household survey, conducted on a much smaller scale by Global Development Network (GDN) and the Institute for Public Policy Research (IPPR), shows similar results with regard to absent migrants. However, the majority of returning migrants surveyed had resided in ECOWAS Member States.⁵⁶¹ • Diversification of countries of destination beyond ECOWAS Member States has been an ongoing trend since the 1980s. Within Africa, the main new immigration poles for Ghanaian migrants include South Africa and Libya (prior to the 2011 conflict).⁵⁶² In OECD countries, the main destinations are the U.K., the U.S., Germany, Italy, and Canada.⁵⁶³ • According to national authorities, emerging countries of destination include South-east Asian countries, Hong Kong, India, and the Gulf Cooperation Council states.
Socio-demographic profile:	<ul style="list-style-type: none"> • According to the GSS, 64% of Ghanaian migrants are male and 36% female. 78.5% are between 20 and 49 years.⁵⁶⁴ These findings concur with the findings from the GDN and IPPR survey.⁵⁶⁵
Education level/ sectors of employment:	<ul style="list-style-type: none"> • Most Ghanaian migrants have a low to medium level of skills and are primarily employed in the retail and sales sector, in construction and agriculture, as well as working as mechanics, electricians, carpenters, etc.⁵⁶⁶ • Ghana has an exceptionally high rate of skilled emigration (46%). It is estimated that 56% of doctors and 24% of nurses trained in Ghana are employed abroad, mainly in the U.K. and the U.S.⁵⁶⁷. The Consequences for the national health system are severe. In 2002, 65% of doctor positions, 68% of nursing positions, and 56.6% of positions for pharmacists were vacant.⁵⁶⁸ Similar consequences are likely to be experienced in the education system, and it is believed that over 60% of faculty positions at polytechnics and 40% in public universities are vacant.⁵⁶⁹

⁵⁵⁹ Ibid.

⁵⁶⁰ Ghana Statistical Service, 2013, op. cit. p. 221.

⁵⁶¹ Global Development Network, Institute for Public Policy Research, *Development on the Move: Measuring and Optimising Migration's Economic and Social Impacts in Ghana*, 2010, pp. 13-14. Two explanations can be provided for these apparent contradictions. Given that a recent and massive change among the migration patterns of Ghanaian nationals is unlikely, one can assume that the aforementioned surveys lack reliability and that Ghanaian migration remains largely an intra-regional phenomenon.

⁵⁶² Around 20,000 Ghanaian migrants were evacuated due to the conflict.

⁵⁶³ Quartey, P., 2009, op. cit. p. 58.

⁵⁶⁴ Ghana Statistical Service, 2013, op. cit., p. 220

⁵⁶⁵ Global Development Network, Institute for Public Policy Research, op. cit., pp. 20-21.

⁵⁶⁶ Ibid.

⁵⁶⁷ Quartey, P., 2009, op. cit., p. 71.

⁵⁶⁸ IOM, *National Profile of Migration of Health Professionals – Ghana*, 2011, p. 6.

⁵⁶⁹ Asare, P., *Labour Migration in Ghana*, 2012, p. 8.

Irregular migration:	<ul style="list-style-type: none"> • Estimates of the flows and stock of irregular Ghanaian migrants are impossible to provide. • According to the latest Ghana Immigration Service (GIS) annual report, 925 nationals were expelled in 2010, mainly from the U.K., Israel, Saudi Arabia, and the U.S.⁵⁷⁰ Such data confirms the diversification of Ghanaian migration flows. According to the Centre for Information, Discussion and Exchange on the Crossing of Frontiers and Immigration (CIREFI) database, 2,541 Ghanaians in an irregular situation were apprehended in the EU in 2007, mainly in Italy and Spain.⁵⁷¹
Remittances:	<ul style="list-style-type: none"> • According to the World Bank, remittances to Ghana amounted to 163 million USD in 2013.⁵⁷² The Bank of Ghana estimated the level of remittances at 2.14 billion USD in 2010.⁵⁷³ • It appears that most remittances are sent through official channels.⁵⁷⁴ According to the GDN and IPPR survey, 35% of remittances are sent through informal channels, such as friends and relatives, transport drivers, etc.⁵⁷⁵ • Remittances are mostly used for private consumption purposes, such as living expenses, school fees, and social activities. Between 17% and 25% of remittances are believed to be used for investment purposes.⁵⁷⁶
Vulnerable groups:	<ul style="list-style-type: none"> • Human trafficking in Ghana is principally an internal phenomenon. • However, in its latest Trafficking in Persons Report, the U.S. Department of State notes the rise of international trafficking involving private employment agencies: During the reporting period, there was an emergence of fraudulent recruitment agencies that advertised locally for jobs abroad, generally in the domestic service and retail sectors; as a result, there was an increase in the number of Ghanaian women migrating to the Middle East to work in these sectors, some of whom were subsequently forced into prostitution upon their arrival.⁵⁷⁷

4.6.2 Migration policy

It is common to argue that Ghana does not have a migration policy.⁵⁷⁸ However, to do so is somehow misleading. Indeed, over the years Ghana has adopted a significant number of legal texts and policy initiatives on the diverse components of migration management. This includes immigration as well as emigration, and within that, the issues of labour migration, irregular migration, human trafficking and the protection of migrants at risk are considered. On the whole, migration management in Ghana has reached a relatively advanced stage.

However, as emphasised in Ghana's national development plan (Ghana Shared Growth and Development Agenda 2010–2013), improvements can still be made with regard to the content of the legislation, its implementation and policy coordination. It is in this context that Ghana's authorities have decided to develop a National Migration Policy: a single comprehensive document that includes policy guidelines for all migration areas (ongoing at the time of writing). Although an advanced draft version has been

⁵⁷⁰ Ghana Immigration Service, *2010 Annual Report*, pp. 14–15.

⁵⁷¹ See Quartey, P., 2009, op. cit. p. 64.

⁵⁷² World Bank, *Remittances Data 2013*, 2013.

⁵⁷³ Republic of Ghana, *Draft National Migration Policy*, 2013, p. 55.

⁵⁷⁴ Quartey, P., 2009, op. cit., p. 69 ; Global Development Network, Institute for Public Policy Research, 2010, op. cit., pp. 37–38.

⁵⁷⁵ Global Development Network, Institute for Public Policy Research, 2010, op. cit., p. 38.

⁵⁷⁶ Quartey, P., 2009, op. cit., pp. 69–70. See also *ibid.*

⁵⁷⁷ U.S. Department of State, 2013, op. cit., p. 178.

⁵⁷⁸ For instance, Quartey, P., 2009, op. cit., p. 77 ; IOM, 2011, op. cit., p. 5; Asare, P., 2012, op. cit. p. 8; Republic of Ghana, 2013, op. cit., p. vii.

completed – and will be referred to in the following sections – a final version of the document is yet to be adopted.

4.6.2.1 Institutional framework on migration

Involved governmental stakeholders

Ministry	Agency, Directorate, Unit	Responsibilities
Ministry of Interior	<ul style="list-style-type: none"> • Migration Unit • Ghana Immigration Service • Ghana Police Service 	<ul style="list-style-type: none"> • Entry, stay and removal of foreigners
Ministry of Employment	Labour Department	<ul style="list-style-type: none"> • Intermediary on the international labour market between employers and Ghanaian job-seekers • Licensing and monitoring of private employment agencies
Ministry of Foreign Affairs	Diaspora Affairs Bureau Consular Unit	<ul style="list-style-type: none"> • Relations with nationals abroad, including their protection
Ministry of Gender, Children and Social Protection	<ul style="list-style-type: none"> • Human Trafficking Secretariat • Department of Children • Department of Gender 	<ul style="list-style-type: none"> • Fight against trafficking in persons
Ministry of Finance and the Bank of Ghana		<ul style="list-style-type: none"> • Implementation of policies regarding remittances

Other ministries and public institutions are also concerned with migration: the National Development Planning Commission, the GIS, the Ministry of Health, Justice, Tourism, and Education, etc.

Inter-institutional coordination

Migration-related legislation has led to the establishing of two main inter-ministerial institutions: the Immigrant Quota Committee, chaired by the Deputy Minister of Interior, which considers work permits applications,⁵⁷⁹ and the Human Trafficking Management Board, chaired by the Deputy Minister of Women and Children's Affairs, dealing with policy guidance on the considered issues.⁵⁸⁰

The National Migration Policy is currently being drafted by a specific inter-ministerial structure entrusted with the elaboration of migration policies: the Inter-Ministerial Steering Committee on Migration (IMSCM). The Committee is composed of officials from the Ministries of Gender, Children and Social Protection; Foreign Affairs; Trade and Industry; Education; Health; Justice; Finance; Agriculture; Tourism; Interior (GIS and Migration Unit); Employment; the National Development Planning Commission; and the GSS. The Committee is chaired by the Deputy Minister of Interior. It also comprises representatives from IOM and the Centre for Migration Studies from the University of Ghana as observers. The IMSCM institution represents progress in terms of policy coordination, which hopefully will be maintained – either in its current form or a revised one – after the adoption of the National Migration Policy.

⁵⁷⁹ Immigration Act, 2000 (Act 573), art. 25-27.

⁵⁸⁰ Human Trafficking Act, 2005 (Act 694), art. 28-33.

4.6.2.2 Immigration: national policy framework and institutional practices

4.6.2.2.1 General immigration provisions

Entry

Most provisions regarding entry do not require specific reviews. However, it is worth mentioning article 7(1) of the Immigration Act, which reads as follows: “Where an immigration officer is in doubt as to the right of any person to enter Ghana, the officer may send that person to be detained and that person shall remain in custody pending the determination of the matter”. These provisions do not provide for a maximum period of detention and do not foresee judicial guarantees to the detained individual. It can also be mentioned that the Immigration Regulations article 3(1) explicitly refers to the absence of visa requirements for ECOWAS Member States’ nationals.

Stay/residence

Legislation/Policy Framework	Description
Immigration Act (Act 573), 2000 Immigration Regulations (LI 1691), 2001	<p><i>Resident permit</i></p> <p>Act, Sect. 13: Applications for a resident permit are to be submitted to the Director of Immigration after entry in Ghana.</p> <p>Reg. 9.3: The resident permit is first granted for a maximum period of four years.</p> <p>Reg. 9.5: The spouse and children of a resident permit holder may also obtain a residence permit. Dependents are not authorised to engage in a professional activity.</p> <p><i>Indefinite residence status</i></p> <p>Act, Sect. 15.1: The main conditions of delivery are the following:</p> <ul style="list-style-type: none"> • residence of 12 months in Ghana before application; • residence of five years in Ghana during the past seven years preceding the aforementioned 12 months period; • intention to reside permanently in Ghana, and • capacity, “in the opinion of the Minister [of Interior] of making a substantial contribution to the development of Ghana” <p>Act, Sect. 16.1: The spouse of a Ghanaian national is entitled to indefinite residence under the following main conditions:</p> <ul style="list-style-type: none"> • residence of 12 months in Ghana before application; • residence of two years in Ghana before the aforementioned 12 months period; and • intention to reside permanently in Ghana. <p>It must be highlighted that contrary to the mere possibility for the spouse to obtain a residence permit as a dependent, the granting of indefinite residence status is in this case a right of the individual.</p> <p>Act, Sect. 18.1: The indefinite resident status allows to engage in professional activities without the need to obtain a work permit.</p> <p>Act, Sect. 15.3: Residence abroad for more than 12 consecutive months leads to the loss of the status.</p> <p>Act, Sect. 18.2: Children and “other dependents” of individuals who have been granted indefinite residence status or right of abode (see after) are eligible for a dependency permit.</p>

Right of abode

The legislation foresees a right of abode, which entails the same rights as that of the indefinite residence status.

Act, Sect. 17.1: The status applies to those individuals who have lost Ghanaian nationality due to the acquisition of a foreign nationality (when the legislation of the country of nationality does not allow for multiple citizenship) as well as to persons “of African descent in the Diaspora”. Those individuals are understood as those “whose immediate forebears have resided outside the African Continent for at least three generations but whose origin, either by documentary proof or by ethnic characteristics is African” (Act, Sect. 56).

Act, Sect.17.3: Among the conditions for persons of African descent in the diaspora to obtain the right of abode, mention can be made of their financial independence and their capacity to make substantial contribution to the development of Ghana.

With the exception of the requirement for regular entry, the legislation does not provide for the conditions for granting a resident permit. Regarding renewal, the provisions of the Immigration Act and the Immigration Regulations are in contradiction with each other, with the former providing for the possibility of a permit valid for a maximum of eight years, and the latter limiting the renewal to four years.⁵⁸¹ The rights attached to the dependency permit and the concept of “other dependent” are not specified.

On the whole, the general provisions of the Immigration Act and its Regulations are rather comprehensive, well-grounded and do not contradict Ghana’s international engagements (with the exception of art. 7(1) of the Immigration Act). Amendments could be adopted in order to detail a number of provisions and limit the risks of arbitrary practices by national authorities.

4.6.2.2.2 *Labour migration*

Access to national labour market

Legislation/Policy Framework	Description
Immigration Act (Act 573), 2000	Reg. 16.1: The potential employer is requested to submit an application for a work permit through the Director of Immigration.
Immigration Regulations (LI 1691), 2001	Act, Sect. 27: The Immigrant Quota Committee, an inter-ministry institution, considers work permit applications and submits its recommendations to the Minister of Interior who issues the permit. Act, Sect. 27.3: The delivery of a work permit is based on the following conditions: <ul style="list-style-type: none"> • the considered individual is not a “prohibited immigrant, a visitor, tourist, transit passenger or student”; • he/she resides either abroad or legally in Ghana; • he/she is qualified for the considered position; and • his/her employment “will be to the benefit generally of Ghana”.

⁵⁸¹ Immigration Act, 2000 (Act 573), art. 13(2): “The Director may grant residence permit for up to a period not exceeding eight years, except that, a residence permit shall not be for more than four years in the first instance”; Immigration Regulations 2001 (LI 1691), art. 9(4): “A person granted four years residence permit in the first instance may subsequently apply for an extension of the residence permit for a further period and the Director may, if satisfied that the person (a) has fulfilled all the conditions subject to which the previous permit was granted; and (b) has not abused any privilege granted that person under the previous permit; grant an extension of the permit for a period not exceeding four years.

The reference to the Immigrant Quota Committee may somehow be misleading. Indeed, labour immigration is not organised following a quota system in which annual numerical limits are fixed for the admission of migrant workers into the country. In Ghana, quotas are generally set on an individual basis; they refer to the right granted by the Immigrant Quota Committee to a specific employer to employ a certain number of migrant workers.⁵⁸²

The principal requirement for the employment of foreigners in Ghana is that it “will be to the benefit generally of Ghana”.⁵⁸³ This wording is vague, leaving a wide margin of interpretation to the Immigrant Quota Committee.

The Immigration Act and its regulations do not include provisions regarding the period of validity for the work permit. The legislation ties the work permit to a specific employer. The foreign worker cannot change employer and type of employment without the approval of the Immigrant Quota Committee. In other words, it is only when granted indefinite residence status (after a minimum of five years of residence in the country) that a migrant worker can have free access to the labour market.

The immigration legislation fails to provide specific provisions regarding the residence rights of ECOWAS Member States’ nationals. According to government officials interviewed, administrative practices are nevertheless “more flexible” with regards to residence and access to work for ECOWAS Member States’ nationals.

A number of amendments to the immigration legislation are thus required. To date, the draft National Migration Policy for Ghana does not include specific developments in this regard and simply recognises the need to “address identified gaps in existing migration-related policies and legislations”.⁵⁸⁴

What also seems to be missing is an assessment and projections of labour shortages within the national labour market with a view to better understanding the potential need for migrant workers and adopting adequate policies in this regard. This need is partially taken into consideration by the draft National Migration Policy for Ghana, mainly through the prism of the oil industry. It is planned to “enhance the capacity of the GIS to anticipate, adapt and cater for an increasing and diverse workforce from international, intra-regional and internal migration, as international investment and labour migration play an increasing role in stimulating the Ghanaian economy, currently buoyed by the emerging oil industry”.⁵⁸⁵

Rights within employment

The Labour Act of 2003 provides for equal treatment with nationals. Article 1 states: “This Act applies to all workers and to all employers except the Armed Forces, the Police Service, the Prison Service and the Security and Intelligence Agencies specified under the Security and Intelligence Agencies Act 1996 (Act 526)”. There is no exception to this principle, and foreigners benefit from all obligations and rights from

⁵⁸² However, firms with foreign participation and a capital of 10,000 USD and above are given an automatic quota comprised of between one and four foreign workers (depending on the amount of said capital). Ghana Investment Promotion Centre Act, 1994 (Act. 478).

⁵⁸³ Immigration Act, 2000 (Act 573), art. 27(3) (c).

⁵⁸⁴ Republic of Ghana, 2013, op. cit., p. 14.

⁵⁸⁵ Ibid., p. 51. See also section 8.7 ‘Plausible impacts of the oil industry and other natural resources’, p. 52.

the labour legislation, including those regarding trade unions.

4.6.2.2.3 Irregular migration

Legislation/Policy Framework	Description
Immigration Act (Act 573), 2000	Sect. 35 to Sect. 41 set procedural steps for deportation of foreigners whom are in an irregular situation, pose a threat to public order, etc.
Immigration Regulations (LI 1691), 2001	Reg. 18: “(1) A person shall not employ a foreigner except in accordance with the provisions of the Act. (2) Any body corporate which employs a foreigner in breach of the provisions of section 24 of the Act shall pay to the Immigration Service a penalty in the sum of ten million Cedis and any individual who fails to comply with the provisions of section 24 shall pay a penalty in the sum of five million Cedis. (3) A body corporate which fails to pay the prescribed penalty within seven days commits an offence and is liable on summary conviction to pay a fine of 700 penalty units and any individual who fails to pay the prescribed penalty commits an offence and is liable on summary conviction to pay a fine of 350 penalty units”.
Immigration (Amendment) Act (Act 848), 2012	Sect. 52A⁵⁸⁶: “(1) A person shall not engage in migrant smuggling. (2) A person who engages in migrant smuggling commits an offence and is liable on conviction to a fine of not less than six hundred and twenty-five penalty units and not more than one thousand, two hundred and fifty penalty units or to a term of imprisonment of not less than five years and not more than ten years or to both. (3) For the purposes of this section, migrant smuggling: means the facilitation of the unlawful entry or departure from the country of a person in order to obtain, directly or indirectly, a financial or other material benefit. (4) For the purposes of this section, facilitation” includes: (a) producing, procuring, providing or processing a travel or identity document by fraudulent means; (b) procuring by unlawful means other documentation in support of the processing of a travel or identity document; and (c) enabling a person who is not a national or a permanent resident to remain in the country without complying with the requirement for legally remaining in the country by any of the means mentioned in paragraphs (a) and (b)”.

Ghana’s current legislation and policy regarding irregular migration focuses on control. The immigration legislation includes provisions on visas, residence and work permits, deportation, sanctions of employers of irregular migrants and migrant smugglers. The draft National Migration Policy for Ghana implicitly recognises that control and restrictive measures are not sufficient, and envisages the adoption of a more comprehensive set of measures. Protection of irregular migrants is also considered: a policy objective includes the “formulation of policies and enactment of laws that duly take account of the smuggled migrants’ human rights, and that ultimately help to contain this form of irregular migration”.⁵⁸⁷ Opening more legal migration channels is also foreseen.⁵⁸⁸

⁵⁸⁶ The Immigration Act, 2000 (Act 573) was amended by the insertion of section 52A.

⁵⁸⁷ Ibid.

⁵⁸⁸ Ibid. It is planned to “develop common ECOWAS counter-migrant smuggling measures that incorporate more legal channels and orderly migration”.

Recognising that the country's borders remain porous, the draft National Migration Policy calls for a number of measures to enhance border management. The need for regional and global international dialogue, cooperation and partnerships is recognised. Among others, one of the aims of the draft policy is to "reinforce and encourage joint cross-border patrols between Ghana and the neighbouring countries to exercise identical handling of migrant smuggling".⁵⁸⁹

4.6.2.2.4 Migrants at risk

Legislation/Policy Framework	Description
Human Trafficking Act (Act 694), 2005	<p>The Act includes the definition of the crime of trafficking, procedural steps regarding its prosecution, penalties (a minimum of five years' imprisonment), and provisions dedicated to the protection of victims.</p> <p>Art. 20 to art. 27 foresee the institution of a Human Trafficking Fund for the implementation of protection measures.</p> <p>Art. 28 to art. 33 foresee the institution of a Human Trafficking Management Board, an inter-ministerial institution which is assigned the responsibility of providing policy guidance and assistance with regard to prevention, prosecution and protection.</p> <p>Art. 34 provides for the possibility to allow foreign victims in an irregular situation to stay in Ghana during investigation, and beyond this period, when it is in their best interest.</p>

As a whole, the Human Trafficking Act appears as a balanced piece of legislation, mainly inspired by the provisions of the Palermo Protocol,⁵⁹⁰ which covers the main relevant issues. Some concerns have nevertheless been expressed regarding the lack of clarity of the definition of the crime and its non-comprehensive character, which may lead to difficulties with regard to prosecution.⁵⁹¹ To date, no secondary legislation has been adopted, which weakens the capacities of the competent authorities to implement the Act.

In practice, the Board was established in 2006 and the Fund in 2008. An internal action plan and operational procedures for victim support have been adopted. Training for government officials has also been conducted. Protection of victims, through rescue, shelter, and counselling has been mainly done by NGOs. Successful prosecutions have been made, including cases of international trafficking. Despite the establishing of the Fund, which initially amounted to 75,000 USD, adequate funding remains a challenge for the successful implementation of the anti-trafficking policy.⁵⁹²

⁵⁸⁹ Republic of Ghana, 2013, op. cit., p. 24.

⁵⁹⁰ United Nations, Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime, New York, 2000.

⁵⁹¹ Sertich, M. and Heemskerk, M., 2011, op. cit., pp. 3-4.

⁵⁹² Ibid., pp. 2-7.

4.6.2.3 Emigration

4.6.2.3.1 Labour migration

Identification of countries of destination and assessment of the national labour market

Ghana lacks a comprehensive labour emigration policy. Very little has been done concerning the development of legal opportunities for labour emigration. Ghanaian authorities are yet to identify competences that can be promoted abroad, which is arguably the first step of a labour emigration policy. With regard to identification and assessment of existing and potential new countries of destination, activities have been limited to a pilot labour market database on job-matching within the ECOWAS region. Promotion activities in countries of destination are non-existent, although a bilateral labour agreement is currently being negotiated with Italy.

Public employment services

Public Employment Centres currently do not play a significant role in the recruitment of Ghanaian workers for employment abroad. Within the AENEAS 2006 project, IOM assisted the Labour Department to implement a pilot project for the recruitment of workers for employment in Italy.

Private employment agencies

Ghanaian private employment agencies are active in the recruitment of migrant workers. Despite the existence of a licensing system, most agencies operate outside the scope of the law (127 agencies are licensed out of an estimated 250 operating agencies in the country). This number is even more worrying considering that some agencies are involved in human trafficking.

Regulation of private employment agencies' activities is foreseen by the Labour Act of 2003 (Act 651) and its subsequent Labour Regulations of 2007 (LI 1833). Regarding conditions for issuing a licence, labour regulations impose a registration fee of 500 Ghana Cedis (180 USD).⁵⁹³ A security deposit of 25,000 Ghana Cedis (9,000 USD) is also requested. Licences are delivered for a period of one year, and are renewable.⁵⁹⁴ The Labour Act limits the recruitment activities of private employment agencies to countries with which Ghana has concluded labour migration agreements.⁵⁹⁵ To date, this would imply that private employment agencies can only operate with employers from ECOWAS Member States.

The labour regulations include a number of articles on foreign contracts.⁵⁹⁶ While some are well-grounded, for instance, the need for the endorsement of foreign contracts by the Labour Department⁵⁹⁷ and the

⁵⁹³ Labour Regulations 2007 (LI 1833), art. 3(2).

⁵⁹⁴ While this constitutes a common practice, it is arguable that one year is too short a period, as this time frame may discourage agencies from developing proper business strategies and is likely to have a negative effect on recruitment fees – employment agencies will be tempted to maximise their profits within the shortest time possible.

⁵⁹⁵ Labour Act 2003 (Act 651), art. 7(5).

⁵⁹⁶ Labour Regulations 2007 (LI 1833), art. 27 - art. 37.

⁵⁹⁷ *Ibid.*, art. 28; art. 30.

financial obligations of the employer regarding the travel of the worker,⁵⁹⁸ a number of these provisions are counterproductive, inapplicable in practice and may, in some cases, violate Ghana's international obligations. This is the case regarding the prohibition to conclude foreign contracts for a period longer than one year (and exceptionally, two years).⁵⁹⁹ Moreover, the law should make clear that its provisions are to be explicitly included in the foreign work contract as in case of disputes, the labour legislation applicable is most likely to be that of the country of employment.

The collection of fees by private employment agencies from workers is authorised, and the labour legislation does not set ceilings.⁶⁰⁰ Monitoring activities are seldom considered by the legislation, which only refers to the submission of regular reports by agencies to the competent authorities regarding their activities.

4.6.2.3.2 Migration and development

Mobilising and channelling remittances for development

The regulation of remittances is mainly done through the Foreign Exchange Act 2006 (Act 723), which requires that payments in foreign currency "to or from Ghana between a resident and a non-resident, or between non-residents" are made through a bank, and that "each transfer of foreign exchange to or from Ghana [is] made through a person licensed to carry out the business of money transfers or any other authorised dealer". No specific incentives and opportunities for investments by migrants exist. The draft National Migration Policy proposes measures to establish cost-effective and safe transfer services, and recognises the need to improve data collection and analysis on remittances.⁶⁰¹

Diaspora outreach and confidence-building measures

Over the past decade, Ghana has undertaken various efforts in order to reach out to its diaspora. In 2001, a large Homecoming Summit was organised to recognise and further strengthen the diaspora's contribution to the country's development. Despite the engagement of the state, this meeting did not result in the expected tangible results. Nevertheless, a number of confidence-building measures were adopted. The right to dual/multiple citizenship was recognised (Citizenship Act, 2000 (Act 591)), as well as the right of abode for those individuals who have lost Ghanaian nationality due to the acquisition of a foreign nationality and for persons "of African descent in the Diaspora" (Immigration Act 2000 (Act 573)). In this case, diaspora outreach includes a larger target group than the actual Ghanaian diaspora (Ghanaian emigrants and their descendants). In 2006, the Representation of the People (Amendment) Act (ROPAA, Act 699) recognised absentee voting rights. Furthermore, the Ghana's Constitutional Review Commission (CRC) has increasingly consulted with members of the diaspora.⁶⁰²

⁵⁹⁸ Ibid., art. 34. It must be noted, however, that the obligation of the employer to pay for the travel extends to the worker's family members, which appears to be too high a standard to be fully implemented in practice.

⁵⁹⁹ Labour Regulations 2007 (LI 1833), art. 28.

⁶⁰⁰ The Labour Act 2003 (Act 651) only makes an indirect reference to fees collected by agencies. Art. 7(7): "An Agency shall refund fifty percent of the fees paid by a client to the Agency, if the Agency is unable to secure a job placement for the client after the expiration of three months".

⁶⁰¹ Ibid., pp. 55-56.

⁶⁰² Nilson, K., *The Ties that Bind. A Study of Diaspora Engagement Policies in Ghana*, 2011, p. 36.

Beyond political engagement of the diaspora, a number of cultural and economic initiatives have been undertaken. Each year, the Ministry of Tourism organises Emancipation Day celebrations, which specifically target Afro-Americans – thus reaching out to the Ghanaian diaspora in the U.S.⁶⁰³ In 2007, a Golden Jubilee bond was launched to raise funds for infrastructural projects, which specifically targeted the diaspora.⁶⁰⁴ As a more sustainable strategy to attract investments from Ghanaians abroad, a Non-Resident Ghanaian Secretariat was set up within the Ghana Investment Promotion Centre. Its activities remained limited and are currently disrupted.⁶⁰⁵ Finally, the relations between diaspora associations and Ghanaians abroad and consular posts vary greatly from one country to another, depending on specific policies of the considered posts.⁶⁰⁶

Despite these initiatives, a sound policy regarding the promotion of the diaspora's contribution to the country's development is yet to be adopted. This constitutes one of the directions of the draft National Migration Policy. The document also recognises the need for diaspora mapping, including its interests and capacities.⁶⁰⁷

Addressing the challenges of highly-skilled migration

In order to limit the negative consequences of skilled migration, and to primarily retain health workers, Ghana has adopted measures to improve salaries, such as the additional duty hours allowance, which was eventually replaced by the Health Sector Salary Scheme.⁶⁰⁸

Mention can also be made of the MIDA (Migration for Development in Africa) Ghana Health Project, which has been implemented by IOM in cooperation with the Ghanaian Ministry of Health and the Dutch embassy in Accra in 2005. Under this programme, Ghanaian and other African migrants living and working in the Netherlands and other EU countries can transfer knowledge, skills and experience through temporary assignments in Ghana. In addition, health workers from Ghana have the opportunity to do a specialised training at health care institutions in the Netherlands.

The draft National Migration Policy includes a number of guidelines to limit brain drain (financial incentives and, more generally, improved working conditions), so as to promote circulation and return of skilled migrants, and to avoid brain waste.⁶⁰⁹

4.6.2.3.3 Migrants' protection

Dissemination of information

Activities seeking to provide migrant workers with reliable and accurate information about the different aspects of the migration process are limited. Information campaigns through awareness raising via

⁶⁰³ Quartey, P., 2009, op. cit., p. 78 ; *ibid.*, p. 45.

⁶⁰⁴ Nilson, K., 2011, op. cit., p. 40.

⁶⁰⁵ *Ibid.*, p. 41.

⁶⁰⁶ *Ibid.*, pp. 38-39.

⁶⁰⁷ Republic of Ghana, 2013, op. cit., pp. 57-58.

⁶⁰⁸ IOM, 2011, op. cit., p. 8.

⁶⁰⁹ Republic of Ghana, 2013, op. cit., pp. 25-30.

theatre plays, TV and radio shows, flyers, and advertising have been organised with the support of IOM, but no pre-employment programmes and pre-departure orientation courses have been organised on a regular basis. This situation may be regretful but can hardly be surprising. It is indeed difficult – if not inappropriate – to develop an information dissemination strategy when there is not an institutionalised recruitment system for migrant workers.

Protection in countries of destination

Protection activities by Ghanaian consular and diplomatic posts are limited. However, assistance in cases of international human trafficking has been provided. For example, in a case where children had been trafficked in Côte d'Ivoire, Ghanaian authorities organised the return of the victims, provided temporary shelter, medical screening and treatment, and conducted family tracing.⁶¹⁰

Social security agreements

The absence of bilateral social security agreements is an important issue. In the vast majority of cases, migrant workers can only fully benefit from social security benefits when social security agreements are concluded. The absence of a system of maintenance of acquired rights and provision of benefits abroad, as well as of rights in course of acquisition, is likely to be a deterrent to the permanent return of migrants in Ghana.

4.6.3 International, regional, and bilateral cooperation

International conventions

Among the most relevant international conventions protecting human rights, Ghana has ratified:

- the International Covenant on Civil and Political Rights (1966);
- the International Covenant on Economic, Social and Cultural Rights (1966);
- the Convention on the Elimination of All Forms of Discrimination against Women (1979);
- the Convention on the Rights of the Child (1990);
- 51 ILO Conventions (Ghana has not ratified the two specific ILO conventions on migrant workers, C 97 (1949) and C 143 (1975));
- the Convention on the Protection of the Rights of All Migrant Workers and Members of their Families (1990); and
- the United Nations Convention against Transnational Organized Crime (2000) and its protocols on trafficking in persons and smuggling of migrants.

In addition to the global conventions listed above, Ghana is also bound by ECOWAS texts, including its Treaty (1957) and its subsequent protocols regarding free movement of persons, residence and establishment.

⁶¹⁰ For more details regarding Ghana's human trafficking policy, see section 4.6.2.2.4.

Cooperation within the ECOWAS region

At regional level, cooperation efforts are primarily undertaken through ECOWAS, and, as a member state, Ghana is involved in different initiatives of the organisation related to migration, including the continuation of the MIDWA process. Cooperation in the area of transnational crime is particularly developed. Ghana is an active member of the West African Police Chiefs Committee (WAPCCO), an institution dedicated to fighting transnational organised crime, including the smuggling of migrants. The same issues are covered by a memorandum of understanding concluded with Togo in 2009, as well as through tripartite cooperation with Togo and Burkina Faso.⁶¹¹ Furthermore, Ghana's authorities cooperate closely with Nigeria's National Agency for the Prohibition of Trafficking in Persons and Other Related Matters (NAPTIP).⁶¹²

Bilateral agreements

Outside the ECOWAS region, the only bilateral agreement concerning migration that appears to be in force is one concluded with Italy in 2010 which focuses on border management. According to Ghana's News Agency, the agreement establishes cooperation between the GIS and the Italian Public Security Department (IPSD) in order to enhance the capacities of Ghana's law enforcement agencies on irregular migration and trafficking in persons: "the IPSD will train and provide technical and equipment support for the GIS and the Ghana Police Service to strengthen the border management systems as well as the enforcement capacities to combat cross border threats".⁶¹³ A bilateral labour agreement is currently being negotiated between the two countries.

At the end of the 1990s, bilateral labour agreements were concluded with the U.K. and Jamaica in order to organise the selection, recruitment and training of Ghanaian nurses for employment in these countries. Both agreements have since fallen into disuse.

⁶¹¹ ICPD, 'MTM - i-map Ghana'.

⁶¹² U.S. Department of State, 2013, op. cit., p. 179.

⁶¹³ Ghana News Agency, 'Ghana, Italy sign border security cooperation agreement', 9 February 2010, [online data source], <http://www.ghananewsagency.org/social/ghana-italy-sign-border-security-cooperation-agreement-12254>, (accessed 28 March 2014).

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<http://econ.worldbank.org/WBSITE/EXTERNAL/EXTDEC/EXTDECPROSPECTS/0,,contentMDK:22759429~pagePK:64165401~piPK:64165026~theSitePK:476883,00.html#Remittances>, 2013, (accessed (accessed 10 October 2013)).

4.6.5 List of interlocutors

Name of respondent	Position	Institution
Korletey, E.	Deputy Chief Officer, Labour Department	Ministry of Employment and Labour Relations
Asima, P.	Assistance Director, Policy Planning, Monitoring and Evaluation Unit	Ghana Immigration Services
Mpereh, M.	Principal Policy Analyst	National Development Planning Commission
Agorsor, D.	Director	Ministry of the Interior
Kwabena Acheampong, J.	Manager	Bank of Ghana
Kyei-Gyamfi, S.	Head of Information, Research and Advocacy Unit, Department of Children	Ministry of Gender, Children and Social Protection
Kwaku, Y. Odai, A.	Consultants, Diaspora Support Unit, Legal and Consular Bureau	Ministry of Foreign Affairs and Regional Integration
G. OdeiGyebi	Principal Statistician, Statistical Production Unit	Ghana Statistical Service

4.7 Guinea

4.7.1 Migration trends

4.7.1.1 Immigration

The latest reliable data on immigration and the presence of foreigners in Guinea is some 18 years old and was collected through the 1996 General Population and Housing Census (RGPH).⁶¹⁴

Data	Year	Absolute numbers	% of the total population
General Population and Housing Census (RGPH) ⁶¹⁵	1996	264.787 foreigners, ⁶¹⁶ excluding refugees	3.7%

4.7.1.1.1 Characteristics of immigrants/foreigners

Countries of origin:	<ul style="list-style-type: none"> In 1996, the overwhelming majority of foreigners were Liberians (48.3%) and Sierra Leoneans (40%).⁶¹⁷ The remaining foreigner stock was made up of mainly ECOWAS Member States nationals (8.7%), including Senegalese, Malians, Ivorians and Bissau-Guineans.⁶¹⁸ As well as the foreigners recorded in the RGPH, an estimated 650,000 refugees from Liberia (400,000) and Sierra Leone (250,000) were residing in the country.⁶¹⁹ During the past decade, most refugees have returned to their country of nationality.⁶²⁰
Additional characteristics of immigrants/foreigners:	<ul style="list-style-type: none"> The RGPH 1996 provides little information regarding the foreign population in Guinea. Although subsequent analysis published in 2000 focuses on migration,⁶²¹ it does not distinguish between nationals and foreigners and therefore cannot be considered within the framework of the present study. It is likely that the majority of foreigners are employed within the informal economy: in the mining sector, in the fishing industry, in small businesses, and in trade.
Vulnerable groups:	<ul style="list-style-type: none"> Trafficking in persons appears to be mainly an internal phenomenon affecting children. The U.S. Department of State's <i>Trafficking in Persons Report 2013</i> identifies the following forms of international trafficking in Guinea: Children from Mauritania, Costa Rica, Cape Verde, Mali, Gabon, Senegal, and Ghana have been identified as child trafficking victims within Guinea. A small number of girls from Mali, Sierra Leone, Nigeria, Ghana, Liberia, Senegal, Burkina Faso, and Guinea-Bissau migrate to Guinea, where they are subjected to domestic servitude and likely also to commercial sexual exploitation.⁶²²

⁶¹⁴ After the end of data collection for the present study, a new population census took place.

⁶¹⁵ *Recensement général de la population et de l'habitation.*

⁶¹⁶ République de Guinée, *Recensement général de la population et de l'habitation de 1996, Etat de la population*, 2000, p. 46.

⁶¹⁷ Ibid.

⁶¹⁸ Ibid., p. 47.

⁶¹⁹ U.S. Committee for Refugees and Immigrants, *U.S. Committee for Refugees World Refugee Survey 1997 – Guinea*, 1997.

⁶²⁰ UNHCR, *Towards the Local Integration of Liberian and Sierra Leonean refugees in West Africa through enhancing self-reliance and promoting Regional integration: Regional Framework*, 2008.

⁶²¹ République de Guinée, *Recensement général de la population et de l'habitation de 1996, Migrations en Guinée*, 2000.

⁶²² U.S. Department of State, *Trafficking in Persons Report 2013*, 2013, pp. 183-184.

4.7.1.2 Emigration

Data	Year	Estimates
General estimates from research reports ⁶²³	Mid-1990s	Over one million nationals abroad

Similar to that which relates to immigration, national data on emigration of Guinea nationals is scarce and outdated. Data which may have been collected by Guinean consular and diplomatic posts has not been made available. The only census that included an international emigration component, the Migration and Urbanization Survey, 178⁶²⁴ dates back from 1992/1993. This Survey, however, does provide some initial indications that can be complemented by more recent data from countries of destination.

4.7.1.2.1 Characteristics of emigrants/nationals abroad

Countries of destination/residence:	<ul style="list-style-type: none"> • Traditionally, Senegal is the main country of destination for Guinean migrants. Since the independence of the country, destinations have diversified to include Côte d'Ivoire, Mali, Sierra Leone, Liberia, Guinea-Bissau, the Gambia, Gabon, and Mauritania.⁶²⁵ • Senegal and Côte d'Ivoire remain the two main countries of residence of Guinean nationals abroad. Although no precise estimate can be provided, it is generally well known that Guineans are the main foreign community in Senegal.⁶²⁶ • With regard to Côte d'Ivoire, the National Population and Housing Census of 1998 estimated the Guinean population at 220,000 (5.5% of foreigners in the country). • Emigration towards EU Member States and the U.S. is far lower. In the mid-1990s, only 2% of Guinean emigrants were established in EU Member States and the U.S.⁶²⁷ • According to the OECD international migration database, the first non-African country of residence of Guineans is France, with an estimated 25,500 nationals in 2009.⁶²⁸ Spain is the second largest host country for Guinean migrants, with an estimated 12,311 residents in 2011. Italy, which has attracted significant Western African migration flows over the past decade, only recorded 3,400 Guinean nationals in 2010. The other main countries of destination are Belgium – 6,500 registered Guineans in 2011 – and Germany – 3,700 in 2011. • According to the Sussex Development Research Centre on Migration, Globalisation and Poverty (Migration DRC), a little fewer than 7,000 Guinean emigrants were residing in the U.S. in 2007.⁶²⁹ However, this later estimate has to be taken with caution, given that it may include Liberian and Sierra Leonean refugees born in Guinea.
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⁶²³ Lefebvre, G., 'La ville africaine et ses immigrants: les Guinéens au Sénégal et à Dakar' in Lesourd, M. (ed.), *L'Afrique. Vulnérabilités et défis*, 2003, pp. 159-198.

⁶²⁴ *Enquête sur les migrations et l'urbanisation*.

⁶²⁵ Lefebvre, G., 2003, op. cit., pp. 159-198.

⁶²⁶ République du Sénégal, ANSD, *Rapport national de présentation des résultats du troisième Recensement général de la population et de l'habitat en 2002, RGPH III*, 2006.

⁶²⁷ Lefebvre, G., 2003, op. cit., pp. 159-198.

⁶²⁸ OECD, 'International Migration Database'. The OECD migration database collects information on stay/resident permits and population registers. It must be noted that naturalisations of Guineans in France – which leads to their removal from the foreigners register – are not insignificant, with an average of more than 500 per year from 2001 to 2011.

⁶²⁹ University of Sussex, Development Research Centre, 'Global Migrant Origin Database', 2007.

Education level/ sectors of employment:	<ul style="list-style-type: none"> • Migration towards Senegal is traditionally based on seasonal movements (referred to as <i>navétanat</i>). Over time, seasonal migration evolved towards more permanent settlements abroad. In addition to this, and although agriculture-related migration remained important, there occurred increased movements towards the cities, primarily Dakar, implying employment in small trade and businesses.⁶³⁰ • The existence and extent of the brain drain phenomenon remains unknown. With regard to the health sector, OECD data shows a rather limited risk of brain drain: circa 2000, the emigration rate of medical doctors was 9.1% and that of nurses 2.1%.⁶³¹
Remittances:	<ul style="list-style-type: none"> • According to the latest World Bank estimates, 72 million USD was remitted to Guinea in 2013, which corresponds to 1% of the GDP.⁶³² • National authorities estimate the amount of informal transfers at 200 million USD per year.
Vulnerable groups:	<p>International trafficking of Guineans includes:</p> <ul style="list-style-type: none"> • boys sent to Senegal for Koranic education (<i>talibés</i>) that may be subjected to forced begging; • children forced into labour in West African countries such as Senegal and Mali; and • girls and women subjected to domestic servitude and sex exploitation in Nigeria, Côte d'Ivoire, Benin, Senegal, EU Member States, and the Middle East.⁶³³

4.7.2 Migration policy

The attitude of the Guinean government towards migration management is somewhat paradoxical. Even though Guinea is more a country of origin rather than of destination, immigration legislation is well-established, while emigration policies are lacking. At the same time, immigration is not considered a significant political issue. Emigration, on the contrary, attracts more interest from national authorities. To date, however, little has been done regarding this. Having said that, the national authorities are planning to include migration-related issues in the national development plan and develop a national migration policy. The organising of a mapping of the country's diaspora and the supporting of engagement with Guineans residing abroad, so as to reap the benefits in terms of economic and social development, is also envisioned.

4.7.2.1 Institutional framework on migration

Governmental stakeholders involved

Ministry	Agency, Directorate, Unit	Responsibilities
Ministry of Security and Civil Protection ⁶³⁴	Central Directorate for Air and Border Police ⁶³⁵	Immigration management
	Office for the Protection of Gender, Children and Morals ⁶³⁶	Fight against trafficking in persons

⁶³⁰ Lefebvre, G., 2003, op. cit., pp. 159-198.

⁶³¹ OECD, 'Immigrant Health Workers in OECD Countries in the Broader Context of Highly Skilled Migration', *International Migration Outlook – SOPEMI 2007*, 2007, p. 213.

⁶³² World Bank, 'Remittances Data', 2013.

⁶³³ U.S Department of State, 2013, op. cit., p. 183.

⁶³⁴ *Ministère de la Sécurité et de la Protection civile*.

⁶³⁵ *Direction centrale de la Police de l'air et des frontières*.

⁶³⁶ *Office de protection du genre, de l'enfance et des mœurs*.

Ministry of Employment, Vocational and Technical Education ⁶³⁷	Guinean Agency for the Promotion of Employment ⁶³⁸	Delivery of work authorisation to foreign workers
Ministry of Foreign Affairs and Guineans Abroad ⁶³⁹		Relations of the state with the diaspora and the protection of nationals abroad

Inter-institutional coordination

Migration management in Guinea is undertaken by distinct ministries and public institutions, with there being little consultation or cooperation between them. An inter-ministerial commission has been set up to develop a national migration policy.

Main non-governmental institutions involved

The national authorities cooperate with NGOs such as Sabou Guinée, Le Monde des Enfants, Réseau Afrique Jeunesse de Guinée (RAJGUI), and Réseau des Femmes du Fleuve Mano pour la Paix (REFMAP), especially on issues regarding trafficking in persons.

⁶³⁷ Ministère de l'Emploi, de l'Enseignement technique et de la Formation professionnelle.

⁶³⁸ Agence guinéenne pour la promotion de l'emploi or AGUIPE.

⁶³⁹ Ministère des Affaires étrangères et des Guinéens de l'étranger.

4.7.2.2 Immigration: national policy framework and institutional practices

4.7.2.2.1 General immigration provisions

Legislation/Policy Framework	Description
Law L/94/019/CTRN of 13 June 1994 on the Conditions of Entry and Stay of Foreigners in Republic of Guinea ⁶⁴⁰	<p><i>Entry</i></p> <p>Art. 3; Art. 5: By principle, entry of foreigners to the national territory is subject to the delivery of a visa, either abroad through diplomatic and consular posts or upon arrival by the Ministry of Security and Civil Protection.</p> <p>Art. 21: An entry visa may authorise a stay of a maximum period of 90 days, which can be extended once.</p> <p><i>Stay and residence</i></p> <p>Art. 26: For a longer period of stay, foreigners are required to obtain a long-stay visa, a resident card⁶⁴¹ and, in the case of employment, a foreigner's card.⁶⁴²</p> <p>The legislation distinguishes between three types of residents, who are granted three distinct stay permits:</p> <ul style="list-style-type: none"> • foreign experts⁶⁴³ employed by public authorities; • foreign residents⁶⁴⁴; and • privileged foreign residents.⁶⁴⁵ <p>Art. 30: The duration of validity of the stay permit granted to foreign experts⁶⁴⁶ depends on the duration of their employment.</p> <p>Art. 33: Foreign residents' permits are granted for a duration of one to three years, and are renewable.⁶⁴⁷</p> <p>Art. 34: Privileged foreign residents include religious missionaries, foreigners married to Guinean nationals, foreigners with a Guinean parent, students, and foreigners involved in economic activities related to "the national economic promotion" and who have resided in the country for a minimum of 10 years.</p> <p>The rights attached to their stay permit⁶⁴⁸ are not foreseen by the legislation.</p> <p>Art. 38: The delivery of stay permits are by principle conditioned by the production of a medical certificate, an extract from the police record and the payment of fees. Foreign experts are exempted from these requirements and most privileged residents are not subject to permit fees.</p>

The possibility of family reunification is implied in the case of foreign experts.⁶⁴⁹ In other cases, family migration is only considered for family members of Guinean nationals. The specific status of ECOWAS Member States' nationals is not explicitly defined. The legislation nevertheless states that nationals from countries with which Guinea has concluded reciprocal agreements on the matter of family reunification are not requested to obtain a resident card.⁶⁵⁰

⁶⁴⁰ Loi L/94/019/CTRN du 13 juin 1994 portant conditions d'entrée et de séjour des étrangers en République de Guinée.

⁶⁴¹ Carte de résident.

⁶⁴² Carnet d'étranger.

⁶⁴³ Experts étrangers.

⁶⁴⁴ Etrangers résidents.

⁶⁴⁵ Etrangers résidents privilégiés.

⁶⁴⁶ Carte d'expert étranger résident.

⁶⁴⁷ Carte d'étranger résident.

⁶⁴⁸ Carte de résident privilégié.

⁶⁴⁹ Law L/94/019/CTRN of 13 June 1994 on the Conditions of Entry and Stay of Foreigners in Republic of Guinea, art. 32.

⁶⁵⁰ Ibid., art. 27.

4.7.2.2.2 Labour migration

Access to national labour market

Legislation/Policy Framework	Description
Law L/94/019/CTRN of 13 June 1994 on the Conditions of Entry and Stay of Foreigners in Republic of Guinea	Art. 58: An employer seeking to engage a foreigner must obtain a work authorisation from the Guinean Agency for the Promotion of Employment (AGUIPE).
Labour Code, 2014	<p>Art. 131.1: ECOWAS Member States nationals are not subject to the obligation to obtain a work authorisation (the conditions described below apply to workers from third countries).</p> <p>Art. 131.3: The decision of AGUIPE is to be made within 30 days. The granting of a long-stay visa – a condition of stay in Guinea – to a foreign worker is subject to the prior delivery of the work authorisation.</p> <p>Art. 131.4: In the case that the employer does not comply with the work authorisation obligations, he/she is held responsible for the repatriation of the worker.</p> <p>Art. 131.2: Work contracts concluded with foreign nationals cannot extend to a period of over four years.</p>

Although the conditions of delivery of the work authorisation – for instance, the implementation of a labour market test – are not explicitly foreseen by the legislation, the new Labour Code adopted in 2014 presents a significant improvement: it explicitly provides for the free access of ECOWAS Member States nationals to the Guinean labour market.

Rights within employment

Legislation/Policy Framework	Description
Labour Code, 2014	<p>Art. 1 provides for equal treatment with nationals. Foreigners, regardless of their legal status, benefit from all obligations and rights from the labour legislation as a principle.</p> <p>Art. 322.4 includes an exception to the principle of equal treatment. While all foreigners can join a trade union, only those who have stayed in Guinea for a minimum of three years can fulfil administrative or directing functions. This obligation does not apply to nationals of countries:</p> <ul style="list-style-type: none"> • with which agreements that include reciprocity clauses have been concluded; and • which do not have national legislation limiting the fulfilling of administrative and directing functions of trade unions.

4.7.2.2.3 Irregular migration

Legislation/Policy Framework	Description
Law L/94/019/CTRN of 13 June 1994 on the Conditions of Entry and Stay of Foreigners in Republic of Guinea	<p>Art. 65; Art. 66; Art. 71: Deportation is foreseen in case of irregular entry or stay.</p> <p>Art. 67: Expulsion applies to foreigners who pose a threat to public order, have been penalised or have remained on the national territory despite the refusal/removal of the stay permit.</p> <p>Art. 70: Exit bans are applicable in case of prosecution and violation of the immigration legislation.</p> <p>Art. 73 to Art. 75: Irregular stay, the use of fraudulent documentation and employment of irregular migrants are punishable by fines and, in certain cases, by one to five years of imprisonment.</p>

Despite the existence of strict regulations, irregular migration is not considered a significant political issue by national authorities, and in practice, migrants in an irregular situation, especially nationals from ECOWAS Member States, are tolerated in Guinea.

4.7.2.2.4 *Migrants at risk*

Although Guinea has ratified the Palermo Protocol on trafficking in persons, it has yet to adopt a specific legislation in this regard. However, the Labour Code prohibits all forms of forced labour,⁶⁵¹ the Penal Code condemns agreements that deprive third parties of their liberty, prescribing penalties of five to 10 years' imprisonment,⁶⁵² and the Child Code prohibits all forms of child trafficking – as per the international definition of the crime – and foresees penalties of three years to lifetime imprisonment for perpetrators.⁶⁵³

A National Action Plan 2009-2013 has been adopted and a National Committee to Fight against Trafficking in Persons⁶⁵⁴ has been established, although its activities have remained limited.⁶⁵⁵ Within the police forces, an Office for the Protection of Gender, Children and Morals⁶⁵⁶ exists and includes a specific unit dedicated to fighting trafficking.⁶⁵⁷

With regard to prosecution of trafficking activities, limited results appear to have been achieved over the past few years. Regarding protection, national authorities rely mainly on NGOs, with which formalised referral mechanisms have yet to be developed.⁶⁵⁸ In recent years, several nationwide awareness campaigns have been organised.

4.7.2.3 *Emigration*

4.7.2.3.1 *Labour migration*

National authorities are yet to identify competencies that can be promoted abroad, as well as those for which promotion should not be undertaken. Activities related to the identification and assessment of existing and potential new countries of destination are non-existent and public employment services do not have the means to match demand and supply on the international labour market.

In 2006, Guinea concluded a rather comprehensive migration-related bilateral agreement with Spain.⁶⁵⁹ This agreement, however, does not provide privileged access to the national labour market but instead includes a series of provisions that are favourable to Guinea. It envisions the promotion of labour migration on the basis of labour market studies and the communication by the Spanish authorities of job

⁶⁵¹ Labour Code, 1988, art. 2.

⁶⁵² Penal Code, 1998, art. 337-339.

⁶⁵³ Child Code, 2008, art. 385-396.

⁶⁵⁴ *Comité national de lutte contre la traite des personnes.*

⁶⁵⁵ U.S. Department of State, 2013, op. cit., p. 184.

⁶⁵⁶ *Office de protection du genre, de l'enfance et des mœurs* or OPROGEM.

⁶⁵⁷ Ibid.

⁶⁵⁸ Ibid.

⁶⁵⁹ *Acuerdo de Cooperación en materia de inmigración entre España y Guinea, 9 de octubre de 2006.*

vacancies to their Guinean counterparts.⁶⁶⁰ The implementation of these provisions is, however, difficult, given the low capacities of the Guinean authorities in this respect. It is worth noting that the agreement makes reference to technical assistance for the development of migration management capacities in Guinea.⁶⁶¹

4.7.2.3.2 Migration and development

A migration and development policy has yet to be developed. There are no mechanisms to facilitate the involvement of the diaspora in the economic and social life of Guinea. Efforts are starting to be made for a better inclusion of nationals residing abroad within the political, economic and social life of the country. In 2010, a Minister Delegate for Guineans Abroad was appointed, and in May 2013, an agreement was concluded with the French Coordination of Guinean Associations.⁶⁶² Mechanisms to better channel migrants' remittances are limited, although a Memorandum of Understanding has been concluded with the Banque Populaire Maroco Guinéenne in this regard. The issue of brain drain has not been addressed at political level yet. The agreement between Guinea and Spain addresses the provision of technical assistance for the improvement of transfer services, the stimulation of remittances' development potential, and, more generally, the engagement of the diaspora for the economic and social development of Guinea.

4.7.2.3.3 Migrants' protection

Guinean diplomatic and consular posts do not provide a significant level of assistance services to their nationals abroad. Most protection-related efforts concern victims of trafficking (see section 4.7.2.2.4). The bilateral agreement concluded with Spain includes several provisions regarding protection, such as pre-departure training for migrants and further training upon arrival in Spain, with a view to facilitating their integration in the country of destination.⁶⁶³ It also pledges assistance to Guinean authorities with regard to anti-trafficking policies.⁶⁶⁴

Guinea has not concluded any social security agreements with France, one of the main countries of destination and residence for its nationals, and it is not part of the CIPRES Convention.⁶⁶⁵

4.7.3 International, regional, and bilateral cooperation

International conventions

Guinea has ratified all the main international conventions protecting human rights in general and migrants' rights, more specifically, these include:

660 Ibid., art. 3.

661 Ibid., art. 7.

662 Coordination des associations guinéennes en France or CAGF.

663 Acuerdo de Cooperacion en material de inmigracion entra Espana y Guinea, 9 de octubre de 2006, art. 6.

664 Ibid., art. 8

665 Convention multilatérale de sécurité sociale de la Conférence interafricaine de la prévoyance sociale.

- the International Covenant on Civil and Political Rights (1966);
- the International Covenant on Economic, Social and Cultural Rights (1966);
- the Convention on the Elimination of All Forms of Discrimination against Women (1979);
- the Convention on the Rights of the Child (1989);
- 58 ILO Conventions (including ILO convention C 143 (1975) on migrant workers);
- the United Nations Convention on the Protection of the Rights of All Migrant Workers and Members of their Families (1990); and
- the Convention against Transnational Organized Crime (2000) and its Protocols on trafficking in persons and smuggling of migrants.

In addition to these global conventions, Guinea is bound by ECOWAS texts, including its Treaty (1975) and its subsequent protocols regarding free movement of persons, residence and establishment.

Bilateral agreements

Guinea's institutionalised bilateral relations on migration-related matters are limited. The absence of agreements on entry, stay, and social security with such an important country of destination as France, is noteworthy. The main bilateral agreements which have been concluded are with Switzerland in 2011 and Spain in 2006.

Regarding entry and stay of Guineans in Switzerland, the agreement generally refers to the applicable national legislation. It nevertheless also states that "stay permit applications from Guinean nationals will be considered with care, diligence and goodwill".⁶⁶⁶ The agreement includes a number of mechanisms to facilitate the reintegration of voluntary returnees in Guinea, including the payment of travel costs by Switzerland, a financial reinstatement grant, and assistance to the development of individual economic projects in Guinea.⁶⁶⁷ Assistance to Guinean national authorities in the development of migration management capacities is also envisioned, as are cooperation mechanisms to address challenges regarding irregular migration, smuggling of migrants and trafficking in persons.⁶⁶⁸ The agreement also includes classical readmission provisions.⁶⁶⁹

The agreement concluded with Spain includes similar provisions as the convention with Switzerland, but is more comprehensive in character. As noted above, it also includes a number of provisions regarding labour migration, integration of Guineans in Spain and assistance in the field of trafficking in persons.⁶⁷⁰

666 Accord de coopération en matière de migration entre la Guinée et la Suisse, 2011, art. 3 (2).

667 Ibid., art. 7; art. 8.

668 Ibid., art. 11.

669 Ibid., art. 12.

670 See section 4.7.2.3.

4.7.4 References

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World Bank, 'Remittances Data', [online data source], <http://econ.worldbank.org/WBSITE/EXTERNAL/EXTDEC/EXTDECPROSPECTS/0,,contentMDK:22759429~pagePK:64165401~piPK:64165026~theSitePK:476883,00.html#Remittances>, 2013, (accessed 7 February 2014).

4.7.5 List of interlocutors

Name of respondent	Position	Institution
A. Balde	Director of Legal Affairs	The Ministry of Foreign Affairs and Guineans Abroad ⁶⁷¹
C. Kourouma	Adviser on migration and security	Delegated Ministry for Guineans Abroad ⁶⁷²
H. Oumou Bah	Deputy Director General for African integration	Ministry of International Cooperation ⁶⁷³
M. Kourouma	Secretary General	Ministry of Justice ⁶⁷⁴
S. Konate	Director, Office of Strategy and Development	Ministry of Social Affairs, Promotion of Women and Children ⁶⁷⁵
E.A.M.B. Sow	Central Directorate of Police and Air Borders	Ministry of Security, Civil Protection and Security Reform ⁶⁷⁶
M. Kaba	Guinean Agency for the Promotion of Employment	Ministry of Employment, Vocational and Technical Education ⁶⁷⁷
M.B. Diallo	National Statistics Institute	Ministry of Planning ⁶⁷⁸
J. Lama	National Director for Economy, Research and Prospects	Ministry of Economy and Finances ⁶⁷⁹
I. Keita	Balance of Payments Service, Bureau of Statistics and Balance of Payments	Central Bank of the Republic of Guinea ⁶⁸⁰

⁶⁷¹ *Ministère des Affaires étrangères et des Guinéens de l'étranger.*

⁶⁷² *Ministère délégué des Guinéens de l'étranger.*

⁶⁷³ *Ministère de la Coopération internationale.*

⁶⁷⁴ *Ministère de la Justice.*

⁶⁷⁵ *Ministère des Affaires sociales de la Promotion féminine et de l'Enfance.*

⁶⁷⁶ *Ministère de la sécurité, de la Protection civile et de la Réforme des services de sécurité.*

⁶⁷⁷ *Ministère de l'Emploi, de l'Enseignement technique et de la Formation professionnelle.*

⁶⁷⁸ *Ministère du Plan.*

⁶⁷⁹ *Ministère de l'Economie et des Finances.*

⁶⁸⁰ *Banque Centrale de la République de Guinée.*

4.8 Guinea-Bissau

4.8.1 Migration trends

4.8.1.1 Immigration

Very little is known about immigration in Guinea-Bissau. The existing literature makes no reference to the subject, which tends to substantiate the idea that it is a limited phenomenon. Such an assumption could be confirmed by the latest National Population and Housing Census (2009), which recorded only 1,316 foreign immigrants. However, the census only considered foreigners born abroad,⁶⁸¹ which naturally leads to an underestimation of the foreign population residing in Guinea-Bissau. Other estimates provided by officials interviewed for the purpose of the present study suggest the existence of a much larger foreign community: around 55,000 foreigners in a regular situation (3.5% of the total population) and as many as 250,000 foreigners residing irregularly in the country (some 16% of the total population). If these estimates are correct, Guinea-Bissau is an important country of destination in West Africa. It has not been possible, however, to verify these estimates. One has to recognise that there is currently no means to measure, even in an approximate manner, the extent to which foreigners are present in Guinea-Bissau.

Data	Year	Absolute numbers	% of the Total Population
National Population and Housing Census	2009	1,316 foreign immigrants ⁶⁸²	0.1%
Interviewed officials	2013	around 55,000 foreigners (in a regular situation) and an estimated 250,000 foreigners in an irregular situation	19.5%

4.8.1.1.1 Characteristics of immigrants/foreigners

Countries of origin:	<ul style="list-style-type: none"> The National Population and Housing Census shows the main countries of origin of immigrants as being: Guinea, Mauritania, and Senegal.⁶⁸³ According to state officials interviewed, the presence of immigrants from China, Portugal, Brazil, and Lebanon has also been noted.
Socio-economic profile and sectors of employment:	<ul style="list-style-type: none"> According to state officials interviewed, immigrants in the country work mainly in the construction, trade, and fishing sector, as well as the banking sector.
Vulnerable groups:	Regarding trafficking in persons, there seems to be no evidence to consider Guinea-Bissau as a country of destination, according to the U.S. Government. ⁶⁸⁴ The cases that received the most attention were internal trafficking cases, largely of child victims. In addition, in the case of international trafficking, Guinea-Bissau was mostly the country of transit towards neighbouring Senegal and Guinea. ⁶⁸⁵

⁶⁸¹ Instituto nacional de estatística, *Terceiro Recenseamento geral da população e habitação de 2009, Migrações*, 2009, p. 34.

⁶⁸² Ibid., p. 32.

⁶⁸³ Ibid., p. 33.

⁶⁸⁴ U.S. Department of State, *Trafficking in Persons Report 2013*, 2013, p. 174.

⁶⁸⁵ ECOWAS TIP Unit, *Annual Synthesis Report on the implementation of the ECOWAS plan of action to combat trafficking in persons 2012-2013*, forthcoming 2014.

4.8.1.2 Emigration

Guinea-Bissau has a long history of emigration. From the mid-19th century to the independence of the country (declared in 1973 and recognised by Portugal in 1974), emigration flows were primarily directed towards neighbouring Senegal, where migrants were employed in groundnut and rubber tree plantations. Senegal also served for some as a base for subsequent re-emigration towards France.⁶⁸⁶

After independence, migration flows towards Senegal and France continued, although they gradually decreased.⁶⁸⁷ The main change in the categorisation of the emigration that occurred after independence was the classification of the migration flow towards Portugal, the former colonial power, as being emigration to a foreign country. Initially, in the 1970's, migration flows were composed of so-called "Luso-Guineans", or "returnees", individuals – a majority of whom were of European-Portuguese descent - of high social status and connected to the ex-colonial regime. The 1980s saw a second wave of Bissau-Guinean migrants to Portugal whom were generally less educated and more diversified with regard to their geographical and ethnic origins.⁶⁸⁸

During the 2000s, emigration further diversified. In Europe, Portugal remained the main country of destination. However, some re-emigration from Portugal to other countries occurred, as well as direct migration to other, more economically attractive, European destinations.⁶⁸⁹ In Africa, Cape Verde continued to be an important country of destination because of its historical and cultural connection to Guinea-Bissau, and Angola was also an attractive destination for Bissau-Guinean emigrants due to its economy and common history of Portuguese colonisation. Due to the facility of circulation to other ECOWAS Member States, states such as Guinea, Burkina Faso, and Ghana also received Bissau-Guinean migrants.⁶⁹⁰

Although the general patterns of Bissau-Guinean migration flows are known, it is difficult to present an estimate of the current emigrant stock of Bissau-Guinean emigrants abroad. It is notably arduous to assess whether estimates only consider nationals with Bissau-Guinean citizenship residing abroad or also include individuals who are of Bissau-Guinean origin but do not hold the nationality of the country,⁶⁹¹ especially because the decolonisation process in the 1970's resulted in cases of statelessness among those from countries which became independent from Portugal. According to estimates by state officials interviewed for this report, the number of Bissau-Guinean emigrants is more than 100,000.

⁶⁸⁶ Abreu, A., *Migration and Development in Contemporary Guinea-Bissau: a Political Economy Approach*, SOAS, University of London, 2012, pp. 164-165; Sangreman, C. et. al., *Evaluation du potentiel de développement de la diaspora de Guinée-Bissau au Portugal et en France*, IOM, 2013, pp. 20-21.

⁶⁸⁷ Abreu, A., 2012, op. cit., p. 165.

⁶⁸⁸ Ibid., p. 165, p. 167.

⁶⁸⁹ Sangreman, C. et. al., 2013, op. cit., p. 22; Abreu, A., 2012, op. cit., p. 168.

⁶⁹⁰ Sangreman, C. et. al., 2013, op. cit., p. 22.

⁶⁹¹ The implementation of a rather restrictive legislation on nationality (see section 4.8.2.3.2) is indeed likely to have deprived migrants and their descendants of Bissau-Guinean nationality.

Data	Year	Estimates
Guinea-Bissau, European Commission	2008	272,000 regular migrants (stock) ⁶⁹² residing in the EU
National Population and Housing Census	2009	186,865 migrants went abroad during the five years preceding the survey completion (stock) ⁶⁹³

4.8.1.2.1 Characteristics of emigrants/nationals abroad

Countries of destination/ residence:	<ul style="list-style-type: none"> • A minimum of around 33,000 Bissau-Guinean citizens reside in Senegal⁶⁹⁴ and around 10,000 nationals reside in Cape Verde.⁶⁹⁵ Among the other ECOWAS Member States, Guinea (around 7,000 Bissau-Guinean nationals), Burkina Faso (around 7,500), and Ghana (around 6,000) are significant countries of destination and residence.⁶⁹⁶ Besides these countries, The Gambia, Côte D'Ivoire, Togo, and Mali, were also mentioned in the interviews for this report. According to state officials interviewed, there are also Bissau-Guinean migrants in Mauritania, Angola and Morocco (especially students). • As for the Bissau-Guinean communities in OECD Member States, estimates can be conflicting. According to the OECD Migration Database, around 19,000 nationals were estimated to be residing in Portugal in 2011.⁶⁹⁷ However, according to Abreu, between 40,000 and 50,000 Bissau-Guineans reside in Portugal.⁶⁹⁸ The most recent statistical data from the Portuguese Foreigners and Borders Service (SEF) for the year 2013 indicates a total of 17,846 Bissau-Guineans with residence documents.⁶⁹⁹ This number does not include immigrants without documents, nor Bissau-Guineans that have acquired Portuguese citizenship. Many nationals of Guinea-Bissau have also followed the migratory tendency of many Cape Verdeans, namely of re-emigrating from Portugal to the U.S. • France is considered to be the other important country of residence of Bissau-Guineans within the OECD.⁷⁰⁰ However, the OECD Migration Database shows an extremely low number of residents: 523 in 2009. This may be explained by the fact that Bissau-Guinean migration to France is an old phenomenon and that, as a consequence, naturalisations have become significant over time. Abreu provides an estimate of 50,000 Bissau-Guineans residing in France, although it is again not clear whether such data includes only nationals of Guinea-Bissau or all individuals of Bissau-Guinean origin.⁷⁰¹ • Spain is a more recent country of destination, where, in 2011, around 5,400 migrants in a regular situation were recorded. After a peak period of approximately 1,000 inflows per year between 2004 and 2008, migration has subsequently decreased.⁷⁰² In Europe, state officials interviewed also mentioned the U.K., Luxembourg, the Netherlands, and Switzerland as countries of destination. • In Latin America, only Brazil is a country of destination for a significant number of migrants from Guinea-Bissau.
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⁶⁹² Guinea-Bissau, European Commission, *Document de stratégie pays et programme indicatif national pour la période 2008-2013*, 2007.

⁶⁹³ Instituto nacional de estatística, 2009, *op. cit.*, p. 44.

⁶⁹⁴ Abreu, A., 2012, *op. cit.*, p. 169.

⁶⁹⁵ *Ibid.*, p. 171.

⁶⁹⁶ *Ibid.*

⁶⁹⁷ OECD, 'International Migration Database'. The OECD migration database collects information on stay/resident permits and population registers.

⁶⁹⁸ Abreu, A., 2012, *op. cit.*, p. 170.

⁶⁹⁹ SEF/GEPE, *Relatório de Imigração, Fronteiras e Asilo – 2013*. Coordenação: António Carlos Patrício. Oeiras: SEF, 2014.

⁷⁰⁰ *Ibid.*, p. 171; Sangreman, C. et. al., 2013, *op. cit.*, p. 27.

⁷⁰¹ Abreu, A., 2012, *op. cit.*, p. 171.

⁷⁰² OECD, 'International Migration Database'.

<p>Education level/ sectors of employment:</p>	<ul style="list-style-type: none"> • Lower- and higher-skilled migrants are overrepresented. • In Cape Verde, Bissau-Guinean migrants are generally lower skilled and in an irregular situation. Higher-skilled nationals (a minority) appear to find themselves in a regular situation and work in occupations such as school teaching. The lower-skilled migrants tend to work mostly in construction and agriculture. According to state officials interviewed, in Senegal they also work in the banking sector. • In Portugal, Bissau-Guineans are primarily employed in construction, the hospitality sector, and domestic work.⁷⁰³ The migration of skilled individuals mainly concerns health professionals and high school teachers, but also lawyers, according to the interviewed state officials. In 2012, there were more Bissau-Guinean medical doctors in Portugal than in Guinea-Bissau.⁷⁰⁴ • OECD data has estimated the emigration rate of medical doctors at 49.2% and that of nurses at 18%.⁷⁰⁵ It should be underlined that such data does not include nationals who studied abroad and did not return to their country of origin. • As a general rule, health professionals are well integrated in the labour market of their country of residence. On the contrary, other higher-skilled nationals residing abroad tend to have high underemployment rates.⁷⁰⁶
<p>Remittances:</p>	<ul style="list-style-type: none"> • The World Bank has estimated the amount of remittances sent to the country at 49 million USD in 2013, corresponding to 5.1% of GDP.⁷⁰⁷ According to Abreu, remittances, including informal remittances, may constitute as much as 14-16% of GDP.⁷⁰⁸ • The majority of recorded remittances are sent from EU Member States – mainly from Portugal, France, and Spain. Only 18% is believed to originate from other African countries. • The Central Bank of the West African States (BCAEO) is responsible for collecting data on remittances transferred by formal methods and it indicated that remittances represented 4% of the country's GDP in 2012. • Remittances are primarily used for food, health, education, and consumption purposes.⁷⁰⁹ Economic investments using remittances tend to centre on the construction sector, the acquisition of land for agricultural purposes, and small businesses such as shops, restaurants, and taxis.⁷¹⁰ Community projects initiated by diaspora associations mainly concern education – including investments in education infrastructures and the payment of teachers' salaries – and, to a lesser extent, the health sector.⁷¹¹

⁷⁰³ Sangreman, C. et. al., 2013, op. cit., p. 30.

⁷⁰⁴ Abreu, A., 2012, op. cit., pp. 178-179.

⁷⁰⁵ OECD, 'Immigrant Health Workers in OECD Countries in the Broader Context of Highly Skilled Migration' in *International Migration Outlook – SOPEMI 2007*, 2007, p. 214. Although published in 2007, the data is from circa 2000.

⁷⁰⁶ Sangreman, C. et. al., 2013, op. cit., p. 42.

⁷⁰⁷ World Bank, Remittances Data 2013, 2013.

⁷⁰⁸ Abreu, A., 2012, op. cit., p. 175.

⁷⁰⁹ Ibid., p. 176.

⁷¹⁰ Ibid.; Sangreman, C. et. al., 2013, op. cit., p. 67.

⁷¹¹ Sangreman, C. et. al., 2013, op. cit., pp. 63-66.

Vulnerable groups:

- According to the available information, international trafficking of Bissau-Guineans primarily concerns children.
- The most reported phenomenon is where boys are sent to Senegal – and to a lesser extent to Guinea and Mali – for Koranic education (the boys are named *talibés* and the teachers *marabouts*) where they may be subjected to forced begging.⁷¹²
- The U.S. Department of State Trafficking in Persons Reports mentions also the existence of boys exploited in manual and agricultural work in Senegal as well as girls subjected to domestic servitude, and, in fewer cases, to commercial sexual exploitation in Senegal, and Guinea.⁷¹³
- Very little information on adult trafficking is available, which might lead to an underestimating of the phenomenon.

4.8.2 Migration policy

Whilst Guinea-Bissau does not have a migration policy in force, it is currently planning to develop one.⁷¹⁴ Political will is particularly visible in the areas of trafficking in persons and migration and development. The objective of channelling remittances into the economic and social development of the country is mentioned in the national development plan (DENARP II 2011-2015).⁷¹⁵

4.8.2.1 Institutional framework on migration

Governmental stakeholders involved

Ministry	Agency, Directorate, Unit	Responsibilities
Ministry of Internal Administration ⁷¹⁶	<ul style="list-style-type: none"> • General Directorate for Immigration and Borders⁷¹⁷ 	<ul style="list-style-type: none"> • Immigration management
Ministry of Foreign Affairs, International Cooperation and Communities ⁷¹⁸	<ul style="list-style-type: none"> • General Directorate for Communities⁷¹⁹ • General Directorate for Consular Assistance and Treaties⁷²⁰ 	<ul style="list-style-type: none"> • Relations of the state with the diaspora • Protection of nationals abroad
Ministry of Women, Family and Social Solidarity ⁷²¹	<ul style="list-style-type: none"> • National Institute of Women and Children⁷²² 	<ul style="list-style-type: none"> • Fight against trafficking in persons

⁷¹² As noted by Einarsdóttir et. al., parents and local communities may not consider this phenomenon as a form of exploitation: "Parents send their children away with their best interests in mind, wanting them to return home and become respected members of the community. They accept suffering as part of acquiring knowledge, while begging is a means to finance their studies." Einarsdóttir, J. et al., *Child Trafficking in Guinea-Bissau, an Explorative Study*, UNICEF, 2010, p. viii. See also: ECOWAS TIP Unit, forthcoming 2014, op. cit.

⁷¹³ U.S. Department of State, 2013, op. cit., p. 174.

⁷¹⁴ According to the state officials interviewed, Guinea-Bissau presented a project to the Spain-ECOWAS Fund in 2010 in order to create a national policy for migration, but it was not followed up. One of the reasons for the stagnation in the process is, amongst other reasons, the *coup d'état* on 12 April 2012. Only two years later did the country return to an electoral democracy, with parliamentary elections leading to the forming of a new government.

⁷¹⁵ *Segundo Documento de Estratégia Nacional de Redução da Pobreza*.

⁷¹⁶ *Ministério da Administração Interna*.

⁷¹⁷ *Direcção Geral da Imigração*.

⁷¹⁸ *Ministério dos Negócios Estrangeiros, da Cooperação Internacional e das Comunidades*.

⁷¹⁹ *Direcção Geral das Comunidades*.

⁷²⁰ *Direcção Geral dos Assuntos Consulares e Tratado*.

⁷²¹ *Ministério da Mulher, Família e da Solidariedade Social*.

⁷²² *Instituto da Mulher e Criança*.

Ministry of the Civil Service, State Reform, Labour and Social Security ⁷²³	<ul style="list-style-type: none"> • General Directorate of Labour⁷²⁴ • General Labour Inspection⁷²⁵ 	<ul style="list-style-type: none"> • Promoting on-going work, liaising between States • Data on the immigrant workers
Ministry of Economy and Regional Integration ⁷²⁶	<ul style="list-style-type: none"> • General Directorate for Regional Integration⁷²⁷ 	<ul style="list-style-type: none"> • Coordination of the National Migration and Migration Policy Development Platform • Focal point for ECOWAS and the Spain-ECOWAS Fund
Ministry of Justice ⁷²⁸	<ul style="list-style-type: none"> • General Directorate for Legislative Policy⁷²⁹ 	<ul style="list-style-type: none"> • Naturalisation, documents
Ministry of Finance ⁷³⁰	<ul style="list-style-type: none"> • General Directorate for Economy⁷³¹ 	<ul style="list-style-type: none"> • Customs rights and exemptions

Inter-institutional coordination

Within the framework of the Spain-ECOWAS Fund, a National Migration Platform⁷³² was set up in 2010, coordinated by the General Directorate for Regional Integration under the Ministry of Economy. Although, regular bi-weekly meetings were foreseen, only a few meetings have been held in total as the activities of the Platform were suspended during the *coup d'état* and its aftermath (April 2012 – April 2014). The National Migration Platform is an inter-ministerial coordination mechanism aimed at implementing the projects of the Spain-ECOWAS Fund. Its members are: the Ministry of Foreign Affairs⁷³³; the Ministry of Internal Administration⁷³⁴; the Ministry of Economy and Regional Integration⁷³⁵; the Ministry of Women, Family and Social Solidarity⁷³⁶; the Ministry of Finance⁷³⁷; the Secretary of State for Youth⁷³⁸; the Secretary of State for Communities⁷³⁹; Lusófona University; the National Institute of Studies and Research;⁷⁴⁰ ECOWAS; civil society representative; the Spanish Embassy in Guinea-Bissau and a private sector representative.

Moreover, in the Cacheu region, a consultation network for local entities, civil society, and relevant members of the National Migration Platform was established under the framework of the project 'Strengthen-

⁷²³ *Ministério da Função Pública, da Reforma do Estado, do Trabalho e da Segurança Social.*

⁷²⁴ *Direcção Geral do Trabalho.*

⁷²⁵ *Inspeção Geral do Trabalho.*

⁷²⁶ *Ministério da Economia e da Integração Regional.*

⁷²⁷ *Direcção Geral da Integração Regional.*

⁷²⁸ *Ministério da Justiça.*

⁷²⁹ *Direcção Geral da Política Legislativa.*

⁷³⁰ *Ministério das Finanças.*

⁷³¹ *Direcção Geral da Conjuntura.*

⁷³² *Plataforma Nacional das Migrações.*

⁷³³ *Ministério de Negócios Estrangeiros.*

⁷³⁴ *Ministério da Administração Interna.*

⁷³⁵ *Ministério da Economia e da Integração Regional.*

⁷³⁶ *Ministério da Mulher, Família e Solidariedade Social.*

⁷³⁷ *Ministério das Finanças.*

⁷³⁸ *Secretaria do Estado da Juventude.*

⁷³⁹ *Secretaria do Estado das Comunidades.*

⁷⁴⁰ *Instituto Nacional de Estudos e Pesquisa.*

ing of the co-development initiatives in the region of Cacheu (RICODEV)', implemented by the NGO 'Grupo de Investigação e Realização no Desenvolvimento Rural' (GRDR) and financed by the Spain-ECOWAS Fund. The network holds a meeting every month and aims to inform the Guinean diaspora and the local authorities, whilst also including the private sector.

Regarding the issue of trafficking in persons, in 2004 the National Commission for Preventing and Combatting Trafficking in Persons, especially Women and Children, was established within the National Institute of Women and Children to coordinate public and NGO initiatives.

4.8.2.2 Immigration: national policy framework and institutional practices

4.8.2.2.1 General immigration provisions

The Constitution provides for equal rights between nationals and foreigners, on the "basis of reciprocity".⁷⁴¹ According to the state officials interviewed, since 1974 there has only been five government articles published concerning the legal framework for foreigners. The act that regulates the entry, permanence, and exit of immigrants was still being formulated at the time of the coup d'état and it has not yet been approved.

4.8.2.2.2 Labour migration

The country's labour legislation does not include specific provisions regarding the access of foreigners to the labour market and, according to the state officials interviewed, in practice no difference is being made between foreign and national workers. Regarding rights within employment, the Labour Law of 1986⁷⁴² does not make any reference to nationality. It applies equally to all workers, regardless of their nationality and legal status.

4.8.2.2.3 Irregular migration

According to officials interviewed for this report, police forces organise operations in some neighbourhoods of the city of Bissau, and to a lesser extent in other cities, in order to detect and detain irregular migrants. Regularisation of the immigration status is an administrative and immediate practice, especially in the case of ECOWAS Member States nationals and citizens from the Community of Portuguese Language Countries (CPLP),⁷⁴³ while immigrants from other countries, if identified as being in an irregular situation, are interviewed and subject to a fine.

4.8.2.2.4 Migrants at risk

National initiatives on trafficking in persons are mainly discussed below in section 4.8.2.3.3. It is worth mentioning at this stage that the Law on Preventing and Combatting Trafficking in Persons, Especially

⁷⁴¹ Constituição da República da Guiné-Bissau, 1984, art. 28.

⁷⁴² *Lei geral do trabalho*.

⁷⁴³ The countries of the CPLP are the following: Angola, Brazil, Cape Verde, Guinea-Bissau, Guinea Equatorial, Mozambique, Portugal, São Tomé and Príncipe, and East Timor.

Women and Children,⁷⁴⁴ adopted in 2011, details the delivery of a temporary stay permit for foreign victims and, under the condition that they cooperate with investigating authorities and under restricted conditions, the possibility of a more permanent stay in the country.

4.8.2.3 Emigration

4.8.2.3.1 Labour migration

Guinea-Bissau lacks a labour emigration policy. National authorities are yet to decide whether labour emigration should be promoted or not, and, if so, what kind of employment abroad should and should not be promoted. Public employment services do not have the means to match demand and supply on the international labour market. There is no legislation regulating the activities of private employment agencies.

However, Guinea-Bissau did conclude a rather comprehensive migration-related bilateral agreement with Spain in 2008.⁷⁴⁵ The agreement does not provide for a privileged access to the national labour market, but does include a series of favourable provisions. It asserts the promotion of labour migration on the basis of labour market studies and the communication by Spanish authorities about job vacancies to their Bissau-Guinean counterparts.⁷⁴⁶ The implementation of these provisions is, however, quite arduous, given the low capacities of Bissau-Guinean authorities in this respect. It should also be noted that the agreement addresses the issue of technical assistance for the development of migration management capacities in Guinea-Bissau.⁷⁴⁷

4.8.2.3.2 Migration and development

National authorities have little knowledge about the nature, composition and interests of the Bissau-Guinean diaspora. According to officials interviewed, a mapping exercise and a diaspora congress is planned, although the details of this initiative remain to be agreed upon.

In 2010, the Citizenship Law was changed in order to end the principle that the acquisition of a foreign nationality leads to the loss of Bissau-Guinean citizenship, providing, therefore, for dual citizenship. The change also established that a foreigner can acquire Bissau-Guinean citizenship after a period of six years of habitual and legal residence in the Bissau-Guinean territory. According to the law, the following reasoning is presented:

“Today [...] Guinea-Bissau presents itself as a country of emigration, because its citizens that are living abroad are high in number and they have almost always needed to acquire the citizenship of the country that hosts them [...]. We have to, much like other countries with high emigration, assume openly the introduction of dual nationality, without restrictions of any kind, in our legal framework. On the other hand, our society has to be open to a total integration of foreigners, whom chose our country to live in and whom the State should

⁷⁴⁴ Lei No. 12/2011 da prevenção e combate ao tráfico de pessoas, em particular mulheres e crianças.

⁷⁴⁵ Acuerdo de Cooperación en materia de inmigración entre España y Guinea Bissau, 27 de enero de 2008.

⁷⁴⁶ Ibid., art. 3.

⁷⁴⁷ Ibid., art. 7.

therefore help by not making the acquisition of Bissau-Guinean nationality difficult [...]" (translation by the author).⁷⁴⁸

Nevertheless, national authorities have done little to further channel and mobilise remittances for development. The Investment Code⁷⁴⁹ includes general tax incentives to promote foreign investment that apply to all foreign residents, including members of the diaspora. The most important measure mentioned by the respondents is the customs exemptions for emigrants whom send goods to their country of origin. According to the officials interviewed for this report, better data collection mechanisms and facilitated access to money transfer services are also planned.

A specific project concerning the involvement of skilled migrants in the development of Guinea-Bissau is currently being developed: the UNDP-led TOKTEN (*Transfer of Knowledge through Expatriate Nationals*) programme, which sees the temporary return of skilled nationals in order to contribute to development projects in their country of origin and to discourage the exiting of skilled Bissau-Guineans.

4.8.2.3.3 Migrants' protection

Information dissemination and protection in countries of destination

An Emigrant Assistance Institute⁷⁵⁰ was established and worked for a number of years before the coup, but produced little in the way of results.⁷⁵¹ Its mandate is currently held by the General-Directorate for Communities, and for Consular Assistance and Treaties. Bissau-Guinean diplomatic and consular posts do not provide a significant level of assistance services to their nationals abroad.

A Consular Cooperation Agreement was concluded in 1979 with Portugal (amended in 1998), and provides the assistance of Portuguese consular and diplomatic posts to nationals of Guinea-Bissau in the following cases: death, accident and grave disease, detention, victims of acts of violence, repatriation in case of hardship, and evacuation.⁷⁵²

The bilateral agreement concluded with Spain also includes several provisions regarding protection, such as pre-departure training for migrants and further training upon arrival in Spain with a view to facilitating their integration in the country of destination.⁷⁵³ It also provides assistance to Guinea-Bissau authorities with regard to anti-trafficking policies.⁷⁵⁴

⁷⁴⁸ Lei no. 6/2010 (Alteração à Lei da Nacionalidade), 21 de junho de 2010. Veja também a Lei no. 2/92 (Lei da Nacionalidade), 6 de Abril de 1992.

⁷⁴⁹ *Código de investimento*.

⁷⁵⁰ *Instituto de apoio ao emigrante*

⁷⁵¹ *Ibid.*, p. 76.

⁷⁵² Protocolo Adicional ao Acordo de Cooperação Consular entre a República Portuguesa e a República da Guiné-Bissau para Protecção e Assistência Consular aos Seus Nacionais em Terceiros Países, 6 de Fevereiro de 1998, art. 2.

⁷⁵³ Acuerdo de Cooperación en materia de inmigración entre España y Guinea Bissau, 27 de enero de 2008, art. 6.

⁷⁵⁴ *Ibid.*, art. 8.

Social security agreements

A social security agreement was concluded with Portugal in 1993. Another convention is currently being negotiated with Brazil. Guinea-Bissau is not party to the inter-African social security convention (CIPRES Convention).⁷⁵⁵

Protection of victims of trafficking

In 2011, Guinea-Bissau adopted the comprehensive Law on Preventing and Combating Trafficking in Persons, especially Women and Children.⁷⁵⁶ The focus of this Law is on combatting the trafficking of children and, to a lesser extent, of adult women.⁷⁵⁷ The Law prescribes penalties of five to 20 years' imprisonment.⁷⁵⁸ It also enshrines in law protection measures for victims, including shelter, medical and psychological assistance, counselling, legal help, education and vocational training.⁷⁵⁹ Awareness campaigns and the training of relevant staff are also considered.⁷⁶⁰ Subsequent to the Law, a National Plan of Action for the Prevention and Fight against Child Trafficking was adopted in June 2011.

At the institutional level, the National Institute of Women and Children coordinates support to children at risk and is responsible for the monitoring and follow-up of cases related to the protection of women and children. The president of the institute also presides the National Commission on Combatting Trafficking in Persons, an inter-ministerial structure that meets every two months and which receives financial support from UNICEF. The Commission is charged with responsibility for coordinating the activities of NGOs in relations to trafficking in persons.⁷⁶¹ The Commission collaborates with the National Commission on Combatting Child Labour, a tripartite body that also includes a member of civil society⁷⁶² and the Commission on Combatting Harmful Practices.

The Ministry of Justice is currently working on the Child Protection Code. This process has not yet seen any significant progress, nor has a preliminary law been drafted, although some studies and seminars have been carried out.

Despite this framework, the prosecutions of traffickers is still lacking.⁷⁶³ Protection and prevention activities are conducted by NGOs, such as Amigos de Criança (AMIC), *SOS Talibé and Rede Ajuda*, which assist repatriated children from Senegal and those whom have fled the country, provide temporary shelter, facilitate family reunification, develop awareness campaigns and support local schools to prevent child migration to Senegalese koranic schools.⁷⁶⁴ National authorities participate in some of these activities and provide small financial support to NGOs. Their main role is arguably to facilitate the repatriation of

⁷⁵⁵ *Convention multilatérale de sécurité sociale de la Conférence interafricaine de la prévoyance sociale.*

⁷⁵⁶ *Lei da prevenção e combate ao tráfico de pessoas, em particular mulheres e crianças.*

⁷⁵⁷ ECOWAS TIP Unit, forthcoming, op. cit.

⁷⁵⁸ Law on Preventing and Combatting Trafficking in Persons, Especially Women and Children, 2011, art. 4 - art. 11.

⁷⁵⁹ *Ibid.*, art. 20 - art. 21.

⁷⁶⁰ *Ibid.*, art. 30 - art. 31.

⁷⁶¹ Einarsdóttir, J. et al., 2010, op. cit., p. 47.

⁷⁶² ECOWAS TIP Unit, forthcoming, op. cit.

⁷⁶³ U.S. Department of State, 2013, op. cit., p. 175.

⁷⁶⁴ Einarsdóttir, J. et al., 2010, op. cit., p. 47 - 51.

victims in Guinea-Bissau.⁷⁶⁵ The National Institute of Women and Children is part of the Steering Commission of the West African Network for Child Protection.

4.8.3 International, regional, and bilateral cooperation

International conventions

Among the most relevant international conventions protecting human rights, Guinea-Bissau has ratified:

- the International Covenant on Civil and Political Rights (1966);
- the International Covenant on Economic, Social and Cultural Rights (1966);
- the Convention on the Elimination of All Forms of Discrimination against Women (1979);
- the Convention on the Rights of the Child (1989);
- 36 ILO Conventions (Guinea-Bissau has not ratified the two specific ILO conventions on migrant workers: C 97(1949) and C 143 (1975));
- the Convention on the Protection of the Rights of All Migrant Workers and Members of their Families (1990); and
- the United Nations Convention against Transnational Organized Crime (2000) and its additional Protocols on trafficking in persons (it has not yet ratified the additional Protocol on smuggling of migrants).

As well as these international conventions, Guinea-Bissau is bound by ECOWAS texts, including its Treaty (1975) and its subsequent protocols regarding free movement of persons, residence and establishment. Guinea-Bissau has signed the Multilateral Agreement for Cooperation on the Fight Against Child Trafficking in West Africa of 2005 and has ratified the ECOWAS/ECCAS Anti-Trafficking Joint Plan of Action (2006-2009).

Bilateral agreements

Guinea-Bissau's international cooperation on migration-related issues is limited. Few bilateral agreements regarding entry and stay have been signed. In 1979, a general agreement on migration was concluded with Portugal.⁷⁶⁶ The most comprehensive agreement was signed with Spain in 2008. This agreement outlines cooperation and assistance regarding labour migration,⁷⁶⁷ the integration of Bissau-Guineans in Spain, assistance in the field of trafficking in persons,⁷⁶⁸ and also includes provisions on the readmission of nationals in an irregular situation. In addition, bilateral agreements concerning cooperation in the fight against child trafficking between Guinea-Bissau and Senegal, Guinea, and The Gambia are all in the process of being validated.⁷⁶⁹

⁷⁶⁵ U.S. Department of State, 2013, op. cit., p. 175.

⁷⁶⁶ Acordo Geral sobre Migrações entre a Portugal e Guiné-Bissau, 24 de Fevereiro de 1979.

⁷⁶⁷ See section 4.8.2.3.1.

⁷⁶⁸ See section 4.8.2.3.3.

⁷⁶⁹ ECOWAS TIP Unit, forthcoming, op. cit.

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4.8.5 List of interlocutors

Name of respondent	Position	Institution
Fernandes, I.	Director General for Communities ⁷⁷⁰	Ministry of Foreign Affairs, International Cooperation and Communities ⁷⁷¹
Dabo, A.	Director General for Consular Assistance and Treaties ⁷⁷²	
Dafé, T. C.	Director for Foreigners and Borders	Ministry of Internal Administration ⁷⁷³
Pedreira, C.	Director General for Regional Integration ⁷⁷⁴	Ministry of Economy and Regional Integration ⁷⁷⁵
Sanhá, M. I. / Barros Sá, Ana Emília	Former President of the National Institute of Women and Children ⁷⁷⁶ / Current president	Ministry of Women, Family and Social Solidarity ⁷⁷⁷
Cunha, O.	Director of Economy ⁷⁷⁸	Ministry of Finances ⁷⁷⁹
Jata, A.	Director of the Statistical Office ⁷⁸⁰	
Djedjo, C. ⁷⁸¹	Director General for Legislative Policy ⁷⁸²	Ministry of Justice ⁷⁸³
Dias, F.	Director General of Labour ⁷⁸⁴	Ministry of Labour ⁷⁸⁵

⁷⁷⁰ Director Geral das Comunidades.

⁷⁷¹ Ministério dos Negócios Estrangeiros, da Cooperação Internacional e das Comunidades.

⁷⁷² Director Geral de Assuntos Consulares e Tratados.

⁷⁷³ Ministério da Administração Interna.

⁷⁷⁴ Directora Geral da Integração Regional.

⁷⁷⁵ Ministério da Economia e Integração Regional.

⁷⁷⁶ Presidente do Instituto da Mulher e Criança.

⁷⁷⁷ Ministério da Mulher, Família e da Solidariedade Social.

⁷⁷⁸ Director de Serviço da Conjuntura.

⁷⁷⁹ Ministério das Finanças.

⁷⁸⁰ Director de Serviço de Estatística.

⁷⁸¹ Provided additional feedback via e-mail on 20 October 2014.

⁷⁸² Director Geral da Política Legislativa.

⁷⁸³ Ministério da Justiça.

⁷⁸⁴ Director Geral do Trabalho.

⁷⁸⁵ Ministério do Trabalho.

4.9 Liberia

4.9.1 Migration trends

4.9.1.1 Immigration

Liberia has the unique historical feature of having been founded by Liberian slaves from the U.S. in the 19th century. Similar to other West African countries, it has also experienced wide intra-regional migration over the years.

Since the 1990s, migration in Liberia has been characterised by several waves of refugee flows, mainly from Sierra Leone and Côte d'Ivoire. During the Sierra Leonean internal armed conflict, which lasted from 1991 to 2002, an estimated 120,000 nationals found refuge in Liberia.⁷⁸⁶ Since 2002, most Sierra Leonean refugees have returned to their country of nationality. The decade of political unrest in Côte d'Ivoire, which began with the coup d'état in 1999, has also led to refugee movements. In 2013, an estimated 55,000 Ivorian refugees were residing in Liberia, which corresponds to 71% of the Ivorian refugee population in the region.⁷⁸⁷

Although refugee movements have been a central demographic feature of the past decades, there is also considerable voluntary migration towards Liberia. Moreover, immigration in Liberia can be expected to increase in the coming years, given the restoration of political stability in the country and the gradual recovery of the national economy.

Data	Year	Absolute numbers	% of the Total Population
Population and Housing Census	2008	68,688 foreign residents ⁷⁸⁸	2%

⁷⁸⁶ IRIN, *Sierra Leone: Repatriation of refugees after civil war finally ends*, 2004.

⁷⁸⁷ OCHA, *Côte d'Ivoire: répartition des réfugiés ivoiriens dans les pays limitrophes*, 2013.

⁷⁸⁸ Republic of Liberia, *2008 Population and Housing Census. Final Results*, 2009.

4.9.1.1.1 Characteristics of immigrants/foreigners

Countries of origin:	<ul style="list-style-type: none"> • Existing knowledge on foreign communities residing in Liberia is limited. However, by combining the 2008 Population and Housing Census data and UNHCR figures, it appears that the majority of recorded foreigners are voluntary migrants. In 2008, refugees were estimated at 10,230, including 6,600 Ivorians and 3,600 Sierra Leoneans.⁷⁸⁹ • The Census includes information on immigration, disaggregated by country of birth of the individuals, but not by nationality. 73,861 immigrants were recorded, mainly from Guinea, which accounted for 33,746 immigrants, followed by Sierra Leone with 11,816, Côte d'Ivoire with 9,180, Ghana with 6,744, and Nigeria with 4,696.⁷⁹⁰ Such data has to be taken with caution. Given the large Liberian refugee outflows that occurred during the past decades, it is likely that a significant proportion of the recorded immigrants are nationals that have returned to their country of nationality rather than being foreigners who have migrated to Liberia. • Despite the absence of data on the composition of the foreign population in Liberia, it is safe to assume that it is mainly composed of ECOWAS Member States' nationals. • Mention can also be made of non-African minority groups, such as the Lebanese community, which has been present for several generations.⁷⁹¹
Socio-demographic profile:	<ul style="list-style-type: none"> • According to the 2008 Population and Housing Census, the majority of foreigners (61.5%) are males.⁷⁹²
Socio-economic profile and sectors of employment:	<ul style="list-style-type: none"> • ECOWAS Member States' nationals tend to be employed within the informal labour market. Mention can be made of seasonal and more permanent migrants from Guinea and Mali, employed as small traders, craftsmen, and plantation workers.⁷⁹³ • The Lebanese community is highly involved in trading within the main cities of the country.
Vulnerable groups:	<ul style="list-style-type: none"> • Trafficking in persons is predominantly an internal phenomenon. • According to the latest U.S. Department of State Trafficking in Persons Reports, Liberia is also a country of destination for victims from Sierra Leone, Guinea, Côte d'Ivoire and Nigeria, who are subject to domestic servitude, forced begging, sex trafficking and forced labour in street vending, plantations and diamond mines.⁷⁹⁴

4.9.1.2 Emigration

Recent emigration flows from Liberia have mostly been determined by nearly two decades of internal armed conflict. In accordance with the continuous rise and fall of violence in the country, Liberians have fled and returned. At the peak of the crisis, an estimated 700,000 refugees were recorded, mainly in neighbouring countries such as Guinea, Côte d'Ivoire, and Sierra Leone.⁷⁹⁵ Since the end of the conflict in 2003, most refugees have returned to Liberia. Concerning the remaining refugee populations subject to the cessation clauses, initiatives have been undertaken for their local integration, notably through the framework of the ECOWAS Treaty and its subsequent protocols on free movement and residence (see section 4.9.3.)

⁷⁸⁹ UNHCR, Global Report 2008, 2008, p. 101.

⁷⁹⁰ Republic of Liberia, 2009, op. cit.

⁷⁹¹ American Bar Association, *Analysis of the Aliens and Nationality Law of the Republic of Liberia*, 2009, p. 14.

⁷⁹² Ibid.

⁷⁹³ Republic of Liberia, European Community, *Country Migration Profile, Annex 11 of Country Strategy Paper and Indicative Programme for the Period 2008-2013*.

⁷⁹⁴ U.S. Department of State, *Trafficking in Persons Report 2013*, 2013a, p. 236.

⁷⁹⁵ U.S. Department of State, *Liberian Refugees in West Africa*, 2013b.

With regards to voluntary migration flows and the stock of Liberians abroad, estimates are difficult to present. To date, no national data on emigration flows and stocks has been published.

Data	Year	Estimates
General estimates from national authorities (data sources unidentified)	2013	500,000 nationals residing abroad. Such an estimate should be taken with caution.

4.9.1.2.1 Characteristics of emigrants/nationals abroad

Countries of destination/ residence:	<ul style="list-style-type: none"> • ECOWAS Member States' national population censuses generally do not show a significant presence of Liberian nationals. The two exceptions are Guinea and Sierra Leone. • In the case of Guinea, the latest population census is from 1996 and does not distinguish between refugees and migrants.⁷⁹⁶ As a consequence, its results cannot be taken into consideration. • The Sierra Leone Population and Housing Census of 2004 does not seem to include refugees within its estimate of foreign residents. It shows a Liberian population of 21,150, which is arguably the largest Liberian diaspora in Western Africa.⁷⁹⁷ • Within OECD Member States, the U.S. is the main country of residence of Liberian nationals. In 2007, this was estimated at 41,186 by the Sussex Development Research Centre on Migration, Globalisation and Poverty.⁷⁹⁸ In addition, from 2001 to 2011, an average of 2000 Liberians per year acquired U.S. nationality.⁷⁹⁹ It must be noted, however, that this data does not distinguish between refugees and migrants. • According to the OECD Migration Database, migration towards other OECD countries is low. The only two countries where Liberian presence is not minute are Italy, which recorded 2,187 nationals in 2010, and Germany, with 953 nationals in 2011.⁸⁰⁰ It should be noted that the OECD database does not include the U.K.
Education level/ sectors of employment:	<ul style="list-style-type: none"> • Lack of data on education level/sectors of employment. • With regard to the health sector, OECD data shows a very high risk of brain drain: the emigration rate of medical doctors was estimated at 54.2% and that of nurses at 66.9%.⁸⁰¹
Remittances:	<ul style="list-style-type: none"> • According to the latest World Bank estimates, 400 million USD were remitted to Liberia in 2013, which corresponds to 20.4% of GDP.⁸⁰² • Studies are yet to be conducted on remittances in Liberia.
Vulnerable groups:	<ul style="list-style-type: none"> • Trafficking in persons is mainly an internal phenomenon. • The latest U.S. Department of State Trafficking in Persons Report notes that "a small number of Liberian men, women, and children are subjected to human trafficking in Cote d'Ivoire, Guinea, Sierra Leone, Nigeria, and the United States".⁸⁰³

⁷⁹⁶ République de Guinée, *Recensement général de la population et de l'habitation de 1996. Etat de la population*, 2000.

⁷⁹⁷ Republic of Sierra Leone, *2004 Population and Housing Census, Analytical Report on Population Distribution, Migration and Urbanisation in Sierra Leone*, 2006.

⁷⁹⁸ University of Sussex, Development Research Centre, 'Global Migrant Origin Database', 2007.

⁷⁹⁹ OECD 'International Migration Database'. The OECD migration database collects information on stay/resident permits and population registers.

⁸⁰⁰ Ibid.

⁸⁰¹ OECD, 'Immigrant Health Workers in OECD Countries in the Broader Context of Highly Skilled Migration', *International Migration Outlook – SOPEMI 2007*, 2007, p. 213.

⁸⁰² World Bank, *Remittances Data 2013*, 2013.

⁸⁰³ U.S. Department of State, 2013a, op. cit., p. 236.

4.9.2 Migration policy

Liberia is currently in the process of adopting a National Policy on Migration. The document is strongly based on human rights concerns and relies on the ECOWAS framework on migration, including its founding treaty, its subsequent protocols regarding free movement of persons, residence and establishment, and the Common Approach on Migration.

The National Migration Policy accordingly seeks to:

- “promote an enabling and predictable immigration environment for investment, trade and contribution of the Liberian diaspora without compromising national security, national integrity and the environment;
- provide a framework for facilitating legal and orderly cross-border and third-country movements while protecting the national borders from penetration or infiltration by undesirable persons, goods, services and influences; and
- develop national responsiveness to migration-related regional integration needs (Free Movement Protocol of ECOWAS) and international commitments, without undermining our national development drive and compromising national security”.⁸⁰⁴

Although the draft National Policy on Migration is a rather comprehensive document, it tends to focus more on immigration-related issues rather than on emigration management.

The draft policy is fully developed, but is yet to be endorsed by the competent authorities. With regard to applicable legislation, strategies and initiatives, developments are limited. Immigration legislation is generally outdated and few initiatives have been undertaken in the area of emigration management.

Although the national development plan, the Liberia National Vision 2030, includes few references to migration policies, the consultation process that led to its adoption included the participation of diaspora representatives.

4.9.2.1 Institutional framework on migration

Governmental stakeholders involved

Ministry	Agency, Directorate, Unit	Responsibilities
Ministry of Justice	Bureau of Immigration and Naturalization (BIN)	Immigration management
Ministry of Labour	Division of Alien Registration and Liberalization	Delivery of work permits to foreigners
Ministry of Foreign Affairs	Legal Affairs	Protection of nationals abroad
National Police	Women and Children Protection Section (WACPS)	Fight against trafficking

⁸⁰⁴ Republic of Liberia, *Draft National Policy on Migration*, 2013, p. 10.

Inter-institutional coordination

With regard to the fight against trafficking in persons, an inter-ministerial institution, the Anti-Human Trafficking Taskforce, has been established. The drafting of the National Policy on Migration was supervised by another inter-institutional body, the National Migration Policy Taskforce.

4.9.2.2 Immigration: national policy framework and institutional practices

General immigration provisions

Legislation/Policy Framework	Description
Aliens and Nationality Law, 1973	<p>Art. 1.2 distinguishes between:</p> <ul style="list-style-type: none"> • visitors, who can stay for a maximum period of 60 days; • alien residents, defined as “persons applying for admission or to remain in Liberia for a period of up to a year” although extension of their stay is foreseen; and • immigrants, defined as “parents, spouses, or children of Liberian citizens, or other acceptable persons, applying for admission with the intention of remaining in Liberia indefinitely and becoming Liberian citizens”. <p>Art. 5.10; art. 6.1: Foreigners intending to stay on the national territory for a period exceeding 60 days are required to obtain an immigrant or a non-immigrant visa, valid for four months, as well as a residence permit, valid for a period of one year, which is renewable.</p> <p>Art. 6.1: Application for the residence permit is to be made before entry on the national territory.</p> <p>Art. 6.7: “Immigrants may be directed by the Attorney General to settle in specified sections of the country in order to prevent unreasonable numbers from settling in one county, city, town, or village. An immigrant who establishes a residence in a place other than the one designated by the Attorney General shall be liable to payment of a civil penalty of \$10 for every month of noncompliance.”</p> <p>Art. 5.19: Family migration is only foreseen for nationals and immigrants – thus excluding alien residents – and applies to the spouse, parents and children of the considered individuals.</p>

Art. 6.7 of the 1973 Law foresees limitations on the right of foreigners to freely choose their residence, which contravenes international law obligations. The Law does not apply to ECOWAS Member States’ nationals – it was adopted before the conclusion of the ECOWAS Treaty. The text also includes other limitations. Excluding alien residents from family migration rights is rather discriminatory given that the notion of immigrant is inherently linked to the acquisition of the Liberian nationality, which itself is discriminatory as it is only applicable to persons who are “Negro or of Negro descent”.⁸⁰⁵ Residence permits are of very short duration and, as a general rule, conditions and procedures to obtain immigration statuses and the rights attached to them are not clearly defined.

To a large extent, the 1973 Law is obsolete. This is recognised in the draft National Policy on Migration. In the foreword to the document, the Minister of Justice notes: “it is in my view that the Aliens and Nationality Law, as a whole needs to be revised”.⁸⁰⁶ This assumption is reiterated within the draft National Policy

⁸⁰⁵ Aliens and Nationality Law, 1973, art. 21.1.

⁸⁰⁶ Republic of Liberia, 2013, op. cit., p. iv.

on Migration itself, which states that “this policy is the first step towards reviewing national legislation that is no longer deemed to deal with current migration challenges”.⁸⁰⁷ The guiding principles provided by the draft policy include the need to amend national legislation in line with international obligations, promote free and safe movement of people in the region, facilitate entry and residence of migrants who can contribute to the national development, and reduce irregular migration.⁸⁰⁸

More specifically, the draft National Policy on Migration envisages the following amendments to the 1973 Law:

- instituting a visitor’s visa valid for 90 days – instead of 60 days;
- organising a procedure for the submission of residence permit upon arrival – rather than abroad; and
- organising procedures for ECOWAS Member States’ nationals to obtain ECOWAS residence cards or residence permits.

4.9.2.2.2 Labour migration

Legislation/Policy Framework	Description
Aliens and Nationality Law, 1973	<p>Art. 5.13 sets the principle according to which foreigners seeking to be employed in Liberia are required to hold an employment permit.</p> <p>Art. 6.5: “No alien shall change his employment nor his occupation, profession or means of livelihood, whether with the same or a different employer, nor shall an unemployed alien secure employment, without first obtaining the approval of the Minister of Justice. Such approval shall be granted only on condition that (a) the Minister of Labour has issued an employment permit for such change of employment or securing of employment or has advised in writing that no employment permit is required by law with respect to the particular employment; and (b) the prospective employer has furnished a bond in the amount of \$3,000 as a guarantee of prompt departure of the alien upon the expiration of the permitted period of residence or upon order of the Minister of Justice to depart”.</p>
Labour Law, ⁸⁰⁹	<p>Art. 75:</p> <ul style="list-style-type: none"> • Organises a labour market test system according to which the employer has to demonstrate that he/she cannot find a competent worker on the national labour market; and • Refers to a list of “qualified Liberian workmen and employees” maintained by the Ministry of Labour that is to be taken into consideration when engaging a worker. With the exception of “administrative, supervisory, or technical positions” and “agricultural and unskilled labourers”, priority is to be given to job-seekers included in the list.⁸¹⁰

The labour law also foresees the possibility for the Ministry of Labour to “withhold permits in respect of nationals of any country not according at least equal reciprocal rights in employment to Liberians”.⁸¹¹ Given that human rights law and international labour law are based on the renouncement to reciprocity,

⁸⁰⁷ Ibid., 2013, p. 7.

⁸⁰⁸ Ibid., pp. 10-11.

⁸⁰⁹ Regarding the date of adoption of the Labour Law, the ILO notes “date unclear, sometime after 1986”.

⁸¹⁰ This may well constitute significant derogations to the principle of the labour market test, although one has to recognise that the relationship between the labour market test and the list of jobseekers is not clearly expressed by the legislation.

⁸¹¹ Labour Law, art. 1507.

the legality of this provision is questionable.

With regard to rights within employment, the Labour Law states that equal treatment with nationals in terms of wages and conditions of employment is provided to foreign workers in a regular situation.⁸¹² In order for Liberia to comply with international obligations, however, all workers, regardless of their nationality and status, should be treated on an equal footing. The Labour Law also limits the access to administration and direction functions within trade unions to nationals.⁸¹³

As a general rule, Liberian labour immigration legislation is outdated and, in some cases, contravenes international law obligations. The draft National Migration Policy intends to modernise labour immigration management and provides better protection for migrant workers. It notably refers to the need to ratify the Convention on the Protection of the Rights of All Migrant Workers and Members of their Families.⁸¹⁴ However, no mention of the ratification of relevant ILO Conventions, including C 143, is made.

The draft policy includes detailed objectives with regards to labour immigration management. First, it foresees the full implementation of the ECOWAS protocols.⁸¹⁵ Second, with regard to non-ECOWAS Member States' nationals, it puts forward the following proposals:

- assessments of labour shortages should be conducted and a quota system should be put in place;
- priority should be given to temporary migration and skilled workers – in combination with transfers of competences to nationals;
- different types of work permits should be created (such as for frontier workers, seasonal workers, etc.);
- equal treatment between nationals and foreign workers should be enforced; and
- foreign workers should be authorised to freely change employers.⁸¹⁶

4.9.2.2.3 Irregular migration

Legislation/Policy Framework	Description
Aliens and Nationality Law, 1973	<p>Art. 5.14: Visas shall be refused to prohibited migrants as well as to individuals whose immigration is considered by the Minister of Justice to be contrary to the national interest.</p> <p>Art. 7.1: Deportation is foreseen for those who fall under the list of prohibited migrants, as well as foreigners who have been convicted of a crime "involving moral turpitude", have become a public charge, or have failed to maintain their status of non-immigrant.</p> <p>Art. 5.21: Fraudulent use of visas and other entry documents is punished by a maximum penalty of one year imprisonment and a fine.</p> <p>Art. 5.91: The same penalties apply to those who bring or "harbour" irregular migrants and excluded or expelled migrants re-entering the country.</p>

⁸¹² Ibid.

⁸¹³ Ibid., art. 4102.

⁸¹⁴ Republic of Liberia, 2013, op. cit., p. 14.

⁸¹⁵ Ibid., pp. 13-15.

⁸¹⁶ Ibid.

The 1973 Aliens and Nationality Law includes numerous detailed provisions regarding irregular migration. In its review of the legislation, the American Bar Association noted that the established procedures are unnecessarily complicated.⁸¹⁷

In many cases, the 1973 Law is also outdated. For instance, its long list of prohibited migrants includes “aliens who are feeble-minded”, “insane”, “afflicted with psychopathic personality, epilepsy or mental defect”, “anarchists”, and “aliens who are members of or affiliated with the Communist Party or any other totalitarian party”.⁸¹⁸ Such grounds of exclusion are likely to contravene international law provisions.

The draft National Migration Policy recognises the limited capacities of the state with regard to border management and plans to increase existing capacities through “regular comprehensive border management assessments”, “upgrading the capacities of border officials, developing border infrastructure”, and seeking “to outsource, install and operationalise a modern automated border management information system”.⁸¹⁹ It also refers to existing efforts to improve border management, most notably through the establishment of a Joint Border Security and Confidence Building Unit within the framework of the Mano River Union.⁸²⁰

4.9.2.2.4 Migrants at risk

Legislation/Policy Framework	Description
Act to Ban Trafficking in Persons within the Republic of Liberia, 2005	<p>Art. 1, Section 7 foresees penalties comprised of between one and 21 years of imprisonment depending on the circumstances. For instance, child trafficking is punished by six years of imprisonment.</p> <p>Art. 1, Section 3 and Section 8 include minimal measures regarding victims’ protection.</p> <p>Art. 2, Section 1 establishes an Anti-Human Trafficking Taskforce, responsible for the development of a National Plan for the Prevention of Trafficking, coordination and sharing of trafficking-related data and information among public institutions, as well as facilitating cooperation with other countries and with NGOs.</p>

Liberia’s anti-trafficking law is globally in line with the Palermo Protocol on trafficking in persons. In practice, the numbers of prosecutions for trafficking has remained low. In 2012, the first conviction under the 2005 Law was obtained.⁸²¹ Protection activities also remain limited, as public authorities rely mainly on NGOs for support and assistance to victims. Standard operating procedures for trafficking support have been developed, but are yet to be formally adopted.⁸²² Regarding training of relevant civil servants, all officers of the Women and Children Protection Section (WACPS) of the national police undergo a mandatory three-week course on trafficking.⁸²³ Several awareness-raising activities have been organised, including anti-trafficking public campaigns.⁸²⁴

⁸¹⁷ American Bar Association, 2009, op. cit., pp. 7, 11, 15.
⁸¹⁸ Aliens and Nationality Law, 1973, op. cit., art. 5.1.
⁸¹⁹ Republic of Liberia, 2013, op. cit., pp. 31-33.
⁸²⁰ Ibid., p. 31.
⁸²¹ U.S. Department of State, 2013, op. cit., p. 236.
⁸²² Ibid., p. 237.
⁸²³ Ibid.
⁸²⁴ Ibid.

The draft National Policy on Migration is a continuation of the efforts from the past years. It calls for the allocation of regular funding to the Anti-Human Trafficking Taskforce, an increase of staff training courses, the development of information campaigns targeting potential victims, and the increase of protection activities through rehabilitation and reintegration support services.⁸²⁵

4.9.2.3 Emigration

4.9.2.3.1 Labour migration

Liberia lacks a labour emigration policy. National authorities are yet to decide whether labour emigration should be promoted or not, and, if so, what competencies should or should not be promoted. Activities related to the identification and assessment of existing and potential new countries of destination are non-existent and public employment services do not have the means to match demand and supply on the international labour market. To date, no bilateral labour or social security agreements appear to be in force.

The Labour Law's first article includes a surprising provision that seems to ban all recruitment for employment abroad – with the exception of seafarers:

"It is illegal:

- a) for any person to recruit or cause to be recruited within this Republic any Liberian citizen for service in any place, territory, or country outside this Republic;
- b) for any official to issue any license or otherwise give authorization for recruiting of any Liberian citizen for service in any place, territory, or country outside this Republic; and
- c) for any citizen or resident of the Republic to enter into contract or contracts for the recruitment of Liberian citizens for service in any place territory, or country outside this Republic or to act as agent or agents of any person so contracting; provided however, that the definition of service outside this Republic shall not include service as merchant seamen and seagoing labourers, as defined by section 280 of the Maritime Law."⁸²⁶

The draft National Policy on Migration does not include specific guidelines regarding labour migration. An exception, however, is the need to conclude bilateral social security agreements with established countries of destination.⁸²⁷

4.9.2.3.2 Migration and development

To date, public authorities do not intervene in the area of migration and development. There is, however, a growing interest among the Liberian government to develop initiatives in this regard. The draft National Policy on Migration reflects this orientation and proposes a series of actions to be developed with regard to the management of remittances, diaspora involvement, and the brain drain phenomenon.

⁸²⁵ Republic of Liberia, 2013, op. cit., pp. 26-27.

⁸²⁶ Labour Law, art. 1.

⁸²⁷ Republic of Liberia, 2013, op. cit., p. 16.

Mobilising and channelling remittances for development

Actions suggested by the draft National Policy on Migration include the:

- reduction of transfer fees through an increased competition between service providers;
- improvement of access for rural population to formal transfer services through “partnerships between “mainstream” banks and those networks that are present in rural areas”; and
- introduction of a “modern Automated Transfer System (ATS) with Real Time Gross Settlement (RTGS) and low-value clearing capacity and Central Securities Depository (CSD)”.⁸²⁸

Diaspora outreach and confidence-building measures

The draft National Policy on Migration acknowledges that the current ban on dual/multiple citizenship constitutes a major deterrent to the involvement of the Liberian diaspora within the economic and social life of the country. It suggests holding a referendum on this issue.⁸²⁹

Addressing the challenges of highly-skilled migration

The draft National Policy on Migration puts forward initiatives regarding retention, return – temporary or more permanent – and replacement of skilled nationals. Notably, it considers the promotion of bilateral labour agreements based on ethical recruitment principles, mainly in the health and education sectors.⁸³⁰

Assistance to returning migrants

Beyond the promotion for the return of skilled migrants, the draft National Policy on Migration indicates that “Liberia should facilitate each and every individual, including unskilled migrants and former refugees, who want to come back”.⁸³¹

4.9.2.3 Migrants’ protection

With the exception of trafficking in persons, protection of migrants does not appear to be a priority for Liberian authorities. No specific initiatives exist with regard to protection in Liberia – such as information dissemination and training of migrants before their departure – or in countries of destination.

The draft National Policy on Migration includes few references to the protection of migrants. An exception concerns social protection. The policy document notes the absence of relevant bilateral and regional agreements, the negative consequences of it for Liberian migrants and the need to promote the conclusion of such conventions.⁸³²

⁸²⁸ Ibid., p. 19.

⁸²⁹ Ibid., pp. 17-18.

⁸³⁰ Ibid., p. 20.

⁸³¹ Ibid., p. 30.

⁸³² Ibid., p. 16.

4.9.3 International, regional, and bilateral cooperation

International conventions

Among the most relevant international conventions protecting human rights, Liberia has ratified:

- the International Covenant on Civil and Political Rights (1966);
- the International Covenant on Economic, Social and Cultural Rights (1966);
- the Convention on the Elimination of All Forms of Discrimination against Women (1979);
- the Convention on the Rights of the Child (1989);
- 25 ILO Conventions (Liberia has not ratified the two specific ILO conventions on migrant workers, C 97 (1949) and C 143 (1975)); and
- the United Nations Convention against Transnational Organized Crime (2000) and its protocols on trafficking in persons and smuggling of migrants.

It has signed but not ratified the Convention on the Protection of the Rights of All Migrant Workers and Members of their Families (1990).

In addition to these global conventions, Liberia is bound by ECOWAS texts, including its Treaty (1975) and its subsequent protocols regarding free movement of persons, residence, and establishment.

Regional cooperation

Liberia is not part of the inter-African social security convention⁸³³ (CIPRES Convention). Within the framework of the Mano River Union, efforts are being made to improve border management, notably through the establishment of a Joint Border Security and Confidence Building Unit.⁸³⁴

Bilateral agreements

Liberia's institutionalised bilateral relations on migration-related matters appear to be almost non-existent. There seems to be no bilateral labour or social security agreement in force.

Multipartite Agreement for the Local Integration of Liberian and Sierra Leonean Refugees in Nigeria, 2007

Regarding the implementation of the ECOWAS protocols on free movement of persons, freedom of residence, and establishment, mention must be made of the Multipartite Agreement for the Local Integration of Liberian and Sierra Leonean Refugees in Nigeria, which was signed in 2007 between Liberia, Sierra Leone, Nigeria, ECOWAS, and UNHCR (see comparative chapter for more details).

Draft National Policy on Migration

The draft National Policy on Migration is rather vague in its guidelines for international co-operation,

⁸³³ *Convention multilatérale de sécurité sociale de la Conférence interafricaine de la prévoyance sociale.*

⁸³⁴ Republic of Liberia, 2013, op. cit., p. 31.

especially in comparison to the details provided in other thematic areas. However, the document clearly prioritises intra-regional cooperation among ECOWAS Member States:

“The necessity for developing a common migration policy, or tool, for Liberia and neighboring countries is very critical for harmonization of laws, rules, regulations, procedures, standards, information dissemination and sharing, statistics, documents, and efficient use of scarce resources.”⁸³⁵

⁸³⁵ Ibid., p.42.

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University of Sussex, Development Research Centre, 'Global Migrant Origin Database' [online data source], http://www.migrationdrc.org/research/typesofmigration/global_migrant_origin_database.html, 2007, (accessed 25 January 2015).

U.S. Department of State, *Trafficking in Persons Report 2013*, <http://www.state.gov/j/tip/rls/tiprpt/2013/>, 2013, (accessed 25 January 2015).

U.S. Department of State, *Liberian Refugees in Africa*, 2013, (accessed 25 January 2015).

World Bank, 'Remittances Data 2013', [online data source], <http://econ.worldbank.org/WBSITE/EXTERNAL/EXTDEC/EXTDECPROSPECTS/0,,contentMDK:22759429~pagePK:64165401~piPK:64165026~theSitePK:476883,00.html#Remittances>, accessed 25 January 2015).

4.9.5 List of interlocutors

Name of respondent	Position	Institution
A. Gadegbeku Williams	Commissioner, Bureau of Immigration and Naturalization	Ministry of Justice
G. T. Kortu	Chief of Children Protection Section	Ministry of Gender and Development
J. S. W. Worlobah	Assistant Director for Research, Policy and Planning Department	Central Bank of Liberia
A. Satiah	National Coordinator—Counter Human Trafficking Secretarial	Ministry of Labour

4.10 Mali

4.10.1 Migration trends

4.10.1.1 Immigration

Mali is not an important country of immigration. It is, however, a country of transit for West and Central Africans travelling to Algeria, Libya, Morocco or Tunisia, who eventually seek to enter European states.⁸³⁶ Having said that, a small amount of foreigners do reside in Mali.

Data	Year	Absolute numbers	% of the Total Population
National Population and Housing Census ⁸³⁷ (RGPH)	2009	160,216 foreign residents ⁸³⁸	1.1%

4.10.1.1.1 Characteristics of immigrants/foreigners

Countries of origin:	According to the National Population and Housing Census of 2009, the vast majority of foreigners are Africans, principally from ECOWAS Member States, including Burkina Faso (22,174), Côte d'Ivoire (18,672), Guinea (16,464), Senegal (5,099), Mauritania (3,978) and Niger (3,540). ⁸³⁹
Settlements:	Most foreigners reside in the capital Bamako (27.9%) and the following regions: Sikasso (22.1%), Kayes (12.6%) and Koulikoro (11.3%). ⁸⁴⁰
Socio-demographic profile:	52.5% of foreign residents are male. ⁸⁴¹
Socio-economic profile and sectors of employment:	<ul style="list-style-type: none"> In 2009, 60% of foreigners did not have any formal education, which is lower than for the total population (67.5%).⁸⁴² Like nationals, foreigners tend to be employed in the informal labour market.
Vulnerable groups:	<ul style="list-style-type: none"> Trafficking in persons appears to be mainly an internal phenomenon: from 2002 to 2008, IOM registered 488 victims within the country, of which 96.3% were nationals.⁸⁴³ According to the U.S. Department of State's Trafficking in Persons Reports, victims have included boys from Burkina Faso and Guinea who were exploited for the use in gold mines, as well as boys from Guinea, Burkina Faso, Niger and other countries who were sent to Mali for Koranic education (<i>talibés</i>) and subsequently subjected to forced begging. According to the report, women and girls from West African states are forced into prostitution.⁸⁴⁴

⁸³⁶ Ballo, M., *Migration au Mali. Profil national 2009*, IOM, 2009, pp. 50-51; Keita, M., *Le cadre général de la migration au Mali*, CARIM AS No. 80, 2010a, p. 6.

⁸³⁷ *Recensement général de la population et de l'habitat du Mali*.

⁸³⁸ Republic of Mali, *4ème Recensement général de la population et de l'habitat du Mali (RGPH2009). Analyse des résultats définitifs. Thème 2: état et structure de la population*, 2011, p. 80.

⁸³⁹ Ibid. The RGPH 2009 also refers to 31,068 nationals from "other African states" without any further specification.

⁸⁴⁰ Ibid., p. 81.

⁸⁴¹ Ibid.

⁸⁴² Ibid., p. 82.

⁸⁴³ Ballo, M., 2009, op. cit., p. 50.

⁸⁴⁴ U.S. Department of State, *Trafficking in Persons Report 2013*, 2013, p. 254; U.S. Department of State, *Trafficking in Persons Report 2012*, 2012, p. 239; U.S. Department of State, *Trafficking in Persons Report 2011*, 2011.

4.10.1.2 Emigration

Emigration has long existed in Mali and is a central component of Malian society. Its patterns and evolution during modern times are well-known and well-documented.⁸⁴⁵ During colonial times, Mali was used as a labour reserve for the development of major industrial and agricultural projects, such as the growing of groundnuts in Senegal.⁸⁴⁶ After the Second World War and the declaring of independence in 1960, the country remained an important supplier of workforce for coastal West African countries such as Côte d'Ivoire, Ghana, and Senegal. Migration towards France also gained prominence during this period.⁸⁴⁷

Malian emigration trends have subsequently diversified. Given the more restrictive approach towards migration adopted by France from the mid-1970s on and the decline of Côte d'Ivoire as an attractive destination, new destinations within West Africa became increasingly popular. Intra-regional flows have remained dominant, although flows are also directed towards Europe (most notably Spain), the U.S., Gulf Cooperation Council Member States, and South-East Asia. In addition, Malian emigration, which was traditionally a low-skilled, male phenomenon, has become more feminised and now includes a higher share of skilled workers.⁸⁴⁸

Data	Year	Estimates
General estimates from national authorities (data sources unidentified)	2013	4 to 4.5 million nationals abroad ⁸⁴⁹
Ministry of Malians Abroad	2001	2.7 million nationals abroad
Electoral Register (RACE) ⁸⁵⁰	2001	More than 900,000 nationals abroad

⁸⁴⁵ See for instance Merabet, O., Gendreau, F., *Les question migratoires au Mali. Valeurs, sens et contresens*, 2007, pp. 11-13.

⁸⁴⁶ Keita, M., 2010a, op. cit., p. 1.

⁸⁴⁷ Ibid.; IOM, ICMPD, *MTM: a Dialogue in Action. Linking Emigrant Communities for More Development. Inventory of Institutional Capacities and Practices. The Malian Experience*, 2010, p. 3.

⁸⁴⁸ Ibid., Pérouse de Montclos, M-A., 'De l'usage des remises de fonds des migrants: le cas du Mali', *Working Papers du CEPED*, No. 26, 2012, p. 3.

⁸⁴⁹ See for example Comité pour la protection des droits de tous les travailleurs migrants et des membres de leur famille, Réponses écrites du gouvernement de la République du Mali Concernant la liste des points à traiter (CMW/C/MLI/Q/1) reçues par le Comité pour la protection des droits de tous les travailleurs migrants et des membres de leur famille à l'occasion de l'examen du rapport initial du Mali (CMW/C/MLI/1), CMW/C/MLI/Q/1/Add.1, 2006, p. 2 ; and Republic of Mali, *Cellule technique du Codéveloppement, Bilan et perspectives du Codéveloppement au Mali. De l'expérience française à l'approche européenne*, 2013.

⁸⁵⁰ *Recensement à caractère électoral*.

4.10.1.2.1 Characteristics of emigrants/nationals abroad

Countries of destination/
residence:

- While there is a general consensus on Malian emigration trends, there are conflicting estimates regarding the current emigrant stock.
- The Malian government often refers to a figure of 4 to 4.5 million nationals abroad (between 25% and 30% of the total population), including 3.5 million in Africa, and 2 to 2.5 million in Côte d'Ivoire alone.⁸⁵¹ Such estimates are not based on reliable data, and, in the case of Côte d'Ivoire, seem excessive.
- In 2001, the Ministry of Malians Abroad provided an estimate of 2.7 million emigrants, including 1.7 million in Côte d'Ivoire.⁸⁵² Here again, the sources of this data are unclear.
- Another national estimate conducted in 2001 by the Electoral Register (RACE) identified more than 900,000 nationals abroad. It also provided information concerning the main countries of residence.⁸⁵³ According to the register, Côte d'Ivoire was by far the most common country of residence, followed by Sudan, Senegal and Niger. Outside the African continent, Saudi Arabia and France were the main countries of residence. However, some data limitations exist: the register is based on the voluntary registration of individuals, it only concerns adults, and depends on the Malian diplomatic and consular presence in the respective countries. It is therefore likely that the RACE data constitutes an underestimation of the presence of nationals abroad.
- Notably, Libya has been a popular country of residence for Malian migrants. Indeed, in 2012, IOM reported some 11,385 Malian returnees fleeing from the Libyan civil war.⁸⁵⁴
- With regard to European countries, France is the main country of residence. According to the OECD international migration database,⁸⁵⁵ an estimated 62,239 Malian residents in a regular situation were recorded in 2009. It should be noted, however, that naturalisations of Malians in France – which implies that they are not counted in the foreigner registers – are significant, with an average of more than 1,500 per year from 2001 to 2011.⁸⁵⁶ Over the past number of years, the extent of the irregular presence of Malians in France has been discussed extensively. There have been put forward estimates of between 70,000 and 250,000 irregular migrants, which would mean a total Malian population residing in France of between 130,000 and 310,000.⁸⁵⁷ These estimates, which are not based on reliable sources, are likely to constitute overestimations.
- Spain is the second largest host of Malian migrants in the EU, with an estimated 24,423 residents in 2011. However, immigration flows towards the country have decreased over the past few years.⁸⁵⁸
- Italy has not attracted an important amount of Malian migration flows. In 2010, only 1,263 Malians were recorded by the Italian authorities.⁸⁵⁹

⁸⁵¹ See footnote 849.

⁸⁵² Pérouse de Montclos, M-A., 2012, op. cit., p. 4.

⁸⁵³ Merabet, O., Gendreau, 2007, op.cit., pp. 16-17. The electoral register is currently renewed under the name *Recensement Administrative à caractère d'état civil* (or RAVEC).

⁸⁵⁴ Aghazarm, C., Quesada, P. and Tishler, S., *Migrants Caught in Crisis: the IOM Experience in Libya*, IOM, 2012, p. 15.

⁸⁵⁵ OECD, 'International Migration Database'. The OECD migration database collects information on stay/resident permits and population registers.

⁸⁵⁶ It should be noted that data is missing for several years.

⁸⁵⁷ Merabet, O., Gendreau, F., 2007, op. cit., p. 20.

⁸⁵⁸ OECD, 'International Migration Database'.

⁸⁵⁹ Ibid.

Socio-demographic profile:	<ul style="list-style-type: none"> • Both ethnic and regional origin have strongly influenced the destinations and occupations of Malian migrants. • For instance, Côte d'Ivoire has been a privileged destination for Fulani Diawambé traders, Algeria and Libya for Touareg herders, and France for Soninke manual labourers.⁸⁶⁰ There is a great diversity of employment among Malian migrants. For instance, in Côte d'Ivoire, Malians are employed in the agricultural sector, herding, fishing, and industry.⁸⁶¹ • Although all regions of Mali are concerned by migration, Kayes, in the West, where 2/3 of the households include at least one migrant, remains the main region of origin.⁸⁶²
Education level/ sectors of employment:	<ul style="list-style-type: none"> • The majority of Malian migrants are low-skilled workers employed within the informal labour markets of ECOWAS Member States.⁸⁶³ • High-skilled nationals are also found among migrants and represent between 11.5% and 15% of the total number of migrants.⁸⁶⁴ • With regard to the health sector, OECD data has estimated the emigration rate of medical doctors at 13.2% and that of nurses at 3.7%.⁸⁶⁵
Remittances:	<ul style="list-style-type: none"> • World Bank data provides an estimate of USD 530 million for 2013, corresponding to 4.6% of total GDP.⁸⁶⁶ • Such estimates should be read with caution given that the majority of remittances, around three-quarters, are sent through informal channels.⁸⁶⁷ This situation can be explained by the absence of money transfer services in rural areas and the obligation for money transfer operators to work with local banks, which limits their scope of activity.⁸⁶⁸ • Remittances are primarily used to buy food and other essential items. An estimated 14% of remittances are invested in business.⁸⁶⁹ • Community projects financed through collective remittances (as opposed to individual transfers) compensate, to a certain extent, most notably in the case of water supplies and education, for the limited capacities of the Malian state.⁸⁷⁰
Vulnerable groups:	<p>Although trafficking is primarily an internal phenomenon, the U.S. Department of State's Trafficking in Persons Reports mention the existence of Malian boys who have fallen victim to forced labour in Senegal, Guinea, and Côte d'Ivoire, as well as girls and women trafficked for commercial sex exploitation in Gabon, Libya, Lebanon, and Tunisia.⁸⁷¹</p>

4.10.2 Migration policy

Emigration is a central political issue in Mali. Policy statements generally highlight two main aspects of emigration management: protection of Malians abroad and their involvement in the social and economic

⁸⁶⁰ Pérouse de Montclos, M-A., 2012, op. cit., p. 2.

⁸⁶¹ Blion, R., Bredeloup, S., 'La Côte d'Ivoire dans les stratégies des Burkinabé et des Sénégalais' in Contamin, B. and Memel, F. (eds.), *Le modèle ivoirien en questions. Crises, ajustements, recomposition*, 1997, p.715.

⁸⁶² Keita, M., 2010a, op. cit., p. 2.

⁸⁶³ Ballo, M., 2009, op. cit., p. 53; IOM, ICMPD, 2010, op. cit., p. 6.

⁸⁶⁴ Ibid.

⁸⁶⁵ OECD, 'Immigrant Health Workers in OECD Countries in the Broader Context of Highly Skilled Migration' in *International Migration Outlook – SOPEMI 2007*, 2007, p. 214.

⁸⁶⁶ World Bank, 'Remittances Data', 2013.

⁸⁶⁷ Pérouse de Montclos, M-A., 2012, op. cit., p. 5.

⁸⁶⁸ Ibid.

⁸⁶⁹ Ibid., p. 8.

⁸⁷⁰ Ballo, M., Diombana, L., *La diaspora malienne: un acteur transnational du développement*, IOM, 2009, pp. 14-17.

⁸⁷¹ U.S. Department of State, 2013, op. cit., p. 254; U.S. Department of State, 2012, op. cit., p. 239; US Department of State, 2011 op. cit.

development of the country.⁸⁷² The National Population Policy⁸⁷³ is rather comprehensive in these respects and envisions the implementation of the following aims:

- to identify Malians living abroad and undertake specific studies on this issue;
- to elaborate and implement a programme to assist emigrant communities;
- to organise awareness-raising campaigns on international migration;
- to facilitate reintegration of returning migrants;
- to create a guarantee and assistance fund for emigrants; and
- to enhance facilitation of remittance transfers to the country.⁸⁷⁴

The national development plan (Plan for the Sustainable Recovery of Mali 2013-2014) also deals with migration in an extensive manner. However, no formal migration policy has been adopted. During 2006/2007, the Ministry for Malians Abroad and African Integration⁸⁷⁵ initiated the drafting of a policy document.⁸⁷⁶ However, at the time of writing, a migration policy has yet to be finalised and endorsed by the competent authorities.⁸⁷⁷

Unlike emigration, immigration is not considered a significant issue and is therefore handled with tolerance.

4.10.2.1 Institutional framework on migration

Governmental stakeholders involved

Ministry	Agency, Directorate, Unit	Responsibilities
Ministry of Domestic Security and Civil Protection ⁸⁷⁸	Directorate of Border Police ⁸⁷⁹	<ul style="list-style-type: none"> • Immigration and border management
Ministry of Labour, Public Service, and Institutional Relations ⁸⁸⁰	National Labour Directorate ⁸⁸¹	<ul style="list-style-type: none"> • Ensuring respect for the labour legislation
Ministry of Employment and Vocational Training ⁸⁸²	National Employment Agency ⁸⁸³	<ul style="list-style-type: none"> • Finding employment abroad for Malian jobseekers • Providing pre-employment information • Reintegration of returnees

⁸⁷² Ballo, M., 2009, op. cit., p. 67.

⁸⁷³ *Politique nationale de population.*

⁸⁷⁴ IOM, ICMPD, 2010, op. cit., p. 9.

⁸⁷⁵ *Ministère des Maliens de l'extérieur et de l'Intégration africaine.*

⁸⁷⁶ Ballo, M., 2009, op. cit., pp. 66-67.

⁸⁷⁷ After finalising this study, the Malian authorities announced the adoption of the national migration policy and its action plan in September 2014. However, the document was not accessible to the authors and its content is hence not reflected in this chapter.

⁸⁷⁸ *Ministère de la Sécurité intérieure et de la Protection civile.*

⁸⁷⁹ *Direction de la police des frontières.*

⁸⁸⁰ *Ministère du Travail, de la Fonction publique et des Relations avec les institutions.*

⁸⁸¹ *Direction nationale du travail.*

⁸⁸² *Ministère de l'Emploi et de la Formation professionnelle.*

⁸⁸³ *Agence nationale pour l'emploi.*

Ministry for Malians Abroad and African Integration ⁸⁸⁴	General Delegation for Malians Abroad ⁸⁸⁵	<ul style="list-style-type: none"> • Assistance to returnees • Placement of workers in Spain within the framework of the bilateral agreement concluded in 2007⁸⁸⁶
Ministry for the Promotion of Women, Children, and the Family ⁸⁸⁷		<ul style="list-style-type: none"> • Fight against trafficking in persons

Other institutions dealing with migration management include the Centre for Migration Information and management⁸⁸⁸ (CIGEM), an institution, which is open to the public, created in 2008 with the cooperation of the EU, ECOWAS, France, and Spain. It is placed under the authority of both the Ministry of Foreign Affairs and International Cooperation and the Ministry for Malians Abroad and African Integration, and its Technical and Steering Committees⁸⁸⁹ are inter-institutional institutions that not only include relevant Ministries, but also external partners. The focus areas of the CIGEM have evolved over time, from a focus on assistance to potential migrant workers and returnees to research, migration and development areas.

The High Council for Malians Abroad⁸⁹⁰ is a private structure which represents the Malian diaspora and liaises with government authorities.

Finally, local authorities also play a role in migration management, notably within the framework of co-development programmes and diaspora initiatives set up in cooperation with France and Spain (see section 4.10.2.3.2)

⁸⁸⁴ *Ministère des Maliens de l'extérieur et de l'Intégration africaine.*

⁸⁸⁵ *Délégation générale des Maliens de l'extérieur.*

⁸⁸⁶ See section 4.10.2.3.1.

⁸⁸⁷ *Ministère de la Promotion de la femme, de l'enfant et de la famille.*

⁸⁸⁸ *Centre d'information et de gestion des migrations.*

⁸⁸⁹ *Comité technique et Comité de pilotage.*

⁸⁹⁰ *Haut Conseil des Maliens de l'extérieur.*

4.10.2.2 Immigration: national policy framework and institutional practices

4.10.2.2.1 General immigration provisions

Legislation/Policy Framework	Description
Law No. 04-058 relating to the Conditions of Entry, Stay and Establishment of Foreigners in the Republic of Mali, 2004 ⁸⁹¹ Decree No. 05-322/P-RM, 2005 ⁸⁹²	<p><i>Entry</i></p> <p>Law, Art. 8; Decree, Art. 2: Entry on the national territory is subject to the delivery of:</p> <ul style="list-style-type: none"> • an entry visa; • the production of documents regarding the purpose and conditions of stay, a guarantee of return (which may take the form of a return ticket to the country of origin, a deposit, or a guarantee from a bank); and • if applicable, proof of means of existence or a work authorisation (in practice, the latter is no longer requested). <p>Decree, Art. 7: the entry visa is valid for a maximum period of 90 days, and is renewable once.</p>
	<p><i>Stay/residence</i></p> <p>Law, Art. 5 distinguishes between two types of foreigners: non-immigrants, including tourists, visitors, students and temporary workers, and immigrants, defined as “foreigners entering Mali with the intention to establish their residence in the country or to perform, on a permanent basis, a lucrative activity or a profession”. The distinction between non-immigrants and immigrants corresponds to two distinct immigration statuses, namely stay and residence (or ‘establishment’, as referred to in the law).</p>
	<p><i>Stay</i></p> <p>Law, Art. 12: Stay in Mali requires the granting of a temporary stay authorisation⁸⁹³, which leads to the delivery of a stay visa⁸⁹⁴ valid for a maximum period of one year, which is renewable.</p> <p>Decree, Art. 23: The request of a temporary stay authorisation is made after entry on the national territory and must be accompanied by the following documentation: passport, extract from the police record, and medical certificate.</p> <p>Decree, Art. 25: “the stay visa is only delivered if the foreigner proves that he/she can live on his/her own financial resources and makes the commitment of not exercising any professional activity”. This provision is most surprising as it implies that temporary work in Mali is prohibited. However, this provision can certainly be considered null as it contradicts art. 5 of the Law of 25 November 2004.</p> <p>Law, Art. 13 foresees an off-right delivery of the temporary stay authorisation to the foreign spouse, children and parents of a Malian national, as well as to the spouse’s children (up to 18 years) of foreign holders of a resident card.</p>
	<p><i>Residence</i></p> <p>Law, Art. 16: Residence (or establishment) implies the delivery of a resident card,⁸⁹⁵ which is valid for five years, and is renewable.</p> <p>Decree, Art. 31: The resident card must be requested within 15 days of entry.</p> <p>Decree, Art. 28 to Art. 30: In addition to the conditions applicable to the delivery of the temporary stay authorisation, the applicant must either prove his/her means of existence or obtain a work authorisation (in practice, the work authorisation is no longer requested).</p>

⁸⁹¹ Loi No. 04-058 du 25 novembre 2004 relative aux conditions d’entrée, de séjour et d’établissement des étrangers en République du Mali.

⁸⁹² Décret No. 05-322/p-RM du 19 juillet 2005 fixant les modalités d’application de la loi No. 04-058 du 25 novembre 2004 relative aux conditions d’entrée, de séjour et d’établissement des étrangers en République du Mali.

⁸⁹³ Autorisation de séjour temporaire.

⁸⁹⁴ Visa de séjour.

⁸⁹⁵ Carte de résident.

One can note several contradictions between the law and its decrees, as well as the lack of precision regarding the conditions and procedural steps for obtaining stay and resident permits. Furthermore, despite its mention of the family reunification procedure, the legislation includes no details in this regard. The legislation also does not include specific provisions regarding the status of ECOWAS Member States' nationals, with the exception of a very general derogation clause concerning international conventions applicable in Mali. According to D. Dembele, however, "administrative provisions" were made before the adoption of the Law of 25 November 2004 to fully implement the ECOWAS protocols on free movement of persons, right of residence and establishment.⁸⁹⁶ Indeed, according to M. Ballo, ECOWAS Member States' nationals can enter and establish themselves in Mali upon the presentation of a valid identity card.⁸⁹⁷

Mali has concluded bilateral agreements which include provisions on entry, stay and residence with the following countries: Burkina Faso, Ghana, Guinea, Mauritania, Niger, Cameroon, and France. These agreements are based on reciprocity and generally apply equally to Malians in the considered countries and foreigners from those countries in Mali. A review of these agreements is presented in section 4.10.3.

4.10.2.2.2 Labour migration

Access to national labour market

Access of foreigners to the national labour market is regulated by Law No. 04-058 of 25 November 2004 relating to the Conditions of Entry, Stay and Establishment of Foreigners in the Republic of Mali, its implementing Decree No. 05-322/P-RM of 19 July 2005, and the Labour Code of 1992.

In addition to the common immigration rules, the employment of foreigners in Mali requires the approval of the work contract⁸⁹⁸ by the National Labour Directorate within the Ministry of Labour, Public Service, and State Reform.⁸⁹⁹ A work authorisation typically serves two purposes: first, and mainly, it protects the national labour market generally through a labour market test or a quota system; second, it ensures that the labour legislation – the rights of the worker – is respected. In the case of Mali, there is no provision in the legislation that foresees the protection of the national labour market. For instance, there is no obligation for the employer to look for a worker available on the national labour market before employing a foreigner. The only existing provisions concern the protection of the migrant worker, notably through ensuring that the labour legislation is respected and that the worker understands and agrees to the terms of the work contract.⁹⁰⁰

Moreover, according to officials interviewed for the purpose of the present study, the work authorisation is no longer required in practice. In other words, foreigners who comply with common immigration rules can freely access the Malian labour market. In the case of ECOWAS Member States' nationals, they can freely enter, stay and work as long as they hold a valid identity card.

⁸⁹⁶ Dembele, D., *Le cadre general de la migration au Mali*, CARIM AS No. 75, 2010a, p. 12.

⁸⁹⁷ Ballo, M., 2009, *op. cit.*, pp. 81-82.

⁸⁹⁸ *Visa du contrat de travail*.

⁸⁹⁹ Law No. 04-058 of 25 November 2004 relating to the Conditions of Entry, Stay and Establishment of Foreigners in the Republic of Mali, art. 8, art. 17; Decree No. 05-322/P-RM of 19 July 2005, art. 28; Labour Code 1992, art. L 26.

⁹⁰⁰ Labour Code, art. L 28.

Rights within employment

Legislation/Policy Framework	Description
Labour Code ⁹⁰¹ , 1992 Regulation No. 1566/MEFPT-SG of 7 October 1996 on the Application of Certain Provisions of the Labour Code ⁹⁰²	<p>Labour Code, Art. L.1 provides for equal treatment with nationals. Foreigners, regardless of their legal status, benefit from all obligations and rights from the labour legislation as a principle.</p> <p>Labour Code, Art. L.233; L.235: Notably, foreigners can join and form trade unions, as well as perform administrative and executive functions within them.⁹⁰³</p> <p>Regulation, Art. A 267.6 limits the eligibility of trade union representatives to Malians and nationals from countries with which Mali has concluded agreements that “explicitly provide equality of access to salaried employment and equality of treatment regarding labour legislation and social security”, and as long as they “can express themselves in French”. As trade union delegates are normally chosen from candidates in profession-based elections, this provision is likely to strongly undermine the aforementioned equalitarian Labour Code principle. Its legality is therefore contestable.</p> <p>Labour Code, Art. L. 27 imposes on the employer the duty to cover the cost of transportation from the country of origin to the place of employment, as well as that of the return on the occasion of legal and regulatory leave, and at the end of the contract.</p>

4.10.2.2.3 *Irregular migration*

Legislation/Policy Framework	Description
Law No. 04-058 relating to the Conditions of Entry, Stay and Establishment of Foreigners in the Republic of Mali, 2004 Decree No. 05-322/P-RM, 2005	<p>Decree, Art. 18: Illegal entry leads to deportation, the cost of which is by principle undertaken by the transporter.</p> <p>Law, Art. 19: Violation of the immigration legislation justifies the withdrawal of the stay visa or the resident card, and therefore, deportation.</p> <p>Law, Art. 20: Unauthorised stay and assistance to irregular entry and/or stay is punished by from three months to three years imprisonment and/or a fine.</p> <p>Law, Art. 21: Higher penalties are foreseen in case of re-entry despite the existence of a ban.</p> <p>Law, Art. 24: Expulsion is foreseen in case of criminal offence or threat to public order.</p>

In practice, national authorities apply a tolerant approach towards irregular migration. Expulsion and deportation of foreigners are generally not based on their irregular immigration status, but rather on the considered threat they pose to public order. D. Dembele notes that irregular migrants apprehended by the police are not deported but referred to the competent diplomatic or consular post, which will issue an identity card to them.⁹⁰⁴ Arguably, this may only apply to ECOWAS Member States' nationals, who can enter and reside in Mali with only an identity card.⁹⁰⁵

With regard to border management, several bilateral and regional initiatives have been initiated over the

⁹⁰¹ *Code du travail.*

⁹⁰² *Arrêté No. 1566/MEFPT-SG du 7 octobre 1996 portant modalités d'application de certaines dispositions du Code du travail.*

⁹⁰³ This principle was confirmed by the national authorities: Comité la protection des droits de tous les travailleurs migrants et des membres de leur famille, 2006, op. cit., p. 10.

⁹⁰⁴ Dembele, D., *Le Mali et la migration irrégulière*, CARIM AS No. 39, 2010b, p. 8.

⁹⁰⁵ See section 4.10.2.2.1.

years. In 1995, a cross-border cooperation agreement which included fighting against irregular border crossings, smuggling and security, was concluded with Algeria. Cooperation with Spain has included the providing of equipment and training to border police staff. Moreover, meetings are periodically organised with neighbouring countries with regard to border cooperation and management.

4.10.2.2.4 Migrants at risk

In 2012, Mali adopted Law No. 2012-023 relating to combatting Trafficking in Persons and Similar Practices⁹⁰⁶, a comprehensive text covering all forms of trafficking in persons and prescribing penalties of 5 to 10 years' imprisonment and up to 20 years in cases of aggravating circumstances. Given that previous anti-trafficking activities were based on the provisions of the Penal Code, which, it appears, was not sufficiently broad or stringent, the introduction of this law constitutes an improvement.⁹⁰⁷ However, due to the current internal political instability, efforts to fight against trafficking in persons have decreased during the past two years.

Malian authorities have generally been active in the fight against trafficking. Prosecution of offenders has increased in the past few years – 24 new cases were recorded in 2011 – and magistrates have been given training on trafficking-related issues.⁹⁰⁸ With regard to protection, national authorities have referred a significant number of victims to NGOs and international organisations, and have provided financial and in-kind support to NGO-run shelters.⁹⁰⁹ In addition, regular workshops, public debates, and meetings have been organised to inform the population on the risks of human trafficking.⁹¹⁰

Mali has also concluded bilateral agreements with Burkina Faso (2004)⁹¹¹ and Côte d'Ivoire (2000)⁹¹² in order to strengthen mutual cooperation in the fight against child trafficking.

4.10.2.3 Emigration

4.10.2.3.1 Labour migration

Mali lacks a comprehensive labour emigration policy. It has, however, made attempts to develop legal channels for employment abroad. The CIGEM has looked for job opportunities corresponding to Malian workers competencies in the following countries: Spain (agriculture, construction, and hospitality services), France (construction and hospitality services), Belgium (agriculture), and Canada (agriculture).⁹¹³ It has also proposed vocational training in sectors where a labour demand exists both in Mali and abroad.⁹¹⁴

⁹⁰⁶ *Loi No. 2012-023/ du 12 juillet 2012 relative à la lutte contre la traite des personnes et les pratiques assimilées.*

⁹⁰⁷ U.S. Department of State, 2012, op. cit., p. 240.

⁹⁰⁸ *Ibid.*; US Department of State, 2011, op. cit.

⁹⁰⁹ U.S. Department of State, 2012, op. cit., p. 240.

⁹¹⁰ *Ibid.*, p. 241; US Department of State, 2011, op. cit.

⁹¹¹ Accord de coopération entre le Mali et le Burkina Faso en matière de lutte contre le trafic transfrontalier des enfants, 25 juin 2004.

⁹¹² Accord entre le Mali et la Côte d'Ivoire en matière de lutte contre le trafic transfrontalier des enfants, 1er septembre 2000.

⁹¹³ Keita, M., *La migration circulaire au Mali: diagnostic et perspectives*, CARIM AS No. 57, 2010b, pp. 15-16.

⁹¹⁴ Funakawa, N., *Le CIGEM – Centre d'information et de gestion des migrations : sa place face aux défis des politiques migratoires*, Université de Poitiers, 2009, pp. 49-50.

Despite the conclusion of a rather comprehensive bilateral agreement with Spain in 2007,⁹¹⁵ the efforts undertaken by Malian authorities with regard to labour migration have not been taken much further.

Although the agreement concluded with Spain does not provide a privileged access to the national labour market, it does include a series of favourable provisions. It provides for the promotion of labour migration on the basis of labour market studies and the communication by Spanish authorities to their Malian counterparts of job vacancies.⁹¹⁶ In practice, however, the implementation of these provisions has proved to be difficult, not only due to the current Spanish economic situation, but also to Mali's low institutional capacities.

Neither the National Employment Agency nor the CIGEM have set up a system for the collection of job offers abroad. National institutions are therefore not able to pre-select job offers that may match the competencies of Malian jobseekers, or propose them to selected applicants and eventually organise the recruitment of workers. An exception is the Ministry for Malians Abroad and African Integration, which has organised the departure of temporary workers within the Mali-Spain agreement.

Given that the initial competencies of the CIGEM were to "receive, inform and assist potential migrants" and provide "information on legal conditions of migration",⁹¹⁷ jobseekers were expecting assistance in finding employment abroad. Unfortunately, the CIGEM and its partners have had little to offer in this respect. In 2009, for example, the CIGEM was only able to assist the Ministry for Malians Abroad and African Integration in sending 29 seasonal workers to Spain.⁹¹⁸ Since a mid-term evaluation of the CIGEM activities in 2010, the centre has drawn back from its activities related to labour migration.⁹¹⁹

Mali has concluded bilateral agreements which include provisions on entry, stay and residence with the following countries: Burkina Faso, Ghana, Guinea, Mauritania, Niger, Cameroon, and France (see section 4.10.3. for more details).

4.10.2.3.2 *Migration and development*

Institutional developments

At the institutional level, the commitment of the national authorities can be observed in the creation of the Ministry for Malians Abroad and African Integration and, within its General Delegation for Malians Abroad, the High Council for Malians Abroad, and the CIGEM.

The objectives of the Ministry for Malians Abroad and African Integration include the following:

- to initiate, coordinate and monitor activities aimed at assisting in the return of Malian migrants; and

⁹¹⁵ Acuerdo de Cooperacion en materia de inmigracion entra Espana y Mali, 23 de enero de 2007.

⁹¹⁶ Ibid., art. 3.

⁹¹⁷ Ballo, M., 2009, op. cit., p. 75.

⁹¹⁸ Keita, M., 2010b, op. cit., p. 15.

⁹¹⁹ Republic of Mali, 2013, op. cit., p. 2.

- to facilitate the creation of a favourable environment, which encourages the participation of Malians abroad in the economic and social development of the country.⁹²⁰

The High Council for Malians Abroad, a federative structure composed of elected representatives in national councils (Conseils des Maliens de l'Extérieur) present in 63 countries, has the following aims: to represent Malians abroad at national forums and institutions;

- to assemble Malian emigrants residing abroad irrespective of their region of origin, ethnicity, religion, social status, sex and profession;
- to promote unity and solidarity among Malians abroad;
- to encourage their contribution to the economic, environmental, social, cultural and athletic development in Mali; and
- to promote peace and integration between peoples.⁹²¹

The CIGEM's initial mandate included the "valorisation of [the] human, financial and technical capital of Malians abroad" as well as the "reception, informing and assisting of returning migrants".⁹²² After the reorientation of the activities of the centre, the focus has shifted towards channelling diaspora initiatives into the economic and social development of the country rather than assistance of returnees.⁹²³

Diaspora outreach and confidence-building measures

The legislation authorises dual/multiple citizenship and recognises the right of nationals residing abroad to vote and to be eligible in presidential elections. The Ministry for Malians Abroad and African Integration organises visits to the main countries of destination to meet with diaspora members as well as leading information campaigns on existing initiatives available for the diaspora.⁹²⁴ Within Mali, diaspora forums are often organised, such as the Diaspora Forum⁹²⁵ in 2003, the Malian Diaspora Investor Forum⁹²⁶ in 2009, and the Forum of Intellectual, Scientific and Technical Diaspora⁹²⁷ in 2010.

Mobilising and channelling remittances for development

Maliens abroad benefit from the general incentives of the Investment Code. Investments from the diaspora in the national development are mostly channelled through local associations and authorities. It is estimated that one out of every two Malian villages has long-term partnerships with associations present in countries of destination – mainly in France – including diaspora associations.⁹²⁸ Mali and France have concluded cooperation agreements, including co-financing mechanisms, for local development projects

⁹²⁰ IOM, ICMPD, 2010, op. cit., p. 12.

⁹²¹ Ibid., p. 14.

⁹²² Ballo, M., 2009, op. cit., p. 75.

⁹²³ Republic of Mali, 2013, op. cit., p. 2.

⁹²⁴ IOM, ICMPD, 2010, op. cit., p. 13.

⁹²⁵ *Forum de la diaspora.*

⁹²⁶ *Forum des investisseurs de la diaspora malienne.*

⁹²⁷ *Forum de la diaspora intellectuelle, scientifique et technique du Mali.*

⁹²⁸ Ballo, M., Diombana, L., 2009, op. cit., p. 17.

initiated by diaspora associations.⁹²⁹ A Technical Unit for Co-development was created and placed under the authority of the Ministry of Economy and Finance to implement the envisaged initiatives. The agreement with Spain includes the provision of technical assistance for the improvement of transfer services, the stimulation of remittances' development potential, and, more generally, support for the engagement of the diaspora in the economic and social development of Mali.⁹³⁰ In 2012, a Circular from the Ministry of Economy, Finance and Budget lifted the exclusivity clauses on remittances.

Addressing the challenges of highly-skilled migration

Projects concerning the involvement of skilled migrants in the development of Mali include the UNPD-led TOKTEN (Transfer of Knowledge through Expatriate Nationals) programme, which sees the temporary return of skilled nationals in order to contribute to development projects in their country of origin. The programme was initiated in 1998 and originally focused on developing the capacities of the higher education system. In 2011, it was extended to the health and agricultural sectors as well as to small and medium-sized enterprises.⁹³¹ UNESCO has also initiated a project called TALMALI, which follows an approach similar to that of TOKTEN.⁹³²

4.10.2.3.3 Migrants' protection

Information dissemination and protection in countries of destination

Although the protection of Malians residing abroad is one of the core responsibilities of the Ministry for Malians Abroad and African Integration,⁹³³ consular assistance appears to be limited. In Mali, the CIGEM's initial mandate included the provision of information to potential migrants on the different aspects of migration. However, due to the fact that the centre's services were not associated with recruitment mechanisms, these pre-employment and pre-departure orientation mechanisms have not proven to be fully satisfactory.

Social security agreements

Mali has consistently promoted the conclusion of bilateral social security agreements with the main countries of residence of its nationals. Agreements have been signed with France, Burkina Faso, Guinea, Mauritania, Senegal, Togo, and the Netherlands. With Côte d'Ivoire, a payment agreement exists.⁹³⁴ Moreover, Mali has ratified the inter-African social security convention (CIPRES Convention).⁹³⁵

⁹²⁹ Ballo, M., 2009, op. cit., p. 69.

⁹³⁰ Acuerdo de Cooperacion en materia de inmigracion entra Espana y Mali, 23 de enero de 2007, art. 7.

⁹³¹ For a comprehensive analysis of the TOKTEN programme in Mali, see Dembele, D., *La migration hautement qualifiée: cas du Mali*, CARIM AS No. 14, 2010c.

⁹³² Keita, M., *La migration de haut niveau au Mali*, CARIM AS No. 4, 2010c, p. 15

⁹³³ IOM, ICMPD, 2010, op. cit., p. 12.

⁹³⁴ Comité pour la protection des droits de tous les travailleurs migrants et des membres de leur famille, 2006, op. cit., pp.11-14; Diombana, L., Diall, B. G., *Etude d'évaluation des politiques, législations et pratiques de la migration de travail au Mali*, IOM, 2010, pp. 49-50.

⁹³⁵ *Convention multilatérale de sécurité sociale de la Conférence interafricaine de la prévoyance sociale.*

Bilateral agreement with Spain, 2007

The bilateral agreement concluded with Spain includes several provisions regarding protection, such as pre-departure training for migrants and further training upon arrival in Spain, with a view to facilitating their integration in the country of destination.⁹³⁶ It also pledges assistance to Malian authorities with regard to anti-trafficking policies.⁹³⁷

Assistance to returnees

Assistance in the reintegration of returnees primarily involves a great number of local associations, such as *Association pour la formation, l'insertion et le développement rural en Afrique* (AFIDRA), *Association des initiatives de développement* (AIDE), *Association malienne des expulsés* (AME), *Association malienne pour l'environnement, la jeunesse et le développement* (AMEJD), and *Association retour, travail, dignité* (ARTD).⁹³⁸ These associations benefit from financial and in-kind support from both the Directorate General for Malians Abroad and the CIGEM.⁹³⁹ The National Employment Agency also provides technical and financial support to returnees seeking to develop economic projects.⁹⁴⁰ Since 1995, France funds individual and collective projects of voluntary returnees.⁹⁴¹ Similarly, IOM operates an Assisted Voluntary Return and Reintegration program (AVRR) for returnees mainly from Libya, Morocco and Europe⁹⁴² In addition, Reception and Information Desks⁹⁴³ have been set up by the Ministry for Malians Abroad and African Integration in several airports, train and bus stations to orientate returnees toward relevant assistance services.⁹⁴⁴

4.10.3 International, regional, and bilateral cooperation

International conventions

Among the most relevant international conventions protecting human rights, Mali has ratified:

- the International Covenant on Civil and Political Rights (1966);
- the International Covenant on Economic, Social and Cultural Rights (1966);
- the Convention on the Elimination of All Forms of Discrimination against Women (1979);
- the Convention on the Rights of the Child (1989);
- 30 ILO Conventions (Mali has not ratified the two specific ILO conventions on migrant workers, C 97 (1949) and C 143 (1975));
- the Convention on the Protection of the Rights of All Migrant Workers and Members of their Families (1990); and

⁹³⁶ Acuerdo de Cooperación en materia de inmigración entre España y Mali, 23 de enero de 2007, art. 6.

⁹³⁷ Ibid., art. 8.

⁹³⁸ IOM, GIP international, *Répertoire des structures en charge de la migration professionnelle au Mali*, 2011, pp. 62-77.

⁹³⁹ Diombana, L., *La gestion de l'émigration au Mali*, IOM, 2009, p. 23.

⁹⁴⁰ IOM, GIP international, 2011, op. cit., p. 9.

⁹⁴¹ Ballo, M., 2009, op. cit. pp. 68-69.

⁹⁴² IOM, GIP international, 2011, op. cit., pp. 48-49.

⁹⁴³ *Bureaux d'accueil et d'information de Maliens de l'extérieur*.

⁹⁴⁴ Diombana, L., 2009, op. cit., p. 22.

- the United Nations Convention against Transnational Organized Crime (2000) and its Protocols on trafficking in persons but not its Protocol on smuggling of migrants.

As well as these global conventions, Mali is bound by ECOWAS texts, including its Treaty (1975) and its subsequent protocols regarding free movement of persons, residence and establishment.

Bilateral agreements

Mali has concluded a large number of bilateral agreements on migration-related matters. While some of these conventions are rather old, their provisions generally remain applicable.

Regarding entry and stay of persons, Mali has concluded conventions with the following African states: Burkina Faso (1969),⁹⁴⁵ Ghana (1977),⁹⁴⁶ Guinea (1964),⁹⁴⁷ Mauritania (1973),⁹⁴⁸ Niger (1964),⁹⁴⁹ and Cameroon (1964).⁹⁵⁰ In 1980, a bilateral labour agreement was also signed with Libya.⁹⁵¹ The conventions with Mauritania, Niger, and Cameroon are all similar in their content: they set up a principle of free entry, stay, residence and access to the national labour market – although exceptions are low because of economic reasons – for nationals of the contracting parties. The Convention concluded with Mauritania has ceased to be implemented – with both parties requesting stay permits from the considered individuals, while Cameroon is currently asking for a revision of the 1964 Agreement.

In addition, agreements removing visa obligations have been concluded with Morocco, Algeria, and Tunisia.⁹⁵²

Outside the African continent, the Agreement on Circulation and Stay of Persons was concluded with France in 1994,⁹⁵³ as well as the Cooperation Agreement on Migration Matters with Spain in 2007.⁹⁵⁴ The agreement with France includes two derogations to the French immigration legislation: it provides for the delivery of the same stay/residence permit to family members in case of family reunification (instead of a temporary stay permit under French administrative law), as well as the possibility to obtain a 10-year residence permit after three years of stay in the country (instead of five years under French administrative law). These derogations remain limited and, on the whole, Malian nationals are subject to common French immigration legislation.

The agreement with Spain is more comprehensive: it includes provisions regarding labour migration,⁹⁵⁵

⁹⁴⁵ Convention d'établissement et de circulation des personnes entre le Mali et le Burkina Faso, 30 septembre 1969.

⁹⁴⁶ Accord sur la circulation des personnes et des biens entre le Mali et le Ghana, 31 août 1977.

⁹⁴⁷ Convention d'établissement et de circulation des personnes entre le Mali et la Guinée, 20 mai 1964.

⁹⁴⁸ Convention d'établissement entre le Mali et la Mauritanie, 23 juillet 1973.

⁹⁴⁹ Convention d'établissement et de circulation des personnes entre le Mali et le Niger, 22 avril 1964.

⁹⁵⁰ Convention générale d'établissement et de circulation des personnes entre le Mali et le Cameroun, 06 mai 1964.

⁹⁵¹ Convention relative à l'emploi de la main d'œuvre entre le Mali et la Libye, 12 décembre 1980.

⁹⁵² Comité pour la protection des droits de tous les travailleurs migrants et des membres de leur famille, 2006, op. cit., p. 14.

⁹⁵³ Convention sur la circulation et le séjour des personnes entre le Mali et la France, 26 septembre 1994.

⁹⁵⁴ Acuerdo de Cooperacion en materia de inmigracion entra Espana y Mali, 23 de enero de 2007.

⁹⁵⁵ See section 4.10.2.3.1.

assistance to voluntary return, migration and development,⁹⁵⁶ information dissemination and integration of Malian nationals in Spain, and the fight against trafficking and irregular migration.⁹⁵⁷

Mali has not concluded any readmission agreements.

Agreements to strengthen mutual cooperation on the fight against child trafficking have been concluded with Burkina Faso (2004),⁹⁵⁸ Côte d'Ivoire (2000),⁹⁵⁹ and Guinea (2005). An agreement which includes provisions on border management was concluded with Algeria in 1995.

⁹⁵⁶ See section 4.10.2.3.2.

⁹⁵⁷ See section 4.10.2.3.3.

⁹⁵⁸ Accord de coopération entre le Mali et le Burkina Faso en matière de lutte contre le trafic transfrontalier des enfants, 25 juin 2004.

⁹⁵⁹ Accord entre le Mali et la Côte d'Ivoire en matière de lutte contre le trafic transfrontalier des enfants, 1er septembre 2000.

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4.10.5 List of interlocutors

Name of respondent	Position	Institution
Touré, A.	Head of Department, Cooperation and Migration	National Employment Agency ⁹⁶⁰
Konaté, A.	Director	CIGEM
Bathily, H.	Head of Unit	Technical Unit for Co-development ⁹⁶¹
Sylla, I.	Executive Officer	General Delegation for Malians Abroad ⁹⁶²
Keita, S.	Technical Advisor on migration	Ministry for Malians Abroad and African Integration ⁹⁶³
Diakité, M.	National Director	Ministry of Employment and Vocational Training ⁹⁶⁴

⁹⁶⁰ Agence nationale pour l'emploi.

⁹⁶¹ Cellule technique du codéveloppement.

⁹⁶² Délégation générale des Maliens de l'extérieur.

⁹⁶³ Ministère des Maliens de l'extérieur et de l'Intégration africaine.

⁹⁶⁴ Ministère de l'Emploi et de la Formation professionnelle.

4.11 Niger

4.11.1 Migration trends

4.11.1.1 Immigration

While Niger cannot be considered a major country of destination for international migrants, it is an important country of transit for sub-Saharan migrants, mostly from ECOWAS Member States, travelling towards Algeria, Libya, and eventually to European countries.⁹⁶⁵

The distinction between the notions of “country of transit” and “country of destination” is certainly useful and corresponds to reality, but it does have its limitations. In the case of Niger, transit within the country may take months and even years. Given the financial cost of travelling through the Sahara and eventually, by boat, to Europe, it is common for migrants to interrupt their trip in order to earn further sources of income. Nigerien cities such as Agadez, Arlit and Dirkou have become such stopover zones, where migrants prepare for the continuation of their trip.⁹⁶⁶ These cities are also places of initial return for expelled or stranded migrants. In many of these instances, it is not sufficient to consider Niger as simply a country of transit as it has *de facto* become a country of destination for temporary migration flows.

Moreover, such immigration for the purpose of temporary stay or longer residence exists in Niger and represents a phenomenon that deserves to be given an overview.

Data	Year	Absolute numbers	% of the Total Population
National Population and Housing Census (RGPH) ⁹⁶⁷	2001	88,067 foreigners ⁹⁶⁸	0.8%
National Survey of Migration in Niger (ENAMI) ⁹⁶⁹	2011	57,679 foreigners ⁹⁷⁰ 174,102 immigrants, i.e. individuals born abroad, regardless of their nationality ⁹⁷¹	0.4% 1.1%

Given that annual estimates of transit migration flows are between 40,000 and 80,000,⁹⁷² it can be argued that both the figures presented in the RGPH and the ENAMI are underestimations.

⁹⁶⁵ Maga, H., I., *Migration au Niger, Profil national 2009*, IOM, 2009, p. 85; Maiga, D., *La cadre juridique de la migration irrégulière au Niger*, CARIM AS No. 28, 2010; Tabapssi, T., *La migration irrégulière, de, vers et à travers le Niger*, CARIM AS No. 47, 2010a; CIMADE, *Etat des lieux de la situation des migrants au Niger*, 2011.

⁹⁶⁶ CIMADE, 2011, op. cit., p. 77.

⁹⁶⁷ *Recensement général de la population et de l'habitat*.

⁹⁶⁸ INS, *Recensement général de la population et de l'habitat 2001. Rapport d'analyse migration*, chapitre 6, p. 1.

⁹⁶⁹ *Enquête nationale sur la migration au Niger*.

⁹⁷⁰ INS, *Enquête nationale sur la migration au Niger (ENAMI) 2011. Analyse des résultats*, 2011, p. 29.

⁹⁷¹ *Ibid.*, p. 28.

⁹⁷² Tabapssi, T., 2010a, op. cit., p. 5.

4.11.1.1.1 Characteristics of immigrants/foreigners

Countries of origin:	<ul style="list-style-type: none"> • According to RGPH 2001 results, most foreigners were nationals of Mali (30,402), Burkina Faso (13,017), Nigeria (13,093), Benin (12,093), and Togo (6,535). Very few recorded foreigners were nationals from Côte d'Ivoire (810) or Ghana (1,132).⁹⁷³ • The ENAMI 2011 showed a similar distribution of foreigners with regard to their country of nationality.
Settlements:	<ul style="list-style-type: none"> • According to the RGPH 2001, there was an equal amount of ECOWAS Member States' nationals living in rural and urban areas. • ECOWAS Member States' nationals tended to be overrepresented in the departments of Niamey (35.5% of foreign born migrants), Tillabéri (18%), and Niasso (13%), while other Africans were mostly residing in Diffa (34%), Niamey (29%), and Tahoua (15%). • Very few migrants from ECOWAS Member States were reported in Agadez (1.3%).⁹⁷⁴ This may be surprising given that Agadez is considered one of the places of stay for migrants looking to continue their journey to the Maghreb and Europe.⁹⁷⁵ • According to the ENAMI 2011, the regions of residence (not disaggregated per country of origin) included mainly Niamey (36%), Tahoua (15.8%), Dosso (15.6%), and Tillabéri (12.5%). Here again, migration to Agadez was the most limited (2%).⁹⁷⁶ On the whole, the results from the ENAMI showed a continuation of the trends revealed in the RGHP.
Socio-demographic profile:	<ul style="list-style-type: none"> • The results from RGPH 2001 show a predominance of foreign men (64%) over women.⁹⁷⁷
Socio-economic profile and sectors of employment:	<ul style="list-style-type: none"> • High-skilled foreign workers tend to be employed in the energy sector.⁹⁷⁸ At a lower skill level, the construction sector is an important employment sector where workers occupy jobs for which there is a lack of competencies within the national workforce. • Foreign women workers tend to occupy jobs in sectors where, due to cultural traditions, Nigerien women are not employed. These include domestic work and work in the hospitality sector.⁹⁷⁹ • African entrepreneurs operating either within the formal or the informal sector appear to be particularly active, notably within the social, trade, and tourism sectors.⁹⁸⁰
Vulnerable groups:	<ul style="list-style-type: none"> • Existing information on trafficking of foreigners in Niger is limited. According to the U.S. Department of State's latest Trafficking in Persons Report, the risks concerning trafficking of foreigners in Niger are mostly concentrated around those individuals transiting through the country, who may be subjected to forced labour in Niger. • OHCHR notes, however, that "over the past few years, Niger [has] shifted from being a platform for the transit of trafficked persons in West Africa to a country of origin and destination".⁹⁸¹

⁹⁷³ INS, 2001, op. cit., *Recensements général de la population et de l'habitat 2001. Rapport d'analyse migration*, chapter 6, p. 3.

⁹⁷⁴ Ibid., chapter 4, p. 28.

⁹⁷⁵ Such statistics may be explained by the fact that in the RGHP immigrants were only considered as such when residing in the considered household for a minimum of six months, "with the intention to stay for a total duration of at least six months". It is likely that following this methodology, which notably includes a subjective element, migrants in transit were not included in the census. See INS, *Recensements général de la population et de l'habitat 2001. Rapport d'analyse migration*, chapter 2.

⁹⁷⁶ INS, 2001, op. cit., chapter 2.

⁹⁷⁷ Ibid., chapter 6, p. 1.

⁹⁷⁸ Tabapssi, T., *La migration hautement qualifiée au Niger*, CARIM AS No. 16, 2010b, p. 3.

⁹⁷⁹ Tabapssi, T., *Genre et migration au Niger*, CARIM AS No. 4, 2011, p. 4.

⁹⁸⁰ Maga, H., I., *Les migrations hautement qualifiées depuis et vers le Niger: état des lieux et tentatives explicatives*, CARIM AS No. 32, 2010, p. 7. Due to political instability in the region, tourism in Niger has significantly declined over the past years.

⁹⁸¹ OHCHR, *Seeking ways to eliminate human trafficking in Niger*, 2012.

4.11.1.2 Emigration

The modern history of Nigerien emigration includes several phases characterised by specific patterns. In the 1960s, migration flows were primarily those of low-skilled workers towards West African coastal states, such as Côte d'Ivoire. In the 1970s, increased demand for labour in oil-producing countries such as Nigeria, Libya, and Algeria led to a diversification of emigration flows. Emigration to these countries decreased in the 1980s as a consequence of depressed oil revenues, and in the early-1990s, emigration was dominated by nationals fleeing from the civil war.⁹⁸² Since the end of the 1990s, emigration has mostly been led by economic factors, namely the structural difficulties of the agricultural sector and the insufficiency of job opportunities in Niger.⁹⁸³

Data	Year	Estimates
National Survey of Migration in Niger (ENAMI) ⁹⁸⁴	2010	Migrant stock estimated at 583,066 ⁹⁸⁵
University of Sussex, Development Research Centre (DRC), Global Migrant Origin Database	2005	Migrant stock estimated at 496,773 ⁹⁸⁶

⁹⁸² IOM, ICMPD, *MTM: a Dialogue in Action. Linking Emigrant Communities for More Development. Inventory of Institutional Capacities and Practices. The Nigerien Experience*, 2010, p. 3.

⁹⁸³ Tabapssi, T., *Le cadre général de la migration de, vers et à travers le Niger*, CARIM AS No. 81, 2010c, p. 2; USAID, *La migration au Niger. Les transferts de fonds à Loga, Tahoua, Tanout et Gouré face aux crises en Libye et Côte d'Ivoire*, 2011, p. 11.

⁹⁸⁴ Enquête nationale sur la migration au Niger.

⁹⁸⁵ INS, 2011, op. cit., p. 40. According to the ENAMI methodology, emigrants are considered as individuals for whom a household reported that they were residing abroad for more than six months (continuously) during the previous five years.

⁹⁸⁶ Maga, H., I., 2009, op. cit., p. 71.

4.11.1.2.1 Characteristics of emigrants/nationals abroad

Countries of destination/residence:	<ul style="list-style-type: none"> • According to the ENAMI study, the majority of emigrants were residing in Nigeria (37.8%), followed by Libya (12.6%), Côte d'Ivoire (12.4%), Benin (8.3%), Ghana (7.7%), Togo (5.2%), and Cameroon (3.5%).⁹⁸⁷ It must be underlined that while the study was published in 2011, the surveys were conducted in 2010, before the crises in Côte d'Ivoire and Libya, which led to massive returns of Nigerien migrants. • According to the DRC database, most Nigerien migrants were residing in the following countries: Burkina Faso (27.8%), Côte d'Ivoire (26.2%), Nigeria (11.9%), Guinea (10.8%), Ghana (5.2%), Togo (3.4%), and Benin (3%).⁹⁸⁸ • It is likely that the ENAMI study provides the most reliable overview of Nigerien emigration, as shown by the example of Libya. While the ENAMI estimated the Nigerien population residing in the country at 73,693, the DRC database only identified 468 Nigerien residents.⁹⁸⁹ Given that in 2012 IOM reported 75,600 Nigerien returnees fleeing from the Libyan civil war,⁹⁹⁰ the DRC data can clearly be considered an underestimation. • Nigerien migration towards OECD Member States is limited. It is estimated that only 3% of migrants reside in European countries.⁹⁹¹ According to the OECD international migration database, the only countries where evidence of the Nigerien presence is not anecdotal are France (3,055 Nigeriens in 2009), Belgium (1,161 in 2010), Italy (1,131 in 2010), and Germany (821 in 2011).⁹⁹² It should be taken into account, however, that OECD data only takes into consideration regular migrants and that the dataset does not include information for a number of countries, including the U.S. and Canada.
Socio-demographic profile:	<ul style="list-style-type: none"> • Nigerien emigration is largely a male phenomenon. The ENAMI study reports a male proportion of migration as high as 93%.⁹⁹³ This may well be an overestimation, which can be explained by the fact that the methodology applied tends to over-represent temporary migration and thus underestimates family migration. Although the RGHP 2001 does not provide direct information on emigration, it estimates the male proportion of returning migrants at 61%.⁹⁹⁴ The share is similar concerning migration towards OECD countries.⁹⁹⁵ • Outside family migration, migration of women is low. This can be explained by the presence of traditional cultural values that limit the possibilities for women to migrate on their own.⁹⁹⁶ • Regarding the main regions of origin of Nigerien migrants, both the RGHP 2001 and the ENAMI study identify these as being Tahoua, Tillabéri and Dosso.⁹⁹⁷

⁹⁸⁷ Ibid.

⁹⁸⁸ Ibid., p. 73.

⁹⁸⁹ University of Sussex, Development Research Centre, 'Global Migrant Origin Database', 2007.

⁹⁹⁰ Aghazarm, C., Quesada, P. and Tishler, S., *Migrants Caught in Crisis: the IOM Experience in Libya*, IOM, 2012, p. 15.

⁹⁹¹ IOM, ICMPD, 2010, op. cit., p. 6.

⁹⁹² OECD, 'International Migration Database'. The OECD migration database collects information on stay/resident permits and population registers.

⁹⁹³ INS, 2011, op. cit., p. 31.

⁹⁹⁴ INS, 2001, op. cit., chapter 4, p. 26.

⁹⁹⁵ Maga, H., I., *Migration hors et vers le Niger: une analyse selon le genre*, CARIM AS No. 18, 2011, p. 10.

⁹⁹⁶ Tabapssi, T., *Genre et migration au Niger*, CARIM AS No. 4, 2011, pp. 7-8.

⁹⁹⁷ INS, 2001, op. cit., chapter 4, p. 26; INS, 2011, op. cit., p. 32.

Education level/ sectors of em- ployment:	<ul style="list-style-type: none"> Nigerien migrants are generally low-skilled, which mirrors the general level of education in Niger.⁹⁹⁸ It has been argued that the risk of brain drain has remained limited in Niger.⁹⁹⁹ According to OECD data regarding migration in the health sector, the emigration rate of nurses was estimated at 0.8% and that of medical doctors at 6.5%.¹⁰⁰⁰ However, it was also estimated that skilled migrants represented 49% of all Nigerien migrants, which constitutes an extremely high percentage when compared to the average skill level of the national population.¹⁰⁰¹ The type of employment differs from one region to another. In neighbouring countries, Nigerien workers tend to be employed largely in the agricultural sector.¹⁰⁰² In OECD Member States, migrants are mainly employed within the industrial, trade, hospitality and health sectors.¹⁰⁰³
Duration of stay abroad:	<ul style="list-style-type: none"> Uniquely, the household survey conducted in 2011 by USAID in four regions of Niger provides data on the average duration of stay of Nigerien migrants. It indicates that most migration is temporary and circular.¹⁰⁰⁴ The duration of stay abroad depends on the countries of destination involved. In ECOWAS Member States such as Côte d'Ivoire, Nigeria and Benin, the stay is generally for six or seven months and corresponds to seasonal agricultural activities. In countries beyond the ECOWAS region, Libya, Gabon and Cameroon, for instance, migration tends to be longer, for periods of one to two years.¹⁰⁰⁵
Remittances:	<ul style="list-style-type: none"> According to World Bank estimates, remittances in Niger amounted to USD 70 million in 2010.¹⁰⁰⁶ The largest proportion (82.7%) was sent from African countries.¹⁰⁰⁷ The use of informal channels appears to be prominent, although differences can be made between source countries. Within the CFA franc zone, formal channels are used more than in other countries of destination.¹⁰⁰⁸ The crises that occurred in 2011 in important countries of destination such as Libya, Nigeria and Côte d'Ivoire led to a significant decrease in remittance inflows. In the main regions of origin for Nigerien migration, it is estimated that remittances constitute between 25% and 50% of household income. The most part of remittances is used for alimentary purposes.¹⁰⁰⁹
Vulnerable groups:	<ul style="list-style-type: none"> According to the U.S. Department of State Trafficking in Persons Report 2013, international trafficking of Nigerien nationals concerns mainly children. Boys may be subject to forced begging or forced labour by corrupt marabouts (koranic teachers) in Mali and Nigeria. Girls may be subjected to forced prostitution along the border with Nigeria. They may also be exploited as domestic and sex workers after arranged marriages have been made with foreigners from Nigeria, Saudi Arabia and the United Arab Emirates.¹⁰¹⁰

⁹⁹⁸ Data from 2008 shows that although it had significantly increased, the level of primary education only reached 46%, while post-primary education was limited to 17% and university enrolment concerned only 73 students per 100,000 inhabitants. Maga, H., I., 2009, op. cit., p. 56.

⁹⁹⁹ Maga, H., I., 2010, op. cit., p. 11.

¹⁰⁰⁰ OECD, 'Immigrant Health Workers in OECD Countries in the Broader Context of Highly Skilled Migration' in *International Migration Outlook – SOPEMI 2007*, 2007, p. 214.

¹⁰⁰¹ Maga, H., I., 2010, op. cit., p. 10-11.

¹⁰⁰² USAID, 2011, op. cit., pp. 14-15.

¹⁰⁰³ Maga, H., I., 2009, op. cit., p. 74.

¹⁰⁰⁴ USAID, 2011, op. cit., pp. 14-15.

¹⁰⁰⁵ *Ibid.*, p. 15. Such different patterns may be explained by the higher cost of travelling to countries farther away and the difficulties connected to migrating outside the ECOWAS region, within which freedom of movement is facilitated.

¹⁰⁰⁶ World Bank, *Migration and Remittances Factbook 2011*, 2011.

¹⁰⁰⁷ IOM, ICMPD, 2010, op. cit., p. 8.

¹⁰⁰⁸ USAID, 2011, op. cit., p. 17.

¹⁰⁰⁹ *Ibid.*, pp. 21-22.

¹⁰¹⁰ U.S. Department of State, *Trafficking in Persons Report 2013*, 2013, p. 283.

4.11.2 Migration policy

Immigration matters are largely treated with a *laissez-faire* approach. Issues relating to emigration are of growing interest, although they are largely focused on the contribution of Nigerien migrants to the economic and social development of the country. Despite the establishment of a special inter-ministerial committee on migration policy development in 2007 and the elaboration of a first draft policy document in 2014, a national migration policy has yet to be adopted.

Regarding the integration of migration within national development plans, mention can be made of the Action Plan of the Rural Development Strategy, which explicitly refers to the relationship between migration and development.

4.11.2.1 Institutional framework on migration

Governmental stakeholders involved

Ministry	Agency, Directorate, Unit	Responsibilities
Ministry of Interior ¹⁰¹¹	Directorate of Territorial Surveillance ¹⁰¹²	<ul style="list-style-type: none"> Entry, stay and removal of foreigners
Ministry of Employment ¹⁰¹³	National Agency for Promotion of Employment ¹⁰¹⁴	<ul style="list-style-type: none"> Intermediary between employers and Nigerien jobseekers for employment on the international labour market Delivers work authorisations to foreign workers Implements measures to facilitate the transfer of remittances
Ministry of Foreign Affairs ¹⁰¹⁵	<ul style="list-style-type: none"> Directorate for Nigeriens Abroad¹⁰¹⁶ High Council of Nigeriens Abroad¹⁰¹⁷ 	<ul style="list-style-type: none"> Relations with nationals abroad
Ministry of Finance		<ul style="list-style-type: none"> Implementation of policies regarding remittances

Other ministries and public institutions are also concerned with migration, such as the Ministry of Planning,¹⁰¹⁸ the National Institute of Statistics,¹⁰¹⁹ the ministries of Defence,¹⁰²⁰ Health,¹⁰²¹ Justice,¹⁰²² etc.

¹⁰¹¹ *Ministère de l'Intérieur, de la Sécurité publique, de la Décentralisation et des Affaires religieuses.*

¹⁰¹² *Direction de la Surveillance du territoire.*

¹⁰¹³ *Ministère de la Formation Professionnelle et de l'Emploi.*

¹⁰¹⁴ *Agence nationale de promotion de l'emploi.*

¹⁰¹⁵ *Ministère des Affaires étrangères, de la Coopération, de l'Intégration africaine et des Nigériens à l'étranger.*

¹⁰¹⁶ *Direction des Nigériens de l'étranger.*

¹⁰¹⁷ *Haut Conseil des Nigériens de l'étranger.*

¹⁰¹⁸ *Ministère du Plan, de l'Aménagement du territoire et du Développement communautaire.*

¹⁰¹⁹ *Institut national de la statistique.*

¹⁰²⁰ *Ministère de la Défense nationale.*

¹⁰²¹ *Ministère de la Santé publique.*

¹⁰²² *Ministère de la Justice, garde des Sceaux.*

Inter-institutional coordination

The main inter-institutional structure entrusted with migration management responsibilities is the Inter-Ministerial Committee in charge of the Elaboration of a National Migration Policy.¹⁰²³ The Committee was established in 2007 and placed under the authority of the Ministry of Interior. It is composed of officials from the main ministries involved in migration management. International organisations (IOM and the EU) and representatives from civil society are also invited to participate. In 2014, a first draft National Migration Policy was developed. It is yet to be formally adopted.

Another inter-ministerial institution is the Committee instituted in 2013 to organise the follow-up of the 2012 Diaspora Forum.¹⁰²⁴ The Committee includes the main ministries as well as IOM, UNDP, representatives from the private sector and the civil society. In addition, ad hoc committees have been set up over the years to deal with specific challenges, such as, for example, the Libyan crisis in 2011.

4.11.2.2 Immigration: national policy framework and institutional practices**4.11.2.2.1 General immigration provisions**

Legislation/Policy Framework	Description
Ordinance No. 81-40 on Entry and Stay of Foreigners in Niger, 1981 ¹⁰²⁵	Decree, Art. 2: By principle, immigration to Niger is subject to the delivery of a visa and a stay permit. Decree, Art. 6: Visas are normally granted by diplomatic and consular posts abroad; they may exceptionally be delivered upon arrival.
Decree No. 87-076 on Entry and Stay Conditions of Foreigners in Niger, 1987 ¹⁰²⁶	Decree, Art. 2: Entry on the territory is subject to a guarantee of return, which may take the form of a return ticket to the country of origin, a deposit or a guarantee from a bank. ¹⁰²⁷ Decree, Art. 8: The duration of the entry visa cannot exceed three months. Ordinance, Art. 5; Decree, Art. 11: During the period of validity of the visa, a foreigner intending to stay in Niger has to request the delivery of a stay permit from the Ministry of Interior. Decree, Art. 12 to Art. 16: The delivery of the stay permit is subject to proof of regular entry, production of a medical certificate, a work authorisation when applicable, and for students, a guarantee of sufficient financial means. Decree, Art. 17; Art. 21: The permit is valid for a period of two years and is renewable under the same conditions of its first delivery. Decree, Art. 18: In case of stay abroad for a duration exceeding six months, the permit may be revoked.

On the whole, the provisions of the Nigerien legislation appear to be well-balanced. Nevertheless, a number of gaps can be identified. Provisions regarding visas are particularly brief. The legislation only foresees one type of stay permit, the duration of which – two years – may be too short to facilitate integration of long-term residents in the country. There are no provisions regarding family migration and the specific status of ECOWAS Member States' nationals is not considered.

¹⁰²³ Comité interministériel chargé de l'élaboration du document de politique nationale de migration.

¹⁰²⁴ Comité de pilotage du suivi des recommandations du Forum de la Diaspora d'août 2012.

¹⁰²⁵ Ordonnance relative à l'entrée et au séjour des étrangers au Niger.

¹⁰²⁶ Décret réglementant les conditions d'entrée et de séjour des étrangers au Niger.

¹⁰²⁷ In practice, the provisions on the guarantee of return are not implemented. Maga, H., I., 2009, op. cit., p. 97.

Niger has concluded bilateral agreements which include provisions on entry and stay/residence with the following countries: Algeria, Burkina Faso, France, Ghana, Libya, Mali, Morocco and Tunisia. These agreements generally apply equally to Nigeriens in these countries and foreigners from these countries in Niger. A review of these agreements is presented in section 4.11.3.

4.11.2.2 Labour migration

Access to national labour market

Legislation/Policy Framework	Description
Ordinance No. 81-40 on Entry and Stay of Foreigners in Niger, 1981	<p>Decree, Art. 13: Access of foreigners to the national labour market is based on the principle of a work authorisation, which takes the form of a visa from public employment services on the work contract.</p> <p>Decree, Art. 13; Labour Code, Art. 48: The work authorisation is to be delivered before entry of the migrant worker on the national territory (exception is made in the case of nationals from ECOWAS countries and countries with which Niger has concluded agreements and/or which grant preferential treatment to Nigerien nationals so that the principle of reciprocity applies).</p> <p>Labour Code, Art. 48 states that the admission of foreign workers is subject to the absence of "national competences".</p> <p>Labour Code, Art. 51 specifies that the decision regarding the work authorisation is to be taken within 30 days.</p> <p>Labour Code, Art. 50 includes an obligation on the employer to organise the training of national staff in order to replace foreign workers.</p>
Decree No. 87-076 on Entry and Stay Conditions of Foreigners in Niger, 1987	
Labour Code, 2012 ¹⁰²⁸	

Nigerien legislation does not specify whether access of foreigners to the national labour market is governed by a quota system or a labour market test system. According to representatives of the Ministry of Employment, the option adopted by Niger is the labour market test. Employers intending to engage a foreign worker have to submit a request to the National Agency for Promotion of Employment, which will first look for a competent worker available on the national labour market before delivering the work authorisation. In practice, the labour market test is not enforced. The work authorisation is delivered once the worker is already on the national territory and the role of the National Agency for Promotion of Employment is more to register foreign workers than to protect the national labour market.

Although the legislation does not include specific provisions on the status of ECOWAS Member States' nationals, administrative practices apply the delivery of an ECOWAS residence permit for a period of one year, renewable off-right.

Rights within employment

Legislation/Policy Framework	Description
Labour Code, 2012	<p>Art. 2 provides for equal treatment with nationals.</p> <p>Art. 190 includes an exception to the principle of equal treatment concerning trade unions. While all foreigners can join a trade union, administrative and executive functions are limited to nationals that enjoy civic and political rights and foreigners that have resided in Niger for a minimum of three years (and whom enjoy the aforementioned civic and political rights).</p>

¹⁰²⁸ Loi No. 2012-45 portant Code du travail de la République du Niger.

Foreigners, regardless of their legal status, benefit from all the obligations and rights of the labour legislation as a principle.

4.11.2.2.3 Irregular migration

Legislation/Policy Framework	Description
Ordinance No. 81-40 on Entry and Stay of Foreigners in Niger, 1981	<p>Decree, Art. 31: Deportation is foreseen for those foreigners who are not in possession of the documents required to enter the country.</p> <p>Ordinance, Art. 16 foresees expulsion of foreigners who constitute a threat to public order. While no explicit provision concerns the removal of foreigners in an irregular situation within the national territory, irregular stay is considered a criminal offence.</p> <p>Decree, Art. 27: Irregular migration is sanctioned by fines of 4,000 to 50,000 CFA francs (USD 7.50 to USD 95) and a maximum of 15 days of imprisonment.</p> <p>Ordinance, Art. 13: Foresees penalties of 25,000 to 500,000 CFA francs (USD 47 to USD 950) and up to two years of imprisonment for smugglers of migrants.</p>
Decree No. 87-076 on Entry and Stay Conditions of Foreigners in Niger, 1987	

In practice, national authorities are flexible in their approach to irregular migration as it is not considered a threat to Niger. For instance, removal of foreigners is rarely based on their illegal migration status but rather on the criminal offences they have committed. However, due to the instable political situation and the existence of terrorist threats in the region, removal of foreigners has become more frequent recently.

The capacities of the Directorate of Territorial Surveillance, which is in charge of border control, are low, due to limited staff and equipment. A number of initiatives have been implemented during the past number of years to develop border management capacities in cooperation with the EU, Italy, France, Germany, Spain, and Nigeria. In 2007, Niger and Mali agreed to jointly guard their common border.

4.11.2.2.4 Migrants at risk

Legislation/Policy Framework	Description
Ordinance No. 2010-86 on Combatting Trafficking in Persons ¹⁰²⁹	<p>Art. 10 foresees penalties of five to ten years' imprisonment.</p> <p>Art. 29 foresees 10 to 30 years' imprisonment in the case of aggravating circumstances, and life imprisonment in the case of death of the victim.</p> <p>Art. 4 to Art. 8 establish a National Coordinating Commission on the Fight against Trafficking in Persons¹⁰³⁰ and a National Agency.¹⁰³¹ These institutions are charged with the responsibility of conducting prevention activities, collecting and sharing information among competent authorities, and training public services staff members.</p> <p>Art. 50 states that protection and assistance activities apply equally to nationals and foreigners.</p> <p>Art. 53: Protection and assistance activities notably include medical, psychological, and legal support, as well as shelter.</p> <p>Art. 62: Foreign victims in an irregular situation are granted temporary stay during penal proceedings and may obtain a permanent status.</p> <p>Art. 63: In case of repatriation to the country of origin, the security of the victim has to be taken into consideration.</p>

¹⁰²⁹ Ordonnance No. 2010-86 du 16 décembre 2010 relative à la lutte contre la traite des personnes.

¹⁰³⁰ Commission nationale de coordination de la lutte contre la traite des personnes.

¹⁰³¹ Agence nationale de lutte contre la traite des personnes.

In practical terms, the national authorities have made significant steps to fully implement the Ordinance's provisions. The National Coordination Commission is effective and has been involved in training and awareness campaigns.¹⁰³² Prosecution and convictions of offenders have increased over the past years.¹⁰³³ Regarding protection activities, national authorities provide limited medical assistance and shelter, mainly relying on local NGOs and international organisations.¹⁰³⁴

4.11.2.3 Emigration

4.11.2.3.1 Labour migration

Niger lacks a labour emigration policy. No activities have been undertaken for the development of legal labour migration opportunities. According to Maga, national development policies attempt to improve living conditions, especially within rural areas, with a view to limiting internal and international migration.¹⁰³⁵

Niger has concluded bilateral agreements dealing with migration issues. While most of these agreements cannot be considered bilateral labour agreements per se, they often include provisions applicable to the entry and stay of workers. A review of these instruments is given in section 4.11.3.

Although the National Agency for Promotion of Employment is responsible for the placement of Nigerien workers abroad, to date, its capacities in this regard have been quite limited. In addition, there is no legislation regulating the activities of Nigerien private employment agencies on the international labour market.

4.11.2.3.2 Migration and development

During the past few years, Nigerien authorities have developed initiatives in order to harness the benefits of migration for the economic and social development of the country. In practice, however, effectively implemented activities are rare.

Mobilising and channelling remittances for development

With regard to remittances, efforts have been made by the Ministry of Finance to facilitate the use of formal channels. For instance, a project is currently being developed to set-up "proximity counters"¹⁰³⁶ in major countries of destination in order to improve transfer services through cooperation with international banks.

National authorities have shown a growing interest in mobilising and channelling remittances in the context of development. The Action Plan of the Rural Development Strategy (2006) envisions the following actions:

¹⁰³² U.S. Department of State, 2013, op. cit., p. 284.

¹⁰³³ Ibid., p. 285.

¹⁰³⁴ Ibid., pp. 284-285.

¹⁰³⁵ Maga, H., I., 2009, op. cit., p. 109.

¹⁰³⁶ *Guichets de proximité*.

- inform Nigerien emigrants regarding investment opportunities in rural areas of Niger;
- enhance remittances through conventions with financial stakeholders (International Monetary Fund, banks, etc.); and
- encourage interactions between migrants and local development actors.¹⁰³⁷

The core responsibilities of the Ministry of Foreign Affairs, Cooperation, African Integration and Nigeriens Abroad, as well as those of the High Council for Nigeriens Abroad, include the identification and promotion of investment in Niger for nationals residing abroad.¹⁰³⁸ Exploratory missions have been organised in the main African destination countries, as well as in France, in order to meet members of the diaspora and provide information on investment opportunities in Niger.¹⁰³⁹ The Nigerien Investment Code includes a number of fiscal and customs incentives to encourage investments.¹⁰⁴⁰ However, these provisions do not specifically target Nigeriens residing abroad.

Diaspora outreach and confidence-building measures

Relations between Nigerien emigrants and diaspora members and national authorities are generally weak.¹⁰⁴¹ The Law on Nationality¹⁰⁴² denies dual/multiple nationality: the acquisition of a foreign nationality leads to the loss of the Nigerien nationality.¹⁰⁴³ Nigeriens residing abroad cannot participate in elections held in the country. Recent developments show that the Nigerien government is seeking to reach out to the diaspora through confidence-building measures.

In 2012, a Nigerien Diaspora Forum was held in Niamey. The participants recognised the existence of difficulties between Nigeriens abroad and public authorities as well as the need for the state to adopt a number of measures in this regard. The recommendations adopted during the Forum include:

- the need to adopt measures in order to improve the relations between nationals and diplomatic and consular posts;
- the delivery of consular cards with a view to organising the participation of Nigeriens abroad in future elections;
- the delivery of passports by diplomatic and consular posts; and
- the promotion of Nigerien culture by diplomatic and consular posts.¹⁰⁴⁴

The Forum led to the establishment of an inter-ministerial Committee entrusted with the duty of following up on the recommendations of the Forum.¹⁰⁴⁵

During a conference organised in 2013 as a follow-up event to the Forum, the Minister of Foreign Affairs

¹⁰³⁷ IOM, ICMPD, 2010, op. cit., p. 9.

¹⁰³⁸ Ibid., pp. 11-13.

¹⁰³⁹ Ibid., pp. 16-17.

¹⁰⁴⁰ Ibid., p. 10.

¹⁰⁴¹ Di Bartolomeo, A., Jaulin, T. and Perrin, D., *CARIM Migration Profile, Niger*, 2011, p. 8.

¹⁰⁴² *Loi No. 1961-26 du 12 juillet 1961, déterminant la nationalité nigérienne*, amended in 1973.

¹⁰⁴³ Law No. 1961-26 on Nationality, art. 38.

¹⁰⁴⁴ Republic of Niger, *Recommandations du Forum de la Diaspora*, 2012.

¹⁰⁴⁵ *Comité de pilotage du suivi des recommandations du Forum de la Diaspora d'août 2012*.

recognised the importance of allowing Nigerien nationals to hold dual/multiple citizenship. A law proposal in this regard has been submitted to the Nigerien Parliament.¹⁰⁴⁶

With regard to the direct relationship between members of the diaspora and national authorities, the High Council for Nigeriens has opened offices in 38 countries of destination. In addition, an Advice Centre¹⁰⁴⁷ has been instituted within the Directorate for Nigeriens Abroad with a view to liaising with the diaspora and mobilising resources for the social and economic development of Niger. Efforts are also currently being made to organise a mapping of the Nigerien diaspora, notably through the use of an on-line registration system.

Addressing the challenges of highly-skilled migration

With regards to policies concerning high-skilled migration, mention can be made of the UNDP-led TOK-TEN (Transfer of Knowledge Through Expatriate Nationals) programme, which sees the temporary return of skilled nationals in order to contribute to development projects in their country of origin. While the programme was due to begin in Niger in 2009, initially as a pilot project, there appears to have been few developments during these past years. Policies targeting brain drain are scarce. However, recruitments of young graduates have been organised by the Nigerien administration (20,000 in 2012) with a view to halting the emigration of skilled nationals.

4.11.2.3.3 Migrants' protection

Information dissemination

Niger has yet to adopt and implement a policy concerning the protection of migrants. Within the country, there are no information programmes to provide migrants and potential migrants with information on the different aspects of migration processes and living/working conditions in countries of destination. There is also no legislation regulating the activities of private employment agencies on the international labour market.

Protection in countries of destination

Protection activities of diplomatic and consular posts appear to be limited. While efforts have been recently undertaken to build confidence between migrants and the authorities, activities are currently concentrated on cultural aspects and the promotion of investments in Niger. These may nevertheless pave the way for increased protection activities.

Social security agreements

Niger has ratified the inter-African social security convention (CIPRES Convention).¹⁰⁴⁸ At bilateral level, a

¹⁰⁴⁶ Nigerdiaspora.net, 'Conférence sur la diaspora nigérienne : la diaspora, un acteur indispensable au développement national', 23 September 2013.

¹⁰⁴⁷ *Bureau d'accueil et d'orientation.*

¹⁰⁴⁸ *Convention multilatérale de sécurité sociale de la Conférence interafricaine de la prévoyance sociale.*

social security convention was concluded with France in 1973 and was followed by several protocols and administrative arrangements. The convention does not include coordination provisions regarding medical care. However, under Protocol No. 1, workers can benefit from the maintenance of cash payments with regard to medical insurance for a period of six months.

Protection of victims of trafficking

Regarding victims of trafficking, protection also remains limited. According to the U.S. Department of State Trafficking in Persons Report 2013, a small number of child victims were provided with medical assistance and temporary shelter, primarily through the services of NGOs. Adult victims do not benefit from specific protection measures.¹⁰⁴⁹

4.11.3 International, regional, and bilateral cooperation

International conventions

Among the most relevant international conventions protecting human rights, Niger has ratified:

- the International Covenant on Civil and Political Rights (1966);
- the International Covenant on Economic, Social and Cultural Rights (1966);
- the Convention on the Elimination of All Forms of Discrimination against Women (1979);
- the Convention on the Rights of the Child (1989);
- 36 ILO Conventions (Niger has not ratified the two specific ILO conventions on migrant workers: C 97(1949) and C 143 (1975));
- the Convention on the Protection of the Rights of All Migrant Workers and Members of their Families (1990); and
- the United Nations Convention against Transnational Organized Crime (2000) and its Protocols on trafficking in persons and smuggling of migrants.

In addition to these global conventions, Niger is bound by ECOWAS texts, including its Treaty (1975) and its subsequent protocols regarding free movement of persons, residence and establishment.

Bilateral agreements

Niger has concluded a relatively large number of bilateral agreements on migration-related matters. While most of these conventions are rather old, their provisions generally remain applicable.

¹⁰⁴⁹ U.S. Department of State, 2013, op. cit., pp. 283-285.

Convention	Description
Convention with Burkina Faso (Upper Volta), 1964 ¹⁰⁵⁰ Convention with Mali, 1964 ¹⁰⁵¹	<ul style="list-style-type: none"> Nationals from the considered countries can enter and reside on the territory of the other state party without the need for a visa or a stay/resident permit. The only requirement is the possession of an identity document from the country of nationality. Not only are these provisions more favourable than those foreseen by the ECOW-AS texts but they are also easier to implement as they do not impose on the states obligations to be carried out but rather a duty to abstain.
Convention with Tunisia, 1966 ¹⁰⁵²	<ul style="list-style-type: none"> Its content is similar to the agreements with Burkina Faso and Mali and foresees the entry, stay and residence without the requirement of a visa or a permit. It also specifically mentions the principle of access to the labour market on an equal footing with nationals.
Convention with Morocco, 1967 ¹⁰⁵³	<ul style="list-style-type: none"> This foresees the removal of visa requirements for nationals of the state parties.
Convention with Algeria, 1981 ¹⁰⁵⁴	<ul style="list-style-type: none"> Foresees the removal of visa requirement for nationals of the state parties. While the agreement with Morocco has been in force since the 1990s, visas are still required for nationals of Algeria to enter Niger and vice-versa.¹⁰⁵⁵ The agreement includes a provision on readmission of migrants in an irregular situation (art. 5) which remains applicable today.
Conventions with Libya, 1971, ¹⁰⁵⁶ 1988 ¹⁰⁵⁷	<ul style="list-style-type: none"> The convention of 1988 does not include specific rights regarding entry and stay, but rather guarantees the general civil and economic rights of the considered individuals. The 1971 convention foresees a specific legal regime for Nigerien seasonal workers in Libya. It sets up cooperation mechanisms between the competent authorities of the two states for the recruitment of workers, foresees the delivery of a three month visa, and a stay permit valid for one year, which is renewable up to a limit of two years.
Conventions with France: Social security, 1973 ¹⁰⁵⁸ Agreement on circulation and stay of persons, 1994 ¹⁰⁵⁹	<ul style="list-style-type: none"> The 1994 convention includes the following derogation to the common French immigration legislation: Nigerien nationals have the possibility to obtain a 10-year residence permit after three years of stay in the country (instead of five years under French administrative law).
Agreement with Italy, 2010	<ul style="list-style-type: none"> This agreement focuses on security and most notably foresees cooperation activities in the area of trafficking in persons and irregular migration.

¹⁰⁵⁰ Protocole d'accord (délimitation des frontières, mouvements des populations, coopération entre les autorités frontalières) entre le Niger et la Haute-Volta signée le 23 juin 1964.

¹⁰⁵¹ Convention d'établissement et de circulation des personnes entre le Niger et la Mali, 22 April 1964.

¹⁰⁵² Convention d'établissement entre le Niger et la Tunisie, 18 October 1966.

¹⁰⁵³ Accord pour la suppression du visa entre le Niger et le Maroc, 7 November 1967.

¹⁰⁵⁴ Accord portant suppression du visa entre le Niger et l'Algérie, 21 November 1981.

¹⁰⁵⁵ Maiga, D., *Analyse des conventions bilatérales entre le Niger et certains pays voisins ou amis en matière de circulation des personnes*, CARIM AS No. 30, 2011, p. 2.

¹⁰⁵⁶ Organisation de la délivrance des visas, du déplacement et de l'emploi de la main d'oeuvre saisonnière dans la zone frontalière nigérienne, 19 October 1971.

¹⁰⁵⁷ Convention d'établissement et de circulation des personnes entre la Libye et le Niger, 30 June 1988.

¹⁰⁵⁸ See section 4.11.2.3.3.

¹⁰⁵⁹ Convention entre le gouvernement de la République française et le gouvernement de la République du Niger relative à la circulation et au séjour des personnes, 18 September 1997.

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4.11.5 List of interlocutors

Name of respondent	Position	Institution
Daouda, A.	Chairman, National Commission for coordinating the fight against trafficking in persons	Ministry of Justice ¹⁰⁶⁰
Issaka, A. D.	Head of Department, Vocational Orientation and Prospecting, National Agency for Promotion of Employment	Ministry of Employment ¹⁰⁶¹
Mamane, M.	Deputy Director General, National Agency for Promotion of Employment	
Housseini, S.	Head of Operations Division, Police, Directorate of Territorial Surveillance	Ministry of Interior ¹⁰⁶²
Kafougou, F.	Police Commissioner, Directorate of Territorial Surveillance	
Garba, R.	Officer, Data and Statistics Division, Directorate of Territorial Surveillance	
Soli, A	Head of Migration Division, Directorate of Civil Status and Refugees - HCNE	
Boubacar, O. S.	Technical Adviser to the Minister on Migration	Ministry of Foreign Affairs ¹⁰⁶³
Salifou, A.	Person in charge, Migration and Development Division	
Adamou, A.	Director, Legal Affairs	
Yayé, B.	Secretary General, High Council of Nigeriens Abroad	
Dan Nana	Director, High Council of Nigeriens Abroad	
Baare, M.	Director, Currency, Credit, Savings	Ministry of Finance ¹⁰⁶⁴
Naany, I.	Statistician and economist, National Institute of Statistics	
Souley, M.	Director, External Relations and Military Cooperation	Ministry of National Defence

¹⁰⁶⁰ *Ministère de la Justice, Garde des Sceaux.*

¹⁰⁶¹ *Ministère de la Formation Professionnelle et de l'Emploi.*

¹⁰⁶² *Ministère de l'Intérieur, de la Sécurité Publique, de la Décentralisation et des Affaires Religieuses.*

¹⁰⁶³ *Ministère des Affaires étrangères, de la Coopération, de l'Intégration africaine et des Nigériens à l'extérieur.*

¹⁰⁶⁴ *Ministère des Finances.*

4.12 Nigeria

4.12.1 Migration trends

4.12.1.1 Immigration

Data	Year	Absolute numbers	% of the Total Population
Population and Housing Census	2006	999,273 foreign residents ¹⁰⁶⁵	0.7%
		2,342,645 Nigerians by naturalisation	1.7%

4.12.1.1.1 Characteristics of immigrants/foreigners

Countries of origin:	<ul style="list-style-type: none"> According to the Population and Housing Census of 2006, 51% of foreign residents were nationals from ECOWAS Member States,¹⁰⁶⁶ 16% were nationals from other African states and 33% were non-Africans. More specifically, Benin, Ghana, Mali, Togo, and Niger appear to be the main countries of origin.¹⁰⁶⁷
Settlements:	ECOWAS Member State nationals principally reside in Lagos, Ogun and Oyo states. ¹⁰⁶⁸
Socio-demographic profile:	58% of male foreign residents. ¹⁰⁶⁹
Socio-economic profile and sectors of employment:	<ul style="list-style-type: none"> Existing information is limited. One can estimate that, as Nigerian nationals, migrants are mainly employed within the informal labour market, and therefore, do not have the opportunity to benefit from a legal migration status. With regard to skilled migrants, data from the Ministry of Health shows a high rate of foreigners within the medical sector. As noted by Adepoju, "nearly three thousand (2,968) expatriate doctors out of a total of about 39,210 doctors and 215 expatriate dentists (out of a total of 2,773 dentists) were practicing [...] in 2006".¹⁰⁷⁰
Vulnerable groups:	Foreign victims of trafficking are mainly children from Benin, Togo, Côte d'Ivoire and Niger, exploited in domestic work, prostitution, agriculture, mining, street trading, petty crimes and the drug trade. ¹⁰⁷¹

¹⁰⁶⁵ National Population Commission, *2006 Population and Housing Census of the Federal Republic of Nigeria, Tables, Volume XIII Nationality*, 2010.

¹⁰⁶⁶ Ibid.

¹⁰⁶⁷ Afolayan, A., *Migration in Nigeria. A Country Profile 2009*, IOM, 2009, p. 49.

¹⁰⁶⁸ National Population Commission, 2010, op. cit.

¹⁰⁶⁹ Ibid.

¹⁰⁷⁰ Adepoju, A., *Facilitating a Coherent Migration Management Approach in Ghana, Nigeria, Senegal and the Libyan Arab Jamahiriya by Promoting Regular Migration and Preventing further Irregular Migration, AENEAS 2006, Report on Nigeria*, IOM, 2009, p. 13.

¹⁰⁷¹ Nwogu, V. I., 'Nigeria: Human Trafficking and Migration', *Forced Migration Review*, No. 25, 2006, p. 32; Mberu, B. U., *Nigeria: Multiple Forms of Mobility in Africa's Demographic Giant*, Migration Policy Institute, 2010, p. 9; U.S. Department of State, *Trafficking in Persons Report 2013*, 2013, p. 285.

4.12.1.2 Emigration

Data	Year	Estimates
Adepoju, A	2009	Between 10,000,000 and 20,000,000 nationals abroad. ¹⁰⁷²
Draft National Migration Policy	2013	6,000,000 nationals abroad. ¹⁰⁷³

The National Population Commission (NPopC) is currently preparing a study of the Nigerian diaspora.

4.12.1.2.1 Characteristics of emigrants/nationals abroad

Countries of destination/ residence:	<ul style="list-style-type: none"> • Sub-Saharan Africa is the main recipient of Nigerian migration flows. • It is often said that Sudan has the largest Nigerian population among all countries of destination.¹⁰⁷⁴ This is due to a long tradition of settlement of nationals from Muslim northern Nigeria. Sudan appears to remain an attractive country for younger Nigerians, for both employment and study.¹⁰⁷⁵ • In West and Central Africa, arguably the main destination of Nigerian migration flows, Cameroon, Ghana, and Niger are believed to be preferred destinations.¹⁰⁷⁶ • Among OECD countries, the U.K. and the U.S. are the main countries of destination. In 2008, the U.S. Census Bureau American Community Survey estimated the Nigerian population at 206,604. 114,000 regular migrants were recorded in the U.K. in 2011.¹⁰⁷⁷ • During the past decade, a diversification of Nigerian migration among EU Member States, primarily towards Italy and Spain, has been noted. Nigerian regular migrants were estimated at 53,613 in Italy (2010) and 45,991 in Spain (2011).¹⁰⁷⁸ While figures show a constant increase of the Nigerian population in the two countries during the past decade, immigration flows have tended to slow down during the past years. This is particularly striking in the case of Spain, which recorded a peak of 7,000 inflows in 2008, progressively decreasing to 3,600 in 2011.¹⁰⁷⁹ • Beyond OECD countries, Gulf Cooperation Council (GCC) Member States, primarily Saudi Arabia and the U.A.E., are believed to be the main countries of destination, especially for individuals from the north of Nigeria.¹⁰⁸⁰ Given the lack of published data among GCC Member States, little is known about the volume and typology of such migration.
Education level/ sectors of employment:	<ul style="list-style-type: none"> • Among the OECD countries, the majority (65%) of regular migrants have a tertiary education, and are mainly employed within the health, real estate, and wholesale sectors.¹⁰⁸¹ • This pattern of high-skilled migration may have slightly declined over the past decade due to the rise of Italy and Spain as countries of destination.

¹⁰⁷² Adepoju, A., 2009, op. cit., p. 10.

¹⁰⁷³ Federal Republic of Nigeria, *Draft National Migration Policy*, 2013, p. 19.

¹⁰⁷⁴ Adepoju, A., 2009, op. cit., p. 11; ICMPD, *MTM i-Map, Migration and Development Layer, Nigeria*, 2011, p. 5.

¹⁰⁷⁵ The information on Sudan as a destination country originates from a study published in 2010, i.e. before the independence of the Republic of South Sudan. Mberu, B. U., 2010, op. cit.

¹⁰⁷⁶ ICMPD, 2011, op. cit., pp. 5-6.

¹⁰⁷⁷ Mberu, B. U., 2010, op. cit.

¹⁰⁷⁸ OECD, 'International Migration Database'. The OECD migration database collects information on stay/resident permits and population registers.

¹⁰⁷⁹ Ibid.

¹⁰⁸⁰ IOM, ICMPD, *MTM: a Dialogue in Action. Linking Emigrant Communities for More Development. Inventory of Institutional Capacities and Practices. The Nigerian Experience*, 2010, p. 8.

¹⁰⁸¹ Afolayan, A., 2009, op. cit., p. 58.

Remittances:	<ul style="list-style-type: none"> • According to the Central Bank of Nigeria, remittances amounted to 20.5 billion USD in 2012.¹⁰⁸² Similar estimates are provided by the World Bank, with a figure of 21 billion USD for 2013 (7.9% of total GDP).¹⁰⁸³ • All sources converge to estimate that the majority of remittances are sent from OECD countries, mainly the U.S. and EU Member States.¹⁰⁸⁴ • Adepoju indicates that remittances serve as “a lifeline to poor relations left behind; for investment in real estate; payment for basic services, healthcare in particular; for the education of siblings and children; for setting up enterprises; and for enhancing agricultural production through improved irrigation schemes”.¹⁰⁸⁵
Vulnerable groups:	<ul style="list-style-type: none"> • International trafficking of Nigerians involves a great variety of countries of destination, from West and Central African countries, to EU Member States, North Africa, the Middle East, and Asia.¹⁰⁸⁶ • According to Mberu, most victims of trafficking are children and women exploited within West and Central African countries.¹⁰⁸⁷ • Trafficking of women and girls for sexual exploitation in Europe, primarily Italy, has concentrated most of the attention. These migrants are mainly recruited in Edo State, in the southern part of Nigeria. • It is believed that movements towards the EU are largely illegal. While a minority is able to enter the EU by plane, most irregular migrants travel towards Europe through the Sahara and eventually by ship.¹⁰⁸⁸ In 2008, Nigeria’s Minister of Foreign Affairs estimated that at least 59,000 nationals seeking to enter Europe were stranded in North Africa.¹⁰⁸⁹

4.12.2 Migration policy

Over the past years, Nigerian authorities have worked towards the development of a comprehensive national migration policy. To date, a draft Labour Migration Policy for Nigeria and a draft National Migration Policy have been drafted. Both documents are yet to be endorsed by the Federal Executive Council. It should also be noted that the national development plan, Nigeria Vision 20: 2020, refers to migration, mentioning the need to limit emigration of high-skilled nationals, control labour immigration, and mobilise the diaspora for the development of the country.¹⁰⁹⁰

¹⁰⁸² Such data does not include remittances sent through informal channels, which are estimated by the Central Bank of Nigeria at 30% of the total amount of remittances.

¹⁰⁸³ World Bank, *Remittances Data 2013*, 2013.

¹⁰⁸⁴ Adepoju, A., 2009, op. cit., p. 31.

¹⁰⁸⁵ Ibid. p. 32

¹⁰⁸⁶ U.S. Department of State, 2013, op. cit., p. 285.

¹⁰⁸⁷ Mberu, B. U., 2010, op. cit.

¹⁰⁸⁸ See for instance Carling, J., *Migration, Human Smuggling and Trafficking from Nigeria to Europe*, IOM, 2006.

¹⁰⁸⁹ Mberu, B. U., 2010, op. cit.

¹⁰⁹⁰ Federal Republic of Nigeria, *Nigeria Vision 20: 2020*, 2009.

4.12.2.1 Institutional framework on migration

Governmental stakeholders involved

Ministry	Agency, Directorate, Unit	Responsibilities
Ministry of Interior	Nigeria Immigration Service	<ul style="list-style-type: none"> Entry, stay and removal of foreigners Delivery of work authorisations
Ministry of Labour and Productivity	State Labour Offices	<ul style="list-style-type: none"> Matching the supply and demand of labour labour offer and supply Licensing and monitoring private employment agencies and review of foreign contracts
Ministry of Foreign Affairs		<ul style="list-style-type: none"> Assistance of nationals abroad
Secretary to the Government of the Federation	Nigerian National Volunteer Service (NNVS)	<ul style="list-style-type: none"> Diaspora issues
Ministry of Justice	National Agency for Prohibition of Traffic in Persons and Other Related Matters (NAPTIP)	<ul style="list-style-type: none"> Fight against trafficking

The Central Bank of Nigeria is responsible for the implementation of policies on remittances. Other public institutions concerned with migration include the National Planning Commission (NPC), the Ministry of Health, the Ministry of Education, the Ministry of Youth Development, the Ministry of Women Affairs, as well as the National Population Commission (NPopC) and the National Bureau of Statistics (NBS).

Inter-institutional coordination

Nigerian authorities have developed a series of mechanisms to ensure coherence between the different stakeholders interested in migration policy development. It is worth mentioning in this regard the National Commission for Refugees, Migrants and Internally Displaced Persons (NCFRMI), which is entrusted with coordination functions, as well as playing a leading role in the implementation of the draft National Migration Policy. The Commission, placed under the authority of the Secretary to the Government of the Federation, was initially established in 1989 as the National Commission for Refugees. Its role was extended to internally displaced persons in 2002, and to migration as a whole in 2009.

The draft National Migration Policy and the draft National Labour Migration Policy were drafted by distinct technical working groups, which gathered representatives from different relevant ministries and public institutions, as well as social partners and international organisations.

4.12.2.2 Immigration: national policy framework and institutional practices

4.12.2.2.1 General immigration provisions

Immigration legislation

Immigration in Nigeria is governed by the Immigration Act of 1963 (Chapter 171) and its subsequent regulations: the Immigration Regulations (LN 93) and the Immigration (Control of Aliens) Regulations (LN 94), both adopted in 1963. This legislation is outdated, is failing to address immigration management

needs in a comprehensive manner, and is currently being reviewed by national authorities with a view to amending it.

The Immigration Act is mostly concerned with migration control. It concentrates on admission rules and expulsion procedures. Issues related to the stay/residence of foreigners and their access to employment are scarcely considered. The delivery of residence permits is governed by a single article of the Immigration Act, which reads as follows:

Any person not a citizen of Nigeria, desirous of entering Nigeria for the purpose of residence shall, unless exempted under this Act, give security in such amount as the Minister may prescribe, and shall supply such information as the Director of Immigration may reasonably require; and if the Director of Immigration is satisfied, he may issue a residence permit accordingly.¹⁰⁹¹

These provisions are slightly complemented by the Immigration Regulations:

A residence permit may be issued subject to such conditions as to

- (a) the area in which the holder of such permit shall reside;
- (b) the occupation or business (if any) in which the person may engage, and the restrictions, prohibitions or limitations subject to which he may engage therein;
- (c) the duration of the person's stay in Nigeria;
- (d) the control of any activities which may offend the religious beliefs of any member of the community; and
- (e) any provision for security, as the Director of Immigration may direct or require to be endorsed on such permit.¹⁰⁹²

Not only are such provisions likely to contravene Nigeria's international obligations (especially regarding freedom of movement and belief), they also lack precision: the procedures and conditions for the granting and renewal of a residence permit are not detailed; the duration of a permit is not stated; and family migration is not addressed. The immigration legislation has, therefore, considerable gaps.

Administrative practices

These gaps are partially filled by administrative practices, which distinguish between ECOWAS Member States nationals and other foreigners. ECOWAS Member States nationals are granted an ECOWAS Residence Card, valid for five years and renewable.¹⁰⁹³ Other foreigners can apply for a Combined Expatriate Residence Permit and Aliens Card (CERPAC), which is valid for two years and is renewable.¹⁰⁹⁴ The CERPAC can be delivered to migrant workers, foreign students and foreign wives of Nigerian nationals.

¹⁰⁹¹ Immigration Act, 1963, art.10(2).

¹⁰⁹² Immigration Regulations, 1963 (LN 93), art. 3.

¹⁰⁹³ The fees for issuance of the ECOWAS Residence Card is 250 Naira (1.5 USD), with the exception of Côte d'Ivoire nationals, who are subject to a fee of 3,290 Naira (20 USD), and Togolese who have to pay a fee of 12,500 Naira (77 USD).

¹⁰⁹⁴ The fees for issuance of the CERPAC are the following: 400 USD for students, 400 USD for non-ECOWAS African nationals, 480 USD for Cameroonians, and 700 USD for all other nationals.

While these administrative practices fail to fully cover immigration management, the most significant issue is the wide spectrum left to administrative arbitration in the absence of proper legal texts governing immigration.

Draft National Migration Policy

The draft policy seeks a review of the legislation “on the principle of non-discrimination of migrants” as well as the “strict adherence to migrant rights as stipulated in various conventions to which Nigeria is signatory”,¹⁰⁹⁵ but does not go on to provide more precise guidelines.

4.12.2.2.2 Labour migration

Access to national labour market

Legislation/Policy Framework	Description
Immigration Act, 1963	Art. 8(1): Salaried employment of foreigners is subject to the “consent in writing” of the Director of Immigration while self-employment of foreigners depends of the “consent in writing” of the Minister in charge of immigration. Art. 34(1) requires that potential employers of foreign workers “make application to the Director of Immigration as may be prescribed”. It is not clear what the employer has to apply for. One can only suggest that the procedure for labour immigration is to be initiated by the employer, who has to request a work authorisation.
Immigration Regulations (LN 93), 1963	Art. 3(2) makes reference to business permits, which are to be granted in addition to a residence permit for foreigners to engage in self-employment. Art. 4(3) implicitly recognises that in the case of salaried employment, a resident permit may include a work authorisation (a single permit is therefore delivered): “A residence permit may be issued subject to such conditions as to [...] (b) the occupation or business (if any) in which the person may engage, and the restrictions, prohibitions or limitations subject to which he may engage therein [...]”

The Immigration Act and its Regulations lack clarity with regard to the access of foreigners to employment. The gaps in the legislation are partially filled by administrative practices. ECOWAS Member States Nationals can apply for an ECOWAS Residence Card, upon presentation of a “letter of employment” and payment of fees.¹⁰⁹⁶ In the case of other migrant workers, the common procedure includes the application for a Subject to Regularization (STR) Visa /Entry Permit. The delivery of such a visa is subject to a quota system and the presentation of a “letter of employment”.¹⁰⁹⁷ After entry, the individual has to request the delivery of a Combined Expatriate Residence Permit and Aliens Card (CERPAC). In addition to this immigration scheme, administrative practices also provide for the delivery of a Temporary Work Permit (TWP) valid for a maximum period of three months, with the possibility of extension. The delivery of the TWP is limited to “experts invited by corporate bodies to provide specialized skilled services, such as after sales installation, maintenance, repairs of machines and equipment”.

¹⁰⁹⁵ Federal Republic of Nigeria, 2013, op. cit., p. 47.

¹⁰⁹⁶ Nigeria Immigration Service website: <http://www.immigration.gov.ng>

¹⁰⁹⁷ Ibid. Quotas of foreign workers can be attributed to employers, under the condition that transfers of technology are performed. The quota system therefore focuses on high-skilled migration.

On the whole, these administrative practices appear to be well-grounded, notably through the distinction made between ECOWAS Member States nationals and other foreigners. There is a need, however, to amend the legislation in this regard in order to avoid administrative arbitrary.

Rights within employment

The Labour Act of 1990 (Chapter 198) does not include any reference to foreign workers. All its provisions apply equally to both national and migrant workers.

Draft National Labour Migration Policy

The draft National Labour Migration Policy focuses primarily on emigration rather than on immigration. It does not explicitly recognise the need to revise the Immigration Act. However, while it does not include guidelines regarding entry and stay of migrant workers, it plans to uphold the principle of equality of treatment between national and migrant workers, including with regard to trade union rights.¹⁰⁹⁸ It also calls for the improvement of labour inspection activities in sectors and workplaces where migrants are employed.¹⁰⁹⁹

4.12.2.2.3 Irregular migration

Although the Immigration Act of 1963 (Chapter 171) and its subsequent regulations tend to focus on migration control, the legislation fails to provide a comprehensive framework for irregular migration management. The outdated character of a number of provisions can also be noted. For instance, when referring to the deportation of foreigners, the Immigration Act mentions the following categories: “an idiot, insane person, or person suffering from any other mental disorder”.¹¹⁰⁰ It should be noted, however, that the immigration legislation has been reviewed and the revisions are currently awaiting adoption. The adoption of a specific law on smuggling is also pending.

During the past years, there has been an increase in the deportation of foreigners, mostly Chadians and Nigeriens, related to national security issues in the north part of the country. In practice, Nigerian authorities are facing significant challenges in terms of border management. Borders are long – some 4,900 km – and with a varied topography – desert, mountains, swamps, and sea. Only 84 legal border crossing points exist, border services are understaffed and underequipped, and patrols are generally limited to a five kilometre radius around border posts.

¹⁰⁹⁸ Federal Republic of Nigeria, *Labour Migration Policy for Nigeria*, 2013, pp. 21-22.

¹⁰⁹⁹ *Ibid.*, p. 22.

¹¹⁰⁰ Immigration Act, 1963, art.18(1).

4.12.2.2.4 Migrants at risk

Legislation/Policy Framework	Description
Trafficking in Persons (Prohibition) Law Enforcement and Administration Act, 2003 (amended in 2005)	<ul style="list-style-type: none"> Provides a comprehensive framework for the prosecution of the crime of trafficking, the protection of victims, and the implementation of prevention activities. A central component of the legislation is the establishment of a specialised public institution covering trafficking issues, the NAPTIP. The Agency is entrusted with all the core responsibilities related to prosecution, protection and prevention. <p>Art. 50 (e); Art. 51 ensure a legal immigration status during the course of legal actions and prevent detention and prosecution of foreign victims in an irregular situation.</p>
Child Rights Act, 2003	<ul style="list-style-type: none"> Inspired by the Convention on the Rights of the Child and ILO Worst Forms of Child Labour Convention No. 182 (1999), it covers, among other aspects, exploitative labour and unlawful removal of children from legal custody. It has nevertheless been noted that the minimum age for employment was set too low to meet international standards.¹¹⁰¹

Although it is reported that NAPTIP is underfunded, it has implemented a wide range of activities over the years. According to the U.S. Department of State, in 2012, “NAPTIP initiated 117 trafficking investigations, commenced at least 17 prosecutions, and achieved 25 convictions”.¹¹⁰²

NAPTIP has established nine shelters across the country. Victims are provided with initial screening assistance, medical care and psychological services, legal assistance, vocational training and education.¹¹⁰³ In the case of child trafficking, family tracing is conducted in cooperation with relevant diplomatic and consular posts in Nigeria. A Victim’s Trust Fund was established in 2009, primarily financed by confiscated assets from traffickers. In 2012, it provided 22,000 USD to victims of trafficking.¹¹⁰⁴

Prevention activities have taken the form of extensive media campaigns, advocacy meetings with community leaders, town hall meetings to share information with the population, and training sessions for public officials.¹¹⁰⁵

4.12.2.3 Emigration

4.12.2.3.1 Labour migration

Labour migration policy

In 2013, Nigeria finalised a Labour Migration Policy, which is yet to be endorsed by the competent authorities. This policy does the following:

¹¹⁰¹ ILO, *Review of Legislation and Policies in Nigeria on Human Trafficking and Forced Labour*, 2006, p. 30.

¹¹⁰² U.S. Department of State, 2013, op. cit., p. 286.

¹¹⁰³ Ibid.

¹¹⁰⁴ Ibid., p. 287.

¹¹⁰⁵ Ibid., p. 286; Bowers, M. M., *Room for Improvement: Nigeria’s Approach to Trafficking*, 2012, p. 9.

- provides comprehensive guidelines in the area of labour emigration;
- recognises the need for a national labour market assessment and a study of the relevant characteristics of countries of destination;
- limits promotion activities to sectors of the economy where migration does not impede national economic and social development;
- recognises the necessary involvement of public employment agencies (State Labour Offices) in the recruitment of migrant workers, as well as the need to regulate and monitor the activities of private employment agencies; and
- calls for measures to protect migrant workers before their departure and in the countries of destination.

Regarding existing activities, assessments of the national labour market and countries of destination (both already-established and potential) are yet to be conducted, promotion activities are non-existent, there are no bilateral labour agreements in force, and State Labour Offices are not involved in placing national workers abroad. However, as noted in the draft National Migration Policy:

In 2006, the International Labour Migration Desk/National Electronic Labour Exchange (ILMD/NELEX) was established within the Department of Employment and Wages [of the Ministry of Labour] to, among other things, formulate and implement a national policy on labour migration, provide information on jobs and conditions of service abroad, give pre-departure counselling, and ensure overseas placement and the implementation of bilateral employment agreements.¹¹⁰⁶

Private employment agencies

Private employment agencies (PEAs) play an important role in Nigeria as intermediaries for international migration. They mainly operate outside the scope of the legislation and are likely to engage in fraudulent practices, which can amount to their involvement in trafficking in persons.¹¹⁰⁷

The activities of PEAs in Nigeria are primarily regulated by the Labour Act, 1990 (Chapter 198), which provides for a licensing system, monitored by the Ministry of Labour. In 2009, 199 license applications were filed and 93 were issued, mostly in Lagos State and, to a lesser extent, in Rivers State.

¹¹⁰⁶ Federal Republic of Nigeria, 2013, op. cit., p. 67.

¹¹⁰⁷ Adepoju, A., 2009, op. cit., pp. 17-18.

Legislation/Policy Framework	Description
Labour Act (Chapter 198), 1990	<p>Art. 25(2): Licenses are granted for a period of one year.</p> <p>Art. 27(4) imposes an age limit of 18 for recruitment.</p> <p>Art. 30(1): Travel expenses are to be covered by the employer or the private employment agency.</p> <p>Art. 27(1) requests the tenure of records of the agencies' operations.</p> <p>Art. 26(1) forbids recruitment in the "labour health area".</p>
Labour Act CAP L1 LFN, 2004	<ul style="list-style-type: none"> • Includes a detailed form to be filed by private employment agencies applying for a licence. • Requires the payment of a security deposit, ranging from NGN 1.5 million (approx. USD 9,044) to NGN 5 million (USD 30,147)¹¹⁰⁸, depending on the number of individuals employed by the consider agency and the type of recruitment to be undertaken. • The deposit serves as a proof of financial capability as well as a means to paying indemnities to workers, if need be.

Private employment agencies are also bound by a Code of Conduct (2011), which sets the following guiding principles, and allows the adoption of sanctions in case of their breach.

¹¹⁰⁸ OANDA currency converter applied (September 2013).

Legislation/Policy Framework	Description
Code of Conduct for Private Employment Agencies, 2011	<p>Principle 1 – Respect for Ethical and Professional Conduct [...]</p> <p>Principle 2 – Respect for Laws [...]</p> <p>Principle 3 – Respect for Transparency of Terms of Engagement PEAs shall ensure that workers are given details of their working conditions, the nature of the work to be undertaken, rates of pay and pay arrangements and working hours. This principle obligates PEAs to inform employees of the conditions applicable to the contract or employment relationship.</p> <p>Principle 4 – Respect for free-of-charge provision of services to jobseekers PEAs shall not charge directly or indirectly, in whole or in part, any fees or costs to prospective employees and workers, for the services directly related to temporary assignment or permanent placement.</p> <p>Principle 5 – Respect for Health and Safety at Work PEAs shall act diligently in assessing risks related to health and safety prior to the assignment of agency workers in their workplace. PEAs shall inform agency workers whenever they have reason to believe that any particular assignment could cause an occupational health or safety risk.</p> <p>Principle 6 – Respect for Diversity [...]</p> <p>Principle 7 – Respect for the Worker’s Rights Equitable, objective and transparent principles for the calculation of agency workers’ wages shall be promoted, considering national legislation and practices. PEAs shall not restrict agency workers’ right of freedom of association. PEAs shall not make workers available to a user company to replace workers of that company who are legally on strike.</p> <p>Principle 8 – Respect for Confidentiality [...]</p> <p>Principle 9 – Respect for Professional Knowledge and Quality of Service [...]</p> <p>Principle 10 – Respect for Fair Competition [...]</p> <p>Principle 11: Social Dialogue [...]</p> <p>Principle 12: Commitment to Professional Development [...]</p>

On the whole, the guiding principles are well-founded. However, the issue of fee collection by private employment agencies can be debated. While the prohibition to charge a fee is justified in many instances, especially where temporary work agencies dominate the private employment market, it is not realistic in the context of labour migration. In practice, migrant workers pay, in one way or another, recruitment fees that are likely to be high. Part of the solution to limit abuses in this regard is to impose a ceiling on recruitment fees and make it widely known. Such a practice is addressed by ILO Convention No. 181, which authorises derogations to the principle of gratuity for legitimate reasons.¹¹⁰⁹

Foreign Contracts

The Labour Act, 1990 (Chapter 198) includes a number of provisions on foreign contracts. Those contracts are to be validated by the competent authorities within the Ministry of Labour.¹¹¹⁰ Contracts are limited to

¹¹⁰⁹ ILO Convention No. 181, art. 7.

¹¹¹⁰ Labour Act, 1990, (Chapter 198), art. 40(2).

a period of one year if the worker travels alone or two years if he/she is accompanied by his/her family.¹¹¹¹ Obligations are imposed on the foreign employer, including payment of travel and provision of free food and accommodation.¹¹¹² Most of these provisions appear to be obsolete and, in some cases, likely to violate the rights of the individual (e.g. the limited duration of the work contract). It must also be outlined that if not explicitly specified in the work contract, these provisions will generally be dismissed, given that the applicable legislation in case of a labour dispute is most likely to be that of the country of destination.

4.12.2.3.2 Migration and development

Institutional developments

Since the beginning of the 2000s, Nigeria has adopted measures concerning migration and development issues. The main institutional developments in this regard are the creation of the Nigerian National Volunteer Services (NNVS) and the Nigerians in the Diaspora Organisation (NIDO).

The NNVS is an intergovernmental institution placed under the authority of the Secretary to the Government, and tasked with the duty to coordinate the relations between the state and the diaspora. NIDO is a global network of diaspora associations established with the assistance of the Nigerian government with a view to harnessing the knowledge, experience and skills acquired by Nigerians abroad for development purposes in Nigeria. NIDO has local branches in most European countries, the U.S., and in several African and Asian states.

To date, activities undertaken in relation to migration and development have followed three principal aims: promoting investments from the diaspora, promoting returns – temporary or permanent – of skilled Nigerian migrants, and lowering the cost of remittances.

Mobilising and channelling remittances for development

A national Diaspora Trust Fund of 5,000,000 USD has been set up.

Under national legislation, only banks are entitled to perform international payments.¹¹¹³ Most Nigerian Banks have entered into agreements with large money transfer operators, such as Western Union and MoneyGram, in order to channel remittances.¹¹¹⁴ Such practices have led to high transfer costs. Public authorities, including the Central Bank of Nigeria, are currently undertaking negotiations for a reduction of remittances' costs.

Diaspora outreach and confidence-building measures

A Nigerian Diaspora Day is celebrated every year to recognise the contribution of migrants to the development of the country and dual/multiple citizenship is authorised (although this is limited to Nigerian

¹¹¹¹ Ibid., (Chapter 198), art.38(1).

¹¹¹² Ibid., (Chapter 198), art.40(1).

¹¹¹³ ICMPD, 2011, op. cit., p. 21.

¹¹¹⁴ Ibid.

citizens by descent).¹¹¹⁵

Addressing the challenges of highly-skilled migration

Both NIDO and NNVS promote the temporary return of skilled migrants. NNVS supports annual medical missions carried out by Nigerian doctors of the diaspora and provides financial incentives for the import of medical equipment into the country. Other projects promoting temporary return of skilled migrants include the LEADS programme (Linkage with Experts and Academics in the Diaspora) monitored by the National Universities Commission (NUC).

Draft National Migration Policy

The draft National Migration Policy foresees the continuation of existing efforts. It also seeks to conduct a comprehensive mapping of the Nigerian diaspora and the remittances that they send.¹¹¹⁶ Although both the NNVS and NIDO have spoken of the development of a database of the Nigerian diaspora, significant results are yet to be produced. The draft Migration Policy also emphasises the need to improve reintegration schemes for Nigerian returnees¹¹¹⁷ and adopt mechanisms to retain high-skilled workers – such as an increase in their salaries.¹¹¹⁸

4.12.2.3.3 Migrants' protection

Information dissemination

Nigeria has yet to organise a comprehensive strategy to provide migrants and potential migrants with information on the different aspects of migration processes and living/working conditions in the countries of destination. However, the Ministry of Labour has collaborated with the ILO to develop information material concerning seven important countries of destination: Australia, Canada, Italy, Spain, Sweden, the U.K., and the U.S. Moreover, there is also a plan to create migrant resource centres with the assistance of the ILO and IOM. The draft Labour Migration Policy plans to organise “pre-employment orientation seminars” and intensify “information campaigns, especially in rural communities”.

Protection in countries of destination

Consular assistance activities mainly focus on facilitating returning migrants in an irregular situation. The draft Labour Migration Policy foresees the appointment of labour attachés in countries where there is a strong presence of Nigerian nationals and encourages the creation of a migrant welfare fund.¹¹¹⁹

¹¹¹⁵ Constitution of the Federal Republic of Nigeria (1999), art. 28.

¹¹¹⁶ Federal Republic of Nigeria, 2013, op. cit., p. 27; p. 29.

¹¹¹⁷ Ibid., pp. 38-39.

¹¹¹⁸ Ibid., p. 30.

¹¹¹⁹ Migrant welfare funds are insurance schemes that are based on the assumption that a number of usual protection and social welfare services offered domestically may not be accessible to migrant workers in countries of destination (in law and/or in practice). In such cases, migrant welfare funds, generally administered by public or semi-public agencies and funded mostly by migrants' contribution, can cover issues such as protection of the job site, death, disability and health insurance, repatriation of remains, and fares for involuntary return.

Protection of victims of trafficking

The aforementioned protection measures (see section 4.12.2.2.4.), including shelter, initial screening, legal assistance, vocational training, and education applies to Nigerian nationals.

4.12.3 International, regional, and bilateral cooperation*International conventions*

Among the most relevant international conventions protecting human rights, Nigeria has ratified:

- the International Covenant on Civil and Political Rights (1966);
- the International Covenant on Economic, Social and Cultural Rights (1966);
- the Convention on the Elimination of All Forms of Discrimination against Women (1979);
- the Convention on the Rights of the Child (1989), as well as 30 ILO Conventions. Nigeria has ratified one of the two specific ILO conventions on migrant workers: C 97 (1949);
- the Convention on the Protection of the Rights of All Migrant Workers and Members of their Families (1990); and
- the United Nations Convention against Transnational Organized Crime (2000) and its Protocols on trafficking in persons and smuggling of migrants.

In addition to these global conventions, Nigeria is also bound by ECOWAS texts, including its Treaty (1975) and the subsequent protocols regarding free movement of persons, residence and establishment.

Bilateral agreements

Over the past decade, Nigeria has concluded four readmission agreements: with Ireland,¹¹²⁰ Italy,¹¹²¹ Spain¹¹²², and Switzerland.¹¹²³ All four agreements have similar content,¹¹²⁴ which includes facilitation of the repatriation process, coordination between the parties through the Nigerian consular post in the country involved, procedures to be followed in case of doubt as to the nationality of the individual, and payment of transportation by the requesting party. In addition, these agreements include general provisions regarding support to the reintegration of returnees in Nigeria as well as the protection of victims of trafficking.

During the early 2000s, Nigeria negotiated preferential quotas for the admission of Nigerian workers in

¹¹²⁰ Agreement on immigration matters between the governments of Nigeria and Ireland, signed 29 August 2001 and ratified 30 November 2002.

¹¹²¹ Agreement on immigration matters between the governments of Nigeria and Italy, signed 12 September 2000 and ratified 30 November 2000.

¹¹²² Agreement on migration matters between the Government of the Federal Republic of Nigeria and the Kingdom of Spain, signed 12 November 2001 and ratified 30 November 2002.

¹¹²³ Agreement on immigration matters between the Swiss Federal Council and the Government of the Federal Republic of Nigeria, signed 9 January 2003.

¹¹²⁴ See Veerassamy, L., *Facilitating a Coherent Migration Management Approach in Ghana, Nigeria, Senegal and the Libyan Arab Jamahiriya by Promoting Regular Migration and Preventing further Irregular Migration, AENEAS 2006, Report on the Comprehensive Legislative Review in Ghana, Nigeria, Senegal and Libya*, IOM, 2009, pp. 69-70.

Italy and Spain. Quotas were eventually abandoned by the Spanish authorities and in the case of Italy, they have been used to regularise irregular migrants residing in the country rather than to authorise the entry of newcomers.¹¹²⁵

In 2005, a Memorandum of Understanding was concluded with the U.K. on trafficking issues,¹¹²⁶ which included provisions regarding the protection of victims, notably through counselling and social rehabilitation, as well as institutional capacity-building measures with regard to protection, prevention and prosecution.¹¹²⁷

In 2011, a broad Memorandum of Understanding covering most areas of migration management was concluded with Switzerland.

With the exception of two agreements concluded with Spain, which are limited in scope,¹¹²⁸ Nigeria has yet to conclude bilateral social security agreements.

¹¹²⁵ Adepoju, A., 2009, op. cit., p. 48.

¹¹²⁶ Cooperation agreement between the governments of Nigeria and the U.K. to prevent, suppress and punish trafficking in persons especially women and children, signed June 2005.

¹¹²⁷ Adepoju, A., 2009, op. cit., p. 49.

¹¹²⁸ An Exchange of Notes of 1978 concerns the affiliation to the Spanish social security system of non-diplomatic personnel assigned to the Nigerian embassy in Spain, and an agreement of 1979 considers the situation of public officers' pensions.

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4.12.5 List of interlocutors

Name of respondent	Position	Institution
Anaelo, C. N.	Head, Migration Division	National Commission for Refugees, Migrants and Internally Displaced Persons
Igbinosun, E.	Labour Officer, Head, International Labour Migration Desk	Ministry of Labour and Productivity
Ayangade, R. F. A.	Deputy Director	Nigerian National Volunteer Services
Dankano, A-A. M.	Director, Consular and Immigration	Ministry of Foreign Affairs
Mozi, N. H.	Chief State Counsel, International and Comparative Law Department	Ministry of Justice
Odetunde, T. A.	Superintendent, Migration Unit	Nigerian Immigration Service
Tsumba Terna Esq.	Migration Focal Person, Head, Intelligent and International Cooperation Unit	National Agency for Prohibition of Traffic in Persons and Other Related Matters
Dashe, N. J.	Assistant Director, Investigation Unit	
Okoro, C. C.	Chief Planning Officer	National Planning Commission
Duke, O. O.	Assistant Director, Research Department	Central Bank of Nigeria
Yakubu, A. A.	Director, Office of the Executive Secretary	Human Rights Commission
Gavar, A.	Deputy Director, Legal and Head, Focal Areas	Human Rights Commission
Aduba, N.	Senior Legal Officer	Human Rights Commission

4.13 Senegal

4.13.1 Migration trends

4.13.1.1 Immigration

Although Senegal has traditionally been an important country of destination for West and Central African migrants, it has gradually lost its attractiveness. It still remains a country of transit for migrants seeking to reach European states and, to a certain extent, it is also a country of immigration.

Data	Year	Absolute numbers	% of the Total Population
National Population and Housing Census (RGPH) ¹¹²⁹	2002	Foreign immigrant stock: 43,651 ¹¹³⁰	0.5%
		Recent immigration (foreigners) flows (within the five years preceding the census): 19,268 ¹¹³¹	
Senegalese Household Survey (ESAM) ¹¹³²	2001	Foreigners: 126,054 ¹¹³³ Although the ESAM survey (based on 6,600 households) is less comprehensive than the RGPH, it nevertheless provides an estimate of all foreigners residing in Senegal for more than one year.	1.3%

4.13.1.1.1 Characteristics of immigrants/foreigners

Countries of origin:	West African states, primarily Guinea.
Settlements:	Mostly in the Dakar region.
Socio-demographic profile:	The proportion of female foreigners was estimated at 45.5% in 2001.
Socio-economic profile and sectors of employment:	While foreigners only constitute a small proportion of the Senegalese population, they play an important economic role. For instance, Guineans are active in the fruit and vegetable trade, as well as in the transport sector. Malian women are known to specialise in selling paintings, while Malian men are mainly active in the cola nut business. Migrants from the Gulf of Guinea, primarily Ivorians, Beninese, and Togolese, are generally higher-skilled migrants.
Vulnerable groups:	<ul style="list-style-type: none"> • It appears that trafficking is primarily an internal phenomenon that concerns children. • Regarding international trafficking, cases of boys from The Gambia, Mali, Guinea and Guinea-Bissau forced into begging, as well as artisanal and agricultural work occur. • Exploitation of foreign women and girls is not well-documented.¹¹³⁴

¹¹²⁹ Recensement général de la population et de l'habitat.

¹¹³⁰ ANSD, *Rapport national de présentation des résultats du troisième Recensement général de la population et de l'habitat en 2002, RGPH III*, 2006, p. 39. According to the RGPH's methodology, immigrants are individuals born abroad, who have resided in Senegal for at least six months and plan to stay in the country for at least another six months. The census distinguishes between immigrants of Senegalese nationality and foreigners.

¹¹³¹ *Ibid.*, p. 41.

¹¹³² *Enquête sénégalaise auprès des ménages*.

¹¹³³ Some, A. N., *Migration au Sénégal. Profil national 2009*, IOM, 2009, p. 44.

¹¹³⁴ As the U.S. Department of State puts it in its 2013 *Trafficking in Persons Report*: "Women and girls from other West African countries, particularly Liberia, Ghana, Guinea, Guinea-Bissau, Sierra Leone, and Nigeria, **may be subjected** [we underline] to domestic servitude and commercial sexual exploitation in Senegal, including for sex tourism" (p. 320).

4.13.1.2 Emigration

Before the independence of the country and throughout the decade following independence, Senegalese emigration was principally directed towards France and West and Central Africa. The 1970s marked a turning point for Senegalese emigration flows. With the country experiencing a progressive economic downturn, push-factors became stronger. Emigration no longer originated from the Senegal River Valley region only. The groundnut basin (in the west-central part of Senegal) and urban areas were now affected, as well as groups traditionally not inclined to migrate, such as the Mouride Brotherhood.¹¹³⁵ The countries of destination also tended to diversify as traditional countries of destination also faced economic difficulties.

While African states, and primarily West African states, remain the main countries of residence of Senegalese migrants, significant changes in the trends of migration flows can be observed. Traditional countries of destination, such as Côte d'Ivoire and Gabon, have become less attractive. At the same time, migration towards OECD countries, primarily Italy and Spain, has grown significantly since the 1990s.

According to the ESAM, OECD countries have replaced African countries as the main countries of destination for recent migration flows, receiving 53.5% of Senegalese migrants during the period 1997-2002.¹¹³⁶ In addition, the survey shows that only 13.8% of recent migration was directed towards the West African Economic and Monetary Union (UEMOA) Member States, while 30% concerned other African countries.¹¹³⁷ Such a change in migration trends is surprising given that EU Member States implement restrictive immigration policies and that the ECOWAS region is characterised by the principle of freedom of circulation and a *laissez faire* approach.

Data	Year	Estimates
ESAM	2001	168,953 nationals emigrated during the five years preceding the survey. ¹¹³⁸ The data gives an overview of recent emigration flows rather than an estimate of the existing migrant stock.
Diplomatic and consular posts data	2004	648,000 nationals residing abroad, which corresponds to 6.8% of the total population of the country.
General estimates from national authorities (data sources unidentified)	2013	3 to 4 million nationals abroad.

¹¹³⁵ Fall, P. D., *Migration internationale et droits des travailleurs au Sénégal*, UNESCO, 2003, p. 14.

¹¹³⁶ ANSD, *Rapport de synthèse de la deuxième Enquête sénégalaise auprès des ménages*, 2004, p. 232.

¹¹³⁷ Ibid.

¹¹³⁸ ANSD, 2004, op. cit., p. 227.

4.13.1.2.1 Characteristics of emigrants/nationals abroad

Countries of destination/ residence:	<ul style="list-style-type: none"> • It is widely recognised that most Senegalese migrants reside within the African continent. • The Gambia may be the main country of residence of Senegalese abroad. P. D. Fall puts it at 300,000.¹¹³⁹ • Côte d'Ivoire remains an important place of residence for Senegalese nationals, with an estimated 97,000 residents.¹¹⁴⁰ • Mauritania, Guinea, Guinea-Bissau, and Gabon are estimated to host a Senegalese population comprising of between 20,000 and 40,000 each.¹¹⁴¹ • Migration towards Libya appears to have been limited: in 2012, IOM reported only 406 Senegalese returnees fleeing from the Libyan civil war.¹¹⁴² • According to the UN Population Division's latest estimates, Senegalese residing in Morocco and Algeria were estimated at around 3,000 individuals.¹¹⁴³ Given the recognised importance of irregular migration in these countries, it is highly likely that these figures greatly underestimate the presence of Senegalese in both. • The OECD international migration database identifies Italy (80,989 registered Senegalese nationals in 2010), France (51,510 in 2009), and Spain (63,491 in 2011) as the main countries of destination.¹¹⁴⁴ The database does not include statistics regarding the U.S. According to Fall, 60,000 Senegalese were residing in the U.S. in 2010.
Socio-demographic profile:	<ul style="list-style-type: none"> • Traditionally, Senegalese migration has been a male phenomenon. This largely remains the case, although a rise in female migration has been observed over time. • Between 1997 and 2002, migration of Senegalese women was estimated at 18.2%.¹¹⁴⁵
Education level/ sectors of employment:	<ul style="list-style-type: none"> • Senegalese migrants tend to be low-skilled, although high-skilled individuals are overrepresented in comparison to the general population. • In OECD Member States, an estimated 19.2% of Senegalese migrants have a tertiary education. • Brain drain: with regard to the health sector, the emigration rate of nurses towards OECD Member States was estimated at 8.9% and that of medical doctors at 43%.¹¹⁴⁶
Remittances:	<ul style="list-style-type: none"> • USD 1.6 billion in 2013.¹¹⁴⁷ • A large portion of transfers are made through informal channels.¹¹⁴⁸ • It is estimated that 43% of remittances originate from African countries. • Remittances are mainly used to cover food, education, health and celebration expenses. It is also common for migrants to use their savings to build houses in Senegal. • Diaspora associations and their initiatives in the social field are dynamic.

¹¹³⁹ Fall, P. D., *Sénégal. Migration, marché du travail et développement*, ILO, 2010, p. 24.

¹¹⁴⁰ Ibid.

¹¹⁴¹ Ibid.

¹¹⁴² Aghazarm, C., Quesada, P. and Tishler, S., *Migrants Caught in Crisis: the IOM Experience in Libya*, IOM, 2012, p. 14.

¹¹⁴³ United Nations, Department of Economic and Social Affairs, Population Division, 'Trends in International Migrant Stock: Migrants by Destination and Origin', 2013.

¹¹⁴⁴ OECD, 'International Migration Database'. The OECD migration database collects information on stay/resident permits and population registers.

¹¹⁴⁵ Sakho, P., Diop, R. A., and Awissi-Sall, M., *Migration et genre au Sénégal*, CARIM AS No. 10, 2011, p. 2.

¹¹⁴⁶ OECD, 'Immigrant Health Workers in OECD Countries in the Broader Context of Highly Skilled Migration' in *International Migration Outlook – SOPEMI 2007*, 2007, p. 216.

¹¹⁴⁷ World Bank, 'Remittances Data', 2013.

¹¹⁴⁸ Sarr, A, 'Transferts de fonds des migrants et développement en Afrique : une étude de cas sur le Sénégal' in *Techniques Financières et Développement*, 2009, p. 18.

Vulnerable groups:

- International trafficking of Senegal nationals mainly concerns women forced into domestic servitude in neighbouring countries, Europe and the Middle East.
- Exploitation in prostitution appears to be mainly an internal phenomenon.¹¹⁴⁹

4.13.2 Migration policy

Senegal has yet to adopt a formal migration policy. While immigration management does not constitute a priority for public authorities, a great deal of attention has been given to emigration-related policies. Over the past years, Senegal has developed a large number of initiatives, especially in the areas of protection, migration and development, and initiatives relating to the return and reintegration of Senegalese migrants. In addition, close cooperation has been organised with EU Member States in the field of border management.

The latest national development plan (PSE),¹¹⁵⁰ adopted in 2014, makes reference to the relationship between migration and national development and refers more specifically to the contribution of the Senegalese diaspora in this regard.

4.13.2.1 Institutional framework on migration

Governmental stakeholders involved

Ministry	Agency, Directorate, Unit	Responsibilities
Ministry of Interior ¹¹⁵¹	Directorate of Foreigners Police ¹¹⁵² Directorate of National Security ¹¹⁵³	<ul style="list-style-type: none"> • Immigration management
Ministry of Youth, Employment and Promotion of Civic Values ¹¹⁵⁴	National Agency for the Promotion of Youth Employment ¹¹⁵⁵ (previously known as: Youth Employment Agency or ANEJ) ¹¹⁵⁶ Directorate of Employment ¹¹⁵⁷	<ul style="list-style-type: none"> • Match the labour demand and supply
Ministry of Public Service, Labour, Social Dialogue and Professional Organisations ¹¹⁵⁸	General Direction of Labour and Social Security ¹¹⁵⁹	<ul style="list-style-type: none"> • Ensures the respect of labour legislation • Authorises work contracts signed by foreigners

¹¹⁴⁹ U.S. Department of State, *Trafficking in Persons Report 2013*, 2013, p. 321.

¹¹⁵⁰ *Plan Sénégal Emergent*, 2014.

¹¹⁵¹ *Ministère l'Intérieur*.

¹¹⁵² *Direction de la Police des étrangers*.

¹¹⁵³ *Direction de la Sûreté nationale*.

¹¹⁵⁴ *Ministère de la Jeunesse, de l'Emploi et de la Promotion des Valeurs civiques*.

¹¹⁵⁵ *Agence nationale pour la Promotion de l'emploi des jeunes*.

¹¹⁵⁶ *Agence de l'Emploi des jeunes*.

¹¹⁵⁷ *Direction de l'emploi*.

¹¹⁵⁸ *Ministère de la Fonction publique, du Travail, du Dialogue social et des Organisations professionnelles*.

¹¹⁵⁹ *Direction générale du Travail et de la Sécurité sociale*.

Ministry of Foreign Affairs and Senegalese Abroad ¹¹⁶⁰	Directorate of Senegalese Abroad ¹¹⁶¹ Directorate of Consular Affairs ¹¹⁶² Directorate of Regional integration ¹¹⁶³	<ul style="list-style-type: none"> • Relations with Senegalese migrants, providing assistance abroad and upon return • Promotion of investments by the diaspora
Ministry of Women, Family and Childhood ¹¹⁶⁴		<ul style="list-style-type: none"> • Measures against trafficking in persons
Ministry of Economy, Finance and Planning ¹¹⁶⁵	Directorate of Population, Planning and Human Development	<ul style="list-style-type: none"> • Development of a national migration policy • Studies on migration and development issues
	National Statistics and Demography Agency (ANSD) ¹¹⁶⁶	<ul style="list-style-type: none"> • Production and analysis of statistical data on migration

Inter-institutional coordination

Existing institutionalised inter-ministerial institutions are rare and their fields of competences are generally limited to very specific areas. This is the case with the National Commission of Job Offers,¹¹⁶⁷ which is in charge of implementation of existing bilateral labour agreements, and the Committee in charge of the Support Fund for Investments of Senegalese Abroad (FAISE).¹¹⁶⁸

Main non-governmental institutions involved

The network of NGOs operating in the field of migration in Senegal is considerable. It includes the *Conseil des organisations non-gouvernementales d'appui au développement* (CONGAD), which coordinates the activities of 178 national and foreign NGOs, *Rencontre africaine pour la défense des droits de l'homme* (RADDHO), *Association pour le Co développement* (ASCODE), *Plateforme d'appui aux petites entreprises du Sénégal* (PAPES), *Développement par l'éducation la formation et l'insertion* (DEFI), *Centre d'orientation et de documentation sur les migrations* (CODM), *ENDA tiers-monde, pôle DIADEM*, *Groupe AGORA de recherche pour l'éducation aux droits de l'enfant et à la paix*, etc.

¹¹⁶⁰ Ministère des Affaires étrangères et des Sénégalais de l'extérieur.

¹¹⁶¹ Direction des Sénégalais de l'étranger.

¹¹⁶² Direction des Affaires consulaires.

¹¹⁶³ Direction de l'Intégration régionale.

¹¹⁶⁴ Ministère de Femme, de la Famille et de l'Enfance.

¹¹⁶⁵ Ministère de l'Economie, des Finances et de la Planification.

¹¹⁶⁶ Agence nationale de la Statistique et de la Démographie.

¹¹⁶⁷ Commission nationale de gestion et de suivi des offres d'emploi dans le cadre de la migration légale.

¹¹⁶⁸ Fonds d'appui à l'investissement des Sénégalais de l'extérieur.

4.13.2.2 Immigration: national policy framework and institutional practices

4.13.2.2.1 General immigration provisions

Legislation/Policy Framework	Description
Law No. 71-10 of 25 January 1971 on the conditions of entry, stay and establishment of foreign nationals ¹¹⁶⁹	<p><i>Entry</i></p> <p>Decree, Art. 1; Art. 39 to Art. 74: Admission on the national territory is subject to the delivery of a visa, and the production of a guarantee of return, which may take the form of a return ticket to the country of origin, a deposit or a bank guarantee.</p>
Decree No. 71-860 of 28 July 1971 on the conditions of entry, stay and establishment of foreign nationals ¹¹⁷⁰	<p><i>Stay</i></p> <p>A distinction is made between two legal statuses: non-immigrant and immigrant</p> <p>Law, Art. 3: Non-immigrant status applies notably to foreigners who do not seek to engage in a remunerative activity, as well as those who intend to work temporarily in specific fields, such as journalism, research, and art.</p> <p>Law, Art. 2; Art. 3: Non-immigrants are required to request the delivery of a stay authorisation¹¹⁷¹ before entry on the national territory. This authorisation is valid for a period of four months.</p> <p>Law, Art. 4: Immigrant status applies to foreigners who "have the intention to establish their residence in Senegal, engage in a lucrative activity in a permanent manner, or exercise a profession".</p> <p>Law, Art. 4: Immigrant stay in Senegal is subject to the delivery of a residence authorisation,¹¹⁷² which is to be delivered before entry on the national territory.</p> <p>Law, Art. 4: Foreigners holding a stay authorisation who wish to change their legal status can request the delivery of a residence authorisation on the territory.¹¹⁷³</p> <p>Decree, Art. 13: Delivery of the residence authorisation leads to the issuance of a foreigner identity card,¹¹⁷⁴ which is to be requested within fifteen days of entry.</p> <p><i>Family migration</i></p> <p>Law, Art. 4: A specific provision regarding family migration that applies to the spouse, ascendants, dependent minor children and adult unmarried children of the migrant. The law does not recognise a right of the individual to be accompanied by his/her family members but simply foresees this possibility.</p>

A number of gaps can be identified in the Senegalese immigration legislation, such as the absence of provisions regarding the duration of validity of the residence authorisation, and the status of long-term residents and that of ECOWAS Member States' nationals.

Senegal has concluded bilateral agreements which include provisions on entry and stay/residence with several countries, among them France, Gabon, Mauritania, Morocco, and Spain. A review of these agreements is presented in sections 4.13.2.3.1. and 4.13.3.

¹¹⁶⁹ Loi No. 71-10 du 25 janvier 1971 relative aux conditions d'admission, de séjour et d'établissement des étrangers.

¹¹⁷⁰ Décret No. 71-860 du 28 juillet 1971 relatif aux conditions d'admission, de séjour et d'établissement des étrangers.

¹¹⁷¹ Autorisation de séjour.

¹¹⁷² Autorisation de résidence.

¹¹⁷³ Law No. 71-10 of 25 January 1971 on the conditions of entry, stay and establishment of foreign nationals, art. 4.

¹¹⁷⁴ Carte d'identité d'étranger.

4.13.2.2.2 Labour migration

Access to the national labour market

Legislation/Policy Framework	Description
Labour Code ¹¹⁷⁵ , 1997	<p>Art. L 33; L 34: Work contracts that include “the establishment of the worker outside of his/her place of habitual residence” are to be approved by the General Direction of Labour and Social Security within the Ministry of Public Service, Labour, Social Dialogue and Professional Organisations.</p> <p>Art. L 224 foresees the possibility to adopt secondary legislation to “forbid or limit the employment of foreigners for specific occupations or professional qualification levels” in order to ensure full-employment of the national workforce. Such secondary legislation has yet to be adopted.</p>

Rights within employment

Legislation/Policy Framework	Description
Labour Code, 1997	<p>Art. L 1 provides for equal treatment between foreigners and nationals. Foreigners, regardless of their legal status, benefit, as a principle, from all obligations and rights from the labour legislation.</p> <p>Art. L 9 includes an exception to the principle of equal treatment. While all foreigners can join a trade union, only those who have stayed in Senegal for a minimum of five years can fulfil administrative and executive functions, provided that their country of nationality grants similar rights to Senegalese nationals.</p> <p>Art. L 156 states that the cost of transportation from the country of origin to the place of employment must be undertaken by the employer. This principle does not only apply to the migrant worker but also to the spouse and minor children.</p> <p>Art. 106: Housing must be provided by the employer.</p>
N/A	Old age benefits can be received on the national territory as well as in the country of origin of the worker, or in any other place of his/her choice. ¹¹⁷⁶

Although the legislation foresees the possibility for a labour market test, regulations in this regard are absent. However, in its report to the UN Migrant Workers Committee, the government of Senegal refers to the existence of a work permit system.¹¹⁷⁷ According to Fall, employment of foreigners is subject to a labour market test:

The authority delivering the work permit takes into consideration the situation of the labour market, and in particular, the possibilities of employment for nationals with a professional profile corresponding to the particular job. [Translation by the author]¹¹⁷⁸

Another notable administrative practice is that the end of the work contract does not automatically lead to the removal of the stay permit.¹¹⁷⁹

¹¹⁷⁵ *Code du Travail*.

¹¹⁷⁶ Senegal, *Initial Report to the Committee on the Protection of the Rights of all Migrant Workers and Members of Their Families*, 2009, p. 8.

¹¹⁷⁷ *Ibid.*, p. 13.

¹¹⁷⁸ Fall, P. D., 2003, *op. cit.*, p. 27.

¹¹⁷⁹ *Ibid.*, p. 17.

4.13.2.2.3 Irregular migration

Legislation/Policy Framework	Description
Law No. 71-10 of 25 January 1971 on the conditions of entry, stay and establishment of foreign nationals	Decree, Art. 32; Art. 33 foresee deportation of foreigners who are not in possession of the documents required to enter the country.
Decree No. 71-860 of 28 July 1971 on the conditions of entry, stay and establishment of foreign nationals	Law, Art. 10; Decree, Art. 34 to Art. 38 foresee expulsion of those who have committed a criminal offence or pose a threat to public order.
Law No. 2005-06 of 10 May 2005 on Trafficking in Persons and Assimilated Practices and Victims' Protection ¹¹⁸⁰	Law, Art. 11; Art. 12: irregular stay and irregular employment constitute a criminal offence, which expose the individual to a fine and imprisonment for one month to two years.
	Art. 4; Art. 5: Smugglers, and those who falsify visas, travel documents and stay permits are subject to fines comprised of between 1,000,000 and 5,000,000 CFA francs (USD 1,895 to 9,480), as well as penalties of five to ten years' imprisonment.

In practice, expulsion of foreigners is rare and individuals in an irregular situation have the possibility to regularise their situation. Irregular immigration is not considered a major threat and relevant policies, implemented in cooperation with EU Member States, mainly concern the irregular emigration of Senegalese nationals and foreigners who transit through the country with a view to entering the EU.

4.13.2.2.4 Migrants at risk

Legislation/Policy Framework	Description
Law No. 2005-06 on Trafficking in Persons and Assimilated Practices and Victims' Protection	Art. 1: Penalties foreseen range from five to ten years' imprisonment and 5 to 20 million CFA francs (USD 9,480 to 37,920). In case of aggravating circumstances, such as the use of torture or barbaric acts, penalties rise to 10 to 30 years in prison.
	Art. 15: Foreign victims have a right to stay in the country during penal proceedings. They can also apply for temporary or permanent stay in Senegal.

In addition, Senegal has set up a National Taskforce against Trafficking, especially of Women and Children.¹¹⁸¹ It also signed an agreement with Mali in 2004 (and is currently discussing another one with Guinea-Bissau) to organise and facilitate the return of child victims of trafficking to their country of origin.

Over the past few years, Senegalese authorities have organised a series of training sessions and conferences for public officials, including for law enforcement personnel and the judiciary, as well as representatives from the private sector.¹¹⁸² However, no public awareness campaigns have been launched during the past years. With regard to the protection of victims, public authorities run a shelter that provides food, medical, and psychological assistance, family mediation, and education services. Cooperation with NGO-run shelters also exists, despite a lack of standard operating procedures.¹¹⁸³

¹¹⁸⁰ *Loi No. 2005-06 du 10 mai 2005 relative à la lutte contre la traite des personnes et pratiques assimilées et à la protection des victimes.*

¹¹⁸¹ *Cellule de lutte contre la traite des personnes en particulier des femmes et des enfants.*

¹¹⁸² U.S. Department of State, 2013, op. cit., pp. 321-322.

¹¹⁸³ *Ibid.*, p. 321.

4.13.2.3 Emigration

4.13.2.3.1 Labour migration

Over the years, Senegalese authorities have developed a large number of initiatives and projects related to labour migration. However, the country lacks an articulated labour migration policy.

It is commonly thought that any labour migration policy should include the following components or phases: an identification of the national competencies that can be promoted abroad and those that should not be promoted; an assessment of existing and potential countries of destination; the development of an efficient recruitment system; and the implementation of promotion activities.

Assessment of the national labour market

Concerning the first component, two main projects can be identified: the establishment of an Operational Register of Occupations (ROME)¹¹⁸⁴ in 2011 and the development of the Information System for Efficient Migration Management (SIGEM).¹¹⁸⁵ SIGEM is a database set up by the Ministry of Youth, Employment and Promotion of Civic Values that collects relevant information on Senegalese candidates for emigration. Despite both these initiatives, there is a lack of in-depth analysis of the national labour market with a view to providing policy guidance on those occupations that can be promoted abroad and those that should not.

Identification of countries of destination

In terms of analysis of the labour market, labour legislation, and migration policies of established and potential countries of destination, little has been accomplished. Although the National Commission of Job Offers, which was set up in 2008, is entrusted with the duty to list employment sectors and type of occupations available in "partner countries",¹¹⁸⁶ this task is understood to be limited to countries with which Senegal has concluded bilateral labour agreements, and, primarily, France and Spain.

Recruitment system

The placement of Senegalese workers is primarily under the responsibility of the National Agency for the Promotion of Youth Employment (previously known as the Youth Employment Agency). Within the framework of bilateral labour agreements, the National Commission of Job Offers is responsible for receiving and circulating job offers, supervising the selection and recruitment of candidates, and ensuring the respect of work contracts.¹¹⁸⁷ Except a small number of provisions concerning temporary employment firms, the legislation does not include provisions on private employment agencies.

¹¹⁸⁴ *Répertoire opérationnel des emplois et métiers.*

¹¹⁸⁵ *Système d'information pour la gestion efficace des migrations.*

¹¹⁸⁶ Arrêté ministériel No. 396 du 11 janvier 2008 portant organisation et fonctionnement de la Commission nationale de gestion et de suivi des offres d'emploi dans le cadre de la migration légale, art. 2.

¹¹⁸⁷ Arrêté ministériel No. 396 du 11 janvier 2008 portant organisation et fonctionnement de la Commission nationale de gestion et de suivi des offres d'emploi dans le cadre de la migration légale, art. 2.

Bilateral labour agreements

Senegal has signed several bilateral labour agreements over the years, as well as more general migration-related agreements that include provisions on labour migration.¹¹⁸⁸

Convention	Description
Convention of establishment with Morocco, 1964 ¹¹⁸⁹	Agrees equal access to the labour market for nationals of the country of residence and nationals of the other state party.
Agreement with Mauritania, 1972 ¹¹⁹⁰	Addresses the facilitation of workers' mobility between the two countries.
Agreement with Gabon, 1982	This agreement specifically deals with the placement of Senegalese education workers. Although the agreement was never ratified by Gabon, both governments implemented cooperation mechanisms in this regard.
Agreement with Saudi Arabia, 1988	Both of these agreements seek to organise the employment of Senegalese migrant workers in the construction sector. ¹¹⁹¹
Agreement with Kuwait, 1992	

Several agreements were also concluded with Spain in order to organise seasonal migration. The system set up between the two countries was particularly comprehensive. It included the dissemination of job offers to Senegalese authorities through the Spanish Embassy in Dakar, the pre-selection of candidates by the Youth Employment Agency (ANEJ), and the final selection and recruitment by Spanish employers.¹¹⁹² An inter-ministerial institution, the National Commission of Job Offers was created to follow-up on this process. In addition, an agreement between Spanish trade unions and the National Confederation of Workers of Senegal¹¹⁹³ (CNTS) foresaw vocational training of selected workers in the areas of hospitality and agriculture¹¹⁹⁴ and, in cooperation with the ILO, pre-departure courses on living and working conditions in Spain were organised.¹¹⁹⁵ In practice, however, the results of this seasonal migration scheme were not fully satisfactory. In 2008, 640 Senegalese women were recruited as seasonal workers, and 70 did not return at the end of their work contract in Spain.¹¹⁹⁶ The programme was eventually discontinued.

4.13.2.3.2 Migration and development*Mobilising and channelling remittances for development*

There are a number of initiatives adopted by the Senegalese authorities and private banks to better

¹¹⁸⁸ These agreements, mainly concluded with France, will be discussed in section 4.13.2.3.

¹¹⁸⁹ Convention d'établissement entre le Maroc et le Sénégal, Dakar, 27 mars 1964.

¹¹⁹⁰ Accord entre le Sénégal et la Mauritanie du 8 octobre 1972 relatif à l'emploi et au séjour au Sénégal des travailleurs mauritaniens et des travailleurs sénégalais en Mauritanie.

¹¹⁹¹ Tall, S. M., Tandian, A., *Migration circulaire des Sénégalais: des migrations tacites aux recrutements organisés*, CARIM CARIM AS No. 52, 2011, p. 9.

¹¹⁹² Some, A. N., 2009, op. cit., p.86.

¹¹⁹³ *Confédération nationale des travailleurs du Sénégal*.

¹¹⁹⁴ Fall, P. D., 2010, op. cit., p. 41.

¹¹⁹⁵ Some, A. N., 2009, op. cit., p. 86.

¹¹⁹⁶ Gonin, P., Robin, N., 'Les routes migratoires par le Sénégal' in *Le Maghreb à l'épreuve des migrations subsahariennes*, Karthala, 2009, pp. 112-139.

channel remittances within the national economy. This section will only provide an overview of the major developments in this respect. The Investment Code and the Law No. 2008-47 of 3 September 2008 both include fiscal incentives to attract investments from foreigners and nationals residing abroad, notably with regard to mutual savings and microcredit.¹¹⁹⁷ Regarding members of the diaspora, a specific Support Fund for Investments of Senegalese Abroad (FAISE)¹¹⁹⁸ was set up by Decree No. 2008-635 of 11 June 2008. A programme called 'Cités de la diaspora' was developed to facilitate access to housing property for migrants organised in associations.¹¹⁹⁹ Promotion missions¹²⁰⁰ were also organised in several European countries by the Ministry of Senegalese Abroad to inform migrant communities about existing initiatives regarding investments in Senegal.¹²⁰¹ The IOM-run programme Migration for Development in Africa (MIDA) co-financed the development of agricultural projects by diaspora associations and migrants in Senegal, as well as business projects developed by Senegalese female migrants.¹²⁰² However, the programme was terminated in 2012.

Diaspora outreach and confidence-building measures

The Senegalese diaspora is very active. In Paris and its immediate surroundings, some 300 associations have been mapped, which is actually considered to be an underestimation.¹²⁰³ In order to take the interests of the diaspora into consideration, Senegalese authorities have undertaken a number of initiatives. Senegalese abroad can vote and be elected in national elections.¹²⁰⁴ Although in principle acquisition of a foreign nationality leads to the loss of Senegalese nationality, in practice, dual/multiple nationality is authorised. In 1995, a Superior Council of Senegalese Abroad¹²⁰⁵ was established which includes delegates elected among members of the diaspora. Its activities have been suspended since 2013.¹²⁰⁶ Cultural activities are also undertaken by Senegalese authorities such as, for example, summer camps in Senegal for children residing abroad.¹²⁰⁷ Although the relationship between Senegalese residing abroad and consular posts may differ from one country to the next, in the case of Italy, close cooperation links have been established over the years with Senegalese diaspora associations.¹²⁰⁸

The mapping of the Senegalese diaspora is a long-term ongoing project, which was initiated in 2007 by the Ministry of Senegalese Abroad. It makes use of on-line registrations, consular registers and diaspora associations.¹²⁰⁹ The results of this project are yet to be shared.

¹¹⁹⁷ IOM, ICMPD, *MTM: a Dialogue in Action. Linking Emigrant Communities for More Development. Inventory of Institutional Capacities and Practices. The Senegalese Experience*, 2010, p. 10.

¹¹⁹⁸ *Fonds d'appui à l'investissement des Sénégalais de l'étranger*.

¹¹⁹⁹ Fall, P. D., 2010, op. cit. pp., 41-42.

¹²⁰⁰ *Caravanes d'information*.

¹²⁰¹ Sarr, A, 2009, op. cit., 19.

¹²⁰² Maggi, J. et al. *Migrations transnationales sénégalaises, intégration et développement. Le rôle des associations de la diaspora à Milan*, 2013, p. 33.

¹²⁰³ *Ibid.*, p. 90.

¹²⁰⁴ Dioh, A., *La migration hautement qualifiée de, à travers et vers le Sénégal*, CARIM AS No. 3, 2010, p.11.

¹²⁰⁵ *Conseil supérieur des Sénégalais de l'étranger*.

¹²⁰⁶ Fall, P. D., 2003, op. cit., p. 35.

¹²⁰⁷ IOM, ICMPD, 2010, op. cit., p. 14.

¹²⁰⁸ Maggi, J. et al., 2013, op. cit., p. 53.

¹²⁰⁹ Some, A. N., 2009, op. cit., p. 72; IOM, *The MIDA Experience and Beyond*, 2009, p. 155.

Addressing the challenges of highly-skilled migration and reintegration of returning migrants

Projects dealing with the involvement of skilled migrants in the development of Senegal include the UNPD-led TOKTEN (Transfer of Knowledge through Expatriate Nationals) programme as well as the PAISD (Programme d'Appui aux Initiatives de Solidarité pour le Développement) project run in cooperation with France. A more permanent reintegration of migrants has been the aim of assistance programmes, notably within the agricultural sector. Examples of this include the REVA plan (now ANIDA)¹²¹⁰ and the GOANA.¹²¹¹

4.13.2.3.3 Migrants' protection*Information dissemination*

To date, most information dissemination activities have focused on the risks of irregular migration. A more comprehensive approach to information dissemination is planned by the Ministry of Foreign Affairs and Senegalese Abroad through the institution of Information Centres¹²¹² across the country. Five Centres are currently in the process of being established. Under the seasonal migration scheme organised between Senegal and Spain, the ILO organised pre-departure courses to inform selected migrant workers on living and working conditions in the country of employment.

Protection in countries of destination

In countries of destination, protection activities undertaken by diplomatic and consular posts appear to be limited. Although the Ministry of Foreign Affairs and Senegalese Abroad developed an initiative to set up Assistance Offices for Senegalese Abroad¹²¹³ in selected countries of destination, the project was never implemented. In 2013, the activities of the Superior Council of Senegalese Abroad, which included the protection of nationals abroad, were suspended.

Social security agreements

The Senegalese authorities have consistently promoted the conclusion of bilateral social security agreements with its diaspora's main countries of residence. Agreements have been signed with France, Mali, and Mauritania. Senegal also signed the inter-African social security convention¹²¹⁴ (CIPRES Convention) and ratified it in June 2014. Regarding agreements with Italy and Gabon, negotiations are still ongoing.

Protection of victims of trafficking

An overview of Senegal's policy on trafficking in persons has been presented in section 4.13.2.2.4. Mention can be made here of the agreement concluded with Spain in 2006 for the prevention of emigration

¹²¹⁰ *Retour volontaire vers l'agriculture. Agence nationale d'insertion et de développement agricole.*

¹²¹¹ *Grande offensive agricole pour la nourriture et l'abondance.* Fall, P. D., 2010, op. cit., p. 41.

¹²¹² *Bureaux d'accueil et de suivi.*

¹²¹³ *Bureaux d'appui aux Sénégalais de l'extérieur.*

¹²¹⁴ *Convention multilatérale de sécurité sociale de la Conférence interafricaine de la prévoyance sociale.*

of unaccompanied Senegalese minors, their protection, repatriation and reintegration.¹²¹⁵ Prevention activities detailed by the agreement include information dissemination, control of trafficking networks and assistance to the economic and social development of regions of origin. Protection and repatriation activities through cooperation mechanisms between the Senegalese and Spanish authorities are also included.

4.13.3 International, regional, and bilateral cooperation

International conventions

Among the most relevant international conventions protecting human rights, Senegal has ratified:

- the International Covenant on Civil and Political Rights (1966);
- the International Covenant on Economic, Social and Cultural Rights (1966);
- the Convention on the Elimination of All Forms of Discrimination against Women (1979);
- the Convention on the Rights of the Child (1989);
- 37 ILO Conventions (Senegal has not ratified the two specific ILO conventions on migrant workers: C 97(1949) and C 143 (1975));
- the Convention on the Protection of the Rights of All Migrant Workers and Members of their Families (1990); and
- the United Nations Convention against Transnational Organized Crime (2000) and its Protocols on trafficking in persons and smuggling of migrants.

In addition to these global conventions, Senegal is bound by ECOWAS texts, including its Treaty (1975) and its subsequent protocols regarding free movement of persons, residence and establishment.

Cooperation on irregular migration management

Actions against irregular migration has been the most significant area of international cooperation since the mid-2000s, when sea routes from Senegal towards the Canary Islands became a prominent phenomenon. Policy initiatives have mainly taken the form of FRONTEX operations, a Memorandum of Understanding between Senegal and Spain to organise joint border patrols, the presence in Senegal of Interpol immigration liaison officers from several European countries, and the implementation of the regional SEA HORSE project, which includes Cape Verde, Mauritania, Morocco, Portugal, and Spain, to strengthen border management through operational cooperation, staff training, and the sharing of best practices.

Bilateral agreements

Bilateral agreements on migration-related issues have been concluded with several countries over the years. Beyond the bilateral labour agreements and social security agreements that have already been

¹²¹⁵ *Convention entre le Sénégal et l'Espagne sur la coopération dans le domaine de la prévention de l'émigration des mineurs sénégalais non accompagnés, leur protection, leur rapatriement et réinsertion, 5 décembre 2006.*

mentioned¹²¹⁶, mention can be made of the agreements concluded with France, which still constitutes the most comprehensive bilateral regime intended to organise Senegalese migration flows. Three main conventions are applicable:

- The 1995 Convention on Circulation and Stay of Persons¹²¹⁷ includes some derogations to common French immigration legislation: it lays out the possibility to obtain a 10-year residence permit after three years of stay in the country (instead of five years under French administrative law).
- The 2001 Agreement on Exchange of Young Professionals¹²¹⁸ provides that young graduates (French or Senegalese), aged 18 to 35, who wish to supplement their professional experience in the other state party are granted a temporary stay authorisation, valid for a maximum period of twelve months (with the possibility of a six-month extension), without application of the labour market test. A quota of 100 admissions per year is set.
- The 2006 Agreement on Concerted Management of Migratory Flows (amended in 2008)¹²¹⁹ includes:
 - a) a list of 105 occupations for which the delivery of a stay permit is not subject to the application of the labour market test¹²²⁰;
 - b) provisions concerning assistance to the reintegration of Senegalese migrants in their country of origin;
 - c) promotion of the involvement of the diaspora in the development of Senegal;
 - d) cooperation in the area of border management, procedures to facilitate readmission of nationals in an irregular situation; and
 - e) the funding of development projects.

¹²¹⁶ See Sections 4.13.2.3.1 and 4.13.2.3.3.

¹²¹⁷ Convention entre le Sénégal et la France relative à la circulation et au séjour des personnes signée le 1er août 1995.

¹²¹⁸ Accord entre le Sénégal et la France relatif aux échanges de jeunes professionnels signée le 20 juin 2001.

¹²¹⁹ Accord entre le Sénégal et la France relatif à la gestion concertée des flux migratoires signé le 23 septembre 2006. Avenant signé le 23 septembre 2008.

¹²²⁰ This provision primarily concerns higher-level technical jobs, although some less-skilled occupations are also included.

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4.13.5 List of interlocutors

Name of respondent	Position	Institution
Sonko, S.	Programme manager, Directorate of Technical Support	Presidency of the Republic
Diallo, A.	Director of Investment Support Fund and Projects	Ministry of Foreign Affairs and Senegalese Abroad ¹²²¹
Badara Couililaby, A.	Communications Officer, Support Fund investment Senegalese Abroad	
Diane, L.	Head of the Division of Social Planning, Directorate of Population and Development Planning	Ministry of Economy, Finance and Planning ¹²²²
Ba, H.	Technical Advisor on Population, ANSD	
Sakho, M.	Research Assistant, Centre for Development Studies	
Ba, T.	Acting Head of the Division of Social Security, General Directorate of Labour and Social Security	Ministry of Public Service, Labour, Social Dialogue and Professional Organisations ¹²²³
Faye, B.	Director, Youth Employment Agency (ANEJ)	Ministry of Youth, Employment and Promotion of Civic Values ¹²²⁴
Touré, A.	Coordinator, Information System on the Labour Market	

¹²²¹ *Ministère des Affaires étrangères et des Sénégalais de l'extérieur.*

¹²²² *Ministère de l'Economie, des Finances, et de la Planification.*

¹²²³ *Ministère de la Fonction publique, du Travail, du Dialogue social et des Organisations professionnelles.*

¹²²⁴ *Ministère de la Jeunesse, de l'Emploi et de la Promotion des Valeurs civiques.*

4.14 Sierra Leone

4.14.1 Migration trends

4.14.1.1 Immigration

Data	Year	Absolute numbers	% of the Total Population
Population and Housing Census	2004	89,876 foreigners. ¹²²⁵ Census data shows a progressive decrease of the number of foreigners over the past three decades.	1.8%

4.14.1.1.1 Characteristics of immigrants/foreigners

Countries of origin:	According to the 2004 census data, 97% of foreigners were nationals of West African states, primarily from Guinea (65.3%) and Liberia (23.5%). ¹²²⁶
Settlements:	Around four-fifths of the country's foreigners resided in the Western Area – which includes the capital Freetown – and the Eastern Province. ¹²²⁷
Socio-demographic profile:	The results from the census showed a predominance of foreign men (54.4%) over foreign women. ¹²²⁸
Socio-economic profile and sectors of employment:	<ul style="list-style-type: none"> Officials interviewed for the purpose of the present study estimated that around 3,000 foreigners held a stay/work permit. Most of them, regardless of their nationality, were employed in the mining sector. Indirectly, such an estimate shows that the vast majority of foreigners work in the informal sector.
Vulnerable groups:	<ul style="list-style-type: none"> Although trafficking of human beings is recognised as being a significant issue, it is mainly an internal phenomenon.¹²²⁹ International trafficking towards Sierra Leone is limited. However, its scope remains unclear. The latest U.S. Department of State Trafficking in Persons Reports notes that the country “may [...] be a destination country” for victims of trafficking.¹²³⁰ In 2005, R. Surtees highlighted the fact that the “dire economic circumstances in Sierra Leone as well as the decreasing number of peacekeeping forces, often a catalyst for trafficking into prostitution, makes it unlikely that Sierra Leone is currently considered a desirable destination for traffickers”.¹²³¹

4.14.1.2 Emigration

Emigration from Sierra Leone is not a recent phenomenon; in the 19th century, emigration flows already existed. These flows were not limited to the West African region, but also included such destination coun-

¹²²⁵ Republic of Sierra Leone, *2004 Population and Housing Census, Analytical Report on Population Distribution, Migration and Urbanisation in Sierra Leone*, 2006, p. 26.

¹²²⁶ Ibid.

¹²²⁷ Ibid., p. 27.

¹²²⁸ Ibid., p. 26.

¹²²⁹ U.S. Department of State, *Trafficking in Persons Report 2013*, 2013, p. 325.

¹²³⁰ Ibid.; U.S. Department of State, *Trafficking in Persons Report 2012*, 2012; U.S. Department of State, *Trafficking in Persons Report 2011*, 2011; U.S. Department of State, *Trafficking in Persons Report 2010*, 2010.

¹²³¹ Surtees, R., *Child Trafficking in Sierra Leone*, 2005, p. 26.

tries as Great Britain, other European countries and the U.S.¹²³² However, the decade of civil war, from 1991 to 2002, changed emigration patterns dramatically. During this period, more than 500,000 nationals were estimated to have found refuge abroad, mainly in West African states, including Guinea, Liberia, The Gambia, Ghana, Côte d'Ivoire, Mali and Nigeria, and to a lesser extent in countries overseas, mainly the U.S. and the U.K.¹²³³ Most Sierra Leonean refugees in West African states have returned since 2002. This does not appear to be the case for those who fled towards OECD Member States.¹²³⁴

Data	Year	Estimates
General estimation from national authorities. Data sources unidentified.	2010	500,000 diaspora members. ¹²³⁵
UNDP	2010	Nearly one million, of which 60-70% are first generation. ¹²³⁶

4.14.1.2.1 Characteristics of emigrants/nationals abroad

Countries of destination/residence:	<ul style="list-style-type: none"> • It is generally acknowledged that the U.S. and the U.K. are the main host countries of the Sierra Leonean community abroad. According to the Permanent Representative of Sierra Leone to the United Nations in Geneva, in 2012 more than half a million nationals were residing in the U.S. and the U.K. alone.¹²³⁷ • U.S. official data: 20,000 Sierra Leonean residents in 2000.¹²³⁸ • OECD migration database: 10,000 Sierra Leonean residents in the U.K. in 2008,¹²³⁹ and a high level of naturalisation of Sierra Leone nationals over the past decade (15,407 from 2000 to 2011).¹²⁴⁰ • National authorities highlight that since 2003, Gulf countries, including Kuwait, Iraq,¹²⁴¹ and more recently, Qatar, have become increasingly important countries of destination. • There are currently no means to properly assess the Sierra Leonean presence in West African countries. Given the extent of movements of both Sierra Leone nationals and foreigners in and out of the country during the past decade, available data, such as that put forward by the UN Population Division, <i>Trends in International Migrant Stock: Migrants by Destination and Origin</i>, can only be misleading.
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¹²³² Black, R. et al., *Migration and Pro-poor Policy in West Africa*, 2004, p. 32.

¹²³³ Ibid., p. 30.

¹²³⁴ Republic of Sierra Leone, European Community, *Country Migration Profile, Annex 4 of Country Strategy Paper and National Indicative Programme for the Period 2008-2013*, 2007, p. 74.

¹²³⁵ Republic of Sierra Leone, *Millennium Development Goals Progress Report 2010*, 2010, p. 63.

¹²³⁶ UNDP, *Remittances Strategy Framework for Sustainable Development in Sierra Leone*, 2010, p. 2.

¹²³⁷ IOM, Statement of H.E. Mrs Yvette Stevens, Sierra Leone Permanent Representative to the United Nations in Geneva, IOM 101st Council Meeting, 2012.

¹²³⁸ Black, R. et al., 2004, op. cit., p. 32.

¹²³⁹ OECD, 'International Migration Database'. The OECD migration database collects information on stay/resident permits and population registers.

¹²⁴⁰ Ibid.

¹²⁴¹ See section 4.13.2.3.1.

Education level/ sectors of employment:	<ul style="list-style-type: none"> Brain drain is an acute problem in Sierra Leone. The civil war led to massive departures of the most educated nationals. In the post-conflict era, the poor state of the country's infrastructure, a lack of economic development opportunities, low wages and a deteriorated working environment further served as push factors for high-skilled individuals.¹²⁴² In 2000, the latest year for which data is available, 52.5% of tertiary-educated nationals were residing abroad.¹²⁴³ With regard to the health sector, OECD data showed the extent of the brain drain phenomenon: the emigration rate of medical doctors was estimated to be as high as 58.4% and that of nurses to be as high as 56.3%.¹²⁴⁴
Remittances:	<ul style="list-style-type: none"> According to UNDP, transfers amounted to 168 million USD in 2009, which corresponded to 12% of the country's GDP.¹²⁴⁵ Government estimates for the same year were even higher, comprising between 250 and 400 million USD, or about 20-25% of GDP.¹²⁴⁶ UNDP's and the Government's estimates include both formal and informal transfers, with the former accounting for only 1/3 to 1/4 of all remittances.¹²⁴⁷ The latest World Bank data shows a lower estimate of 66 million USD for 2013.¹²⁴⁸ However, if based on formal transfers, it is in line with the aforementioned figures. Remittances are believed to be mostly sent from the U.S. and the U.K., where an estimated 86% of Sierra Leonean residents transfer money to their country of origin on a regular basis.¹²⁴⁹ It is also estimated that as much as two-thirds of the population in Sierra Leone receive remittances, which for the most part – between 70% and 80% – are used for the consumption of goods.¹²⁵⁰
Vulnerable groups:	<ul style="list-style-type: none"> Trafficking in persons in Sierra Leone is believed to be mainly an internal phenomenon. National authorities emphasise the risk of trafficking faced by migrants employed in Gulf and Mashrek countries, including, more specifically, female domestic workers.

4.14.2 Migration policy

Sierra Leone lacks a comprehensive migration policy. A number of initiatives have been undertaken in the past years, notably in the field of migration and development, as well as with regard to trafficking in persons. Moreover, national authorities are currently involved in drafting both a comprehensive national migration policy and a labour migration policy. With regard to immigration, the existing legislation is generally obsolete and lacks enforcement. It is currently under review.

¹²⁴² Republic of Sierra Leone, European Community, 2007, op. cit., p. 74.

¹²⁴³ Larsen, S., *Labour Migration Assessment Report. Sierra Leone*, IOM, 2012.

¹²⁴⁴ OECD, 'Immigrant Health Workers in OECD Countries in the Broader Context of Highly Skilled Migration' in *International Migration Outlook – SOPEMI 2007*, 2007, p. 214.

¹²⁴⁵ UNDP, 2010, op. cit., p. 2.

¹²⁴⁶ Ibid.

¹²⁴⁷ Ibid., pp. 5-6. This pre-eminence of informal transfers is partially due to the fact that only remittances sent by official money transfer operators – such as MoneyGram and Western Union – are recorded as such by Sierra Leonean banks. Other transfers, including money directly brought in cash, mobile phone transfers, as well as the use of merchant's agents and foreign exchange bureaus are informal.

¹²⁴⁸ World Bank, *Remittances Data 2013*, 2013.

¹²⁴⁹ UNDP, 2010, op. cit., p. 2

¹²⁵⁰ Ibid.

4.14.2.1 Institutional framework on migration

Governmental stakeholders involved

Ministry	Agency, Directorate, Unit	Responsibilities
Ministry of Internal Affairs	Department of Immigration	<ul style="list-style-type: none"> Immigration management
Ministry of Labour and Social Security	Work Permit Bureau	<ul style="list-style-type: none"> Delivery of work permits to foreign workers
Ministry of Foreign Affairs	Consular section	<ul style="list-style-type: none"> Protection of nationals abroad
Presidency	Office of Diaspora	<ul style="list-style-type: none"> Supporting the engagement of the diaspora for development
Ministry of Social Welfare, Gender and Children's Affairs		<ul style="list-style-type: none"> Fight against trafficking in persons
Ministry of Finance and Economic Development		<ul style="list-style-type: none"> Remittances-related issues

Inter-institutional coordination

Migration-related legislation has established three main inter-ministerial institutions: the Work Permit Committee, the Inter-Ministerial Committee on Human Trafficking and the National Task-Force on Human Trafficking.

4.14.2.2 Immigration: national policy framework and institutional practices

4.14.2.2.1 General immigration provisions

Entry, stay and removal of foreigners in Sierra Leone are primarily regulated by the Non-Citizens (Registration, Immigration and Expulsion) Act of 1965. Although the Act was complemented in 2007 by the General Law (Business Start-up) Amendment Act, with regard to labour migration related matters, no secondary legislation exists to further specify its provisions.

The 1965 Act mainly includes provisions related to border control, public order and security. It merely regulates entry, stay and residence of foreign nationals. The only relevant provision in this regard is art. 16(1), which submits stay and residence to guarantees concerning "duration and place of residence, occupation, or business or any matter or thing, whether similar to those before enumerated or not, as may be prescribed". The 1965 Act does not contain any reference to the delivery of stay permits, and therefore to the procedures and conditions for granting permits, the duration of their validity, their renewal or withdrawal. The legislation does not contain any provision regarding family reunification either.

The 1965 Act excludes from its scope of application nationals from The Gambia, Ghana, Guinea, Côte d'Ivoire and Liberia, who are considered "privileged Africans".¹²⁵¹ While the common immigration regime does not apply to those nationals, no specific regulation has been adopted in order to organise their immigration status.

¹²⁵¹ Non-Citizens (Registration, Immigration and Expulsion) Act, 1965, art. 4(e).

On the whole, the 1965 Act is a rather obsolete text that lacks a comprehensive character and fails to provide a solid basis for immigration management in Sierra Leone and the drafting of a new law is being considered. To date, a proposal for a new law is yet to be presented to the Parliament.

4.14.2.2.2 Labour migration

Access to the national labour market

Legislation/Policy Framework	Description
General Law (Business Start-up) Amendment Act, 2007	<p>Art. 34 institutes a Work Permit Committee, consisting of representatives from the Ministries of Labour and Social Security, Internal Affairs, and Finance and Economic Development.</p> <p>Art. 34 C: The employer has to present to the Committee a request for the delivery of a work permit, “not less than six months before the arrival” of the worker in Sierra Leone.</p> <p>Art. 34 D(2)(b): The issuance of the work permit follows a labour market test procedure: the Work Permit Committee “consider[s] whether or not there are no [sic] Sierra Leonean workers who are able, willing, qualified and available to take and perform the work for which the application has been made”.</p> <p>Art. 34 D(2): In addition to the labour market test, a series of conditions protecting the national labour market are to be “considered” by the Work Permit Committee:</p> <ul style="list-style-type: none"> • “[whether] the person has a valid passport or other travelling document which establishes to its satisfaction his identity and nationality; • the granting of the permit will not, adversely affect the wages and working conditions of Sierra Leoneans working in the organisation; • the applicant has not laid off any employees within the period of three months prior to the application unless the action is justified; • the carrying out of the operations of the applicant will be substantially disrupted without the services of the person in respect of whom the application is made; • the applicant will take timely and significant steps designed to recruit and retain Sierra Leonean workers; • the granting of the permit will be consistent with the laws of Sierra Leone relating to labour; and • the applicant has or intends to design a programme for the transfer of skills to Sierra Leoneans through appropriate training facilities”. <p>Art. 34 E: By principle, the work permit is granted for a period of three years, and is renewable.</p>

Art. 34 C imposes on the employer seeking to engage a foreign worker the obligation to request a work permit at least six months before the beginning of employment. Given the constraints in the private sector, such a long delay is likely to be impossible to implement in practice.

Indeed, the General Law (Business Start-up) Amendment Act of 2007 is not rigorously implemented. The labour market test and other conditions protecting the national labour market do not seem to be implemented. In other words, there does not seem to be restrictions regarding the employment of foreigners in Sierra Leone.

Sierra Leone has concluded bilateral agreements with Cuba, China and India, which allows access to the national labour market without the need to obtain a work permit. Work permit fees are reduced for nationals of ECOWAS Member States.

Rights within employment

Regarding the rights of foreigners within employment, it must be pointed out that existing labour legislation, the Employers and Employed Act, Chapter 212, dates from colonial times and does not correspond to the current needs of the country. In practice, national and foreign workers are treated on an equal footing.

4.14.2.2.3 Irregular migration

Legislation/Policy Framework	Description
Non-Citizens (Registration, Immigration and Expulsion) Act, 1965	Art. 21 to art. 28 envisage deportation and imprisonment of six months for foreigners in an irregular situation, as well as expulsion of convicted foreigners.

The 1965 Act is outdated – it includes, for instance, as “prohibited migrants” “idiots or insane persons”¹²⁵² – and requires extensive amendments.

In practice, the national authorities have a tolerant approach to irregular migration. ECOWAS Member States’ nationals are tolerated, even though they generally do not hold the required stay and work permits. The possibilities to regularise the stay, based on duration of stay, family ties, or employment, are generalised. Deportations/expulsions are rare and are based on criminal behaviours rather than on the violation of immigration rules.

Border management capacities are limited. According to the Country Strategy Paper and National Indicative Programme for the Period 2008-2013 of Sierra Leone and the European Community, only 33 out of more than 400 crossing points on the south-eastern borders were controlled.¹²⁵³ However, efforts have been made over the past years, notably in cooperation with IOM, to strengthen national capacities in this respect. For instance, the Immigration Department has received assistance to develop staff capacities, introduce a Passenger Information Registration System (PIRS) at Freetown airport and border areas, and to improve IT and logistics equipment.¹²⁵⁴

¹²⁵² Non-Citizens (Registration, Immigration and Expulsion) Act, 1965, art. 19(2).

¹²⁵³ Republic of Sierra Leone, European Community, 2007, op. cit., p. 75.

¹²⁵⁴ IOM, Statement of H.E. Mrs Yvette Stevens, Sierra Leone Permanent Representative to the United Nations in Geneva, IOM 101st Council Meeting, 2012.

4.14.2.2.4 Migrants at risk

Legislation/Policy Framework	Description
Anti-Human Trafficking Act, 2005	<p>Art. 22: “A person convicted of the offence of trafficking shall be liable to a fine not exceeding fifty million Leones or to imprisonment for a term not exceeding ten years or to both such fine and imprisonment”.</p> <p>Art. 3 establishes an Inter-Ministerial Committee on Human Trafficking, charged with the responsibility to “oversee and provide advice and policy guidance” to another specialised body, the National Task Force on Human Trafficking.</p> <p>Art. 4: The Task Force, which is also an inter-ministerial structure, has the main responsibility of coordinating the implementation of the trafficking legislation.</p> <p>Art. 5 includes a list of measures to prevent trafficking through the enhancement of economic opportunities for potential victims:</p> <ul style="list-style-type: none"> • microcredit lending programmes, training in business development, skills training and job counselling; • programmes to promote women’s participation in economic decision making; • programmes to keep children, especially girls, in elementary and secondary schools, and to educate persons who have been victims of trafficking, and • the development of educational curricula regarding the dangers of trafficking.

As well as the Anti-Human Trafficking Act of 2005, useful provisions can be found in the Child Rights Act of 2007 and the Sexual Offences Act of 2012.

National capacities remain limited for a comprehensive anti-trafficking policy to be efficiently implemented. Law enforcement staff lack specialised training and public information campaigns are yet to be organised. With regard to protection, national authorities rely on the capacities of NGOs and international organisations, without the existence of a formal reference mechanism. Although the legislation does not include a specific protection scheme for foreign victims of trafficking, the U.S. Department of State noted that in 2012, “the government offered temporary residency to seven Indian nationals who were victims of forced labour; these victims were housed at a police facility and eventually repatriated upon their request”.¹²⁵⁵

4.14.2.3 Emigration

4.14.2.3.1 Labour migration

Sierra Leone lacks a labour emigration policy. National authorities are yet to decide whether labour emigration should be promoted or not, and, if so, what competencies should or should not be promoted. Activities related to the identification and assessment of existing and potential new countries of destination are non-existent and public employment services do not have the means to match demand and supply on the international labour market.

As a consequence, most departures of migrant workers are undertaken in a spontaneous way. That being

¹²⁵⁵ U.S. Department of State, 2013, op. cit., p. 326.

said, Sierra Leone has concluded several bilateral recruitment agreements with private companies operating in the Middle East, such as Eures Support Services (ESS), First Kuwaiti Trading Company (FKTC), and Sabre International.¹²⁵⁶ Recruitment of Sierra Leonean nationals is organised by the Labour Migration Unit of the Ministry of Labour, for jobs in catering, construction and security, and which are mostly located in Iraq.¹²⁵⁷ Pre-departure training courses are provided either by national authorities, NGOs and international organisations or the employing companies themselves. In the country of employment, food, accommodation and healthcare are granted for free. Complaints have been raised by workers regarding the quality of medical treatments and deduction of wages in case of illness.¹²⁵⁸ Another problematic issue has been the change of preferred destination – from Kuwait to Bagdad – under the same contractual conditions, despite the rise of safety issues.¹²⁵⁹

4.14.2.3.2 Migration and development

Given the importance of the brain drain phenomenon and the dependency of the country on remittances, the relationship between migration and development constitutes a critical issue that needs to be addressed by the national authorities. Although Sierra Leone has yet to adopt a full-fledged policy in this regard, a number of initiatives have been developed over the years.

Institutional developments

In 2008, an Office of Diaspora Affairs was created within the Presidency in order to strengthen the engagement of the diaspora – mainly in the U.K. and the U.S. – in the economic and social development of the country.

Mobilising and channelling remittances for development

In 2010, the Government published, in cooperation with UNDP, a comprehensive study on remittances, which included the following main recommendations:

- reduce the limits on individual bank transactions;
- allow foreign exchange offices to receive remittances;
- create exchange rate linked bonds within public utility companies in Sierra Leone;
- allow nationals residing abroad to open non-resident foreign currency bank accounts;
- establish terminating credit societies to finance house-building or school fees; and
- issue diaspora bonds.¹²⁶⁰

The latter proposal was eventually included in the 2013-2018 national development plan.¹²⁶¹

¹²⁵⁶ Larsen, S., 2012, op. cit

¹²⁵⁷ Ibid.

¹²⁵⁸ Ibid.

¹²⁵⁹ Ibid.

¹²⁶⁰ UNDP, 2010, op. cit., pp. 29-30.

¹²⁶¹ Republic of Sierra Leone, *The Agenda for Prosperity. Sierra Leone's Third Generation Poverty Reduction Strategy Paper (2013 – 2018)*, 2012, p. 155.

Addressing the challenges of highly-skilled migration

In order to tackle the brain drain phenomenon, a UNDP project, “Delivering Results and Accelerating Public Sector Reform with Diaspora Resources and Experts from the South” was implemented from 2008 to 2011. The objective was to organise the temporary return of skilled nationals residing abroad so as to improve the capacities of Sierra Leonean public services.

The UNDP project included a short-term public sector capacity building measure, which facilitated qualified nationals in the diaspora to return home and to participate in national development. Through the project, technical experts from the diaspora were placed in critical government ministries, departments and agencies of the public service for an initial one-year period.¹²⁶²

More recently, efforts have been made to raise the salaries of skilled workers in order to retain them in the country.

Reintegration of returning migrants

Regarding social and economic reintegration of returnees, assistance has mainly been provided by IOM – since 2003 – and two NGOs, ABC Development and Christian Brothers.¹²⁶³

4.14.2.3.3 Migrants’ protection

It is evident that recent emigration policy developments have been focused on the relationship between migration and development and the need to limit brain drain, channel remittances for development and involve the Sierra Leonean diaspora, rather than on the protection of nationals abroad.

That being said, with regards to bilateral agreements concluded with private companies operating in the Middle East, protection issues have not been neglected. These agreements notably include provisions regarding healthcare, housing and food. When disputes arose between Sierra Leonean workers and their employers, embassies in Kuwait and Saudi Arabia were active in ensuring that agreements between the parties were reached.

4.14.3 International, regional, and bilateral cooperation*International conventions*

Among the most relevant international conventions protecting human rights, Sierra Leone has ratified:

- the International Covenant on Civil and Political Rights (1966);
- the International Covenant on Economic, Social and Cultural Rights (1966);
- the Convention on the Elimination of All Forms of Discrimination against Women (1979);

¹²⁶² McLaughlin, M. and Momoh, H., *Evaluation of the “Delivering Results and Accelerating Public Sector Reform with Diaspora Resources and Experts from the South” Project*, UNDP, 2011, p. 9.

¹²⁶³ Derksen, M., *Return Migration to Sierra Leone. Monitoring the Embeddedness of Returnees*, CIDIN, Radboud University Nijmegen, AMIDSt, University of Amsterdam, 2008, p. 5.

- the Convention on the Rights of the Child (1989);
- 35 ILO Conventions (Sierra Leone has not ratified the two specific ILO conventions on migrant workers, C 97 (1949) and C 143 (1975)); and
- the United Nations Convention against Transnational Organized Crime (2000) and its Protocols on trafficking in persons and smuggling of migrants.

Additionally, Sierra Leone has signed but not ratified the Convention on the Protection of the Rights of All Migrant Workers and Members of their Families (1990).

As well as these global conventions, Sierra Leone is bound by ECOWAS texts, including its Treaty (1975) and its subsequent protocols regarding free movement of persons, residence and establishment.

Bilateral agreements

Sierra Leone institutionalised bilateral relations on migration-related matters remain limited. Readmission agreements have been concluded with the U.K. and the Netherlands. As previously mentioned, several agreements with private companies operating in the Middle East have also been signed.

Multipartite Agreement for the Local Integration of Liberian and Sierra Leonean Refugees in Nigeria, 2007

Regarding the implementation in Sierra Leone of the ECOWAS protocols on free movement of persons, freedom of residence, and establishment, specific mention can be made of the Multipartite Agreement for the Local Integration of Liberian and Sierra Leonean Refugees in Nigeria, which was signed in 2007 between Liberia, Sierra Leone, Nigeria, ECOWAS, and UNHCR (see comparative analysis).

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4.14.5 List of interlocutors

Name of respondent	Position	Institution
D. King	Head of Community Relations, National Registration Secretariat	Ministry of Internal Affairs
K. Koroma	Chief Immigration Officer, Immigration Department	Ministry of Internal Affairs
H. S. Z. Smith	Senior Labour Inspector, Head of Labour Migration	Ministry of Labour and Social Security
D. S. Lungay	Director, International and Legal Division	Ministry of Foreign Affairs
I. K. Bangura	Consular Officer	Ministry of Foreign Affairs
D. Shiaka	Deputy Director, Social Welfare	Ministry of Social Welfare, Gender and Children's Affairs
M. Kamara	Senior Economist	Ministry of Finance and Economic Development

4.15 Togo

4.15.1 Migration trends

4.15.1.1 Immigration

The National Population and Housing Census conducted in 2010 is the main source of data on immigration.¹²⁶⁴ It constitutes an important element of demographical data collection in Togo. The previous population and housing census was conducted over three decades ago, in 1981.

Data	Year	Absolute numbers	% of the Total Population
National Population and Housing Census (RGPH) ¹²⁶⁵	2010	241,212 foreigners ¹²⁶⁶	4.1%

4.15.1.1.1 Characteristics of immigrants/foreigners

Countries of origin:	The overwhelming majority of foreigners (around 90%) are nationals of ECOWAS Member States, primarily Benin (67,665), Niger (61,126), Ghana (29,416), Nigeria (29,347), Burkina Faso (12,075), and Mali (7,641). ¹²⁶⁷
Settlements:	Foreigners mainly reside in the capital city, Lomé, as well as in the Maritime and the Plateaux regions.
Socio-demographic profile:	The 2010 census also shows a gender balance among foreigners (50.8% of males and 49.2% of females). ¹²⁶⁸
Socio-economic profile and sectors of employment:	Like nationals, most migrants are likely to be employed in the informal labour market. The number of stay/residence permits delivered annually between 2009 and 2011 was limited to approximately 2000. ¹²⁶⁹ Despite the absence of a collated database on regular migrants, such numbers give an idea of the limited character of regular migration in Togo.
Vulnerable groups:	Trafficking in persons is primarily an internal phenomenon. ¹²⁷⁰ Most foreign victims of trafficking in Togo are children from Ghana and Benin, who are forced into domestic servitude. ¹²⁷¹ There are indications of Nigerian women and girls being forced into prostitution. ¹²⁷²

¹²⁶⁴ Direction Générale de la Statistique et de la Comptabilité Nationale, RGPH4 Recensement Général de la Population 2010.

¹²⁶⁵ Recensement général de la population et de l'habitat.

¹²⁶⁶ Direction Générale de la Statistique et de la Comptabilité Nationale, *RGPH4 Recensement Général de la Population 2010, Volume 1: Résultats prioritaires*, Tableau 1.3: Répartition de la population résidente selon la nationalité et le sexe, 2013.

¹²⁶⁷ Ibid.

¹²⁶⁸ Ibid.

¹²⁶⁹ Kpodar, A., *Contribution à l'élaboration du DSRP II. Rapport des Comités sectoriels Justice, Droits de l'homme et Sécurité*, 2012, p. 24

¹²⁷⁰ U.S. Department of State, *Trafficking in Persons Report 2013*, 2013, p. 363.

¹²⁷¹ Ibid.; UNESCO, *La traite des personnes au Togo: facteurs et recommandations*, 2007, p. 25.

¹²⁷² UNESCO, 2007, op. cit., p. 25.

To date, no further relevant information has been published on the basis of the census' results. A special publication is currently being drafted by the General Directorate of Statistics and National Compatibility,¹²⁷³ which will provide additional information on immigration in Togo.¹²⁷⁴

4.15.1.2 Emigration

In order to understand the current challenges of migration management in Togo, it is useful to provide a brief historical overview of emigration flows. From the independence of the country in 1960 up until the 1980s, Togo benefitted from prosperous economic conditions. During this time, migration flows were dominated by the temporary movement of civil servants and students, with a view to strengthening the state's competencies.¹²⁷⁵ In the 1990s, severe human rights violations, widespread ethnic violence and political repression occurred. At the same time, the economic situation worsened. This led to mass population outflows, mainly towards neighbouring Ghana and Benin, and, to a lesser extent, to France and other European countries.¹²⁷⁶ Arguably, this period constitutes the most determinant phase in the modern history of Togolese migration. In 2005, renewed political violence led to additional flows of individuals fleeing the country for fear of persecution. During the past years, the political situation has become more stable and migration flows have become mostly motivated by economic reasons.¹²⁷⁷

Data	Year	Estimates
University of Sussex, Development Research Centre (DRC), Global Migrant Origin Database	2005	Migrant stock not exceeding 300,000 ¹²⁷⁸
General estimates from national authorities (Data sources unidentified)	2013	Togolese officials commonly refer to a diaspora comprised of between 1,500,000 and 2,000,000 members

¹²⁷³ Direction Générale de la Statistique et de la Comptabilité Nationale.

¹²⁷⁴ Direction Générale de la Statistique et de la Comptabilité Nationale, *RGPH4 Recensement Général de la Population 2010, Volume V: Mouvement naturel et migration de la population*, forthcoming.

¹²⁷⁵ Radji, S., *La stratégie d'optimisation des transferts de fonds de la diaspora au Togo*, Banque africaine de Développement, République togolaise, 2012, p. 8.

¹²⁷⁶ Gu-Konu, E. Y., 'Une migration transfrontalière inédite en Afrique de l'ouest. Les réfugiés togolais au Bénin', in Gu-Konu, E. Y. et. al., *Migrations internationales en Afrique de l'ouest. Aspects et problèmes*, URA/UNB-ORSTOM, 1993, p. 11; Galloway, M., *Return Migration to Togo. Monitoring the Embeddedness of Returnees*, 2008, pp. 5-6. According to Galloway, "During the crisis in the early 1990s, about 300,000-350,000 Togolese (mainly from the Lomé area) fled into the neighbouring countries Ghana and Benin".

¹²⁷⁷ Radji, S., 2012, op. cit., p. 8.

¹²⁷⁸ University of Sussex, Development Research Centre, 'Global Migrant Origin Database', 2007.

4.15.1.2.1 Characteristics of emigrants/nationals abroad

Countries of destination/ residence:	<ul style="list-style-type: none"> • Togolese officials commonly refer to a diaspora distributed as follows: two-thirds in Africa (mostly in West and Central African states) and one third outside of the continent, mostly in France, Germany, Italy, and the U.S. Such estimates, which are not based on specific sources, are to be taken with caution. • According to the DRC database, the Togolese migrant stock is primarily located in West and Central African states. Among these, Nigeria dominates, followed by Benin, Burkina Faso, Guinea, Gabon, and Ghana.¹²⁷⁹ • The number of Togolese residents in OECD countries appears to be low. The OECD migration database identifies Germany (10,219 registered Togolese nationals in 2011), France (9,371 in 2009), Italy (4,422 in 2010), and Belgium (2,708 in 2010) as the only significant countries of destination among OECD Member States.¹²⁸⁰ The predominance of Germany is somehow surprising given that France is usually considered the main country of destination for Togolese nationals in the EU. This may be explained by two factors. First, and contrary to data on France, Italy, and Belgium, German statistics include asylum seekers. Second, it is likely that numerous Togolese who came to France during the 1990s eventually obtained French nationality. It must also be noted that the OECD database fails to provide data concerning Togolese migrants in the U.S. and Canada.
Education level/ sectors of employment:	<ul style="list-style-type: none"> • According to ICMPD, the highly-skilled emigration rate amounted to 20% in 2000. • It is believed that Togo faces considerable brain drain, primarily in the education and health sectors. • There is, among OECD countries, a great discrepancy between the emigration rate of nurses and that of doctors, the former being estimated at 4%, and the latter at 40.5%.¹²⁸¹
Remittances:	<ul style="list-style-type: none"> • The World Bank and the Central Bank of West African States (BCEAO) datasets provide similar estimates on remittances. For the year 2010, the former provided an estimate of USD 337 million¹²⁸² and the latter, a slightly lower estimate of USD 314 million. • According to the BCEAO, such an amount represented 14 times the amount received ten years ago.¹²⁸³ • The same source indicates that remittances are primarily sent from EU Member States (31.1%), the U.S. (16.5%), and the West African Economic and Monetary Union (WAEMU) region (15.9%).¹²⁸⁴ This geographical estimate has understandable limitations, given that the proportion of informal transfers from different countries and regions of destination of migrants remain unknown. • With regard to what remittances are used for, consumption purposes as well as community projects, such as schools, clinics, and water systems dominate.¹²⁸⁵ Investments comprise between 3% and 7% of remittance inflows.¹²⁸⁶

¹²⁷⁹ Ibid.

¹²⁸⁰ OECD, 'International Migration Database'. The OECD migration database collects information on stay/resident permits and population registers.

¹²⁸¹ OECD, 'Immigrant Health Workers in OECD Countries in the Broader Context of Highly Skilled Migration' in *International Migration Outlook – SOPEMI 2007*, 2007, p. 215.

¹²⁸² World Bank, *Migration and Remittances Factbook 2011*, 2011.

¹²⁸³ Radji, S., 2012, op .cit., p. 11.

¹²⁸⁴ Ibid.

¹²⁸⁵ Bouka, Y., *Etude sur l'optimisation de la contribution de la diaspora à l'investissement privé au Togo*, 2012, p. 55.

¹²⁸⁶ Radji, S., 2012, op .cit., p. 11.

Vulnerable groups:

- International trafficking involves numerous countries of destination, from West and Central African to EU Member States, the U.S., and the Middle East.
- The phenomenon is nevertheless primarily concentrated in West and Central Africa.
- Women are trafficked to Nigeria and Burkina Faso and subjected to domestic servitude or forced prostitution.
- Children are trafficked in Nigeria, Benin, Côte d'Ivoire, Niger, Burkina Faso, Gabon, and the Democratic Republic of Congo, and subsequently exploited in agricultural and domestic work, as well as in street markets.¹²⁸⁷

4.15.2 Migration policy

The interest of Togolese national authorities in migration management is recent. It is only in the past few years that initiatives have been developed with the support of regional and international organisations. Existing policies, legislation, and projects remain limited with regard to both immigration and emigration management. Most of the government's efforts aim at the increased participation of the Togolese diaspora in the development of the country, as well as, to a lesser extent, reducing and ultimately eliminating child trafficking.

The closest Togo has come to the development of a national migration policy is the Migration and Development Strategy, which – at the time of writing – is being drafted under the framework of the ICMPD-led Migration EU Expertise (MIEUX) project. Simultaneously, the government is planning to incorporate migration-related issues within sectoral policies, such as employment and gender. The current national development plan¹²⁸⁸ includes several references to migration, mainly in regard to the economic involvement of the diaspora and child trafficking.

4.15.2.1 Institutional framework on migration

Governmental stakeholders involved

Ministry	Agency, Directorate, Unit	Responsibilities
Ministry of Security and Civil Protection ¹²⁸⁹	Directorate General of National Documentation ¹²⁹⁰	Immigration management
	National Commission for the Reception and Social Reinsertion of Trafficked Children ¹²⁹¹	Fight against trafficking in persons
Ministry of Labour, Employment, and Social Security ¹²⁹²	National Employment Agency ¹²⁹³	Matching labour demand and supply Certifying work contracts of foreign workers as well as those concluded by Togolese migrant workers

¹²⁸⁷ U.S. Department of State, 2013, op. cit., p. 363.

¹²⁸⁸ *Stratégie de croissance accélérée et de promotion de l'emploi 2013-2017* or 'SCAPE'.

¹²⁸⁹ *Ministère la Sécurité et de la Protection civile.*

¹²⁹⁰ *Direction générale de la Documentation nationale.*

¹²⁹¹ *Commission Nationale d'Accueil et de Réinsertion Sociale des Enfants Victimes du Trafic.*

¹²⁹² *Ministère du Travail, de l'Emploi et de la Sécurité sociale.*

¹²⁹³ *Agence Nationale de l'Emploi.*

Ministry of Foreign Affairs and Co-operation ¹²⁹⁴	Directorate for Togolese Abroad ¹²⁹⁵ Unit in charge of the Diaspora Programme ¹²⁹⁶	Relations with nationals abroad, including their protection
Ministry of Planning, Development, and Territory Planning ¹²⁹⁷		Elaborating and monitoring the implementation of the national development plan

Other public institutions concerned with migration include the Directorate General of Statistics and National Accounts¹²⁹⁸, the Ministry of Economy and Finances,¹²⁹⁹ and the Ministry of Social Action, Women Promotion, and Alphabetisation.¹³⁰⁰

Inter-institutional coordination

Migration management in Togo is undertaken by distinct ministries and public institutions, with there being little consultation and cooperation between them. The only institutionalised inter-ministerial institution is the unit in charge of the Diaspora Programme. Although its purpose is currently limited to the implementation of a specific project, this institution, initially operating under the authority of the services of the Prime Minister and now functioning within the Ministry of Foreign Affairs and Cooperation, should eventually be granted more permanent functions and operate under the title of the National Agency for Togolese Abroad.¹³⁰¹

¹²⁹⁴ *Ministère des Affaires étrangères et de la Coopération.*

¹²⁹⁵ *Direction des Togolais de l'extérieur.*

¹²⁹⁶ *Unité de gestion du Programme Diaspora.*

¹²⁹⁷ *Ministère de la Planification, du Développement et de l'Aménagement du territoire.*

¹²⁹⁸ *Direction Générale de la Statistique et de la Comptabilité Nationale.*

¹²⁹⁹ *Ministère de l'Economie et des Finances.*

¹³⁰⁰ *Ministère de l'Action sociale, de la Promotion de la femme et de l'Alphabétisation.*

¹³⁰¹ *Agence nationale des Togolais de l'extérieur.*

4.15.2.2 Immigration: national policy framework and institutional practices

4.15.2.2.1 General immigration provisions

Legislation/Policy Framework	Description
<p>Law No. 87-12 on Foreigners' Police, 1987¹³⁰²</p> <p>Decree No. 96-113 on General Conditions for Delivery of Visas, Stay Permits and Special Regimes, 1996¹³⁰³</p>	<p>Law, Art. 5 foresees three types of visas:</p> <ul style="list-style-type: none"> • entry visas, the validity of which may vary from one day to six months; • stay visas, which may be valid for between one day and two years; and • exit visas. <p>Decree, Art. 5 makes further distinctions between:</p> <ul style="list-style-type: none"> • short-term stay visas – valid for a maximum of 90 days; and • long-term stay visas – valid for more than 90 days. <p>Decree, Art. 8 states that continuous stay under either short- or long-term stay visas is limited to three months per semester. For a longer stay in the country, a stay permit has to be delivered.</p> <p>Law, Art. 6 distinguishes between three types of stay/residence permits: temporary resident stay permit¹³⁰⁴, ordinary resident stay permit¹³⁰⁵, and privileged resident stay permit.¹³⁰⁶</p> <p>Law, Art. 7: The validity of the temporary resident stay permit shall not exceed the duration of validity of the "authorisations and visas obtained by the individual to stay in Togo". It can be extended for periods of one year.</p> <p>Law, Art. 8: The ordinary resident stay permit is valid for three years, and is renewable.</p> <p>Law, Art. 9: The privileged resident stay permit is initially delivered for a period of six years and can be renewed for periods of ten years. It is delivered to foreigners that have resided in Togo in a continuous manner for more than five years, as well as to spouses of Togolese nationals (without this requirement).</p> <p>Decree, Art. 4; Art. 12: As a general rule, the delivery of visas and permits is submitted on condition of sufficient financial means, an extract of the police register, and a medical certificate.</p>

The legislation does not explicitly define entry and stay visas. It is most probable, given that Togolese immigration legislation is largely inspired by French administrative law that, following the French example, immigration in Togo is subject to the delivery of a long-term visa. The long-term visa serves as an 'immigration visa', the purpose of which is not simply to control entry but also stay and residence in the country. The main consequence of such a system is the requirement that application for an immigration status should be made abroad rather than upon arrival in the country.

Togolese immigration legislation contains a number of gaps. Conditions and procedures for the delivery of visas and permits, as well as the rights attached to the different immigration statuses are not clearly stated. More specifically, the legislation lacks provisions on family migration and the status of ECOWAS Member States' nationals.

¹³⁰² *Loi No. 87-12 relative à la police des étrangers, 1987.*

¹³⁰³ *Décret No. 96-113 déterminant les conditions générales de délivrance des visas et cartes de séjour et fixant des régimes spéciaux, 1996.*

¹³⁰⁴ *Carte de séjour de résident temporaire.*

¹³⁰⁵ *Carte de séjour de résident ordinaire.*

¹³⁰⁶ *Carte de séjour de résident privilégié.*

Any overview of Togolese immigration legislation would not be complete without reference to the bilateral agreement on circulation and stay of persons¹³⁰⁷ concluded with France in 1996. The Convention includes similar provisions with regard to the entry and stay of Togolese in France and French nationals in Togo. The main provisions concern the delivery of the same permit to the family member in the framework of family reunification, and the possibility to obtain a 10-year residence permit after three years of stay in the country. While such provisions mainly target Togolese nationals in France, they also apply to French nationals in Togo.

4.15.2.2.2 Labour migration

Access to national labour market

Legislation/Policy Framework	Description
Decree No. 96-113 on General Conditions for Delivery of Visas, Stay Permits and Special Regimes, 1996	Sets the principle that foreigners seeking employment in Togo are required to obtain a work authorisation in addition to their stay permit.
Labour Code, 2006 ¹³⁰⁸	<p>Art. 47 of the Code:</p> <ul style="list-style-type: none"> • specifies that the employer has to apply for a work authorisation and needs to obtain certification of the work contract from the Director of Employment¹³⁰⁹; • lists the conditions for certification of the work contract: professional aptitude of the worker, conformity of the contract to imperative labour norms, and respect of the immigration legislation; and • states that the work contract certification is valid for a period of two years, and may be renewed once.

The conditions and procedure of delivery, as well as the rights attached to the work authorisation, are partially elaborated in art. 47 of the Labour Code. It is not clear, however, whether the work authorisation and certification of the contract have to be obtained before or after entry of the individual on the national territory. Moreover, the very distinction between the two procedures – certification and delivery of the work authorisation – is not clearly established.

No conditions are specified regarding the delivery of the work authorisation. No mechanism is legally set up to designate the levels of need for foreign workers through taking into account the possible impact of their admission on the domestic labour force. A labour market test or a quota system is not foreseen. According to officials from the Ministry of Labour, the process of certification of work contracts does nevertheless give the opportunity, before authorising the employment of a foreigner, to ensure that there is not a competent local worker available.

The work contract certification is valid for a period of two years, and may be renewed once. In other words, migrant workers cannot stay for more than four years in the country. While the Labour Code provides for the possibility of derogations to this principle, without specifying their grounds, this remains a

¹³⁰⁷ *Convention relative à la circulation et au séjour des personnes.*

¹³⁰⁸ *Loi No. 2006-010 du 13 décembre 2006 portant code du travail.*

¹³⁰⁹ *Directeur général du travail.*

very strict provision.¹³¹⁰ It must be noted that the Togolese legislation does not include provisions concerning the articulation of work authorisations/contract certifications and different stay permits. It is not clear whether a work authorisation/contract certification is simply required for foreigners holding a temporary resident stay permit or if it also applies to ordinary and/or privileged residents.

It should also be noted that the legislation does not provide a specific status for ECOWAS Member States' nationals.

Rights within employment

Legislation/Policy Framework	Description
Labour Code, 2006	<p>Art. 2 provides for equal treatment with nationals. Foreigners, regardless of their legal status, generally benefit from all obligations and rights of the labour legislation.</p> <p>Art. 11 includes an exception to the principle of equal treatment concerning trade unions: while all foreigners can join a trade union, only those "regularly residing on the national territory and enjoying civic rights" can fulfil administrative and executive functions.</p>

4.15.2.2.3 Irregular migration

Legislation/Policy Framework	Description
Law No. 87-12 on Foreigners' Policy, 1987	<p>Art. 7 and Art. 11 impose the duty to leave the country in case of rejection of a stay permit request or expiry of the permit.</p> <p>Art. 13 foresees withdrawal of the permit in case of imprisonment for a penal offence.</p> <p>Art. 16: Imprisonment of two to six months and a fine are also considered in case of breach of the immigration legislation.</p> <p>Art. 17: Fraudulent use of a stay permit is punished by three months' to one year's imprisonment and a fine.</p>

Law No. 87-12 on Foreigners' Policy of 1987 includes some provisions regarding irregular migration. It is notable that it does not include explicit grounds for refusal of entry and deportation.

Togolese authorities have practiced a tolerant approach towards irregular migration. Deportation and expulsion orders are rare and, according to officials interviewed for the purpose of the present study, only occur in case of criminal behaviour.

¹³¹⁰ Labour Code, art. 47: [...] Le visa est valable pour une durée maximale de deux ans, renouvelable une fois. Cependant, des dérogations peuvent être accordées par le ministre en charge du travail sur demande de l'employeur [...].

4.15.2.2.4 Migrants at risk

Legislation/Policy Framework	Description
Law No. 2005-009 on Child Trafficking ¹³¹¹	<p>Art. 10 prescribes penalties comprised of between two and five years in prison for perpetrators.</p> <p>Art. 11: In case of aggravating circumstances – such as subjection of the child to worst forms of labour – penalties are of five to ten years' imprisonment.</p> <p>Art. 12: Parents and legal guardians who facilitate trafficking of children are subject to penalties of six months' to one year's imprisonment.</p>

Law No. 2005-009 on Child Trafficking does not contain detailed provisions regarding protection of the victims and prevention of the crime. It refers to the creation of a national commission against trafficking.¹³¹² In practice, this institution, the National Commission for the Reception and Social Reintegration of Trafficked Children,¹³¹³ was created in 2002 before the enactment of the law.

The Child Code adopted in 2007¹³¹⁴ includes a comprehensive set of provisions in order to protect children at risk. It also incorporates, and in some instances, complements, the provisions of the Law on Child Trafficking.¹³¹⁵

Togolese policies focus on children at risk and less on adults. A law on trafficking of adults was drafted in 1999, but never adopted. In the absence of specific legal provisions, trafficking of adults falls under the Labour Code, which prohibits forced labour, and the Penal Code's provisions related to prostitution. These norms are rather inadequate. The Penal Code fails to provide satisfactory protection mechanisms for victims of trafficking forced into prostitution and the penalties applicable to forced labour (three to six months' imprisonment) are not sufficiently stringent to tackle the crime of trafficking.¹³¹⁶

The number of arrests of traffickers has risen over the past years, a trend arguably accounted for by the increased level of training of law enforcement officials. The National Commission for the Reception and Social Reinsertion of Trafficked Children has worked on developing the capacities of the administration, including border officials, so as to better identify trafficked children. A referral system has been put in place and the Ministry of Social Action, Women Promotion and Alphabetisation runs two shelters, providing legal, medical, and social services. It also cooperates with NGO-run shelters. Standard operating procedures have been set up for all shelters to ensure protection of the victims. National authorities have also developed awareness-raising campaigns using radio broadcasts and direct meetings with local communities, and training of relevant officials has also been organised.¹³¹⁷

¹³¹¹ *Loi No. 2005-009 relative au trafic d'enfants au Togo, 2005.* Although the title of the law refers to smuggling (*trafic* in French), its content focuses on trafficking.

¹³¹² Law on child trafficking, 2005, art. 8.

¹³¹³ *Commission Nationale d'Accueil et de Réinsertion Sociale des Enfants Victimes du Trafic.*

¹³¹⁴ *Loi No. 2007-017 du 6 juillet 2007 portant code de l'enfant.*

¹³¹⁵ Child Code, 2007, art. 410 - art. 420.

¹³¹⁶ UNESCO, *La traite des personnes au Togo: facteurs et recommandations*, 2007, p. 43 ; U.S. Department of State, 2013, p. 363.

¹³¹⁷ U.S. Department of State, 2013, op .cit., p. 364.

4.15.2.3 Emigration

4.15.2.3.1 Labour migration

Identification of countries of destination and assessment of the national labour market

National authorities are yet to identify competencies that can be promoted abroad, or those for which promotion should not be undertaken, although several projects are currently being implemented or envisioned in this respect. The ILO-led Project for the Support of Employment Promotion and Poverty Reduction (APERP) plans to create an Employment Observatory¹³¹⁸ and publish a study on national labour market needs. The ICMPD's MIEUX project centres on the institution of an African Employment and Occupations Operational Index,¹³¹⁹ as well as the identification and assessment of existing and potential new countries of destination.

Recruitment system

The National Employment Agency is charged with the responsibility of facilitating the placement of workers within the national and the international labour market. To date, its activities have been limited to the former. The MIEUX project has the objective of stimulating its role in the placement of workers abroad. The role which private employment agencies play as intermediaries for employment of Togolese workers abroad is not precisely known. National authorities do not possess the means to regulate and monitor private employment agencies. The legislation in this regard is also limited. The Labour Code simply recognises the possibility for such agencies to operate, although it does not specify whether their role shall be limited to the national labour market or may include placement abroad. It states that agencies may not collect fees from workers¹³²⁰ and requires that they communicate "information related to the placements undertaken" to the National Labour Agency.¹³²¹

In the absence of a licensing system, national authorities cannot ensure in advance that agencies meet minimum criteria to operate in accordance with workers' rights and interests. The capacities to monitor the activities of agencies are subsequently limited. As the provisions of the Labour Code do not permit effective management of the contemporary realities of labour emigration, amendments to the legislation have been drafted and are awaiting validation from the government and adoption by the Parliament.

The Labour Code also specifies that all foreign work contracts shall be approved by the Director of Employment.¹³²² No further details are provided, such as, for instance, the conditions a foreign work contract has to meet for its approval. In practice, the means to monitor foreign contracts are limited as private employment agencies operate outside the scrutiny of public authorities and the National Employment Agency is yet to play the role of intermediary for workers seeking employment abroad.

¹³¹⁸ *Observatoire de l'emploi.*

¹³¹⁹ *Répertoire opérationnel africain des métiers et des emplois* or ROAME.

¹³²⁰ Labour Code, 2006, art. 197. It must be noted that while the principle of free placement services is conceivable within the domestic market, especially when most private employment agencies are temporary work agencies, it is generally not realistic in the context of labour migration.

¹³²¹ *Ibid.*, art. 198.

¹³²² *Ibid.*, art. 45.

4.15.2.3.2 Migration and development

The elaboration of a policy in the field of migration and development in Togo is only at an early stage. Responsibilities in this regard are mainly shared between the Directorate of Togolese Abroad and the unit in charge of the Diaspora Programme, with both being under the authority of the Ministry of Foreign Affairs and Cooperation.

The activities of the Directorate of Togolese Abroad remain limited, although study visits have been organised to Mali and Senegal as well as Europe and the U.S., and NGOs engaged in the mobilisation of the diaspora for the national development have been provided with technical support.

The Diaspora Programme is supported by UNDP and the African Development Bank. Its managing unit is charged with the following responsibilities:

- mobilising diaspora competencies to reinforce national institutional capacities;
- improving the investment climate in Togo;
- developing initiatives with a view to engaging the Togolese diaspora in the economic and social development of the country; and
- facilitating the reintegration of returning migrants.

The unit could eventually be granted more permanent functions and operate under the title 'National Agency for Togolese Abroad'.

A landmark in the elaboration of a migration and development policy was the adoption of a Strategic Plan for the Mobilisation of the Togolese Diaspora¹³²³ in 2013. The document includes the following proposals:

- the creation of a High Council for Togolese Abroad to formally recognise members of the diaspora as interlocutors of national authorities;¹³²⁴
- the institution of a National Agency for Togolese Abroad in charge of the relationship between the state and the Togolese diaspora;
- the organising of forums of the diaspora on a regular basis;
- the improvement of the channelling of remittances into national development through the creation of an Investment Fund for Togolese Abroad;¹³²⁵
- the encouraging of members of the diaspora to invest in Togo;
- the improvement of public awareness on programmes related to the diaspora;
- the assisting of professional and social reintegration of returning migrants; and
- the development of decentralised cooperation with diaspora members for local development.¹³²⁶

¹³²³ *Plan stratégique pour la mobilisation de la diaspora togolaise.*

¹³²⁴ *Haut Conseil des Togolais de l'extérieur.*

¹³²⁵ *Fond d'investissements des Togolais de l'extérieur.*

¹³²⁶ Unité de gestion du Programme Diaspora Togo, Plan stratégique pour la mobilisation de la diaspora togolaise, 2013, p. 42.

4.15.2.3.3 Migrants' protection

Information dissemination

Togo has yet to organise comprehensive information programmes to provide migrants and potential migrants with information on the different aspects of migration processes and living/working conditions in countries of destination. Some information sharing activities have been organised by a local NGO, Visions Solidaires, which operates a centre called *Maison des citoyens du monde* in Lomé.

Protection in countries of destination

Protection activities undertaken by diplomatic and consular posts mainly concern child victims of trafficking. Togo has concluded agreements with several ECOWAS Member States, namely Benin, Burkina Faso, Ghana, and Nigeria, to organise cooperation with regard to referral and repatriation.¹³²⁷ Repatriated children are reunited with their families and/or benefit from protection measures proposed by shelters.¹³²⁸ No specific protection measures have been adopted for adult victims of trafficking.¹³²⁹

Social security agreements

Togo has signed and ratified the regional social security convention (CIPRES Convention).¹³³⁰ At bilateral level, a social security convention was concluded with France in 1971, followed by several protocols and administrative arrangements. The convention does not include coordination provisions regarding medical care. However, under Protocol No. 1, workers can benefit from maintenance of cash payments with regard to medical insurance for a period of six months.

4.15.3 International, regional, and bilateral cooperation

International conventions

Among the most relevant international conventions protecting human rights, Togo has ratified:

- the International Covenant on Civil and Political Rights (1966);
- the International Covenant on Economic, Social and Cultural Rights (1966);
- the Convention on the Elimination of All Forms of Discrimination against Women (1979);
- the Convention on the Rights of the Child (1989);
- 28 ILO Conventions (Togo has ratified one of the two specific ILO conventions on migrant workers: C 143 (1975)); and
- the United Nations Convention against Transnational Organized Crime (2000) and its Protocols on trafficking in persons and smuggling of migrants.

¹³²⁷ UNESCO, 2007, op .cit., p. 48.

¹³²⁸ See section 4.15.2.3.3.

¹³²⁹ See section 4.15.2.2.4. and section 4.15.2.3.3.

¹³³⁰ *Convention multilatérale de sécurité sociale de la Conférence interafricaine de la prévoyance sociale.*

Togo has also signed, but not yet ratified, the Convention on the Protection of the Rights of All Migrant Workers and Members of their Families (1990).

In addition to these global conventions, Togo is bound by ECOWAS texts, including its Treaty (1975) and its subsequent protocols regarding free movement of persons, residence and establishment.

Agreements related to the fight against trafficking in persons and smuggling of migrants

With regard to the fight against transnational organised crime, including the smuggling of migrants, a Memorandum of Understanding was concluded with Ghana in 2009 and a tripartite cooperation organised with Ghana and Burkina Faso in 2011. Togo has also concluded bilateral agreements with Benin, Burkina Faso, Ghana, and Nigeria to coordinate protection of child victims of trafficking and their repatriation.¹³³¹

Bilateral agreements with France

Outside West and Central Africa, agreements have been concluded with France. While no bilateral labour agreement has been signed, a social security convention was concluded in 1971,¹³³² as well as two agreements related to entry, stay, and residence:

- the 1996 Agreement on circulation and stay of persons¹³³³ which includes two principal derogations to the common French immigration legislation. It foresees the delivery of the same stay/residence permit to family members in case of family reunification (instead of a temporary stay permit under French administrative law), and the possibility to obtain a 10-year residence permit after three years of stay in the country (instead of five years under French administrative law); and
- the 1996 Convention of establishment which protects investments and property rights of French and Togolese migrants. It also includes some provisions regarding cooperation measures in case of expulsion and return of migrants in an irregular situation.

The Spanish Funds/ECOWAS

Togo has received assistance from the Spanish Funds/ECOWAS, notably with a view to developing and implementing a migration policy within the Ministry of Women Promotion. The activities of two local NGOs, *Visions Solidaires* and MARS, have also been supported through these funds.

¹³³¹ UNESCO, 2007, op .cit., p. 48.

¹³³² See section 4.15.2.3.3.

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4.15.5 List of interlocutors

Name of respondent	Position	Institution
Koutob-Naoto, T.	Judge	Ministry of Justice ¹³³⁴
Afokpa, K. V.	Director, International Cooperation, Togolese Abroad	Ministry of Foreign Affairs and Cooperation ¹³³⁵
Viagbo, I.	Director of Studies, Research, and Statistics, General Directorate of Labour	Ministry of Labour, Employment, and Social Security ¹³³⁶
Doevi, A. D.	Director of Population Planning	Ministry of Planning, Development, and Territory Planning ¹³³⁷
Akakpovi, Y.	Director of Passports and Identity Cards	Ministry of Security and Civil Protection ¹³³⁸

¹³³⁴ *Ministère de la Justice.*

¹³³⁵ *Ministère des Affaires étrangères et de la Coopération.*

¹³³⁶ *Ministère du Travail, de l'Emploi et de la Sécurité sociale.*

¹³³⁷ *Ministère de la Planification, du Développement et de l'Aménagement du territoire.*

¹³³⁸ *Ministère la Sécurité et de la Protection civile.*

5. Annex

5.1 Country chapter interview form

PART I: SECTORIAL MIGRATION POLICIES

1.1 Immigration

1.1.1 Institutional framework

1. Which Ministries are involved in the process of developing and implementing immigration policies?
2. What is the role of the concerned Ministries?

Interviewer's additional comments

1.1.2 Labour immigration

3. What is the estimated number of foreign workers in the country?
4. What are the main countries of origin of foreign workers?
5. What are the main sectors of employment of foreign workers?
6. Are there needs for the recruitment of foreign workers in the national labour market?
YES NO

If yes:

In what sectors?

For what type of jobs?

If no, please specify the reason:

7. Labour immigration legislation

What is the national legislation applicable to labour immigration?

Are these texts publicly available?

YES (Specify where) NO

8. Does the national legislation give preferential treatment to ECOWAS nationals according to the ECOWAS protocols?

YES NO

9. Beyond ECOWAS nationals, are there bilateral agreements giving preferential treatment to migrant workers from specific countries?

YES NO

If yes:

Which countries are concerned?

Can we receive a copy of the texts?

YES NO

10. Does the national labour legislation treat national and foreign workers on an equal basis?

YES NO

If no, in what areas is the treatment different?

Interviewer's additional comments

1.1.3 Irregular Immigration

11. What is the estimated number of irregular immigrants in the country?

12. What are the main countries of origin of irregular immigrants?

13. Have measures to prevent irregular migration been adopted?

YES NO

If yes, what measures have been adopted?

- regulation of private recruitment agencies
- labour inspections and employer sanctions
- visa restrictions
- border management measures
(e.g . biometric equipment for passenger identification, increased border patrols)
- others (please specify)

If no, why have no measures been adopted?

14. Does your government enforce deportation orders for irregular immigrants?

YES NO

15. Has your government signed readmission agreements with other countries?

YES NO

If yes, which ones?

16. Are Assisted Voluntary Return Programmes to return migrants to their country of origin ongoing in your country?

YES NO

If yes, please specify with which countries agreements for Assisted Voluntary Return Programmes have been signed:

17. Have regularization processes been adopted?

YES NO

If yes, please specify when such regularization processes have been implemented.

Please also specify on what criteria they were based:

Interviewer's additional comments

1.1.4 Protection of migrant groups at risk

18. Is there a system in place in order to protect the rights and interests of migrant children? (eg. child protection committees, shelters, network of child protection actors etc.)

YES NO

If yes, are there mechanisms to address children's immediate needs?

YES NO

Please specify

19. Are there family tracing mechanisms for unaccompanied children, in order to organise family reunification (when applicable)?

YES NO

If no, please specify the reasons

20. Do you know the West Africa Network for the protection of children which has developed regional standards for the protection and reintegration of vulnerable children including children on the move and young migrants?

YES NO

21. Are there specific procedures for identifying women and girls at risk of exploitation (labour, sexual exploitation, etc.)?

YES NO

If yes, please specify

If no, please specify the reason

22. Are there specific regulations and procedures to protect victims of exploitation including trafficking?

YES NO

If yes please specify

If no, please specify the reason

23. Are there specific mechanisms to support the reintegration of returning nationals (spontaneous, forced, assisted voluntary return)?

YES NO

If yes please specify

If no, please specify the reason

Interviewer's additional comments

1.2 Emigration

1.2.1 Institutional framework

24. Which Ministries are involved in the process of developing and implementing policies for migrants moving or living abroad?

25. What is the role of the concerned Ministries?

Interviewer's additional comments

1.2.2 Labour emigration

26. What is the estimated number of national workers abroad?

27. What are the main countries of destination for migrant workers?

28. What are the main sectors of employment of migrant workers?

29. Protection of migrant workers

Is there legislation regarding private employment agencies in your country?

YES NO

Are these texts publicly available?

YES NO

Is there an information strategy for potential migrant workers on work and life conditions abroad?

YES NO

If yes, what are the means of conveying such information?

Does the information reach migrants?

What are the main activities of consular and diplomatic posts regarding the protection of migrant workers?

Have labour attachés been appointed?

YES NO

If yes:

In which countries?

What are their main activities?

30. Have policies aimed at limiting the negative effects of brain drain been adopted?

YES NO

If yes what policies have been adopted?

If no, is the Government considering the adoption of such policies?

31. Promotion of employment abroad

Is there a policy regarding promotion of employment abroad?

YES NO

If yes, what are the main components of such a policy?

32. Bilateral labour agreements

With which countries have bilateral labour agreements been signed?

Are copies of the texts publicly available?

YES NO

Interviewer's additional comments

1.2.3 Diasporas

33. What is the estimated size of your country's diaspora population?

34. Does your Government have a specific diaspora policy?

YES NO

If yes:

Is there a Ministry, Department or Agency tasked to implement this policy?

YES NO

If yes, which one and since when?

Does it have a specific budget to implement activities?

YES NO

Have you implemented a diaspora mapping exercise in order to better understand its nature, composition and interests?

YES NO

If yes, when and how was the last mapping exercise realized?

Can you give us one or several examples of recent cooperation with your diaspora through the above-mentioned Ministry?

Are there diaspora offices/ contact points established at consular and diplomatic posts?

YES NO

Does the diaspora policy also consider the diaspora living in the ECOWAS sub-region and/or other parts of Africa?

YES NO

If no, are you in the process of developing, or planning to develop, a diaspora policy?

YES NO

If no, what are the reasons for not having started the process?

- Not a priority for the Government
- Lack of resources (financial, human)
- Lack of knowledge on how to address the issue/ lack of existing capacities
- Other reasons, please specify

Interviewer's additional comments

1.2.4 Remittances

35. Are there mechanisms in place to collect data on remittances, including informal transfers?

YES NO

If yes:

What are these mechanisms?

If no, is the development of such mechanisms planned?

YES NO

36. Are there mechanisms in place in order to improve transfer services? (e.g. access to transfer services)

YES NO

If yes, what are these mechanisms?

If no, is the development of such mechanisms planned?

YES NO

37. Are there incentives in place in order to stimulate the development potential of remittances? (e.g. financial incentives such as tax exemptions etc.)

YES NO

If yes, what are these mechanisms?

If no, is the development of such mechanisms planned?

YES NO

Interviewer's additional comments

PART II: NATIONAL MIGRATION POLICY

2.1 Institutional framework

38. Is one Ministry mandated to coordinate migration issues within the government? If yes, which one and since when?

39. Do you have mechanisms of inter-ministerial cooperation for migration related issues?

YES NO If NO → 39(b)

If yes:

What kind of inter-ministerial coordination mechanism is in place?

What are the principle functions of the inter-ministerial coordination mechanism on migration?

How often are meetings held at inter-ministerial level?

Who is a member of the inter-ministerial coordination mechanism?

Are there external partners (Civil Society, Academia, Development Partners, International Organisations etc.) that are invited as observers?

Does the inter-ministerial coordination mechanism have decision making powers or does it make recommendations to the hierarchy?

YES NO

If it has decision making power, please specify

If it makes recommendations is there a line-ministry to which the recommendations are being addressed to?

Does the inter-ministerial coordination mechanism have an operational budget to implement certain activities?

YES NO

If no, do you intend to create such an inter-ministerial coordination mechanism on migration?

YES NO

40. Do you interact with local governments on questions related to migration (for example formulation and implementation of policies, exchange of data and information etc.)?

YES NO

If yes,

What are the key areas of collaboration?

Could you give one or several examples?

Is this cooperation based on a specific national law or regulation?

YES NO

Please specify

41. Has migration been mainstreamed into the national development planning process?

YES NO If NO → Q41(b)

If yes:

Which development policy documents include migration as a development factor?

Are there specific budget allocations to implement activities related to migration and development?

YES NO

At which level has migration been mainstreamed into development plans (i.e. at national level, at local level)?

Please specify

What mechanisms are in place to ensure the implementation of development strategies related to migration?

What does your Government believe to be the most important development objectives for your country related to migration?

- Facilitate the inflow and reducing the costs of remittances
- Increasing the involvement of the diaspora in the economic development of your country
- Transfer of knowledge by the diaspora
- Facilitating circular migration
- Labour market access
- Recognition of university degrees, training certificates and work certificates
- Cooperation with diaspora organisations
- Other elements

If no:

Are you in the process of mainstreaming or planning to mainstream migration into development policies?

YES NO

ii. What are the reasons for not having started the process?

- Not a priority for the Government
- Lack of resources (financial, human)
- Lack of knowledge on how to address the issue/lack of existing capacities
- Other reasons

Interviewer's additional comments

2.2 Migration Policy Framework

42. Has your Government adopted a comprehensive National Migration Policy?

YES NO If NO Q42.b) →

If yes:

When was the Migration Policy adopted (month & year)?

What is the title of the Policy?

Can we get a copy of the document?

What references and sources of information were used for drafting the policy (please indicate all documents used):

- The ECOWAS Common Approach

- The Free Movement Protocols
- AU Documents (please specify)
- UN documents (please specify)
- IOM documents (please specify)
- ICMPD documents (please specify)
- ILO documents (please specify)
- Other sources(please specify)

What areas does your migration policy cover (please indicate all areas)

Free Movement of Persons within ECOWAS

- a. immigration
- b. emigration

Diaspora. Please specify:

- a. permanent emigrants
- b. temporary emigrants
- c. citizens
- d. emigrants who have naturalized in their
- country of settlement
- e. other: _____

Migration and Development

- a. immigration
- b. emigration
- Labour Migration

Family migration

- a. immigration
- b. emigration
- Naturalisation/access to nationality

Migrants Rights

- a. immigration
- b. emigration

Return and Reintegration of Migrants

- a. immigration
- b. emigration

Protection of Migrants

- a. immigration
- b. emigration

- Protection of Refugees and Asylum Seekers
- Border Management
- Human Trafficking & Smuggling
- Internal Displacement
- Institutional Cooperation within the Government
- External partners (Civil Society, Academia, Development Partners, International Organisations etc.)
- Resources (budget, human resources etc.)

Who was involved in the policy development process?

How was the policy development process finalized/endorsed?

Is the National Migration Policy currently being implemented?

YES NO

Please specify

If yes:

a. What mechanisms exist for monitoring/tracking the implementation of the Policy?

- 1. Regular reports to parliament
- 2. Regular reports to intergovernmental organisations
- 3. Publicly available reports
- 4. Other (please specify)

b. What are the key challenges in implementing the Migration policy?

If no, please specify the main reasons

If no:

Are you in the process of developing a national migration policy, or planning to do so?

YES NO

ii. If no, what are the reasons for not having started the process?

- Not a priority for the Government
- Lack of resources (financial, human etc.)
- Have other policies (labour, social affairs etc.) that cover migration
- Other reasons (please specify)

Interviewer's additional comments

PART III: REGIONAL AND INTERNATIONAL COOPERATION

43. Who are your principle partners in the field of migration?

International Organisations (please specify)

International Development Cooperation Partners (please specify)

ECOWAS Commission (please specify the departments)

African Union

Civil Society Organizations (please specify)

International NGO (please specify)

Other (please specify)

44. The ECOWAS Commission has taken steps this summer to strengthen the Migration Dialogue in West Africa (MIDWA). MIDWA is intended among other activities to organize regular Senior Expert meetings on important topics related to migration. What migration issues does your Government consider to be the most important to be addressed in the framework of these MIDWA meetings?

45. In September 2013 the second UN High Level Dialogue on Migration and Development will be held during the UN General Assembly.

What steps does your government intend to take in preparing for the UN High Level Dialogue?

Are you at this point able to name some expectations your Government will likely have from the UN High Level Dialogue?

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