



STATE OF MIGRATION GOVERNANCE IN 21 COUNTRIES OF THE HORN OF AFRICA AND WEST AFRICA

Regional report

Altai Consulting for the EUTF – April 2022



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EUTF MONITORING AND LEARNING SYSTEM (MLS)

The EU Trust Fund (EUTF) Monitoring and Learning System (MLS) was initiated in July 2017 and is being implemented by Altai Consulting. The overall objective of the MLS is to strengthen EUTF interventions through the creation of a monitoring and learning system, which should provide an evidence-based approach for programming and implementing interventions.

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TABLE OF CONTENTS

Executive summary	5
1. Introduction	8
1.1. Background and justification	8
1.2. Scope and methodology	8
1.3. Migration context and priorities	11
2. Overarching migration governance architecture	14
2.1. Main international frameworks	14
2.2. Main continental frameworks	15
2.3. Main regional stakeholders	16
2.4. Cross-continental stakeholders and processes	17
2.5. National level	18
2.6. Local level	23
3. Regular cross-border mobility	28
3.1. Intra-regional governance of mobility	29
3.2. Bilateral mobility frameworks between neighbouring countries	32
3.3. Governance of cross-border mobility outside of RECs	33
4. Trafficking in persons and smuggling of migrants	38
4.1. Main international frameworks	39
4.2. Regional frameworks	39
4.3. International bilateral agreements	42
4.4. Governance at the national level	42
4.5. Implementation of anti-TIP and SOM dedicated frameworks: prevention, prosecution and protection	48
5. Return and reintegration	55
6. Asylum and refugee protection	58
6.1. International and regional legal frameworks	59
6.2. Role played by RECs in the roll-out of the CRRF and implementation of the GCR	61
6.3. Implementation of international and regional frameworks at the national level	62
7. Internal displacement and migration	73
7.1. Internal displacement	73
7.2. Internal migration	78
8. Diaspora	87
8.1. Overview	87
8.2. Governance of diaspora remittances and investments	89
8.3. Governance of the diaspora's socio-political involvement	89
8.4. Governance of (temporary) returns	90
8.5. Governance of the diaspora's protection	91
9. Conclusion and cross cutting recommendations	93
Annexes	96
Abbreviations	96

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Executive summary

Introduction

The objective of the ‘State of migration governance’ study is to provide a review of migration and displacement governance policies, systems, and capacities in EUTF target countries to support the design of migration and displacement governance related programmes. This regional report builds on 21 country reports that were produced by Altai Consulting over the summer and fall of 2021, highlighting the main trends emerging from the country reports and providing additional regional (and continental) perspectives and recommendations.

Overarching migration governance architecture

At the continental and regional levels, a number of binding and non-binding frameworks have been developed but lack of oversight, monitoring, budgeting, and resource mobilisation mechanisms remain key obstacles to their effective implementation.

At the national level, the last five years have been marked by the drafting and/or adoption of many overarching ‘national migration policies’ – most of the 21 countries covered by the study now have one. This notably allowed the countries’ governments to articulate holistic visions of issues related to migration and may also have encouraged less concentration of migration-related decision-making power into the hands of one ‘traditional’ actor (typically the Ministry of Interior). These migration policies / strategies are, however, limited by the fact that they are non-binding. Further, they are usually vague and not directly implementable (for example, some half of the policies lack a budgeted action plan) and are frequently drafted by foreign consultants hired by external organisations, thus raising questions about ownership and accountability.

Another recent development has been the setup of coordination mechanisms on migration. Although these structures are too recent to allow for conclusions on their effectiveness, they provide an important platform for inter-Ministerial discussions on migration. Mechanisms which include sub-thematic groups (focusing on specific aspects of migration, for example the diaspora, forced displacement, etc.) appear especially promising and could allow for more focused and effective discussions, compared to a mechanism with only one ‘overarching’ group touching on all migration-related issues.

At the local level, migration governance systems are very limited, and local governance actors are insufficiently aware of existing national frameworks. Promising local migration governance initiatives do exist but they appear to be donor-funded and their sustainability is uncertain.

Regular cross-border mobility

Overall, ECOWAS remains the most advanced REC when it comes to promoting and regulating regional cross-border mobility, with the EAC displaying significant but more selective advancements (both in terms of countries and persons eligible to free movement). However, in all RECs, frameworks promoting regular migration face major obstacles to their implementation. If these obstacles (notably the lack of identity documents and the prevalence of corruption and of the informal sector) are not tackled more forcefully, supporting regional mobility frameworks may be inefficient.

Frameworks aimed at facilitating extra-regional migration are mostly lacking, except for a recent focus on bilateral agreements with Middle Eastern countries. However, these agreements are rarely accompanied by the resources necessary to monitor their implementation.

Mobility to Europe is limited not so much by the lack of governance frameworks as by EU countries’ restrictive visa policies. There have been calls to support frameworks regulating and promoting circular migration, which could be more palatable to European governments, but existing frameworks have had mixed results.

Trafficking in persons (TIP) and smuggling of migrants (SOM)

At the international and regional levels, the governance of the fight against TIP and SOM is characterised by a complex web of actors, organisations and political processes. Limited cooperation, lack of trust, insufficient information sharing, weak capacities and scarce financial resources remain some of the key challenges.

At the national level, the fight against SOM, and to a certain extent, TIP, remain largely donor driven. Although most of the countries covered in the study have domesticated international frameworks, weak law enforcement capacities, deficiencies in the penal chain and insufficient cooperation between the police, the judiciary continue to plague judiciary systems. In addition, insufficient cooperation across domestic agencies, as well as limited regional and international cooperation significantly undermines efforts to tackle effectively TIP and SOM. As a result, few investigations into TIP/ SOM cases, and an even smaller number of convictions have, overall, been reported across the countries.

The lack of agreement on key definitions also leads to confusion between TIP and SOM. This has only been worsened by an increasing blurring of the lines with notions such as 'aggravated smuggling'.

In addition, the absence, in most countries of precise plans of action to combat TIP and SOM limits the effective implementation of dedicated legislation. Where they exist, their efficacy has been limited by lack of funding and/or monitoring and evaluation mechanisms.

Protection schemes for victims of trafficking (VoTs) remain weak and severely underfunded. Although a number of countries have established national referral mechanisms for the identification and protection of VoTs, most of them are not yet able to adequately fulfil their mandate.

Return and reintegration

In addition to the readmission agreements that many countries have had with the EU for years, since 2017 most countries have developed standard operating procedures and set up coordination committees for the return and reintegration of returnees stranded on the way to Europe. Their implementation during the EUTF-funded EU-IOM Joint Initiative was effective overall, but for most countries remained fully dependent on donor funding. Further, most of these procedures and committees do not deal with other types of returnees (for example: voluntary returnees, or returnees from the Middle East or southern Africa).

Asylum and refugee protection

While international legal binding instruments recognise a wide range of rights for refugees and asylum-seekers, these are often not effective at the national level. Commitments in favour of responsibility sharing made under the 2016 UN Declaration, the Comprehensive Refugee Response Framework (CRRF) and the Global Compact on Refugees (GCR) have paved the way for improved access to basic rights. While significant reforms have been undertaken in some countries with regard to refugees' self-reliance, the latter's access to essential services remains, overall, very limited.

Long-term financing as well as further political support and technical assistance will be key to the sustainable implementation of CRRF/ GCR objectives.

Internal displacement and migration

Internal displacement has suffered from a lack of focus compared to the issue of refugees, although there has been recent momentum towards the ratification of the Kampala Convention and most countries with the largest IDP crises have also adopted, or will soon adopt, IDP-specific laws or policies. Their level of implementation varies, however, and is especially limited when it comes to prevention and durable solutions.

Despite the importance of the phenomenon, internal migration has been paid even less attention. National migration policies / strategies typically dedicate a relatively small section to internal

migration, or even none at all. The coordination groups on migration that have been set up at national levels often do not include groups on internal migration.

Similarly, although nomadic pastoralism tends to touch significant shares of the population and of the economy in several of the countries under review, nomadic pastoralists' mobility is usually not considered in migration frameworks. When it is addressed by sectoral frameworks (e.g. agricultural policies), this mobility may not always be seen as a priority compared to productivity or security concerns. Beyond laws/policies and more favourable attitudes from governments to pastoralists' mobility, infrastructure and services to facilitate this mobility would be needed, and governments do not necessarily have the means to provide them.

Climate change-induced migration is also insufficiently addressed in migration-related frameworks, and when they do address it, it tends to be viewed solely as a negative consequence of climate change, with a lack of consideration of migration as an *adaptation* strategy. In addition, data on migration that could be induced by the slow onset effects of climate change is insufficiently used for policy making.

Diaspora

Engaging with the diaspora appears to be the migration-related thematic area in which governments have the greatest interest overall. Most countries have set up dedicated governance structures as well as specific policies dedicated to diaspora engagement, and diaspora considerations appear to have been relatively more 'mainstreamed' into development policies than other migration-related issues. Policy making on diaspora engagement is however hindered by a lack of data on the diaspora.

Several countries have focused on harnessing remittances, and regulations could be amended to further lower their costs (both in origin and destination countries). Countries of origin have also made significant efforts to improve the socio-political involvement of the diaspora: almost all countries covered by this study allow dual citizenship or voting by citizens residing abroad, for example. Promoting the return of diaspora members has been less of a priority.

Finally, there has been less interest in diaspora protection than in diaspora engagement, which is reflected in the weakness of the associated governance frameworks.

Reading note: Notes numbered i, ii, iii, etc. are footnotes that contain further information on the content of the text. Notes numbered 1, 2, 3, etc. are endnotes (available at the end of each section) that contain sources for the data and information provided in the text.

1. Introduction

1.1. Background and justification

The EUTF contracted Altai Consulting to implement a Monitoring and Learning System (MLS) in countries covered by the EUTF in the Horn of Africa (HoA) and Sahel and Lake Chad (SLC) regions. As part of the ‘learning’ component of the EUTF, Altai published in February 2021 a report on the lessons learnt from the EUTF.¹ During the research and consultations organised for this exercise, it was notably observed that there are few formal assessments of migration and displacement governance systems, and the few that exist generally lack the depth, cross-country consistency and recentness that would be required to support new programming. In particular, no recent cross-country assessment was found to consider the level of implementation of migration frameworks.ⁱ

As many EUTF projects are coming to an end, and interventions are being designed for the future phase of EU programming on migration and displacement, there appeared to be a window of opportunity to conduct a review of migration and displacement governance policies, systems, and capacities in EUTF target countries. The intention of the review is to expand on the preliminary findings from the report on the lessons learnt from the EUTF,² and offer a wider and updated cross-country basis of information that can support the design of migration and displacement governance related programmes.

This regional report builds on 21 country reports that were produced by Altai Consulting over the summer and fall of 2021, highlighting the main trends emerging from the country reports and providing additional regional (and continental) perspectives and recommendations.

1.2. Scope and methodology

1.2.1. Thematic scope and key definitions

This study uses IOM’s definition of migration *governance*, which is distinct from its definition of migration *management* in that it focuses specifically on policies and policy makers, rather than on all migration management activities conducted by governments (for example the provision of services not related to a given policy). According to IOM’s ‘Glossary on Migration’, migration governance is ‘*the combined frameworks of legal norms, laws and regulations, policies and traditions as well as organisational structures (subnational, national, regional and international) and the relevant processes that shape and regulate States’ approaches with regard to migration in all its forms*’. Hereafter, this study will use the term ‘frameworks’ whenever referring to legal norms, laws, regulations, policies, traditions and other more informal processes.

The study dedicates specific attention to the extent to which existing frameworks on migration are *implemented*, and to factors enabling their implementation. Indeed, in African countries, as in many other countries across the world, the main issue related to governance tends not to be the existence of frameworks, but their varying levels of implementation. Further, some frameworks only yield benefits when specific conditions (or enabling factors) on the ground are met and may actually do more harm than good if they are implemented *before* these conditions are met. For example, in cases where ‘free movement’ across unregulated borders is already occurring on the ground, the introduction of frameworks to regulate these movements may be detrimental if populations do not have access to the necessary identity documents or if corruption is the main source of livelihoods for border guards.

ⁱ The recent assessments that were used for this study include the Migration Governance Indicators, the data for SDG indicator 10.7.2, ‘Number of countries with migration policies to facilitate orderly, safe, regular and responsible migration and mobility of people’, a 2015 study conducted by ICMPD on migration governance in West Africa, and data/studies covering specific thematic areas, namely the diaspora (see the EU Global Diaspora Facility factsheets and analyses), pastoralism in both the Horn of Africa and West Africa (studies by IGAD and IOM), as well as labour migration in the IGAD region (studies by ILO).

The study uses IOM’s broad definition of migration (see right), which focuses on a change of usual residence and therefore **also covers internal migration and displacement**. Each section of this report

Migration is ‘*the movement of persons away from their place of usual residence, either across an international border or within a State*’ (IOM Glossary on Migration)

will match one or several type(s) of migration flow:ⁱ after providing an overview of the overall migration governance architecture in the countries covered by the study, specific chapters will be dedicated to regular cross-border mobility, trafficking in persons (TIP) and smuggling of migrants (SOM), return and reintegration, asylum and refugee protection, internal migration, and the diaspora. The table below indicates how the thematic areas detailed in the country reports are treated in the regional report.ⁱⁱ

Table 1: Thematic areas in the country reports and in the regional report.

Main flows	‘Sub’-flow	Migration governance objectives	Corresponding section(s) in the regional report
Outflows	Regular emigration	Promote or regulate	3. Regular cross-border mobility
	Irregular migration	Limit	3. Trafficking in persons and smuggling of migrants and 5. Return and reintegration
	Diaspora	Protect and promote engagement	8. Diaspora
	Return (and reintegration)	Improve management	5. Return and reintegration
Inflows	Refugees	Ensure protection and durable solutions	6. Refugee protection and asylum
	Immigration (non refugees)	Improve management	3. Regular cross-border mobility
Internal	Internal forced displacement	Ensure protection and durable solutions	7.1 Internal displacement
	Internal migration	Improve management	7.2 Internal migration
Multiple types of flows	Nomadic pastoralism	Improve management of mobility aspects	7.2 Nomadic pastoralism + 3. Regular cross-border mobility ⁱⁱⁱ
	Smuggling of migrants	Fight networks, assist smuggled migrants in need of protection	3. Trafficking in persons and smuggling of migrants
	Trafficking in persons	Fight networks, protect victims	3. Trafficking in persons and smuggling of migrants
	Climate-induced migration	Improve management incl. of future flows	7.2 Climate-induced migration

ⁱ Although, in the case of the diaspora, the term ‘stock’ may be more relevant.

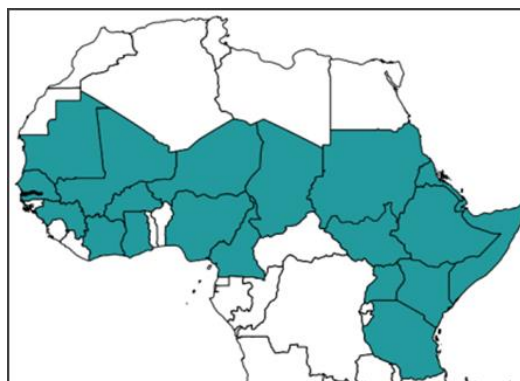
ⁱⁱ The difference in organisation between the country reports and the regional reports is due to the fact that, for example, while from a country perspective it may make sense to study emigration and immigration separately (because country frameworks dealing with each type of flow are almost always distinct), from a regional perspective it may make more sense to study them together as regional frameworks (e.g. free movement protocols) tend to treat emigration and immigration together.

ⁱⁱⁱ Section 3 of the report will analyse the cross-border aspects of nomadic pastoralists’ mobility (mainly through the lens of the regional transhumance protocols) while section 7.2. will be dedicated to the management of pastoralists’ mobility within countries’ borders.

1.2.2. Geographic scope

The study covers all countries included in the EUTF Horn of Africa and Sahel & Lake Chad windows, or 21 countries in total (also see Figure 1 on the right): Burkina Faso, Cameroon, Chad, Côte d'Ivoire, Djibouti, Eritrea, Ethiopia, Ghana, Guinea, Kenya, Mali, Mauritania, Niger, Nigeria, Senegal, Somalia, South Sudan, Sudan, Tanzania, The Gambia and Uganda.ⁱ

Figure 1: Countries covered by the study



1.2.3. Sources of information

Each country case study relied on a literature review, on key informant interviews (over 500 in total) conducted both remotely and in-person, and on field observations. In every country a national consultant was also involved in the study. The regional report relied on an additional literature review as well as additional key informant interviews.

1.2.4. Limitations

Fieldwork could not be conducted in a few countriesⁱⁱ due to the political context and/or the COVID-19 situation. Even in these cases, however, interviews were either conducted on the phone or on the ground by a national consultant, and transcripts and observations shared with the international consultant.

Political instability over the course of the study may have rendered some findings already outdated. Coups occurred in Sudan or Guinea for example, and some analyses made in the country case studies on which this regional report relies may be overtaken by events at the time of publication.

ⁱ Countries not covered by the study include Tanzania, which did not benefit from EUTF-funded projects, and countries such as Rwanda, Burundi and the DRC, which did benefit from the EUTF but are not officially part of the two 'windows' covered by the MLS (HoA and SLC).

ⁱⁱ Ethiopia, Eritrea, Guinea, and South Sudan.

1.3. Migration context and priorities

Each country report details the size of the flows associated with each thematic area described in Table 1, as well as the associated opportunities (for example remittances) and vulnerabilities (for example number of women and children trafficked, if available). In part based on these three aspects (and on interviews with key stakeholders), the country reports identified three to five 'priority thematic areas' for each country. The extent to which migration frameworks were implemented was investigated in greater depth for these chosen thematic areas, compared to others.

Section 1.3.1 gives an overview of the main migration-related trends at the regional level, while section **Erreur ! Source du renvoi introuvable.** provides an overview of the priorities that emerged from the country analyses.

1.3.1. Migration in the 21 countries covered by the study: key data and trends



The number of refugees remaining in East and West Africa and of persons displaced within their country has markedly increased since 2015-2016, as observed in Figure 2. The main refugee-hosting countries are **Uganda** (1.5 million) followed by Sudan (1.1 million) and Ethiopia (780,000).³ The countries most affected by internal displacement are **Somalia** (3.0 million IDPs), Nigeria (2.9 million), Sudan (2.7 million) and Ethiopia (2.7 million).⁴



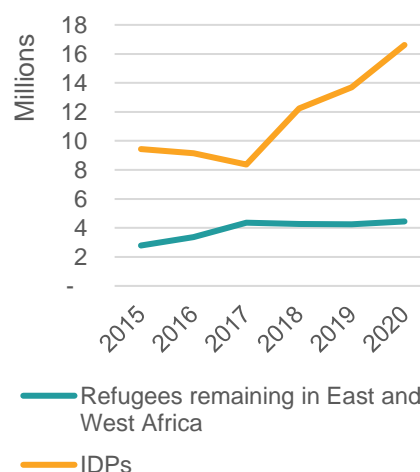
The number of migrants arriving irregularly in Europe is much smaller than in 2015-2016, while great numbers continue to travel to Saudi Arabia through Yemen. Data suggests that the number of irregular arrivals to Europe from the 21 countries covered by the study may have decreased by a factor of ten between 2016 and 2019.ⁱⁱ However, since 2019 these numbers have picked up again, notably on the Western Atlantic Routeⁱⁱⁱ and on the Central Mediterranean Route (although the latter route is mostly travelled by migrants from North Africa and the Middle East, as opposed to countries covered by our study).⁵

Little data is available regarding irregular migration to other destinations, except for the route to Saudi Arabia through Yemen: around 10,000 migrants were identified on this route in the first half of 2021, 90% of them **Ethiopians**.⁶ In particular, no data is collected on flows directed to Southern Africa.



Many of these migrants are likely to have resorted to the services of smugglers, though little data exists on actual flows. The prevalence of smuggling is also likely to vary depending on the country, with coastal West African countries being possibly less affected by the phenomenon (except on the Atlantic route) due to the ECOWAS Protocol on free movement which makes movement within the area by definition regular (as long as migrants possess the right ID, an issue discussed in part 3.1 below).

Figure 2: Number of refugees from the 21 countries covered by the study remaining in East and West Africa; and number of persons displaced internally in these 21 countries



ⁱ In order to present comparable data for all countries, we used the latest available data from IDMC (2020).

ⁱⁱ In 2016, over 150,000 arrivals from the 21 countries covered by the study were recorded; in 2019, less than 20,000 arrivals were recorded.

ⁱⁱⁱ Spain has yet to make data disaggregated by nationality available.



Similarly, very little data is available on trafficking in persons. The latest UNODC global report on trafficking in persons reports 3,000 cases across the 21 countries covered by the study, with **Nigeria** representing the bulk of reported cases, followed by Burkina Faso, Uganda and Kenya.⁷ But the data is likely to be under-estimated in all cases.ⁱ Data from some countries (notably Nigeria⁸) suggests that internal cases may represent most cases of trafficking.

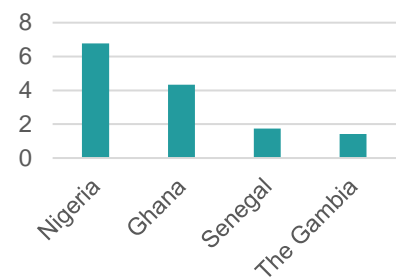


The largest registered return flows are from Saudi Arabia to Ethiopia. IOM has registered over 375,000 **Ethiopian** migrants returning from Saudi Arabia since 2017.⁹ Since the same year, around 100,000 migrants stranded on the way to Europe have been returned with the support of the EU-IOM Joint Initiative, with the greatest numbers returning to **Nigeria, Mali and Guinea.** Over the past five years, around 10,000 migrants were forcibly returned from the EU, with the largest numbers returning to **Nigeria.**¹⁰ Return data from other regions is not available.



The size of the diaspora varies from 0.1% of the population living in the country (in Ethiopia) to over 5% in countries such as **Mali and Burkina Faso.**¹¹ The importance of the diaspora is not only explained by its size, however, but also by the remittances it sends back home: as can be seen on the right, **in a few countries covered by the study, remittances far exceed the overall overseas development assistance (ODA) received by the country.**¹²

Figure 3: Factor by which remittances exceed ODA (2019)



Although data on internal migration tends to be even more rarely collected than data on international migration, **'internal migration (...) might even be the dominant migration pattern across sub-Saharan Africa'**; it may represent about 80% of migration in Nigeria and Uganda for example.¹³



Data on climate-induced migration flows is also scarce, although studies indicate that most such movements are likely to be internal as opposed to international. According to the World Bank, **between 17 and 86 million people could be internally displaced in sub-Saharan Africa due to decreased water availability and crop productivity by 2050.**¹⁴ Climate change will also generate important challenges related to forced *immobility* as its negative impacts on livelihoods could limit the capacity of households to finance migration as a coping mechanism.¹⁵



One study estimated the number of pastoralists and agro-pastoralists in sub-Saharan Africa at 50 million.¹⁶ While all of them are not nomadicⁱⁱ and therefore they do not all fall under the scope of this study, this represents a significant portion of the countries' populations and an important share of the economy: pastoralism represents on average 10% of the GDP of countries in the Horn of Africa and the Sahel.¹⁷

1.3.2. Migration-related priorities

Countries' priorities have been selected based on a set of criteria assessed in the following order of importance: 1) type and size of migration flows, identified vulnerabilities and opportunities; 2) governments' political priorities, interests and degree of involvement in particular aspects of migration governance; 3) level of donors' interest in and support to (particularly of the EU) the governance of specific migration-related thematic areas.

The table below shows the distribution of identified priorities:

ⁱ The year of the data differs for each country, depending on the availability of the data (the most recent year with available data was selected for each country).

ⁱⁱ Some of the literature distinguishes between two types of 'mobile' pastoralism: 'nomadic pastoralists' who follow a strictly irregular pattern of movement, while transhumant pastoralists have fixed seasonal pastures. In practice, this distinction is often not observed, therefore we use the term 'nomadic pastoralism' to refer to all pastoralists who move to feed their herds.

Table 2: Priorities identified in country reports

	Country	Immigration	Regular emigration	Irregular emigration	TIP	SOM	R&R	Intl. forced displacement	Internal forced displacement	Internal migration	Climate change induced migration	Nomadic pastoralism	Diaspora
HoA	Djibouti	X			X	X		X					
	Eritrea			X	X								X
	Ethiopia		X		X		X	X	X				X
	Kenya		X		X			X					
	Somalia						X		X				X
	South Sudan						X		X				X
	Sudan				X		X	X	X			X	
	Tanzania				X			X		X	X		
	Uganda		X		X			X		X			
SLC	Burkina Faso								X	X			X
	Cameroon							X	X				X
	Chad				X		X	X	X				
	Cote d'Ivoire	X			X		X						
	Ghana		X		X								X
	Guinea		X		X				X				X
	Mali		X						X				X
	Mauritania	X			X	X							
	Niger				X	X	X	X	X				
	Nigeria				X				X				X
	Senegal		X	X	X	X							X
The Gambia		X	X		X	X		X					

TIP is the most commonly reported priority (14 countries), followed by internal forced displacement (12 countries) diaspora relations (11 countries) and international forced displacement (9 countries). By contrast, nomadic pastoralism and climate change induced migration receive very little attention. These issues are, respectively, considered priorities in only one country.

There is a correlation between identified priorities and the efforts made at the international, continental and national levels to strengthen migration governance in key areas. TIP, forced displacement (national and international) as well as diaspora relations have received significant attention in recent years with dedicated frameworks elaborated both at the regional and national levels. By contrast, traditional migration and the interplay between migration and environmental degradation and climate change appear to foster only limited attention, mainly due to the lack of reliable data, minimal political involvement and imprecise, or sometimes even inexistent, legal frameworks.

2. Overarching migration governance architecture

Key findings:

- At the continental and regional levels, a number of binding and non-binding frameworks have been developed. However, the lack of oversight, monitoring, budgeting, and resource mobilisation mechanisms are the main obstacles to the effective implementation of these instruments.
- At the national level, the last five years have been marked by the **drafting and/or adoption of many overarching ‘national migration policies’** – most of the 21 countries covered by the study now have one. This notably allowed the countries’ governments to articulate holistic visions of issues related to migration and may also have encouraged less concentration of migration-related decision-making power into the hands of one ‘traditional’ actor (typically the Ministry of Interior). These migration policies / strategies are however limited by the fact that they are non-binding. Further, they are usually vague and not directly implementable (for example, some half of the policies lack a budgeted action plan) and are frequently drafted by foreign consultants hired by external organisations, thus raising questions about ownership and accountability.
- Another recent development has been the **setup of coordination mechanisms on migration**. Although these structures are too recent to allow for conclusions on their effectiveness, they provide an important platform for inter-Ministerial discussions on migration. Mechanisms which include sub-thematic groups (focusing on specific aspects of migration, for example the diaspora, forced displacement, etc.) appear especially promising and could allow for more focused and effective discussions, compared to a mechanism with only one ‘overarching’ group touching on all migration-related issues.
- At the local level, **migration governance systems are very limited, and local governance actors are insufficiently aware of existing national frameworks**. Promising local migration governance initiatives do exist but they appear to be donor-funded and their sustainability is uncertain.

2.1. Main international frameworks

Most countries in the study have ratified or acceded to the main migration-related international binding frameworks: the **UN 1951 Refugee Convention** and its **1967 Protocol**; the **UN Convention against Transnational Organised Crime** (also known as the Palermo Convention) and its **two additional Protocols** (2000) as well as other relevant human rights instruments such as the **International Covenant on Economic, Social and Cultural Rights (ICESCR)**, the **International Convention on the Elimination of All forms of Racial Discrimination (ICERD)** and the **Convention on the Rights of the Child (CRC)**, which all contain provisions applicable to all individuals, regardless of their migration status.

In addition, the recent growth in the number of migrants and internationally displaced persons highlighted the need for an improved migration governance architecture at the international level, which resulted in the adoption of a set of non-binding instruments:

- **The 2016 New York Declaration** – and the accompanying Comprehensive Refugee Response Framework (CRRF), which informed the development of the subsequent Global Compact on Refugees.
- **The 2018 Global Compact on Refugees (GCR)**, whereby States committed to enhanced responsibility sharing on refugees, by alleviating pressure on host States (most of which are on the African continent)

- **The 2018 Global Compact for Safe, Orderly and Regular Migration (GCM)** which is the first intergovernmental negotiated document to cover all dimensions of international migration in a holistic and comprehensive manner.¹⁸

Commitment in favour of the implementation of these non-binding instruments created positive momentum in many of the countries under study to develop national migration governance frameworks (see below, section 2.5).

2.2. Main continental frameworks

A number of binding frameworks have also been developed at the African Union (AU) level. Most African States have ratified the **1969 OAU Convention Governing the Specific Aspects of Refugee Problems in Africa** and 30 are now party to the **Convention for the Protection and Assistance of Internally Displaced Persons in Africa** (the Kampala Convention). In addition, human rights instruments developed at the regional level, such as the **African Charter on Human and People's Rights** apply to 'every individual without distinction of any kind, such as national origin or status'.¹⁹

However, their implementation remains limited, mainly due to the absence of supervisory mechanisms as well as the limited involvement and capacities of AU's political, technical and judicial bodies.

- The AU's capacity to effectively oversee and monitor the implementation of refugees' and IDPs' rights are limited by the fact that neither the OAU Convention nor the Kampala Convention established a supervisory mechanism in charge of overseeing the implementation of these instruments.²⁰
- Although the AU Assembly created a specialised technical committee on Migration, Refugees, and Internally Displaced Persons in 2009, the latter was not operationalised until 2015,²¹ and limited resources bar it from playing a more significant role.ⁱ
- The main AU judicial organs have, similarly, not played a significant role in ensuring the implementation of refugees' and migrants' rights, as recognised under international and AU instruments. The role of the African Commission, which is the supervisory treaty body under the African Charter, is constrained by the fact that its decisions are often viewed as legally not binding.²² For its part, the African Court has strict access rules for individuals and CSOs which considerably limit its protection role.²³

The AU has also developed non-binding overarching and sectoral migration governance frameworks providing policy guidance to AU member states as well as Regional Economic Communities (RECs). The **Migration Policy Framework for Africa (MPFA)** and the **African Common Position on Migration and Development** were adopted in 2006 and the MPFA revised in 2018. These documents contain guidelines for AU Member States and RECs to develop and implement national and regional migration policies on a number of key areas such as labour migration and education, irregular migration, forced displacement, internal migration and diaspora engagement. The **Ouagadougou Plan of Action to Combat Trafficking in Human Beings**, also adopted in 2006, similarly aimed at assisting Member States to combat human trafficking and develop cooperation and mechanisms to prevent and combat TIP.

However recent evaluations of the MPFA and the Ouagadougou Plan of Action found significant gaps in their implementation at both the regional and national levels. The evaluation of the **MPFA** conducted in 2017²⁴ concluded that, in general, there was a lack of knowledge among Member States and RECs about the MPFA. At the national level, only a few States such as **Ghana, Ethiopia** and **Nigeria**, and at the regional level, only IGAD, had used the framework's guidelines when developing

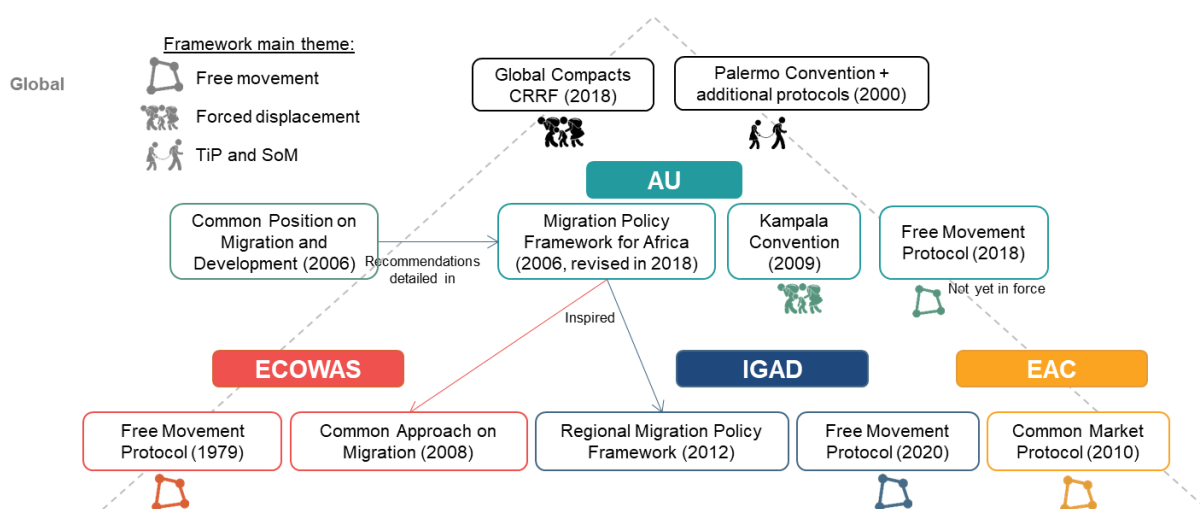
ⁱ There are limited human resources working on migration governance within the AU – reportedly only one person as of August 2020

their national migration policies.^{25,26} Similarly, a 2019 evaluation of the **Ouagadougou Plan of Action** found ‘*glaring gaps*’ in its implementation, including low awareness among Member States and limited implementation.²⁷

The lack of oversight, monitoring and resource mobilisation mechanisms are the main obstacles to the effective implementation of these instruments. The evaluation of the MPFA concluded that it was ‘imperative that the AU formulates a monitoring and evaluation mechanism to track progress’ and encouraged the AU to play ‘an active role’, including by ‘providing a platform where Member States and RECs can share experiences and best practices’.²⁸ In the same vein, the evaluation of the **Ouagadougou Plan of Action** highlighted the lack of measurable results and indicators and the absence of a regional-level framework in charge of oversight and implementation mechanisms as major weaknesses.²⁹

The figure below depicts how, in theory, migration related frameworks interrelate. In practice, however, the lack of coherent ‘vertical’ architecture encompassing international, continental, regional and national levels of migration governance results in an embedded set of rules, binding and non-binding, often overlapping and most of the time lacking implementation and/ or oversight mechanisms.

Figure 4: Selected migration governance frameworks in Africa



2.3. Main regional stakeholders

The involvement of most RECs in migration governance tends to focus on free movement, since they were created with the goal of fostering regional economic integration. IGAD, until recently, was a notable exception – its work on migration governance was mostly related to displacement.

2.3.1. ECOWAS

ECOWAS has one of the most advanced regional free movement regimes in Africa, with the adoption of a **Protocol on Free Movement of Persons, Residence and Establishment** in 1979,³⁰ the implementation of the rights of entry to (1980) and residence in (1986) other ECOWAS Member States for community citizens, the issuance of a uniform ECOWAS passport (2000) in all but one Member State and the development of an ECOWAS biometric ID card (2013) in six Member States. Implementation of ECOWAS free movement frameworks remains unequal across Member States, due to a lack of awareness on the documents needed, limited access of citizens to civil registries (mainly due to costs and lengthy procedures), resulting in low uptake of documents needed to cross borders. Corruption at the borders as well as limited capacities of border officers constitute additional key barriers

(see below, section 3). ECOWAS's initial focus on free movement was complemented by a Common Approach on Migration (2008) with provisions regarding protection, TIP and gender.³¹ Less focus is placed on irregular migration – which is a recent priority (2018) –,³² return and reintegration, SOM,³³ or refugees.³⁴

2.3.2. IGAD

IGAD's focus on migration governance is more recent. The Migration Programme was created in 2006,ⁱ with activities focusing on mixed migration and forced displacement. IGAD was the first REC in Africa to adopt a comprehensive regional migration policy framework (RMPF, 2012). In order to implement the RMPF, the IGAD Secretariat developed the **Migration Action Plan (MAP) 2015-2020**. Following the adoption of the New York Declaration, IGAD has played a growing role in the implementation of the CRRF (see section 6). However, IGAD's regional migration policy frameworks are non-binding, and their implementation left to Member States – with cooperation on migration between Member States taking place through informal networking and dialogue initiatives (Regional Consultative Processes). In addition, all programming on migration within IGAD is donor-funded, thus limiting its ability to act autonomously.³⁵ IGAD's focus on free movement is more recent than ECOWAS, with the FMP only endorsed in February 2020.

2.3.3. Other RECs

Most of the other RECs have drafted or adopted agreements on regional free movement,³⁶ but their involvement in other aspects of migration governance tends to be limited. The Economic Community of Central African States (ECCAS) has a regional migration policy, but it has not been adopted at the ministerial level³⁷ and '*there is little evidence of its implementation*'.³⁸ The East African Community (EAC) focuses on free movement and labour migration, with notable successes. The Common Market for Eastern and Southern Africa (COMESA) is focused on the free movement of goods, but its migration-related work is underdeveloped.³⁹

2.4. Cross-continental stakeholders and processes

2.4.1. Africa – EU

At the 2015 Valetta Summit, African and European heads of state adopted a political declaration and a set of operational measures, contained in the Joint Valetta Action Plan (JVAP) to more effectively tackle jointly migration-related issues. The JVAP covers five main areas of intervention: 1) development benefits of migration and addressing root causes of irregular migration and forced displacement; 2) legal migration and mobility, 3) protection and asylum, 4) prevention of and fight against irregular migration, migrant smuggling and trafficking in human beings; and 5) return, readmission and reintegration.

The Africa-EU Migration and Mobility Dialogue (MMD), which is supported by ICMPD, comprises of three dialogues (the Rabat Process, the Khartoum Process and the Continental Dialogue), which are regional political processes entailing regular cross-continental meetings. While the Khartoum Process focuses on issues of smuggling of migrants and trafficking of persons (though according to some, it has recently managed to balance successfully away from these priorities),⁴⁰ the Rabat Process seems to give more attention to the topic of legal migration. Both the Rabat and Khartoum Processes were identified as key mechanisms to monitor the implementation of the JVAP (see below, section 4.2.1.1).

ⁱ IGAD was initially not focused on migration. The REC was created in 1996 to supersede the Intergovernmental Authority on Drought and Development (IGADD), focused on droughts and humanitarian issues, and the three priority areas of its mandate did not include migration.

The AU-EU Continent-to-Continent Migration and Mobility Dialogue (C2CMMD), which is also supported by ICMPD, complements the other dialogues. It aims to provide a platform for consultation, coordination, and information exchange.⁴¹ A Study on Return, Readmission and Reintegration Programmes in Africa conducted within the framework of the C2CMMD was officially launched in June 2021.⁴² Later the same year, the European Commission and the AU's African Institute of Remittances (AIR) organised a webinar on remittance costs, bringing together regulators, policy makers, banks, diasporas, international organisations as well as private sector actors with an interest in the remittance industry.⁴³

The EU has also concluded bilateral partnerships with some African States including mobility partnerships, **Common Agendas for Migration and Mobility (CAMM)** and the **Migration Partnership Framework (MPF)** launched in 2016 with **Nigeria, Mali, Niger, Senegal and Ethiopia**.

2.4.2. Africa – Middle East

A number of African countries have signed bilateral labour agreements with Middle Eastern countries, a process which has been described by some stakeholders as unbalanced because African States are faced with 'take it or leave it' position from the Gulf States.⁴⁴

2.5. National level

Overall, the 21 countries covered by this study already have, and in some cases have had for several decades, national legislation related to specific migratory flows (e.g. refugees, trafficked persons, etc.); issues tend to be related to the implementation of these laws, as will be detailed in the thematic sections of this report.

The coming sub-section will deal with more recent national developments in migration governance: the drafting of 'overarching' *national migration policies* and the setup of similarly overarching coordination structures, both meant to deal with all types of migratory flows as opposed to focusing on specific flows.

2.5.1. National migration policies / strategies

Overarching national migration policies have been drafted or adopted by most of the 21 countries covered by this study, notably allowing them to articulate a holistic vision of issues related to migration. Out of the 21 countries covered by the study, 16 have formally adopted or are developing / in the process of adopting national migration policies (see Table 3 further below), almost all over the past 10 years and most with technical support from IOM and/or GIZ and either EU or German funding. These policies have reportedly facilitated the development of a vision and overall positioning of African governments on migration, which is key, notably within contexts of negotiation with European governments.

Gender in national migration policies

Almost two thirds of countries in East and West Africa reported to the UN that they had formal mechanisms to ensure that their migration policy was gender responsive,⁴⁵ although it is unclear what they may have understood by 'formal mechanisms'. This study finds that around half of the national migration policies reviewed for this case study have a section including strategies and objectives on '*migration and gender*', although the strategies suggested remain quite vague. Most policies highlight that migration can be empowering for women, but that they also tend to be more vulnerable, notably to trafficking networks. Some national migration policies (for example that of Nigeria) tend to focus on the negative aspects only.⁴⁶ This ignores the fact that the literature has found that, despite some vulnerabilities associated with gender, migration tends to be largely beneficial to women.⁴⁷

The development of the policies/strategies may also have encouraged less concentration of migration-related decision-making power into the hands of one ‘traditional’ actor, typically the Ministry of Interior. By adopting a ‘whole-of-government’ approach and involving several relevant Ministries into the drafting process,ⁱ national migration policies may have contributed to a wider, more societal approach on migration.

These documents’ main limitation is that they are non-binding – they are not laws.

The way the national migration policies were envisioned and drafted is associated with several other limitations that can affect the extent to which they will be implemented:

- **National migration policies/strategies are usually very vague and not directly implementable; in this regard, a plan of action with estimated resources associated to each activity is crucial to guide implementation, but some of the policies reviewed for this case study lack one** (3 out of 7, see Table 3 below). Even when an action plan exists, activities typically remain vague, and multiple government actors are sometimes mentioned as being responsible for each activity, diluting ownership. The lack of an action plan can also make it difficult for donors to contribute to the policy/strategy. And even when the action plan associates each activity to the resources that would be needed, this budget is often not realistic and/or there are expectations that donors will fund the bulk of the activities.ⁱⁱ
- **Some policies are reported to have been influenced by donors and in a number of countries, these policies were drafted by external consultants** hired by international organisations, rather than government staff, and sometimes with a lack of contextual knowledge.^{iv} This is understandable in contexts where capacities may be lacking, but it could lead to an ownership deficit on the side of governments, especially in cases where the policies are viewed by some as being aligned with EU interests.⁴⁹ In several countries, there were allegations of donors pushing for specific content to be included in the policies⁵⁰ or for excluding from the drafting process CSOs with views not aligned with theirs.⁵¹ The national migration policy of Niger is viewed by some as being particularly influenced by European priorities/interests,⁵² as is Mauritania’s.^v By contrast other countries appear to have remained more in charge of defining the content of these policies (e.g. Burkina Faso, which did not receive any significant external support to draft its national strategy on migration).
- **The drafting processes of these national migration policies/strategies have remained relatively disconnected from other high-level overall development policies or sectoral policies in the countries.** A 2018 study found that only 37% of African States reported to have mainstreamed migration in their national development plans, for example.^{53,vi} The issue is that, as recognised by a recent AU report, ‘*while it is laudable for Member States to adopt migration policies, stand-alone migration policies have limited impact and are not sustainable*’.⁵⁴ Important exceptions to the observation that national migration policies are relatively disconnected from national development plans include Uganda and Somalia.⁵⁵ In **Uganda**, which is usually considered a ‘good example’ of migration governance in

Mainstreaming migration into development policies

The ‘Mainstreaming Migration into National Development Strategies’ project, implemented by IOM and funded by Switzerland (2011-2018), reportedly successfully supported the mainstreaming of migration into 10+ national laws and policies⁴⁸, although no country covered by this study was involved in the project.ⁱⁱⁱ

ⁱ One key exception includes Ministries of Environment, as detailed in section 7.2.3.

ⁱⁱ See for example the action plan for Niger which amounts to EUR 400M.

ⁱⁱⁱ The countries covered were Bangladesh, Jamaica, Kyrgyzstan, Morocco, the Republic of Moldova, Serbia and Tunisia.

^{iv} This was the case notably in Guinea, Nigeria, South Sudan and Ghana.

^v Mauritania’s national migration strategy dedicates two full pages to the ‘migration policy of the EU’ and refers to EU Member States as solely ‘Member States’, as if the policy was drafted for/by the EU.

^{vi} This was also the conclusion of an ILO study in IGAD region: ‘*One of our main findings from the research is that despite the advances in constructing overarching frameworks for migration (...) Member States are not mainstreaming labour migration in development planning*’.

particular when it comes to the issue of refugees,⁵⁶ there is no overarching migration policy, but migration is mainstreamed into national and local development plans. In other parts of the world, such as Europe for example, countries also frequently do not have overarching migration policies or strategies and do not plan to develop them.

Partly as a result of the above, implementation of the national migration policies/strategies in the 21 studied countries has been limited so far. Most of the policies have been developed over the past five years, and it may be too soon to assess the extent of their implementation. However, it can already be noted that few of the policies have accompanying monitoring mechanisms, so the extent to which they are implemented would be difficult to assess. The 'oldest' national migration policies include:

- **Mauritania**, which has had a national migration strategy since 2010. The strategy was drafted with EU support but apart from the components on border management, **few of its provisions were implemented** notably because of the lack of ownership (itself partially due to the limited involvement of the government in the drafting process) and budgeting for the policy.⁵⁷
- **Mali** has had a national migration policy since 2014. It is one of the few (if not the only) national migration policies whose implementation was evaluated. The evaluation found that out of the FCFA 120B (around EUR 180M) required for the implementation of the policy, only around FCFA 5B (around EUR 8M) had been funded by the Malian government. In this case, however, donors significantly contributed to filling in the financial gaps, and the evaluation assessed that three-quarters of the activities were funded. The evaluation also found that only 55% of stakeholders interviewedⁱ thought that the policy was relevant, 40% thought that its implementation had been effective and less than a third thought that in the future, the policy can be implemented without the support from donors.⁵⁸
- **Nigeria** has had a national migration policy since 2015, drafted with **EU/IOM support**. Only a few of the activities listed in the policy were/are implemented, mostly in the areas of TIP and SOM, border management, return and reintegration; and most of these activities were funded by donors, notably the EU.

Recommendation

When supporting the drafting of new national migration policies/strategies, it will be important to provide sufficient budget to ensure that the process also includes the following:

- An action plan with detailed activities, each of which associated with 1. specific government structures responsible for the implementation (not too many for each activity, lest accountability be diminished); 2. a realistic budget that the government (or donors) is willing to commit to and 3. SMARTⁱⁱ indicators to measure success;
- A specific government structure tasked with the monitoring of the implementation of the action plan.

Other limitations associated with the national migration policies/strategies include the following:

- **By including 'root causes of migration' in their scope, national migration policies and strategies may exacerbate existing inequalities within the country.** Most policies mention the need to address the 'root causes' of migration, usually identified as poverty (even though research has shown that for poor countries, migration tends to *increase*, not decrease, with development). For example, **Niger's** national migration policy has an action plan budgeted at around EUR 400M, and it includes at least EUR 130M related to activities whose links with migration is tenuous, if not non-existent (e.g. '*implement projects on the transformation of agricultural products*'). International migrants are usually not the poorest and neither do they come from the neediest areas of their countries (the opposite is actually frequently observed)⁵⁹ and focusing overall development

ⁱ Stakeholders interviewed included stakeholders from the government as well as from NGOs and CSOs.

ⁱⁱ SMART stands for Specific, Measurable, Achievable, Relevant and Time-bound.

programming on these populations and their areas of origin can exacerbate existing inequalities in the country.

- **On the other hand, some policies / strategies adopted a rather restrictive definition of migration**, for example excluding internal migration (e.g. Mali), or nomadic pastoralism (e.g. Nigeria, Mauritania). This can be an issue notably if governments do not have equivalent policies for the ‘neglected’ thematic areas – which are already typically the migration-related thematic areas that are given the least attention –, and/or if donors align their funding on migration with the national migration policies/strategies, without funding actions for the ‘missing’ thematic areas.

Use of migration data for policy making

In all countries, stakeholders reported that migration-related data that would be crucial for sound policy-making was missing. Data is sometimes already being collected (e.g. by Ministries of Interior on entries/exits and work permits, by censuses on foreigners present in the country, by the IOM Displacement Tracking Matrix on mixed flows),⁶⁰ but willingness to share this data and capacities to analyse it are frequently lacking.

To fill in this gap, the Global Compact for Migration encourages States to ‘develop and use country-specific migration profiles in order to develop evidence-based migration policies.’ In West Africa, the EU supported this effort through the **FMM programme** (see right). The process of drafting a migration profile can be the opportunity for the coordinating agency on migration, or the statistical agency, to learn about the data collected by the different Ministries / agencies, and to initiate the process of more systematically sharing this data. However, most migration profiles developed with FMM funding were drafted by external consultants (as opposed to government staff), potentially limiting this positive impact.

FMM programme

The ‘Support to Free Movement of Persons and Migration in West Africa’ (FMM West Africa) programme was a EUR 26M programme funded by the EU between 2014 and 2020. One of its innovative components was a demand-driven facility, which delivered 11 technical assistance projects benefiting governments in West African countries, including on migration data. The originality is that governments themselves submitted specific requests for technical assistance, which increased the ownership of the assistance provided.

There are also frequent calls for implementing migration-specific surveys, although a more sustainable approach could be to include migration-related questions/modules into surveys that are already conducted on an ongoing basis and budgeted by governments (e.g. censuses, labour force surveys, etc.).

Table 3: Overarching migration governance architecture in the countries covered by the study

	Country	Has a national migration policy...	with an action plan	with a planned budget associated with each activity	Has an overarching coordination group on migration
HoA	Djibouti	✓	✓	✓	✓
	Eritrea	x			✓
	Ethiopia	-> (draft)			✓
	Kenya	-> (draft)			✓
	Somalia	Has a policy on IDPs and returned refugees			✓
	South Sudan	-> (draft)			✓
	Sudan	-> (process initiated)			-> (planned)

	Tanzania	x			x
	Uganda	-> (draft)			✓
SLC	Burkina Faso	✓	✓	✓	x
	Cameroon	x			x
	Chad	x			-> (planned)
	Cote d'Ivoire	-> (process initiated)			x
	Ghana	✓	✓	x	x
	Guinea	✓	✓	x	✓
	Mali	✓	✓	✓	✓
	Mauritania	✓	✓	✓	x
	Niger	✓	✓	✓	✓
	Nigeria	✓	✓	x	✓
	Senegal	-> (draft)	x		x
	The Gambia	✓	x		✓

2.5.2. Coordination bodies on migration

Around half of the 21 countries covered by the study have some type of national coordination mechanisms on migration, as illustrated in Table 3 above. This is in line with the second 'principle' of IOM's 'Migration Governance Framework', which emphasises that 'good migration governance [...] relies on whole-of-government approaches, *whereby all ministries with responsibilities touching on the movement of people* are implicated' (emphasis is ours). Almost all coordination structures were created after 2015; some of them are headed by an existing governmental body (e.g. the structure in charge of refugees and returnees in Nigeria, the structure in charge of the diaspora in Mali) or entirely new bodies have been created (e.g. in Uganda, Djibouti or Kenya). Almost all these coordination structures were created with the support of external actors (e.g. **BMM programme** in East Africa) and most remain dependent upon donor support to function.

While these structures are too recent to draw definite conclusions on their effectiveness, it is possible that overarching structures touching upon all migration-related issues are not the most effective instruments to effect change. Indeed, 'migration as a whole' may be too broad of a topic to ensure effective coordination on topics as diverse as the diaspora, border management and internal displacement, among others. It is likely to be difficult to find synergies across this wide range of activities. Narrower groups would encourage more focused discussions among actors who share similar activities and/or end beneficiaries. But so far, only Nigeria and The Gambia have set up thematic groups on specific aspects of migration in addition to having an overarching coordination group (Guinea plans to do the same). If specific thematic groups are to be created, they should however be designed with the goal to address the main migration flows in the country (and therefore ensure to include the 'right' interlocutors), as opposed to be based on the existing organisational structure of the government, as illustrated in the box below.

Limits of the migration governance architecture in Nigeria

Nigeria has one of the (if not the) most advanced migration governance architectures of the 21 countries covered by this study. This includes, in addition to an 'overarching' coordination group on migration, five sub-thematic working groups, as illustrated below. However, there are few results so far, even for the most active group (reported to be the one on migration data). The lack of results may be partly due to the fact that groups tend to align with the mandates of their lead agencies rather than being truly cross-cutting, which undermines effective coordination. For example, the diaspora is mostly comprised

of labour migrants. Yet, there are two separate groups – one on labour migration and one on diaspora – probably to align with the mandates of the two agencies involved: labour migration is considered to be the purview of the Ministry of Labour, and the diaspora the purview of the pre-existing diaspora commission. Since the two agencies lead two different groups, they are not encouraged to coordinate on the issue of diaspora workers. In another example, one group covers both forced displacement and AVRR, as they both fall under the mandate of the pre-existing National Commission for Refugees, Migrants and IDPs, despite the fact that the two topics involve different actors, challenges, and *in fine* discussions.



Non-governmental actors tend not to be significantly engaged in coordination bodies on migration. Although over 90% of countries in East and West Africa reported to the United Nations (UN) that they had formal mechanisms to engage civil society and the private sector in the formulation and implementation of migration policy,⁶¹ it is unclear what they consider to be ‘formal mechanisms’. Interviews conducted for the country reports actually suggest that although civil society actors usually report being consulted for the development of national migration policies/strategies,ⁱ they are absent from the coordination mechanisms mentioned above in at least half of the countries where such a mechanism exists.ⁱⁱ The private sector tends to be involved to an even smaller extent, except in **Kenya** where the national coordination mechanism includes some of its representatives. Greater participation from civil society and the private sector actors would bring benefits but will have to be managed carefully. Coordination is already difficult between government actors, and additional actors may further complicate coordination.

Coordination groups on migration do not appear to be used as platforms for improved coordination between international actors, which is sometimes lacking. Interviews highlighted several instances of projects that supported the same governance frameworks or structures and did not coordinate with – and sometimes where not even aware of – each other. This was the case for example in the fields of return and reintegration or, in some countries, trafficking in persons. Sub-thematic working groups on migration could provide a platform to discuss potential overlaps and synergies in the external (governance) support provided. In this regard, another good practice was observed in Mali: within each ministry, one person is in charge of coordinating external partners and mapping the support provided by each.

2.6. Local level

Local migration governance systems are very limited. Decentralisation processes across the countries covered by the study are often relatively new. Even if decentralisation strategies are in place, they are often not accompanied by effective transfers of resources. Meanwhile, with a few exceptions (detailed below), donors tend to strengthen national governance structures as opposed to municipal/local ones.⁶² For example in **Uganda**, the Kampala municipal authority

Mainstreaming migration into local development plans

Between 2018 and 2020, IOM implemented the project ‘Integrating migration into national development plans’ in Ghana and Ethiopia.ⁱⁱⁱ In Ghana, the project included a local component: a toolkit on how to include migration considerations in district level development plan was drafted, and

ⁱ With some exceptions; for example, in Mauritania civil society’s recommendations were reportedly not included in the process of revision of the national migration strategy.

ⁱⁱ Exceptions include Uganda, Kenya and Niger.

ⁱⁱⁱ It was funded by the United Nations Department of Economic and Social Affairs.

is increasingly becoming involved in the refugee response, but the Local Government Act has no mention of local governments' roles in this response,⁶³ and the municipal authorities lack the national or international funding required to, for example, establish municipal integration offices.⁶⁴

trainings were conducted in six districts. Feedback on the project was reportedly very positive, and other districts subsequently asked IOM to review their plans.⁶⁵

National structures tend to coordinate insufficiently with local ones, and the latter seem insufficiently aware of key national level frameworks, at least in some countries. National migration policies rarely mention the role of local governments, and local government representatives do not participate in the national coordination mechanisms mentioned in the previous section.⁶⁶ Interviews conducted for this study in **Mali** highlighted that the country's national migration policy, which is one of the oldest such policies (2014), was not well, if at all, known at the local level. Maybe most importantly, this lack of awareness on the part of local actors was also noted for thematic (binding) frameworks, for example laws on refugees or trafficked persons (see relevant thematic sections of this report).

Promising local migration governance initiatives do exist, but most appear to be donor-funded and their sustainability is uncertain. In **Niger**, the **EUTF-funded ProGEM programme** supported the setup of local migration observatories in charge of selecting local development initiatives in areas affected by mixed migration flows. In **Mali**, a local coordination structure on 'migration and development'ⁱ initially supported by **UNDP** is very active in the Kayes region, but although the structure is officially part of the local government, its day-to-day activities are actually managed by an international NGO.

Recommendations

At continental level:

- Technical and financial support to the AU bodies dedicated to migration governance, such as the specialised technical committee on Migration, Refugees, and Internally Displaced Persons, could be considered.
- Similar support to the African Commission, particularly to the Special Rapporteur on Refugees, Asylum Seekers, IDPs and Migrants could be considered.
- The AU could benefit from assistance in developing oversight mechanisms and awareness raising activities among Member States and RECs to support the dissemination and implementation of non-binding migration governance instruments.

At national and local levels:

- Whenever capacities exist, national migration policies would benefit from being drafted by government staff (if need be in coordination with or with the support of external experts).
- Any drafting or development of policies or strategies should set aside resources for the drafting of detailed, realistic action plans and for their monitoring.
- Similarly, in the future, national migration profiles would benefit from being drafted or updated by or in close coordination with the coordination agency on migration, when it exists, or the national institute of statistics. Where capacities are absent, this could be complemented by trainings, technical assistance and other support as needed. This way, the process would not only lead to the production/update of a document (the profile) but would also contribute to building national capacities, initiating data sharing on migration and potentially using this data for policy making.
- Building on the '**Integrating migration into national development plans**' project, technical assistance could be offered to States to help them mainstream migration into national and local development plans (as well as sectoral policies), as opposed to (or in addition to) focusing

ⁱ 'L'espace migration et développement en région de Kayes'.

resources on migration-specific policies which tend to benefit from less ownership at the highest levels.

- Beyond overarching coordination groups on migration, specific groups focusing on specific migration-related thematic areas appear to be a promising practice. To ensure effectiveness, these groups could be set up to be truly cross-cutting (and not aligned with specific Ministries/agencies' mandates). In specific thematic groups, the participation of relevant actors (e.g. protection NGOs, employers' organisations) could be encouraged, based on need. For example, NGOs with records in advocacy work could be involved in groups dealing with protection, diaspora CSOs could be involved in coordination groups on the diaspora, and employers' organisations could be involved in groups dealing with labour migration, return and reintegration and refugees as needed.

At the local level:

- The type and intensity of support to be provided at the local level will likely depend upon the overall governance architecture (decentralised or not) of the country in question. In countries with decentralised governance structures, donors could consider strengthening local migration governance structures, for example by supporting the inclusion of migration-related considerations into local development plan.
- Donors could contribute to raise awareness of existing migration-related national frameworks (e.g. laws on refugees, trafficking in persons, etc.) at the local level.

¹ Altai Consulting, 'Learning Lessons from the EUTF - Phase 2' (2021). Accessed [here](#).

² Altai Consulting, 'Learning Lessons from the EUTF - Phase 2' (2021). Accessed [here](#).

³ UNHCR Refugee Statistics for 2021. Accessed [here](#).

⁴ Data on IDPs is for December 2020: IDMC, Global Internal Displacement Database. Accessed [here](#).

⁵ UNHCR Mediterranean Arrivals portal. Accessed [here](#) in December 2021.

⁶ IOM Regional Office for the East and Horn of Africa, 'A Region on the Move: Mid-year Mobility Overview January to June 2021' (2021). Accessed [here](#)

⁷ UNODC, 'Global Report on Trafficking in Persons 2021' (2021). Accessed [here](#).

⁸ Interviews conducted with several staff from the national anti-trafficking agency.

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⁶⁶ Interviews with key informants in countries that have national coordination mechanisms on migration.

3. Regular cross-border mobility

Key findings:

- Overall, ECOWAS remains the most advanced REC when it comes to promoting and regulating regional cross-border mobility, with the EAC displaying significant but more selective advancements (both in terms of countries and persons eligible to free movement).
- However, in all RECs, frameworks promoting regular migration face major obstacles to their implementation. If these obstacles (notably the lack of identity documents and the prevalence of corruption and of the informal sector) are not tackled more forcefully, supporting regional mobility frameworks may be inefficient.
- Frameworks aimed at facilitating extra-regional migration are mostly lacking, except for a recent focus on bilateral agreements with Middle Eastern countries. However, these agreements are rarely accompanied by the resources necessary to monitor their implementation.
- Mobility to Europe is limited not so much by the lack of governance frameworks as by EU countries' restrictive visa policies. There have been calls to support frameworks regulating and promoting circular migration, which could be more palatable to European governments, but existing frameworks have had mixed results.

This section will detail the existence and level of implementation of frameworks regulating cross-border mobility 1. within the main RECs to which the 21 countries covered by the study belong (ECOWAS, IGAD, EAC and ECCAS), and 2. outside of these RECs – namely with other African countries (e.g., at African Union level, or with North and South Africa), Middle Eastern countries, and Europe in particular. **It should be kept in mind that the implementation of these frameworks meets specific challenges, and if they are not addressed, supporting mobility frameworks may be inefficient or even counter-productive:**

- **Lack of identity documents (ID) coverage.** In sub-Saharan Africa, 45% of people are estimated not to have any ID, and in some countries the gender gap is above 20 percentage points.² Since most mobility frameworks require the possession of an ID, supporting the development of frameworks without ensuring that all populations have equal access to IDs may actually prevent mobility or at least distort access to mobility.
- **Corruption.** Without tackling corruption, installing or rehabilitating border posts (which are an essential part of the implementation of free movement frameworks) may only create new opportunities for rent-seeking, without significantly improving the management of cross-border mobility.
- **Prevalence of the informal sector.** 92% of the employment in sub-Saharan Africa excluding southern Africa is informal,³ and most regulations touching upon labour migration can only affect the formal sector. This is especially relevant for women, who represent a large percentage of domestic workers, many of whom work in the informal sector.
- **Protectionist and security-oriented attitudes of many countries.** While countries are generally favourable to their citizens leaving the country for employment (see box below), they are usually more hesitant about having foreigners coming to work in their countries, especially low-skilled ones who compete with the local labour force. Given the obstacles mentioned previously, regular cross-

ID4D

The World Bank ID4D (ID for development) initiative has played a key role in increasing the coverage of IDs in Africa, including through the development of normative tools. As part of the initiative, the World Bank recently started a large programme in West Africa (USD 180 million).¹

border mobility may therefore be more dependent upon States' accepting or protecting attitudes towards migrants than upon the ratification of a given formal framework. In addition, governments tend to see border areas with a security lens, which further impedes cross-border mobility.

Differing focuses on labour emigration

The interest of governments in promoting employment for their citizens abroad is usually quite high, but it varies across countries. It is the highest probably in Uganda with its 'labour externalisation' policy.⁴

- **Lack of clarity on which sectors actually provide opportunities for growth through labour migration.** If labour markets are similar across neighbouring countries, labour mobility will not necessarily lead to much growth.⁵ Labour market information systems (LMIS) are supposed to solve this challenge by identifying gaps in the local labour market that migrants could fill. But so far, no country covered by this study has managed to implement such a system and use it to promote 'growth-inducing' labour migration.ⁱ The most advanced LMIS is reported to be in Kenya⁶ but it does not seem to identify specific gaps, nor to be targeted at (potential) migrants.ⁱⁱ
- **Limited infrastructure in areas of destination.** Destination countries' (and especially cities') capacities can be insufficient to absorb increased immigration flows, which limits migrants' access to basic services and the benefits of regional migration.

3.1. Intra-regional governance of mobility

Table 4: Colour code – State of implementation of RECs' protocols on free movement, right of residence and of establishment, and cross-border pastoralism

Protocol exists and overall is implemented	Protocol exists but is only partially implemented	Protocol exists but overall is not implemented	Protocol does not exist / was not formally approved yet
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Table 5: State of implementation of RECs' protocols on free movement, right of residence and of establishment, and cross-border pastoralism

	Right of entry	Right of residence and establishment	Recognition of degrees and qualifications	Cross-border pastoralism
	1979 Protocol; advanced implementation	1986 and 1990 Protocols; partial implementation	2003 Protocol; limited implement.	1998 Protocol; varied implementation
ECOWAS	All countries theoretically allow for free entry and ECOWAS ranks best in the free movement aspect of the <i>Africa Regional Integration Index</i> , ⁷ with the following major obstacles:	- No exception for ECOWAS citizens for residence and work permits , which require several documents ^{iv} and must be renewed on an annual basis; - Protective labour laws: non-nationals excluded from certain sectors (e.g. in	Despite the adoption of a Convention in 2003, limited to no progress has been made. ¹¹ The harmonisation of curricula seems to be limited to health professionals.	- Rejection of the Protocol by coastal states (e.g. Nigeria deems it outdated, Côte d'Ivoire requires herders to cross only by day) - Insufficient infrastructure , notably

ⁱ It is not clear whether all developed countries manage to use their LMIS for migration policy-making purposes. One positive example in this regard is Austria: every year, it publishes a 'shortage occupations list' at both national and regional level, and makes specific work visas available based on this list.

ⁱⁱ For example, there are jobs listed for public positions but Kenya's immigration laws do not support foreigners to work in public service.

^{iv} In some cases, to obtain a residence permit applicants must provide a medical certificate and an extract from the police register and pay fees.

	<ul style="list-style-type: none"> - Exceptions granted by the protocol;ⁱ - Free entry requires the possession of a biometric ID card, but only few countries have rolled it out and the provision of electricity at the border (to read the IDs) is erratic; - Lack of awareness on rights and the existence of the protocol;⁸ - Corruption at border posts. 	Ghana, Mali), ⁹ quotas on foreign workers that can be employed (or not) and/or taxes (e.g. in The Gambia); ¹⁰		<ul style="list-style-type: none"> - No social security portability across States. 	<ul style="list-style-type: none"> - transhumance corridors and border posts;ⁱⁱⁱ - Not all States have accessible institutions delivering the international transhumance certificate, and some herders are unaware of it.
	2010 Protocol; varied implementation	2010 Protocol; varied implementation	Advanced implementation	No high-level framework	
EAC	<p>Only specific countries have abolished visas for other EAC countries, and national IDs remain costly.</p> <p>Following the East African Community One Stop Border Post Act (2016) several entry and exit points in Kenya have been converted into One Stop Border Posts.¹² They have reportedly drastically improved entry time.</p>	<p>On paper the EAC is the only REC that applies the right of residence and establishment; but the protocol only plans for highly skilled persons to benefit from it.</p> <ul style="list-style-type: none"> - Only Kenya and Uganda have reciprocally waived work permit fees; - Several countries have strict national preference for employment; - There is no social security portability. 	The Inter University Council for East Africa agreed on several minimum academic standards for some programmes ¹³ and mutual recognition agreements have been signed for specific categories of professionals. ¹⁴ But ' <i>they are not functioning properly (...) due to lack of trust.</i> ' ¹⁵		
	1983 Protocol; varied implementation	1983 Protocol; limited implementation	2006 Directive; advanced implement.	1994 Decision; ^v partial implementation	
ECCAS/CEMAC ^{iv}	ECCAS has a protocol since 1983 but only four Member States out of 11, those from CEMAC, have lifted visa requirements for other ECCAS citizens. ¹⁶ However, a passport is required, and, for example for Chad, a passport costs the	In Chad, for example, there is a 2% limit on foreigners' employment, and the granting of a work permit is theoretically dependent upon no Chadian having the skills required for the position.	The ' <i>directive portant organisation des études universitaires dans l'espace CEMAC</i> ' is reportedly fully implemented at least in Cameroon. No information is	The decision provides for free movement of herds within the CEMAC area but is insufficiently known and faces issues related to the lack of required documents (international transhumance	

ⁱ The Protocol permits Member States to refuse admission to any citizen identified as an 'inadmissible immigrant' and States have included in this category mentally ill people, 'destitute' persons, or people without the means to support themselves. It is unclear however in practice to what extent these provisions are implemented.

ⁱⁱⁱ Transhumance corridors have been set up, at least in Sahel countries, but they often lack the required infrastructure (e.g. grazing areas, water supply); and border posts, through which herds are meant to pass, are too few: in Côte d'Ivoire, only 12 entry points on the territory and 35 km of transhumance corridors have been set up in the North of the country. In Mali, only 13 border posts are operational (out of 7,500 km of border).

^{iv} Although only the ECCAS is recognised as a REC, ECCAS and CEMAC have started a unification process. Each organisation will take the lead in the thematic areas on which it is most advanced – CEMAC for mobility of persons.

^v From the '*Commission Economique du Bétail, de la Viande et des Ressources Halieutiques*', of whom all CEMAC states are members.

	equivalent of one month's salary.		available for other countries.	certificate in particular) and corruption .
	Protocol approved in 2021; not yet ratified	Protocol approved in 2021; not yet ratified	No high-level framework	Protocol approved in 2021; not yet ratified
IGAD	With EUTF support the IGAD Protocol on Free Movement of Persons was approved but it has yet to be signed by the Council of Ministers of Foreign Affairs and then ratified by individual countries when relevant.	The Protocol on Free Movement of Persons plans for the progressive adoption of the right of residence and establishment. The current situation is unfavourable: - national preference for jobs in many countries; ¹⁷ - significant costs associated with residence and work permits ; - Djibouti is the only IGAD Member State that has a mechanism in place for the portability of social security benefits. ¹⁸ More generally, it is one of the most progressive states when it comes to integration of migrants. ⁱ	IGAD has expressed interest to develop a regional qualification framework .	- The IGAD Protocol on Transhumance, adopted in 2021 with EUTF support , envisages a cluster-based mobility , in contrast with ECOWAS. It is however deemed to insufficiently consider customary practices. ¹⁹ - National policies sometimes have well-articulated strategies for the pastoral communities, but usually do not mention cross border pastoralism , despite its prevalence. ²⁰

Recommendations

1. Support the implementation of existing REC frameworks:

a. On free movement:

- **Corruption** and harassment could be addressed through: the provision of visual leaflets made available at border posts and describing the protocols' requirements; support for a hotline on abuse; NGO/CSO staff placed at priority border posts; and the presence of female border officials.
- **Support to ID coverage** can be offered through collaboration with the World Bank (**ID4D initiative**). The required documents should ideally be adapted to literacy levels and local norms.ⁱⁱ
- **Awareness-raising** regarding the protocols and their provisions should be provided. Ideally, such activities should not be mixed with awareness raising campaigns on the risks of irregular migration (as several donor-funded programmes have done so far), lest the campaign loses credibility.
- Governments could also be encouraged to take a more holistic views of border areas, beyond the security lens usually adopted for policy-making.

b. On the rights of residence and of establishment:

Donors could support the **progressive shift to formality in the labour market** (not necessarily as part of migration governance programming) since most provisions of protocols on labour migration and ILO Conventions can only regulate the formal sector. Exceptions include for example labour

ⁱ When it comes to access to health for example, more than 40 per cent of patients in the national health care system are estimated to be migrants. The system was supported notably by the **EUTF**. See ILO, 'An assessment of labour migration and mobility governance in the IGAD region' (2020)

ⁱⁱ For example, most transhumance protocols require nomadic pastoralists to have documentation with the number of animals, but for some pastoralists saying how many animals you have is reported to bring bad luck. Source : World Bank, accessed [here](#).

inspections, which also occur in the informal sector. In this regard, donors could capacitate labour ministries to increase the number and coverage of the inspections, making sure that sectors which employ migrant workers are regularly inspected, and to implement sanctions when relevant. Another mechanism accessible to (migrant) workers in the informal sector are watchdog bodies such as human rights commissions (when they exist), which could also be further supported by donors in their role.

c. On the ECOWAS transhumance protocol:

Donors could support ECOWAS to organise regional consultations to assess whether actual implementation of the protocol is realistic. If yes, donors could support improved frameworks (e.g. alignment of the transhumance corridors and calendars across countries, increased quotas for animals, strengthening of national transhumance committees)²¹ and implementation (through equipment of transhumance corridors and border posts). If no, donors could support the process of revising the protocol.

d. For all RECs protocols in place:

Donors can support **monitoring mechanisms**, in line with the one that was designed as part of the **FMM programme** in the ECOWAS region for example.ⁱ

2. Support the ratification process of ILO Conventions.

Key ILO Conventions regarding the protection of immigrant workersⁱⁱ have been signed only by a minority of the countries covered by the study, but a few government stakeholders have expressed interest in being supported to ratify some of them. Although the implementation of the Conventions' provisions can be long-term process, an advantage of such ratifications is that ILO then conducts regular assessments for every state party, which can encourage compliance and help States focus on the main gaps identified.

3. Support the next phase of the IGAD protocols:

- Building on the adoption of the IGAD protocols (supported by **the EUTF**), IGAD and its Member States would now benefit from being supported in the ratification process, and most importantly, in the implementation of the protocols. To do so, donors could provide funding for more staff to be recruited in IGAD migration team and then placed in each Member State. This would support national-level ratification and implementation. In this process, it will be essential that national EU delegations are engaged as well (as opposed to mostly the Djibouti delegation).²²
- *On the IGAD transhumance protocol specifically*, donors could support States to develop legislation in line with the IGAD protocol, for example by providing technical assistance to IGAD to develop a model transhumance regulation as well as guidelines to facilitate the incorporation of customary law in these national regulations.^{iii,23}

3.2. Bilateral mobility frameworks between neighbouring countries

Bilateral frameworks may sometimes be more efficient than regional ones. When specific flows are significant between two countries, *bilateral* agreements, or memoranda of understanding (MoUs) could be more relevant. So far several have been signed, notably regarding cross-border transhumance

ⁱ This mechanism, coordinated by the ECOWAS Free Movement Division, will rely on a regular assessment by states on their level of implementation of different aspects of the ECOWAS protocols. The self-assessment aspect is likely to encourage ownership.

ⁱⁱ Notably ILO Migration for Employment Convention (Revised), 1949 (No. 97), ILO Migrant Workers (Supplementary Provisions) Convention, 1975 (No. 143), ILO Private Employment Agencies Convention, 1997 (No. 181), International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families.

ⁱⁱⁱ Considering that certain customary practices must be prohibited, particularly discrimination against the rights of women.

flows.ⁱ An intermediate approach has been the principle of ‘variable geometry’ within RECs, implemented for example within the EAC, which allows for specific countries to progress faster than others (as opposed to requiring all members of the RECs to agree on regulations before they can be applied, as is traditionally the case).ⁱⁱ

Local customary practices can also contribute to promote cross-border mobility. For example, in some areas of **South Sudan**, young men are allowed by local elders to cross the border to Sudan on a seasonal basis to look for work – meanwhile, elder men would be required to justify the reason of their trip, as they would not be automatically considered labour migrants. A drawback of relying on local customary practices may be the risks of discrimination, notably against women. In the case of South Sudan for example, traditional authorities and the local administration have reportedly been preventing women from migrating.

Recommendations

In addition to supporting frameworks associated with RECs, donors could, where relevant, **support ‘lower-level’ governance systems regulating cross-border mobility:**

- Consider advocating for the principle of variable geometry (based on the EAC model), and while regional frameworks are being strengthened, do not miss opportunities to develop bilateral agreements (for example at the border between Sudan and Ethiopia, building on the work accomplished by the **BMM programme**)
- Build up links between local and national dialogues – bilateral national government discussions should ideally be informed by the exchanges between local administrations and businesses active at the borders.²⁴

Overall, whenever supporting new governance frameworks regulating cross-border flows, donors should **pay particular attention to not disrupting the traditional and sometimes ancestral flows** that can represent a major part of the livelihoods of populations living in border areas, for example through informal cross-border trade.

3.3. Governance of cross-border mobility outside of RECs

3.3.1. Intra-Africa mobility

The governance of intra-Africa mobility outside of RECs is relatively weak. The **AU Protocol on Free Movement of Persons** adopted in 2018 was so far only ratified by four States and it requires fifteen ratifications to enter into force.ⁱⁱⁱ Recent labour migration discussions have focused on flows to the Middle East (see section 3.3.2), with little attention paid to the protection needs of migrant workers heading to other African countries beyond RECs (for example, North or South Africa). Some West African countries have signed **bilateral labour agreements** (BLAs) with African countries outside their REC,^{iv} but no IGAD Member State has a BLA with another African country.²⁵ In particular, none of the countries covered by the study has any

South-South cooperation

The EUTF-funded project ‘*South-South cooperation on migration*’ attempted to fill in the gap in terms of lack of governance frameworks outside of RECs, by focusing on cooperation on migration between Morocco and three West African countries. Although the project did not aim at improving governance

ⁱ MoUs exist notably between South Sudan and Kenya, Uganda and Ethiopia, Ethiopia and Djibouti, Burkina Faso and Mali, Burkina Faso and Niger, and Kenya and Uganda.

ⁱⁱ In the case of the EAC, this was the case for example for Uganda and Kenya, which may have acted as a ‘model’ for integration for other EAC countries which have now also abolished visas

ⁱⁱⁱ By comparison, its sister agreement, the treaty of the African Continental Free Trade Area, has been ratified by at least 27 African countries.

^{iv} Mostly Senegal, Niger, Mali, and Côte d’Ivoire.

type of agreement with South Africa. In the same vein as for BLAs, the regulation of private employment agencies focuses on those that facilitate flows to the Middle East, as opposed to those which may facilitate migration within Africa.²⁶

frameworks, its pilot initiatives and the dialogues it created can be built upon by future programming.

One of the main aspects on which it could be important to adopt an Africa-wide approach, starting with the AUC rather than the RECs, is the harmonisation of qualifications. Currently there are fragmented sub-regional processes sometimes with incompatible standards; for example, there are harmonisation efforts within the EAC and within the SADC but they are not coordinated (so a country like Tanzania cannot be aligned with both). There is a continental Convention (**Addis Ababa Convention**)ⁱ but the revised version (2014) has only been ratified by seven countries,²⁷ and its implementation has been slow notably due to *'excessive external dependence on foreign sources for funding (...) and lack of sense of ownership of the program'*.²⁸

Recommendations

- Countries could be supported in negotiating relevant frameworks (based on the most important flows) beyond RECs and beyond solely Gulf Cooperation Council countries.
- Harmonisation of qualifications could be supported through support to the AUC, potentially building upon the **EU-funded programme Harmonisation of African Higher Education, Quality Assurance and Accreditation (HAQAA)**.

3.3.2. Mobility to Gulf Cooperation Council (GCC) countries

FAIR/FAIRWAY

The Swiss-funded FAIRWAY programme, implemented by ILO, contributed to developing policy frameworks on labour emigration from selected African countries (including Ethiopia, Kenya, Uganda, and Nigeria) to Arab countries.

There has been an intense focus these past years on strengthening the governance of mobility flows to GCC countries, notably through the signature of BLAs and occasionally bans on labour migration – but the effectiveness of both strategies has been debated. Both Ethiopia and Ghana have in the past implemented bans to labour emigration to Gulf countries. But reports have found these bans to be ineffective, leading instead to more

emigration through irregular channels and more protection issues.³⁰ Ethiopia ultimately lifted its ban in 2018. BLAs have also multiplied in recent years. For example in IGAD countries, fully eight BLAs with Gulf countries have been signed in the past five years, and a further 12 are reportedly planned or in progress.³¹ However, countries lack the capacity to ensure the monitoring of the provisions contained in the BLA: one recent study found that BLAs were 'largely ineffective' as they were not respected;³² another specifically focusing on IGAD countries concluded that *'BLAs have not usually resulted in improving the protection of migrants' rights or decent working and living conditions, due in part to (...) lack of monitoring and implementation of agreements'*.³³ An associated weakness is the lack of 'labour attachés' trained on the specific protection issues of migrant workers in embassies/consulates in destination countries.

In any case, States have engaged on a bilateral basis (as opposed to a regional one), which can lead to 'a race to the bottom' where countries are disincentivised to include protection provisions in their

The Colombo Process²⁹

One useful model for how African countries could engage in closer intra-regional dialogue on labour emigration to the Middle East is the Colombo Process, a dialogue with 12 Asian countries as members and Gulf countries as observers set up in 2003 with **support from IOM and the Swiss cooperation.**

ⁱ Revised Convention on the Recognition of Studies, Certificates, Diplomas, Degrees and Other Academic Qualifications in Higher Education in African States

protection agreements, as Gulf countries can turn to neighbouring countries with lower standards. Although key informants have deemed the prospects of regional labour agreements unrealistic, there may be opportunities to agree at least on regional minimum standards, and according to interviewees, IGAD has recently expressed interest in hosting a dialogue platform on this topic.

Recommendations

- Given governments' interest in the topic and ILO's experience, there are opportunities for donors to support ILO to expand (notably geographically) its technical support to develop and implement frameworks to better protect their workforce sent to the Middle East, **building upon programmes such as FAIRWAY**.
- Donors can also fund mechanisms to monitor the implementation of these frameworks, as well as the deployment of labour attachés in the embassies/consulates of destination countries.

3.3.3. Mobility to Europe

Mobility to Europe is limited not so much by the lack of governance frameworks than by the restrictive visa policies of EU countries.ⁱ Some countriesⁱⁱ have bilateral agreements on labour migration with specific European countries, but no information was made available regarding to what extent these agreements may have facilitated labour migration to Europe.

There have been calls to support frameworks regulating and promoting more precisely *circular* labour migration, which could be more palatable to European governments, but existing frameworks have had mixed results. Senegal for example had an agreement on circular migration with Spain and a few workers were sent for two years, but the experience was discontinued because some Senegalese workers absconded (see some promising practices in this regard in the box on the right).

New Zealand's Recognised Seasonal Employer scheme

Some best practices from the 'Recognised Seasonal Employer Scheme' scheme include the involvement of private firms in programme administration alongside the New Zealand government, as well as allowing migrants to participate in the scheme multiple times based on employers' recommendations, thereby reducing the risk of migrants overstaying. This also addressed one of the major drawbacks of circular mobility schemes, which is that employers will be dissatisfied if they are not allowed to re-hire good workers.³⁴

On the other hand, **Mali** signed in 2007 a similar agreement with Spain; it establishes that a department dedicated to migration cooperation within the Malian Ministry of Employment can look for job opportunities in the agricultural sector in Spain. Partly as a result of this agreement, over the past years Mali has been one of the main origin countries for regular seasonal workers in the EU.³⁵

Another promising type of bilateral agreements could consist in so-called 'global skills partnerships'. In this type of scheme, initially conceptualised by the Centre for Global Development and recently popularised by the World Bank, training is provided in a single facility to both professionals willing to migrate and workers who will remain in their country, to 'compensate for' brain drain – which is arguably one of the greatest risks of such mobility schemes. The approach is currently being piloted by Belgium as part of the **EUTF-funded THAMM** programme.ⁱⁱⁱ

ⁱ Over the past five years, only around 10,000 to 13,000 residence permits were delivered annually to citizens from the 21 countries of the study for work reasons, while 20,000 to 30,000 annual residence permits were granted for study purposes.

ⁱⁱ Including Kenya, Guinea, and Cameroon.

ⁱⁱⁱ For more details, see Altai Consulting, 'Learning Lessons from the EUTF - Phase 2' (2021), accessed [here](#).

Recommendations

Although EU *development programming* has relatively little leverage to strengthen the governance of regular pathways to Europe, individual Member States could consider setting up more creative schemes such as circular migration agreements, and there is space for development programming to support ‘global skills partnerships’ in origin countries.

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- ²⁰ ‘Legal, Policy and Institutional Frameworks on Pastoral Areas and Cross-Border Transhumance in IGAD Region’ (2020).
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- ²⁴ Bakewell, O. et al., ‘Migration and migration management on the Ethiopia–Sudan border: Research from Metema’ (2020). Accessed [here](#).
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- ²⁸ Tadesse Woldegiorgis, E. and Doevenspeck, M. ‘Current Trends, Challenges and Prospects of Student Mobility in the African Higher Education Landscape’ (2015). Accessed [here](#).
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³⁰ IGAD and ILO, 'Towards regional guidelines for a Rights-Based Approach to Bilateral Labour Agreements – Background report' (2021).

³¹ Ibid.

³² Bisong, A., 'Regional solutions: regulating recruitment and protection of African migrant workers in the gulf and the middle east' (2021). Accessed [here](#).

³³ ILO and IGAD, 'Towards regional guidelines for a Rights-Based Approach to Bilateral Labour Agreements - Background Report' (2021).

³⁴ ODI, 'Migration as opportunity: Innovation, policies and practice' (2020). Accessed [here](#).

³⁵ European Migration Network, 'Attracting and protecting the rights of seasonal workers in the EU and United Kingdom' (2020). Accessed [here](#).

4. Trafficking in persons and smuggling of migrants

Key findings:

- At the international and regional levels, the governance of the fight against TIP and SOM is characterised by a complex web of actors, organisations and political processes. Limited cooperation, lack of trust, insufficient information sharing, weak capacities and scarce financial resources remain some of the key challenges.
- At the national level, the fight against SOM, and to a certain extent, TIP, remain largely donor driven. Although most of the countries covered in the study have domesticated international frameworks, weak law enforcement capacities, deficiencies in the penal chain and insufficient cooperation between the police and the judiciary continue to plague judiciary systems. As a result, few investigations in TIP/ SOM cases, and an even smaller number of convictions have, overall, been reported across the countries.
- The lack of agreement on key definitions has led to confusion between TIP and SOM. This has only been worsened by an increasing blurring of the lines with notions such as ‘aggravated smuggling’.
- In addition, the lack of precise plans of action to combat TIP and SOM limits the effective implementation of dedicated legislation. Where they exist, their efficacy has been limited by a lack funding and/or monitoring and evaluation mechanisms.
- Protection schemes for VoTs (victims of trafficking) remain weak and severely underfunded. Although a number of countries have established national referral mechanisms for the identification and protection of VoTs, most of them are not yet in position to adequately fulfil their mandate.

Trafficking in persons (TIP) and the smuggling of migrants (SOM) are distinct offenses carrying out different legal consequences in terms of criminalisation and protection.

- **The main difference lies in their purpose:** while the punishment of the TIP offence aims to protect the rights of trafficked persons and punish those who abuse them for exploitative purposes, SOM, on the other hand, is an offence against the State which seeks to protect its sovereign right to control its borders.¹ It is considered that victims of TIP have never consented, and that, if they have, their initial consent has become void by the means used by traffickers to gain control over them. SOM, on the other hand, involves a consensual agreement whereby the smuggler facilitates the illegal entry of the migrant and receives some benefit in return. Smuggled migrants are therefore not considered as ‘victims’, although they are entitled to protection under international law.²
- **In practice, however, international TIP and SOM are often associated:** the distinction can sometimes be difficult to maintain – as situations of smuggling can turn into trafficking. Although, in theory, the issue of consent remains a central difference³, the emergence of the notion of ‘aggravated SOM’ which designates abuses committed by smugglers on smuggled individuals, tends to further blur the distinction. In addition, prosecuting international TIP and SOM cases require similar investigation techniques, involving cross-border intelligence-sharing, international police and judicial cooperation. As a result, structures developed at the international, regional and, in some cases, at the national level, are usually mandated to tackle international TIP and SOM exclusively, with for consequence that a number of countries in the study tend to see TIP only as a foreign issue linked to mobility and transnational crime.
- **However, most TIP cases do not imply crossing borders:** it is estimated that the immense majority of VoTs are trafficked within the same country – although no exact figure is available.⁴

Nevertheless, international TIP receives far greater attention both from donors and national authorities and domestic TIP usually does not rank high in national governments' political agendas and priorities. This situation can be explained, at least in part, both by cultural factors and legal reasons. There can be, in a number of regions, some form of social acceptance of certain instances of TIP, such as forced or underage marriage, child begging and domestic servitude. In addition, where a legal action is undertaken, perpetrators may be charged with other offenses (which may not even be criminal, e.g. labour law violations), and the criminal dimension of the offense may be overlooked. More effectively tackling domestic TIP cases (through awareness raising, training, support to law-enforcement officials and improved victims' protection) remains essential.

While this section will mainly focus on international TIP, a number of key findings, such as the need for strengthened law enforcement capacities and support to victim protection mechanisms are equally relevant to the fight against domestic TIP and would benefit from greater donors' attention.

4.1. Main international frameworks

The main international binding instruments on TIP and SOM are the **2000 UN Convention against Transnational Organised Crime (UNTOC)** and its two Supplementary Protocols:

- **United Nations Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children** (hereafter 'TIP Protocol').ⁱ
- **United Nations Protocol against the Smuggling of Migrants by Land, Sea and Air** (hereafter 'SOM Protocol').ⁱⁱ

Both these documents, which serve as the basis for almost all national anti-trafficking and anti-smuggling legislation, have been ratified by most States under study.

Relevant non-binding international frameworks include the Global Compact for Safe, Orderly and Regular Migration. It called for the strengthening of 'the transnational response to smuggling of migrants'⁵ as well as the prevention and eradication of TIP in the context of international migration.⁶ To do so, States committed to adopting a series of measures, which are, for the most part, in the process of being implemented in the countries under study, with assistance and support from international donors.

4.2. Regional frameworks

In addition to international instruments, non-binding regional frameworks and cross-continental processes have been developed at the regional and sub-regional levels.

The main document by the African Union is the Ouagadougou Plan of Action. However, as a result of the absence of a regional level structure for its oversight, low awareness of its existence amongst Member States and RECs and a lack of adaptation to evolving trafficking dynamics,⁷ more recently developed action plans and strategies developed at the sub—regional level have, *de facto*, superseded The Ouagadougou Plan of Action.

4.2.1. Cross-continental stakeholders and processes

Sub-regional political and cooperation platforms, along with RECs, have grown as central governance mechanisms in the fight against transnational TIP and SOM. While support is being provided to strengthening regional and international cooperation, including with EU member states, significant challenges remain in terms of capacity-building (both at the national and regional levels),

ⁱ Three of the countries under study have not ratified / acceded to it: Eritrea, Uganda, South Sudan.

ⁱⁱ Three of the 21 countries under study have not ratified / acceded to it: Chad, Eritrea and Somalia.

funding, and coordination (between member states, across regions, as well as with partners and donors).

4.2.1.1. AU-HoAI / Khartoum Process

The African Union – Horn of Africa Initiative (AU-HoAI) on Human Trafficking and Smuggling of Migrants, which functions as a dialogue forum for participating countries⁸ was established in 2014 by the African Union Commission (AUC) to respond to the increase of irregular migration flows within and from the Horn of Africa. Its main objectives are the development and strengthening of law enforcement capacities through training, technical support and improved cooperation and coordination in information exchange, investigation and prosecution.⁹

The Khartoum Process: the same year the AUC, EU Member States as well as East and North African States established the Khartoum Process (modelled on the Rabat Process). It serves as a platform for political cooperation to support member states in addressing TIP and SOM along the migration route between the Horn of Africa and Europe.¹⁰

Regional Operational Centre in support of the Khartoum Process (ROCK)

- The objective of the ROCK is to ‘reduce trafficking in human beings’ incidents by improving regional capacity to track and share information on irregular migration flows and related criminal networks, and to develop common strategies and tools.’
- A facility was established in Khartoum, where Liaison Officers from seven countries of the HoA can engage in face-to-face discussions, triangulate information from different countries and engage in a process of analysis, evaluation and dissemination of information.
- As of December 2020, a total of 171 messages had been created by ROCK and submitted to INTERPOL through its National Central Bureau (NCB) in Khartoum. These messages were praised for their quality, reliability and timeliness.

At the Valetta Summit on Migration in November 2015, European and African heads of State and Government adopted the Joint Valetta Action Plan (JVAP), which among other objectives was intended to fight irregular migration, including TIP and SOM (fourth pillar). The mechanisms of the Rabat Process and Khartoum Process were to be used to monitor the implementation of the Action Plan.

The Regional Operational Centre in support of the Khartoum Process (ROCK), along with the Better Migration Management (BMM) programmeⁱ were some of the earliest initiatives rolled out under the HoA window. In line with the JVAP fourth pillar (related to the fight against TIP and SOM) both of these programmes aim to strengthening institutional frameworks, training law enforcement agencies and judiciary systems, improving information gathering and sharing, as well as fostering police and judicial cooperation.¹¹

4.2.1.2. The Rabat Process and the Niamey Declaration

- **The Rabat Process** was established in 2006 and serves as a dialogue platform for national authorities from the countries of origin, transit and destination along the West and Central African routes.
- **The Niamey Declaration:** in 2018, 14 Ministers of Interior and of Foreign Affairs from West Africa and Europe, together with the EU and other international organisations (IOs), adopted the Niamey Declaration. It aims to improve the coordination and operational effectiveness of responses to these crimes through five areas of intervention: 1) legal frameworks; 2) articulation of the different forces involved; 3) judicial cooperation; 4) strengthening national operational tools; and 5) strengthening

ⁱ The regional programme Better Migration Management (BMM) is currently continuing with its second phase. It supports trainings to improve the quality of investigation and prosecution, as well as the development of SOPs to enhance the cooperation between police and prosecution.

border control. It complements the Rabat Process, which is a less operational, more high-level forum that aims to tackle questions related to migration issues, including TIP and SOM.

- **The recently established ‘Follow-up Mechanism’ of the Niamey Declaration is intended to ensure that the commitments made by State parties will be effectively implemented.** It is financially supported by Côte d’Ivoire, France, Germany, Niger, the Netherlands and the EU. UNODC acts as the secretariat, monitors and reports on implementation.¹²

A number of EU-funded programmes are being implemented in the SLC region to strengthen capacities to combat TIP, (and, to a lesser extent, SOM). The successful experience of the Joint Investigation Teamⁱ in **Niger** has led to the duplication and adaptation of this model across the region. In addition, several EU member states are taking an active stance against TIP: the Netherlands and Italy fund the **PROMIS** project which fosters judicial cooperation between **Nigeria** and Europe, through the deployment of Nigerian liaison magistrates to Italy and Spain in order to foster judicial cooperation between these countries. European member states and their national police also collaborate with West African police on TIP through *ad hoc* projects run by Interpol, where funds are raised for West African Central Bureaus (NCBs), capacities of police forces are built, and operational support is provided, mostly with regards to investigation techniques, identification of criminals and rescue of VOTs.

Common Operational Partnerships (COPs)

COPs twin police officers in partner countries with their European counterparts, with the objective of strengthening operational capacities. Building on the successful experience of ECI Niger, Common Operational Partnerships (COPs/ POCs in French) were launched across West Africa. The EU funds five COPs in coastal countries: The Gambia, Guinea, Côte d’Ivoire, Senegal and Nigeria (as well as one in Mali) and NETCOP, which is based in Dakar and responsible for cooperation between the national COPs.

4.2.2. RECs

While the fight against TIP and SOM forms part of most REC’s mandates, limited cooperation, information sharing, capacities and funding remain key challenges.

IGAD

While the HoAI, the Khartoum Process and programmes have yielded encouraging results and evidence demonstrating that efforts to cooperate are gaining momentum¹³, governance mechanisms dedicated to fighting TIP and SOM in the IGAD region remain weak. The IGAD report on TIP and SOM in the Horn of Africa – Central Mediterranean Route – highlighted the fact that ‘the IGAD architecture for combatting human smuggling and trafficking is currently a patchwork of strategies, policies, institutions, and capacities of individual member states.’¹⁴ It further pointed out that most governments continue to treat human smuggling and trafficking as a domestic problem and international cooperation to counter the threat remains limited and largely *ad hoc*.¹⁵

ECOWAS

Since 2001, ECOWAS has recognised TIP as a priority and sets guideline for member states to combat the phenomenon in its regional plans of action, the most recent one dating from 2019.¹⁶ SOM is not considered a priority as the principle of free movement applies across the region. According to UNODC, another reason for this is the sensitive nature of the issue as it is linked to fighting irregular migration often affected by the European States’ migration policies.¹⁷

The ECOWAS department responsible for regional cooperation on TIP is the Human Security and Civil Society Division of the Humanitarian Affairs Directorate of the ECOWAS Commission.¹⁸ ECOWAS fosters cross-border cooperation on TIP by encouraging national focal points to cooperate and

ⁱ ‘Equipe Conjointe d’Investigation’ (ECI).

exchange information,¹⁹ and countries to adjust their national plans of action. National focal points are responsible for collecting information and drafting annual national reports, dealing with national measures and the implementation of the national and ECOWAS plans of action. There, reports are then collected by the ECOWAS TIP division and compiled in the ECOWAS Annual Synthesis Report on TIP in West Africa.

As identified in a recent study conducted on behalf the Rabat Process secretariat,²⁰ ECOWAS actions to combat TIP are limited by a number of structural weaknesses:

- **Insufficient cooperation:** communication with other countries within the ECOWAS region or with countries of exploitation outside the region remains very limited and the joint prosecution of cases remains major challenge, mainly due to language barriers hindering judicial cooperation as well as discrepancies between national legislations. For example, an adult VoT cannot be referred to Togo for protection since the country's national legislation only criminalises child trafficking, thus limiting its support to child VoTs.ⁱ
- **Significant gaps and overlaps in identification, referral and protection of VoTs:** most of the cooperation mechanisms in place for the protection of victims are informal and facilitated by IOs or international NGOs.²¹ In addition, there are some duplicates in creating and strengthening regional referral systems, which mostly stem from a lack of coordination among donors.ⁱⁱ For example, under OCVAR-T, support was delivered to the ECOWAS TIP division to create and operationalise a Regional Referral Mechanism (RRM) while, at the same time, the FMM programme created the 5+1 Network (including five ECOWAS Member States and Mauritania). Similarly, the West Africa Network for the Protection of Children and Young Migrants (WAN) connects West African child protection systems.
- **Lack of a reliable system for information-sharing at the regional level** (mainly due to limited data-collection systems at the national levels);
- **Unstable funding:** multiples sources of funding (state funding, donors and technical partners, international organisations etc.) can be a challenge if there is no stable continuation planned (and may lead to temporary cessation of activities).

4.3. International bilateral agreements

Since the signing of the United Nations Convention against Transnational Organised Crime (UNTOC) and the TIP Protocol in 2000, more than 20 bilateral cooperation agreements for combating TIP have been signed with African countries.²² However, no follow-up mechanisms have been established to monitor the effective implementation of these agreements.²³

4.4. Governance at the national level

4.4.1. National frameworks and dedicated structures in charge of combatting TIP

Almost all the countries under study have developed anti-trafficking legislation pursuant to their obligations under international law. In the SLC region, Nigeria was the first to domesticate the TIP Protocol, followed by Senegal, Ghana, Burkina Faso, Niger, Mali, Côte d'Ivoire and, more recently, Chad. In the HoA region, Djibouti, Ethiopia, Kenya, Sudan, and Ugandaⁱⁱⁱ have also enacted anti-trafficking legislation. In countries where specific legislation is not in place, such as South Sudan or

ⁱ Rabat Process, 'Assessment of anti-trafficking gaps, needs and transferable practices in the ECOWAS member States and in Mauritania'. Retrieved here.

ⁱⁱ Altai Case Study, Anti-Trafficking Initiatives in the Gulf of Guinea – Review of the EUTF SLC's portfolio on anti-trafficking in the Gulf of Guinea, with a focus on the TEH programme.

ⁱⁱⁱ Although Uganda did not accede to the TIP Protocol, it enacted a robust framework to combat TIP, including a number of the Protocol's provisions.

Eritrea, provisions in the Penal Code and other legislative documents could, theoretically, be used to prosecute traffickers (and/or smugglers), although these are not used in practice.

In a number of cases, however, national frameworks lack precision, fail to adequately distinguish TIP and SOM or include inappropriate penalties. A number of countries have recently taken steps to revise their legislation.

- **Confusion around the distinction between TIP and SOM offenses** – in frameworks referring to SOM as a ‘related practice’ of TIP – is the most commonly reported concern, as imprecise legal definitions often lead to the conflation of both offenses. In line with the Global Compact (which insists on the need to differentiate both offenses), UNODC and other international partners have taken steps to assist countries such as Burkina Faso, Senegal and Mali to revise their legislation accordingly. Ethiopia recently undertook the same process.ⁱ
- **Discrepancies between anti-TIP legislation and other relevant domestic criminal frameworks** have also been raised as an issue in countries such as Djibouti and Niger. IOM is currently providing technical support to the latter to revise its framework.
- **Discrepancies across countries as to the definition of certain forms of TIP** remain. Although a number of States have, in recent years, revised their legislation to include sex and labour trafficking – for example, The Gambia (2010), Nigeria (2015) and Sudan (2021) –, lingering discrepancies have reportedly hindered regional cooperation in the SLC region.²⁴ In the HoA, the absence of an agreed-upon definition of trafficking for the purpose of labour exploitation has negatively impacted its prevention as well as prosecution.²⁵

At the institutional level, most countries have, with support from international donors, established specific bodies for combating TIP (and, in some instances, SOM as well). These structures can act as institutional coordination platforms, dedicated permanent agencies or focal points within the police and/or the judiciary.

While, on paper, it is possible to establish a typology of anti-TIP / SOM bodies, in practice, their composition, mandate and efficiency vary significantly from one country to the next. Most countries have usually not established only one structure but several,ⁱⁱ and the delimitation of their respective roles vary importantly, both for formal reasons (scope of their mandates) and informal ones (funding (and lack thereof), political interest etc.). In addition, while some countries have conceived structures dedicated to TIP exclusively, others have established bodies in charge of tackling both TIP and SOM. Lastly, the degree of involvement of international actors such as UNODC or OIM is an important factor, as they can play a significant coordination and/or implementing role and supersede, in whole or in part, dedicated national structures. Although they often fill in particularly important gaps (notably with regard to protection mechanisms and support to VoTs, see below), their involvement may at times be perceived at odd with national priorities and/or limit government ownership.

- **Institutional coordination platforms:** inter-ministerial committees have, for example, been established in Cameroon, Uganda, Ethiopia, Senegal and Mali. These structures are usually in charge of promoting coordination across line ministries, delineating responsibilities and furthering a whole of government approach with regard to tackling TIP/SOM. The main weaknesses of this model are the non-permanent nature of these structures, their lack of operational capacity, their fluctuating mandates (TIP, SOM, or both), the fact that they are largely dependent on the resources and staff assigned to them by the line ministries, and their position within the government (those functioning under the presidency or office of the prime minister are more likely to have more efficacy than elsewhere)
- **Dedicated permanent agencies:** countries such as **The Gambia** and **Nigeria** have established specific dedicated and permanent bodies such as the Gambian National Agency Against Trafficking

ⁱ Relevant legislation in Djibouti equally suffers from a lack of distinction between both offenses, but no revision is planned for the moment.

ⁱⁱ See for example, Niger, which established three dedicated structures: the CNLTP (in charge of coordinating actions and politics), the ANLTP (acting as the operational structure) as well as dedicated bodies within the penal chain.

in Persons (NAATIP) or the Nigerian National Agency for the Prohibition of Trafficking in Persons (NAPTIP). Similar permanent agencies are expected to be created in **Chad** and **Mali**. These structures are, in general, responsible for coordinating government and non-government response to TIP across the areas of trafficking prevention, victim identification, and protection of victims. Weaknesses of this type of structures include increased costs as they involve permanent staffing and functioning. In addition, this type of agencies are usually placed under the Ministries of Interior and/ or Justice and tend to focus disproportionately more on investigations and prosecution, at the expense of protection of VoTs.

- **Anti-trafficking units within the police and/ or the judiciary:** The Common Operational Partnerships (COPs) established in a number of countries across West Africa are based on this model (see above). Similarly, in 2019, **Mali** established the BRTMTEHⁱ, with support from the French embassy. Composed of 32 investigators, it is starting to yield significant results. In **Mauritania**, a recently established anti-SOM and TIP Bureau has been granted the power to investigate, prosecute and arrest.ⁱⁱ A number of countries also established specialised units within the judiciary to prosecute transnational TIP/ SOM cases. For example, in **Djibouti**, a specialised unit on smuggling and trafficking has been established within the office of the 'Attorney General'.ⁱⁱⁱ In **Kenya**, the 'Organised Crimes Division' within the High Court and in **Niger** the 'Anti-terrorist Division'^{iv} have jurisdiction over TIP/ SOM procedures although it is unclear whether a link to terrorism activities has been established.

In all countries, institutional coordination, geographical coverage, as well as human and financial resources have been raised as significant challenges.

- **Insufficient institutional coordination and overlaps are a weakness in most countries.** The criminal nature of TIP cases, together with the specific needs of vulnerable victims should involve a tight collaboration between the police, the judiciary, immigration services (where applicable) and protection mechanisms. However, in practice, coordination among these different actors is still crucially lacking. For example, in **Mali**, the lack of coordination between the BRTMTEH and the Ministry of Women has been reported as an obstacle to the optimal management of victims of gender-based violence. In **Niger**, an alleged competitive dynamic between the DST^v (under the purview of the Ministry of Interior) and the ANLTP/TIM^{vi} (anchored within the Ministry of Justice) has been obstructing efficient information-sharing channels. In **Nigeria**, while NAPTIP is dependent on the police and National Immigration Service (NIS) to identify traffickers and victims, collaboration has been minimal.^{vii} Similar coordination issues between law enforcement officials and the Office of Public Prosecutions Department (ODPP) has been reported in **Uganda**.
- **Geographical coverage:** In a number of countries limited geographical coverage of anti-TIP (/SOM) units have been reported as a weakness. For example, in **Nigeria**, NAPTIP only has nine zonal offices, and many states lacking a NAPTIP zonal command have had no TIP conviction, suggesting insufficient coverage. Similarly, in **Sudan**, the efficacy of the National Committee for Combatting Trafficking (NCCT) is limited by little presence outside Khartoum.
- **Human and financial resources:** in almost all countries the lack of human and financial resources, and/or an overreliance on donors' support, are obstacles to both the efficiency and the long-term viability of these structures. In **Burkina Faso**, members of the dedicated anti-TIP committee^{viii} do not meet on a regular basis and the structure lacks adequate resources to fulfil its mandate. In **Mali**,

ⁱ 'Brigade de répression du trafic de migrants et de la traite des êtres humains' – 'Smuggling of Migrants and Trafficking in Persons Brigade'

ⁱⁱ The 'Office Central de Répression du Trafic de Migrants et de la Traite d'Êtres Humains' was set up in 2020. An alleged lack of communication around the structure's mandate as well as limited cooperation with the judiciary have been raised as concerns.

ⁱⁱⁱ 'Procureur de la République'.

^{iv} 'Pôle anti-terroriste'.

^v Direction de la surveillance du territoire – 'Direction of National's Territory Surveillance'.

^{vi} Agence Nationale de Lutte contre la Traite / Traffic Illicite de Migrants. 'National Agency in charge of fighting TIP/SOM'.

^{vii} Coordination is however expected to improve with the recent adoption of SOPs on coordination, with FIAP support.

^{viii} 'Comité national de vigilance et de surveillance'.

the National Coordination Committeeⁱ and other relevant actors in the field of the fight against TIP similarly lack resources and depend largely on donors. In **Nigeria**, NAPTIP has faced difficulties implementing the TIP Act with respect to both prosecution and protection, notably due to its limited resources in comparison to its broad mandate. In **Sudan**, the NCCT struggles with low capacity, human and financial resources, while in **Uganda**, the COPTIP reportedly lacks logistical support as well as human and material resources to fulfil its mandates.

The lack of precise plans of action limits the effective implementation of anti-TIP legislation in a number of countries. Where they exist, their efficacy has been limited by a lack funding and/or monitoring and evaluation mechanisms. While in Mali, for example, a dedicated action plan has been developed and is financially supported, in many countries like Burkina Faso, Côte d'Ivoire, Chad or Djibouti no such plans exist, thus seriously limiting the countries' ability to fight TIP, without concrete actions or measurable results. In others, such as **Niger**, plans have not recently been actualised, thus undermining the quality of coordination of interventions.ⁱⁱ In Kenya,ⁱⁱⁱ The Gambia^{iv} or Sudan,^v plans have been developed but available funding lack for their implementation. Lastly, except in **Kenya** where a review of the 2013-2017 National Action Plan has been supported through **EUTF and GIZ's BMM II programme**, the research team was not able to identify information about evaluation of past anti-TIP action plans and any impacts such reviews may have had on subsequent strategies. The lack of detailed and budgeted plans of action tends to weaken the efficacy and pertinence of donors' support as it often leads to poor coordination between national and international actors, duplicates and overlaps between programs as well as unstable funding.

4.4.2. Legislation and structures specifically dedicated to combat SOM

Although most countries under study have ratified / acceded to the SOM Protocol, only a few have enacted dedicated legislation or action plans. Those who have were usually largely encouraged to do so by either by the EU or by EU Member States. In a number of countries, particularly those sharing borders with States with which free circulation agreements apply, or those who have adopted 'open-border policies' to the benefit of asylum-seekers (such as Uganda), combating SOM is not considered to be a priority.

Within the ECOWAS area, most smuggled individuals travelling overland start their journey as regular migrants under the Free Movement Protocol and only violate immigration laws after exiting the ECOWAS area.²⁶ It is therefore usually in Mauritania, northern Mali or Niger that smugglers start to operate, although the presence of 'coaxers'^{vi} has been reported in many countries of departure. Bilateral agreements facilitating movements between SLC countries and North African States, such as the ones existing between Algeria and Mali, or between Côte d'Ivoire and Tunisia (whereby entry visas are not required) have led to an increase in falsification of identify documents. As a result – and to the detriment of the promotion of the facilitation of legal labour migration – Algerian authorities are reportedly considering imposing visas on Malians in order to curtail smuggling.²⁷ In **Côte d'Ivoire**, since 2015, the government has set up an anti-traffic airport unit (CAAT) at the Abidjan airport, whose role is to detect fraudulent documents.

Due to their strategic geographical positions as transit countries on the road to Europe, Mali and Niger are the countries which have taken the most important steps to curb SOM, with

ⁱ 'Comité National de coordination de la lutte contre la traite des personnes et les pratiques assimilées.'

ⁱⁱ The second Plan of Action (2019-2024) is still on hold. It was initially supported by AFD (as part of the EUTF-funded AJUSEN programme), but as a result of a difficult collaboration with ANLTP/TIM, it has been abandoned. Discussions are ongoing with IOM to work on its elaboration.

ⁱⁱⁱ A new NPA 2019-2022 has been developed but available budget lacks for its implementation.

^{iv} The Gambia adopted a National Anti-Trafficking Action Plan 2016-2020, but its implementation remains limited as the Government did not provide additional funding beyond the limited budget for implementation of the NAATIP.

^v In Sudan, the 2021-2023, National Action Plan (NAP) for combating Human Trafficking was launched in August 2021. The Plan includes relevant and ambitious initiatives, such as increasing access to microfinance programmes for poor households vulnerable to TIP and the creation of a database and NCCT representation at state level. However, if a budget has been dedicated to its implementation, it is reportedly very low.

^{vi} 'Coaxeurs' are referred to as intermediaries between migrants and smugglers.

significant support from the EU. The situation in Libya has made it difficult to roll out interventions to curb irregular migration, shifting, as a result, European donors' focus to **Niger**, and particularly to the smuggling hub of Agadez.ⁱ In 2015, Niger was the first country in the region to adopt, with significant support from the EU, a framework specifically dedicated to SOM. However, while this law has allowed to significantly diminish the number of smuggled migrants going through Agadez and towards Libya, a number of challenges have come with its implementation: first, in terms of human rights violations (see *below* – protection of smuggled migrants), but also as it may lead to violations of the ECOWAS free movement protocol. Indeed, although in possession of valid travel documents some migrants have reported difficulties circulating North of Agadez, movements in this area being, as it may seem, *de facto* forbidden. In **Mali**, despite the fact that efforts have been made to combat SOM (notably through trainings with the **PROMIS** project), the country remains an important crossroads for SOM in the Sahel region.ⁱⁱ

SOM via the maritime routes is becoming a growing concern in coastal States such as The Gambia, Senegal and Mauritania. In **Mauritania**, a joint investigation teamⁱⁱⁱ has been operational in Nouadhibou (the main point of departure to the Canary Islands) since 2011, and a number of additional initiatives^{iv} are underway to curb SOM more effectively. However, arrivals to the Canary Islands have continued to increase in the past two years. While important efforts have also been made in **Senegal** (revision of its legal framework to adequately distinguish TIP and SOM, establishment of dedicated structures^v), **The Gambia**, on the other hand, is reportedly becoming a 'smuggling hub'. Although it ratified the SOM Protocol, at the domestic level, SOM is considered an administrative offence punishable by a fine of Dalasi 3,000-5,000 (equivalent to EUR 50-90). Plans to review the legal framework offer prospects for an improved response (stakeholders mentioned a SOM Act that was drafted with UNODC support and was awaiting validation). However, for the time being, authorities rely on TIP or other related criminal offenses to prosecute smugglers.

In the HoA region, SOM is primarily considered a priority concern in Djibouti, but limited action has been undertaken so far. Recent research highlighted that smuggling activities had increased in volume and in degree of organisation, with the development of organised networks from Ethiopia to the Gulf States able to operate through dematerialised means of payment and strong networks of Somali traders providing *Hawala* services in the region. However, in Djibouti, while the overall migration strategy includes reference to TIP and SOM, both issues are tackled somewhat indistinctly, through general orientations lacking precise strategies and plans of actions.

Table 6: TIP and SOM related frameworks and instruments per country

	Country	Ratification of / accession to TIP and SOM Protocols	National legislation has been enacted	Dedicated structures have been set up	Action plans have been developed	Available budget to carry out action plans
HoA	Djibouti	✓ Both	✓ Both	-	-	-
	Eritrea	✓ TIP only	X	X	X	X

ⁱ D'Orsi, C. 'Migrant Smuggling in Africa: Challenges Yet to Be Overcome', African Journal of Legal Studies, (2021), retrieved [here](#). The fight against TIM is one of the priorities set out in President Bazoum's general policy statement (May 2021). At the same time, since 2015, the subject has been at the forefront of the terms of reference of several projects with EU funding – and in particular with EUTF funding. A dedicated Action Plan (2021-2025) is awaiting validation.

ⁱⁱ Recent studies note the professionalisation of these networks, which, in addition to facilitating the passage of migrants engage in drug and arms trafficking (see Mali report).

ⁱⁱⁱ Involving the Spanish Guardia Civil.

^{iv} For example, projects are underway to develop a 'Code Maritime' and a 'Centre de coordination des alertes maritimes'.

^v *Division nationale de lutte contre le trafic de migrants* – 'National anti-SOM Division'.

	Ethiopia	✓ Both	✓ Both	✓ Both	✓	-
	Kenya	✓ Both	✓ Both	✓ Both	✓ TIP	✓ TIP
	Somalia	X	X	✓ TIP	X	X
	South Sudan	X	X	✓ Both	✓ Both	✓
	Sudan	✓ Both	✓ TIP only	✓ TIP	✓ TIP	✓ TIP
	Tanzania	✓ Both	✓ TIP only	✓ TIP	✓ TIP	-
	Uganda	X	✓ TIP only	✓ TIP	✓ TIP	✓ TIP
SLC	Burkina Faso	✓ Both	✓ Both	✓ TIP	X	X
	Cameroun	✓ Both	✓ TIP	✓ TIP	✓ TIP	X
	Chad	✓ TIP only	✓ TIP only	✓ Both ⁱ	✓ Both	X
	Côte d'Ivoire	✓ Both	✓ Both	✓ Both	X	X
	Ghana	✓ Both	✓ TIP	✓ TIP	✓ Both	X
	Guinea	✓ Both	✓ Both	X	X	X
	Mali	✓ Both	✓ Both	✓ Both	✓ Both	✓ Both
	Mauritania	✓ Both	✓ Both	✓ TIP ✓ SOM	✓ Both	X
	Niger	✓ Both	✓ Both	✓ Both	✓	X
	Nigeria	✓ Both	✓ Both	✓ TIP	X	X
	Senegal	✓ Both	✓ Both	✓ TIP ✓ SOM	✓	✓
	The Gambia	✓ Both	✓ TIP only	✓ TIP	✓	X

Colour code:

- ✓ Yes
- X No
- ✓ Partially
- To be included upon finalisation

ⁱ A temporary structure has been set. Its mandate comprises both TIP and SOM. It is unclear at this stage if the future permanent structure will be mandated with SOM issues.

4.5. Implementation of anti-TIP and SOM dedicated frameworks: prevention, prosecution and protection

The **UNTOC** and its two **Supplementary Protocols** are based on three pillars: Prevention, Prosecution and Protection. The 4Ps paradigmⁱ adds partnerships, highlighting the need to strengthen cooperation, data and information sharing, and collaborate with CSOs. UN Member States have further committed to this approach with objectives 9 (f) and 10 (j) of the GCR.

4.5.1. Prevention policies

4.5.1.1. Awareness-raising on the dangers of irregular migration

In the SLC region, a number of awareness-raising activities on the dangers of irregular migration have been conducted within EUTF programming. This strategy is still considered a key element of the fight against TIP/ SOM in countries such as Niger and Senegal. For example, in **Senegal**, the PNMSⁱⁱ contains language on awareness-raising strategies targeting the youth. In **Niger**, the National Action Plan dedicates a section to it and a National Day for the mobilisation against TIP has been declared.

However, the strong influence of smugglers and human traffickers has not yet been systematically addressed.²⁸ IOM mentioned associated risks in a number of communities in countries such as **Côte d'Ivoire** and **Nigeria** and references to smugglers – and the deconstruction of their narratives – have been made in Naa'sⁱⁱⁱ campaign videos in Ghana.²⁹ However, the smuggling and trafficking businesses remains difficult to tackle and making it a priority of campaigns it is not useful if it is not also prioritised by both national governments and EU Member States.³⁰ In addition, the lack of systematic evaluation of the efficiency of these campaigns has been raised as another weakness of this strategy.

4.5.1.2. Prevention of labour TIP

Bilateral agreements and strengthening of consular presence abroad: Golf countries are top destinations for labour migrants from the HoA, but the high number of cases of exploitation, abuse and TIP have led countries such as Kenya and Ethiopia to issue total bans on the recruitment of domestic workers, pending the negotiation of bilateral labour agreements to protect their nationals abroad (see Bilateral Labour Agreements section). In addition, efforts have been undertaken to strengthen consular staff with the deployment of dedicated attachés (see diaspora section), and certain diplomatic missions, such as Ethiopians, provide temporary shelter for victims.³¹

Pre-departure training and information: A number of countries, such as Kenya, Ethiopia, Uganda and The Gambia have established both pre-departure trainings to enable labour migrants to take informed decisions about migrating. Other recent practices include employment regulations to ensure, for example, that employment contracts are in accordance with labour legislation.³² For example, in **Kenya**, private employment agencies could, in theory, be held accountable for claims arising in connection with the implementation of employment contracts, including wages and repatriation. However, increased costs and limited capacity to implement the regulation of PEAs, as well as corruption may have boosted illegal recruitment agencies' operations. Pursuing the same objective of preventing TIP, the Cameroonian police has started controlling visas and, where applicable, employment contracts in international airports for those headed to the Middle East and considered at risk of trafficking.

ⁱ The '3P' paradigm – prosecution, protection and prevention – is widely used to combat human trafficking worldwide and notably by the US Department of State. In addition, the Department of State employs the '4th P' as a means to achieve progress across the 3 Ps.

ⁱⁱ *Politique nationale migratoire du Sénégal* (Senegal's national migration policy which is not adopted yet).

ⁱⁱⁱ IOM Ghana's IP.

4.5.1.3. Prevention of SOM

For a number of young and unemployed people, smuggling is considered a form of employment, highlighting the need for the development of multi-dimensional strategies.³³ In Niger, until 2015 and the passing of anti-SOM legislation, smuggling activities in the northern part of the country generated substantial revenues not only for smugglers and their families but the presence of migrants in 'smuggling hubs' also generated a number of indirect jobs and significant revenues (through food, transport, etc.). As a result, in addition to law-enforcement efforts, multi-dimensional strategies that address the economic and social aspects of smuggling in entire areas are needed to effectively curb the phenomenon.

Plan d'Actions à Impact Économique Rapide à Agade'z (PAIERA)

The EUTF-funded PAIERA project aimed at developing a complementary approach to law-enforcement through sensitisation and the development of alternative economic opportunities for actors who had directly or indirectly benefitted from irregular migration networks in the Agadez area. However, a number of factors limited the overall impact of the project: insufficient funding to accompany all eligible individuals, limited number of economically viable options, selection of candidates perceived as arbitrary, insufficient follow-up, time lags between key parts of the project, etc.

Similar observations have been made in other transit countries such as Djibouti and Kenya. For example, in Kenya, SOM is exclusively treated as a security issue, thereby limiting the engagement of non-state actors (NGOs, the private sector, etc.). However, interviewees highlighted that in communities where a significant number of residents rely on SOM as their main source of income (such as in Moyale), locals are less likely to collaborate with law enforcement actors. Similarly, in Djibouti, interviews confirmed that one of the key reasons behind the development of SOM networks is the lack of alternative economic opportunities, with the consequence that a number of public officials may be reluctant to tackle an important source of revenue for communities they have close ties with. Both these examples demonstrate that effective law enforcement strategies are highly dependent on a wider approach to tackle SOM in all its dimensions.

4.5.2. Prosecution capacities and victims' participation in criminal proceedings

Although significant support has been provided to strengthening law enforcement capacities through dedicated programming, limited knowledge of relevant legislation, low investigation and prosecution capacities (especially at local levels) as well as insufficient victims' protection have resulted in a limited number of TIP and SOM cases being adjudicated. In most of the studied countries, limited knowledge and understanding of TIP and SOM provisions by actors of the penal chain have been reported. In Mali, a recent study demonstrated that 40% of relevant stakeholders, including IPs, could define TIP.³⁴ In all the studied countries, weak law enforcement capacities, deficiencies in the penal chain and insufficient cooperation between the police and the judiciary continue to plague the judiciary system. Corruption has also been identified as a key facilitator of TIP and SOM in a number of countries,³⁵ including at the prosecution stage.ⁱⁱ As a result, few investigations and an even smaller number of convictions have, overall, been

Good practice: ECI Niger

Main results as of December 2020

- 475 individuals arrested
- 453 referred to competent jurisdictions and 439 convicted (92%)
- 72 vehicles and 45 motorbikes seized
- 185 fraudulent documents seized

ⁱ 'Rapid Economic Impact Action Plan in Agadez'

ⁱⁱ For example, in Ethiopia, prosecution cases often fail: one high-profile trafficker escaped during a federal trial in early 2021 and remains at large, while local cases are reportedly easily dismissed with bribes.

reported across the countries.ⁱ These structural deficiencies along the penal chain bar all realistic prospects of an effective implementation of TIP/SOM provisions in the short to medium term and should be addressed as priorities with dedicated and ambitious support to reforms of the justice sector.

Violation of the principle of non-criminalisation of victims of TIP and of smuggled migrants has both limited access to justice for victims and negatively impacted prosecutions by discouraging them to testify.

- **Violation of the principle of non-criminalisation of victims of TIP:** In theory, pursuant to their international commitments under the **TIP Protocol**, States should support the effective implementation of the non-punishment principle at all stages of the criminal justice system, as well as in non-criminal processes such as immigration matters.³⁶ However, in countries such as **Kenya** or **Sudan**ⁱⁱ, it has been reported that a number of victims of trafficking had been charged with immigration and/or labour violations, or crimes they were forced to commit by their traffickers. These situations may discourage VoTs from coming forward to denounce perpetrators, thus making TIP crimes more difficult to detect, investigate and prosecute.
- **Lack of adequate protection measures in criminal proceedings:** In **Kenya, Nigeria** and **Côte d'Ivoire**, the lack and/or inadequacy of victim protection measures has reportedly had an impact on investigations and prosecutions with victims being reluctant to come forward (due to their relations with the perpetrators, or fear of retaliation and/or collusion of officials with perpetrators). While progress in this area has been made in countries such as **Sudan** (where legislation addressing this issue has been enacted, safe houses established and separate court rooms arranged), witness and victim protection remains overall very weak. Countries usually dedicate the funds they have to rescue VoTs and provide them with immediate post-rescue assistance which is insufficient to restore their dignity and help them start a new life.ⁱⁱⁱ
- **Limited access to justice:** although relevant legislation in a number of countries, such as **Ethiopia** and **Chad**, guarantees a victims' right to legal counselling and access to justice, in practice these rights are rarely effectively implemented. This is mainly due to victims' lack of awareness of their rights as well as the absence of state-funded legal aid services in the vast majority of countries which means that most victims need to rely on specialised NGOs, which remain rare, to access courts.

While compensation funds for VoTs have been set up in a number of countries, almost none are operational yet. The two main obstacles to the operationalisation of these funds are funding and the determination of the status of VoT.^{iv} In **Kenya**, a National Assistance Trust Fund (NATF) had been set up in 2010 for the benefit of victims of TIP but procedures related to the collection and disbursement of funds are unclear and auditing is lacking. Similarly, relevant frameworks in Ethiopia, Niger, Nigeria and Chad all provide for the establishment and operationalisation of compensation funds for victims, but none of them are operational or effectively working. One interesting tool is the Human Trafficking Fund (HTF) in **Ghana**, which grants small amounts to rescued VoTs.^v It aims to compensate VOTs financially but also to fund any activity related to TIP, such as rescue, awareness raising or prevention.

ⁱ In Nigeria, 8 traffickers were convicted in 2019, 3 in Chad, 12 in Senegal (2020) none in Ethiopia in 2020 (as opposed to 121 in 2019) and a dozen in Mali (out of 610 complaints filed since 2012).

ⁱⁱ In Sudan, VoTs intercepted at borders, notably between Northern State and Libya, are often tried under the Passport and Immigration Act.

ⁱⁱⁱ Altai Case Study, Anti-Trafficking Initiatives in the Gulf of Guinea – Review of the EUTF SLC's portfolio on anti-trafficking in the Gulf of Guinea, with a focus on the TEH programme.

^{iv} While administrative identification of VOTs may lead to indemnification decisions based on less solid evidence (and pose transparency issues) judicial identification would make indemnifications dependent on the efficiency of the criminal judicial system.

^v The HTF was launched by the government and started its operations in 2015. It is funded by the Government of Ghana, but also by international partners such as IOM.

4.5.3. Protection of victims of TIP and of smuggled migrants

4.5.3.1. Protection of victims of TIP

A number of countries have established national referral mechanisms for the identification and protection of VoTs but most of them are not yet in position to adequately fulfil their mandate.

- **In the SLC region:** with international support, referral mechanisms have been established in Burkina Faso, Chad, Côte d'Ivoire, Cameroon, Niger and The Gambia. While those in Chad, Côte d'Ivoire and The Gambia are still fairly recent – and thus too new to evaluate – the structures set up in Cameroon and Niger have either been under-used or undermined by their limited geographical coverage. In other countries, such as **Burkina Faso**, referral systems have been set up by IOM for all transit migrants. While these are not specifically dedicated to TIP victims, they may be of use to identify them and refer them to appropriate channels. A good practice identified in **Cameroon** and **Burkina Faso** is the set-up of dedicated hotlines for children victims of violence and/or VoTs.
- **In the HoA region:** **Kenya** established a National Referral Mechanism for Victims of TIP with UNODC support. It is intended to provide a system of identification and referral, but inadequate screening has reportedly led authorities to detain and deport a number of TIP victims for alleged breaches of immigration law. In **Ethiopia**, a national referral mechanism, referred to in the 2020 Proclamationⁱ is reportedly finalised but has yet to be rolled out.

An emerging good practice is the development of Standard Operating Procedures (SOPs) containing indicators for exploitation, which allow law state and non-state actors to identify potential victims of TIP and refer them to the appropriate channels. SOPs have for example been developed in Kenya, Djibouti, Chad, Niger, Ghana, **The Gambia** as well as **Sudan** (in the latter, for children exclusively). Support to the dissemination and implementation of these tools through training of government officials – including at the local level and, importantly, in cross-border areas –, social workers and NGOs will be critical to proactively identify VoTs and refer them to dedicated structures (where these exist).

Most countries in both the SLC and HoA regions lack specialised centres for VoTs but improvements are underway in a few countries. In most cases, where shelter is available, victims are hosted in structures dedicated for victims of domestic violence, or, in the case of children, in shelters for vulnerable street children or orphans.³⁷ Generally, capacities are even more limited for adult VoTs. For example, in **Burkina Faso**, 36 centres are available for children, but protection of adults remains a challenge. In **Chad**, although a number of VoTs can be granted temporary shelter by the government, in practice, the main actor providing support remains IOM. Efforts have however been made in a number of countries: in **Nigeria**, shelter capacities significantly increased in the past year (over 500 beds are now available nationally). In **Niger**, a dedicated centre for VoTs was established in Zinder in 2019 and discussions are underway to set up a network involving IOM transit centres to accommodate VoTs throughout the country. Similar improvements, albeit still limited, have been noted in The Gambia and in Kenya, but no shelters are yet available for men VoTs.

Although coordination between government actors and NGOs is recognised as key for the effective support of VoTs, coordination with government actors often remains insufficient. CSOs are often the main service providers to VoTs in both the SLC and HoA regions. For example, in **Uganda**, the government has not reported referring VoTs for five consecutive years but CSOs are very active through the Ugandan CSO Coalition against TIP. At the regional level, increased collaboration between donors, IOs and CSOs in areas such as identification of VoTs, protection, awareness raising or reintegration have been observed in the SLC region.ⁱⁱ Similarly, in the HoA, a robust network has been developed at the regional level with **BMM** support. However, in **Ethiopia**, its replication at the national

ⁱ Prevention and Suppression of Trafficking in Persons and Smuggling of Migrants Proclamation (1178/2020).

ⁱⁱ Altai Case Study, Anti-Trafficking Initiatives in the Gulf of Guinea – Review of the EUTF SLC's portfolio on anti-trafficking in the Gulf of Guinea, with a focus on the TEH programme.

level has been described as weak. Similarly, in **Kenya**, interviewees highlighted a lack of concertation and coordination among protection actors, negatively impacting their capacity to provide support to victims. Funding often remains an issue and is considered insufficient to effectively address victims' needs and support their socio-economic reinsertion.

4.5.3.2. Protection of smuggled migrants

In transit countries such as Burkina Faso, Mali, Niger or Mauritania, as well as in the HoA (Djibouti, Kenya), the protection of smuggled migrants remains a major weakness of national and international protection schemes. While the SOM Protocol provides that smuggled migrants should be shielded from prosecutions arising from the fact that they have been smuggled and extends its scope to the protection of smuggled persons, these provisions are rarely implemented in practice. Recent research suggests that the lack of adequate protection is aggravated by the extreme vulnerability of migrants to physical abuse, torture or sexual violence and arbitrary detention while under the control of their smugglers ('aggravated smuggling').³⁸

In **Mauritania**, although SOPs on 'disembarkation' are being developedⁱ to strengthen screening procedures and protection measures, a number of irregular migrants reportedly continue to be detained by security forces and/or expelled from the country without the provision of any medical or legal assistance. In **Niger**, although the National Strategy to Combat Irregular Migration (2018) and the PNMⁱⁱ (2020) provide for the creation of dedicated transit centres, additional to those managed by IOM, these have not been established yet (no budget allocated). This issue is also linked to diverging perceptions from the Nigerien government and international organisations such as IOM with regard to what constitutes necessary or superfluous assistance to be provided to migrants, in particular to non-nationals. As a result, IOM's support remains essential for the provision of protection and assistance in transit countries and the organisation of assisted voluntary returns to countries of origin.

Recommendations

At the continental level:

- Open discussions with the AU on the long-term role it could play in anti-TIP/ SOM regional fora such as the Khartoum Process as well as operational structures (ROCK), bearing in mind the benefits and risks of a continental vs. regional strategies on TIP and SOM.
- Support to the revision of the Ouagadougou Action Plan could be considered, taking into account the obstacles that prevented its effective implementation and addressing them (by including indicators and timelines on recommended actions, designating a structure within the AU in charge of its oversight, communicating and coordinating with RECs and regularly updating the document in order to match evolving trafficking dynamics).
- Assistance to the elaboration of an Action Plan dedicated to SOM could be considered. In line with the UN SOM Protocol as well as relevant regional human rights instruments, such a document should include measures to more effectively protect the rights of smuggled migrants, and may recommend the adoption of multidimensional strategies, including economic development and job creation in 'smuggling hubs' to more effectively tackle the phenomenon.

At the regional level:

- RECs (notably IGAD and ECOWAS) could benefit from technical and financial support to consolidate their governance mechanisms dedicated to the fight against TIP and SOM. In particular, strengthening the ECOWAS TIP Division in its data collection role through national focal points would enhance its capacity to aggregate data at the regional level and benefit to other actors (POCs, Niamey Declaration structures etc.).

ⁱ With the support of IOM and OHCHR.

ⁱⁱ Politique Nationale de la Migration – National Migration Policy.

- The relationships between RECs governance structures dedicated to TIP/SOM, regional fora (AU-HOAI, Rabat and Khartoum Processes, Niamey Declaration) and bi- or multi-lateral operational structures (such as POCs and the ROCK) could be further clarified and institutionalised in order to avoid duplicates, overlaps and ensure effective coordination.
- Provided relationships are clarified and depending on whether institutional gaps are confirmed at the regional/national levels and based on solid evaluations, replicating good practices/experiences across regional windows could be considered, e.g., the establishment of a structure similar to ROCK in the SLC region (to complement the work of POCs) and/or the establishment of POCs in the HoA region, to supplement the actions of the ROCK at the national level.
- RECs could benefit from further support to more effectively collect and share data on TIP/ SOM (flows, cases etc.), for example through the development of regional-level databases. These could include information on protection systems (including sheltering capacities, legal aid, etc.), in order to inform programming.

At the national level:

- Support to the revision, where needed, of relevant frameworks addressing TIP/ SOM, through the technical assistance of IPs such as IOM/ONUDD could be continued.
- A detailed auditing of TIP/ SOM dedicated structures at the national level (including how they coordinate with regional bodies) could be considered. Such audit would enable to share good practices, lessons learnt, as well as issue country-specific recommendations for improved governance and law-enforcement mechanisms at the national level. Improvement in this area is key to the strengthening of bilateral and regional cooperation.
- Most countries would benefit from assistance to the elaboration of detailed action plans (for both TIP and SOM), including indicators, robust M&E systems and budgets.
- Depending on local contexts (countries or labour emigration towards Gulf countries, countries of transit etc.) support could be provided to the elaboration and implementation of adapted prevention strategies.
- All countries would benefit from further support to the strengthening of their judiciary system. The implementation of ambitious programming to train/support/equip actors of the penal chain would lay the ground for more effective action and measurable results in the fight against TIP/SOM. In addition, specific support could be provided to more effectively tackle domestic TIP, through awareness-raising, training and support to law-enforcement officials.
- Support to the enhanced participation of victims in criminal proceedings could be considered. This could be achieved through the training of relevant law-enforcement actors on victim protection measures in criminal proceedings, increased access to legal counselling (through NGOs for example) and the operationalisation of compensation funds.
- Most countries would benefit from support to the establishment and/or functioning of referral mechanisms (including international referrals) for VoTs, as well as elaboration and/or dissemination of dedicated SOPs. Systematic referral to legal counselling may be considered.
- Although many efforts have been made to increase protection services to VOTs, these efforts would benefit from a more structured approach in order to avoid overlaps and duplicates and focus on a limited number of priority areas: identification of VOTs, infrastructure and capacities of protection centres, psychosocial support, indemnifying mechanisms, and socioeconomic reinsertion.

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- ¹ Schloenhardt, A. 'Smuggling of Migrants and Refugees', in *The Oxford Handbook of International Refugee Law* (2021).
- ² Ibid.
- ³ Ibid.
- ⁴ UNODC, 'Global report on Trafficking in Persons', 2018. Retrieved [here](#).
- ⁵ Global Compact for Safe, Orderly and Regular Migration, Objective 9. Accessed [here](#).
- ⁶ Global Compact for Safe, Orderly and Regular Migration, Objective 10. Accessed [here](#).
- ⁷ AU, 'Draft report of the evaluation of the implementation status of the African Union's Ouagadougou Action Plan to Combat Trafficking in Human Beings, especially Women and Children (2006) in Africa', 2019. Accessed [here](#)
- ⁸ UNODC, Regional Expert Group Meeting (REGM): Fostering Cooperation between the Public and Private Sector to Counter Trafficking in Persons in Africa. Accessed [here](#).
- ⁹ Regional Operational Centre in support of the Khartoum Process and the AU-Horn of Africa Initiative (ROCK), Action fiche. Accessed [here](#).
- ¹⁰ International Centre for Migration and Development (ICMPD), 'Trafficking in Human Beings: The 4 Ps Revisited'. Accessed [here](#).
- ¹¹ Altai Consulting, ROCK case study.
- ¹² UNODC, '2018-2021: The Niamey Declaration celebrates its third anniversary'. Accessed [here](#).
- ¹³ International Centre for Migration and Development (ICMPD), 'Trafficking in Human Beings: The 4 Ps Revisited'. Accessed [here](#).
- ¹⁴ IGAD, 'Human Trafficking on the Horn of Africa-Central Mediterranean Route', (2016). Accessed [here](#).
- ¹⁵ International Centre for Migration and Development (ICMPD), 'Trafficking in Human Beings: The 4 Ps Revisited'. Accessed [here](#).
- ¹⁶ ECOWAS, 'ECOWAS reviews strategy to curb trafficking in persons in the region' (2019). Accessed [here](#).
- ¹⁷ UNODC, 'Regional Strategy for Combating Trafficking in Persons and Smuggling of Migrants 2016-2020'. Accessed [here](#).
- ¹⁸ Ibid.
- ¹⁹ International Centre for Migration Policy and Development, 'Assessment of Anti-Trafficking Gaps, Needs and Transferable Practices in the ECOWAS Member States and Mauritania', (2020). Accessed [here](#).
- ²⁰ Ibid.
- ²¹ Ibid.
- ²² Ibid.
- ²³ Ibid.
- ²⁴ Ibid.
- ²⁵ International Centre for Migration and Development (ICMPD), 'Trafficking in Human Beings: The 4 Ps Revisited'. Accessed [here](#).
- ²⁶ D'Orsi, C., 'Migrant Smuggling in Africa: Challenges Yet to Be Overcome', *African Journal of Legal Studies*, (2021). Accessed [here](#).
- ²⁷ Ibid.
- ²⁸ Altai Consulting, Third-Party Monitoring and Learning, Regional Report, July 2021.
- ²⁹ Ibid.
- ³⁰ Ibid.
- ³¹ International Centre for Migration and Development (ICMPD), 'Trafficking in Human Beings: The 4 Ps Revisited'. Accessed [here](#).
- ³² Ibid.
- ³³ D'Orsi, C., 'Migrant Smuggling in Africa: Challenges Yet to Be Overcome', *African Journal of Legal Studies*, (2021). Accessed [here](#).
- ³⁴ See Mali country report.
- ³⁵ UNODC, *Global Study on Smuggling of Migrants* (2018). Accessed [here](#).
- ³⁶ International Centre for Migration and Development (ICMPD), 'Trafficking in Human Beings: The 4 Ps Revisited'. Accessed [here](#).
- ³⁷ Ibid.
- ³⁸ UNODC, 'Abused and Neglected', (2021). Accessed [here](#).

5. Return and reintegration

Key findings: In addition to the readmission agreements that many countries have had with the EU for years, since 2017 most countries have developed standard operating procedures and set up coordination committees for the return and reintegration of returnees stranded on the way to Europe. Their implementation during the EUTF-funded EU-IOM Joint Initiative was effective overall, but for most countries remained fully dependent on donor funding. Further, most of these procedures and committees do not deal with other types of returnees (for example: voluntary returnees, or returnees from the Middle East or southern Africa).

Whose return?

The word ‘return’ does not always elicit the same understanding among donors and African governments. Programming by donors usually addresses separately the issue of returns of irregular migrants and returns of ‘qualified’ diaspora members. And when donors talk about ‘*return and reintegration*’, they mostly refer to the former type (irregular migrants). But for several African governments, notably in West Africa,ⁱ the challenge related to ‘returns’ is mainly one of promoting ‘qualified’ diaspora returns, with the issue of returns being mostly framed around harnessing the socio-economic potential of returnees. Meanwhile, for other countries, notably in East Africa, the challenge is mostly related to the return of *refugees*, and to a lesser extent to (forced) returnees from Saudi Arabia, not from Europe.

This section will specifically look at the return and reintegration of migrants, including from the diaspora (which is also discussed in greater details in section 8), but not the return of refugees, which will be addressed in section 5.

Compared to other thematic areas, frameworks on return and reintegration have been particularly influenced (initiated and supported) by external actors. This is partly because for many countries (of origin), return and reintegration of migrants is a low priority, except for the issue of forced returns,¹ which they usually seek to avoid, and for that of diaspora returns, which they in some cases seek to promote.ⁱⁱ Although a few countries have specific sections dedicated to ‘return, reintegration and readmission’ in their national migration policies/strategies (Ghana, Nigeria, The Gambia), it has been argued by the OECD that ‘*the presence of reference to reintegration policy in national strategy documents of origin countries is not necessarily a sign of political ownership or that the country assigns a priority to reintegration*’ since ‘*many of the national strategies in origin countries have been developed with financial support from donor countries and with technical support from international organisations, which guarantees inclusion of reference to reintegration*’.²

The 21 countries covered by this study have had, often for many years, readmission agreements with some European countries.ⁱⁱⁱ Most countries have bilateral agreements on readmission with a variety of destination countries, largely from the EU – France, Belgium, Italy, Switzerland, Spain, and Germany among the most common.³ However, reintegration support provided as part of these agreements (although it is not always provided) is ‘*largely uncoordinated with national programmes and policies on migration*’.⁴

ⁱ Notably Ghana and Senegal.

ⁱⁱ Nigeria for example does not seem to be particularly interested in diaspora returns, but rather in diaspora remittances specifically; Djibouti tends to be interested in sending its people abroad more than in encouraging the diaspora to move back.

ⁱⁱⁱ For more information on return and reintegration programming, including from Europe, see for example Altai Consulting, ‘Learning Lessons from the EUTF - Phase 2’ (2021), accessed [here](#).

Recently, SOPs and coordination groups on ‘return and reintegration’ have been developed / set up with support from the EU-IOM Joint Initiative (JI), but their applicability is mostly limited to this specific programme.

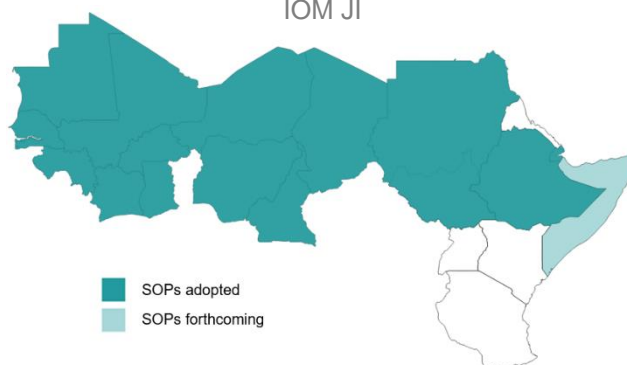
The JI was a substantial EU-funded programme that assisted around 100,000 stranded migrants on the way to Europe (mostly in Niger or North Africa) to voluntarily return to and/or reintegrate in their home countries. SOPs on return and reintegration were adopted for all 12 countries covered by this study in SLC, and 3 countries in HoA.^{i,iii} Most SOPs, however, with only a few exceptions,ⁱⁱⁱ mention that they were drafted specifically for the EU-IOM JI. In particular, most specify that they do not apply to returns not assisted by IOM, or to forced returns, and some also specify that they only apply to migrants in a formerly irregular situation.

A significant exception are the SOPs of **Ghana**, which cover all returnees, assisted by IOM or not (they remain, however, quite vague). With rare exceptions (e.g. Nigeria, The Gambia), few government actors are mentioned – as opposed to IOM which is very frequently referenced. Further, other organisations dealing with returns mentioned that they were not using the SOPs drafted as part of the JI.⁵ This focus on a specific group of returnees (assisted by the JI) is an issue especially for countries in the HoA, whose stranded citizens are most likely to be in Middle Eastern countries or to a lesser extent on the way to South Africa, not on the way to Europe.^{iv} As for the coordination groups that were supported by the JI, several interviewees mentioned that their meetings were only an opportunity to discuss JI activities, as opposed to broader return and reintegration issues in the country.⁶ Most mentioned being dependent upon IOM funding to meet, and are unlikely to keep meeting at the end of the project.

The implementation of the SOPs developed for the JI was effective overall, but, for most countries, remained fully dependent on donor funding, at least for the reintegration phase. As further detailed in the third-party monitoring and learning reports produced by Altai for the EU Trust Fund,⁷ governments were closely involved in the return, arrival and post-arrival assistance stages, and in some cases (e.g. Nigeria) even funded and organised some returns themselves. However, coordination between countries of departure (notably Libya and Niger) and origin usually fully relied on coordination between IOM offices in both countries (as opposed to coordination between both countries’ governments). Further, the involvement of national authorities in the reintegration process tended to decrease as the reintegration process advanced. Most governments did not provide funding for reintegration activities.^v

More holistic and government-led frameworks would ensure greater ownership and contributions by origin countries. More holistic frameworks, covering migrants others than those stranded on the way to Europe, would be in line with the approach of several national migration policies/strategies (e.g. those of Guinea, Niger, Senegal, Mali) which tend to approach ‘returns’ in an all-inclusive way, covering qualified diaspora and other types of returns. For example, Guinea is currently drafting an ‘*engagement strategy for the Guinean diaspora and returning migrants*’, with a focus on harnessing the potential of *all* returnees. So far, governments seem to have (financially) contributed only to programming covering also other types of returnees (beyond returnees stranded on the way to Europe). For example, in **Ethiopia**, the government did allocate (limited) funding to the reintegration of returnees from Saudi Arabia. In **Sudan**, the government set up a National Fund to

Figure 5: Status of SOPs drafted as part of the EU-IOM JI



ⁱ Djibouti, Ethiopia, and Sudan, with Somalia forthcoming.

ⁱⁱ The Joint Initiative was active in 13 countries in the SLC region (all those covered by our study plus Guinea Bissau), 4 in the HoA and 5 in the North of Africa.

ⁱⁱⁱ At least Nigeria. SOPs in the Horn of Africa were not made available to the research team, except for those for Sudan.

^{iv} 32,000 migrants stranded in Yemen for example, and 5,000 Ethiopians returnees per month still returning from Saudi Arabia. Source accessed [here](#).

^v For more information on the Joint Initiative, see the ‘Third Party Monitoring and Learning’ reports drafted by Altai Consulting for the European Union.

support the repatriation and reintegration of 'returnees' in a broad sense, be they diaspora members, irregular and regular migrants, forced or voluntary returnees. In theory, the government provides assistance (including free access to health insurance and basic education) for one year. It is unclear, however, how many returnees have benefited from the scheme.

Recommendations

Support could be offered for the adaptation/broadening of SOPs supported as part of the EU-IOM Joint Initiative, with the government in the lead or at least in close coordination with the government. The SOPs could notably be adapted to integrate other types of returnees / initiatives and continue being used beyond the scope of the JI. This could be done in priority for governments who have shown willingness to provide funding for returnees (Ethiopia and Sudan who are already doing so, as well as Côte d'Ivoire and Cameroon).ⁱ

This support could be provided in parallel with the development of national platforms supporting the return & reintegration of migrants from all regions, such as the one developed in Tunisia (Tounesna, see box below).

The Tounesna platform in Tunisia

In Tunisia, a reintegration platform called 'Tounesna' was launched with support from the **EUTF-funded ProGreS Migration programme**. Designed in collaboration with Tunisian authorities, Tounesna is hosted by the Tunisian Diaspora Office and managed by Tunisian civil servants (paid by the government). The Diaspora Office handles returnees' initial information and orientation session, referrals to public services, and administrative follow-up, in collaboration with the National Employment Agency and the National Directorate for Social Promotion. These services are open to all returnees, whatever country they come from (including Libya for example). The EUTF provides an additional economic (mostly micro-business support) and social assistance package to returnees from four European countries (Belgium, France, Germany, and Switzerland). This additional support is provided by external, non-governmental entities (*opérateurs de suivi*) which take over the individual case management.

Such a platform would be in line with the wish expressed by origin country governments, who '*generally wish to welcome returnees and ensure they have access to public services, but not necessarily to grant them extra support*'.⁸

¹ Also see OECD, 'Sustainable reintegration of returning migrants: a better homecoming' (2020)

² OECD, 'Sustainable reintegration of returning migrants: a better homecoming' (2020)

³ ICMPD, 'Study on Return, Readmission and Reintegration Programmes in Africa' (2021). Accessed [here](#).

⁴ ICMPD, 'Study on Return, Readmission and Reintegration Programmes in Africa' (2021). Accessed [here](#).

⁵ Interviews with staff from two different international organisations.

⁶ Altai Consulting, 'Regional synthesis report: European Union Emergency Trust Fund for Africa Third party monitoring and learning (TPML) mechanism for Sahel and Lake Chad' (2021).

⁷ See for example: Altai Consulting, 'Regional synthesis report: European Union Emergency Trust Fund for Africa Third party monitoring and learning (TPML) mechanism for Sahel and Lake Chad' (2021).

⁸ Le Coz, C., 'EU Strategy on Voluntary Return and Reintegration' (2021). Accessed [here](#).

ⁱ Côte d'Ivoire's 2021 budget allocates almost EUR 400,000 to returns, including stranded migrants. In Cameroon, a future government-led programme on return, protection and socio-economic reintegration of migrants will reportedly be at least partly funded by the government.

6. Asylum and refugee protection

Key findings:

- While international legal binding instruments recognise a wide range of rights for refugees and asylum-seekers, these are often not effective at the national level. Commitments in favour of responsibility sharing made under the 2016 UN Declaration, the Comprehensive Refugee Response Framework (CRRF) and the Global Compact on Refugees (GCR) have paved the way for improved access to basic rights.
- While significant reforms have been undertaken in some countries with regard to refugees' self-reliance objectives, the latter's access to essential services remains, overall, very limited. Long-term financing as well as further political support and technical assistance will be key to the sustainable implementation of CRRF/ GCR objectives.

In the past few years, the growing number of internationally displaced persons worldwide – and on the African continent in particular – has highlighted the need for a renewed governance architecture to share more equitably the burden of hosting refugees and to provide them with protection and solutions.

In Africa, the vast majority of asylum-seekers and refugees have settled in countries with limited national resourcesⁱ. Strains on hosting capacities have, in many cases, undermined the effectiveness of refugees' protection and their access to durable solutions. While under international legal frameworks refugees are, in theory, entitled to a wide range of rights, including socio-economic ones, this is often not the case in practice. Refugees' lack of awareness of their rights, pressure on land availability, housing, public services and livelihood opportunities – experienced by nationals and refugees alike – remain key barriers. In addition, certain refugee-hosting countries have adopted an increasingly stricter stance towards refugees, furthering the curtailment of their rights.

Commitments to the establishment of strengthened responsibility sharing have resulted in the adoption of a set of non-binding instruments: the **2016 New York Declaration** – and the accompanying **Comprehensive Refugee Response Framework (CRRF)** – followed by the endorsement by the UN General Assembly, in 2018, of the **Global Compact on Refugees**. As a result, the governance framework on refugees in the African continent currently consists of an embedded set of or rules, binding and non-binding, as well as a constellation of enforcement and coordination mechanisms.

By mid-2021, countries in the East and Horn of Africa and the Great Lakes region hosted 60% of all the refugees and asylum-seekers in the continent, totalling around 4.74 million individuals.

- Most of them are from South Sudan (2.2 million), Sudan (800,000), the Democratic Republic of the Congo (731,000) and Somalia (551,000).
- Uganda hosts the largest population of refugees in Africa (1.5 million), followed by Sudan (1.1 million), Ethiopia (785,000) and Kenya (520,000).
- In the first semester of 2021, nearly 82,000 people were newly internationally displaced. Most sought asylum in Sudan (47,000), Uganda (14,000) and Ethiopia (9,000).
- While a significant decrease of new arrivals was observed in 2020 due to the impact of the COVID-19 pandemic and associated measures, an increase has been noted in 2021.

ⁱ Chad, Cameroon Djibouti, Ethiopia, Kenya, Uganda, Niger, Tanzania.

In the SLC region, the number of forcibly displaced persons has continued to rise in 2021, with refugees reaching 1.4 million.

- In Mali, intercommunal conflict, armed attacks and other forms of violence forced around 81,000 people to seek refuge in neighbouring countries.
- Over 27,000 individuals sought refuge in Chad due to military operations that displaced over 16,000 in the Central African Republic (CAR), while intercommunal violence in neighbouring Cameroon led to the displacement of over 11,000 individuals.¹

6.1. International and regional legal frameworks

6.1.1. Binding international legal instruments

Most States under study have ratified the 1951 Refugee Convention, its 1967 Protocol, as well as international human rights instruments, thereby granting, in theory, a wide range of rights to refugees and asylum seekers on their territories. The 1951 Convention sets out minimum standards for the treatment of refugees, including social and political rights as well as access to essential basic services such as employment, housing, public education and healthcare. States have also agreed to provide administrative assistance, through the issuance of identity papers, travel documents and the facilitation of naturalisation. Refugees benefit from additional legal protection, with most States hosting refugees being party to the main international human rights instruments, which all contain provisions on economic and social rights, including the right to free movement, the right to education and the right to work.

Legal obstacles to the implementation of these rights lie with official reservations to the 1951 Convention as well as the absence of an independent oversight mechanisms. Some of the countries under study have lodged reservations to certain rights. For example, when it ratified the Refugee Convention, **Sudan** made a reservation to article 26 (freedom of movement), while **Ethiopia** registered its reservation about article 22, declaring that it considered refugees' access to education a recommendation but not a legally binding commitment. The other limit is the lack of an independent oversight mechanism. While UNHCR's role of supervision over the application of the Convention (as provided for in its article 35) as well as its operational responsibilities on the ground, are important mitigating factors, these are limited by resources, including funding, and, in some instances, states' willingness to cooperate.

6.1.2. Binding regional legal instruments

In addition to international instruments, most States have ratified the 1969 OAU Convention Governing the Specific Aspects of Refugee Problems in Africa as well as regional human rights instruments. The OAU Convention includes a wider definition of refugees, based on objective considerations, which means that, regardless of whether there is a well-founded fear of persecution, individuals fleeing conflicts and widespread violence are entitled to claim refugee status in States parties to the Convention.

There is, however, limited involvement of AU's political and technical bodies on refugee issues. First, the AU's capacity to effectively oversee and monitor the implementation of refugee rights is limited by the fact that the OAU Convention did not establish a supervisory mechanism to the implementation of the Convention.ⁱ In addition, although the AU Assembly created a specialised technical committee

ⁱ Although Article 7 requires States to provide the AUC Secretariat, with 'information and statistical data' concerning the condition of refugees on their territories, as well as applicable national legislation, it does not confer the AU a supervisory responsibility. See: Sharpe, M., 'Regional Refugee Regimes', The Oxford Handbook of International Refugee Law, 2021.

on Migration, Refugees, and Internally Displaced Persons in 2009, the latter was not operationalised until 2015,² and, since then, has not played a pivotal role in refugee protection.

The AU judicial organs have, similarly, not been significantly engaged with refugee issues.

- **The African Commission** has jurisdiction over both the OAU and the UN Refugee Convention but, in practice, has made reference to them only once.³ Within the Commission, the Special Rapporteur on Refugees, Asylum Seekers, IDPs and Migrants has significant power in his mandate to address refugee issues (s/he can undertake fact-finding missions, issue statements and reports and communicate with governments)⁴ but, in practice, refugee protection has not been treated as a priority.⁵
- **The African Court** has strict access rules and the only refugee issue that was brought before the African Court was ruled inadmissible.⁶
- **The African Committee of Experts on the Rights and Welfare of the Child (ACERWC)**, which supervises the implementation of the African Children's Charter has not issued any decisions nor general comments related to refugees specifically, although some of them have addressed nationality and statelessness.⁷

6.1.3. Non-binding instruments

While there is no legally binding rule on responsibility sharing under international law, the 2016 UN Declaration, the CRRF and the GCR all purport to establish it as an expression of 'political will and ambition'.⁸ The objective of these instruments is to improve refugees and asylum seekers' enjoyment of basic rights (as recognised in binding legal instruments) by easing pressure on the main receiving States and contributing, politically, financially and technically to the effective implementation of refugees' rights in host countries and the development of durable solutions.

In addition to affirming the principle of responsibility sharing, the New York Declaration included a CRRF) and set an agenda for the development of a plan for responsibility sharing in the form of a GCR.⁹

The CRRF articulates four key objectives¹⁰: 1) ease pressures on host countries; 2) enhance refugee self-reliance; 3) expand access to third country solutions; and 4) support conditions in countries of origin for return in safety and dignity.

Facilitated by UNHCR, implementation of the CRRF aims to involve, in addition to traditional governmental and humanitarian actors, a wider range of stakeholders, including international financial institutions (IFIs), regional bodies, civil society organisations and the private sector. Its approach involves a shift from humanitarian assistance, provided through parallel support systems, to inclusion of refugees in national services, such as livelihoods, health and education.

Key role played by international financial institutions (IFIs) in responsibility sharing

The World Bank's International Development Assistance (IDA) established a USD 2 billion programme in 2018 (The IDA18 regional sub-window for refugees and host communities) aimed at supporting governments to address socio-economic challenges associated with hosting large numbers of refugees and asylum-seekers.

This funding has provided important support to the CRRF's implementation in four of the countries under study: Kenya, Ethiopia, Djibouti and Uganda.

Financing is contingent on the recipient country's adherence to 'an adequate framework for the protection of refugees. UNHCR contributes to the World Bank's eligibility assessment by providing information on the protection framework, both legally and in practice.¹¹

Throughout 2017 and 2018, the CRRF was rolled out in diverse refugee situations including five of the countries under study (Chad,ⁱ Ethiopia, Djibouti, Kenya and Uganda). Lessons learnt of the CRRF helped to shape the GCR, which was adopted by UN Member States in December 2018.¹²

The architecture for burden and responsibility sharing established by the GCR consists of a set of informal mechanisms that operate at the international, regional and national levels.

This architecture was in part inspired by the CRRF's roll-out experience, notably in the HoA.¹³

- **At the international level**, the Global Refugee Forum is to be convened every four years in order to 'announce concrete pledges and contributions towards the objectives of the Global Compact',¹⁴ as well as to 'consider opportunities, challenges and ways in which burden and responsibly sharing can be enhanced'.¹⁵
- **At the regional level**, the GCR provides for the involvement of 'regional and sub-regional mechanisms' in refugee responses. In particular, it recommends the establishment of 'Support Platforms'. These are envisaged as flexible structures in charge of facilitating the engagement of international partners¹⁶ through the galvanisation of political commitment, advocacy and the mobilisation of financial and technical resources to facilitate coordinated responses.
- **At the national level**, drawing on CRRF-related experience that comprehensive responses require a 'whole-of-government' approach, the GCR recognises the utility of 'national arrangements' such as steering groups or national coordination mechanisms (see below) to 'coordinate and facilitate the efforts of all relevant stakeholders working to achieve a comprehensive response'.¹⁷

6.2. Role played by RECs in the roll-out of the CRRF and implementation of the GCR

In line with the governance architecture envisioned in the GCR, RECs play an increasingly important role to support the implementation of the GCR's objectives and CRRF delivery.

6.2.1. IGAD

IGAD has played a key role in the HoA to implement the CRRF and the GCR's objectives.

- **The Nairobi Declaration**, adopted in March 2017, has been described as a 'paradigm shift' in addressing forced displacement, moving away from a humanitarian and security issue towards a development challenge. In this Declaration, countries made pledges to improve protection and solutions and to provide educational and economic opportunities for some four million refugees and internationally displaced people residing in the region.¹⁸
- **The Djibouti Declaration on Refugee Education**, signed in December of the same year, had as its objective to standardise education for refugees across the region. Following this, several Member States formulated national plans to also integrate refugees into their education systems, aiming to raise the quality of education and promote mutual recognition of qualifications in the region.¹⁹
- **The Kampala Declaration on Jobs, Livelihood and Self-reliance for Refugees and Host Communities in the IGAD Region**, signed in March 2019, expanded economic and work opportunities for refugees with States committing to integrate refugees into local labour markets (and, among other things, enabling refugees to open bank accounts and obtain work permits in host countries).

ⁱ Chad announced its formal application of the Comprehensive Refugee Response Framework (CRRF) in May 2018 and, later the same year, an action plan was adopted to support the implementation of the CRRF and the GCR. See: [here](#). However, progress has been relatively slow compared to other CRRF countries.

In December 2019, while the Global Refugee Forum was taking place, IGAD Member States launched the IGAD Regional Support Platform, making it the first region to set-up such a structure, as envisioned by the GCR. It is designed to channel support from the international community, civil society and the private sector and coordinate delivery of financial and technical support to refugees, returnees and host communities.²⁰

However, some have highlighted several limitations to the IGAD refugee processes, including the fact that the action plans are non-binding, thereby requiring IGAD member states to implement them based on willingness alone.²¹ Another criticism of IGAD has been the quick succession of adoption of action plans not allowing stakeholders the ‘time to absorb, consult and get on board with each Declaration’ (see below).²²

6.2.2. ECOWAS & ECCAS

Although ECOWAS and ECCAS have not played a significant role in implementing the GCR objectives so far, recent initiatives under the auspices of UNHCR suggest growing involvement.

- **ECOWAS:** according to UNHCR, in July 2021, more than 140 pledges had been recorded for the region in the Global Compact on Refugees digital platform and a four-year action plan is expected to be adopted by ECOWAS Member States before the December 2021 high-level Member States’ meeting.²³ UNHCR also worked with ECOWAS to promote the development of a regional refugee protection framework and model asylum law.²⁴
- **ECCAS:** UNHCR worked with ECCAS to establish a Support Platform for solutions for the Central African Republic refugee situation. Close to 700,000 refugees remain in asylum, mainly in neighbouring countries, such as **Chad** and **Cameroon**. A first high-level meeting bringing together ECCAS and concerned Member States is expected to be organised by the end of 2021 to review and adopt the envisioned Support Platform.²⁵

6.3. Implementation of international and regional frameworks at the national level

International and regional binding frameworks have largely been domesticated across countries covered by the study, and several of them (CRRF countries notably), have, with international support, undertaken governance reforms. Significant protection gaps remain, however, and further support to national and local governance, as well as long-term, predictable financial support will be key to ensure the long-term implementation of CRRF/ GCR objectives.

6.3.1. Governance and legislative reforms at the national level

In CRRF countries, progress in implementing national governance systems and legislative reforms aimed at including refugees and asylum seekers into national systems has been uneven. Progress in setting up CRRF coordination structures has occurred mostly in Djibouti and Uganda, with mixed progress in Ethiopia and Kenya and none in Chad (see table below). All countries (except for Kenya where the draft Refugee Bill is not yet adopted), have enacted legislation aiming at improving access to livelihoods, health, education and other basic services essential to self-reliance, such as the right to open bank accounts.

Table 7: CRRF countries: national governance structures & frameworks

CRRF countries	National governance structure	Main frameworks
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Djibouti	<ul style="list-style-type: none"> ✓ A CRRF group (under the purview of ONARSⁱ) and CRRF national action plan have been set up. ✗ Operationally working with and through line ministries are some of the next steps. 	<ul style="list-style-type: none"> ✓ A national refugee law has been passed 2017 granting the right to work, access health and education services as well as social security. ✓ The law has been translated into sectoral agreements. Agreements between UNHCR and the ministries of National Education, Health and Social Affairs have been concluded.
Uganda	<ul style="list-style-type: none"> ✓ National roll-out of the CRRF has improved coordination, information-sharing and influenced international frameworks. Coordination is backed by the CRRF Steering Group supported by the CRRF Secretariat and refugee inclusion through the Refugee Engagement Forum. ✗ However, ownership among line ministries and district levels, insufficient government financing as well as lack of clarity between 'refugee acting guidelines' under the OPM and the Ministry of Local Government remains an issue. 	<ul style="list-style-type: none"> ✗ No significant new laws have been passed as refugees already had access to a wide range of rights (e.g. right to work, own business, freedom of movement etc.) through existing legislation and actionable plans pertaining to refugees.
Ethiopia	<ul style="list-style-type: none"> ✗ There is significant room for improvement for CRRF governance structures: The National Coordination Office (NCO), a key element of the CRRF governance structure, has been defunct for over a year.ⁱⁱ ✗ In addition, the technical committees envisioned in the 2017 CRRF roadmap to support the implementation of the Government's nine CRRF pledges have yet to be established. 	<ul style="list-style-type: none"> ✓ A Refugee Proclamation (January 2019) was passed granting refugees several rights ✗ However, secondary legislation is needed for its operationalisation. ✓ Three directives on the right to work, out of camp and dispute resolution mechanisms were also passed by Refugees and Returnees Service (RRS)
Chad	<ul style="list-style-type: none"> ✓ Strong national governance structure (CNARR) benefitting from a significant amount of support from international partners (HCR, IOM) 	<ul style="list-style-type: none"> ✓ Adopted its first asylum law in December 2020. It ensures refugees and asylum seekers fundamental protections, including freedom of movement, the right to work and access to healthcare, education and justice. It also guides the establishment of an efficient national asylum system and RSD process.ⁱⁱⁱ

ⁱ Office National d'Assistance aux Réfugiés et aux Sinistrés.

ⁱⁱ Ethiopia country report.

ⁱⁱⁱ UNHCR regional update

Kenya	<p>X A draft national action plan and technical working group were set-up, but little progress has been achieved at the national level.</p>	<p>✓ The proposed Refugee Bill 2019 encompassing Kenya's commitment to the CRRF has been assented in November 2021.</p> <p>X In March 2021, the government issued another notice to UNHCR requesting closure of the camps and a roadmap to this end has been established, with a deadline set at June 2022.</p>
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In addition, in line with the GCR, a number of non-CRRF countries such as Sudan, Niger, Cameroon and Nigeria have started to integrate refugees in national services. For example, In Niger, support to refugees' access to education and health has been backed by the World Bank through the IDA-18 sub-window. The Refugees and Host Communities Support Project (PARCA) is expected to benefit 160,000 refugees through the development of economic opportunities and the strengthening of basic services in areas hosting large number of refugees.²⁶ Similarly, Cameroon committed to share humanitarian response costs through a support to providing education, health (30% of the costs are borne by the government) and professional insertion. In Sudan, children refugees' educationⁱ, has been included in the National Education Sector Strategic Plan and its associated costed work plan. A new National Social Protection Strategy 2021-2026 has been developed and the National Health Insurance Fund Act 2016 is in the process of being revised to extend health insurance to refugees. However, if these commitments in favour of refugees' inclusion demonstrate a positive political will, the lack of infrastructures and equipment, insufficient funding, as well as the limited number of professionals in the education and health sectors remain the main structural barriers to basic services, both for nationals and refugees.

6.3.2. Persistent protection gaps and limited enjoyment of legal rights

The research conducted in all countries revealed significant implementation gaps between international frameworks and GCR objectives, national frameworks and the way these are translated into national – and local – practice.

6.3.2.1. RSD procedures remain weak and contribute to asylum-seekers' vulnerability

Most non-CRRF countries, particularly those hosting large number of refugees, receive technical or legal assistance from UNHCR, ranging from assistance in drafting asylum laws to support to their implementation and/ or participation into national RSD procedures. For example, in Guinea, UNHCR provided support to the Government to ensure the implementation of the 2018 asylum law, including the adoption of implementing decrees related to integration. In Niger, a technical committee in charge of reforming the asylum framework was set up in December 2020, with the objective of establishing a reception system in charge of the registration of asylum-seekers and refugees, while providing support to meet their basic needs.²⁷ In The Gambia, Sudan, South Sudan, Tanzania, Mali and Niger, UNHCR actively supports national RSD procedures and sometimes acts as an observer.

However, significant backlogs in individual RSD remains a source of concern, as it delays access to rights recognised under refugee legislation. While *prima facie* RSD is applied in many situations,ⁱⁱ in countries where the caseload is important, RSD mechanisms are not in a position to

ⁱ In Sudan, the Asylum Act grants refugees the right to basic education but 67% of primary-school aged and over 90% of secondary-school aged children remain out of school.

ⁱⁱ *Prima facie* RSD is applied by UNHCR and States dealing with the arrival of large number of asylum seekers where 'readily apparent objective circumstances' establish the requisite risk to grant the claimant international refugee protection. In the SLC region, Mali, Niger, Nigeria, Cameroon and Chad rely, in whole or in part, on *prima facie* status determination. Similarly, in the

effectively adjudicate claims. For example, in **Niger**, the average timeframe for the processing of a claim is 18 months, while in **Uganda**, there is a reported backlog of around two years. Djibouti, Nigeria and Tanzania (where *prima facie* recognition of Burundian asylum seekers was revoked in 2017) face similar issues. UNHCR expressed additional concerns over plans envisioning to shift from *prima facie* to individualised RSD for large caseloads, including South Sudanese refugees, which would risk creating new and increasing backlogs of asylum applications.²⁸

Difficulties accessing registration (often due to security reasons, such as in northern Mali), long waiting periods for RSD interviews, and lack of legal documents constitute reasons for secondary movements, increased risks of statelessness (notably in Cameroon and Chad), as well as vulnerability to violence, including TIP.

Table 8: Refugees related frameworks and dedicated structures per country

	Country	Ratification of/ accession to the 1951 UN Convention	Ratification of 1969 OAU Convention	Adoption of the GCR	National legislation has been enacted	Dedicated structure in charge of refugee affairs exists	RSD procedures are in place
HoA	Djibouti	✓	X	✓	✓	✓	✓
	Eritrea	X	X	X	X	X	X
	Kenya	✓	✓	✓	✓	✓	✓
	Ethiopia	✓	✓	✓	✓	✓	✓
	Somalia	✓	X	✓	✓ ⁱ	✓	✓ (HCR only)
	South Sudan	✓	✓	✓	✓	✓	✓
	Sudan	✓	✓	✓	✓	✓	✓
	Tanzania	✓	✓	✓	✓	✓	✓
	Uganda	✓	✓	✓	✓	✓	✓
SLC	Burkina Faso	✓	✓	✓	✓	✓	✓
	Cameroon	✓	✓	✓	✓	X	✓
	Chad	✓	✓	✓	✓	✓	✓
	Côte d'Ivoire	✓	✓	✓	X	✓	✓
	Ghana	✓	✓	✓	✓	✓	✓
	Guinea	✓	✓	✓	✓	✓	✓
	Mali	✓	✓	✓	✓	✓	✓

HoA region, South Sudan recognises the immense majority of refugee statuses on a *prima facie* basis, while Sudan, Ethiopia, Kenya, Uganda and Djibouti reserve this procedure to specific situations.

ⁱ UNHCR supported the drafting of the Refugee Act, which was with the Parliament as of the fall of 2021.

	Mauritania	✓	✓	✓	X	✓	✓ (HCR only)
	Niger	✓	✓	✓	✓	✓	✓
	Nigeria	✓	✓	✓	✓	✓	✓
	Senegal	✓	✓	✓	✓	✓	✓
	The Gambia	✓	✓	✓	✓	✓	✓

Colour code:

- ✓ Yes
- X No
- ✓ Partially

6.3.2.2. Limited access to work and livelihoods

A large number of refugees continue to live in refugee camps/settlements, which is not compatible with GCR self-reliance objectives. In **Sudan** and **Kenya**, applicable legislation requires refugees to stay in camps, unless a travel permit is issued.ⁱ In **Ethiopia**, although the new Refugee Proclamation provides refugees with freedom of movement, it indicates that RRS ‘may arrange places or areas within which refugee and asylum-seekers may live’, thus leaving considerable leeway to limit such freedom. In fact, most refugees are indeed settled in camps.ⁱⁱ In **Tanzania**, a practice has developed prohibiting refugees from moving outside a four-kilometre radius of their camp. Lastly, even in countries where refugees are free to exit camp, such as South Sudanⁱⁱⁱ or Uganda, the tying of humanitarian assistance to camps and settlements discourages mobility and contributes to maintain refugees’ dependency.²⁹

The Ethiopian ‘Job Compact’

The Ethiopia Job Compact and the World Bank’s Economic Opportunities Programme culminated in two ‘right to work’ⁱ directives. However, significant work is required to translate these commitments into law, and to ensure that these laws are implementable.

In 2020, 2,600 residence permits were issued to allow refugees to work in joint projects designed by the Government and the international community but the procedure to obtain work permits remains inadequately resourced and ambiguities regarding the conditions under which refugees can be employed leave both local authorities and potential employers uncertain about what is permitted and what is not. RRS is currently developing a manual to address these ambiguities.

Limited access to work permits remains a significant barrier to employment. Refugees in **Sudan** are allowed to work in camps upon reception of a work permit. In practice, however, only a few are issued (320 in the first half of 2021, according to UNHCR). In **Kenya**, individuals with documented refugee status are, by law, eligible to work permits. However, corruption remains a significant issue, refugees being sometimes charged up to KSH 150,000 (USD 1,500) for a permit.^{iv} Furthermore, in most CRRF countries, the lack of recognition of foreign credentials complicates the issuance of work permits.³⁰ Obtaining employment in the informal sector, which constitutes the majority of available

ⁱ Sudan made a reservation to Article 26 of the 1951 Refugee Convention relating to the freedom of movement. However, in practice, reports suggest that in practice refugees enjoy significant freedom of movement.

ⁱⁱ As it has been noted, this leaves a wide room of interpretation shall the country wish to continue its encampment policy. See: Crawford, N. and O’Callaghan S., ‘The Comprehensive Refugee Response Framework – Responsibility-sharing and self-reliance in East Africa’ (2019), retrieved [here](#).

ⁱⁱⁱ In South Sudan, the provision of education, health, livelihood training, food and other services remains in the hands of the protection cluster.

^{iv} Failure to obtain a work permit may lead to three years imprisonment or a fine of USD 3000 or both.

employment can also be challenging due to language barriers.³¹ As a result, many refugees work 'informally as casual labourers with low wages',³² as incentive workers or are unemployed.³³

In the ECOWAS region, legal and/or practical barriers to local labour markets and public services persist, including for asylum-seekers and refugees. Despite the free movement protocol, a number of countries maintain discriminatory labour legislation prioritising the hiring of nationals or setting quotas.³⁴ Barriers also include difficulties accessing work permits, lack of awareness among employers regarding foreigners' right to workⁱ as well as informal discriminations.³⁵

6.3.2.3. Limited access to basic services

All CRRF countries as well as Sudan, Niger, Cameroon and Chad put significant efforts into including refugee children into national education systems, but quality of education as well as related costs remain important barriers.³⁶ Pursuant to the Djibouti Declaration, Kenya, Ethiopia, Djibouti and Uganda all adopted laws, policies and/or action plans aiming at integrating refugee children into national systems. Similarly, with significant financial support from IDAⁱⁱ, **Chad** declared over 100 schools located in refugee camps and settlements to be public schools, allowing refugee children to attend and receive government support. In **Nigeria**, in coordination with NCFRMI, UNHCR helps refugees integrate in the Nigerian education system and provides support for expenses such as school materials.

Access to services is similarly limited in the ECOWAS region. With regard to education and health services, costs remain a key barrier. Including in countries where education costs are borne by the State, there is often still a range of expenses, including school materials, that families are not always in a position to afford, even with assistance from UNHCR. Similarly, a key barrier to accessing healthcare is the cost of medical procedures and treatment: refugees and asylum-seekers are reportedly aware that they have the right to access health services in transit and host countries, but costs remain a barrier.³⁷

6.3.1. Main governance challenges related to self-reliance objectives at the national and local levels

A key challenge to achieving self-reliance for refugees is decentralisation, which involves building the capacities of local government structures to take on additional responsibilities. In a number of countries, refugee management is still highly centralised and the distribution of roles and responsibilities between national and local levels of government is not always clearly delineated. The structural weaknesses of local governments can, in part, explain this situation (limited planning and technical capacity, limited material and human resources, particularly in remote areas etc.).³⁸ Positive example of successful decentralisation exist however, as is the case, for example, in the Somali region in **Ethiopia**. In general, given the consensus on the importance of including refugees into national systems, additional support should be provided in favour of public

CRRF decentralisation in Ethiopia

With support from the 'Technical assistance to CRRF structure' EUTF project, the Somali Region offers a positive example of CRRF governance at the local level. Highly localised but functional CRRF structures have been established, including three technical committees that meet regularly.

In 2020-2021, a series of seminars were held to share learning on topics such as the directives on the right to work and the impact of COVID-19 on the economic engagement of refugees. According to stakeholders, the experience showed that linking policy discussions to the use of research and evidence can help to desensitise people to difficult topics and provide stronger support for

ⁱ In Nigeria, one challenge is that some officials do not recognise refugees' documentation (due to lack of awareness or to corruption), resulting in the denial of their right to work.

ⁱⁱ A USD 50 million IDA-18 grant supported expansion of education opportunities in Chad.

administration reform strategies in order to strengthen the capacity of local government to manage additional responsibilities.³⁹

efforts to strengthen both policy and programming within the refugee response.

Local development planning including refugees is equally key to ensure that refugees can benefit from an equal access to services. Uganda stands out in relation to including refugees in local development planning with refugees being entirely integrated in the NDP III (2020-2025).⁴⁰ In Kenya, in contrast to the national level, progress at county level has been registered in Turkana and Garissa Counties. In Ethiopia, CRRF is being rolled out at the regional level with Regional Action Plans (RAPs):⁴¹ a draft ten-year comprehensive strategy was finalised and regional action plans are being developed. In Chad, following the 'out of camp' approach, all new refugees were integrated into host villages, with the objective of transforming 30% of the refugee camps in villages by 2024 in order to facilitate socio-economic integration and access to livelihoods and other services.⁴²

The lack of long-term secured financing from third States – under the principle of responsibility sharing – is likely to constitute an obstacle to the sustainable implementation of CRRF/ GCR objectives. Limited financial commitments to support the implementation of the above-mentioned governance and legislative reforms remain a concern. Shifting towards an 'out-of-camp approach' whereby new economic opportunities for refugees will diminish reliance on humanitarian support requires a certain degree of predictability.⁴³ However, as an example, by June 2021, Uganda's refugee response plan was only 22 percent funded, leaving a considerable gap and uncertainty about when and what provisions will actually be implemented.

6.3.2. Returns and durable solutions

In line with the GCR, regional intergovernmental political mechanisms such as the one envisioned by the Nairobi Declaration on the Somalia situation, the IGAD Two Sudan Initiatives or the Bamako Process have been developed to promote durable solutions and facilitate returns. In March 2017, IGAD heads of State and governments issued the Nairobi Declaration and accompanying Plan of Action, thereby committing to accelerate solutions in Somalia by creating conditions conducive to voluntary and sustainable return.⁴⁴ In October 2020, Sudan and South Sudan, together with IGAD, UNHCR, the EU, the World Bank, the US and Germany, launched the 'Two Sudan Initiative' to support the implementation of the provisions dealing with durable solutions contained in the peace agreements. National solutions strategies are being developed in both countries to align with the objectives of the initiatives. Although the Initiative is now paused due to the current political situation in Sudan, it had yielded tangible results until the recent change in government, with national solutions strategies being developed in both countries to align with its objectives. In the SLC region, the Regional Protection Dialogue held in Bamako in September 2019 resulted in the Bamako Ministerial Declaration and Conclusions, the 'Bamako Process' signed by Burkina Faso, Mali, Mauritania, Niger and Chad.ⁱ

In application of the principle of responsibility sharing, political, financial and technical support to these initiatives will be key in order to ensure their success. In order for the IGAD Two Sudan Initiative to successfully fulfil its mandate – when the political situation will be more conducive – continued assistance to the IGAD support platform will be needed. Regarding the Bamako Process, while the declaration represents a positive first step, the conclusions remain to be operationalised to facilitate an effective implementation.⁴⁵ The Declaration did not outline a follow-up mechanism.⁴⁶ UNHCR stated it would ensure the linkage between the Bamako Process and the UN Integrated Strategy for the Sahel as well as seek the participation of other UN agencies, NGOs and other partners to the technical committees⁴⁷ but little progress has been registered so far.⁴⁸

ⁱ The conclusions are organised around five areas of intervention: 1) Humanitarian access and civil-military coordination, 2) Protection in the context of the UN framework for the prevention of violent extremism, 3) Access to asylum in the context of mass influx and mixed movements, 4) Solutions for refugees, IDPs and other civilian population, 5) Access to civil registration, identity documents and nationality.

A number of tripartite agreements for the voluntary repatriation of refugees have been signed under the aegis of UNHCR, which enabled the return of a significant number of refugees while ensuring protection safeguards.

- In 2017, the governments of **Cameroon, Nigeria** and UNHCR entered into a tripartite agreement for the voluntary repatriation of Nigerian refugees who had fled into Cameroon. The agreement established a Tripartite Commission in charge of overseeing its implementation. On this basis, around 3,800 of the 5,000 refugees wishing to return from the Minawao camp in Cameroon to Borno State in Nigeria were repatriated.⁴⁹
- A similar agreement involving CAR has been developed with **Cameroon**. However, prospects for the return of refugees to CAR were reduced following the deterioration of the security situation since December 2020.⁵⁰
- Another agreement between the governments of **Chad, Sudan** and UNHCR formed the basis for the return of nearly 4,000 Sudanese refugees and over 6,000 Chadians between 2017 and 2019. Such agreements enabled parties to establish similar agreements are underway: a tripartite agreement between **Chad**, Central African Republic (CAR) and UNHCR. In July 2021, Borno State representatives started discussions with representatives in Diffa, **Niger**, regarding the establishment of a similar return mechanism. UNHCR has announced that it would be working with the concerned governments to establish a tripartite framework for the future voluntary repatriation of refugees from **Niger to Nigeria**.⁵¹

Resettlement of refugees to non-African countries continues, although opportunities are still too limited. In the HoA region, despite COVID-19's impact on resettlement procedures, according to UNHCR, the region is on track to meet the allocated quota of some 22,300 individuals in 2021.⁵² In addition, a regional complementary pathways strategy has been developed, which includes a range of activities related to educational and labour mobility.⁵³ In the SLC region, as of July 2021, 760 cases had been submitted for resettlement, and over 630 refugees had departed.⁵⁴ Four applicants obtained scholarships abroad and were confirmed for departure.⁵⁵

Temporary labour migration is considered a possible fourth 'durable solution' particular in situations of protracted forced displacements.⁵⁶ In the context of an increasing interrelationship between refugee protection and international migration, refugees can use temporary or permanent opportunities offered by migration schemes, either in their host country or through regular movements (through labour or education pathways, for example) to a third country.⁵⁷ For example, in **Kenya**, avenues for creating opportunities for resettlement in third countries through employment mobility programmes are being explored. Through the Economic Mobility Pathways Project (EMPP), UNHCR and the NGO Refugee Point connect qualified refugees to employers facing specific skilled labour gaps. While still new, this model is a promising good practice to complement resettlement opportunities that are currently too limited (see section on labour migration).

Recommendations

At the international level:

- The successful implementation of CRRF/ GCR objectives could be supported by renewed political and financial commitment in favour of responsibility sharing, including by increasing the number of resettlement opportunities as well as engaging with non-African countries to continue participating in the Global Refugee Forum and make contributions towards the achievement of the GCR.

At the continental level:

- Open discussions with the AU on how AU bodies and structures dedicated to the protection of refugees could be further involved in CRRF / GCR implementation (notably, the Specialised committee on Migration, Refugees and IDPs, as well as the African Commission).

- Donors' coordination and the development of joint strategies could further be strengthened by the development of formal or informal partnerships with other key donors like the World Bank Group or the African Development Bank.
- Support to CSOs' litigation strategies in favour of refugees and asylum seekers' rights before the three AU judicial organs (the African Commission, the African Court and the ACERWC) could be considered, in order to develop case-law and precedents at the continental level.

At the regional level:

- The IGAD Support Platform could benefit from additional political, technical and financial support, in coordination with other donors. In particular, the establishment of an oversight mechanism would allow to collect updated data on the implementation status, at the national and local levels, of commitments made at the regional and international levels.
- In the ECOWAS region, support could be provided to the development of and implementation of the regional refugee protection framework and model asylum law promoted by UNHCR.
- In the ECCAS region, UNHCR could benefit from political and financial support for the establishment of the Support Platform for solutions for CAR (a large number of CAR refugees are hosted in neighbouring Chad and Cameroon).

At the national level:

- Support to the revision and modernisation, where needed, of relevant asylum laws and procedures, with UNHCR's technical assistance, should be continued.
- A detailed auditing of national CRRF governance structures (including how they coordinate with regional bodies) could be considered. Such audit would enable to share good practices, lessons learnt, as well as issue country-specific recommendations for improved governance.
- Most countries implementing the CRRF/GCR would benefit from assistance to build detailed Action Plans for the implementation of national legislations on providing access to basic services, including indicators, robust M&E systems and budgets. Such data would enable to develop precisely tailored programming to support national authorities.
- Additional support in favour of decentralisation and/or public administration reform strategies designed to enhance the capacity of local governments to absorb the additional responsibilities related to the inclusion of refugees and asylum seekers into local services (health, education, etc.) could be considered.
- CRRF countries, as well other States hosting large number of refugees would benefit from further support to strengthen national and local governance mechanisms as well as financial assistance to develop economic opportunities and access to essential services for asylum-seekers and refugees.

¹ UNHCR, 'Update on UNHCR's operations in the East and Horn of Africa and the Great Lakes', (October 2021). Accessed [here](#); UNHCR, 'Update on UNHCR's operations in West and Central Africa' (October 2021). Accessed [here](#). See also, UNHCR Refugee data finder, accessed [here](#).

² Sharpe, M., 'Regional Refugee Regimes', The Oxford Handbook of International Refugee Law, 2021.

³ Ibid.

⁴ Special Rapporteur on Refugees, Asylum Seekers, IDPs and Migrants, African Commission on Human and People's Rights. Accessed [here](#).

⁵ Sharpe, M., 'Regional Refugee Regimes', The Oxford Handbook of International Refugee Law, 2021.

⁶ Ibid.

⁷ Ibid.

⁸ Global Compact on Refugees, par. 4, retrieved [here](#).

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- ⁹ Triggs G., Wall P., ‘The Global Compact on Refugees and the Inaugural Global Refugee Forum’ (2020), retrieved [here](#).
- ¹⁰ Comprehensive Refugee Response Framework, par. 18.
- ¹¹ Triggs G., Wall P., ‘The Global Compact on Refugees and the Inaugural Global Refugee Forum’ (2020). Accessed [here](#).
- ¹² Comprehensive Refugee Response Framework.
- ¹³ Triggs G., Wall P., ‘The Global Compact on Refugees and the Inaugural Global Refugee Forum’ (2020). Accessed [here](#).
- ¹⁴ Global Compact on Refugees accessed [here](#).
- ¹⁵ Ibid.
- ¹⁶ Triggs G., Wall P., ‘The Global Compact on Refugees and the Inaugural Global Refugee Forum’ (2020). Accessed [here](#).
- ¹⁷ Global Compact on Refugees accessed [here](#).
- ¹⁸ UNHCR, ‘IGAD countries work together to address displacement in the Horn of Africa (2019), retrieved [here](#).
- ¹⁹ GIZ, ‘Strengthening migration policy in the Horn of Africa’, (2021), retrieved [here](#).
- ²⁰ ‘The IGAD Support Platform Launched At Refugee Forum Is Proof of Commitment to Progressive Refugee Policies by Djibouti, Ethiopia, Kenya, Somalia, South Sudan, Sudan and Uganda’ (2019). Accessed [here](#).
- ²¹ Hammond L. et al., ‘Comprehensive Refugee Responses in the Horn of Africa: Regional Leadership on Education, Livelihoods and Durable Solutions’, (2019). Accessed [here](#).
- ²² Ibid.
- ²³ UNHCR, ‘Update on UNHCR’s operations in West and Central Africa’ (October 2021), retrieved [here](#).
- ²⁴ Ibid.
- ²⁵ Ibid.
- ²⁶ Ibid.
- ²⁷ Ibid.
- ²⁸ UNHCR, ‘Update on UNHCR’s operations in the East and Horn of Africa and the Great Lakes’, (October 2021), retrieved [here](#).
- ²⁹ Crawford, N. and O’Callaghan S., ‘The Comprehensive Refugee Response Framework – Responsibility-sharing and self-reliance in East Africa’ (2019), retrieved [here](#).
- ³⁰ Hammond L. et al., ‘Comprehensive Refugee Responses in the Horn of Africa: Regional Leadership on Education, Livelihoods and Durable Solutions’, (2019). Accessed [here](#).
- ³¹ Ibid.
- ³² Ibid.
- ³³ Ibid.
- ³⁴ UNHCR / IFRC, ‘Access to essential services for people on the move in the ECOWAS Region’, (2020). Accessed [here](#).
- ³⁵ Ibid.
- ³⁶ Hammond L. et al., ‘Comprehensive Refugee Responses in the Horn of Africa: Regional Leadership on Education, Livelihoods and Durable Solutions’, (2019). Accessed [here](#).
- ³⁷ UNHCR / IFRC, ‘Access to essential services for people on the move in the ECOWAS Region’, (2020). Accessed [here](#).
- ³⁸ Crawford, N. and O’Callaghan S., ‘The Comprehensive Refugee Response Framework – Responsibility-sharing and self-reliance in East Africa’ (2019). Accessed [here](#).
- ³⁹ Ibid.
- ⁴⁰ Government of Uganda, Third National Development Plan (NDPIII) 2020/2021- 2024/25.
- ⁴¹ UNHCR, ‘Ethiopia: Summary Pledge Progress Report (2019). Accessed [here](#).
- ⁴² UNHCR, ‘Update on UNHCR’s operations in West and Central Africa’ (October 2021). Accessed [here](#).
- ⁴³ Crawford, N. and O’Callaghan S., ‘The Comprehensive Refugee Response Framework – Responsibility-sharing and self-reliance in East Africa’ (2019), retrieved [here](#).
- ⁴⁴ Garlick, M. ‘The sharing of responsibilities for the international protection of refugees’, in the Oxford Handbook of International Refugee Law (2021).
- ⁴⁵ UNHCR, ‘Crisis in the Sahel: UNHCR emergency and protection response’, (2020). Accessed [here](#).
- ⁴⁶ Ibid.
- ⁴⁷ Ibid.
- ⁴⁸ Country report, Mali.

⁴⁹ UNHCR, ‘Update on UNHCR’s operations in West and Central Africa’ (October 2021), retrieved [here](#).

⁵⁰ Ibid.

⁵¹ Ibid.

⁵² UNHCR, ‘Update on UNHCR’s operations in the East and Horn of Africa and the Great Lakes’, (October 2021). Accessed [here](#).

⁵³ Ibid.

⁵⁴ UNHCR, ‘Update on UNHCR’s operations in West and Central Africa’ (October 2021). Accessed [here](#).

⁵⁵ Ibid.

⁵⁶ Atak, I. and Crepeau, F. ‘Refugee as Migrants’, in the Oxford Handbook of International Refugee Law (2021).

⁵⁷ UNHCR, ‘Solutions for refugees’, in the 10-Point-Plan (chapter 7), retrieved [here](#).

7. Internal displacement and migration

Key findings:

- **Internal displacement** has suffered from a lack of focus compared to the issue of refugees, although there has been recent momentum towards the ratification of the Kampala Convention and most countries with the largest IDP crises have also adopted, or will soon adopt, IDP-specific laws or policies. Their level of implementation varies: 1. *prevention* tends to be limited, especially that of displacement induced by economic development projects; 2. *assistance* during displacement is on the whole provided, although the extent to which governments are leading the process varies and assistance tends to be focused on camps; 3. few IDP policies address *durable solutions* in detail, and, on the ground, many governments tend to focus on returns at the expense of other solutions.
- Despite the importance of the phenomenon, **internal migration** has been paid even less attention. National migration policies / strategies typically dedicate a relatively small section to internal migration, or even none at all. The coordination groups on migration that have been set up at national levels often do not include groups on internal migration. There is a lack of data on the phenomenon for policy planning, and a lack of capacities to implement the policies. Further, policies that *do* mention internal migration frequently view it negatively, and other laws only indirectly related to migration contribute to the sedentarisation of populations (for example indigeneity laws restricting internal migrants' rights).
- Similarly, although nomadic pastoralism tends to touch significant shares of the population and of the economy in several of the countries under review, **nomadic pastoralists'** mobility is usually not considered in migration frameworks. When it is addressed by sectoral frameworks (e.g. agricultural policies), this mobility may not always be seen as a priority compared to productivity or security concerns. Beyond laws/policies and more favourable attitudes from governments to pastoralists' mobility, infrastructure and services to facilitate this mobility would be needed, and governments do not necessarily have the means to provide them.
- **Climate change-induced migration** is also insufficiently addressed in migration-related frameworks, and when they do address it, it tends to be viewed solely as a negative consequence of climate change, with a lack of consideration of migration as an *adaptation* strategy. In addition, data on migration that could be induced by the slow onset effects of climate change is insufficiently used for policy making.

Section 7.1 below will deal with internal migration, and the following section (7.2) will deal with 'internal migration', defined as all types of migration flows except for forced displacement ones.

7.1. Internal displacement

7.1.1. Main governance frameworks

International level

The main international framework on international displacement is the **UN guiding principles on internal displacement (1998)**. The document does not formulate new legal norms

At the international level, the issue of IDPs has suffered from a lack of focus compared to refugees. There is no international organisation responsible for IDPs.ⁱ In the New York Declaration, IDPs are only mentioned in the introduction, and the Global Migration Compact does not

ⁱ Although the UN General Assembly has authorised UNHCR, under specific circumstances, to conduct operations to protect and provide humanitarian assistance to IDPs.

but lays out how existing principles of international law and humanitarian law can be applied in the context of internal displacement.

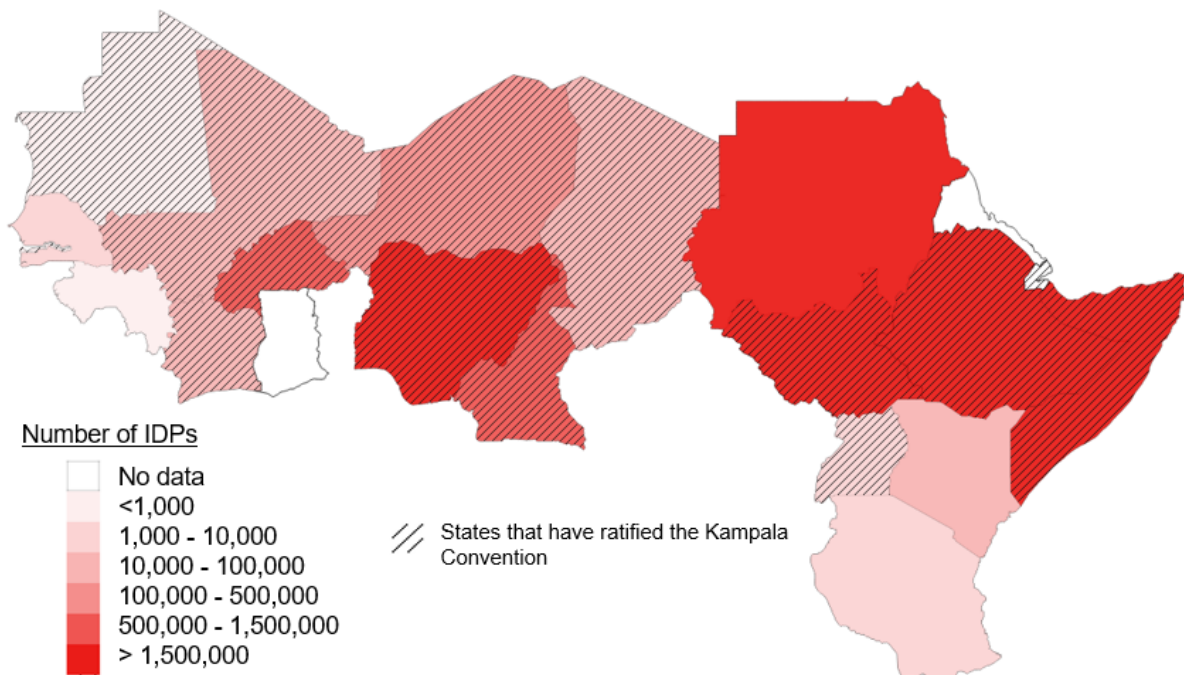
cover IDP issues (and neither does the Global Compact on Refugees). ‘This has serious consequences, for example in the distribution of funds earmarked for the implementation of the two compacts.’¹

Continental-level governance

There has recently been significant momentum towards the ratification of the Kampala Convention, as illustrated in Figure 6 below. Of the states with the largest IDP populations, key new ‘state parties’ include Ethiopia, Somalia and South Sudan. Sudan also has ‘publicly expressed a willingness to accede to or ratify the Convention’.² The ratification of the Kampala Convention would be beneficial in many respects, for example in that it criminalises the displacement of persons (this provision being frequently absent from national frameworks), and that States party benefit from a monitoring structure. On the latter point, however, the first meeting of the Conference of States party to the Kampala Convention only took place in 2017,³ suggesting limited monitoring and exchange of best practices among States party so far.

The main continental instrument for internal displacement is the **Kampala Convention (2009)**. In contrast to the UN guiding principles, it is a binding instrument that spells out obligations for state actors. Another major regional framework is the **Great Lakes Protocol on IDPs (2006)**, which makes the UN guiding principles binding.

Figure 6: All countries with the largest IDP numbers have ratified the Kampala Convention, except for Sudan⁴



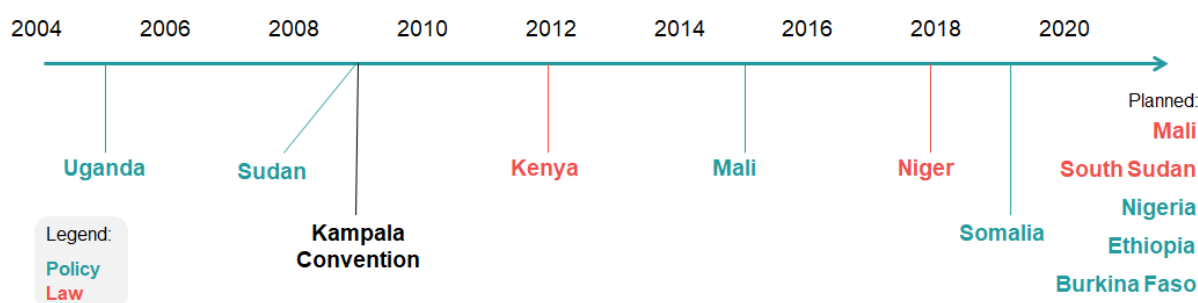
Country-level governance

At the country level, the governance of IDP issues also does not seem to rank very high in terms of priority. In a 2018 AU survey of 39 of its Member States, only five mentioned internal displacement as one of the major migration issues/challenges faced by the country, and only three mentioned data on IDPs as one of the areas of need for capacity building on migration data collection.⁵ Interviews conducted for this study also highlighted limited willingness from some States to engage on IDP issues, most of the time related to their political sensitivity.

Nevertheless, most countries with the largest IDP crises have adopted, or will adopt soon, IDP-specific laws or policies, as illustrated in Figure 7 below. These laws or policies should in theory allow to:

- clarify roles and responsibilities. For example, in **Nigeria**, which does not yet have an IDP policy/strategy, there are two agencies claiming to be the lead on the IDP response; a forthcoming IDP policy is expected to clarify the situation;
- re-balance away from an excessive focus on returns as ‘the only’ durable solution for IDPs. Currently, returns are prioritised notably in South Sudan and in Nigeria.
- replace or complement customary laws, which can be accompanied by discriminations related to gender, notably when it comes to access to land.

Figure 7: Adoption of IDP laws or policies in the countries covered by the study



However, even for countries that have adopted a law or policy, the following gaps remain:

- **Policies and laws are often insufficiently specific and/or actionable**, notably when it comes to preventing displacement,⁶ securing durable solutions,⁷ allocating clear responsibilities to specific authorities,⁸ and making resources available. Regarding the latter, in **Niger**, which was the first State to domesticate the Kampala Convention into law, the planned *fund for assistance and protection of IDPs* has not yet been set up because the resources have not yet been secured.ⁱ In **Ethiopia**, the draft policy was reportedly intentionally left relatively vague to secure consensus.
- **Policies and laws seem little known or used**. In **Sudan**, there is an IDP policy since 2009 but it was rarely mentioned during key informant interviews conducted for this study. Although one could think that an IDP law would be more effective than an IDP policy (as the former is binding but the latter is not, so a law can be used in front of courts of justice), in **Kenya**, the 2012 IDP Act has only been referenced in one legal case.

Recommendation

Donors could advocate for (and support) the quick adoption of IDP laws and policy in the countries where these are planned (cf. Figure 7), in order to ensure that they do not arrive too late. For example, in Nigeria, an IDP policy which has been in the making for about 10 years may well be adopted only after most IDP camps are supposed to have closed.

Momentum has also been observed when it comes to the creation or strengthening of specialised structures in charge of coordinating IDP issues within the government. Almost all countries faced with major IDP crisesⁱⁱ have set up new government bodies to improve the coordination of their responses to internal displacement, or tasked existing governance structures to do so.⁹

ⁱ The law only mentioned that resources were meant to come from the State and local government as well as external partners, without further details.

ⁱⁱ Exceptions include Nigeria, to the extent that two agencies are competing to coordinate the IDP response.

Best practices on governance of internal displacement

Mainstreaming IDP considerations into other (sectoral or higher level) frameworks has been recommended as a best practice to ensure sustainability: *‘even when a stand-alone law or policy on internal displacement is adapted, it often works as a complement and usually a certain degree of streamlining and adaptation of existing sectoral regulations is required’*¹⁰ and *‘depending on the context, a sectoral approach that systematically takes into account the needs of IDPs in different policy areas may be a more effective form of protection’*.¹¹ Including IDP considerations in national development plans, as is done in Somalia¹² and is expected to be done in Ethiopia,¹³ is particularly useful. Other mainstreaming best practices include the fact that some penal codes criminalise arbitrary displacement (e.g. Chad)¹⁴ and that some disaster risk reduction policies consider displacement risks (e.g. Burkina Faso).

Consultative processes for drafting IDP laws/policies have also been praised. For example, the drafting of **Kenya’s** act on IDPs included 26 public hearings with IDPs and other communities affected by displacement.¹⁵

7.1.2. Implementation of IDP frameworks

IDMC (one of the leading agencies on internal displacement-related research) recently concluded that *‘even among the countries that have ratified [the Kampala Convention], little has been done to implement it’*.¹⁶ The provisions of the Kampala Convention and most national IDP frameworks can be broadly divided into three aspects – 1. prevention of displacement, 2. provision of assistance during displacement, and 3. support to durable solutions –, and the level of implementation varies across these three aspects.

Prevention of displacement



Displacement due to disasters. All African countries signed the **Sendai framework**, a UN framework for disaster risk reduction which includes displacement considerations.¹⁷ However, even though almost 90% of African countries reportedly have a disaster risk reduction legislation/strategy, less than 5% say it is fully implemented.

82% of countries reported that they have some form of multi-hazard early warning system(s),¹⁸ but said they experienced issues around the **integration of the different systems** (across sectors, levels of administration, and countries).¹⁹ In addition, even when there are good systems at the local level, the government does not necessarily have the capacity to respond – this is the case for example in **Uganda**: surveillance mechanisms support immediate information exchange between district and village levels (i.e. through village health teams or local councils) and the national level, but the national government reportedly lacks capacity and resources to respond based on the information provided from the district levels.²⁰



Displacement caused by economic development projects. **The governance of this type of displacement is especially weak, and existing frameworks can even indirectly cause displacement.**

For example, in **Kenya**, the Constitution lists all minerals and oil as public property, meaning that communities that have deposits can be forced to vacate their land if the government decides to make them available to multinational companies. Although the **Mining Act** requires a prospector to get consent from the holder of the land if new deposits are discovered, the Cabinet Secretary has power to acquire the land even if the owner does not consent, on grounds of ‘unreasonable denial of consent’ or the sake of ‘national interest’. In **Guinea**, since most land (even farmed) remains unregistered, and unregistered land by law belongs to the State, farmers can be displaced without a procedure.

Declaring areas as being protected can also cause displacement, as has been the case in the past in some areas of **Kenya**. In this regard, an example of good practice is Kenya's **Wildlife Act (2013)**, which planned for the creation of 'community conservancies': communities living in them are required to protect wildlife, and they are granted security of tenure and new livelihoods (related to tourism for example).

Assistance during displacement

Assistance during displacement is provided in general, although the extent to which governments are leading the process varies and assistance tends to be focused on camps. Varying levels of ownership are observed depending on the country: the Nigerian government takes a very strong lead in coordinating the assistance and providing resources, while countries like Cameroon or Chad have tended to rely on external actors. Sub-national regions tend to be strongly involved in responses to displacement in Nigeria and Ethiopia, less so in some other countries. Main gaps regarding the provision of assistance to IDPs relate to the focus of the assistance on camps and settlements, at the expense of the IDPs living in cities or with their families; and the insufficient focus on land, housing and property issues.²¹

Durable solutions

Few IDP policies address durable solutions in detail, and in practice many governments tend to focus on returns at the expense of other solutions. With some exceptions (e.g. Kenya) few policies address durable solutions in detail,²² potentially contributing to (or reflecting) the fact that authorities tend to focus on the return of IDPs to their place of origin as the main durable solution, even when local integration would be the preferred option of the displaced persons (for example in urban contexts).²³ This focus on return can be explained by the fact that governments may want to showcase 'success' at addressing the conflicts at the origin of the displacement (this was reported to be the case in Nigeria and in South Sudan).

A key governance issue related to the possibility of integration in the place of displacement is access to land, especially in rural settings. In many countries, there are no mechanisms in place to transfer parcels of land – even on a temporary basis – from host communities to IDPs, and IDP policies and laws rarely plan for precise compensation mechanisms.

Durable solutions for IDPs

The three durable solutions commonly envisioned for IDPs are return to the place of origin, integration in the place of displacement, or relocation to a third place.

Recommendations

- Advocate for Sudan to ratify the Kampala Convention.
- Advocate for and support where possible the timely adoption of pending IDP policies/laws, ensuring that they are detailed enough, notably when it comes to durable solutions and access to land. In this regard, donors can engage with **IDMC** (the Internal Displacement Monitoring Centre), which has been engaged in the review of IDP policies and laws and has published a guide for the development of national instruments on internal displacement.²⁴

7.2. Internal migrationⁱ

Internal migration: high stakes

Internal migration falls within the scope of this study to the extent that it involves a change of place of residence.ⁱⁱ Despite the fact that **'internal migration (...) might even be the dominant migration pattern across sub-Saharan Africa'**, data on internal migration tends to be even more rarely collected than data on international migration.²⁵ In some cases, the vulnerabilities of internal migrants, particularly women finding themselves in unknown cities, may be as problematic as those of international migrants.ⁱⁱⁱ But compared to international migrants, there are significantly less donor-funded programmes supporting them. The opportunities related to internal migration are certainly also high: little data exists on *internal* remittances, but it is possible that they may have a greater impact on poverty reduction than international remittances, since international migrants tend to come from (and therefore to send money to) areas that are relatively richer than the areas *internal* migrants tend to come from and send money to. In spite of this, little attention has been paid to the governance of internal migration.

7.2.1. Weak governance frameworks and sedentarisation bias

Lack of prioritisation of internal migration

Continental, regional, and national frameworks pay little attention to the governance of internal migration. The **AU revised Migration Policy Framework for Africa** has no action point on internal migration. The **ECOWAS Regional Migration Policy** dedicates only half a page (of 150+ pages) to internal migration – a brief description of trends, with no strategy or action point. National migration policies / strategies also typically dedicate a relatively small section to internal migration, if at all. **Niger's** national migration policy recognises the *'little consideration granted to internal migrants [...] despite the importance of this type of migration in Niger'* but does not provide a clear strategy or any activity related to internal migration. The **Nigeria** migration policy mentions internal migration as being relevant insofar as it is a first step towards international migration.^{iv} Among the policies reviewed, four dedicate significant space to internal migration: the policies of **Burkina Faso** (its policy's entire first axis is on internal migration),^v and to a less significant extent the (draft) policies of Ghana, The Gambia, and Ethiopia. National urban or spatial development policies also rarely include considerations on migration as such, and usually only include broad considerations around the need to promote balanced urban growth and the development of intermediate cities.²⁶

Recommendation

Future donor-funded programmes dealing with migration governance could put greater emphasis on internal migration.

The coordination groups on migration that have been set up at national level often do not include working groups on internal migration specifically. Among the three countries whose migration architecture will include thematic sub-groups (as opposed to a sole 'overarching' coordination group on everything related to migration and displacement):

- In **Nigeria**, 80% of migration is reported to be internal,²⁷ but none of the five coordination sub-groups set up **with EU/IOM support** is dedicated to internal migration;

ⁱ As mentioned previously, while the definition of migration technically covers both displacement and voluntary movements, since the previous section already covered internal displacement, this section on 'internal migration' will only cover voluntary movements.

ⁱⁱ See the definition of migration according to IOM: *'the movement of persons away from their place of usual residence, either across an international border or within a State'* (IOM Glossary on Migration)

ⁱⁱⁱ In this regard, the last 'Mixed Migration Review' from the Mixed Migration Centre suggested to revisit the concept of mixed migration so that it includes internal migration (and internal displacement), notably because both categories of migrants face the same types of challenges. Mixed Migration Centre, 'Mixed Migration Review 2021' (2021).

^{iv} Even though internal migrants who then migrate internationally in reality constitute a very small share of internal migrants.

^v Interestingly, Burkina Faso's policy is one of the only, if not the only, national migration policies/strategies that did not receive significant support from IOM/donors.

- In **The Gambia**, despite the fact that a quarter of the population are internal migrants,²⁸ the technical working group on internal migration was the last one to be set up and had not met as of June 2021;
- In **Guinea**, there is no group dedicated to internal migration (although it is possible that internal migration will be discussed within the group on ‘labour migration’).

The lack of data on internal migration is particularly problematic for policy-making. For example, in Nigeria, despite commonly held views, it seems that urban-urban migration is actually greater than rural-urban migration.²⁹ Different patterns have very different policy making implications, but in most (if not all) countries, they are insufficiently understood and/or analysed. Meanwhile, donor support has been focused on collecting data on international routes, not national ones – for example the IOM DTM data collection points are typically positioned at international border crossings.

There is also a lack of capacities to implement urban planning policies that could accommodate internal migrants: not all cities have a planning office, and many do not have a single planner.³⁰ According to a recent reportⁱ ‘*while financial resources are important [...] local [human] capacity is the biggest obstacle*’.³¹

Sedentarisation bias

Policies that do mention internal migration frequently view it negatively. This ‘sedentarisation bias’ is not new: and in 2003, almost three quarters of governments in low- and middle-income countries had policies that aimed at limiting internal migration.³³ More recently, although the **AU revised Migration Policy Framework for Africa** appears to have a balanced view of the phenomena, highlighting its potential when well-managed, the **IGAD Regional Migration Policy Framework** for example highlights the ‘*need to address the salient causes*’ of internal migration – which could suggest that the phenomena should be prevented. **National migration policies / strategies** tend to view rural-urban migration as problematic, notably in Nigeria, Senegal, and Djibouti. For example, one of the objectives regarding internal migration in **Nigeria’s** policy is to ‘*diminish the attractions of the cities for rural dwellers*’. Going even further, in **Senegal’s** policy, the objective related to internal migration is to ‘*develop rural areas so as to reverse the direction of flows*’. Although, as mentioned previously, **Burkina Faso’s** policy has an entire section dedicated to ‘*strengthening complementarities between urban and rural areas*’, the first strategic objective for this section is to ‘*support strategies to anchor youth in their rural area*’. The policies of Ghana and The Gambia, and Ethiopia’s draft policy have a more nuanced view, recognising both the developmental role of internal migrants (for example through remittances) and the risks of pressure on public services in urban centres.

Issue with the ‘sedentarisation bias’

The sedentarisation bias ignores the many studies that have found an overall positive developmental impact of internal migration,³² both for migrants themselves who tend to find a better paid job, and for their families back home who receive remittances.

This sedentarisation bias is also visible in the intervention logic of some (but by no means all) donor-funded programmes. Some programmes consider internal migration as a phenomenon to be limited insofar as it would constitute a first step towards international (and presumably irregular) migration.ⁱⁱ

Some laws only indirectly related to migration also contribute to the sedentarisation of populations, whether it is their primary purpose or not:

Some laws only indirectly related to migration also contribute to the sedentarisation of populations, whether it is their primary purpose or not:

ⁱ Not focused on sub-Saharan Africa, but on all developing countries

ⁱⁱ See for example the description of action of the RESET II programme: ‘[the programme] addresses the area an internal migration, which is often an intermediary phase for further migration towards Europe.’ Also see the description of action of the ‘Programme de renforcement de la résilience des communautés urbaines et rurales vulnérables en Mauritanie’ : ‘L’action contribuera à promouvoir l’insertion sociale et professionnelle des jeunes en réduisant les risques (...) d’émigration (...) l’action visera les wilayas ayant les taux d’insécurité alimentaire et nutritionnelle les plus élevés du pays, engendrant des migrations économiques importantes vers les centres urbains’.

- **For example, some laws expressly limit internal migrants' right.** In **Nigeria**, access to services in specific local government areas (LGA)ⁱ is limited to those possessing an '**indigeneity certificate**' from that area (see right). Depending on the LGA, migrants (who do not possess such the certificate from the area) may be denied access to government employment (which, in some places, may be the only source of formal employment), government scholarships, election to public office, or access to land.
- **Less drastic (but nevertheless problematic) laws or practices exist** for example in **Ethiopia**, where migrants are required to show proof of residence (which is often difficult to provide when they are staying with friends or family) to access government services and apply for formal jobs.³⁴ In **Kenya**, despite the fact that the law mandates county governments to hire 30% of people from the non-dominating tribe, only a minority of counties do so, contributing to perceptions that county government jobs are reserved to locals and potentially playing a role in discouraging internal labour migration.
- **Lack of formal property rights, and ownership of unregistered land by the government**, which are common across the countries covered by the study, can also disincentivise internal migration, as a person who leaves their area of origin may be dispossessed of their land in their absence (this is also relevant for international migrants).ⁱⁱ
- **There are also laws (and practices) that seek to specifically limit women's mobility.** **Sudan** can be considered an extreme case. Its **family law** states that married women shall be deprived of 'maintenance' should they live the matrimonial home without a valid reason according to the shariah.³⁵ Other countries also have restrictive laws for married women: in ten countries included in our study,ⁱⁱⁱ the husband chooses the place of residence, and the wife must comply with his choice. In **Nigeria**, administrative regulations regard women as 'belonging' to the area where they were born, and not that of their husbands, so that the indigeneity laws described above disadvantages women who marry outside their original communities.

Figure 8: Nigerian indigeneity certificate



Recommendations

- There is ample space to support policy- and programme-making on migration that would support internal mobility to the same extent that international mobility has been supported in recent years. Support could be provided based on needs, as opposed to based on whether a person crossed an international border or not. Programming could also ensure de-linking programming on internal migration from objectives related to international migration, as most internal migrants do not then migrate internationally.
- In order to do so, data collection/analysis and research on internal migration could be supported.
- There is space to support governance frameworks that plan for inclusive services and infrastructures open to migrants (such as employment information services, or childcare services for migrant women who may lack family support systems) in national areas of destination (notably cities). They could also provide technical assistance in urban planning and/or capacity building for urban planners.
- Donors could consider providing technical assistance to strengthen property rights (including for areas of origin of internal migrants).
- Donors could also provide technical assistance to strengthen the frameworks regulating *internal* remittances.

ⁱ Nigeria has 774 local government areas.

ⁱⁱ By contrast, having formal property rights on agricultural land could increase rural-urban migration as it would make land a more liquid asset and in turn ease financial constraints. Formal property rights could also give migrants the option to keep a source of income from renting out their plot, or to return to their area of origin in case of an unsuccessful migration. Access source [here](#).

ⁱⁱⁱ Burkina Faso, Cameroon, Chad, Mali, Niger, Nigeria, Senegal, Somalia, Sudan, Uganda. Access source [here](#).

7.2.2. The specific case of nomadic pastoralists' internalⁱ mobility

Similarly to internal mobility, nomadic pastoralists' mobility is usually not considered in migration frameworks. Although nomadic pastoralism does not strictly fit the definition of migration,ⁱⁱ it is a key topic notably because of the importance of pastoralism in the economy of countries in East and West Africa,ⁱⁱⁱ and because of the security dimension that accompanies much of the narrative on the mobility of pastoralism, in a context of mounting farmer-herder conflicts. The issue of nomadic pastoralists' mobility is notably absent from both the **AU revised Migration Policy Framework for Africa** and from the **ECOWAS regional migration policy**. However, there is a section dedicated to pastoralism in the **IGAD Regional Migration Policy Framework**. Further, none of the **national migration policies / strategies** that were

Protecting nomadic pastoralists' mobility – what is at stake

Over the past few years, there has been a shift away from the previously commonly held view that pastoralism causes desertification and overgrazing. Mobility allows for constant adaptation to changes in climate and resource availability, enhancing the resilience of vulnerable populations living in dry areas. Some studies have also shown that pastoralism is more productive than sedentary livestock ranching and that mobile herds produce more milk and have higher fertility rates than ranched livestock.³⁶

made available for this study covers pastoralism, except those of South Sudan (a few mentions of pastoralism throughout the document), Niger (one planned activity) and Ethiopia (but only in the context of the implementation of the IGAD Protocol on Transhumance, and without mention of *internal* nomadic pastoralism). Rather, the mobility of pastoralists tends to be addressed either in frameworks dedicated to pastoralism, or to frameworks dedicated to the agriculture or livestock sectors.

There is a misalignment between frameworks dedicated to pastoralism, which are overall protective of pastoralists' mobility, and frameworks dedicated to the agriculture or livestock sector, which in general support a shift to sedentary livestock herding. Agriculture or livestock policies tend to view sedentary livestock herding as more productive than nomadic pastoralism – a view not necessarily supported by recent research, see box above). For example, the **ECOWAS Transhumance Protocol** (1998) or the initial **AU Policy Framework for Pastoralism in Africa** (2010) committed to protecting nomadic pastoralist's rights, including mobility rights. However, a **2011 ECOWAS Livestock Policy** then mentioned that '*pastoral transhumance is a major problem of the subregion*',³⁷ and the **African Union Livestock Development Strategy** (2015-2035) supported a shift to sedentary livestock herding, partly because of many stakeholders viewed nomadic pastoralism as being outdated. This can also be observed at the country level: **Mali** for example has a pastoral charter which protects pastoralists' mobility rights, but it also has an agricultural law which tends to view nomadic pastoralism as an outdated practice to be replaced by more intensive means of production. In several countries, in addition to contradicting each other in some cases, these frameworks are also old and would benefit from being updated, especially in contexts of changing routes and flows due to climate change.

States in the Sahel tend to have legislation which on the whole is supportive of pastoralists' mobility, while coastal West African States' legislation tends to restrict their mobility, and until recently East African States were wont to govern nomadic pastoralism through sectoral laws (notably agriculture).

- Overall, Sahel States, where nomadic pastoralism is particularly prevalent, have robust pastoral legislation, especially Niger, Mali and Burkina Faso.³⁸ A potential best practice can be observed in **Niger**: the 2010 ordinance on pastoralism was adopted after ten years of national and local

ⁱ The international mobility of nomadic pastoralists is treated in section **Erreur ! Source du renvoi introuvable.**

ⁱⁱ The IOM definition of migration involves '*a change in the usual place of residence*', and it can be argued that most pastoralists actually have one place of residence which they leave for part of the year but come back to.

ⁱⁱⁱ As mentioned in the introduction, pastoralism represents on average 10% of the GDP of countries in the Horn of Africa and the Sahel.

consultations, including associations of pastoralists and traditional authorities. It recognises transhumance as a fundamental right and places pastoral areas in the public domain to protect them from the encroachment of agriculture. The implementation of the ordinance is being facilitated by the work of seven regional committees on transhumance.

- Overall, coastal West African States tend to have legislation that seeks to restrict pastoralists' mobility, in many cases because they view it as a source of conflict. An extreme case is **Nigeria** (see box below).
- In the Horn of Africa, until recently nomadic pastoralism had tended to be governed by sectoral laws, notably agricultural laws. The latter logically view them as 'producers' and tend to ignore their specific socio-economic concerns (e.g. the fact that their access to services, for example education or health, is constrained by their mobility). However, since 2018 Ethiopia, Kenya and Uganda have adopted policies or strategies specifically dedicated to pastoralism. **Kenya's** appears to be the most supportive of mobility – since 2010 the country has even had a **National Policy on Nomadic Education** and has created a distance learning system for the children of pastoralists.

Governance of nomadic pastoralism in Nigeria

In Nigeria, pastoralists' mobility is viewed as a source of (mostly farmer-herder) conflict. The 1965 **Grazing Reserve Act** planned for 10% of Nigeria's land areas to be established as grazing reserves (but very little land was finally allocated to the reserves). Many states ended up banning open grazing altogether. Most recently, the **National Livestock Transformation Plan (2019)**, formulated with **FAO support**, declared nomadic herding to no longer be viable, and planned to settle pastoralists in ranches.

Nomadic pastoralists tend to be insufficiently consulted for the development and implementation of policies that affect them,³⁹ and customary laws tend to be insufficiently considered when drafting formal frameworks.⁴⁰ Because of their mobility, nomadic pastoralists tend to be perceived as 'outsiders' (non-natives) anywhere, and in some cases, this prevents them to vote in local elections or get local government jobs. The recent decentralisation processes further strengthened the influence of sedentary populations at the local level. For example, in **Mali**, every year, traditional authorities, technical government services and farmers associations meet to define a transhumance calendar, and pastoralists associations are not invited to these meetings, but are nevertheless supposed to adhere to the calendar.⁴¹ Further, the customary laws and practices that govern access to livestock resources such as water and pasture have reportedly received little recognition in the formal systems, at least in the Horn of Africa.⁴²

Beyond laws/policies and governments' attitudes that are more favourable (or less detrimental) to pastoralists' mobility, there is a concrete need for infrastructure and services to facilitate it, and governments do not necessarily have the means to provide them. In Somalia and South Sudan for example, the Constitution theoretically guarantees the right of pastoralists to maintain their lifestyle, but there are little means available to concretely support them and their mobility. Transhumance corridors, mobile health and school services are especially lacking. In a 2017 study, only 3-4% of the pastoral youth in the Sahel region of Burkina Faso were attending school.⁴³ Exceptions include **Uganda** which reportedly '*has been most active in addressing pastoralist development concern [and has a] relatively well-resourced high-level pastoralism institutional framework*', another best practice to highlight.^{44,i}

ⁱ Even in Uganda, however, obstacles to pastoralists' mobility do remain, notably related to the fact that land ownership is becoming individualised.

Recommendations

- Donors could support States to update / develop / harmonise (where relevant) and implement policies that take into account pastoralists' specific needs, and ensure their own programming on basic services (e.g. on health, education) also takes into account pastoralists' mobility.
- Donors could build pastoralists groups' capacity to engage in the governance of issues affecting them (through funding and capacity building for example).
- In West Africa, coordination should be sought with the *Projet Régional d'Appui au Pastoralisme dans le Sahel* (PRAPS-2, over EUR 300M implemented by the World Bank to support pastoral livelihoods).

7.2.3. The specific case of climate change-induced migrationⁱ

Since studies have found that the vast majority of climate change-induced flows will take place internally (as opposed to internationally),^{ii,45} this study opted to analyse the governance of climate change induced migration as part of the governance of internal migration. Although climate change-induced migration can be understood as covering both flows due to disasters caused by climate change and flows due to the slow onset effects of climate change, this section only consider the latter, as the former are usually covered by frameworks on internal displacement (see section 0).

Climate change-induced migration in perspective

Although this research focuses on migration governance, and therefore on the effects of climate change on mobility, it is important to note that research highlights the importance of climate change-induced **immobility**. As summarised by a seminal report on the topic: *'the problem of 'immobility', which particularly affects the poorer and more vulnerable groups in societies, has received limited attention to date (...) global environmental change is very likely to reduce the ability of many people to migrate and therefore will in some circumstances reduce migration per se. These 'trapped' and 'immobile' populations are hidden from high-level estimates, yet they represent a policy concern just as serious as, if not more serious than, migration'* (emphasis is ours).⁴⁶ The literature also suggests that while sudden-onset events tend to increase out-migration, slow-onset events (such as droughts or soil erosion) may decrease out-migration and especially international migration, which is particularly costly.⁴⁷

Climate change-induced migration is insufficiently addressed in migration-related frameworks. Most of the **national migration policies / strategies** reviewed for this study do not have strategies/planned actions related to climate change-induced migration, and when they do, the proposed strategies/actions tend to be vague.

When frameworks address climate change-induced migration, migration tends to be viewed solely as a negative consequence of climate change, with a lack of consideration for migration as an adaptation strategy. Short-term seasonal migration in particular can serve as an income diversification strategy that supports resilience in the face of the slow-onset effects of climate change (e.g. land degradation).⁴⁸ Regional policies (for example, the **AU revised Migration Policy Framework**, the ECOWAS **Regional Migration Policy** and the IGAD **Regional Migration Policy Framework**) usually focus on the goal of *'minimising displacement risks'*, as opposed to facilitating

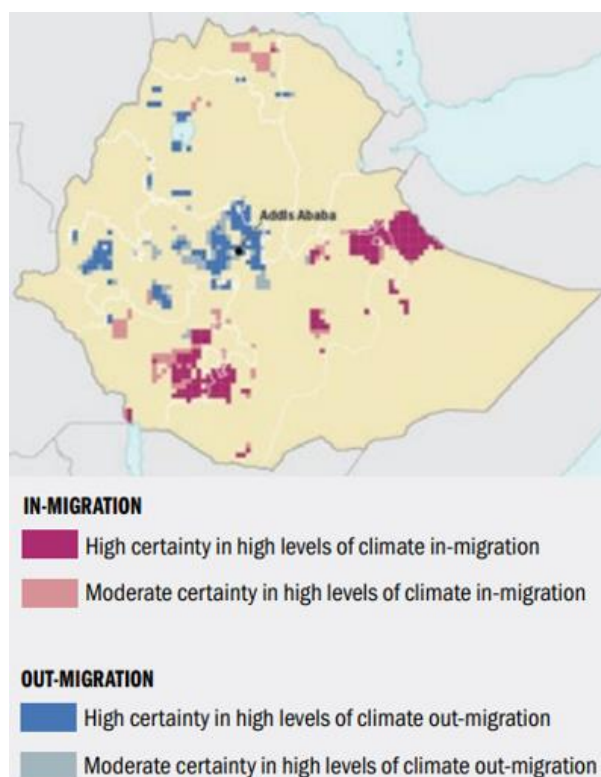
ⁱ This section uses the word 'migration' with regards to climate change as the word 'migration' technically encompasses 'displacement', and because, in the context of climate change, it is frequently unclear whether a movement fits the definition of a displacement or not.

ⁱⁱ The World Bank 'Groundswell' report found for example that by 2050 there could be between 50 and 80 million internal climate migrants in sub-Saharan Africa.

movement in cases when migration could be an adaptation strategy to climate change. Most national migration policies also view migration in the context of climate change in negative terms, although Ghana's and Djibouti's policies do mention migration as a possible adaptation strategy.ⁱ

Data on migration that could be induced by the slow-onset effects of climate change is insufficiently used for policy-making. The slow-onset effects of climate change are more difficult to identify and address than rapid-onset disasters, but there are several institutions collecting data that could be relevant to plan for future climate change-induced migration. In the recent 'Groundswell' report for example, the World Bank identified hotspots projected to have high levels of climate change-induced in- or out-migration because of varying water availability and crop yields (see Figure 9 on the right).⁴⁹ It is unclear however, to what extent this data was shared in time with the relevant governments and if it was, to what extent the governments used it. For example, **Senegal's** draft national migration policy still plans for the '*identification of areas at risk for territorial planning purposes*', while some of his data has been already collected (not only by the World Bank – see for example the data published in the latest GIECC report). The forthcoming '**Africa Climate Mobility Initiative**' (a joint undertaking of the AUC, the United Nations, and the World Bank) plans for developing an even more comprehensive 'Climate-Forced Mobility Model'.ⁱⁱ

Figure 9: Projections from the 'Groundswell' report



Recommendations

- Donors should contribute to build the capacity of governments to use the existing data on predicted climate-induced migration (e.g. from the forthcoming '**Africa Climate Mobility Initiative**'), notably to design informed and concrete policies.
- They also can themselves use this data to focus their programming on supporting basic services in areas that will experience large in-migration flows.

ⁱ Ghana's policy mentions for example that '*studies have shown that migration can be a positive coping strategy if well managed*', although the more detailed objectives and strategies do not detail this.

ⁱⁱ It will include variables related to the rise in sea levels, desertification, land degradation, extreme weather events, landslides, floods, rise in temperatures, water scarcity, and decreased crop yield for three time horizons: 2030, 2040, and 2050, including internal and cross-border migration.

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- ¹ Kälin, W., 'Innovative Global Governance for Internally Displaced Persons' (2019), accessed [here](#).
- ² ICRDC, 'The Kampala Convention: key recommendations ten years on' (2019).
- ³ Koch, A., 'On the Run in Their Own Country' (2020), accessed [here](#).
- ⁴ Data on IDPs is from 2020. Source: IDMC, Global Internal Displacement Database, accessed [here](#).
- ⁵ African Union, 'Assessment of the Capacity Building Needs of African Union Member States and Regional Economic Communities to Manage Migration'.
- ⁶ ICRDC, 'The Kampala Convention: key recommendations ten years on' (2019).
- ⁷ UN, 'Report of the Special Rapporteur on the human rights of internally displaced persons' (2018), accessed [here](#).
- ⁸ UN, 'Report of the Special Rapporteur on the human rights of internally displaced persons' (2018), accessed [here](#). See for example Nigeria 2012 draft policy.
- ⁹ See country case studies and ICRDC, 'The Kampala Convention: key recommendations ten years on' (2019).
- ¹⁰ Global Protection Cluster, 'Regulatory frameworks on internal displacement', accessed [here](#).
- ¹¹ Koch, A., 'On the Run in Their Own Country' (2020), accessed [here](#).
- ¹² Kälin, W., 'Innovative Global Governance for Internally Displaced Persons' (2019), accessed [here](#).
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8. Diaspora

Key findings:

- In interviews for this study, engaging with the diaspora has been the migration-related thematic area in which governments have tended to express the greatest interest overall. Most countries have set up dedicated governance structures as well as specific policies dedicated to diaspora engagement, and diaspora considerations appear to have been relatively more ‘mainstreamed’ into development policies than other migration-related issues. Policy making on diaspora engagement is however hindered by a lack of data on the diaspora.
- Several countries have focused on harnessing remittances, and regulations could be amended to further lower their costs (both in origin and destination countries). Countries of origin have also made significant efforts to improve the socio-political involvement of the diaspora: almost all countries covered by this study allow dual citizenship or voting by citizens residing abroad for example. Promoting the return of diaspora members has been less of a priority.
- Finally, there has been less interest in diaspora protection than in diaspora engagement, which is reflected in the weakness of the associated governance frameworks.

8.1. Overview

The relationship with the diaspora has been the migration-related thematic area in which governments have tended to express the greatest interest in the research for this study, especially those in West Africa – with a slightly less marked interest from governments in the IGAD region.ⁱ A recent survey of government officials across AU member states found that engaging the diaspora and harnessing remittances were two out of the three most frequent answers to the question ‘*what are the major migration issues/challenges faced by your country?*’.^{1,ii} Diaspora engagement is also a key pillar in the **AU Migration Policy Framework for Africa** and in the **ECOWAS Regional Migration Policy**.ⁱⁱⁱ

Accordingly, governments have set up dedicated governance structures, often without the donors’ influence. Uganda was one of the first to develop an institution dedicated to diaspora issues in 2007. Today most countries covered by the study have government structures dedicated to promoting diaspora engagement. Some countries have a dedicated Ministry,^{iv} although most have diaspora departments within ministries of Foreign Affairs. Several of these structures are quite young and in need of support (e.g. in Chad, Niger, Djibouti or The Gambia).^v In other countries, the issue is rather that there are too many structures dedicated to diaspora engagement (for example in Senegal), or that the responsibility for coordinating diaspora affairs has shifted too many times across institutions (for example in Ghana), leading to lack of clarity for the diaspora (and donors active in the field) regarding who should be their main interlocutor. One particularly interesting ‘structure’ is the Global **Djibouti Diaspora**, which is a CSO led by diaspora members but placed under the tutelage of the ministry of

ⁱ Also see ILO, ‘An assessment of labour migration and mobility governance in the IGAD region’ (2020): ‘*In a number of Member States, labour migration-related discussions appear to have largely focused on exploitation in outward labour migration flows to the Middle East, with little attention being paid to (...) other aspects of labour migration, such as the means to enhance the development impact of labour migration*’. For example, in Uganda, the government has understandably given more attention to immigration/refugee issues than to emigration, even though it has increasingly sought to engage its diaspora; in Djibouti, in part because the country relies on shipping/port revenues more than remittances, engagement has also been relatively limited (though not negligible).

ⁱⁱ Another top three priority was labour migration out of the country, a closely related topic.

ⁱⁱⁱ The IGAD Regional Migration Policy Frameworks grants significantly less space to the topic of the diaspora.

^{iv} For example, Côte d’Ivoire and Mali.

^v Nigeria also recently created a structure dedicated to diaspora affairs, but the Nigerian government, for whom diaspora affairs are of great interest, probably has the capacity to fund it itself with less need for donor support.

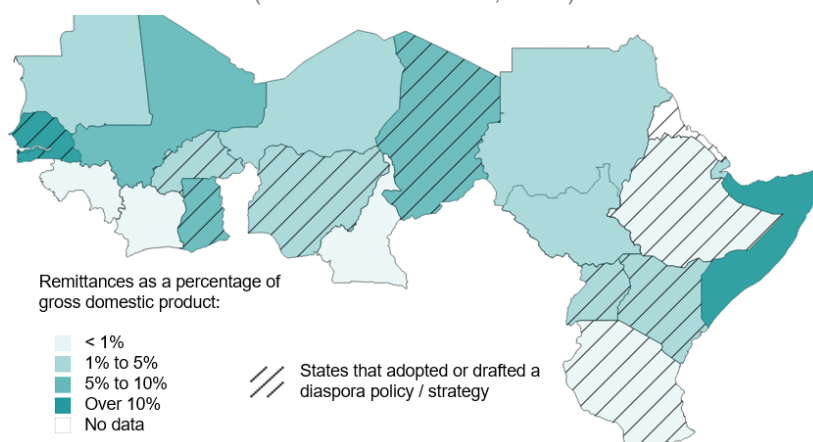
Foreign Affairs, and tasked with contributing to the national strategy for the governance of emigration and diaspora engagement.

Countries have also developed specific policies dedicated to diaspora engagement, sometimes, but not always, with donor support. Governments' interest in the topic is visible *inter alia* in that there are more countries with a (draft) diaspora policy than countries with a (draft) overall migration policy; and several countries which have both (a diaspora policy *and* an overall migration policy) started the process of drafting the former first. Good

practices include **Ghana's** drafting process, which involved a survey of diaspora members, and **The Gambia**, where the diaspora was involved in both the design and review process of the strategy. A limitation of these policies is that they do not necessarily consider the diversity of profiles to be targeted – the 'diaspora' is often considered as one single entity.² Another limitation, for some countries, is the limited attention dedicated to the issue of protection of the diaspora (see section 8.5 on diaspora protection). In addition, a dedicated national diaspora policy is not a pre-condition to the 'good governance' of diaspora issues: Mali, Senegal and to a lesser extent Niger are examples of countries with some of the more solid governance of diaspora issues but none of them have a dedicated diaspora policyⁱ (although Mali has a solid 'diaspora' section in its national migration policy, and Senegal has a draft policy). Nevertheless, diaspora policies can encourage the government to adopt a more rounded vision of diaspora involvement, going beyond the promotion of remittances, and they usually mention the use of diaspora's skills and broader socio-economic involvement for example.

Diaspora considerations appear to have been more 'mainstreamed' than other migration-related issues, including at the local level. Most countries have mainstreamed the potential of diaspora for development into their national development plans or equivalent documents, into sectoral policies and strategies (for example the Rural Development Strategy in **Niger**), their budgets (for example **Côte d'Ivoire**, which has a budget for the mobilisation of diaspora and a target for remittances) and/or into local development strategies. An example of the latter is the 'migration space'ⁱⁱ in the Kayes region in **Mali** with gathers 100+ actors involved in the migration-development nexus in the region. It inspired a similar example in Senegal (in the region of Sedhiou). Another 'mainstreaming' best practice is in **Ethiopia**, where the government has set up diaspora focal points in every ministry to coordinate issues related to diaspora engagement,³ and which has regional diaspora offices working to promote diaspora engagement at the regional level.

Figure 10: Countries with a diaspora strategy/policy (including planned or draft) and remittances as a share of domestic product (source: World Bank, 2020)



European Union Diaspora Facility

The European Union Diaspora Facility (EUDiF) is a pilot project funded by the European Union's Directorate-General for International Partnerships (DG INTPA) and implemented by ICMPD since 2019 and until the end of 2022. It provides capacity building and support to coordination for and among partner countries and diaspora associations or members. It also produced research on diaspora engagement policies in most African countries, which this report extensively drew upon.

ⁱ Senegal had a 'Lettre de politique sectorielle des Sénégalais de l'Extérieur' adopted in 2006 and revised in 2011, but it does not seem to be applicable anymore.

ⁱⁱ 'Espace Migration Développement Kayes'.

Policy-making is however hindered by the lack of data on the diaspora, while this data would be of interest to most countries covered by the study. In this regard, a good practice can be noted in Mali: the government has organised mobile teams to conduct diaspora censuses, although these missions were reported to be too short and to cover an insufficient number of cities.

8.2. Governance of diaspora remittances and investmentsⁱ

There has been significant interest in harnessing remittances for some time, but space remains to adjust the regulatory landscape in a way that would contribute to lower their cost.

For context, using World Bank estimates, lowering remittances costs from the current 9% to 5% would represent the equivalent of over USD 3B annually for Africa.⁴ Lack of competition is one of the key reasons for which remittances costs remain high. The largest money transfer operators such as Western Union frequently impose 'exclusivity clauses' on their agents (e.g. banks paying out the remittances), preventing them from working with other operators, which keeps costs high. Some States have prohibited such exclusivity clauses (e.g. Ethiopia, Nigeria, Mali), although many have not. In Mali, removing the exclusivity clause in 2012 contributed to a visible increase in the number of money transfer operators in the market and of partnerships with banks⁵ and likely to the sharp fall in remittance costs that can be observed in Figure 11.⁶

Further, most countries in Africa only allow banks and foreign exchange bureaus to perform international transactions and therefore to pay remittances. This can be an issue especially in rural areas where banks often have more limited coverage. Only Ghana and Kenya allow microfinance institutions to carry out international money transfers.^{ii,7} There is significant scope to replicate such arrangements in other countries. The other key reason for which transfer costs remain high are the **anti-money laundering and anti-terrorist regulations** in developed countries, and the EU recently made these regulations stricter rather than looser.⁸

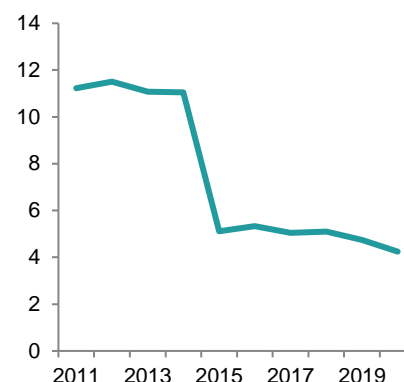
Some governments have attempted to encourage diaspora investments through specific advantages in the tax or investment code. This is the case for example in Sudan, as well as in Maliⁱⁱⁱ and in Ethiopia.^{iv} Kenya also plans to introduce such advantages. Concerns have however been raised (in the case of Sudan) regarding the fact that such advantages create inequalities of treatment between the diaspora and standard citizens. On the opposite side of the spectrum, the 'Recovery and Rehabilitation Tax' charges Eritreans in the diaspora an income tax of 2%.

Supporting the development potential of remittances has also been a focus at the continental level, but few initiatives seem to have yielded impact. At the AU level, there was the project of an 'African Institute for Remittances' and the related **Nairobi Action Plan on Remittances** (which aimed at reducing costs below 3%), but '*it seems that little progress has been made in the implementation of [this project], if any*'.⁹

8.3. Governance of the diaspora's socio-political involvement

Although members of the diaspora can tend to think that the government aim solely to attract their funds and skills as opposed to treating them as real 'partners', at least in in some

Figure 11: Average cost of sending remittances to Mali (in %)



ⁱ Remittances are defined as money sent to a private individual or household, while investments are understood as money used for an economic project.

ⁱⁱ Although even in Ghana, microfinance institutions must partner with a bank, which creates extra costs.

ⁱⁱⁱ There are customs exemptions for diaspora members.

^{iv} Ethiopia treats diaspora members who do not have the nationality as domestic investors – this is an advantage, as usually, foreign investors do not have the right to own a business and/or land or property, but it does not create a two-track system.

countries,¹⁰ many governments have also developed policies to promote the socio-political involvement of their diaspora.

Almost all countries covered by this study allow dual citizenship, except for Cameroon and Ethiopia,ⁱ which is a significant progress compared to the post-independence period, when most countries prohibited it.

Almost all countries allow voting by the citizens residing abroad,ⁱⁱ **although obstacles remain to the implementation of remote voting:** several countries that allow remote voting on paper have not yet implemented it;ⁱⁱⁱ the governments often invoke technical obstacles, while diaspora organisations in some cases point to a lack of will.

A few countries even have representatives of the diaspora in their Parliaments: the Parliaments of Senegal and Niger have allocated a specific number of seats to diaspora representatives. In other cases, diaspora participation in the government may be more reflective of the fragility of the state: in Somalia for example, many if not most government members are from the diaspora.

Beyond voting and citizenship, original governance practices to foster the socio-political involvement of the diaspora include the following:

- In **Niger**, the Ministry of Foreign Affairs organised a diaspora forum in 2012 **with IOM support**; although many countries have organised diaspora forums, the originality of Niger's approach lies in that it set up a **committee to follow up on the forum's recommendations**, many of which have been implemented, notably on the dual nationality and on the introduction of deputies representing the diaspora in the National Assembly.
- **Kenya** has explicitly made its diaspora members '**agents of foreign policy**'. The country's **Foreign Policy** has five pillars, including one dedicated to the diaspora, which stresses the value of 'diaspora diplomacy'.¹¹

8.4. Governance of (temporary) returns

Not all governments are interested in diaspora returns, and the types of returns they are interested in can differ.

For example, in Nigeria there is little focus on return '*as long as they send money back*', as mentioned in one of the interviews conducted for this study. Other countries, like Ghana or Senegal, display much more interest. **Ghana**, for example, organised a 'Year of Return' (see right) during which temporary returns increased by almost 50% in 2019 compared to the previous year.¹² In Senegal, the government seeks to promote more permanent returns – an idea which reportedly does not fit the diaspora's desire for short term returns and circular migration opportunities.¹³

Figure 12: Promotional material for Ghana's 'Year of Return' campaign



Governance frameworks can disincentivise returns. For diaspora members who do not hold the nationality of their country of origin, restrictive immigration laws may discourage even temporary returns. **Ethiopia** took measures to facilitate them: diaspora members benefit from access to public transport at the local price, and the right to purchase lands and property (which foreigners do not have).¹⁴ Another issue remains the limited portability of social security benefits across countries;

ⁱ Somalia's law also in theory prohibits dual citizenship, but the law does not seem to be applied. Ethiopia allows its diaspora to have a diaspora ID card which gives them access to certain benefits such as the right to own land or property, or open local currency bank accounts.

ⁱⁱ Exceptions are Nigeria, Kenya and Somalia, and to the extent that Ethiopian diaspora members must be based in Ethiopia for at least six months to register and exercise their voting rights, also Ethiopia.

ⁱⁱⁱ For example, in The Gambia and Ghana.

Cameroon addressed this by signing agreements on the portability of social security benefits with several countries of destination.

8.5. Governance of the diaspora's protection

Compared to the issue of diaspora engagement, that of diaspora protection has benefitted from a relative lack of interest which is reflected in the weakness of the associated governance frameworks.

Diaspora policies typically dedicate relatively little attention to issues related to protection, and/or prioritise actions that benefit diaspora members with the fewest protection needs. **Nigeria's** Diaspora Policy excludes migrants 'not interested' in the development of their country from its definition of the diaspora, and the structure in charge of the diaspora excludes irregular migrants from its definition. **South Sudan's** National Migration Policy understandably mentions that '*in a context of strained fiscal resources, capacity building of consulates should be limited to those destination territories where large and development-conducive diaspora communities have already been identified*'.

Some bilateral labour agreements have been signed but funding has remained too limited to monitor their implementation. Even in **Uganda**, which, as explained in section 3.3.2, has a strong labour externalisation policy, many BLAs do not have joint implementation committees. Sudan has signed 19 BLAs but there is little evidence regarding what aspects are implemented.

Recommendations

- There is an opportunity to provide support to the organisations recently created to coordinate policies on diaspora issues; such support should ensure not to 'crowd out' potential government funding (since diaspora is an issue of interest to many governments who may be willing to contribute with their own budget), by channelling support through technical assistance as opposed to direct funding for example.
- Donors could encourage further mainstreaming of diaspora issues into overall national development strategies – it is not clear whether specific processes are systematically needed for diaspora. A better strategy may be to encourage the diaspora to be treated in the same way as citizens, as opposed to granting them specific advantages.
- Donors could also advocate for diaspora policies to embrace all diaspora members, including vulnerable and irregular migrants.
- Donors could fund a study on what specific countries have done to successfully reduce remittance costs, increase diaspora investments, or otherwise improve involvement by the diaspora. To be really useful, such a study should go beyond just a list of schemes (which has already been done)¹⁵ but could start from specific results achieved by a given country and analyse what precise regulatory and policy changes were made to achieve the result.
- As also detailed section 3.3.2, donors could support countries not only to negotiate BLAs, but also to set up and manage active joint monitoring committees.

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- ¹ Assessment of the Capacity Building Needs of African Union Member States and Regional Economic Communities to Manage Migration.
 - ² Tittel-Mosser, F., 'Diaspora engagement: Africa - Regional Series' (2021), accessed [here](#).
 - ³ EU Diaspora Facility, 'Diaspora engagement mapping: Ethiopia' (2021), accessed [here](#).
 - ⁴ World Bank, World Development Indicators (2020).
 - ⁵ JRC, 'Diaspora finance for development: from remittances to investment' (2021), accessed [here](#).
 - ⁶ World Bank, World Development Indicators (2020).
 - ⁷ IFAD, 'Sending Money Home to Africa: Remittance markets, enabling environment and prospects', accessed [here](#).
 - ⁸ Interview with key informant from UN agency.
 - ⁹ Tittel-Mosser, F., 'Diaspora engagement: Africa - Regional Series' (2021), accessed [here](#).
 - ¹⁰ For example Kenya, Senegal, see [here](#); also see country reports.
 - ¹¹ EU Diaspora Facility, 'Diaspora engagement mapping: Kenya' (2021), accessed [here](#).
 - ¹² Tittel-Mosser, F., 'Diaspora engagement: Africa - Regional Series' (2021), accessed [here](#).
 - ¹³ EU Diaspora Facility, 'Diaspora engagement mapping: Senegal' (2021), accessed [here](#).
 - ¹⁴ EU Diaspora Facility, 'Diaspora engagement mapping: Ethiopia' (2021), accessed [here](#).
 - ¹⁵ See for example Rabat Process, 'Collection of Diaspora Engagement Practices' (2020), accessed [here](#).

9. Conclusion and cross cutting recommendations

Although this regional report presents several cross-country trends and makes a number of recommendations, the reader should refer to the country reports which provide additional information regarding the thematic areas and specific actions that could be the focus of future programming in each country. Not all migration-related thematic areas (e.g. refugees, diaspora, etc.) require the same level of attention across countries, notably because the priorities on the ground, needs and capacities, and actions already implemented by donors differ widely. Accordingly, the country-specific reports identify 'priority' thematic areas in every country (based on the importance of flows and vulnerabilities) and highlight the thematic areas with the greatest needs and those that have received comparatively little to no external governance support. This regional analysis nevertheless suggested some 'overall' opportunities for the future, that broadly apply to all countries covered by the study:

1. The governance of internal migration is all things considered one of the weakest points of migration governance across many, if not all, States covered by this study. Given the prevalence of internal flows, and given the fact that, as highlighted in section 7.2, internal migrants can be as vulnerable as international migrants, internal remittances have as much potential to reduce poverty as external transfers, and the slow onset effects of climate change are likely to affect internal migration patterns significantly in the coming years, **strengthening the governance of internal migration should probably be considered to be a priority thematic area across the board.**

2. Related to the above point, the governance of internal displacement has also been relatively neglected (especially compared to the governance of *international* displacement). In countries with the greatest numbers of IDPs, **donors can work with governments to help them ensure that all the provisions of the Kampala Convention are implemented**, notably those related to the prevention of displacement due to economic development projects, and those related to durable solutions.

3. Support to **strengthened governance of pastoralists' mobility would also be key**, especially in contexts of mounting farmer-herder conflicts. This can notably be done through supporting the implementation or revision of the protocols on transhumance in ECOWAS and IGAD region.

3. Now that key regional mobility frameworks have been adopted, donors should increase **resources dedicated to supporting States to tackle corruption at the borders, expand the coverage of identity documents, and transition their economy towards the formal sector**, lest these mobility frameworks hinder rather than promote mobility.

4. With regards to refugee protection, international and regional binding frameworks are largely domesticated across countries, and a number of them (CRRF countries notably), have, with international support, undertaken relevant governance reforms. However, significant protection gaps remain and **further support to national and local governance, including through public sector reforms, together with long-term, predictable financial support, will be key to ensure the long-term implementation of CRRF/ GCR objectives.**

5. Despite recent initiatives that should be evaluated and pursued if deemed successful (e.g. ROCK, POCs, support to reforming and strengthening the penal chain, capacity-building programs), the implementation of governance frameworks on TIP and SOM remains, overall, weak at the national, regional and continental levels. In all countries, lack of international cooperation, weak law-enforcement capacities, deficiencies in the penal chain, insufficient cooperation between the police and the judiciary continue to plague the judiciary system. **These structural deficiencies along the penal chain bar all realistic prospects of an effective implementation of TIP/ SOM provisions in the short to medium term in the countries under study and should be addressed as priorities with dedicated and ambitious support to reforms of the justice sector.**

6. Engaging with the diaspora is of great interest to African governments, and donors can support them in this endeavour, **although this will not necessarily be all within the scope of development**

programming – the bulk of the support can come from ‘at home’ actions related to engaging with diaspora organisations present on their territory and revising (their own) regulations on remittances.

7. Support to the governance of return and reintegration could in the future be designed more holistically, with SOPs and platforms open to more categories of returnees (beyond those coming back from Europe or stranded on the way to Europe).

Depending on the thematic area, migration governance will have to be strengthened simultaneously in individual countries and at the regional and in some cases even continental levels:

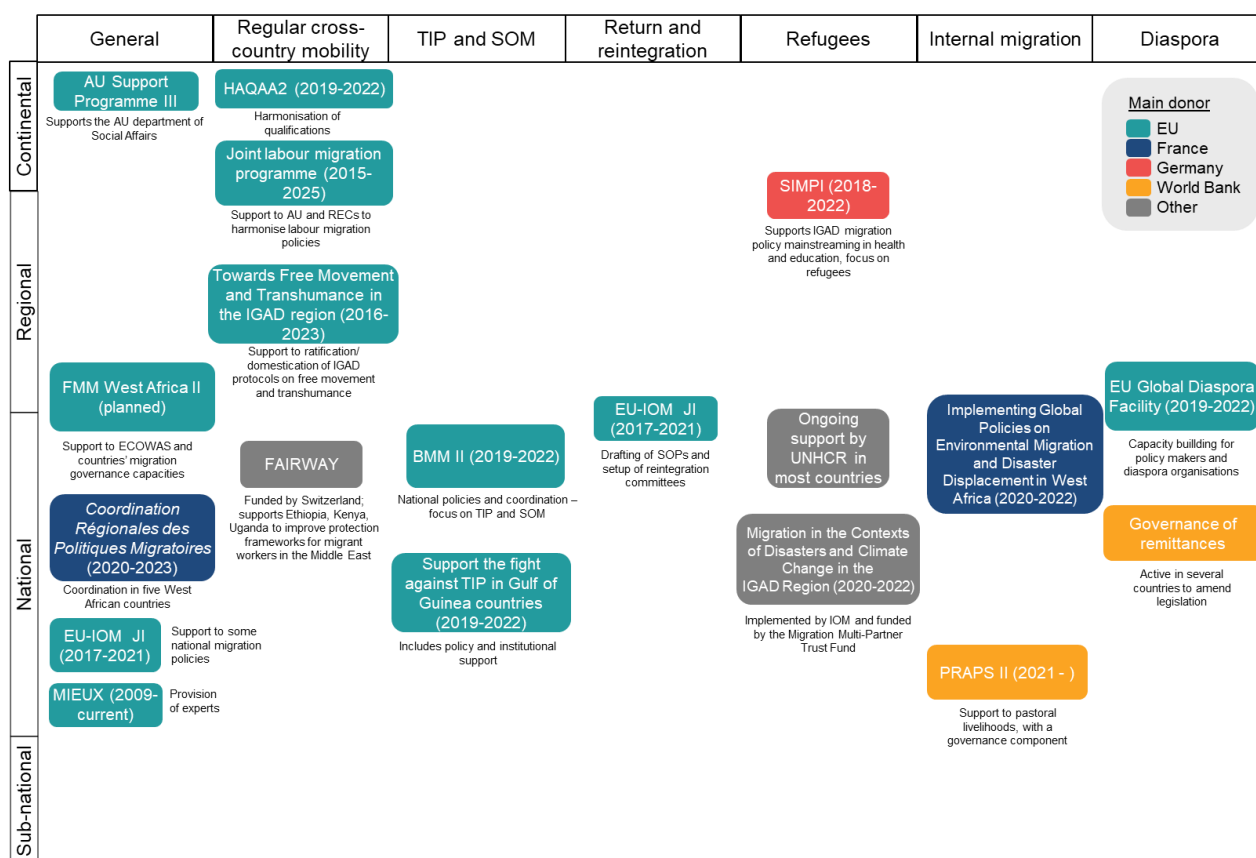
- **Regular cross-border mobility** can probably best be addressed through engagement with the RECs, without neglecting the possibility to support bilateral arrangements, especially between African countries not belonging to the same REC, where flows justify it. The specific issue of the **harmonisation of qualifications** and degrees should be supported and can probably be best addressed through engagement with the AU level, as detailed in section 3.
- **Trafficking in persons and smuggling of migrants** would best be addressed through a focus on ‘routes’, which involves increased cross-regional law enforcement cooperation (notably between or within the HoA, the SLC and the NA regions). Depending on the prevalence of respective flows, the focus could be purely internal in cases of prevalence of internal trafficking in persons, or could put together groups of countries situated on specific routes (e.g. to the Middle East, to southern Africa).
- **Refugee protection and the search for durable solutions** can be best addressed through a multi-level governance approach, encompassing the African Union (in particular, its technical, political and judicial bodies whose mandates encompass refugee protection), RECs (as well as dedicated support platforms set up at the regional levels), and refugee-hosting countries (implementing CRRF/ GCR objectives).
- Questions related to **internal migration**, and to a lesser extent **diaspora engagement**,ⁱ can mostly be addressed at country level, while some issues related to remittances (in contexts of common currency) can be addressed at REC level.

In any case, interviews conducted for this study suggest that the RECs should be supported as convening / political partners, and monitoring agents, and not as implementers of programming.

Future programming could be built based on a multi-donors’ roadmap, and could in any case first consider the donor-funded programmes currently active in the field of migration governance that are detailed in **Erreur ! Référence non valide pour un signet.** below (the figure only represents current programmes, ending in 2021 or later, with some support provided to migration governance – programmes only supporting migration *management* are not represented in the figure). The multi-stakeholder roadmap could be based on several funding exercises, with regular reviews of progress made.

ⁱ Depending on whether the diaspora of the country mostly lives outside Africa or within the continent.

Figure 13: Main current donor-funded programmes supporting migration governanceⁱ



Overall, and as a conclusion, the following cross-cutting recommendations can be made:

- In addition to supporting migration-specific frameworks, donors could now focus on **mainstreaming migration across governance programmes** not specifically dedicated to migration, including at the local level; this should ensure greater sustainability of the actions.
- **Demand-driven facilities**,ⁱⁱ which make funding available to allow States to apply for technical assistance based on needs they have identified themselves, appear to be a promising practice.ⁱⁱⁱ
- Our research found that very little information is available regarding **informal / traditional governance mechanisms, including customary law**, that exist on migration/mobility, and that they were insufficiently considered in formal frameworks. **Future programming could include funding for additional research into informal / traditional governance mechanisms on migration.** This research could be focused on identifying specific aspects that could be integrated into formal governance frameworks.

ⁱ For national programme, the reader can refer to the country case studies.

ⁱⁱ Such as the FMM demand-driven facility (see box section 2.5.1) or the African Union technical assistance facility.

ⁱⁱⁱ Harley, L. and Doumbia, S., 'Demand-driven facility project assessment'.

Annexes

Abbreviations

AU	African Union
AVRR	Assisted Voluntary Return and Reintegration
B	Billion
BLA	Bilateral Labour Agreement
BMM	Better Migration Management
CAMM	Common Agendas for Migration and Mobility
CRRF	Comprehensive Refugee Response Framework
CSO	Civil Society Organisation
DFID	Department for International Development
DTM	Displacement Tracking Matrix
EAC	East African Community
ECI	<i>Equipe Conjointe d'Investigation</i>
ECOWAS	Economic Community of West African States
EU	European Union
EUD	European Union Delegation
EUTF	European Union Emergency Trust Fund for stability and addressing root causes of irregular migration and displaced persons in Africa
FMM	Free Movement of Persons and Migration
GCC	Gulf Cooperation Council
GCM	Global Compact for Safe, Orderly and Regular Migration
GCR	Global Compact for Refugees
GIZ	<i>Deutsche Gesellschaft für Internationale Zusammenarbeit</i>
HoA	Horn of Africa
ICMPD	International Centre for Migration Policy Development
ID	Identity Document
ID4D	Identification for Development
IDMC	Internal Displacement Monitoring Centre
IDP	Internally Displaced Person
IGAD	Intergovernmental Authority on Development
ILO	International Labour Organisation
IOM	International Organisation for Migration
JI	Joint Initiative
M	Million
M&E	Monitoring and Evaluation
MIEUX	Migration EU eXpertise
MLS	Monitoring and Learning System
MoU	Memorandum of Understanding
NGO	Non-Governmental Organisation
POC	<i>Partenariat Opérationnel Conjoint</i> (Joint Operational Partnership)
PRAPS	<i>Projet Régional d'Appui au Pastoralisme au Sahel</i> (Regional Support Project for Sahel Pastoralism)
REC	Regional Economic Community
ROCK	Regional Operational Centre in support of the Khartoum Process and AU-Horn of Africa Initiative

RSD	Refugee Status Determination
SADC	Southern African Development Community
SIMPI	Strengthening IGAD's Migration Policy Implementation
SLC	Sahel and Lake Chad
SOM	Smuggling of Migrants
SOP	Standard Operating Procedures
TIP	Trafficking in Persons
UN	United Nations
UNHCR	United Nations High Commissioner for Refugees
UNODC	United Nations Office on Drugs and Crime
US	United States
USD	United States Dollars
VoT	Victim of Trafficking