A Survey on Migration Policies in West Africa

Commissioned and funded by:

ICMPD
International Centre for Migration Policy Development

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

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Swiss Agency for Development and Cooperation SDC
A Survey on Migration Policies in West Africa

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

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Coordinators: Stéphane Rostiaux and Timon Van Lidth (IOM), Malin Frankenhaeuser (ICMPD)
This survey analyses the current policies, practices, and trends in the area of migration in the fifteen ECOWAS Member States. It therefore attempts to both provide a better understanding of the migration policies West African countries already have in place and highlight where coherent frameworks are lacking. The analysis shows that thirty-five years after the adoption of the 1979 Protocol relating to the Free Movement of Persons, the Right of Residence and Establishment, several factors are still impeding effective inter-regional mobility within the ECOWAS region. Member States face a significant delay in transposing the 1979 Protocol and supplementary protocols into law. While the right of entry and the abolition of visa requirements for a 90-day stay have been implemented in all countries, less progress can be noted as regards the Right of Residence, the Right of Establishment and access to employment. In the area of emigration, the study shows that labour emigration and employment abroad is regulated only to a limited extent. Furthermore, information and services on the different aspects of the migration process and living/working conditions abroad provided by diplomatic representations abroad lack continuity. Nevertheless, ECOWAS Member States aim to address migration which is evidenced by the fact that the large majority of ECOWAS Member States are explicitly planning to develop a national migration policy or strategy.
Acknowledgements

First and foremost, the authors would like to thank all government counterparts who kindly contributed to this study by sharing information and reviewing the draft country chapters. A special thanks goes to the ECOWAS Commission’s Free Movement of Persons Directorate, and in particular to Director Sanoh N’Fally, for the valuable support and feedback on various drafts of the study.

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

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

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

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

Kadré Désiré Ouedraogo
President
ECOWAS Commission
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<td>Association pour la formation, l’insertion et le développement rural en Afrique</td>
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<tr>
<td>AIDE</td>
<td>Association des initiatives de développement</td>
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<tr>
<td>AGEPE</td>
<td>Preliminary declaration to the public employment services</td>
</tr>
<tr>
<td>AGUIPE</td>
<td>Guinean Agency for the Promotion of Employment</td>
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<tr>
<td>AME</td>
<td>Association malienne des expulsées</td>
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<tr>
<td>AMEJD</td>
<td>Association malienne pour l’environnement, la jeunesse et le développement</td>
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<td>Amigos de Criança</td>
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<td>ANEJ</td>
<td>Youth Employment Agency</td>
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<td>ANIDA</td>
<td>Agence nationale d’insertion et de développement agricole</td>
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<td>ANSD</td>
<td>Agence nationale de la Statistique et de la Démographie (Sénégal)</td>
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<tr>
<td>APERP</td>
<td>Project for the Support of Employment Promotion and Poverty Reduction</td>
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<tr>
<td>ARTD</td>
<td>Association retour, travail, dignité</td>
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<td>ASCODE</td>
<td>Association pour le Co développement</td>
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<tr>
<td>ATS</td>
<td>Automated Transfer System</td>
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<tr>
<td>AVRR</td>
<td>Assisted Voluntary Return and Reintegration programme</td>
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<td>BCAEO</td>
<td>Central Bank of the West African States</td>
</tr>
<tr>
<td>CAMPO</td>
<td>Centre for Migrant Support in the Origin Country</td>
</tr>
<tr>
<td>CARUD</td>
<td>Campaign Against Rural Urban Drift</td>
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<tr>
<td>CEDAG</td>
<td>Child &amp; Environment Development Association</td>
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<td>CERMI</td>
<td>Centre for Studies and Research on International Migration and Development</td>
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<td>CERPA</td>
<td>Combined Expatriate Residence Permit and Aliens Card</td>
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<tr>
<td>CIGEM</td>
<td>Centre for Migration Information and management</td>
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<tr>
<td>CIPRES</td>
<td>Inter-African Conference on Social Insurance</td>
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<tr>
<td>CIREFI</td>
<td>Centre for Information, Discussion and Exchange on the Crossing of Frontiers and Immigration</td>
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<tr>
<td>CODM</td>
<td>Centre d’orientation et de documentation sur les migrations</td>
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<tr>
<td>CONGAD</td>
<td>Conseil des organisations non-gouvernementales d’appui au développement</td>
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<td>CPLP</td>
<td>Community of Portuguese Language Countries</td>
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<td>CRC</td>
<td>Constitutional Review Commission</td>
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<td>CSF</td>
<td>Central Securities Depository</td>
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<td>DEFI</td>
<td>Développement par l’éducation la formation et l’insertion</td>
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<td>ECOWAS</td>
<td>Economic Community of West African States</td>
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<td>ENAMI</td>
<td>National Survey of Migration in Niger</td>
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<td>ESS</td>
<td>Eurest Support Services</td>
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<td>EU</td>
<td>European Union</td>
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<td>FAISE</td>
<td>Support Fund for Investments of Senegalese Abroad</td>
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<td>Acronym</td>
<td>Abbreviation</td>
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<tr>
<td>FKTC</td>
<td>First Kuwaiti Trading Company</td>
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<td>FRONTEX</td>
<td>European Agency for the Management of Operational Cooperation at the External Borders of the Member States of the European Union</td>
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<td>GAMJOBS</td>
<td>The Gambia Priority Employment Programme</td>
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<td>GCC</td>
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<td>GDN</td>
<td>Global Development Network</td>
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<td>GFMD</td>
<td>Global Forum on Migration and Development</td>
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<td>GID</td>
<td>Gambia Immigration Department</td>
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<td>GIEPA</td>
<td>Gambia Investment and Export Promotion Agency</td>
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<td>GIS</td>
<td>Ghana Immigration Service</td>
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<td>GLMM</td>
<td>Gulf Labour Markets and Migration</td>
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<td>GOANA</td>
<td>La Grande offensive agricole pour la nourriture et l’abondance</td>
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<td>GRDR</td>
<td>Grupo de Investigação e Realização no Desenvolvimento Rural</td>
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<td>GSS</td>
<td>Ghana Statistical Service</td>
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<td>GTTI</td>
<td>Gambia technical Training Institute</td>
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<td>HDI</td>
<td>Human Development Index</td>
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<td>ICMPD</td>
<td>International Centre for Migration Policy Development</td>
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<td>ILMD</td>
<td>International Labour Migration Desk</td>
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<tr>
<td>ILO</td>
<td>International Labour Organization</td>
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<td>IMSCM</td>
<td>Inter-Ministerial Steering Committee on Migration</td>
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<td>IOM</td>
<td>International Organization for Migration</td>
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<td>IPPR</td>
<td>Institute for Public Policy Research</td>
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<td>IPSD</td>
<td>Italian Public Security Department</td>
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<td>LEADS</td>
<td>Linkage with Experts and Academics in the Diaspora</td>
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<tr>
<td>MIDA</td>
<td>Migration for Development in Africa</td>
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<td>MIDWA</td>
<td>Migration Dialogue for West Africa</td>
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<td>MIEUX</td>
<td>Migration EU Expertise</td>
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<td>Migration DRC</td>
<td>Development Research Centre on Migration</td>
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<td>MME</td>
<td>Migration, Mobility and Employment Partnership</td>
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<td>MTM</td>
<td>Mediterranean Transit Migration Dialogue</td>
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<td>NAATIP</td>
<td>National Agency Against Trafficking of Persons</td>
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<td>NAPTIP</td>
<td>National Agency for Prohibition of Traffic in Persons and Other Related Matters</td>
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<td>NBS</td>
<td>National Bureau of Statistics</td>
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<td>NCFRMI</td>
<td>National Commission for Refugees, Migrants and Internally Displaced Persons</td>
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<td>NEDI</td>
<td>National Enterprise Development Initiatives</td>
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<td>NELEX</td>
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<td>NIDO</td>
<td>Nigerians in the Diaspora Organisation</td>
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<td>NNVS</td>
<td>Nigerian National Volunteer Service</td>
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<td>National Planning Commission</td>
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<td>NPoPC</td>
<td>National Population Commission</td>
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<td>NTF</td>
<td>National Task Force against Trafficking in Persons</td>
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<td>NUC</td>
<td>National Universities Commission</td>
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<td>Acronym</td>
<td>Definition</td>
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<tr>
<td>OECD</td>
<td>Organisation for Economic Co-operation and Development</td>
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<td>OHCHR</td>
<td>Office of the High Commissioner for Human Rights</td>
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<tr>
<td>PAEI</td>
<td>Assistance Programme to Independent Employment</td>
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<td>PAGE</td>
<td>Programme for Accelerated Growth and Employment</td>
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<td>PAISD</td>
<td>Programme d’Appui aux Initiatives de Solidarité pour le Développement</td>
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<td>PAPES</td>
<td>Plateforme d’appui aux petites entreprises du Sénégal</td>
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<td>PDCI</td>
<td>Democratic Party of Côte d’Ivoire</td>
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<td>PEA</td>
<td>Private employment agency</td>
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<td>PIRS</td>
<td>Passenger Information Registration System</td>
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<td>PSE</td>
<td>Plan Sénégal Emergent</td>
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<td>RADDHO</td>
<td>Rencontre africaine pour la défense des droits de l’homme</td>
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<td>RAJGUI</td>
<td>Réseau Afrique Jeunesse de Guinée</td>
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<td>RAVEC</td>
<td>Recensement Administratif à caractère d’état civil</td>
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<td>REFMAP</td>
<td>Réseau des Femmes du Fleuve Mano pour la Paix</td>
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<td>REVA</td>
<td>Retour volontaire vers l’agriculture</td>
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<td>National Population and Housing Census</td>
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<td>RICODEV</td>
<td>Strengthening of the co-development initiatives in the region of Cacheu</td>
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<td>ROME</td>
<td>Operational Register of Occupations</td>
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<td>Stratégie de croissance accélérée et de promotion de l’emploi</td>
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<td>SEF</td>
<td>Foreigners and Borders Service</td>
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<td>SIGEM</td>
<td>Information System for Efficient Migration Management</td>
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<td>STR</td>
<td>Subject to Regularization</td>
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<td>Sahel and West African Club</td>
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<td>TOKTEN</td>
<td>Transfer of Knowledge through Expatriate Nationals</td>
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<td>TWP</td>
<td>Temporary Work Permit</td>
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<td>UEMOA</td>
<td>West African Economic and Monetary Union</td>
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<td>United Nations</td>
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<td>United Nations Development Programme</td>
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<td>United Nations Economic Commission for Africa</td>
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<td>UNODC</td>
<td>United Nations Office on Drugs and Crime</td>
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<td>WACPS</td>
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<td>WAEMU</td>
<td>West African Economic and Monetary Union</td>
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<td>WAN</td>
<td>West African Network</td>
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<td>WAPCCO</td>
<td>West African Police Chiefs’ Committee</td>
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Introduction
1. Introduction

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

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

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

¹ West Africa comprises Benin, Burkina Faso, Cape Verde, Côte d’Ivoire, The Gambia, Ghana, Guinea, Guinea-Bissau, Liberia, Mali, Mauritania, Niger, Nigeria, Senegal, Sierra Leone, and Togo. The ECOWAS Member States, which are the subject of this study, are all these West African countries except Mauritania.

² The key legal instrument of the Economic Community of West African States (ECOWAS) is the 1975 ECOWAS Treaty and its revision in 1993, and the most important strategic document on migration is the 2008 ECOWAS Common Approach on Migration. These are further described in the comparative analysis of this study, along with the 1979 ECOWAS Protocol on the Free Movement of Persons, the Right of Residence and Establishment and subsequent supplementary protocols.

ensure that their migration framework is comprehensive and able to respond to their specific needs and challenges. Furthermore, it examines the level of harmonisation between their national migration policies and the regional integration process as stipulated in the ECOWAS framework on migration.

1.1 Methodological approach

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

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

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

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

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

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

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

2.1 Data and key migration trends in the ECOWAS region

2.1.1 Socio-economic and geopolitical context

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

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

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in Guinea-Bissau, and drought and cyclical food insecurity in the Sahel region, particularly in Niger and Burkina Faso.\(^1\)

### Table 1: Key Demographic and Economic Indicators

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

Source: African Development Bank Group, Development Centre of the Organisations for Economic Co-operation and Development, United Nations Development Programme, Economic Commission for Africa, Fund for Peace, United Nations, Department of Economic and Social Affairs.\(^2\)

### 2.1.2 National migration data collection systems

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

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\(^{10}\) United Nations Economic Commission for Africa sub-regional office for West Africa ECA/SRO-WA, 2013, op. cit.

provide additional information.\textsuperscript{12}

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

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

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

### 2.1.3 Migration patterns and trends

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

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


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

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

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

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

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

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### Table 2: Key migration data

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

*Source: World Bank, Census Data*\(^{16}\)

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

<table>
<thead>
<tr>
<th>Source country</th>
<th>Benin</th>
<th>Burkina Faso</th>
<th>Cape Verde</th>
<th>Côte d’Ivoire</th>
<th>The Gambia</th>
<th>Ghana</th>
<th>Guinea</th>
<th>Guinea-Bissau</th>
</tr>
</thead>
<tbody>
<tr>
<td>Nigeria</td>
<td>238,561</td>
<td>Côte d’Ivoire</td>
<td>1,310,892</td>
<td>Portugal</td>
<td>63,403</td>
<td>Spain</td>
<td>18,112</td>
<td>Nigeria</td>
</tr>
<tr>
<td>Côte d’Ivoire</td>
<td>62,371</td>
<td>Niger</td>
<td>29,881</td>
<td>United States</td>
<td>20,855</td>
<td>Mali</td>
<td>77,549</td>
<td>Nigeria</td>
</tr>
<tr>
<td>Other South</td>
<td>54,669</td>
<td>Mali</td>
<td>22,365</td>
<td>Mozambique</td>
<td>20,702</td>
<td>France</td>
<td>71,334</td>
<td>Senegal</td>
</tr>
<tr>
<td>Gabon</td>
<td>32,173</td>
<td>Italy</td>
<td>11,651</td>
<td>Angola</td>
<td>13,219</td>
<td>Italy</td>
<td>22,276</td>
<td>Senegal</td>
</tr>
<tr>
<td>Nigerian</td>
<td>27,691</td>
<td>Benin</td>
<td>10,606</td>
<td>Netherlands</td>
<td>11,467</td>
<td>United States</td>
<td>9,388</td>
<td>Germany</td>
</tr>
<tr>
<td>France</td>
<td>17,163</td>
<td>Nigeria</td>
<td>8,307</td>
<td>Senegal</td>
<td>9,315</td>
<td>Nigeria</td>
<td>4,361</td>
<td>Italy</td>
</tr>
</tbody>
</table>

To ECOWAS countries: 412,630

<table>
<thead>
<tr>
<th>Source country</th>
<th>Liberia</th>
<th>Mali</th>
<th>Niger</th>
<th>Nigeria</th>
<th>Senegal</th>
<th>Sierra Leone</th>
<th>Togo</th>
</tr>
</thead>
<tbody>
<tr>
<td>Guinea</td>
<td>189,437</td>
<td>Côte d’Ivoire</td>
<td>440,960</td>
<td>Nigeria</td>
<td>87,529</td>
<td>United States</td>
<td>210,647</td>
</tr>
<tr>
<td>Côte d’Ivoire</td>
<td>74,734</td>
<td>Nigeria</td>
<td>133,664</td>
<td>Côte d’Ivoire</td>
<td>84,705</td>
<td>United States</td>
<td>150,918</td>
</tr>
<tr>
<td>United States</td>
<td>66,652</td>
<td>Other South</td>
<td>98,799</td>
<td>Benin</td>
<td>80,789</td>
<td>Chad</td>
<td>114,025</td>
</tr>
<tr>
<td>Other South</td>
<td>37,453</td>
<td>Niger</td>
<td>69,790</td>
<td>Other South</td>
<td>40,831</td>
<td>Cameroon</td>
<td>78,292</td>
</tr>
<tr>
<td>Sierra Leone</td>
<td>24,887</td>
<td>France</td>
<td>68,786</td>
<td>Chad</td>
<td>38,668</td>
<td>Italy</td>
<td>52,865</td>
</tr>
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<td>Nigeria</td>
<td>19,321</td>
<td>Burkina Faso</td>
<td>68,295</td>
<td>Burkina Faso</td>
<td>9,885</td>
<td>Benin</td>
<td>47,553</td>
</tr>
<tr>
<td>Germany</td>
<td>4,202</td>
<td>Gabon</td>
<td>31,306</td>
<td>Togo</td>
<td>17,315</td>
<td>Other South</td>
<td>47,162</td>
</tr>
</tbody>
</table>

To ECOWAS countries: 309,002

| Source: World Bank |

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

<table>
<thead>
<tr>
<th>Destination country</th>
<th>Benin</th>
<th>Burkina Faso</th>
<th>Cape Verde</th>
<th>Côte d’Ivoire</th>
<th>Guinea</th>
<th>Guinea-Bissau</th>
<th>The Gambia</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Top seven source countries</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Niger</td>
<td>80,789</td>
<td>Ivorian Coast</td>
<td>842,931</td>
<td>São Tomé and Príncipe</td>
<td>4,061</td>
<td>1,310,892</td>
<td>Liberia 189,437</td>
</tr>
<tr>
<td>Togo</td>
<td>51,302</td>
<td>Mali</td>
<td>68,295</td>
<td>Angola</td>
<td>2,393</td>
<td>440,960</td>
<td>Sierra Leone 157,067</td>
</tr>
<tr>
<td>Nigeria</td>
<td>47,553</td>
<td>Ghana</td>
<td>50,217</td>
<td>Guinea-Bissau</td>
<td>1,233</td>
<td>134,171</td>
<td>Mali 15,276</td>
</tr>
<tr>
<td>Other South</td>
<td>39,473</td>
<td>Other South</td>
<td>31,201</td>
<td>Other South</td>
<td>1,108</td>
<td>111,001</td>
<td>Senegal 6,652</td>
</tr>
<tr>
<td>Burkina Faso</td>
<td>10,406</td>
<td>Togo</td>
<td>23,993</td>
<td>Portugal</td>
<td>1,007</td>
<td>84,705</td>
<td>Other South 5,959</td>
</tr>
<tr>
<td>France</td>
<td>1,916</td>
<td>Niger</td>
<td>19,885</td>
<td>Senegal</td>
<td>679</td>
<td>74,734</td>
<td>Guinea-Bissau 2,749</td>
</tr>
<tr>
<td>Other North</td>
<td>397</td>
<td>Benin</td>
<td>6,513</td>
<td>Italy</td>
<td>330</td>
<td>62,371</td>
<td>Ivory Coast 2,429</td>
</tr>
</tbody>
</table>

| From ECOWAS countries | 190,250 | 1,011,834 | 2,176 | 2,350,024 | 382,210 | 15,984 | 272,653 |
| From other countries  | 41,786  | 31,201    | 9,877 | 56,689    | 12,347  | 3,260  | 17,451 |

<table>
<thead>
<tr>
<th>Destination country</th>
<th>Liberia</th>
<th>Mali</th>
<th>Niger</th>
<th>Nigeria</th>
<th>Senegal</th>
<th>Sierra Leone</th>
<th>Togo</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Top seven source countries</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Guinea</td>
<td>49,944</td>
<td>Côte d’Ivoire</td>
<td>77,549</td>
<td>Mali</td>
<td>69,790</td>
<td>Benin 238,561</td>
<td>Guinea 80,773</td>
</tr>
<tr>
<td>Ghana</td>
<td>15,785</td>
<td>Burkina Faso</td>
<td>22,365</td>
<td>Nigeria</td>
<td>30,056</td>
<td>Other South 216,377</td>
<td>Mauritania 29,600</td>
</tr>
<tr>
<td>Sierra Leone</td>
<td>12,086</td>
<td>Guinea</td>
<td>16,267</td>
<td>Burkina Faso</td>
<td>29,881</td>
<td>Ghana 186,015</td>
<td>Guinea-Bissau 24,155</td>
</tr>
<tr>
<td>Other South</td>
<td>4,478</td>
<td>Senegal</td>
<td>11,895</td>
<td>Benin</td>
<td>27,691</td>
<td>Mali 133,464</td>
<td>Other South 17,912</td>
</tr>
<tr>
<td>Ivory Coast</td>
<td>2,951</td>
<td>Mauritania</td>
<td>6,999</td>
<td>Other South</td>
<td>25,286</td>
<td>Togo 115,791</td>
<td>Mali 17,502</td>
</tr>
<tr>
<td>Lebanon</td>
<td>2,625</td>
<td>Niger</td>
<td>5,836</td>
<td>Togo</td>
<td>15,001</td>
<td>Niger 87,529</td>
<td>France 17,192</td>
</tr>
<tr>
<td>Nigeria</td>
<td>2,003</td>
<td>Gabon</td>
<td>4,748</td>
<td>Ghana</td>
<td>2,599</td>
<td>Chad 27,442</td>
<td>Cape Verde 9,315</td>
</tr>
</tbody>
</table>

| From ECOWAS countries | 85,542 | 142,342 | 176,877 | 823,742 | 137,626 | 102,643 | 153,029 |
| From other countries  | 10,768  | 20,335  | 25,286 | 303,926 | 72,435  | 4,133  | 32,373 |

Source: World Bank

18 Ibid. Bilateral migrant stocks by source countries are unavailable for Ghana.
2.1.3.1 Labour migration

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

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

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

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

\(^{19}\) Awumbila, 2014, op. cit.

\(^{20}\) See country chapter.

\(^{21}\) Côte d’Ivoire: Burkinabe nationals mostly work in the agricultural sector; Malians in the agricultural sector, but also in the herding, fishing, industry, service, and trade sectors; and Ghanaians in the fishing, trade, and service sectors. Liberia: Guineans and Malians work as petty traders, craftsmen, and plantation workers; and Lebanese nationals in the trade sector. Senegal: Guineans work in the fruit and vegetable trade, as well as in the transport sector. Malian women specialise in selling paintings, while Malian men are mainly active in the cola nut business. Mauritanian nationals, before the 1989 conflict, traditionally controlled a large part of the retail trade. Ivorians, Beninese and Togolese are generally employed in higher-skilled positions. Togo: Pakistani and Lebanese nationals own shops and other business establishments.
### Table 5: Sectors of occupation of immigrants and emigrants

<table>
<thead>
<tr>
<th>Occupations of immigrants</th>
<th>Country</th>
<th>Occupations of emigrants</th>
</tr>
</thead>
<tbody>
<tr>
<td>• Trade and catering</td>
<td>Benin</td>
<td>• High-skilled ‘intellectual’ jobs (Gabon, educational sector)</td>
</tr>
<tr>
<td>• Agriculture</td>
<td></td>
<td>• Low- and medium-skilled urban jobs</td>
</tr>
<tr>
<td>• Construction</td>
<td></td>
<td>• Trade, fishing (Gabon, Côte d’Ivoire), agriculture</td>
</tr>
<tr>
<td>• Medical sector</td>
<td></td>
<td>• Medical sector</td>
</tr>
<tr>
<td>• Agriculture, herding</td>
<td>Burkina Faso</td>
<td>• Construction, domestic sector, industry, services, hospitality work (in OECD countries)</td>
</tr>
<tr>
<td>• Fishing</td>
<td></td>
<td>• Medical sector</td>
</tr>
<tr>
<td>• Industry, services and</td>
<td>Cape Verde</td>
<td>• Construction, security guards (migrants from ECOWAS countries)</td>
</tr>
<tr>
<td>• Education sector</td>
<td></td>
<td>• Education sector</td>
</tr>
<tr>
<td>• Mining sector</td>
<td>Côte d’Ivoire</td>
<td>–</td>
</tr>
<tr>
<td>• Construction</td>
<td>The Gambia</td>
<td>• Retail, wholesale, and tourism</td>
</tr>
<tr>
<td>• Trade</td>
<td></td>
<td>• Agriculture</td>
</tr>
<tr>
<td>• Fishing industry</td>
<td></td>
<td>• Agriculture</td>
</tr>
<tr>
<td>• Small businesses and</td>
<td>Guinea</td>
<td>• Agricultural sector</td>
</tr>
<tr>
<td>• trade</td>
<td></td>
<td>• Small trade and businesses</td>
</tr>
<tr>
<td>• Energy sector</td>
<td>Guinea-Bissau</td>
<td>• Agriculture and teachers (in Cape Verde)</td>
</tr>
<tr>
<td>• Construction</td>
<td></td>
<td>• Bank sector (Senegal)</td>
</tr>
<tr>
<td>• Trade</td>
<td></td>
<td>• Construction, hospitality and domestic work (Portugal)</td>
</tr>
<tr>
<td>• Fishing</td>
<td></td>
<td>• Health professionals, high school teachers, and, to a smaller extent, lawyers (Portugal)</td>
</tr>
<tr>
<td>• Petty trading and larger</td>
<td>Liberia</td>
<td>• Medical sector</td>
</tr>
<tr>
<td>• scale trade (Lebanese</td>
<td></td>
<td></td>
</tr>
<tr>
<td>• nationals)</td>
<td></td>
<td></td>
</tr>
<tr>
<td>• Crafts</td>
<td>Mali</td>
<td>• Trade, agriculture, fishing, industry (Côte d’Ivoire)</td>
</tr>
<tr>
<td>• Plantation work</td>
<td></td>
<td>• Herding (Algeria, Libya)</td>
</tr>
<tr>
<td>• Informal sector</td>
<td></td>
<td>• Manual labourers (France)</td>
</tr>
<tr>
<td>• Energy sector</td>
<td>Niger</td>
<td>• Agriculture (in neighbouring countries)</td>
</tr>
<tr>
<td>• Construction</td>
<td></td>
<td>• Industrial, trade, hospitality, and health sectors (in OECD countries)</td>
</tr>
<tr>
<td>• Domestic and hospitality</td>
<td></td>
<td></td>
</tr>
<tr>
<td>• work</td>
<td>Nigeria</td>
<td>• Agriculture (in neighbouring countries)</td>
</tr>
<tr>
<td>• Trade and business</td>
<td></td>
<td>• Industrial, trade, hospitality, and health sectors (in OECD countries)</td>
</tr>
<tr>
<td>• Informal market</td>
<td>Senegal</td>
<td>• Health, real estate, wholesale (in OECD countries)</td>
</tr>
<tr>
<td>• Medical sector</td>
<td></td>
<td></td>
</tr>
<tr>
<td>• Fruit and vegetable</td>
<td></td>
<td></td>
</tr>
<tr>
<td>• trade, transport sector</td>
<td></td>
<td></td>
</tr>
<tr>
<td>• (Guinean nationals)</td>
<td></td>
<td></td>
</tr>
<tr>
<td>• Selling paintings (Malian</td>
<td></td>
<td></td>
</tr>
<tr>
<td>• women)</td>
<td></td>
<td></td>
</tr>
<tr>
<td>• Higher-skilled occupations</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
It could not be determined whether any of the countries has undertaken an assessment of national labour market needs. However, as reflected in recent policy documents/projects, Ghana, Nigeria, and Togo plan to conduct studies to identify labour shortages in the national labour market. Government respondents to our survey have different perceptions of workforce shortages in terms of sector and job type, which indicate that a comprehensive assessment is needed.

2.1.3.2 Other migratory flows

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

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

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23 For instance, Senegal expelled Guineans in 1967; Côte d’Ivoire expelled about 16,000 Beninese in 1964; Sierra-Leone, and later Guinea and Côte d’Ivoire, expelled Ghanaian fishermen in 1968. In early-1979, Togolese farmers were expelled from Ghana and Côte d’Ivoire. Ghana expelled all illegal aliens without a valid residence permit on 2 December 1969. The largest case of mass expulsion of undocumented aliens took place in Nigeria in 1983 and 1985. In 1998 and 1999, Malian fishermen and Burkinabe farmers were expelled from Côte d’Ivoire. For a complete list, see Yaro, J.A., Migration in West Africa: Patterns, Issues and Challenges, Centre for Migration Studies at the University of Ghana, Accra, 2008.
25 As described in the next sub-chapter, the ECOWAS migration framework allows free entry in the territories of Member States to citizens of ECOWAS countries.
decrease in irregular migration from the region towards Europe, and a change of migration routes as a result of FRONTEX\(^\text{28}\) operations. According to the United Nations Office on Drugs and Crime (UNODC), in 2011 9.35% (17,665) of irregular migrants detected in Europe originated from West African countries, which is about 33% less than the figure for 2010.\(^\text{29}\)

According to de Haas, irregular migrants from Africa mostly move on their own initiative with the support of small networks of smugglers instead of international criminal syndicates.\(^\text{30}\) However, trafficking\(^\text{31}\) and smuggling activities usually overlap; migrants can start their journey voluntarily with the help of smugglers but end up being trafficked.\(^\text{32}\) As shown in the country chapters and in reports by the UNODC, victims of trafficking who have been identified in the region are mainly West African nationals, with the exception of Filipino victims detected in Côte d’Ivoire and a limited number of instances in trafficking of Chinese victims in Ghana.\(^\text{33}\) Studies show that the trafficking of children for forced labour is common in the region.\(^\text{34}\) To mention a few examples, trafficking in children has been identified from Benin for the purpose of domestic, commercial, and agricultural work in Nigeria, Gabon, and Côte d’Ivoire; and from ECOWAS countries to Cape Verde and Guinea, with the main reasons being exploitation in prostitution and domestic servitude. From countries with significant Muslim populations, such as Burkina Faso, The Gambia, Guinea, Guinea-Bissau, and Niger, boys are sent to other largely Muslim countries such as Senegal or Mali for Koranic education and may be involved in trafficking for exploitation through begging, a phenomenon that has also been identified internally within Nigeria. Moreover, the trafficking of West African nationals accounts for a significant share of the total amount of human trafficking in Western and Central Europe. West Africans accounted for about 14% of the total number of victims detected between 2007 and 2010. Victims mainly originate from Nigeria, but victims from Ghana, Guinea, and Sierra Leone also figure in the statistics.\(^\text{35}\) Trafficking in West African girls to the Middle East and the United States has also been reported.\(^\text{36}\)

\(^{28}\) European Agency for the Management of Operational Cooperation at the External Borders of the Member States of the European Union.


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


2.1.3.3 Characteristics of migrants

Table 6: Special migrant groups

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

Source: World Bank, country chapters

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

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

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

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

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

Box 1: Skilled emigration from selected ECOWAS countries

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

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

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

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39 See country chapter on Niger.  
40 Awumbila et al., 2014, op. cit., p. 20.  
41 See country chapter on Benin.  
42 See country chapter on Burkina Faso.  
43 See country chapter on Benin.  
44 Awumbila et al., 2014, op. cit., p. 34.  
emigration rate of medical doctors was estimated at 54.2 % and that of nurses at 66.9%.\textsuperscript{50}

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

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

Source: Country chapters

2.1.3.4 Remittances

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

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

\textsuperscript{50} Ibid., p. 213.
\textsuperscript{56} Maga, 2010, op. cit., pp. 10-11.
sent from the top ECOWAS countries (Benin, Burkina Faso, Côte d'Ivoire, Guinea, Liberia, Mali, Niger, and Togo) exceed those sent from the top OECD countries. The highest remittance flows to the majority of the countries come from a West African country, although an OECD country is the top sending country in seven cases (Cape Verde, The Gambia, Ghana, Guinea-Bissau, Liberia, Nigeria, and Senegal).

**Table 7: Remittances Flows**

<table>
<thead>
<tr>
<th>Country</th>
<th>Remittances as a share of GDP (%)</th>
<th>Migrant remittance Inflows (USD million), 2012</th>
</tr>
</thead>
<tbody>
<tr>
<td>Liberia</td>
<td>20.4</td>
<td>359.99</td>
</tr>
<tr>
<td>The Gambia</td>
<td>15.4</td>
<td>141.99</td>
</tr>
<tr>
<td>Senegal</td>
<td>11.4</td>
<td>1,613.91</td>
</tr>
<tr>
<td>Togo</td>
<td>8.8</td>
<td>336.60</td>
</tr>
<tr>
<td>Cape Verde</td>
<td>8.8</td>
<td>166.73</td>
</tr>
<tr>
<td>Nigeria</td>
<td>7.9</td>
<td>20,633.32</td>
</tr>
<tr>
<td>Mali</td>
<td>7.6</td>
<td>784.11</td>
</tr>
<tr>
<td>Guinea-Bissau</td>
<td>5.1</td>
<td>45.89</td>
</tr>
<tr>
<td>Benin</td>
<td>2.3</td>
<td>171.96</td>
</tr>
<tr>
<td>Niger</td>
<td>2.0</td>
<td>134.29</td>
</tr>
<tr>
<td>Sierra Leone</td>
<td>1.6</td>
<td>60.99</td>
</tr>
<tr>
<td>Côte d’Ivoire</td>
<td>1.5</td>
<td>373.84</td>
</tr>
<tr>
<td>Burkina Faso</td>
<td>1.2</td>
<td>120.34</td>
</tr>
<tr>
<td>Guinea</td>
<td>1.0</td>
<td>66.30</td>
</tr>
<tr>
<td>Ghana</td>
<td>0.3</td>
<td>137.95</td>
</tr>
</tbody>
</table>

*Source: World Bank*

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

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

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

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

<table>
<thead>
<tr>
<th>Receiving country</th>
<th>Benin</th>
<th>Burkina Faso</th>
<th>Cape Verde</th>
<th>Côte d’Ivoire</th>
<th>The Gambia</th>
<th>Ghana</th>
<th>Guinea</th>
<th>Guinea-Bissau</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Top ten remittance-sending countries</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Nigeria</td>
<td>72.55</td>
<td>Côte d’Ivoire</td>
<td>101.60</td>
<td>Portugal</td>
<td>59.18</td>
<td>Spain</td>
<td>27.96</td>
<td>United States</td>
</tr>
<tr>
<td>Togo</td>
<td>20.91</td>
<td>Other North</td>
<td>17.80</td>
<td>France</td>
<td>24.23</td>
<td>France</td>
<td>41.07</td>
<td>United States</td>
</tr>
<tr>
<td>Other North</td>
<td>20.83</td>
<td>Italy</td>
<td>2.36</td>
<td>United States</td>
<td>24.15</td>
<td>Other North</td>
<td>35.17</td>
<td>United Kingdom</td>
</tr>
<tr>
<td>Côte d’Ivoire</td>
<td>17.86</td>
<td>Niger</td>
<td>2.16</td>
<td>Mozambique</td>
<td>13.51</td>
<td>Mali</td>
<td>18.07</td>
<td>Germany</td>
</tr>
<tr>
<td>Gabon</td>
<td>15.50</td>
<td>Mali</td>
<td>1.62</td>
<td>Netherlands</td>
<td>12.72</td>
<td>Italy</td>
<td>12.23</td>
<td>Sweden</td>
</tr>
<tr>
<td>France</td>
<td>12.34</td>
<td>France</td>
<td>1.14</td>
<td>Angola</td>
<td>9.09</td>
<td>United States</td>
<td>6.28</td>
<td>Germany</td>
</tr>
<tr>
<td>Niger</td>
<td>7.79</td>
<td>Germany</td>
<td>0.83</td>
<td>Senegal</td>
<td>6.08</td>
<td>Germany</td>
<td>2.64</td>
<td>Senegal</td>
</tr>
<tr>
<td>Italy</td>
<td>1.90</td>
<td>Benin</td>
<td>0.81</td>
<td>Italy</td>
<td>5.90</td>
<td>United Kingdom</td>
<td>2.13</td>
<td>Norway</td>
</tr>
<tr>
<td>Burkina Faso</td>
<td>1.83</td>
<td>Nigeria</td>
<td>0.68</td>
<td>Spain</td>
<td>4.85</td>
<td>Canada</td>
<td>1.62</td>
<td>Other North</td>
</tr>
<tr>
<td>Rep. Congo</td>
<td>1.83</td>
<td>Gabon</td>
<td>0.52</td>
<td>Other North</td>
<td>4.27</td>
<td>Gabon</td>
<td>1.43</td>
<td>France</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Receiving country</th>
<th>Liberia</th>
<th>Mali</th>
<th>Niger</th>
<th>Benin</th>
<th>Gabon</th>
<th>Togo</th>
<th>United States</th>
<th>Côte d’Ivoire</th>
<th>France</th>
<th>Guinea</th>
<th>Sierra Leone</th>
<th>Togo</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>From ECOWAS countries</strong></td>
<td>121.83</td>
<td>106.91</td>
<td>9.35</td>
<td>217.35</td>
<td>12.77</td>
<td>45.44</td>
<td>45.92</td>
<td>12.22</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>From other countries</strong></td>
<td>57.35</td>
<td>23.44</td>
<td>167.46</td>
<td>107.74</td>
<td>76.48</td>
<td>92.59</td>
<td>28.85</td>
<td>29.97</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

Source: World Bank

2.2 Regional strategic framework on migration

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

2.2.1 ECOWAS Treaty

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

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

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

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

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61 See Protocol A/P3/5/82 relating to the definition of Community citizenship for the definition of a Community citizen.
The four supplementary protocols are the following:

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

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

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

### 2.2.3 Right of entry

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

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

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

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

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

2.2.4 Right of residence

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

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

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

64 Article 14 of the 1986 Supplementary Protocol A/SP.1/7/86 on the Second Phase (Right of Residence).
on policies, laws, and regulations relating to migration; and recommending adoption laws, regulations, and other measures necessary to apply the provisions of the protocol. The protocol also aims to facilitate the transfer of migrant workers’ earnings and savings, particularly migrant workers’ savings at the time they decide to leave the host Member State. During the abovementioned forty-fifth Ordinary Session of the Authority of Heads of State and Government of the ECOWAS in July 2014, the abolition of the residence permit was agreed upon, which will contribute further to the full implementation of the right of residence for ECOWAS citizens.\textsuperscript{67}

2.2.5 Right of establishment

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

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

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

\textsuperscript{67} ECOWAS Heads of State, 2014, op. cit.
### Table 9: Major Provisions on the Rights of Entry, Residence and Establishment in the 1979 Protocol and Four Supplementary Protocols

<table>
<thead>
<tr>
<th></th>
<th></th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>• Community citizens have the right to enter, reside, and establish businesses on the territory of Member States (Article 2).</td>
<td>• Clandestine or illegal immigrants can enjoy and exercise their fundamental rights (Article 3).</td>
<td>• Migrant workers and their families may not be affected by collective or ‘en masse’ expulsions (Article 13).</td>
</tr>
<tr>
<td></td>
<td>• A valid travel document and international health certificate are obligatory to enter a Member State (Article 3).</td>
<td>• Any expulsion order shall be enforced in a humane manner without injury to the person, rights, or property of the immigrant (Article 3).</td>
<td>• Grounds for individual expulsion are:</td>
</tr>
<tr>
<td></td>
<td>• Member States should notify the citizen concerned, the citizen’s government, and the Executive Secretary of ECOWAS of expulsion and repatriation decisions (Article 11).</td>
<td>• Repatriation should take place under legal and properly controlled procedures (Article 3).</td>
<td>• a) posing a threat to national security, public order, or public morality; or</td>
</tr>
<tr>
<td></td>
<td>• The expenses incurred in the expulsion of a citizen shall be borne by the expelling Member State (Article 11).</td>
<td>• Any person under an expulsion order shall be given a reasonable period of time to return to his/her country of origin (Article 3).</td>
<td>• b) non-fulfilment of an essential condition for the issuance or validity of the residence or work permit in accordance with the laws and regulations applicable in the host Member State (Article 14).</td>
</tr>
<tr>
<td></td>
<td>• In case of expulsion, the security of the citizen concerned, as well as that of his/her family, shall be guaranteed, and his/her property protected and returned to him/her (Article 11).</td>
<td></td>
<td>• Member States shall grant the expelled Community citizen a reasonable period of time to allow him/her to collect any salaries or other allowances due to him/her from his/her employer, to settle any contractual commitments, and to obtain authorisation to go to a country other than his/her country of origin (when needed for reasons of personal security) (Article 14).</td>
</tr>
<tr>
<td></td>
<td>• Member States have the right to refuse admission to their territory Community citizens deemed inadmissible under domestic law (Article 4).</td>
<td></td>
<td>• In case of expulsion, the authorities of the host Member State shall bear the resulting expenses (Article 14).</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>• The expelled immigrant and members of his/her family have the right to appeal the expulsion decision, which suspends the expulsion order (Article 15).</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>• No expulsion order may be carried out without ensuring that all fundamental rights of the migrant worker are respected (Article 16).</td>
</tr>
</tbody>
</table>
### Right of Residence

<table>
<thead>
<tr>
<th>1986 Supplementary Protocol</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>•</strong> Community citizens who are nationals of other Member States have the right of residence on the territory of a Member State for the purpose of seeking and taking up income-earning employment (Article 2).</td>
</tr>
<tr>
<td><strong>•</strong> The right of residence includes the right to apply for jobs, to travel freely for this purpose on the territory of Member States, to reside in one of the Member States in order to take up employment, and to live in a Member State after having been employed there (Article 3).</td>
</tr>
<tr>
<td><strong>•</strong> An ECOWAS residence card or residence permit shall be required and obtained from the host Member State (Article 5).</td>
</tr>
<tr>
<td><strong>•</strong> Member States shall set up appropriate public organs to deal with the problems relating to the movement of workers and their families. These organs will be responsible for formulating policies; providing information to employers and migrants on policies, laws, and regulations relating to migration; and recommending for adoption laws, regulations, and other measures necessary to facilitate the application of the provisions of the protocol (Article 20).</td>
</tr>
</tbody>
</table>

1. **Community citizens who are nationals of other Member States have the right of residence on the territory of a Member State for the purpose of seeking and taking up income-earning employment (Article 2).**
2. **The right of residence includes the right to apply for jobs, to travel freely for this purpose on the territory of Member States, to reside in one of the Member States in order to take up employment, and to live in a Member State after having been employed there (Article 3).**
3. **An ECOWAS residence card or residence permit shall be required and obtained from the host Member State (Article 5).**
4. **The processing of the application for the ECOWAS residence card or residence permit shall not delay the immediate execution of employment contracts already concluded by applicants (Article 8).**
5. **Member States shall harmonise within one year from the protocol’s entry into force the rules and regulations on the conditions for the issuance of the residence card or permit (Article 9).**
6. **Member States shall set up appropriate public organs to deal with the problems relating to the movement of workers and their families. These organs will be responsible for formulating policies; providing information to employers and migrants on policies, laws, and regulations relating to migration; and recommending for adoption laws, regulations, and other measures necessary to facilitate the application of the provisions of the protocol (Article 20).**
7. **Immigrant Community citizens and nationals of the host Member State shall receive equal treatment in terms of employment or practicing their profession, such as security of employment and possibilities of re-employment in case of loss of job for economic reasons. In case of the latter, they shall be given priority over other workers newly admitted to the host country (Article 23).**
8. **Equal treatment for Community citizens is also catered for in terms of access to social, cultural, and health facilities; to training and advanced professional training; to institutions of general and professional education; and to professional training centres for their children (Article 23).**
9. **Member States shall allow the transfer of all or part of the migrant’s earnings or savings, in particular the amounts which remain outstanding to migrant workers when they finally leave the host Member State (Article 17).**
10. **Member States should put in place measures to stop the illegal or clandestine movement and employment of migrant workers, such as measures that fight the dissemination of misleading information on migration, and sanctions on smugglers, traffickers, and employers of irregular migrant workers (Article 22).**
The right of establishment is defined as the right granted to a citizen who is a national of a Member State to settle in another Member State other than his/her state of origin, to have access to and be able to carry out economic activities, and to set up and manage enterprises under the same conditions as defined by the legislation of the host Member State for its own nationals (Article 1).

The right of establishment includes equal treatment for nationals of the host member state and nationals/companies of other Member States (Article 4).

Equal treatment implies equal access to non-salaried activities and the exercise of such activities, as well as the establishment and management of enterprises subject to the same conditions stipulated by the laws and regulations of the country for its own nationals (Article 2).

Companies with their headquarters, central seat of administration, or principal establishment within the Community shall be considered in the same category as individual nationals of Member States (Article 3).

Discriminatory confiscation or expropriation of assets and capital are forbidden, and Member States shall provide compensation for any act of confiscation, expropriation, or nationalisation (Article 7).

Member States are obliged to introduce measures to facilitate intra-community trade such as export financing, export credit guarantee institutions, and a regional payment mechanism, and to harmonise their national legislation and administrative rules and regulations governing the promotion and protection of investments (Articles 8 and 9).

Member States are forbidden to take exchange control measures unless there is a serious economic issue or balance of payments problem (Article 10).

In foreign exchange transactions, Member States shall refrain from taking discriminatory measures and from according preferential treatment to nationals of third countries (Article 11).

Companies with their headquarters, central seat of administration, or principal establishment within the Community shall be considered in the same category as individual nationals of Member States (Article 3).
Both the ECOWAS Commission and the Member States are aware of the challenges restricting the right of entry, such as harassment at border crossing points, and intend to address them, as stated in the reports of official ECOWAS meetings. Planned measures to facilitate free movement include the installation of immigration booths for ECOWAS citizens and the establishment of information centres at ECOWAS borders. In addition, the approval of the introduction of the national biometric identity card mentioned above means that this will replace the ECOWAS Travel Certificate. Furthermore, the ECOWAS Commission calls upon Member States to review their national legislation on the right of entry, residence, and establishment.


### Table 10: Specific provisions for ECOWAS nationals

<table>
<thead>
<tr>
<th>Country</th>
<th>Status of ratification of ECOWAS Free Movement Protocols</th>
<th>Specific actions taken</th>
<th>Reference to ECOWAS nationals in national law</th>
</tr>
</thead>
<tbody>
<tr>
<td>Benin</td>
<td>✔</td>
<td>✔</td>
<td>-</td>
</tr>
<tr>
<td>Burkina Faso</td>
<td>✔</td>
<td>✔</td>
<td>✔</td>
</tr>
<tr>
<td>Cape Verde</td>
<td>✔</td>
<td>✔</td>
<td>-</td>
</tr>
<tr>
<td>Côte d’Ivoire</td>
<td>✔</td>
<td>✔</td>
<td>✔</td>
</tr>
<tr>
<td>The Gambia</td>
<td>✔</td>
<td>✔</td>
<td>✔</td>
</tr>
<tr>
<td>Ghana</td>
<td>✔</td>
<td>✔</td>
<td>✔</td>
</tr>
<tr>
<td>Guinea</td>
<td>✔</td>
<td>✔</td>
<td>✔</td>
</tr>
<tr>
<td>Guinea-Bissau</td>
<td>✔</td>
<td>✔</td>
<td>✔</td>
</tr>
<tr>
<td>Liberia</td>
<td>✔</td>
<td>✔</td>
<td>✔</td>
</tr>
<tr>
<td>Mali</td>
<td>✔</td>
<td>✔</td>
<td>✔</td>
</tr>
<tr>
<td>Niger</td>
<td>✔</td>
<td>✔</td>
<td>✔</td>
</tr>
<tr>
<td>Nigeria</td>
<td>✔</td>
<td>✔</td>
<td>✔</td>
</tr>
<tr>
<td>Senegal</td>
<td>✔</td>
<td>✔</td>
<td>✔</td>
</tr>
<tr>
<td>Sierra Leone</td>
<td>✔</td>
<td>✔</td>
<td>✔</td>
</tr>
<tr>
<td>Togo</td>
<td>✔</td>
<td>✔</td>
<td>✔</td>
</tr>
</tbody>
</table>

Source: ECOWAS, Awumbila et al., country chapters

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

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

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

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

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73 ECOWAS Heads of State, 2014, op. cit.
74 Ibid.
taxi and car hire services, pool betting, and operation of beauty salons and barber shops). In Mali, the restricted sectors are health, law, and public services.\footnote{Ibid., pp. 71-74.}

Regarding implementation of the ECOWAS protocols relating to the free movement of persons, freedom of residence, and establishment, mention must be made of the Multipartite Agreement for the Local Integration of Liberian and Sierra Leonean Refugees in Nigeria, which was signed in 2007 by Liberia, Sierra Leone, Nigeria, ECOWAS, and UNHCR. The ECOWAS Treaty and its subsequent Protocols on free movement and residence are not refugee instruments. Nevertheless, their provisions are equally applicable to all nationals of ECOWAS Member States, including refugees.\footnote{Adepoju, A., A. Boulton and M. Levin, 2007, op. cit., pp. 16-17.} In practice, the use of the ECOWAS Protocols for the benefit of Sierra Leonean and Liberian refugees has been ensured through a regional strategy developed and implemented by UNHCR and partnering international organisations, ECOWAS, and the seven countries with the most refugees: Côte d’Ivoire, The Gambia, Ghana, Guinea, Liberia, Nigeria, and Sierra Leone.\footnote{Salducci, G., Towards the Local Integration of Liberian and Sierra Leonean refugees in West Africa through enhancing self-reliance and promoting Regional integration: Regional Framework, Office of the United Nations High Commissioner for Refugees, 2008; Boulton, A., ‘Local Integration in West Africa’ in Forced Migration Review, 33, 2009, p. 33.} The regional strategy focused on residual refugee caseloads, despite the end of the armed civil conflicts in Sierra Leone and Liberia and the subsequent implementation of large-scale voluntary repatriations. In 2008, approximately 14,000 Sierra Leonean and 79,000 Liberian refugees still resided in West African countries under asylum status.\footnote{Salducci, 2008, op. cit., p. 3.} For those who expressed the desire to remain in the countries of asylum, naturalisation was generally not a realistic option. In such a context, to which must be added the imminence of the cessation process (under which refugees would cease to be entitled to international protection), local integration through the ECOWAS free movement and residence regime was accepted by all the governments concerned – with the exception of Ghana – as the most adequate solution to be implemented.\footnote{Ibid., p. 4.}

\subsection*{2.2.7 ECOWAS Common Approach on Migration}

In January 2008, the Community adopted the ECOWAS Common Approach on Migration (the ‘Common Approach’).\footnote{ECOWAS Commission, 33\textsuperscript{rd} Ordinary Session of the Head of State and Government, Ouagadougou, 18 January 2008. ECOWAS Common Approach on Migration.} This is a non-binding document that acts as an overarching framework on migration. Although the Common Approach encompasses major aspects of migration (i.e. intra-regional mobility, management of regular migration, the fight against irregular migration, and gender-mainstreaming of migration policies), its declared objective is to establish a link between migration and development. The Common Approach is based on six principles:

\begin{itemize}
  \item[a)] \textit{Free movement of persons within the ECOWAS zone is one of the fundamental priorities of the ECOWAS Member States’ integration policy.} The document explicitly makes a connection between intra-regional mobility and migration towards European countries when it states that the free movement of persons within the ECOWAS zone is a prerequisite for regional integration, and that it contributes to reducing migratory pressures beyond ECOWAS borders.
\end{itemize}
b) Legal migration towards other regions of the world contributes to ECOWAS Member States’ development. The document explicitly calls on Member States to cooperate in managing migration which would enable access to labour markets in regions other than West Africa.


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

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

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

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

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

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

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

### Table 11: National migration policies

<table>
<thead>
<tr>
<th>Country</th>
<th>Comprehensive national migration policy (adopted or drafted)</th>
<th>Migration/development integrated</th>
</tr>
</thead>
<tbody>
<tr>
<td>Benin</td>
<td>No, but [National Policy for Beninese abroad]</td>
<td>No</td>
</tr>
<tr>
<td>Burkina Faso</td>
<td>Yes (Draft) [Draft National migration strategy 2014-2025, incl. action plan 2014-2016]</td>
<td>Yes</td>
</tr>
<tr>
<td>Cape Verde</td>
<td>No, but [National Immigration Strategy and National Emigration Strategy]</td>
<td>Yes, the National Immigration Strategy follows the national development plan.</td>
</tr>
<tr>
<td>Côte d’Ivoire</td>
<td>No [National migration policy is planned]</td>
<td>Yes</td>
</tr>
<tr>
<td>The Gambia</td>
<td>No [National Migration Policy is planned]</td>
<td>Yes</td>
</tr>
<tr>
<td>Ghana</td>
<td>Yes (Draft) [Draft National Migration Policy]</td>
<td>Yes</td>
</tr>
<tr>
<td>Guinea</td>
<td>No [National Migration Policy is planned]</td>
<td>No</td>
</tr>
<tr>
<td>Guinea-Bissau</td>
<td>No</td>
<td>Yes</td>
</tr>
</tbody>
</table>

---


82 Geddes, A., Migration as Foreign Policy? The External Dimension of EU Action on Migration and Asylum, Swedish Institute for European Policy Studies (SIEPS), 2009.
At the time of drafting this study, most of the countries did not have a comprehensive national migration strategy in place. The exceptions to this were Burkina Faso, Ghana, Liberia, Mali, Niger, and Nigeria, all of which were in the process of drafting a national migration policy. In the other countries, these migration policies are based on strategic documents that only address parts of migration, which results in an unbalanced approach that may neglect key migration aspects (e.g. emigration issues in Côte d’Ivoire and Guinea, and human trafficking and protection of migrants at risk in Togo). Nevertheless, as the table above shows, almost all ECOWAS Member States, with the exception of Senegal, Sierra Leone, and Guinea-Bissau, are explicitly planning to develop a national migration policy or have a similar adequate strategic framework in place.

**Figure 1: Comprehensive National Migration Policy**

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83 After the finalising of this study, the Malian authorities released information about the adoption of the national migration policy and its action plan (in September 2014).
The nature of migration and the context in which it takes place are key elements that determine the actual impact of migration on national development. This impact is not univocal. Rather, it can be beneficial in some spheres and harmful in others. In order to maximise the benefits of migration and mitigate its negative consequences for a country, the policies of relevant sectors (health, education, agriculture, etc.) need to take migration into account. Mainstreaming migration into development planning ensures that the effects of migration on development and the effects of development actions on migration are considered. According to the findings, almost all countries have included migration in key development documents (see table 11 above and figure 2 below). The study did not assess to which extent migration issues are included in key development documents, but this high number of countries shows that migration is considered an important development issue.

Figure 2: Migration mentioned in national development strategies

![Map showing migration mentioned in national development strategies]

Source: Country chapters

2.3.1 Institutional framework on migration

Table 12: Inter-institutional coordination mechanisms

<table>
<thead>
<tr>
<th>Country</th>
<th>Focal point for migration policy</th>
<th>Inter-institutional coordination mechanism in place</th>
</tr>
</thead>
<tbody>
<tr>
<td>Benin</td>
<td>No</td>
<td>No</td>
</tr>
<tr>
<td>Burkina Faso</td>
<td>Formally not yet, but the Ministry of Economy and Finances led the National Migration Strategy development process (the document also entrusts the same Ministry with the responsibility of coordinating migration policy matters).</td>
<td>No, but planned for the future (see column to the left)</td>
</tr>
<tr>
<td>Cape Verde</td>
<td>Immigration Coordination Unit within the office of the Vice Prime Minister.</td>
<td>Yes</td>
</tr>
<tr>
<td>Côte d’Ivoire</td>
<td>No</td>
<td>Yes: Joint Ministerial Committee on the Fight against Trafficking, Exploitation, and Child Labour</td>
</tr>
<tr>
<td>Country</td>
<td>Institution/Committee</td>
<td>Responsibility</td>
</tr>
<tr>
<td>--------------</td>
<td>---------------------------------------------------------------------------------------</td>
<td>-------------------------------------------------------------------------------</td>
</tr>
<tr>
<td>The Gambia</td>
<td>Immigration Department under the Ministry of Interior</td>
<td>Yes:</td>
</tr>
<tr>
<td></td>
<td></td>
<td>• National Platform on Migration Issues</td>
</tr>
<tr>
<td></td>
<td></td>
<td>• National Agency Against Trafficking of Persons (NAATIP)</td>
</tr>
<tr>
<td></td>
<td></td>
<td>• National Task Force against Trafficking in Persons (NTF)</td>
</tr>
<tr>
<td></td>
<td></td>
<td>• Expatriate Quota Allocation Board</td>
</tr>
<tr>
<td>Ghana</td>
<td>No, but the Inter-Ministerial Steering Committee on Migration may be maintained after the National Migration Policy is finalised.</td>
<td>Yes:</td>
</tr>
<tr>
<td></td>
<td></td>
<td>• Inter-Ministerial Steering Committee on Migration – develops the National Migration Policy</td>
</tr>
<tr>
<td></td>
<td></td>
<td>• Immigrant Quota Committee – deals with work permit applications</td>
</tr>
<tr>
<td></td>
<td></td>
<td>• Human Trafficking Management Board</td>
</tr>
<tr>
<td>Guinea</td>
<td>Yes, an inter-ministerial commission was officially established to develop a national migration policy.</td>
<td>Yes (see column to the left)</td>
</tr>
<tr>
<td>Guinea- Bis- sau</td>
<td>Yes, National Migration Platform (but very few meetings held).</td>
<td>Yes</td>
</tr>
<tr>
<td>Liberia</td>
<td>No</td>
<td>Yes:</td>
</tr>
<tr>
<td></td>
<td></td>
<td>• National Migration Policy Taskforce – drafted the national migration policy</td>
</tr>
<tr>
<td></td>
<td></td>
<td>• Anti-Human Trafficking Taskforce</td>
</tr>
<tr>
<td>Mali</td>
<td>No</td>
<td>Yes:</td>
</tr>
<tr>
<td></td>
<td></td>
<td>• As part of the steering of the Centre for Migration Information and Management (CIGEM)</td>
</tr>
<tr>
<td>Niger</td>
<td>Yes, Inter-ministerial Committee on Migration Policy Development under the Ministry of Interior.</td>
<td>Yes:</td>
</tr>
<tr>
<td></td>
<td></td>
<td>• Inter-ministerial Committee on Migration Policy Development</td>
</tr>
<tr>
<td>Nigeria</td>
<td>Yes, National Commission for Refugees, Migrants and Internally Displaced Persons (NCFRMI).</td>
<td>Yes:</td>
</tr>
<tr>
<td></td>
<td></td>
<td>• National Commission for Refugees, Migrants and Internally Displaced Persons (NCFRMI)</td>
</tr>
<tr>
<td></td>
<td></td>
<td>• Technical Working Group – for the drafting process of the National Migration Policy and the National Labour Policy</td>
</tr>
<tr>
<td>Senegal</td>
<td>No</td>
<td>Yes:</td>
</tr>
<tr>
<td></td>
<td></td>
<td>• National Commission of Job Offers – implementation of bilateral agreements</td>
</tr>
<tr>
<td></td>
<td></td>
<td>• Committee – Support Fund for Investments of Senegalese Abroad</td>
</tr>
<tr>
<td>Sierra Leone</td>
<td>No</td>
<td>Yes:</td>
</tr>
<tr>
<td></td>
<td></td>
<td>• Work Permit Committee</td>
</tr>
<tr>
<td></td>
<td></td>
<td>• Inter-Ministerial Committee on Human Trafficking</td>
</tr>
<tr>
<td></td>
<td></td>
<td>• National Task Force on Human Trafficking</td>
</tr>
<tr>
<td>Togo</td>
<td>No</td>
<td>Yes:</td>
</tr>
<tr>
<td></td>
<td></td>
<td>• Unit in Charge of the Diaspora Programme (composed of several ministries)</td>
</tr>
</tbody>
</table>

Source: Country chapters

The institutional landscape of the countries presents a picture of fragmentation. Migration-related responsibilities are allocated among a number of ministries and public agencies according to the above-mentioned traditional configuration. This common scheme involves the following task allocation: immigration and border management under the responsibility of the Ministry of Interior/Security, labour immigration under the Ministry of Labour, the fight against trafficking in persons under the Ministry of
Social/Family Affairs or the Ministry of Justice, and the protection of and relations with nationals abroad under the Ministry of Foreign Affairs. Other governmental bodies with a role in migration-related matters, such as the Ministry of Finance, the Ministry of Planning, and the National Statistics and Demography Agency, have responsibilities related to remittances, mainstreaming migration into development planning, and migration data analysis.

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

Government ministries and agencies work rather independently from each other and in most of the countries, no ministry or unit within the government is mandated to coordinate migration issues. However, almost all of the countries have established inter-ministerial committees on migration to cover specific issues or to develop migration policies (see table 12 above). These inter-institutional migration committees may be kept on after the adoption of the respective national migration policies. In Mali, the Technical and Steering Committees of the Centre for Migration Information and Management (CIGEM) includes relevant ministries as well as external partners.

2.3.2 Immigration: national policy framework and institutional practices

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

2.3.2.1 General immigration provisions

Table 13: Identified gaps in the immigration framework

<table>
<thead>
<tr>
<th>Country</th>
<th>Identified gaps</th>
</tr>
</thead>
<tbody>
<tr>
<td>Benin</td>
<td>• No provisions on the status of family members</td>
</tr>
<tr>
<td></td>
<td>• Requirement for stay permit: proof that the applicant does not have any sexual transmissible diseases</td>
</tr>
<tr>
<td></td>
<td>• For foreigners who wish to leave their place of residence, the delivery of an authorisation is required</td>
</tr>
<tr>
<td>Burkina Faso</td>
<td>• Provisions on the procedures for the delivery of a stay permit are missing</td>
</tr>
<tr>
<td></td>
<td>• No specific status is defined for long-term residents and migrants’ family members</td>
</tr>
<tr>
<td></td>
<td>• Migrants’ rights as regards education, demonstrate, strike, and trade unions are restricted (the Cape Verdean legislation is currently being revised with a view to implementing the National Immigration Strategy, and improvements are foreseen as regards the facilitation of family reunification, better access to health and social services, and integration programmes)</td>
</tr>
<tr>
<td>Cape Verde</td>
<td>• Access of foreigners to land ownership is not clearly regulated</td>
</tr>
<tr>
<td>Côte d’Ivoire</td>
<td></td>
</tr>
</tbody>
</table>
The immigration provisions vary among the ECOWAS countries. In some cases, the applicant for a residence permit must provide a medical certificate and an extract from the police register and pay fees (Benin, Guinea, and Togo). In Liberia, Senegal, and Togo, it is more difficult for foreigners to receive a residence permit than in other countries since an official application should be made before entering the state.

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

### 2.3.2.2 Labour migration

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

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

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

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

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

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


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

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

### 2.3.2.3 Irregular migration

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

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

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

**Several countries plan to review the current legislative framework applying to irregular migration.** Ghana’s current legislation and policy towards irregular migration focuses on control, but the draft Na-
tional Migration Strategy envisages the adoption of a more comprehensive approach which includes opening more legal migration channels and taking into account the human rights of irregular migrants. In the case of Liberia and Nigeria, the legislation on irregular migration is outdated and subject to review, as envisaged in the draft National Migration Policy of both countries.

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

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

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

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

2.3.2.4 Migrants at risk

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

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

85 Awumbila et al., 2014, op. cit., pp. 74-75
As regards trafficking in persons, following the ratification of the convention and the protocol, most of the countries have adopted action plans and/or legal texts against trafficking in persons, with the exception of Cape Verde. On the whole, the Palermo Protocol’s definition of trafficking in persons, and the included procedural steps for prosecution and penalties have been transposed into national law. It is stated in Cape Verde’s National Immigration Strategy that the adoption of an anti-trafficking law is planned. However, the legislation of Benin, Côte d’Ivoire, Guinea, and Togo focus only on child trafficking and exploitation and have no provisions regarding the trafficking of adults.

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

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

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86 According to the ECOWAS Member States National Focal Points on ant-trafficking, the following agreements have been signed or were being negotiated at the time of writing: Côte d’Ivoire, Mali (1 September 2000): bilateral agreement signed in Bouake; Senegal, Mali. (2004): bilateral agreement against the cross-border trafficking of children; Burkina Faso, Mali (25 June 2004): bilateral cooperation agreement against cross-border trafficking of children; Benin, Nigeria (9 June 2005): bilateral cooperation agreement to suppress and punish trafficking with emphasis on women and children; Guinea, Mali (16 June 2005): bilateral agreement against cross-border trafficking; Burkina Faso, Côte d’Ivoire (24 October 2012): cooperation agreement to combat cross-border trafficking and the signing of a joint declaration known as the Ouagadougou Declaration; Senegal, The Gambia (2013): bilateral agreement against the cross-border trafficking of children; Côte d’Ivoire, Ghana: bilateral agreement in the fight against child trafficking; Guinea-Bissau, Guinea: bilateral agreement; Guinea-Bissau, Gambia: bilateral agreement; Nigeria, Benin: bilateral agreement; Niger, Nigeria: bilateral agreement; Togo, Ghana: bilateral agreement; Togo, Benin: bilateral agreement; Togo, Nigeria: bilateral agreement; The Gambia, Ghana: Cooperation and Mutual Assistance Agreement on the protection of children from cross-border trafficking and a Memorandum of Understanding yet to be finalised/adopted; Ghana, Mali: draft agreement is being developed and discussed; Guinea: intends to sign bilateral agreements with Senegal, Sierra Leone, Liberia, Guinea-Bissau, and Côte d’Ivoire; Senegal, Guinea-Bissau: proposed bilateral cooperation agreement to combat child trafficking is being validated, and also to combat the cross-border flows of children between the two countries; Togo, Gabon: proposed agreement being discussed on combating child trafficking; Benin has signed bilateral agreements with Nigeria and Congo; Mali with Burkina Faso and Côte d’Ivoire; Senegal with Guinea-Bissau and Spain; and Togo with Benin, Burkina Faso, Ghana, and Nigeria. See ECOWAS Commission TIP Unit (forthcoming), Annual Synthesis Report on the Implementation of the ECOWAS Plan of Action to Combat Trafficking in Persons 2012/2013, Abuja: ECOWAS Commission.
Box 2: Protection for victims of trafficking in Nigeria

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

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

Source: Country chapter on Nigeria

2.3.3 Emigration: national policy framework and institutional practices

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

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

\(^{87}\) U.S. Department of State, Trafficking in Persons Report 2013, Washington, 2013, p. 286
\(^{88}\) Ibid., p. 287.
2.3.3.1 **Labour migration**

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

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

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

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

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

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

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

93 For example, Benin has signed bilateral agreements with France and Kuwait; Burkina Faso with France, Italy, the U.K., and Jamaica; Côte d’Ivoire with Angola, Gabon, and Sao Tomé and Principe; The Gambia with Qatar and Guinea; Guinea-Bissau with Spain; Mali with Spain, Libya, Mauritania, Niger, and Cameroon; Niger with Algeria, Libya, Morocco, and Tunisia; Senegal with France, Gabon, Mauritania, Morocco, Saudi Arabia, Kuwait, and Spain; and Sierra Leone with Cuba, China, and India.
At the bilateral level, social security agreements have been concluded by Benin, Burkina Faso, Cape Verde, Guinea-Bissau, Côte d’Ivoire, Guinea, Mali, Niger, Senegal, and Togo.\(^{(94)}\)

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

### 2.3.3.2 Migration and development

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

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

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

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

\(^{(95)}\) Benin has concluded social security agreements with France, Niger, Côte d’Ivoire, Burkina Faso, Senegal, and Togo; Burkina Faso with Mali and Côte d’Ivoire; Côte d’Ivoire with Burkina Faso, Benin, Togo, Mali, Niger, and Senegal; Guinea with France; Mali with France, Burkina Faso, Guinea, Mauritania, Senegal, Togo, and the Netherlands; Niger with France; Senegal with France, Mali, and Mauritania; and Togo with France.
noted above, many have developed institutions in charge of diaspora relations. These can be specific ministries (as is the case in Cape Verde, Côte d’Ivoire, The Gambia, Guinea, Mali, and Senegal) or state agencies or departments (Benin, Burkina Faso, Guinea-Bissau, Nigeria, and Sierra Leone). Some countries have also established diaspora councils (i.e. Benin, Burkina Faso, Mali, Niger, and Nigeria). In Mali, visits to the main countries of destination of the Malian diaspora are organised.

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

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

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

### 2.3.3.3 Migrants’ protection

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

Only a limited number of initiatives are carried out by diplomatic and consular posts to ensure the protection of migrants. Most countries only have a small number of consular or diplomatic representations abroad. For example, there are 34 Burkinabe representations abroad, and five out of these are in ECOWAS countries. However, the draft plan of action on migration does mention the opening of a new representation in a destination country every two years. Benin’s National Policy for Beninese Nationals Abroad has as a central objective the protection of migrants’ rights and interests, and provides for recourse to local lawyers for consular and diplomatic posts in order to protect nationals abroad. In Cape Verde, consular capacities are very limited, but a Community Solidarity Fund has been established to provide assistance to diaspora associations that work towards migrants’ integration and protection in destination countries. Nigeria also envisages the establishment of a migrant welfare fund.
Reintegration assistance to returning migrants is only provided in some cases. Beneficiaries of a state programme in Benin must have been registered at the representations abroad for a minimum of 10 years in order to be eligible for assistance. In addition, financial assistance is mostly limited to craftsmen, the self-employed, and business people. The Burkinabe authorities aim to disseminate information on the legislation on access to land. The Gambian, Ghanaian, and Togolese authorities have organised the return of child victims of human trafficking, provided temporary shelter and medical treatment, and conducted family tracing. In Mali, assistance to returnees involves a number of local associations which benefit from financial and in-kind support from the Directorate General for Malians Abroad and the Centre d’information et de Gestion des Migrations (CIGEM). In addition, the National Employment Agency provides technical and financial support to facilitate the integration of returnees into the labour market. Reception and Information Desks have been set up at Bamako airport and Kayes train station. The Gambia is specifically concerned about irregular emigration of the youth and has implemented awareness raising and youth employment programmes.

2.3.4 International, regional, and bilateral cooperation on migration

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

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

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

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96 The 1951 Convention on the Status of Refugees.
97 For instance, the 1990 UN Treaty on the Rights of All Migrant Workers and Their Families has not yet been ratified by any major migrant-receiving states.
However, the major international conventions on migration have received less support in the region. Although almost all of the countries have ratified the 2000 United Nations Convention against Transnational Organized Crime and its protocols on trafficking in persons and the smuggling of migrants, but other instruments are still awaiting ratification or have not yet even been signed. The 1990 Convention on the Protection of the Rights of All Migrant Workers and Members of their Families has been ratified by eight countries (Burkina Faso, Cape Verde, Ghana, Guinea, Mali, Niger, Nigeria, and Senegal), which is, compared to other parts of the world, a high ratification rate; Benin, Guinea-Bissau, Liberia, Sierra Leone, and Togo have all signed but not yet ratified the Convention. The two major ILO conventions dealing with international migration for employment, one which sets international standards to protect migrants and one which promotes equal treatment, appear to be particularly divisive. The 1975 Supplementary Provisions of the ILO Convention on Migrant Workers C 143 has been ratified by only four of the countries studied (Benin, Burkina Faso, Guinea, and Togo).

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

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

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99 See footnote 84.

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

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

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

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

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

102 The format of the new partnership on migration and mobility between the EU and Africa is currently under consideration.
103 Since its inception in 2002, the MTM dialogue offers a flexible, consultative platform for migration officials from countries of origin, transit, and destination along the migration routes in Africa, Europe, and the Middle East. Initially focusing on transit migration, the MTM has extended its scope over the past years to cover the various aspects of irregular and mixed migration, as well as migration and development.
104 The survey was carried out before the UN High-Level Dialogue on Migration and Development in 2013.
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Concluding Remarks and Recommendations
3. Concluding remarks and recommendations

Thirty-five years after the adoption of the 1979 Protocol relating to the Free Movement of Persons, the Right of Residence and Establishment, several factors are still impeding effective inter-regional mobility within the ECOWAS region. First, there is a significant delay among countries in the region in transposing the 1979 Protocol and supplementary protocols into law. To date, most of the ECOWAS Member States have not yet adapted their legislation according to the 1979 Protocols and supplementary protocols, and adherence to the protocol is assigned to administrative practices. Although the right of entry and the abolition of visa requirements for a 90-day stay have been implemented in all countries, less progress can be noted as regards the Right of Residence and the Right of Establishment. Only four countries grant a specific residence permit to nationals from ECOWAS Member States. Similarly, in most countries the national labour legislation does not set specific provisions for access to employment by ECOWAS citizens, which jeopardises the implementation of the right of residence.

The 2008 ECOWAS Common Approach does not set deadlines for the implementation of the recommended actions and is not accompanied by a monitoring framework with defined objectives, outputs, and activities. This does not prevent assessment of the alignment of Member States’ policies to the six principles of the Common Approach. As can be seen above, the free movement of persons within the region and beyond still faces various challenges. General immigration provisions include a number of gaps. Some of the existing national laws are outdated or imprecise in terms of guaranteeing the observance of international human rights or the application of transparent procedures. As concerns facilitating access to labour markets, ECOWAS Member States’ labour markets are protected through labour market tests or quotas. In some of the countries, labour legislation is ambiguous on the conditions and procedural steps to grant work permits, thereby enabling arbitrary decisions by public authorities. In others, national legislation contravenes international law provisions, particularly regarding the principle of non-discrimination. Emigration is in general less regulated and very few countries have adopted comprehensive policies in this regard. In the area of labour migration, initiatives to identify and assess potential new countries of destination and to promote employment of nationals abroad are quite limited in the region, and countries have mainly focused on labour agreements. As regards migration and development, most countries have adopted policies to limit the negative effects of brain drain, and although less than half of the countries have adopted policies specifically targeting the diaspora, most of them have put in place measures to facilitate remittance transfers and to build trust and enhance dialogue between the state and its diaspora. These include setting up institutions dedicated to diaspora dialogue, establishing diaspora councils, and holding summits with diaspora members. Some countries have facilitated the exercise of diaspora members’ political rights through dual citizenship and voting rights. However, a lack of detailed and up-to-date information on diaspora groups hinders the effectiveness of migration and development initiatives. In addition, building trust between the government and its diaspora requires offering protection and assistance services to nationals abroad via the diplomatic and consular missions, which are still at an embryonic stage.
The fight against human trafficking is the most developed migration area; almost all Member States have put policies in place that are aligned with the UN Convention against Transnational Organized Crime (2000) and its Protocol on Trafficking in Persons. Almost half of them have established bodies that focus on actions against human trafficking, and a network of ECOWAS National Focal Points on combating trafficking, coordinated by the ECOWAS Secretariat in Abuja, has been meeting every year since 2007 (with the exception of 2013) to review progress in implementing regional plans of action to combat trafficking. However, results are mixed when it comes to the protection of the rights of migrants. The majority of countries have ratified the 1990 Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families. However, efforts to protect migrants at risk are limited in scope in most of the countries where public authorities rely mainly on NGOs to provide support to victims. Similarly, policies to protect nationals abroad or potential emigrants are inadequate. Diplomatic and consular posts offer limited support, while activities to provide information on the different aspects of the migration process and living/working conditions abroad lack continuity. Furthermore, comprehensive information strategies have yet to be developed.

Regarding the principle of policy harmonisation, the study shows that most countries lacked a comprehensive national migration policy, with there being only six countries that are in the process of drafting a national policy. However, almost all countries plan to develop a national migration policy which could be the precursor to the planned regional common migration policy. Conversely, a common migration policy could stimulate the development of national migration policies. Another important aspect in deepening policy harmonisation is the alignment of migration and development policies. Although the study did not analyse to which extent migration concerns are mainstreamed in development planning processes and vice versa, the fact that the large majority of countries mention migration in strategic development documents should also be assessed as an important step.

The adoption of a coherent approach that includes migration in other public sector policies faces various obstacles in the countries analysed. First, governments do not have the data needed for sound policymaking. Migration and remittance statistics in the region tend to be outdated and imprecise. Remittance transfers through informal channels are always difficult to capture, but it is estimated that informal remittance flows could equal or exceed official figures in Sub-Saharan Africa. Moreover, none of the countries indicated that they have undertaken an assessment of national labour market needs, and very few have undertaken a mapping exercise of their diaspora. In a similar vein, national authorities have not yet identified the qualifications that can be promoted abroad, nor those that should not be promoted. In addition, inter-institutional coordination on general migration matters is still missing, and if inter-institutional coordination mechanisms are in place, they have been established for the purpose of developing a national migration policy. If and how these mechanisms will be kept on after the adoption of the national migration policy and its potential for the implementation of the policy remains to be seen.

3.1 Recommendations

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

<table>
<thead>
<tr>
<th>1. State Institutions</th>
</tr>
</thead>
<tbody>
<tr>
<td>1.1 Update national legislation on the entry and stay of foreigners on the state’s territory in order to fully transpose the 1979 Protocol relating to the Free Movement of Persons, the Right of Residence and Establishment and supplementary protocols into law.</td>
</tr>
<tr>
<td>1.2 Reinforce intra-governmental coordination between key stakeholders on migration by establishing permanent inter-ministerial committees.</td>
</tr>
<tr>
<td>1.3 Ensure harmonisation of migration management and other policy areas by factoring migration into national development plans and reinforcing coordination between key stakeholders at the central and local level.</td>
</tr>
<tr>
<td>1.4 Ensure a migrant-centred approach in all migration strategies and initiatives, respecting migrants’ human rights throughout the migration cycle, with a special emphasis on vulnerable migrants.</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>2. International Organisations</th>
</tr>
</thead>
<tbody>
<tr>
<td>2.1 Devote resources to projects that strengthen transnational links between the diaspora and their homeland beyond usual migration areas such as remittances and brain drain.</td>
</tr>
<tr>
<td>2.2 Commission policy-relevant research and distribute reports widely to contribute to the global and regional migration debates.</td>
</tr>
<tr>
<td>2.3 Promote policy coherence in global and regional migration dialogues to ensure that economic, trade, and development aid policies are harmonised with migratory policies.</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>3. Civil Society Organisations</th>
</tr>
</thead>
<tbody>
<tr>
<td>3.1 Support networking and cooperation between migration-specialised organisations and development organisations, and between diaspora organisations and local development organisations. Create visibility for such initiatives in order to stimulate governments to do the same.</td>
</tr>
<tr>
<td>3.2 Put in place consultative processes with diaspora representatives so as to allow them to participate in and voice their views on national development planning.</td>
</tr>
<tr>
<td>3.3 Support civil society organisations in their sensitisation and advocacy initiatives that promote holistic migration approaches and protect migrants’ rights.</td>
</tr>
<tr>
<td>3.4 Build the capacities of civil society organisations in order to strengthen their ability to utilise and participate in national, regional, and global dialogues on migration.</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>4. Academia</th>
</tr>
</thead>
<tbody>
<tr>
<td>4.1 Strengthen data collection and analysis on migration, particularly on the diaspora, so as to enable the development of sound policies on emigration in line with the country’s needs.</td>
</tr>
<tr>
<td>4.2 Enhance interaction between academic actors and government agencies to stimulate new approaches on migration and the development of well-informed policies.</td>
</tr>
<tr>
<td>4.3 Increase research on the negative and positive effects of migration on development in order to enrich current development policy discussions.</td>
</tr>
<tr>
<td>4.4 Increase research on national labour market requirements to ensure that labour migration policies are in line with the country’s needs.</td>
</tr>
</tbody>
</table>
3.2 References


ECOWAS Commission, 55th Meeting of the Committee on Trade, Customs and Free Movement of Persons, Côte d’Ivoire, Abidjan, 7-10 October 2013.


Country Chapters
4. Country Chapters

4.1 Benin

4.1.1 Migration trends

4.1.1.1 Immigration

Although the presence of foreigners in Benin remains limited, it has risen over the past decades and, as Professor John Igue puts it, “Benin, an old country of emigration, is becoming a land of immigration”.

Indeed, the country presents a number of attractive factors, such as its political stability since 1990, its maritime coast, and its location in the prosperity zone of West Africa.

<table>
<thead>
<tr>
<th>Data</th>
<th>Year</th>
<th>Absolute numbers</th>
<th>% of the Total Population</th>
</tr>
</thead>
<tbody>
<tr>
<td>National Population and Housing Census</td>
<td>2002</td>
<td>141,595</td>
<td>2.1%</td>
</tr>
<tr>
<td>(RGPH)</td>
<td>1992</td>
<td>36,765</td>
<td>0.8%</td>
</tr>
<tr>
<td></td>
<td>1979</td>
<td>41,284</td>
<td>1.2%</td>
</tr>
</tbody>
</table>

4.1.1.1 Characteristics of immigrants/foreigners

- **Countries of origin:** The vast majority of immigrants are nationals from West African countries, primarily Niger (34.8%), Togo (22.1%), Nigeria (20.5%) and, to a lesser extent, Burkina Faso (4.6%).

- **Settlements:** Cotonou (36.8%), Alibori (19.1%), Borgou region (11.8%). In the case of Cotonou, foreigners are estimated to represent as much as 7.8% of the city’s population.

- **Socio-demographic profile:** Males represent around 60% of foreign nationals. In the case of Togolese nationals, female migrants are almost twice as numerous as males.

- **Socio-economic profile and sectors of employment:**
  - Migrants generally have little formal education: 19.5% have primary education and 16.4% have secondary or higher education.
  - Most foreigners are employed within the trade and catering sector (54.1%) and in agriculture (22.6%).

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107 Recensement général de la population et de l’habitation.
109 Ibid., p. 77.
110 Ibid.
111 Ibid., pp. 76-77.
112 Ibid., p. 75.
113 Ibid., p. 78.
114 Ibid., p. 78.
Vulnerable groups:
- It appears that trafficking is primarily an internal phenomenon.
- There has been evidence with regards to human trafficking to suggest that women and girls from Nigeria, Guinea, Togo, and Niger are forced into prostitution.\textsuperscript{115}

### 4.1.1.2 Emigration

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

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

<table>
<thead>
<tr>
<th>Data</th>
<th>Year</th>
<th>Estimates</th>
</tr>
</thead>
<tbody>
<tr>
<td>General estimates from research reports\textsuperscript{117}</td>
<td>2006-2012</td>
<td>3 million nationals abroad</td>
</tr>
<tr>
<td>Data from diplomatic and consular posts (unpublished)</td>
<td>2011</td>
<td>4,384,686 nationals abroad\textsuperscript{118}</td>
</tr>
<tr>
<td>UN Trends in International Migrant Stock\textsuperscript{119}</td>
<td>2013</td>
<td>Beninese emigrant stock estimated at 480,580</td>
</tr>
</tbody>
</table>


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


\textsuperscript{119} United Nations, Department of Economic and Social Affairs, Population Division, ‘*Trends in International Migrant Stock: Migrants by Destination and Origin*’, 2013.
4.1.1.2.1 Characteristics of emigrants/nationals abroad

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

Recent emigration flows

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

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122 OECD, ‘International Migration Database’. The OECD migration database collects information on stay/resident permits and population registers.
125 Ibid., p. 42; p. 184.
126 OECD, ‘International Migration Database’. 
A Survey on Migration Policies in West Africa

4.1.2 Migration policy

Although Benin lacks a comprehensive migration strategy, most aspects of migration management are covered by policy documents and the national legislation. However, a number of gaps can be identified. With regard to emigration management, a National Policy for Beninese Nationals Abroad\[^{136}\] was adopted in 2000 which focuses on the protection of the rights and interests of Beninese migrants and the relationship between migration and development, but which fails to cover most labour migration related issues. Immigration policies are also incomplete. On the whole, one may argue that policy documents

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\[^{128}\] Ibid., p. 138.
\[^{129}\] Ibid., p. 145.
\[^{130}\] Ibid., pp. 141-143; pp. 154-155.
\[^{134}\] Ibid., p. 23.
\[^{135}\] Ibid., p. 25.
\[^{136}\] *Politique nationale pour les Béninois de l’extérieur.*
and legislation generally exist, but their implementation remains limited. The national development plan (SCR 137
(SCR 2011-2015) does not mention migration issues.

4.1.2.1 Institutional framework on migration

Governmental stakeholders involved

<table>
<thead>
<tr>
<th>Ministry</th>
<th>Agency, Directorate, Unit</th>
<th>Responsibilities</th>
</tr>
</thead>
<tbody>
<tr>
<td>Ministry of Interior of Public Security</td>
<td>Directorate of Emigration and Immigration</td>
<td>• Immigration management</td>
</tr>
<tr>
<td>Ministry of Labour and Public Service</td>
<td></td>
<td>• Delivery of work permits to foreign workers</td>
</tr>
<tr>
<td>Ministry of Micro-Finance, Youth Employment and Women</td>
<td>National Employment Agency</td>
<td>• Matching the labour demand and supply</td>
</tr>
<tr>
<td></td>
<td></td>
<td>• Assistance to returning migrants</td>
</tr>
<tr>
<td></td>
<td></td>
<td>• Information dissemination to potential migrants and nationals recruited for employment abroad</td>
</tr>
<tr>
<td>Ministry of Foreign Affairs, African Integration, Francophony, and Beninese Abroad</td>
<td>National Agency for Beninese Abroad</td>
<td>• Relations with nationals abroad</td>
</tr>
<tr>
<td></td>
<td></td>
<td>• Information dissemination</td>
</tr>
<tr>
<td></td>
<td></td>
<td>• Assistance to returning migrants</td>
</tr>
<tr>
<td></td>
<td>Directorate of Relations with Beninese Abroad</td>
<td>• Protection of nationals abroad</td>
</tr>
<tr>
<td>Ministry of Family</td>
<td></td>
<td>• Fight against trafficking in persons</td>
</tr>
</tbody>
</table>

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

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137 Stratégie de croissance pour la réduction de la pauvreté. 
138 Ministère de l’Intérieur et de la Sécurité publique. 
139 Direction de l’émigration et de l’immigration. 
140 Ministère du Travail et de la Fonction publique. 
141 Ministère de la Micro-finance, de l’Emploi des jeunes et des Femmes. 
142 Agence de nationale de l’emploi. 
143 Ministère des Affaires étrangères, de l’Intégration africaine, de la Francophonie et des Béninois de l’extérieur. 
144 Agence nationale des Béninois de l’extérieur. 
145 Direction des relations avec les Béninois de l’extérieur. 
146 Haut Conseil des Béninois de l’extérieur.
4.1.2.2 Immigration: national policy framework and institutional practices

4.1.2.2.1 General immigration provisions

<table>
<thead>
<tr>
<th>Legislation/Policy Framework</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>Law No. 86-012 of 31 January 1986 on the regime applicable to foreigners in Benin</td>
<td>Law, Art. 3 establishes a distinction between the status of non-immigrant foreigners and that of immigrant foreigners.</td>
</tr>
</tbody>
</table>
| Regulation No. 218 of 3 November 1992 on the stay permit and the conditions of its delivery | Non-immigrant status  
   Law, Art. 4: Non-immigrant foreigners include individuals staying on the national territory for a period not exceeding three months.  
   Law, Art. 17; Art. 18: Depending on the duration of their stay, non-immigrant foreigners are requested to obtain the delivery of a tourist or a stay visa.  

Immigrant status  
   Law, Art. 20: Within three months of entry, foreigners have to request the delivery of a stay permit.  
   Law, Art. 6 to Art. 9 distinguish between three types of stay permits:  
   • temporary resident stay permit, valid for a maximum period of one year and renewable two times;  
   • ordinary resident stay permit, valid for a maximum period of three years and renewable; and  
   • a privileged resident permit, valid for ten years and renewable off-right.  
   Reg. Art. 6; Art. 7:  
   • temporary resident stay permits are delivered to newcomers;  
   • ordinary residence stay permits are delivered to foreigners who have been residing in Benin for a minimum period of three years; and  
   • privileged resident permits are primarily delivered to foreigners who have resided in Benin for ten years as well as to spouses of Beninese nationals.  

In addition to this common legal regime, Reg. Art. 8 foresees the delivery of a specific residence permit to ECOWAS Member States nationals.  
Reg. Art. 9; Art. 12: Among conditions of delivery of stay and residence permits, the following is required:  
• a morality investigation is conducted by the Directorate of Home Intelligence Services and territory Surveillance or police services;  
• proof of the activity exercised in Benin (work contract, university registration, etc.);  
• production of a criminal record;  
• a repatriation guarantee;  
• an application fee of 10,000 CFA francs; and  
• “a medical certificate from less than three months establishing that the individual is not affected by any sexual transmissible disease”. |

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

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

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147 Loi No. 86-012 portant régime des étrangers en République populaire du Bénin.
148 Arrêté No. 218 instituant la carte de séjour au Bénin et précisant les conditions de la délivrance.
149 Direction des renseignements généraux et de la surveillance du territoire.
organisations such as IOM and WHO have issued opinions that firmly condemn such restrictive practices.\textsuperscript{150}

Decree No. 77-45 of 4 March 1977 issuing regulation regarding the movement of foreigners\textsuperscript{151} requires the delivery of a special authorisation for foreigners to leave their place of residence. This constitutes a breach of the principle of freedom of movement within the territory of a given state, which is internationally recognised to migrants in a regular situation. Although national authorities claim that these regulations are obsolete, the principle of good administration would require that they be repealed. Over the past decades, the ILO, in its review of the implementation of Convention C 143 (1975) has constantly raised the need to adopt the necessary measures to repeal Decree No. 77-45.\textsuperscript{152}

4.1.2.2.2 Labour migration

Access to national labour market

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

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

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


\textsuperscript{151} Décret No. 77-45 du 4 mars 1977, portant réglementation de la circulation des étrangers.

\textsuperscript{152} ILO, Comments of the Committee of Experts, Benin, C 143.
the State\textsuperscript{153} provides that only Benin nationals can be nominated in state employment. As repeatedly noted by the ILO, such a broad restriction of foreigners’ access to public employment is likely to constitute a breach of Convention C 143, which only permits restrictions on the access of foreigners provided that the exceptions relate to “limited categories of employment” or functions, and that they are necessary “in the interest of the State”\textsuperscript{154}.

Rights within employment

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

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

4.1.2.2.3 Irregular migration

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

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

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

\textsuperscript{153} Loi No. 86-013 du 26 février 1986 portant statut général des agents permanents de l’État.

\textsuperscript{154} ILO, Comments of the Committee of Experts, Benin, C143.
4.1.2.2.4 Migrants at risk

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

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

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

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

4.1.2.3 Emigration

4.1.2.3.1 Labour migration

Benin lacks a labour migration policy. National authorities are yet to identify competencies that can be promoted abroad or decide on those for which promotion should not actively be undertaken. However,
initial steps have been taken in this regard with the establishment of an Operational Register of Occupations (ROME) in 2011 and the publication of a study on the Beninese diaspora, which analyses in detail the patterns of emigration to Côte d’Ivoire, Gabon and Ghana. Activities related to the identification and assessment of existing and potential new countries of destination are non-existent and promotion activities in the current countries of destination remain limited, despite the conclusion of some labour migration related bilateral agreements.

**Recruitment system**

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

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

**Bilateral labour agreements**

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

### 4.1.2.3.2 Migration and development

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

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

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159 Répertoire opérationnel des emplois et métiers.
161 Politique nationale pour les Béninois de l’extérieur.
Institutional developments

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

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

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

Mobilising and channelling remittances for development

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

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

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164 Igue, J., 2013, op. cit.
165 Banque des Béninois de l’extérieur pour le développement.
Diaspora outreach and confidence-building measures

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

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

Addressing the challenges of highly-skilled migration

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

4.1.2.3.3 Migrants’ protection

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

Institutional developments

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

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

**Assistance to returning migrants**

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

**Social security agreements**

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

**Protection of victims of trafficking and most vulnerable migrants**

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

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\(^{167}\) Programme d’aide à l’insertion et au développement de l’embauche.

\(^{168}\) Programme d’appui à l’emploi indépendant.

\(^{169}\) Convention multilatérale de sécurité sociale de la Conférence interafricaine de la prévoyance sociale.


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

\(^{172}\) Law No. 2006-04 on the conditions of transportation of minors and the repression of child trafficking, art. 18.

\(^{173}\) Decree No. 2009-696 of 31 December 2009 on the modalities of delivery of the administrative authorisation for Beninese children to exit the territory of Benin Republic, art. 14.
4.1.3 **International, regional, and bilateral cooperation**

*International conventions*

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

- the International Covenant on Civil and Political Rights (1966);
- the International Covenant on Economic, Social and Cultural Rights (1966);
- the Convention on the Elimination of All Forms of Discrimination against Women (1979);
- the Convention on the Rights of the Child (1989);
- 31 ILO Conventions (including the Migrant Workers (Supplementary Provisions) Convention C 143 (1975)); and

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

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

*Bilateral Agreements on Labour Migration*

- France: The 1992 Convention on Circulation and Stay of Persons\(^{174}\) addresses the delivery of the same stay/residence permit to family members in case of family reunification (instead of temporary stay permit) and the possibility to obtain a 10-year residence permit after three years of stay in the country (instead of five years under French administrative law).
- France: The 2007 Agreement on Concerted Management of Migratory Flows and Co-Development\(^{175}\):
  a) Beninese graduates wishing to gain professional experience in France are granted a temporary stay authorisation\(^{176}\) off-right, which is valid for six months and is renewable. Graduates who eventually find a job that corresponds to their training are authorised to stay in a more permanent manner.
  b) A list of 16 occupations is included, for which the delivery of a stay permit is not subject to the application of the labour market test. This provision primarily concerns higher-level technical jobs, although some medium-skilled occupations are also included.
  c) A number of provisions concern assistance in the reintegration of Beninese migrants in their country of origin.
  d) Assistance in the development of a migration observatory is addressed.
  e) Promotion of the involvement of the diaspora in the development of Benin is considered.

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\(^{175}\) Accord relatif à la gestion concertée des flux migratoires et au codéveloppement entre le Bénin et la France signé le 28 novembre 2007.

\(^{176}\) Autorisation provisoire de séjour.
f) Cooperation in the area of border management is addressed.
g) Procedures to facilitate readmission of nationals in an irregular situation are included.
h) The funding of development projects is addressed.

- Kuwait: The 2009 agreement does not include provisions that guarantee a privileged access to the national labour market, but does set out the establishment of a working group to consider the implementation of cooperation mechanisms, vocational training, and capacity building in the area of employment.

Bilateral agreements concerning trafficking in persons

- Nigeria: The bilateral agreement on the prevention, repression and suppression of human trafficking, in particular women and children, was signed in 2009 and includes measures related to prosecution of offenders as well as mechanisms to identify and protect victims and ensure their repatriation and reinsertion in the country of origin.

- Republic of Congo: Signed in 2011, the agreement to prevent transnational child trafficking covers the areas of prosecution, protection and prevention of the crime of trafficking and includes cooperation mechanisms, notably with regard to judicial procedures and repatriation of child victims.
4.1.4 References


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

UNODC, *Measures to Combat Trafficking in Human Beings in Benin, Nigeria and Togo*,


World Bank, 'Remittances Data', [online data source],
## 4.1.5 List of interlocutors

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

[^177]: Agence nationale des Béninois de l’extérieur.
[^178]: Agence nationale pour l’emploi.
[^179]: Ministère de la famille.
[^180]: Observatoire International des transferts de fonds des migrants.
[^181]: Ministère de l’Intérieur et de la Sécurité publique.
[^182]: Ministère des Affaires étrangères, de l’Intégration africaine, de la Francophonie et des Béninois de l’extérieur.
[^184]: La Banque Centrale des États de l’Afrique de l’Ouest (BCEAO).
4.2 Burkina Faso

4.2.1 Migration trends

4.2.1.1 Immigration

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

<table>
<thead>
<tr>
<th>Data</th>
<th>Year</th>
<th>Absolute numbers</th>
<th>% of the Total Population</th>
</tr>
</thead>
<tbody>
<tr>
<td>National Population and Housing Census</td>
<td>1996</td>
<td>61,650 foreigners(^{187})</td>
<td>0.6%</td>
</tr>
<tr>
<td>(RGPH)</td>
<td>2006</td>
<td>60,074 foreigners(^{188})</td>
<td>0.5%</td>
</tr>
</tbody>
</table>

4.2.1.1.1 Characteristics of immigrants/foreigners

| Countries of origin:                  | The vast majority of foreigners residing in Burkina Faso are nationals from ECOWAS Member States, primarily from Mali (8,886), Togo (3,668), Niger (3,406), Benin (3,019), and Nigeria (2,762).\(^{189}\) |
| Settlements:                          | • Malians, Nigeriens, and Beninese tend to be overrepresented in rural areas. • Nigerians and Togolese nationals reside mostly in urban areas.\(^{190}\) |
| Socio-demographic profile:            | • Statistics show a slight predominance of men (50.4%) over women. • In the case of Malian and Togolese migrants, however, women are more numerous than men.\(^{191}\) |
| Socio-economic profile and sectors of employment: | • Most migrants have a low level of education. Malians and Nigeriens, in particular, do not have formal education in 83.2% and 71.7% of the cases. • Nationals from Gabon, Congo, Chad, and the RDC tend to have higher education.\(^{192}\) • Foreigners are mostly employed in the agriculture sector and, in urban areas, in the trade and craft sectors.\(^{193}\) |


\(^{186}\) Recensement général de la population et de l’habitation.


\(^{188}\) Ibid.

\(^{189}\) Ibid., p. 103.

\(^{190}\) Ibid., p. 104.

\(^{191}\) Ibid.

\(^{192}\) Ibid., pp. 106-107.

Vulnerable groups:

- Most foreign victims of trafficking are children from countries of the region, such as Benin, Ghana, Mali, Guinea, and Nigeria. Malian children are also trafficked through Burkina Faso into Côte d’Ivoire.\textsuperscript{194}
- In addition, according to the U.S. Department of State Trafficking in Persons Report 2013, “women from other West African countries, including Nigeria, Togo, Benin, and Niger, are fraudulently recruited for employment in Burkina Faso and subsequently subjected to situations of forced prostitution, forced labour in restaurants, or domestic servitude in private homes”.\textsuperscript{195}

4.2.1.2 Emigration

Although emigration has always been a major component of Burkina Faso’s demography, the stock of nationals abroad is difficult to estimate. Neither the 2006 RGPH nor previous specific studies on migration\textsuperscript{196} include satisfactory data in this regard.

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


\textsuperscript{196} For instance, the UERD’s \textit{Enquête sur les migrations, l’insertion urbaine et l’environnement au Burkina Faso} from 2000.

\textsuperscript{197} Burkina Faso, \textit{Initial Report to the Committee on the Protection of the Rights of all Migrant Workers and Members of Their Families}, 2012, p. 8.
4.2.1.2.1 Characteristics of emigrants/nationals abroad

| Countries of destination/ residence:                                                                 |
|                                                                                                       |
| • Predominance of one country of destination: Côte d’Ivoire.                                        |
| • Estimates of the Burkinabe population in Côte d’Ivoire vary from 1.5 million, according to the UN Trends in International Migrant Stock, to 3.5 million, according to officials interviewed for the purpose of the present study. |
| • Remaining Burkinabe migrants mainly reside in other ECOWAS Member States, such as Ghana, Mali, Niger, and Benin. It is generally considered that the migrant stock in such countries is incomparable to the presence of Burkinabe nationals in Côte d’Ivoire. |
| • Beyond ECOWAS Member States, Burkinabe migration remains low.                                     |
| • Migration towards Libya appears to have been limited, although some evidence of it does exist: in 2012, IOM reported 1,661 Burkinabe returnees fleeing from the Libyan civil war. |
| • The number of Burkinabe migrants in OECD countries is low. The OECD migration database identifies Italy (13,051 registered Burkinabe nationals in 2010), France (3,505 in 2009), Germany (1,254 in 2010) and Spain (1,267 in 2010) as the only countries where the Burkinabe presence is worth mentioning. |

| Socio-demographic profile:                                                                          |
|                                                                                                       |
| • Recent migration flows appear to be mainly composed of young men (17 to 35 years old).            |

| Education level/ sectors of employment:                                                            |
|                                                                                                       |
| • In Côte d’Ivoire, Burkinabe nationals are mostly employed in the agriculture sector.                |
| • Data concerning the skills of Burkinabe migrants in the OECD is scarce, and therefore, a potential eventual brain drain phenomenon is difficult to assess. With regard to the health sector, however, OECD data shows a limited risk of brain drain: the emigration rate of nurses was estimated at 0.3% and that of medical doctors at 7.6%. |

| Remittances:                                                                                       |
|                                                                                                       |
| • In 2013, the World Bank estimated the amount of remittances sent to the country at 141 million USD. |
| • According to Ratha et al., the majority of remittances are sent from non-African countries. This may seem surprising given the limited character of Burkinabe migration flows outside of West and Central Africa. An explanation may be found in the high proportion of informal transfers (approximately 90%) from Burkinabe migrants residing in other African states. |
| • Remittances appear to be mainly used for food, education, health, and the purchase of houses (this use concerns mainly remittances sent from non-African countries). |

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200 OECD, ‘International Migration Database’. The OECD migration database collects information on stay/resident permits and population registers.
205 Ibid., p. 79.
206 Ibid., p. 64.
Vulnerable groups:

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

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

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

4.2.2 Migration policy

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

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

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209 Ibid., pp. 15-16.
210 Ibid., p. 17.
211 Ibid., p. 18.
214 Stratégie nationale de migration.
215 Ministère de l’Economie et des Finances.
a detailed Plan of Action\textsuperscript{216} for the years 2014-2016. Migration is also referred to in a number of national development plans, including the Strategy of Accelerated Growth and Durable Development.\textsuperscript{217}

\subsection*{4.2.2.1 Institutional framework on migration}

\textbf{Governmental stakeholders involved}

<table>
<thead>
<tr>
<th>Ministry</th>
<th>Agency, Directorate, Unit</th>
<th>Responsibilities</th>
</tr>
</thead>
<tbody>
<tr>
<td>Ministry of Territorial Administration and Security\textsuperscript{218}</td>
<td>Directorate of State Security\textsuperscript{219}</td>
<td>• Immigration management</td>
</tr>
<tr>
<td>Ministry of Public Employment, Labour and Social Security\textsuperscript{220}</td>
<td>National Employment Agency\textsuperscript{221}</td>
<td>• Match labour demand and supply • Certification of foreigners’ work contracts</td>
</tr>
<tr>
<td>Ministry of Foreign Affairs and Regional Cooperation\textsuperscript{222}</td>
<td>Permanent Secretariat of the High Council for Burkinabes abroad\textsuperscript{223}</td>
<td>• Emigration policy</td>
</tr>
<tr>
<td>Ministry of Social Action and National Solidarity\textsuperscript{224}</td>
<td></td>
<td>• Fight against trafficking in persons</td>
</tr>
<tr>
<td>Ministry of Economy and Finances\textsuperscript{225}</td>
<td>General Directorate of Economy and Planning (Directorate of Population Policies)\textsuperscript{226}</td>
<td>• Leading institution in the development of the National Migration Strategy</td>
</tr>
</tbody>
</table>

\textbf{Inter-institutional coordination}

Migration management in Burkina Faso is undertaken by distinct ministries and public institutions, with there being little consultation or cooperation between them. The need to improve coordination among public institutions involved in migration management is recognised by the draft National Migration Strategy. This document envisions the institution of a follow-up committee to ensure the correct implementation of the national policy.\textsuperscript{227} It also entrusts the General Directorate of Economy and Planning\textsuperscript{228} within the Ministry of Economy and Finances with the general responsibility of organising coordination in migration policy matters.\textsuperscript{229}

\begin{footnote}
\textsuperscript{216} Plan d’actions en matière de migration.
\textsuperscript{217} Stratégie de croissance accélérée et de développement durable.
\textsuperscript{218} Ministère de l’Administration territoriale et de la Sécurité.
\textsuperscript{219} Direction de la Sureté de l’Etat.
\textsuperscript{220} Ministère de la Fonction publique, du Travail et de la Sécurité sociale.
\textsuperscript{221} Agence Nationale pour l’Emploi.
\textsuperscript{222} Ministère des Affaires étrangères et de la Coopération régionale.
\textsuperscript{223} Secrétariat permanent du Conseil supérieur des Burkinabé de l’étranger.
\textsuperscript{224} Ministère de l’Action sociale et de la Solidarité nationale.
\textsuperscript{225} Ministère de l’Economie et des Finances.
\textsuperscript{226} Direction générale de l’Economie et de la Planification (Direction des Politiques de population).
\textsuperscript{227} Ministère de l’Economie et des Finances, 2013a, op. cit., p. 19; p. 44.
\textsuperscript{228} Direction générale de l’Economie et de la Planification.
\textsuperscript{229} Ministère de l’Economie et des Finances, 2013a, op. cit., pp. 44-45.
\end{footnote}
4.2.2.2 Immigration: national policy framework and institutional practices

4.2.2.2.1 General immigration provisions

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

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

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

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

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

231 Carnet de séjour.

4.2.2.2 Labour migration

Access to national labour market

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

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

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

Rights within employment

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

<sup>233</sup> Arrêté No. 98 du 15 février 1967 fixant les conditions d’embauchage des entreprises et les modalités de declaration de movement des travailleurs.  
<sup>234</sup> Commission de placement.  
<sup>235</sup> Cartes de demandeur d’emploi.  
<sup>236</sup> Burkina Faso, 2012, op. cit., p. 25.  
<sup>237</sup> Ibid., pp. 23-24.
Nationals of countries with which Burkina Faso has concluded reciprocal agreements can also perform administrative and executive functions within trade unions.

### 4.2.2.2.3 Irregular migration

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

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

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

### 4.2.2.2.4 Migrants at risk

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

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

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\(^{238}\) Loi No. 029-2008 du 26 juin 2008 portant lutte contre la traite des personnes et les pratiques assimilées.  
\(^{239}\) Burkina Faso, 2012, op. cit., p. 27.  
\(^{240}\) IOM, Burkina Faso: évaluation des structures de gestion de la migration et des frontières, 2013, pp. 43-47.  
\(^{241}\) Loi No. 029-2008 portant lutte contre la traite des personnes et les pratiques assimilées.
In practical terms, efforts have been made regarding prosecution, protection – notably through shelters providing food, health, and psychosocial services – and prevention in the fight against trafficking in persons. In most cases, the victims identified are children involved in internal trafficking. However, over the past few years, foreign victims have also been identified and national authorities have collaborated with the relevant diplomatic posts to organise their repatriation. Awareness-raising activities have been implemented, including open-forum discussions, film screenings, theatre forums, radio programmes, etc.

4.2.2.3 Emigration

4.2.2.3.1 Labour migration

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

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

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

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

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244 U.S. Department of State, 2013, op. cit., p. 110.
246 Ministère de l’Économie et des Finances, 2013a, op. cit., p. 31; ibid., pp. 78-79.
248 Observatoire sur les migrations.
authorised by the Minister of Labour for certain categories of workers.\textsuperscript{251} In practice, however, private employment agencies tend to operate outside the control of national authorities.

\textbf{4.2.2.3.2 Migration and development}

\textit{Diaspora outreach and confidence-building measures}

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

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

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

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

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

\textit{Mobilising and channelling remittances for development}

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

\textsuperscript{251} Ibid., art. 27.
\textsuperscript{252} Conseil supérieur des Burkinabé de l’étranger.
\textsuperscript{253} Decree No. 2007-308 on the Creation, Attributions, Organisation and Functioning of the High Council for Burkinabe abroad, art. 2.
\textsuperscript{254} Ibid., art. 5.
\textsuperscript{255} Ibid., art. 7.
Migration and development is a central component of the draft National Migration Strategy and its Action Plan. A great number of activities are envisioned, including:

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

4.2.2.3.3 Migrants’ protection

Information dissemination

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

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

Protection in countries of destination

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

256 Ministère de l’Economie et des Finances, 2013b, op. cit., pp. 73-76.
257 Ibid., p. 30.
258 Guide du Burkinabé de l’étranger.
259 Centre d’études et de recherches sur les migrations internationales et le développement.
261 Ministère de l’Economie et des Finances, 2013a, op. cit., p. 43.
protection activities abroad are limited. For instance, and despite the importance of intra-regional migration, Burkina Faso only has diplomatic and consular posts in five ECOWAS Member States. There used to be a labour attaché appointed to Côte d’Ivoire, but this position has now been vacant for a number of years. The Plan of Action of the draft National Migration Strategy envisions the opening of one new consular and/or diplomatic post in countries of destination every two years, starting in 2014. An assessment of the human resources and equipment needs of the diplomatic and consular representations is also undertaken.

**Assistance to returning migrants**

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

**Social security agreements**

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

### 4.2.3 International, regional, and bilateral cooperation

**International conventions**

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

- the International Covenant on Civil and Political Rights (1966);
- the International Covenant on Economic, Social and Cultural Rights (1966);
- the Convention on the Elimination of All Forms of Discrimination against Women (1979);
- the Convention on the Rights of the Child (1989);
- 39 ILO Conventions (including the two specific ILO conventions on migrant workers: C 97(1949) and C 143 (1975));
- the Convention on the Protection of the Rights of All Migrant Workers and Members of their Fami-
-
ishes (1990); and

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

264 Convention multilatérale de sécurité sociale de la Conférence interafricaine de la prévoyance sociale.
In addition to these global conventions, Burkina Faso is bound by ECOWAS texts, including its Treaty (1975) and its subsequent protocols regarding free movement of persons, residence, and establishment.

**Bilateral agreements**

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

<table>
<thead>
<tr>
<th>Convention</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>Convention with Côte d’Ivoire, 1960[^1]</td>
<td>A Convention specifically dedicated to the conditions of recruitment and employment of Voltaic migrants in Côte d’Ivoire. Its application was suspended in 1974 due to absence of respect for a number of the convention’s provisions.</td>
</tr>
<tr>
<td>Convention with Niger, 1964[^2]</td>
<td>This Convention states that nationals from the considered countries can enter and reside on the territory of the other state party without the need for a visa or a stay/resident permit. The only requirement is the possession of an identity document from the country of nationality.</td>
</tr>
<tr>
<td>Convention with Mali, 1969[^3]</td>
<td>According to Burkina Faso authorities, this Convention, despite its favourable provisions, did not have a significant impact in practice.</td>
</tr>
</tbody>
</table>

On the whole, one should recognise that bilateral conventions on migration-related matters concluded with West African countries have fallen into obsolescence. As noted in the Plan of Action of the draft National Migration Strategy, all the labour migration agreements concluded with other African countries over the years “have either been denounced or abandoned due to the non-respect of their provisions by the considered parties”[^4].

In this context, the policy option envisioned by the national authorities is to privilege multilateral relations over bilateral agreements.[^5] Within West African countries, cooperation on labour migration matters is to be addressed through ECOWAS institutions. Beyond the West African region, bilateral relations with countries of destination – which may or may not take the form of bilateral agreements – remain one of the main tools for migration management, especially in regard to the recruitment, entry, and stay of migrant workers.

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

- the 1992 Convention on Circulation and Stay of Persons[^6], which includes a few derogations to common French immigration legislation: it foresees the delivery of the same stay/residence per-

[^2]: Protocole d’accord (délimitation des frontières, mouvements des populations, coopération entre les autorités frontalières) entre le Niger et la Haute-Volta signé le 23 juin 1964.
[^5]: Ibid.
mit to family members in case of family reunification (instead of a temporary stay permit under French administrative law), as well as the possibility to obtain a 10-year residence permit after three years of stay in the country (instead of five years under French administrative law); and

- the 2009 Agreement on Concerted Management of Migratory Flows and Co-Development\textsuperscript{271} which:
  a) provides that Burkinabe graduates wishing to supplement their education with a first professional experience in France are granted a temporary stay authorisation\textsuperscript{272} off-right, valid for six months and renewable (graduates who eventually find a job that corresponds to their education are authorised to stay in a more permanent manner in France);
  b) includes a list of 64 occupations for which the delivery of a stay permit is not subject to the application of the labour market test. This provision concerns primarily higher-level technical jobs, although a few less-skilled occupations are also included;\textsuperscript{273}
  c) includes a number of provisions concerning assistance to the reintegration of Burkinabe migrants in their country of origin;
  d) provides for assistance in the development of a migration observatory;
  e) aims to promote involvement of the diaspora in the development of Burkina Faso;
  f) targets cooperation in the area of border management;
  g) contains procedures to facilitate readmission of nationals in an irregular situation; and
  h) specifies the funding of development projects.

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

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

\textsuperscript{272} Autorisation provisoire de séjour.

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


UERD, Enquête sur les migrations, l’insertion urbaine et l’environnement au Burkina Faso, 2000


### 4.2.5 List of interlocutors

<table>
<thead>
<tr>
<th>Name of respondent</th>
<th>Position</th>
<th>Institution</th>
</tr>
</thead>
<tbody>
<tr>
<td>Sawadogo, H.</td>
<td>Head of Directorate of Population Policies</td>
<td>Ministry of Economy and Finances, Directorate of Population Policies</td>
</tr>
<tr>
<td>Bonkoungou, Z.</td>
<td>Head of Department, Research and Training in Population and Development</td>
<td>Ministry of Economy and Finances, Directorate of Population Policies</td>
</tr>
<tr>
<td>Bassole, F.</td>
<td>Responsible for the Support Unit</td>
<td>Ministry of Economy and Finances, Directorate of Population Policies</td>
</tr>
<tr>
<td>Sawadogo, S.</td>
<td>Researcher</td>
<td>Ministry of Economy and Finances, Directorate of Population Policies</td>
</tr>
<tr>
<td>Nombre, C.</td>
<td>Director for Emergency Management</td>
<td>Ministry of Social Action and National Solidarity</td>
</tr>
<tr>
<td>Kabore, W. P.</td>
<td>Adviser, Directorate of Consular Affairs</td>
<td>Ministry of Foreign Affairs and Regional Cooperation</td>
</tr>
<tr>
<td>Ouedraogo, L.</td>
<td>Director</td>
<td>Permanent Secretariat of the High Council for Burkinabe abroad</td>
</tr>
<tr>
<td>Sorgho, E. A.</td>
<td>Commissioner of Police, Chief of the Migration Division</td>
<td>Ministry of Territorial Administration and Security and Civil Protection</td>
</tr>
</tbody>
</table>

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274 Ministère de l’Économie et des Finances, Direction des Politiques de la Population.
275 Ministère de l’Action sociale et de la Solidarité nationale.
276 Ministère des Affaires étrangères et de la Coopération.
277 Secrétariat permanent du Conseil supérieur des Burkinabé de l’étranger.
278 Ministère de la Fonction publique, du Travail et de la Sécurité sociale.
279 Ministère de l’Administration territoriale et de la Sécurité.
4.3 Cape Verde

4.3.1 Migration trends

4.3.1.1 Immigration

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

<table>
<thead>
<tr>
<th>Data</th>
<th>Year</th>
<th>Absolute numbers</th>
<th>% of the Total Population</th>
</tr>
</thead>
<tbody>
<tr>
<td>National Population and Census(^{281})</td>
<td>2000</td>
<td>4,661 foreign residents(^{282})</td>
<td>1.1%</td>
</tr>
<tr>
<td>National Population and Census</td>
<td>2010</td>
<td>15,000 foreign residents(^{283})</td>
<td>2.9%</td>
</tr>
</tbody>
</table>

The actual migrant stock could be higher given that 10,912 regular migrants are registered and estimates of the number of foreigners in an irregular situation are between 10,000 and 20,000.\(^{284}\)

4.3.1.1 Characteristics of immigrants/foreigners

- **Countries of origin:** The vast majority of foreigners are ECOWAS Member States nationals, mainly from Guinea-Bissau, as well as Senegal and Guinea.\(^{285}\) They also constitute the majority of irregular migrants in the country.
- **Settlements:** Principally Praia and, to a lesser extent, Sal and Boa Vista Islands.\(^{286}\)
- **Socio-demographic profile:**
  - West African migrants are mostly males, although a tendency towards the feminisation of migration has been noted.
  - Among Europeans, Chinese and Lebanese, family migration is common.\(^{287}\)


\(^{283}\) Instituto Nacional de Estatísticas, 2010, op. cit.

\(^{284}\) Data provided by national authorities interviewed for the purpose of the present study.

\(^{285}\) Cape Verde, European Commission, 2008, op. cit.; ibid.

\(^{286}\) Instituto Nacional de Estatísticas, 2010, op. cit.

\(^{287}\) Cape Verde, European Commission, 2008, op. cit.
Socio-economic profile and sectors of employment:

- West African migrants tend to be employed within the construction sector, as well as in security. They also work as small traders and, to a lesser extent, within the hospitality industry.\textsuperscript{288}
- A number of Chinese nationals – whose immigration is organised through cooperation between Cape Verdean and Chinese authorities – reside in Cape Verde, where they play a significant role in the trade sector.
- Europeans and Lebanese (often originating from West African states in the latter case) are often involved in the tourist industry.\textsuperscript{289}

Vulnerable groups:

- Trafficking in Cape Verde appears to be mainly an internal phenomenon.
- The latest U.S. Department of State Trafficking in Persons Reports note the possible existence of West African boys and girls exploited in prostitution in Santa Maria, Praia, and Mindelo.\textsuperscript{290}

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

### 4.3.1.2 Emigration

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

<table>
<thead>
<tr>
<th>Data</th>
<th>Year</th>
<th>Estimates</th>
</tr>
</thead>
<tbody>
<tr>
<td>General estimates from national authorities (data sources unidentified)</td>
<td>2000</td>
<td>500,000 nationals residing abroad, which was higher than the population recorded in the country at the time (450,000).\textsuperscript{296}</td>
</tr>
</tbody>
</table>

\textsuperscript{288} Carvalho, F. A., 2010, op. cit., p. 36.
\textsuperscript{289} Cape Verde, European Commission, 2008, op. cit.
\textsuperscript{291} Cape Verde, European Commission, 2008, op. cit.
\textsuperscript{292} ICMPD, Cabo Verde, Avaliação das necessidades em matéria de asilo e migração, 2009, pp. 22-25.
\textsuperscript{295} Cape Verde, European Commission, 2008, op. cit.
\textsuperscript{296} ICMPD, IOM, 2010, op. cit., p. 5.
## Characteristics of emigrants/nationals abroad

<table>
<thead>
<tr>
<th>Countries of destination/residence:</th>
<th>Emigrant stock</th>
</tr>
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<tbody>
<tr>
<td>• The U.S. is generally considered the main country of residence of Cape Verdeans. Estimates are, however, difficult to present. While national authorities provide an estimate of approximately 265,000, residents,(^{297}) the U.S. national census of 2000 only recorded a presence of 80,000 Cape Verdeans in the country.(^{298})</td>
<td></td>
</tr>
<tr>
<td>• Portugal appears to be the second main country of residence. According to the OECD Migration Database, an estimated 45,500 nationals were residing in Portugal in 2011.(^{299}) OECD data shows a decrease of registered Cape Verdeans over the past few years, after a peak of 69,000 in 2005.(^{300}) National estimates provided by consular authorities in Portugal suggest a resident population of 105,000.(^{301})</td>
<td></td>
</tr>
<tr>
<td>• Other European countries of residence include France (13,000 regular residents as per OECD estimates), Italy (4,600), Spain (3,300), and Luxembourg (2,500).(^{302}) Cape Verdean national authorities generally provide higher estimates, suggesting that the overall national population in Europe amounts to 185,000.(^{303})</td>
<td></td>
</tr>
<tr>
<td>• With regard to African states, data generally lacks precision and reliability. It seems, however, that Angola (45,000 estimated Cape Verdean residents) and Senegal (25,000) have most of the migrant stock.(^{304})</td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Emigration flows</th>
</tr>
</thead>
<tbody>
<tr>
<td>• Regarding emigration flows, there is a general consensus that the number has decreased over the past decades. This is due to the improvement of living conditions in the country and restrictive immigration policies in EU Member States.(^{305})</td>
</tr>
<tr>
<td>• African states have become generally less attractive. Indeed, an increase in the number of Cape Verdeans returning from Sao Tomé and Principe, Angola, Senegal, and Guinea-Bissau has been recorded.(^{306})</td>
</tr>
<tr>
<td>• Current migration flows are therefore mainly directed towards OECD member states, primarily Portugal (4,000 yearly inflows from 2000 to 2011) and, to a lesser extent, the U.S. (1,500 yearly inflows from 2000 to 2011).(^{307})</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Socio-demographic profile:</th>
</tr>
</thead>
<tbody>
<tr>
<td>• For the period 1995–2000, migrants were mostly young adult males. Women were predominantly under 24 and over 44 years old.(^{308})</td>
</tr>
</tbody>
</table>

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

\(^{299}\) OECD, ‘International Migration Database’. The OECD migration database collects information on stay/resident permits and population registers.

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

\(^{301}\) Cape Verde, European Commission, 2008, op. cit.

\(^{302}\) OECD, ‘International Migration Database’.

\(^{303}\) Cape Verde, European Commission, 2008, op. cit.

\(^{304}\) IOM, ICMPD, 2010, op. cit., p. 5.

\(^{305}\) Cape Verde, European Commission, 2008, op. cit.


\(^{307}\) OECD, ‘International Migration Database’.

**Education level/ sectors of employment:**

- Cape Verdean migration is dominated by low-skilled nationals.
- In Portugal, an estimated 80% migrants have primary education, or lower, and 15% are illiterate. They are mostly employed in the construction and domestic sectors.
- In the OECD as a whole, construction also predominates, followed by industry, services, and hospitality work.
- As well as low-skilled migration, brain drain also constitutes a problem for Cape Verde. With regards to the health sector, OECD data has estimated the emigration rate of medical doctors at 41.7% and that of nurses at 38.9%.

**Remittances:**

- The latest World Bank data provides an estimate of 173 million USD for 2013, corresponding to 8.8% of the national GDP.
- Remittances are primarily sent from Portugal, France, and the U.S., generally through formal channels.
- Used for consumption purposes and to invest in real estate, small businesses (such as shops and taxis), and the tourism industry.
- It is believed that around 30% of foreign investments originate from the diaspora.

**Vulnerable groups:**

- According to the U.S. Department of State Trafficking in Persons Reports, international trafficking of Cape Verdians mainly concerns a very specific form of exploitation: forced transport of drugs, towards Europe, as well as Brazil.

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### 4.3.2 Migration policy

Although immigration in Cape Verde is a more recent phenomenon than emigration, both issues are covered by national policies. A National Immigration Strategy was adopted in 2012, which follows the general guidelines of the national development plan (DECRP II) of 2008. Given the recent adoption of the National Immigration Strategy and its subsequent plan of action (2013-2016), its content is yet to be fully implemented.

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

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

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310 Ibid., p. 29.
318 Estratégia nacional de imigração.
319 Documento de estratégia de crescimento e redução da pobreza – II.
320 Estratégia Nacional de Emigração para o Desenvolvimento.
improving coherence of migration policies and developing institutional capacities.

### 4.3.2.1 Institutional framework on migration

#### Involved governmental stakeholders

<table>
<thead>
<tr>
<th>Ministry</th>
<th>Agency, Directorate, Unit</th>
<th>Responsibilities</th>
</tr>
</thead>
<tbody>
<tr>
<td>Ministry of Internal Administration</td>
<td>Directorate of Foreigners and Borders</td>
<td>Immigration management</td>
</tr>
<tr>
<td>Ministry of Defence</td>
<td>Coastguard</td>
<td>Border management</td>
</tr>
<tr>
<td>Ministry of Employment, Youth and Human Resources Development</td>
<td>General Directorate of Labour, General Directorate of Employment</td>
<td>Delivery of work authorisations to foreign workers, Ensuring respect for labour legislation</td>
</tr>
<tr>
<td>Ministry of Communities</td>
<td>General Directorate of Communities</td>
<td>Protection of children, including victims of trafficking, Liaison with the diaspora, Assistance of migrants and returnees</td>
</tr>
<tr>
<td>Ministry of Foreign Affairs</td>
<td>Diplomatic and consular posts</td>
<td>General role of protection of nationals abroad</td>
</tr>
<tr>
<td>Institute of Social Security</td>
<td>N/A</td>
<td>Provision of social rights to migrants</td>
</tr>
<tr>
<td>Local municipalities</td>
<td>N/A</td>
<td>Competencies concerning public services provided to returnees and foreigners</td>
</tr>
</tbody>
</table>

#### Inter-institutional coordination

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

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321 Ministério da Administração Interna.
322 Direcção de Estrangeiros e Fronteiras.
323 Polícia Nacional.
324 Ministério da Defesa Nacional.
325 Guarda Costeira.
326 Ministério da Juventude, Emprego e Desenvolvimento dos Recursos Humanos.
327 Direcção Geral do Trabalho.
328 Direcção Geral do Emprego.
329 Inspecção Geral do Trabalho.
330 Instituto Caboverdiano da Criança e do Adolescente.
331 Ministério das Comunidades.
332 Direcção Geral das Comunidades.
333 Ministério das Relações Exteriores.
334 Instituto Nacional da Previdência Social.
335 Unidade de Coordenação da Imigração.
4.3.2.2 Immigration: national policy framework and institutional practices

4.3.2.2.1 General immigration provisions

<table>
<thead>
<tr>
<th>Legislation/Policy Framework</th>
<th>Description</th>
</tr>
</thead>
</table>
| Decree Law No. 6/97 of 5 May 1997 Relating to the Legal Situation of Foreigners on the National Territory | Art. 27; art. 30: In principle, entry of the national territory is subject to the granting of a visa – with an exception being made, notably, for nationals from countries with which Cape Verde has concluded agreements in this respect.

   The Decree Law distinguishes between two main types of stay: temporary stay and residence.

   Art. 41: A temporary stay implies the delivery of a temporary visa valid for a maximum period of 180 days.

   Art. 24; art. 40: The granting of the temporary visa is subject to proof of sufficient means of living, as well as the production of a medical certificate, an extract from the police register and documents establishing the purpose of stay – which may include studies or business.

   Art. 42: The resident status, materialised by a residence visa and a residence authorisation, concerns “foreigners who intend to reside on a habitual basis on the national territory”.

   Art. 44: The residence visa authorises entry and stay until the final decision is made by competent authorities on the granting of the residence authorisation.

   Art. 48: The residence authorisation may be valid for a period “superior to three years, ten years, or may be permanent” depending on the duration of regular and consecutive stay of the foreigner in the country (five, ten, or twenty years).

   Art. 47: Other conditions for delivery of the residence authorisation include respect for the national legislation, existence of sufficient financial means, public health imperatives, the purpose of residence and its “feasibility”, as well as existing relatives – nationals or foreigners – residing in the country.

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

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

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

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336 Decreto Legislativo nº 6/97, de 05 de Maio – Regula a Situação Jurídica do Estrangeiro no Território Nacional.
337 Visto temporária.
338 Visto de residência.
339 Autorização de residência.
340 Decree Law No. 6/97 of 5 May 1997 Relating to the Legal Situation of Foreigners on the National Territory, art. 8 - art. 10.
the principle of free circulation among ECOWAS Member States.\textsuperscript{342} Other measures include the implementation of a foreigners’ register, as well as mechanisms related to border management and irregular migration (see section 4.3.2.2.3.).\textsuperscript{343}

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

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

4.3.2.2.2 Labour migration

Access to the national labour market

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

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

Rights within employment

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

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

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

\textsuperscript{343} Unidade de Coordenação da Imigração, 2012, op. cit., p. 24, p. 29.

\textsuperscript{344} Ibid., p. 26, p. 45.

\textsuperscript{345} Labour Code, 2007, art. 283.

\textsuperscript{346} Unidade de Coordenação da Imigração, 2012, op. cit., p. 27.
of 5 May 1997 Relating to the Legal Situation of Foreigners on the National Territory limits to migrants in a regular situation, trade union rights, as well as, more generally, the right to assemble, to demonstrate, and to strike,\textsuperscript{347} which constitutes a breach of Cape Verde’s international obligations.

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

**4.3.2.2.3 Irregular migration**

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

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

The National Immigration Strategy foresees:

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

\textsuperscript{347} Decree Law No. 6/97 of 5 May 1997, op. cit., art. 8 - art. 10.
\textsuperscript{348} Unidade de Coordenação da Imigração, 2012, op. cit., p. 27.
\textsuperscript{349} Decreto Legislativo nº 6/97, de 05 de Maio – Regula a Situação Jurídica do Estrangeiro no Território Nacional.
\textsuperscript{350} ICMPD, 2009, op. cit., p. 27.
\textsuperscript{351} Ibid., p. 32.
\textsuperscript{353} Ibid., p. 29.
\textsuperscript{354} Ibid., pp. 23-24.
\textsuperscript{355} Ibid., p. 29, p. 33.
Next to these restrictive measures, the Strategy also foresees the adoption of clear mechanisms to regularise long-term irregular foreign residents.\textsuperscript{356}

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

\subsection*{4.3.2.2.4 Migrants at risk}

Although Cape Verde has ratified the Palermo Protocol on trafficking, it has yet to adopt a specific law in this respect. To date, the crime of trafficking in persons is partially covered by the Labour Code, which prohibits forced labour,\textsuperscript{358} and the Penal Code, which punishes slavery and the facilitation of prostitution of children under 16.\textsuperscript{359} Some gaps exist with regard to the definition of crime, as well as penalties, which are considered to be insufficiently stringent.\textsuperscript{360} In practice, few cases have been prosecuted.

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

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

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

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

\textsuperscript{356} Ibid., p. 24.
\textsuperscript{357} ICMPD, 2009, op. cit., pp. 17-18.
\textsuperscript{359} Penal Code, art. 148, art. 271.
\textsuperscript{360} U.S. Department of State, 2013, op. cit., p. 123.
\textsuperscript{361} Ibid., pp. 123-124.
\textsuperscript{362} Ibid., p. 123.
4.3.2.3 Emigration

4.3.2.3.1 Labour migration

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

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

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

<table>
<thead>
<tr>
<th>Convention</th>
<th>Description</th>
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</table>
| Protocol on Temporary Migration of Cape Verdean Workers in Portugal, 1997\textsuperscript{365} | **Art. 2:** Work contracts are established for a maximum of one year; renewal within a limit of three years. The Protocol does not explicitly provide for privileged access of Cape Verdean workers to the Portuguese labour market. Derogations to the Portuguese labour migration legislation are not foreseen, and employment of Cape Verdean workers is subject to the "necessities of the [Portuguese] employment policy" (Art. 7-2).
  
  **Art. 7** organises in detail the process of selection and recruitment of workers through close cooperation between the Employment and Vocational Institute of Portugal\textsuperscript{366} and the General Directorate of Communities\textsuperscript{367} in Cape Verde.
  
  **Art. 7-5** mentions the minimum content of the work contract, which includes the conditions of remuneration, healthcare provisions, housing (when applicable), and the duty of the employer to cover travel expenses.
  
  The Mobility Partnership between the EU and Cape Verde makes reference to a possible extension of the scope of the 1997 Protocol\textsuperscript{368}. Negotiations between the two parties remain pending in this regard. |
| Cooperation Agreement on Immigration Matters between Spain and Cape Verde, 2007\textsuperscript{369} | The Agreement does not provide for privileged access to the national labour market.
  
  **Art. 3** foresees the promotion of labour migration on the basis of labour market studies and the communication by Spanish authorities of job vacancies to their Cape Verdean counterparts.

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\textsuperscript{364} Estratégia Nacional de Emigração para o Desenvolvimento.
\textsuperscript{365} Protocolo sobre Emigração Temporária de Trabalhadores Cabo-Verdianos para a Prestação de Trabalho em Portugal, 18 de Fevereiro de 1997.
\textsuperscript{366} Instituto do Emprego e Formação Profissional.
\textsuperscript{367} Previously Instituto de Apoio ao Emigrante.
\textsuperscript{368} Cape Verde, Council of the EU, Joint Declaration on a Mobility Partnership between the European Union and the Republic of Cape Verde, 21 May 2008, 2008, p. 9.
\textsuperscript{369} Acuerdo de Cooperacion en material de inmigracion entre Espana y Cabo Verde, 20 de marzo de 2007.
Agreement on Concerted Management of Migratory Flows and Mutually-Supportive Development between France and Cape Verde, 2008

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

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

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

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

4.3.2.3.2 Migration and development

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

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

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

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

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

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

370 Accord entre la France et le Cap-Vert relatif à la gestion concertée des flux migratoires et au développement solidaire, 24 novembre 2008.
371 Autorisation provisoire de séjour.
trust in Cape Verdean small-scale entrepreneurs. This situation restricts not only returnees’ investments, but all kinds of small-scale entrepreneurship.\textsuperscript{375}

Projects concerning the involvement of skilled migrants in the development of Cape Verde mainly include the DIAS\textsuperscript{376} programme, which foresees the temporary return of skilled nationals to contribute to development projects in their country of origin.\textsuperscript{377}

\textbf{Assistance to returning migrants}

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

\textit{Migration and development activities within bilateral agreements}

The agreement with Spain of 2007 envisions:

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

The agreement with France of 2008 includes similar objectives:

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

\textit{Migration and development in the National Emigration Strategy for Development}

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

\begin{itemize}
  \item \textsuperscript{376} Diáspora para o Desenvolvimento de Cabo Verde.
  \item \textsuperscript{377} ICMPD, 2009, op. cit., p. 35; Carvalho, F. A., 2010, op. cit., p. 71.
  \item \textsuperscript{378} Carling, J., 2008, op. cit., p. 40.
  \item \textsuperscript{379} Carvalho, F. A., 2010, op. cit., p. 71.
  \item \textsuperscript{380} Acuerdo de Cooperacion en material de inmigracion entra Espana y Cabo Verde, 2007, op. cit., art. 7.
  \item \textsuperscript{381} Accord entre la France et le Cap-Vert relatif à la gestion concertée des flux migratoires et au développement solidaire, 2008, op. cit., art. 7.
\end{itemize}
improving the understanding of the diaspora, notably through the creation of an Observatory of Migration,\textsuperscript{382} a survey of nationals residing abroad, and a mapping of diaspora associations;

- strengthening the relations between the diaspora and Cape Verde, notably through the development of cultural events, information dissemination among nationals abroad, promotion of dialogue, consultation of diaspora members, and assistance to the diaspora association network;

- understanding the mechanisms and impact of remittances, facilitate and reduce the cost of transfers;

- stimulating investments from the diaspora; and

- mapping and mobilising existing competencies abroad, notably through temporary return schemes.

4.3.2.3.3 Migrants’ protection

Information dissemination

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

In most cases, these activities are organised in cooperation with the EU and several Member States, including Portugal, Spain, and Luxembourg. For instance, the Centre for Migrant Support in the Origin Country (CAMPO)\textsuperscript{383} was established in 2008 with the specific objective of providing information on migration towards Portugal.\textsuperscript{384} Following the proposals of the Mobility Partnership between the EU and Cape Verde, the activities of CAMPO were extended to other important countries of destination.\textsuperscript{385} A working group was also set-up with Luxembourg\textsuperscript{386} with the objective of developing initiatives in Cape Verde to facilitate social and economic integration in Luxembourg.\textsuperscript{387}

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

Protection in countries of destination

A Community Solidarity Fund\textsuperscript{389} was established to assist activities of diaspora associations in favour of

\textsuperscript{382} Observatório das Migrações.

\textsuperscript{383} Centro de Apoio ao Migrante no País de Origem.


\textsuperscript{385} Council of the EU, 2008, op. cit., p. 8.

\textsuperscript{386} Grupo de Trabalho para as Questões de Imigração Cabo Verde/Luxemburgo.

\textsuperscript{387} Carvalho, F. A., 2010, op. cit., p. 70.

\textsuperscript{388} Acuerdo de Cooperacion en material de inmigracion entre Espana y Cabo Verde, 2007, op. cit., art. 6.

\textsuperscript{389} Fundo de Solidariedade das Comunidades or FSC.
migrants’ integration in countries of destination.\textsuperscript{390} It must be noted that direct assistance to migrants by the Cape Verdean consulate is very limited, due to the small amount of resources available.

\textit{Social security agreements}

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

\textbf{4.3.3 International, regional, and bilateral cooperation}

\textit{International conventions}

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

- the International Covenant on Civil and Political Rights (1966);
- the International Covenant on Economic, Social and Cultural Rights (1966);
- the Convention on the Elimination of All Forms of Discrimination against Women (1979);
- the Convention on the Rights of the Child (1989);
- 13 ILO Conventions (it has not, however, ratified the two specific ILO conventions on migrant workers, C 97 (1949) and C 143 (1975));
- the Convention on the Protection of the Rights of All Migrant Workers and Members of their Families (1990); and

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

\textit{Cooperation with EU Member States}

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

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

\textsuperscript{390} Carvalho, F. A., 2010, op. cit., p. 76.
\textsuperscript{392} Convention multilatérale de sécurité sociale de la Conférence interafricaine de la prévoyance sociale.
\textsuperscript{393} See section 4.3.2.3.1.
\textsuperscript{394} See section 4.3.2.3.2.
\textsuperscript{395} See section 4.3.2.3.3.
\textsuperscript{396} See section 4.3.2.2.3.
implementation of specific programmes, such as the migrant resource centre CAMPO\textsuperscript{397} with regard to protection and legal migration, the project DIAS\textsuperscript{398} in the area of migration and development, and SEA HORSE\textsuperscript{399} with regard to border management.

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

\textsuperscript{397} See section 4.3.2.3.3.
\textsuperscript{398} See section 4.3.2.3.2.
\textsuperscript{399} See section 4.3.2.2.3.
4.3.4 References


ICMPD, Cabo Verde, Avaliação das necessidades em matéria de asilo e migração, 2009.


Ministério das Comunidades, Estratégia Nacional de Emigração para o Desenvolvimento, 2013


Republic of Cape Verde, Penal Code.

Unidade de Coordenação da Imigração, Estratégia Nacional de Imigração, 2012


### 4.3.5 List of interlocutors

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

\(^{400}\) Director Geral das Comunidades  
\(^{401}\) Ministério das Comunidades  
\(^{402}\) Unidade de Coordenação da Imigração  
\(^{403}\) Directora Geral de Assuntos Consulares e Tratados  
\(^{404}\) Ministério das Relações Exteriores  
\(^{405}\) Director Nacional Adjunto dos Assuntos Políticos e Cooperação  
\(^{406}\) Direcção de Estrangeiros e Fronteiras  
\(^{407}\) Ministério da Administração Interna  
\(^{408}\) Técnica da Área Estatísticas do Sector Externo  
\(^{409}\) Direcção Geral do Trabalho  
\(^{410}\) Ministério da Juventude, Emprego e Desenvolvimento dos Recursos Humanos  
\(^{411}\) Direcção Geral do Emprego.
4.4 Côte d’Ivoire

4.4.1 Migration trends

4.4.1.1 Immigration

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

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

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

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


\(^{413}\) Ibid., pp. 15-16.


\(^{415}\) *Recensement général de la population et de l’habitat*.

\(^{416}\) This corresponds to residents born abroad, regardless of their nationality. Nationals make up only 2% of the immigrant stock, with the remaining 98% being composed of foreigners.
4.4.1.1.1 Characteristics of immigrants/foreigners

Countries of origin:

- According to the RGPH 1998, the large majority of foreigners (99%) were nationals of African countries, primarily ECOWAS Member States. Burkina Faso was the main country of origin, with an estimated 56% of recorded foreigners in 1998. Other significant countries of origin included Mali (19.8%), Guinea (5.8%), Ghana (3.3%) and Benin (2.7%). Foreigners from outside of African countries were mainly French and Lebanese nationals.
- ECOWAS Member States’ consular posts estimates – displayed in the table below – show that the number of foreigners is in fact twice higher than that indicated by the RGPH 1998. It should be noted, however, that, with the exception of Mali, these estimates are not based on precise statistical mapping and their reliability is therefore questionable.

<table>
<thead>
<tr>
<th>Country</th>
<th>Year</th>
<th>Consular posts estimates</th>
<th>RGPH 1998</th>
</tr>
</thead>
<tbody>
<tr>
<td>Benin</td>
<td>2002</td>
<td>600,000</td>
<td>108,001</td>
</tr>
<tr>
<td>Burkina Faso</td>
<td>1998</td>
<td>3,400,000</td>
<td>2,240,026</td>
</tr>
<tr>
<td>Ghana</td>
<td>2006</td>
<td>600,000</td>
<td>132,002</td>
</tr>
<tr>
<td>Guinea</td>
<td>1998</td>
<td>1,000,000</td>
<td>228,003</td>
</tr>
<tr>
<td>Mali</td>
<td>2001</td>
<td>1,700,000</td>
<td>792,009</td>
</tr>
<tr>
<td>Nigeria</td>
<td>2006</td>
<td>500,000</td>
<td>72,001</td>
</tr>
<tr>
<td>Total</td>
<td></td>
<td>7,800,000</td>
<td>3,572,042</td>
</tr>
</tbody>
</table>

Settlements:

Foreigners mainly reside in rural regions: Sud-Comoé, Bas-Sassandra, Moyen-Cavally, Moyen-Comocé, and Haut-Sassandra. In Tabou’s department (located in Bas-Sassandra), for instance, the number of foreigners was estimated to be as high as 54% of the population in 1998.

Socio-demographic profile:

High predominance of men (71.4%) (RGPH 1998).

Socio-economic profile and sectors of employment:

As a general rule, foreigners are less educated than nationals. In 1998, more than 3/4 of foreigners were illiterate, while the proportion of illiteracy among nationals was estimated at 57%. Burkinabe nationals mostly work in agriculture (73.5%). Malians are also employed in the agricultural sector but their activities also extend to herding, fishing, industry, and services and trade. Ghanaians are mainly employed within the fishing sector, and trade and services. The majority of foreigners are employed in low-skilled jobs. Following its independence, Côte d’Ivoire also needed higher-skilled workers, notably within the education sector. At the beginning of the 1980s, several thousand foreign teachers were employed, in both the public and the private education sector. The presence of such foreign workers has since declined significantly.

417 Merabet, O., 2006, op. cit.
422 Merabet, O., 2006, op. cit., p. 16.
A crucial question concerns the evolution of immigration flows and migrant stock during the 2000s. The RGPH 1998 showed a decline of immigration flows in comparison to the previous census of 1988. With regard to the first decade of the 2000s, which was marked by constant political unrest, no precise data can be provided. Between 1999 and 2002 massive returns of foreigners to their countries of origin occurred. For instance, the attempted coup d'état in 2002 led to the return of an estimated 360,000 Burkinabe nationals. It appears that Burkinabes, as well as Malians, have quickly re-emigrated to Côte d’Ivoire, either in a permanent way or in a more temporary manner following circular migration patterns. In the case of Guinean and Beninese nationals, however, the number of returns to Côte d’Ivoire is believed to have been less.

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

4.4.1.2 Emigration

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

<table>
<thead>
<tr>
<th>Data</th>
<th>Year</th>
<th>Estimates</th>
</tr>
</thead>
<tbody>
<tr>
<td>Consular and diplomatic posts</td>
<td>2006</td>
<td>161,430 Ivorians abroad(^432)</td>
</tr>
<tr>
<td></td>
<td>2009</td>
<td>240,900 Ivorians abroad(^433)</td>
</tr>
<tr>
<td>Mutual Insurance of Ivorians Abroad(^434)</td>
<td>2009</td>
<td>1,500,000 nationals abroad(^435)</td>
</tr>
</tbody>
</table>

Although the reliability of this source is questionable, Ivorian public officials often consider this figure realistic.

### 4.4.1.2.1 Characteristics of emigrants/nationals abroad

#### Countries of destination/residence:

It appears that Ivorian migration is mainly directed towards OECD Member States rather than to other African states, which are said to only host 7.5% of Ivorian nationals\(^436\). According to consular registers, 49.8% of Ivorians residing abroad were living in France in 2009, followed by the U.S. (20.8%) and Italy (8.3%). Senegal is the first country of destination in Africa (2%).\(^437\) It should be noted, however, that the capacity of consular registers to show the geographical spread of Ivorian migrants can be questioned, as it is quite likely that the level of under-registration within consulates varies from one country to another. According to the OECD migration database\(^438\), there were 43,609 Ivorian nationals in France in 2009 and 22,665 in Italy in 2010. It should be noted that the database does not include data concerning the U.S.

It is probable that emigration flows of Ivorian nationals towards other ECOWAS Member States are underestimated (see remittances data below).

#### Education level/sectors of employment:

While it appears that migration flows are dominated by lower-educated (47.6%) and high-educated individuals (30.7%),\(^439\) it is difficult to assess whether there is a significant risk of brain drain in Côte d’Ivoire. According to OECD data, the emigration rate of nurses was estimated at 4.2% and that of medical doctors at 11.1%\(^440\). Irregular migration is believed to be limited, not only due to the existing dynamic of push-pull factors, but also to the absence of established smuggling networks\(^441\).

#### Remittances:

World Bank data provides an estimate of 408 million USD in 2013.\(^442\) Burkina Faso and Benin are the main countries of origin in this respect, after France.\(^443\) Such data would tend to show that emigration towards other ECOWAS Member States is underestimated. However, these remittances may be sent by Burkinabe and Beninese nationals as well.

#### Vulnerable groups:

International trafficking of Ivorian nationals appears to be limited\(^444\).

\(^{432}\) Merabet, O., 2006, op. cit., p. 21.


\(^{434}\) Mutuelle des Ivoiriens de l’étranger.


\(^{436}\) Ibid.

\(^{437}\) Ibid.

\(^{438}\) Ibid.

\(^{439}\) OECD, ‘International Migration Database’. The OECD migration database collects information on stay/resident permits and population registers.

\(^{440}\) Ibid.


\(^{444}\) U.S. Department of State, 2013, op. cit., p. 141.
4.4.2 Migration policy

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

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

4.4.2.1 Institutional framework on migration

Governmental stakeholders involved

<table>
<thead>
<tr>
<th>Ministry</th>
<th>Responsibilities</th>
</tr>
</thead>
<tbody>
<tr>
<td>Ministry of Interior of Security446</td>
<td>• Immigration management</td>
</tr>
<tr>
<td>Ministry of Planning and Development447</td>
<td>• Population policies</td>
</tr>
<tr>
<td>Ministry of Employment, Social Affairs and Vocational Training448</td>
<td>• Delivery of work authorisation to foreign workers</td>
</tr>
<tr>
<td>Ministry of Foreign Affairs449</td>
<td>• Protection of nationals abroad</td>
</tr>
<tr>
<td>Ministry of African Integration and Ivorians Abroad450</td>
<td>• Relations with the diaspora</td>
</tr>
<tr>
<td>Ministry of Employment, Social Affairs and Vocational Training and the Ministry of Solidarity, Family, Women, and Children451</td>
<td>• Fight against trafficking in persons</td>
</tr>
</tbody>
</table>

Inter-institutional coordination

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

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446 Ministère de l’Intérieur et de la Sécurité.
447 Ministère du Plan et du Développement.
448 Ministère de l’Emploi, des Affaires sociales et de la Formation.
449 Ministère des Affaires étrangères.
450 Ministère de l’Intégration africaine et des Ivorians de l’extérieur.
451 Ministère et de la Solidarité de la Famille, de la Femme et de l’Enfant.
452 Comité interministériel de lutte contre la traite, l’exploitation et le travail des enfants.
4.4.2.2 Immigration: national policy framework and institutional practices

4.4.2.1.1 General immigration provisions

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

Entry and stay for a period not exceeding three months

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

Stay exceeding three months

<table>
<thead>
<tr>
<th>Legislation/Policy Framework</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>Law No. 90–437 of 13 May 1990 regarding Entry and Stay of Foreigners in Côte d’Ivoire</td>
<td>This Law foresaw a unique stay permit for all foreigners – including ECOWAS Member States nationals – valid for one year. Art. 11 includes a list of foreigners that were granted the stay permit off-right:  • foreigners married to Ivorian nationals;  • foreign parents of an Ivorian child residing in Côte d’Ivoire;  • spouse and children less than 21 of migrants under the family re-unification scheme; and  • foreigners who have stayed regularly for more than ten years in Côte d’Ivoire, etc. This off-right scheme, which remains applicable, gives to the considered individuals a guarantee of stability for their stay in Côte d’Ivoire (except in the case of family reunification, where the status of the spouse and children follows that of the initial migrant).</td>
</tr>
</tbody>
</table>

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453 Loi No. 90–147 du 29 mai 1990 relative à l’entrée et au séjour des étrangers en Côte d’Ivoire.
456 Permis de libre circulation.
457 Carte de séjour.
As shown in the table above, the 1990 Law has been amended a number of times over the years. These amendments have continually improved the rights of foreigners. In particular, the adoption of the 2007 Ordinance constitutes a major advancement: the realisation of a true regime of free circulation and residence that goes even further in this regard than the provisions of the ECOWAS norms.

Access of foreigners to land ownership

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

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

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459 Carte de résident.
460 Carte de séjour.
461 Ordonnance No. 2007-604 du 8 novembre 2007 portant suppression de la carte de séjour.
463 Ibid., p. 2.
artificially prolonged given that in 2007, Burkinabe farmers were still facing difficulties in returning to their plantations”.465

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

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

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

Nationality, ethnicity and political rights

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

465 Ibid., p. 104.

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


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


472 Ibid., p. 10.
in conformity with the constitution, the right to vote to nationals.\textsuperscript{473}

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

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

\subsection*{Labour migration}

\textit{Access to national labour market}

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

\textsuperscript{473} Loi No. 94-642 du 13 décembre 1994 portant Code électoral.

\textsuperscript{474} Bredeloup, S., 2003, op. cit., p. 10.

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

\textsuperscript{476} Bredeloup, S., 2003, op. cit., pp. 10; 13.


\textsuperscript{478} \textit{Titre de séjour}. 
The common policy on employment of foreigners is based on the mechanism of the labour market test. However, the essential question concerns the employment of ECOWAS Member States nationals. As seen above, Ordinance No. 2007-604 of 8 November 2007 regarding the Suppression of the Stay Permit states the principle that ECOWAS Member States nationals do not need a residence permit to stay in Côte d’Ivoire; they are requested only to hold “documents of identification” delivered by their country of origin.\footnote{Ordinance No. 2007-604 of 8 November 2007 regarding the Suppression of the Stay Permit, art. 2.} No mention is made of their access to employment. Whether this means that they are still requested to obtain a work authorisation or can access the labour market freely is not entirely clear. In order to answer this question, it should be noted that the relevant ECOWAS protocols exclude the principle of the labour market test. In addition to this, the 2007 Ordinance is more favourable to ECOWAS Member States nationals than the protocols. Finally, without full right of access to the labour market, the liberal provision of the 2007 Ordinance would be stripped of its content. It therefore seems correct to assume that ECOWAS Member States nationals are not requested to obtain a work authorisation in order to be employed in Côte d’Ivoire.

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

\footnote{Arrêté No. 64-21 du 15 juin 2004 portant modification de l’arrêté No. 1437 du 19 février 2004 relatif à la réglementation du recrutement et des frais de visa du contrat des personnels non nationaux.}
\footnote{Agence d’études et de promotion de l’emploi.}
\footnote{Carte de travail.}
Rights within employment

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

4.4.2.2.3 Irregular migration

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

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

4.4.2.2.4 Migrants at risk

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

\(^{483}\) Law No. 90-437 of 13 May 1990 regarding Entry and Stay of Foreigners in Côte d’Ivoire, art. 17.
At the institutional level, two specific bodies were established in 2011: the Joint Ministerial Committee on the Fight against Trafficking, Exploitation and Child Labour and the National Monitoring Committee on Actions to Fight Trafficking, Exploitation and Child Labour. The Joint Ministerial Committee is chaired by the Minister of Employment and is entrusted with the responsibility of conceiving, coordinating and implementing anti-trafficking and child labour policies. The National Monitoring Committee is composed of national and international organisations active in the protection of children and workers, and has the mission of following up on and evaluating the Government’s actions.

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

Regarding implementation measures, the U.S. Department of State’s latest Trafficking in Persons Report noted that “the Government of Côte d’Ivoire conducted 15 investigations, commenced eight prosecutions and convicted two trafficking offenders” in 2012. Also in 2012, the training of judges was initiated in cooperation with the ILO. Regarding protection, the national authorities rely mainly on NGO-run shelters, with which formalised referral mechanisms are yet to be developed. Repatriation is organised on an ad hoc basis in cooperation with the relevant diplomatic and consular posts, and local communities.

In the past few years, several nationwide awareness campaigns have been organised.

### 4.4.2.3 Emigration

#### 4.4.2.3.1 Labour migration

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

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484 Loi No. 2010-272 portant interdiction de la traite et des pires formes de travail des enfants.
485 Comité national de surveillance des actions de lutte contre la traite, l’exploitation et le travail des enfants.
486 Plan d’action 2012-2014 de lutte contre la traite, l’exploitation et le travail des enfants.
488 Ibid.
489 Ibid.
490 Labour Code, art. 11-1; 11-2.
to date, no specific legislation has been adopted to regulate this sector. In practice, the role of private employment agencies is mostly limited to the national labour market.

### 4.4.2.3.2 Migration and development

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

### 4.4.2.3.3 Migrants’ protection

#### Social security agreements

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

#### Future policy initiatives

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

### 4.4.3 International, regional, and bilateral cooperation

#### International conventions

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

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

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491 Convention multilatérale de sécurité sociale de la Conférence interafricaine de la prévoyance sociale.
493 République de Côte d’Ivoire, 2012a, p. 86.
Côte d’Ivoire has not ratified the two ILO conventions specifically on migrant workers (C 97 (1949) and C 143 (1975), nor has it signed or ratified the Convention on the Protection of the Rights of All Migrant Workers and Members of their Families (1990). It has ratified both the United Nations Convention against Transnational Organized Crime (2000) and its Protocol on trafficking in persons, but not the Protocol on smuggling of migrants.

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

*Bilateral agreements*

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

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

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\(^{494}\) Convention entre la Côte d’Ivoire et la France relative à la circulation et au séjour des personnes, 21 septembre 1992.

\(^{495}\) Convention relative aux conditions d’engagement et d’emploi des travailleurs voltaïques en Côte d’Ivoire, signée le 9 mars 1960.
4.4.4 References


### 4.4.5 List of interlocutors

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

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496 Ministère de l’Intégration africaine et des Ivoiriens de l’extérieur.
497 Ministère de la Justice et des Droits de l’homme.
498 Ministère de l’Économie et des Finances.
499 Agence d’études et de promotion de l’emploi.
500 Institut national de la statistique.
501 Centre de promotion des investissements en Côte d’Ivoire.
4.5 The Gambia

4.5.1 Migration trends

4.5.1.1 Immigration

<table>
<thead>
<tr>
<th>Data</th>
<th>Year</th>
<th>Absolute numbers</th>
<th>% of the Total Population</th>
</tr>
</thead>
<tbody>
<tr>
<td>Population and Housing Census⁵⁰²</td>
<td>2003</td>
<td>119,776 foreign born</td>
<td>8%</td>
</tr>
</tbody>
</table>

4.5.1.1.1 Characteristics of immigrants/foreigners

| Countries of origin:          | According to the 2003 census data, 93% came from West African countries, with the following being the main countries of origin: Senegal (50%), Guinea (20%), Guinea-Bissau (8%), Mali (6%), Cameroon (3%), Mauritania (3%), and Nigeria (3%). The country also hosts an important share of immigrants from other ECOWAS countries, such as Sierra Leone. According to government officials interviewed, Indian and Lebanese nationals also reside in The Gambia in relatively large numbers. |
| Settlements:                  | Urban and coastal areas⁵⁰³ |
| Socio-demographic profile:    | According to the Household Poverty Surveys 2003 and 2010, migrants are predominantly male (57%), with differences according to the respective countries of origin⁵⁰⁴ |
| Socio-economic profile and sectors of employment: | According to the Household Poverty Surveys 2003 and 2010, the distribution of migrant workers according to sector is different compared to that of the national population. Retail, wholesale and tourism are the most important employment sectors (43%), followed by agriculture, mining, and fishing (16%), manufacturing (10%), and finance and business services (5%). More migrant workers are employed in business compared to the native population (25% compared to 14% respectively) or own a business (4%, versus 1% among the native population). 3% of migrant workers are employed in the public sector, mainly as teachers.⁵⁰⁵ On average, skill levels are similar to Gambian nationals but with a higher share of individuals who received no formal education and those who are higher-skilled. According to government officials interviewed, a high proportion of Senegalese immigrants work as petty traders, Lebanese immigrants tend to work in the business sector and in the service industries, and many Nigerian and Indian immigrants own supermarkets and export cashew nuts from The Gambia. |
| Vulnerable groups:            | As regards human trafficking, "The Gambia is a source, transit, and destination country for women and children subjected to forced labor and sex trafficking"⁵⁰⁴ The Gambia serves as a destination for women and children trafficked from countries such as Senegal, Sierra Leone, Liberia, Ghana, Nigeria, Guinea-Bissau, Guinea, and Benin. |

### 4.5.1.2 Emigration

<table>
<thead>
<tr>
<th>Data</th>
<th>Year</th>
<th>Estimates</th>
</tr>
</thead>
<tbody>
<tr>
<td>World Bank Migration and Remittances Factbook 2011</td>
<td>2010</td>
<td>64,905 Gambians residing abroad</td>
</tr>
</tbody>
</table>

#### 4.5.1.2.1 Characteristics of emigrants/nationals abroad

**Countries of destination/residence:**
- According to the World Bank Migration and Remittances Factbook 2011,\(^{507}\) the five main countries of destination are Spain (18,112), the United States (7,472), Nigeria (6,509), Senegal (5,881), and the United Kingdom (5,198), followed by a significant presence in EU countries (mainly Germany and Sweden). Unofficial estimates of the Gambian-born population in the U.S. are nearly twice as high as official statistics.\(^{509}\)
- EUROSTAT data suggests that, in 2013, the three biggest registered communities of Gambian-born population in the EU\(^{510}\) were in: Spain (18,103), Sweden (4,285), and Italy (1,231) – states such as the United Kingdom or Germany have not provided data for that year.
- In the case of Spain, the biggest community of Gambian-born residents is in Catalonia. The Gambian community in Spain increased steadily between 2000 and 2009. Since then, due to the economic crisis and the lack of employment opportunities in Spain, the immigration flow has stagnated.\(^{511}\)

**Socio-demographic profile:**
- The Migration and Urbanisation Survey of 2009 suggests that 78% of Gambians abroad were male, whereas only an estimated 22% were female. In addition, the findings of the survey indicate that almost 30% of all Gambians abroad left The Gambia between the age of 20 and 24.\(^{512}\)
- In the case of Spain, 80% of Gambians are men.\(^{513}\)

**Education level/sectors of employment:**
- According to Docquier and Marfouk, in 2000, The Gambia had the second largest emigration rate of tertiary-educated population in sub-Saharan Africa (63%).\(^{514}\) Moreover, data compiled by Clemens and Pettersson indicated that 53% of all physicians and 66% of all professional nurses born in The Gambia were practicing outside the country in 2000.\(^{515}\)
- In the case of Spain, the level of education of Gambians is rather low as most come from rural areas. This was also confirmed by the government officials interviewed and also applies to Gambians residing in Italy.

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\(^{507}\) World Bank, *Migration and Remittances Factbook* 2011, 2010

\(^{508}\) Ibid.


\(^{511}\) Spanish National Institute of Statistics (INE) website: http://www.ine.es


\(^{513}\) INE, op. cit.


**Remittances:**

For 2010, the remittances inflow represented 11% of GDP, while the remittances outflow amounted to 5.5%.\(^{516}\) According to the IMF, remittances have decreased in the last years due to the Gambian exchange rate directives and the economic crisis, but this negative impact has been offset by the decrease in the price of fuel and other commodities.\(^{517}\) The Central Bank of Gambia\(^ {518}\) estimated remittances at USD 96 million in 2012, while the IMF estimated remittances at USD 148 million (in 2013).\(^ {519}\)

**Vulnerable groups:**

Senegal is an important country of destination for children trafficked for domestic servitude and forced begging. The Netherlands, Italy and Lebanon are also destinations of persons trafficked from The Gambia. In addition, internal trafficking for the purpose of labour, including forced begging, and sexual exploitation also takes place, especially from rural areas to tourist and other commercial areas. Victims of forced begging are mostly children and in the case of sexual exploitation women aged between 25 and 40 years.

### 4.5.2 Migration policy

The Gambian government plans to develop a national migration strategy and has undertaken a number of steps towards the development of a national migration strategy, e.g. conducting the ‘Migration and Urbanisation Survey 2009 – Household and Migration Analysis’. In addition, a National Platform on Migration Issues has been established (described further below).

The Gambia includes migration as part of its National Development Agenda. The Programme for Accelerated Growth and Employment (PAGE) 2012-2015 underlines this by ensuring the future creation of a National Migration Policy,\(^ {520}\) and, by linking migration and development, migration is to contribute to achieving development objectives: “Migration better managed and mainstreamed in national development policies and plans will help enhance the attainment of PAGE objectives.”\(^ {521}\)

This Agenda is based on Vision 2020, the 25-year plan that has governed Gambian politics and policies since 1996. Migration is mentioned as part of the long-term objectives of this vision: “The attainment of objective in the size of households, the continuity of efforts to increase life-expectancy and a consistent set of policies to control immigration should ensure a totally manageable population that will contribute fully to the development objectives of Vision 2020.”\(^ {522}\) The link between migration and employment, in particular youth employment, is one of the priority areas of the Gambian approach (see section on labour emigration).

This focus on migration is further developed in the part of the document which addresses strategic issues: “Critical factors affecting population growth include a high fertility rate, a decreased rate of mortality and migration both within our borders and from neighbouring countries. (...) Efforts shall continue to control migration from outside our borders whilst creating sufficient conditions for a proper integration of foreigners who are legal residents of The Gambia. Increased industrialisation and a spatial distribu-
tion of industry shall complement efforts to curb rural-urban migration.\(^{523}\)

### 4.5.2.1 Institutional framework on migration

**Governmental stakeholders involved**

<table>
<thead>
<tr>
<th>Ministry</th>
<th>Agency, Direction, Unit</th>
<th>Responsibilities</th>
</tr>
</thead>
<tbody>
<tr>
<td>Ministry of Interior</td>
<td>Gambia Immigration Department (GID) Police</td>
<td>• Immigration management for national development(^{524})</td>
</tr>
<tr>
<td></td>
<td></td>
<td>• Naturalisation and registration process</td>
</tr>
<tr>
<td></td>
<td></td>
<td>• Entry clearance and visas, passport issuance</td>
</tr>
<tr>
<td></td>
<td></td>
<td>• Professional Standards Unit (established in 2008 as a means for Gambians and non-Gambians to lodge complaints when their rights have been violated by an immigration officer)</td>
</tr>
<tr>
<td>Gambia Bureau of Statistics</td>
<td>Semi-autonomous statistics agency under the Department of State for Finance and Economic Affairs</td>
<td>• Collects and analyses national data on migration</td>
</tr>
<tr>
<td>Ministry of Justice</td>
<td>National Agency against Trafficking in Persons</td>
<td>• Administers the provisions of the 2007 Trafficking in Persons Act</td>
</tr>
<tr>
<td></td>
<td></td>
<td>• Investigates reports of trafficking activities</td>
</tr>
<tr>
<td></td>
<td></td>
<td>• Protection of victim rights</td>
</tr>
<tr>
<td></td>
<td></td>
<td>• Compiles databases and lists of trafficking cases, offenders and victims</td>
</tr>
<tr>
<td>Ministry of Foreign Affairs, International Cooperation and Gambians Abroad</td>
<td></td>
<td>• Consular assistance to Gambians living abroad</td>
</tr>
<tr>
<td></td>
<td></td>
<td>• Bilateral, regional and international agreements on migration</td>
</tr>
<tr>
<td></td>
<td></td>
<td>• Identification and repatriation of Gambians living abroad</td>
</tr>
<tr>
<td></td>
<td></td>
<td>• Deploys an <em>ad hoc</em> division in charge of involving Gambian communities abroad in national development strategies(^{525})</td>
</tr>
<tr>
<td>Ministry of Health</td>
<td>Department of Social Welfare</td>
<td>• Assistance to child trafficking victims</td>
</tr>
<tr>
<td>Ministry of Trade, Industry, Regional Integration, and Employment</td>
<td>Department of Labour Employment Unit</td>
<td>• Migrant workers</td>
</tr>
<tr>
<td></td>
<td></td>
<td>• Labour inspections at workplaces (number of employed and registered foreign workers and working conditions)</td>
</tr>
<tr>
<td>Ministry of Youth and Sports</td>
<td></td>
<td>• Youth development programmes</td>
</tr>
<tr>
<td></td>
<td></td>
<td>• Raising awareness on the risks of (irregular) migration</td>
</tr>
<tr>
<td>Central Bank of The Gambia</td>
<td></td>
<td>• Publishes quarterly data on remittances in their balance of payments</td>
</tr>
</tbody>
</table>

**Inter-institutional coordination**

The Immigration Department under the Ministry of Interior is the lead organisation responsible for the management of migration flows in The Gambia. Inter-institutional coordination on migration issues mainly takes place on an *ad hoc* basis through information-sharing between the institutions mentioned above. A National Platform on Migration Issues was established in order to discuss migration in the

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\(^{523}\) Ibid., Part III: Strategic Issues.


country and its challenge and some meetings have taken place already. The further institutionalisation of the platform is pending as the Gambian government awaits financial support for this activity. According to the state officials interviewed, a national migration policy, once it has materialised, would address inter-institutional coordination.

The National Agency Against Trafficking of Persons (NAATIP) under the Ministry of Justice is one example of institutionalised inter-ministerial cooperation as it consists of several government agencies.\footnote{The board members are: Chairman of the Board, NAATIP, Ministry of Trade, Industry and Employment, Ministry of Interior, Ministry of Foreign Affairs, National Intelligence Agency, Gambia Immigration Department, Department of Social Welfare, Christian Council, Supreme Islamic Council, Child Protection Alliance, Gambia Police Force, and Gambia Chamber of Commerce and Industry.} Furthermore, a National Task Force against Trafficking in Persons (NTF) was established in 2004.\footnote{The NTF members are: NAATIP, Department of Social Welfare, Department of Labour, Gambia Policy Force, Interpol, Child Fund, Child Welfare Unit Police, UNICEF, Centre for Street Children and Child Trafficking Studies, Ministry of Foreign Affairs, Ministry of Basic and Secondary Education, Ministry of Interior, Child & Environment Development Association (CEDAG), West African Network (WAN), and Customs.} The NTF consists of technical staff involved in combatting human trafficking activities.

Furthermore, the Expatriate Quota Allocation Board, as described further below, consists of various different ministries and institutions, namely the Ministry of Trade/Department of Labour, the Ministry of Interior, the Gambian chamber of Commerce and Industry, the Gambian Revenue Authority, the Gambia Investment and Export Promotion Agency (GIEPA), the Ministry of Finance, and the Personal Management Office (deals with human resources of the government agencies).

4.5.2.2 Immigration: national policy framework and institutional practices

4.5.2.2.1 General immigration provisions

The Immigration Act provides the legal framework for immigration and includes the following entry and residence permits and provisions\footnote{The ‘Immigration Act’, the main piece of legislation in this field, was not accessible and the information as stated in this sub-section is based on interviews with government officials, complemented by information available on the website of the Gambian Ministry of Interior.}:

<table>
<thead>
<tr>
<th>Type</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>Visa</td>
<td>ECOWAS nationals</td>
</tr>
<tr>
<td></td>
<td>• Period of 90 days visa free applies</td>
</tr>
<tr>
<td></td>
<td>Non-ECOWAS nationals</td>
</tr>
<tr>
<td></td>
<td>Different provisions apply related to the country of origin or residence:</td>
</tr>
<tr>
<td></td>
<td>• for a number of countries, entry clearance by the Director General of Im-</td>
</tr>
<tr>
<td></td>
<td>migration is required;</td>
</tr>
<tr>
<td></td>
<td>• for some countries both visa and entry clearance is required; and</td>
</tr>
<tr>
<td></td>
<td>• in some cases (several Western European countries and the U.S.) a visa is</td>
</tr>
<tr>
<td></td>
<td>issued upon arrival.</td>
</tr>
<tr>
<td></td>
<td>The visa can be extended for two more months.</td>
</tr>
</tbody>
</table>

Entry clearance’ means the person wishing to visit The Gambia has to apply to the Director General of Immigration and the application is then vetted at the clearance office. A prescribed fee of GMD 1,000 (USD 22) is paid before the issuance of the entry clearance.
Residence Permit A
- Valid for one year, renewable (request for renewal has to be made at least four months before expiry of the previous permit)
- Applicable to students and retired civil servants, who must not engage in any work during their stay
- Fee of GMD 1,100 (USD 25) applies to both ECOWAS and non-ECOWAS nationals

Residence Permit B
- Issued to both ECOWAS and non-ECOWAS nationals to work and reside in The Gambia
- Applies to Foreign skilled workers, valid for one year, renewable
- Includes access to the labour market
- The applicable fee differs for non-ECOWAS and ECOWAS nationals (GMD 1,300 (USD 30) for ECOWAS nationals and GMD 1,800 (USD 40) for non-ECOWAS nationals).

Residence Permit B Gratis
- Issued to foreigners invited by the government.

Naturalisation
- The following is required in order to apply:
  - legal residence in The Gambia for a period of not less than fifteen years;
  - a recent copy of certificate of character;
  - the provision of two referees; and
  - the payment of a fee.

The requirements to be granted a residence permit are as follows: applicants must be staying in The Gambia not less than three months and must be in the possession of a valid travel document and, in the case of non-ECOWAS nationals, an alien’s card. In addition, applicants must provide a certificate which proves ‘good character’ and have sufficient means to stay in The Gambia. For residence permit B, a Tax Identification Number (TIN) card is required.

Legal sources do not fully cover the decision-making process for immigrants’ status and leave out the rights attached to different immigration statuses. These shortcomings are expected to be dealt with in the National Migration Policy, which is planned to be developed in the near future, as explained in the PAGE and as confirmed by the state officials interviewed for the purpose of this study.

### 4.5.2.2 Labour migration

The Immigration Act, the 2007 Labour Act, and the Payroll Act define the legal framework for labour immigration and the employment of foreign workers in The Gambia. The procedural requirements as defined in the Immigration Act are described in section 4.5.2.2.1.

The 2007 Labour Act does not make any reference to the employment of foreign workers and the state officials interviewed confirmed that the same rights apply within employment. According to these officials, it is, however, difficult to assess whether the treatment of foreign workers actually corresponds to the set national standards, especially as regards businesses run by foreigners.

The Payroll Act determines the taxes an employer has to pay in order to compensate for the employment of foreign workers. The Expatriate Quota Allocation Board was established to encourage businesses to hire qualified Gambian staff. When hiring expatriates, businesses are required to pay an annual tax as well as a fee (GMD 10,000 (USD 224) for ECOWAS citizens, GMD 40,000 (USD 896) for non-ECOWAS nationals).

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As per the 2007 Labour Act, a “skilled worker” means an employee “who through acquisition, programmed or otherwise, of knowledge, attitude and behaviour, has special ability to do something”.

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tionals). Businesses are only allowed to employ up to 20% non-Gambians workers. If a company wishes to exceed this 20%, it has to prove that no qualified Gambian can be found in the national workforce (by publishing the job vacancy announcement).

4.5.2.2.3 Irregular migration

The GID has a special unit that deals with irregular immigration, the ‘Illegal Migration Unit’. This unit is in charge of identifying suspected routes, and it also monitors harbours that may be used by migrants.

The Gambia addresses the issue of irregular stay in the country mainly through fines and subsequent regularisation of foreigners staying irregularly in The Gambia. In 2009, the Government issued a “stern warning to all landlords in The Gambia not to allow any foreigner to stay in their premises, being a compound, lodge, hotel, or any other dwelling place, without a valid passport, visa, visitors pass (laissez passer), Alien Card, or residential permit”. According to government officials interviewed, foreigners become irregular by overstaying their visa. To regularise a stay through the payment of a fee to purchase a new residence permit (different for ECOWAS and non-ECOWAS nationals) is common practice and forced returns are rare.

4.5.2.2.4 Migrants at risk

<table>
<thead>
<tr>
<th>Legislation/Policy Framework</th>
<th>Description</th>
</tr>
</thead>
</table>
| Trafficking in Persons Act, 2007 | **Section 28 (2)** – Trafficking in persons means:  
  a. The recruitment of, provisions of, transportation of, transfer of, harboring of, receipt of, or trading in persons;  
  b. The use of threat, force or other forms of coercion, abduction, kidnapping, fraud, deception, the abuse of power, or a position of vulnerability; or  
  c. The giving or receipt of payments or benefits to achieve the consent of a person having control over another person, for the purpose of exploitation within or across national borders.  
  Trafficking in persons also includes:  
  a. Placement for sale, bonded placement, temporary placement, placement for service, where exploitation by another person is the motivating factor; and  
  b. Transportation of another person within and across an international border for the purpose of exploiting the person’s prostitution. |

Human trafficking is prohibited in The Gambia by the 2007 Trafficking in Persons Act. The Act also establishes the NAATIP and regulates its composition, powers, functions, and responsibilities. The Act prohibits all forms of trafficking in persons and provides for penalties (life imprisonment for trafficking persons under 18 years, or when the trafficking includes the rape or death of the victim of trafficking, and a minimum of 15 years imprisonment for trafficking in adults). Provisions concerning the protection of victims of trafficking include ensuring non-discrimination, access to adequate medical, psychological and legal services, and takes into account safety and integrity when dealing with victims of trafficking (as defined in the Trafficking in Persons Act 2007 Part 1X section 45). Gambian legislation was reinforced in October 2010 through an amendment that increases the prescribed penalties to 50 years to life imprisonment for all forms of trafficking. Two further pieces of legislation aim at defending migrants at risk. These are The

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Gambia’s 2005 Children’s Act that prohibits child trafficking and the 2003 Tourism Offenses Act, which provides for sexual offenses of tourists against children, as well as for the prohibition of trafficking in children (which carries a penalty of 10 years in prison without the option of paying a fine).

The National Agency against Trafficking in Persons under the Ministry of Justice has been operational since February 2012. As mentioned above, the NAATIP has been operational since 2004. The implemented activities are built on the four pillars of prevention, protection, prosecution, and partnership. In addition, the government has updated the four-year national action plan on trafficking covering 2012-2016. In the area of prevention, awareness-raising campaigns are implemented in cooperation with civil society organisations, the Gambia Immigration Board, and the Police. To give a few examples, awareness-raising campaigns targeting border posts have been organised, training sessions for parliamentarians, judges, magistrates, schools, and law enforcement academies have been conducted, and public campaigns on radio and television have been disseminated. Although some investigations regarding potential trafficking crimes have been conducted in the past few years, they have largely failed to identify victims or initiate prosecutions and generally prosecution remains difficult. The Department of Social Welfare is responsible for the provision of shelter, family tracing, psychosocial support, and therapeutic services. Furthermore, efforts are also made to identify potential victims of trafficking. For example, foreign children who are found without parental care or a responsible adult in The Gambia are repatriated to their countries of origin.

In terms of protection for refugees and asylum seekers, the Refugee Act, passed in 2008, intends to make better provision for the management of refugee matters through the establishment of the Gambia Commission for Refugees.

4.5.2.3 Emigration

4.5.2.3.1 Labour migration

<table>
<thead>
<tr>
<th>Legislation/Policy Framework</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>Labour Act, 2007</td>
<td><strong>Sections 33-36</strong>: Labour-only subcontracting without an exemption is forbidden. “A person who commits an offence under subsection (1) is liable to a fine not exceeding five hundred dalasis for each day of each defence or […] to both imprisonment and to deportation from The Gambia if he or she is not a citizen of The Gambia.”</td>
</tr>
</tbody>
</table>

The 2007 Labour Act regulates labour-only subcontracting which would also apply to foreign private recruitment agencies in the case that they do not possess a certificate of exemption.

The Gambia has signed bilateral agreements with Spain and Italy on irregular migration which have a component related to labour migration. In addition, agreements have been signed with both Qatar and Taiwan (more details under section 4.5.3). The agreement with Qatar signed in 2010 focuses on “regulating the Employment of Gambian Workers in the State of Qatar”.

The agreement includes the provision of job-related information to potential migrants in advance, visa and travel facilitation, stipulated rights for sending remittances, etc.

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The emigration of workers, especially among the youth is of concern to The Gambia. In the framework of the Spain/ECOWAS Fund on Migration and Development, a project was implemented which focuses on the prevention of irregular migration and the integration of returnees in the labour market. The initiative aimed to reduce youth irregular migration through apprenticeship training, skills development, employment creation, and counseling for returned or in risk youth. Organised with the Ministry of Trade, Regional Integration and Employment in partnership with the Department of Immigration (Ministry of Interior), the specific objectives were “to raise awareness on the importance of skills acquisitions and the migration risks, and to integrate the repatriated youth, creating opportunities for further education and training”.

Another government initiative, which is being phased out at the time of writing, is The Gambia Priority Employment Programme (GAMJOBS). The overall objective of this programme was to create an enabling environment for employment creation. The National Youth Service Scheme which started in 1996 was created to provide youth with skills for employment. It emphasises self-reliance and aims to discourage irregular migration. In addition, the so-called ‘Green Industry’ project intends to create employment in the agricultural field, whilst the Campaign Against Rural Urban Drift (CARUD) was established with the objective of reducing rural-urban migration by creating avenues for employment for Gambian youth in the area of poultry and agriculture. Furthermore, the National Enterprise Development Initiatives (NEDI) is tasked with empowering Gambian youth through the provision of training and loans for entrepreneurship, also with the aim of reducing irregular emigration.

4.5.2.3.2 Migration and development

In recent years, the Gambian government has increased its efforts to intensify relations with the Gambian diaspora and to include remittances as part of the socio-economic development goals of the country. For this purpose, a two-day meeting with the Gambian Diaspora with the name ‘Harnessing Diaspora Engagement’ was organised in 2012. In the words of Ousmani Sonko, Minister of Interior of The Gambia, the meeting aimed at “laying a comprehensive and substantial collaboration that seeks to pave the way for more substantial development”. This kind of initiative may be considered particularly important as there has been a history of tension between the Gambian Diaspora and the Government, especially since the 1994 military coup.

Addressing the challenges of highly skilled migration

The high emigration rate is of concern for the Gambian government. The shortage of qualified nationals is considered as negatively impacting on the progress towards achieving the Millennium Development Goals, particularly in the areas of health, education, and agriculture. To address this issue, a number of initiatives have been implemented to promote the employment of the youth population (see sub-section above).
4.5.2.3.3 Migrants’ protection

In addition to the initiatives described above targeting the youth, the National Youth Policy (2009-2018) acknowledges the risks of irregular migration. “One current socio-economic problem confronting Gambian youth is illegal migration. In addition to the curbing of illegal migration, the new youth policy will start making plans for returning Gambian youth as western governments make immigration laws more stringent.” Recommended strategies are: “(1) Special attention should be given to illegal migration and special strategies employed to integrate these returnees into mainstream society and provide them with marketable skills to enable them become economically productive in a bid to deter them from taking the risk of going to Europe again. (2) The Department of immigration should work closely with the Department of Youth and Sports and other relevant authorities to launch an aggressive advocacy programme that will sensitis the youth on the dangers of illegal migration and teach them how they can legally migrate with the proper skills training.”

The previously mentioned bilateral agreements with Spain and Italy include a protection component for Gambian migrants. The objective of developing capabilities in the Gambian Government in order to better manage their migratory outflows, to provide assistance to their citizens abroad, and to assist their return is also included in these agreements.

A cooperation project between Spain and the GID, the Gambia technical Training Institute (GTTI), and targeted local communities in the country aimed at providing employable skills to returnees and youths at risk, integrating returnees into their communities, building capacities of implementing stakeholders, alerting the population on the risks of irregular migration, and creating, managing, and sharing data on irregular migration. The final beneficiaries of this project were 480 returnees, 320 youths at risk of migration, and civil servants of the implementing institutions. According to the EU Gambia Annual Report 2013, the main activities so far have been:

- a national consultation with stakeholders on irregular migration;
- the recruitment and placement of returnees and youths at risk in the regions;
- the preparation of a training manual on career guidance and counselling; and
- building the capacities of immigration officers and developing training courses for beneficiaries through the establishment of rehabilitation and counselling centres in Tanjeh, Basse, and Farafenni.

However, as stated by the government officials interviewed for the present study, the assistance offered to returnees is yet not sufficient and in particular an orientation centre for the first days after return is needed.

4.5.3 International, regional, and bilateral cooperation

The Gambia has ratified several conventions protecting human rights, including:

- the International Covenant on Civil and Political Rights (1966);^539^
- the International Covenant on Economic, Social and Cultural Rights (1966);
- the Convention on the Elimination of All Forms of Discrimination against Women (1979); and

In addition, The Gambia has also ratified the African Charter on the Rights and Welfare of the Child. As well as these global conventions, The Gambia is also bound by ECOWAS texts, including its Treaty (1975) and its subsequent protocols regarding free movement of persons, residence and establishment. The Gambia is yet to sign the Joint ECOWAS/ECCAS Regional Plan of Action to Combat Trafficking in Persons, especially Women and Children and the Multilateral Cooperation Agreement to Combat Trafficking in Persons, Especially Women and Children in West and Central Africa.

In the last few years, The Gambia has signed migration-related agreements with Spain, Italy,^540^ Qatar, Senegal, and Taiwan. In 2006, Spain and The Gambia signed a Framework Cooperation Agreement in Migration and Development in order to address irregular immigration. In this bilateral agreement it is stated that “The Contracting Parties shall encourage the legal recruitment of nationals of the other Contracting Party in its territory, prior analysis of their labour markets and complementarity of these, when the qualifications of nationals of the Contracting Party of origin meet the needs of companies and employers in the host Contracting Party”.^541^ Negotiations on a Social Security Agreement are ongoing. A bilateral agreement on combating irregular migration were made between Italy and The Gambia in 2010. Since then, periodic capacity building and training for Gambian Immigration personnel has taken place in Italy (more than 65 Gambian personnel have completed these courses in Italy since 2010). Furthermore, Italy has provided The Gambia with equipment. The bilateral agreement with the Republic of China (Taiwan)^542^ deals with cooperation in immigration affairs and the prevention of human trafficking through the exchange of documents.^543^

The Gambia has also built inter-state relations with Ghana and Senegal. A Memorandum of Understanding with Senegal to combat cross-border trafficking crimes between the two countries has been signed. In addition, Senegal and The Gambia have concluded an agreement on preferred entry and stay.

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^539^ With a reservation in respect of article 14(3)(d) of the Covenant in question.


^541^ Ibid., (translation by the author).


^543^ This agreement may have been frozen as The Gambia has recently withdrawn official diplomatic recognition of Taiwan (December 2013).
4.5.4 References


IOM, ‘Gambia country profile’, [online data source], http://www.iom.int/cms/en/sites/iom/home/where-


### 4.5.5 List of interlocutors

<table>
<thead>
<tr>
<th>Name of respondent</th>
<th>Position</th>
<th>Institution</th>
</tr>
</thead>
<tbody>
<tr>
<td>Tangara, A.</td>
<td>Deputy Permanent Secretary</td>
<td>Ministry of the Interior</td>
</tr>
<tr>
<td>Kalsum Cham, O.</td>
<td>Senior Assistant Secretary</td>
<td></td>
</tr>
<tr>
<td>Sowe, O.</td>
<td>Deputy Permanent Secretary</td>
<td>Ministry of Foreign Affairs</td>
</tr>
<tr>
<td>Jallow, A.</td>
<td>Labour Economist, Employment Unit</td>
<td>Ministry of Trade, Industry, Regional Integration and Employment</td>
</tr>
<tr>
<td>Jawara Ceesay, T.</td>
<td>Executive Director</td>
<td>National Agency Against Trafficking in Persons (NAATIP)</td>
</tr>
<tr>
<td>Baboucarr Mboob, P.</td>
<td>Director General</td>
<td>Gambia Immigration Department (GID)</td>
</tr>
</tbody>
</table>
4.6 Ghana

4.6.1 Migration trends

4.6.1.1 Immigration

<table>
<thead>
<tr>
<th>Data</th>
<th>Year</th>
<th>Absolute numbers</th>
<th>% of the Total Population</th>
</tr>
</thead>
<tbody>
<tr>
<td>Population and Housing Censuses</td>
<td>2000</td>
<td>740,191 foreigners</td>
<td>3.9%</td>
</tr>
<tr>
<td></td>
<td>2010</td>
<td>600,049 foreigners</td>
<td>2.4%</td>
</tr>
<tr>
<td>United Nations, Trends in Internation Migrant Stock: Migrants by Age and Sex</td>
<td>2000</td>
<td>1,504,715 immigrants</td>
<td>8%</td>
</tr>
<tr>
<td></td>
<td>2010</td>
<td>1,851,814 immigrants</td>
<td>6.5%</td>
</tr>
</tbody>
</table>

The significant decrease (-14%) of the foreign population over the past decade, shown by the population censuses, is surprising.\footnote{Ghana Statistical Service, Population Data Analysis Reports. Vol. 1 Socio-Economic and Demographic Trends Analysis, 2005, p. xviii.} One would have rather expected that the demographic, economic and political situation in both Ghana and other ECOWAS countries of origin would have led to an increase in the foreign population in the country. This credible scenario is reflected in UN data, which also provides higher estimates of the immigrant stock in Ghana. Two opposite conclusions can be drawn from these conflicting estimates: in the first case, Ghana’s role as a country of destination is declining, while in the second case, the country’s role as a destination country is significant and even increasing. Most academic and international organisations’ reports follow the second conclusion.\footnote{Ghana Statistical Service, 2010 Population and Housing Census. National Analytical Report, 2013, p. 207.}

4.6.1.1.1 Characteristics of immigrants/foreigners

- The majority of foreigners are ECOWAS Member States’ nationals.\footnote{A – partial – explanation for this situation was put forward by officials interviewed for the purpose of the present study, who suggested that many ECOWAS Member States nationals claimed to be Ghanaian nationals when surveyed during the 2010 population census as they were not in a regular situation.} It is believed that Nigeria constitutes the first country of origin for immigrants.\footnote{In this regard, it is thought that the security and political stability that prevails in the country, as well as its significant and steady economic growth, makes Ghana a potentially attractive country of destination. The recent discovery of offshore oil reserves would tend to confirm this assertion. Moreover, as underlined by Quartey, ‘increasing immigration to Ghana has also been attributed to broader shifts in the migration landscape, as a result of the decline of Côte d’Ivoire as a migration pole due to social and political instability and the resulting economic deterioration’, Quartey, P., Migration in Ghana. A migration Profile, IOM, 2009, p. 75.}
- According to the Ghana Statistical Service (GSS), nearly 60% of the foreign population (58.4%) reside in the Greater Accra (20.2%), Ashanti (16.7%), Northern (11.4%) and Brong-Ahafo (10.1%) regions.\footnote{In their draft National Migration Policy, Ghanaian authorities mention that ‘Nigerians alone accounted for 20.1 percent of all immigrants in the country’.}

\footnote{Ghana Statistical Service, 2013, op.cit., p. 227.}

\footnote{In their draft National Migration Policy, Ghanaian authorities mention that ‘Nigerians alone accounted for 20.1 percent of all immigrants in the country’.}
A Survey on Migration Policies in West Africa

Socio-demographic profile:
According to the GSS, the foreign population is young (with 45% being aged between 15 and 29) and there is a slight predominance of male migrants over women (54.5% to 45.5%).

Socio-economic profile and sectors of employment:
Foreigners tend to be overrepresented within both the least educated (40% of migrants have never attended school, as compared to 28.5% of Ghanaian nationals) and the most educated (4.7% have a bachelor’s degree, as compared to 2.5% of nationals).

Similarly to Ghanaian nationals, immigrants are predominately employed within the informal sector (83% compared to 82% for the whole population).

According to the GSS, foreigners mainly work within the agricultural, forestry and fisheries sector (37.3%) and in wholesale and retail, and repair of motor vehicles and motorcycles (24.5%).

In most cases, they are self-employed (58.8%).

Vulnerable groups:
Although Ghana is a country that is a source of sexual exploitation and forced labour, as well as a country of transit and destination, trafficking in persons remains mainly internal to the country, and primarily concerns children. Concerning trafficking of foreigners in Ghana, the U.S. Department of State states that victims are mainly nationals from the region subjected to forced labour in agriculture and domestic work.

4.6.1.2 Emigration

<table>
<thead>
<tr>
<th>Data</th>
<th>Year</th>
<th>Estimates</th>
</tr>
</thead>
<tbody>
<tr>
<td>Population and Housing Census</td>
<td>2010</td>
<td>250,624 nationals (15 years and older) residing abroad.</td>
</tr>
<tr>
<td>Quartey, P., Migration in Ghana, A migration Profile</td>
<td>2009</td>
<td>Figures ranging between 1.5 and 3 million.</td>
</tr>
</tbody>
</table>

Estimates of Ghanaian migrant stock vary to a great extent depending on the sources. Sufficient material is missing to value one estimate over another, but there is nevertheless little doubt that the population census data tends to underestimate it. Despite their unquestionable utility, household surveys present a number of biases, including under-registration, as families that migrate as a whole cannot be included.

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551 Ibid., p. 214.
552 Ibid.
553 Ibid., p. 278.
554 Ibid, p. 279. Strangely, in another section of its report, the GSS mention that the non-Ghanaian “heads of agricultural households” were only 1.5%. See ibid., p. 295.
### 4.6.1.2.1 Characteristics of emigrants/nationals abroad

#### Countries of destination/residence:
- It is acknowledged that the vast majority of Ghanaian migrants (over 70%) reside in ECOWAS Member States, primarily in Côte d’Ivoire, Nigeria, Burkina Faso and Togo. Around 20% of migrants reside in OECD countries.\(^{559}\)
- The 2010 Population and Housing Census produced different results. According to the GSS, the majority of migrants (over 60%) reside in Europe and the American continent.\(^{560}\)
- Another household survey, conducted on a much smaller scale by Global Development Network (GDN) and the Institute for Public Policy Research (IPPR), shows similar results with regard to absent migrants. However, the majority of returning migrants surveyed had resided in ECOWAS Member States.\(^{561}\)
- Diversification of countries of destination beyond ECOWAS Member States has been an ongoing trend since the 1980s. Within Africa, the main new immigration poles for Ghanaian migrants include South Africa and Libya (prior to the 2011 conflict).\(^{562}\) In OECD countries, the main destinations are the U.K., the U.S., Germany, Italy, and Canada.\(^{563}\)
- According to national authorities, emerging countries of destination include Southeast Asian countries, Hong Kong, India, and the Gulf Cooperation Council states.

#### Socio-demographic profile:
- According to the GSS, 64% of Ghanaian migrants are male and 36% female. 78.5% are between 20 and 49 years.\(^{564}\) These findings concur with the findings from the GDN and IPPR survey.\(^{565}\)

#### Education level/sectors of employment:
- Most Ghanaian migrants have a low to medium level of skills and are primarily employed in the retail and sales sector, in construction and agriculture, as well as working as mechanics, electricians, carpenters, etc.\(^{566}\)
- Ghana has an exceptionally high rate of skilled emigration (46%). It is estimated that 56% of doctors and 24% of nurses trained in Ghana are employed abroad, mainly in the U.K. and the U.S.\(^{567}\) The Consequences for the national health system are severe. In 2002, 65% of doctor positions, 68% of nursing positions, and 56.6% of positions for pharmacists were vacant.\(^{568}\) Similar consequences are likely to be experienced in the education system, and it is believed that over 60% of faculty positions at polytechnics and 40% in public universities are vacant.\(^{569}\)

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\(^{559}\) Ibid.


\(^{561}\) Global Development Network, Institute for Public Policy Research, *Development on the Move: Measuring and Optimising Migration’s Economic and Social Impacts in Ghana*, 2010, pp. 13-14. Two explanations can be provided for these apparent contradictions. Given that a recent and massive change among the migration patterns of Ghanaian nationals is unlikely, one can assume that the aforementioned surveys lack reliability and that Ghanaian migration remains largely an intra-regional phenomenon.

\(^{562}\) Around 20,000 Ghanaian migrants were evacuated due to the conflict.

\(^{563}\) Quartey, P., 2009, op. cit. p. 58.

\(^{564}\) Ghana Statistical Service, 2013, op. cit., p. 220


\(^{566}\) Ibid.


Irregular migration:

- Estimates of the flows and stock of irregular Ghanaian migrants are impossible to provide.
- According to the latest Ghana Immigration Service (GIS) annual report, 925 nationals were expelled in 2010, mainly from the U.K., Israel, Saudi Arabia, and the U.S.\textsuperscript{570} Such data confirms the diversification of Ghanaian migration flows. According to the Centre for Information, Discussion and Exchange on the Crossing of Frontiers and Immigration (CIREFI) database, 2,541 Ghanaians in an irregular situation were apprehended in the EU in 2007, mainly in Italy and Spain.\textsuperscript{571}

Remittances:

- According to the World Bank, remittances to Ghana amounted to 163 million USD in 2013.\textsuperscript{572} The Bank of Ghana estimated the level of remittances at 2.14 billion USD in 2010.\textsuperscript{573}
- It appears that most remittances are sent through official channels.\textsuperscript{574} According to the GDN and IPPR survey, 35% of remittances are sent through informal channels, such as friends and relatives, transport drivers, etc.\textsuperscript{575}
- Remittances are mostly used for private consumption purposes, such as living expenses, school fees, and social activities. Between 17% and 25% of remittances are believed to be used for investment purposes.\textsuperscript{576}

Vulnerable groups:

- Human trafficking in Ghana is principally an internal phenomenon.
- However, in its latest Trafficking in Persons Report, the U.S. Department of State notes the rise of international trafficking involving private employment agencies: During the reporting period, there was an emergence of fraudulent recruitment agencies that advertised locally for jobs abroad, generally in the domestic service and retail sectors; as a result, there was an increase in the number of Ghanaian women migrating to the Middle East to work in these sectors, some of whom were subsequently forced into prostitution upon their arrival.\textsuperscript{577}

### 4.6.2 Migration policy

It is common to argue that Ghana does not have a migration policy.\textsuperscript{578} However, to do so is somehow misleading. Indeed, over the years Ghana has adopted a significant number of legal texts and policy initiatives on the diverse components of migration management. This includes immigration as well as emigration, and within that, the issues of labour migration, irregular migration, human trafficking and the protection of migrants at risk are considered. On the whole, migration management in Ghana has reached a relatively advanced stage.

However, as emphasised in Ghana’s national development plan (Ghana Shared Growth and Development Agenda 2010-2013), improvements can still be made with regard to the content of the legislation, its implementation and policy coordination. It is in this context that Ghana’s authorities have decided to develop a National Migration Policy: a single comprehensive document that includes policy guidelines for all migration areas (ongoing at the time of writing). Although an advanced draft version has been

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\textsuperscript{571} See Quartey, P., 2009, op. cit. p. 64.
\textsuperscript{572} World Bank, Remittances Data 2013, 2013.
\textsuperscript{576} Quartey, P., 2009, op. cit., pp. 69-70. See also ibid.
\textsuperscript{577} U.S. Department of State, 2013, op. cit., p. 178.
completed – and will be referred to in the following sections – a final version of the document is yet to be adopted.

4.6.2.1 Institutional framework on migration

Involved governmental stakeholders

<table>
<thead>
<tr>
<th>Ministry</th>
<th>Agency, Directorate, Unit</th>
<th>Responsibilities</th>
</tr>
</thead>
<tbody>
<tr>
<td>Ministry of Interior</td>
<td>Migration Unit</td>
<td>Entry, stay, and removal of foreigners</td>
</tr>
<tr>
<td></td>
<td>Ghana Immigration Service</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Ghana Police Service</td>
<td></td>
</tr>
<tr>
<td>Ministry of Employment</td>
<td>Labour Department</td>
<td>Intermediary on the international labour market between employers and Ghanaian job-seekers</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Licensing and monitoring of private employment agencies</td>
</tr>
<tr>
<td>Ministry of Foreign Affairs</td>
<td>Diaspora Affairs Bureau Consular Unit</td>
<td>Relations with nationals abroad, including their protection</td>
</tr>
<tr>
<td>Ministry of Gender, Children and Social Protection</td>
<td>Human Trafficking Secretariat</td>
<td>Fight against trafficking in persons</td>
</tr>
<tr>
<td></td>
<td>Department of Children</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Department of Gender</td>
<td></td>
</tr>
<tr>
<td>Ministry of Finance and the Bank of Ghana</td>
<td></td>
<td>Implementation of policies regarding remittances</td>
</tr>
</tbody>
</table>

Other ministries and public institutions are also concerned with migration: the National Development Planning Commission, the GIS, the Ministry of Health, Justice, Tourism, and Education, etc.

Inter-institutional coordination

Migration-related legislation has led to the establishing of two main inter-ministerial institutions: the Immigrant Quota Committee, chaired by the Deputy Minister of Interior, which considers work permits applications,\(^{579}\) and the Human Trafficking Management Board, chaired by the Deputy Minister of Women and Children’s Affairs, dealing with policy guidance on the considered issues.\(^{580}\)

The National Migration Policy is currently being drafted by a specific inter-ministerial structure entrusted with the elaboration of migration policies: the Inter-Ministerial Steering Committee on Migration (IMSCM). The Committee is composed of officials from the Ministries of Gender, Children and Social Protection; Foreign Affairs; Trade and Industry; Education; Health; Justice; Finance; Agriculture; Tourism; Interior (GIS and Migration Unit); Employment; the National Development Planning Commission; and the GSS. The Committee is chaired by the Deputy Minister of Interior. It also comprises representatives from IOM and the Centre for Migration Studies from the University of Ghana as observers. The IMSCM institution represents progress in terms of policy coordination, which hopefully will be maintained – either in its current form or a revised one – after the adoption of the National Migration Policy.

\(^{579}\) Immigration Act, 2000 (Act 573), art. 25-27.

\(^{580}\) Human Trafficking Act, 2005 (Act 694), art. 28-33.
4.6.2.2 Immigration: national policy framework and institutional practices

4.6.2.2.1 General immigration provisions

Entry

Most provisions regarding entry do not require specific reviews. However, it is worth mentioning article 7(1) of the Immigration Act, which reads as follows: “Where an immigration officer is in doubt as to the right of any person to enter Ghana, the officer may send that person to be detained and that person shall remain in custody pending the determination of the matter”. These provisions do not provide for a maximum period of detention and do not foresee judicial guarantees to the detained individual. It can also be mentioned that the Immigration Regulations article 3(1) explicitly refers to the absence of visa requirements for ECOWAS Member States’ nationals.

Stay/residence

<table>
<thead>
<tr>
<th>Legislation/Policy Framework</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>Immigration Act (Act 573), 2000</td>
<td>Resident permit</td>
</tr>
<tr>
<td>Immigration Regulations (LI 1691), 2001</td>
<td>Act, Sect. 13: Applications for a resident permit are to be submitted to the Director of Immigration after entry in Ghana.</td>
</tr>
<tr>
<td></td>
<td>Reg. 9.3: The resident permit is first granted for a maximum period of four years.</td>
</tr>
<tr>
<td></td>
<td>Reg. 9.5: The spouse and children of a resident permit holder may also obtain a residence permit. Dependents are not authorised to engage in a professional activity.</td>
</tr>
</tbody>
</table>

Indefinite residence status

<table>
<thead>
<tr>
<th>Act, Sect. 15.1:</th>
<th>The main conditions of delivery are the following:</th>
</tr>
</thead>
<tbody>
<tr>
<td>• residence of 12 months in Ghana before application;</td>
<td></td>
</tr>
<tr>
<td>• residence of five years in Ghana during the past seven years preceding the aforementioned 12 months period;</td>
<td></td>
</tr>
<tr>
<td>• intention to reside permanently in Ghana, and</td>
<td></td>
</tr>
<tr>
<td>• capacity, “in the opinion of the Minister [of Interior] of making a substantial contribution to the development of Ghana”</td>
<td></td>
</tr>
<tr>
<td>Act, Sect. 16.1:</td>
<td>The spouse of a Ghanaian national is entitled to indefinite residence under the following main conditions:</td>
</tr>
<tr>
<td>• residence of 12 months in Ghana before application;</td>
<td></td>
</tr>
<tr>
<td>• residence of two years in Ghana before the aforementioned 12 months period; and</td>
<td></td>
</tr>
<tr>
<td>• intention to reside permanently in Ghana.</td>
<td></td>
</tr>
</tbody>
</table>

It must be highlighted that contrary to the mere possibility for the spouse to obtain a residence permit as a dependent, the granting of indefinite residence status is in this case a right of the individual.

| Act, Sect. 18.1: | The indefinite resident status allows to engage in professional activities without the need to obtain a work permit. |
| Act, Sect. 15.3: | Residence abroad for more than 12 consecutive months leads to the loss of the status. |
| Act, Sect. 18.2: | Children and “other dependents” of individuals who have been granted indefinite residence status or right of abode (see after) are eligible for a dependency permit. |
**Right of abode**

The legislation foresees a right of abode, which entails the same rights as that of the indefinite residence status.

**Act, Sect. 17.1:** The status applies to those individuals who have lost Ghanaian nationality due to the acquisition of a foreign nationality (when the legislation of the country of nationality does not allow for multiple citizenship) as well as to persons “of African descent in the Diaspora”. Those individuals are understood as those “whose immediate forebears have resided outside the African Continent for at least three generations but whose origin, either by documentary proof or by ethnic characteristics is African” (Act, Sect. 56).

**Act, Sect. 17.3:** Among the conditions for persons of African descent in the diaspora to obtain the right of abode, mention can be made of their financial independence and their capacity to make substantial contribution to the development of Ghana.

With the exception of the requirement for regular entry, the legislation does not provide for the conditions for granting a resident permit. Regarding renewal, the provisions of the Immigration Act and the Immigration Regulations are in contradiction with each other, with the former providing for the possibility of a permit valid for a maximum of eight years, and the latter limiting the renewal to four years.\(^{581}\) The rights attached to the dependency permit and the concept of “other dependent” are not specified.

On the whole, the general provisions of the Immigration Act and its Regulations are rather comprehensive, well-grounded and do not contradict Ghana’s international engagements (with the exception of art. 7(1) of the Immigration Act). Amendments could be adopted in order to detail a number of provisions and limit the risks of arbitrary practices by national authorities.

### 4.6.2.2.2 Labour migration

**Access to national labour market**

<table>
<thead>
<tr>
<th>Legislation/Policy Framework</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Immigration Act (Act 573), 2000</strong></td>
<td><strong>Reg. 16.1:</strong> The potential employer is requested to submit an application for a work permit through the Director of Immigration.</td>
</tr>
<tr>
<td><strong>Immigration Regulations (LI 1691), 2001</strong></td>
<td><strong>Act, Sect. 27:</strong> The Immigrant Quota Committee, an inter-ministry institution, considers work permit applications and submits its recommendations to the Minister of Interior who issues the permit.</td>
</tr>
<tr>
<td></td>
<td><strong>Act, Sect. 27.3:</strong> The delivery of a work permit is based on the following conditions:</td>
</tr>
<tr>
<td></td>
<td>• the considered individual is not a “prohibited immigrant, a visitor, tourist, transit passenger or student”;</td>
</tr>
<tr>
<td></td>
<td>• he/she resides either abroad or legally in Ghana;</td>
</tr>
<tr>
<td></td>
<td>• he/she is qualified for the considered position; and</td>
</tr>
</tbody>
</table>
| | • his/her employment “will be to the benefit generally of Ghana”.

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\(^{581}\) Immigration Act, 2000 (Act 573), art. 13(2): “The Director may grant residence permit for up to a period not exceeding eight years, except that, a residence permit shall not be for more than four years in the first instance”; Immigration Regulations 2001 (LI 1691), art. 9(4): “A person granted four years residence permit in the first instance may subsequently apply for an extension of the residence permit for a further period and the Director may, if satisfied that the person (a) has fulfilled all the conditions subject to which the previous permit was granted; and (b) has not abused any privilege granted that person under the previous permit; grant an extension of the permit for a period not exceeding four years.
The reference to the Immigrant Quota Committee may somehow be misleading. Indeed, labour immigration is not organised following a quota system in which annual numerical limits are fixed for the admission of migrant workers into the country. In Ghana, quotas are generally set on an individual basis; they refer to the right granted by the Immigrant Quota Committee to a specific employer to employ a certain number of migrant workers.  

The principal requirement for the employment of foreigners in Ghana is that it “will be to the benefit generally of Ghana”. This wording is vague, leaving a wide margin of interpretation to the Immigrant Quota Committee.

The Immigration Act and its regulations do not include provisions regarding the period of validity for the work permit. The legislation ties the work permit to a specific employer. The foreign worker cannot change employer and type of employment without the approval of the Immigrant Quota Committee. In other words, it is only when granted indefinite residence status (after a minimum of five years of residence in the country) that a migrant worker can have free access to the labour market.

The immigration legislation fails to provide specific provisions regarding the residence rights of ECOWAS Member States’ nationals. According to government officials interviewed, administrative practices are nevertheless “more flexible” with regards to residence and access to work for ECOWAS Member States’ nationals.

A number of amendments to the immigration legislation are thus required. To date, the draft National Migration Policy for Ghana does not include specific developments in this regard and simply recognises the need to “address identified gaps in existing migration-related policies and legislations.”

What also seems to be missing is an assessment and projections of labour shortages within the national labour market with a view to better understanding the potential need for migrant workers and adopting adequate policies in this regard. This need is partially taken into consideration by the draft National Migration Policy for Ghana, mainly through the prism of the oil industry. It is planned to “enhance the capacity of the GIS to anticipate, adapt and cater for an increasing and diverse workforce from international, intra-regional and internal migration, as international investment and labour migration play an increasing role in stimulating the Ghanaian economy, currently buoyed by the emerging oil industry.”

Rights within employment

The Labour Act of 2003 provides for equal treatment with nationals. Article 1 states: “This Act applies to all workers and to all employers except the Armed Forces, the Police Service, the Prison Service and the Security and Intelligence Agencies specified under the Security and Intelligence Agencies Act 1996 (Act 526).” There is no exception to this principle, and foreigners benefit from all obligations and rights from

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582 However, firms with foreign participation and a capital of 10,000 USD and above are given an automatic quota comprised of between one and four foreign workers (depending on the amount of said capital). Ghana Investment Promotion Centre Act, 1994 (Act. 478).
583 Immigration Act, 2000 (Act 573), art. 27(3) (c).
585 Ibid., p. 51. See also section 8.7 ‘Plausible impacts of the oil industry and other natural resources’, p. 52.
the labour legislation, including those regarding trade unions.

4.6.2.2.3 Irregular migration

<table>
<thead>
<tr>
<th>Legislation/Policy Framework</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>Immigration Act (Act 573), 2000</td>
<td>Sect. 35 to Sect. 41 set procedural steps for deportation of foreigners whom are in an irregular situation, pose a threat to public order, etc.</td>
</tr>
</tbody>
</table>
| Immigration Regulations (LI 1691), 2001 | Reg. 18:  
(1) A person shall not employ a foreigner except in accordance with the provisions of the Act.  
(2) Any body corporate which employs a foreigner in breach of the provisions of section 24 of the Act shall pay to the Immigration Service a penalty in the sum of ten million Cedis and any individual who fails to comply with the provisions of section 24 shall pay a penalty in the sum of five million Cedis.  
(3) A body corporate which fails to pay the prescribed penalty within seven days commits an offence and is liable on summary conviction to pay a fine of 700 penalty units and any individual who fails to pay the prescribed penalty commits an offence and is liable on summary conviction to pay a fine of 350 penalty units”. |
| Immigration (Amendment) Act (Act 848), 2012 | Sect. 52A:  
(1) A person shall not engage in migrant smuggling.  
(2) A person who engages in migrant smuggling commits an offence and is liable on conviction to a fine of not less than six hundred and twenty-five penalty units and not more than one thousand, two hundred and fifty penalty units or to a term of imprisonment of not less than five years and not more than ten years or to both.  
(3) For the purposes of this section, migrant smuggling: means the facilitation of the unlawful entry or departure from the country of a person in order to obtain, directly or indirectly, a financial or other material benefit.  
(4) For the purposes of this section, facilitation” includes:  
(a) producing, procuring, providing or processing a travel or identity document by fraudulent means;  
(b) procuring by unlawful means other documentation in support of the processing of a travel or identity document; and  
(c) enabling a person who is not a national or a permanent resident to remain in the country without complying with the requirement for legally remaining in the country by any of the means mentioned in paragraphs (a) and (b)”. |

Ghana’s current legislation and policy regarding irregular migration focuses on control. The immigration legislation includes provisions on visas, residence and work permits, deportation, sanctions of employers of irregular migrants and migrant smugglers. The draft National Migration Policy for Ghana implicitly recognises that control and restrictive measures are not sufficient, and envisages the adoption of a more comprehensive set of measures. Protection of irregular migrants is also considered: a policy objective includes the “formulation of policies and enactment of laws that duly take account of the smuggled migrants’ human rights, and that ultimately help to contain this form of irregular migration”. Opening more legal migration channels is also foreseen.

586 The Immigration Act, 2000 (Act 573) was amended by the insertion of section 52A.  
587 Ibid.  
588 Ibid. It is planned to “develop common ECOWAS counter-migrant smuggling measures that incorporate more legal channels and orderly migration”. 
Recognising that the country’s borders remain porous, the draft National Migration Policy calls for a number of measures to enhance border management. The need for regional and global international dialogue, cooperation and partnerships is recognised. Among others, one of the aims of the draft policy is to “reinforce and encourage joint cross-border patrols between Ghana and the neighbouring countries to exercise identical handling of migrant smuggling”.\textsuperscript{589}

4.6.2.2.4 Migrants at risk

<table>
<thead>
<tr>
<th>Legislation/Policy Framework</th>
<th>Description</th>
</tr>
</thead>
</table>
| Human Trafficking Act (Act 694), 2005 | The Act includes the definition of the crime of trafficking, procedural steps regarding its prosecution, penalties (a minimum of five years’ imprisonment), and provisions dedicated to the protection of victims.  
**Art. 20** to **art. 27** foresee the institution of a Human Trafficking Fund for the implementation of protection measures.  
**Art. 28** to **art. 33** foresee the institution of a Human Trafficking Management Board, an inter-ministerial institution which is assigned the responsibility of providing policy guidance and assistance with regard to prevention, prosecution and protection.  
**Art. 34** provides for the possibility to allow foreign victims in an irregular situation to stay in Ghana during investigation, and beyond this period, when it is in their best interest. |

As a whole, the Human Trafficking Act appears as a balanced piece of legislation, mainly inspired by the provisions of the Palermo Protocol,\textsuperscript{590} which covers the main relevant issues. Some concerns have nevertheless been expressed regarding the lack of clarity of the definition of the crime and its non-comprehensive character, which may lead to difficulties with regard to prosecution.\textsuperscript{591} To date, no secondary legislation has been adopted, which weakens the capacities of the competent authorities to implement the Act.

In practice, the Board was established in 2006 and the Fund in 2008. An internal action plan and operational procedures for victim support have been adopted. Training for government officials has also been conducted. Protection of victims, through rescue, shelter, and counselling has been mainly done by NGOs. Successful prosecutions have been made, including cases of international trafficking. Despite the establishing of the Fund, which initially amounted to 75,000 USD, adequate funding remains a challenge for the successful implementation of the anti-trafficking policy.\textsuperscript{592}

\textsuperscript{592} Ibid., pp. 2-7.
4.6.2.3 Emigration

4.6.2.3.1 Labour migration

Identification of countries of destination and assessment of the national labour market

Ghana lacks a comprehensive labour emigration policy. Very little has been done concerning the development of legal opportunities for labour emigration. Ghanaian authorities are yet to identify competences that can be promoted abroad, which is arguably the first step of a labour migration policy. With regard to identification and assessment of existing and potential new countries of destination, activities have been limited to a pilot labour market database on job-matching within the ECOWAS region. Promotion activities in countries of destination are non-existent, although a bilateral labour agreement is currently being negotiated with Italy.

Public employment services

Public Employment Centres currently do not play a significant role in the recruitment of Ghanaian workers for employment abroad. Within the AENEAS 2006 project, IOM assisted the Labour Department to implement a pilot project for the recruitment of workers for employment in Italy.

Private employment agencies

Ghanaian private employment agencies are active in the recruitment of migrant workers. Despite the existence of a licensing system, most agencies operate outside the scope of the law (127 agencies are licensed out of an estimated 250 operating agencies in the country). This number is even more worrying considering that some agencies are involved in human trafficking.

Regulation of private employment agencies’ activities is foreseen by the Labour Act of 2003 (Act 651) and its subsequent Labour Regulations of 2007 (LI 1833). Regarding conditions for issuing a licence, labour regulations impose a registration fee of 500 Ghana Cedis (180 USD). A security deposit of 25,000 Ghana Cedis (9,000 USD) is also requested. Licences are delivered for a period of one year, and are renewable. The Labour Act limits the recruitment activities of private employment agencies to countries with which Ghana has concluded labour migration agreements. To date, this would imply that private employment agencies can only operate with employers from ECOWAS Member States.

The labour regulations include a number of articles on foreign contracts. While some are well-grounded, for instance, the need for the endorsement of foreign contracts by the Labour Department and the

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593 Labour Regulations 2007 (LI 1833), art. 3(2).
594 While this constitutes a common practice, it is arguable that one year is too short a period, as this time frame may discourage agencies from developing proper business strategies and is likely to have a negative effect on recruitment fees – employment agencies will be tempted to maximise their profits within the shortest time possible.
595 Labour Act 2003 (Act 651), art. 7(5).
596 Labour Regulations 2007 (LI 1833), art. 27 - art. 37.
597 Ibid., art. 28; art. 30.
financial obligations of the employer regarding the travel of the worker, a number of these provisions are counterproductive, inapplicable in practice and may, in some cases, violate Ghana’s international obligations. This is the case regarding the prohibition to conclude foreign contracts for a period longer than one year (and exceptionally, two years). Moreover, the law should make clear that its provisions are to be explicitly included in the foreign work contract as in case of disputes, the labour legislation applicable is most likely to be that of the country of employment.

The collection of fees by private employment agencies from workers is authorised, and the labour legislation does not set ceilings. Monitoring activities are seldom considered by the legislation, which only refers to the submission of regular reports by agencies to the competent authorities regarding their activities.

4.6.2.3.2 Migration and development

Mobilising and channelling remittances for development

The regulation of remittances is mainly done through the Foreign Exchange Act 2006 (Act 723), which requires that payments in foreign currency “to or from Ghana between a resident and a non-resident, or between non-residents” are made through a bank, and that “each transfer of foreign exchange to or from Ghana [is] made through a person licensed to carry out the business of money transfers or any other authorised dealer”. No specific incentives and opportunities for investments by migrants exist. The draft National Migration Policy proposes measures to establish cost-effective and safe transfer services, and recognises the need to improve data collection and analysis on remittances.

Diaspora outreach and confidence-building measures

Over the past decade, Ghana has undertaken various efforts in order to reach out to its diaspora. In 2001, a large Homecoming Summit was organised to recognise and further strengthen the diaspora’s contribution to the country’s development. Despite the engagement of the state, this meeting did not result in the expected tangible results. Nevertheless, a number of confidence-building measures were adopted. The right to dual/multiple citizenship was recognised (Citizenship Act, 2000 (Act 591)), as well as the right of abode for those individuals who have lost Ghanaian nationality due to the acquisition of a foreign nationality and for persons “of African descent in the Diaspora” (Immigration Act 2000 (Act 573)). In this case, diaspora outreach includes a larger target group than the actual Ghanaian diaspora (Ghanaian emigrants and their descendants). In 2006, the Representation of the People (Amendment) Act (ROPAA, Act 699) recognised absentee voting rights. Furthermore, the Ghana’s Constitutional Review Commission (CRC) has increasingly consulted with members of the diaspora.

598 Ibid., art. 34. It must be noted, however, that the obligation of the employer to pay for the travel extends to the worker’s family members, which appears to be too high a standard to be fully implemented in practice.
599 Labour Regulations 2007 (LI 1833), art. 28.
600 The Labour Act 2003 (Act 651) only makes an indirect reference to fees collected by agencies. Art. 7(7): “An Agency shall refund fifty percent of the fees paid by a client to the Agency, if the Agency is unable to secure a job placement for the client after the expiration of three months”.
601 Ibid., pp. 55-56.
Beyond political engagement of the diaspora, a number of cultural and economic initiatives have been undertaken. Each year, the Ministry of Tourism organises Emancipation Day celebrations, which specifically target Afro-Americans – thus reaching out to the Ghanaian diaspora in the U.S.\(^{603}\) In 2007, a Golden Jubilee bond was launched to raise funds for infrastructural projects, which specifically targeted the diaspora.\(^{604}\) As a more sustainable strategy to attract investments from Ghanaians abroad, a Non-Resident Ghanaian Secretariat was set up within the Ghana Investment Promotion Centre. Its activities remained limited and are currently disrupted.\(^{605}\) Finally, the relations between diaspora associations and Ghanaians abroad and consular posts vary greatly from one country to another, depending on specific policies of the considered posts.\(^{606}\)

Despite these initiatives, a sound policy regarding the promotion of the diaspora’s contribution to the country’s development is yet to be adopted. This constitutes one of the directions of the draft National Migration Policy. The document also recognises the need for diaspora mapping, including its interests and capacities.\(^{607}\)

**Addressing the challenges of highly-skilled migration**

In order to limit the negative consequences of skilled migration, and to primarily retain health workers, Ghana has adopted measures to improve salaries, such as the additional duty hours allowance, which was eventually replaced by the Health Sector Salary Scheme.\(^{608}\)

Mention can also be made of the MIDA (Migration for Development in Africa) Ghana Health Project, which has been implemented by IOM in cooperation with the Ghanaian Ministry of Health and the Dutch embassy in Accra in 2005. Under this programme, Ghanaian and other African migrants living and working in the Netherlands and other EU countries can transfer knowledge, skills and experience through temporary assignments in Ghana. In addition, health workers from Ghana have the opportunity to do a specialised training at health care institutions in the Netherlands.

The draft National Migration Policy includes a number of guidelines to limit brain drain (financial incentives and, more generally, improved working conditions), so as to promote circulation and return of skilled migrants, and to avoid brain waste.\(^{609}\)

### 4.6.2.3.3 Migrants’ protection

**Dissemination of information**

Activities seeking to provide migrant workers with reliable and accurate information about the different aspects of the migration process are limited. Information campaigns through awareness raising via

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\(^{603}\) Quartey, P., 2009, op. cit., p. 78; ibid., p. 45.

\(^{604}\) Nilson, K., 2011, op. cit., p. 40.

\(^{605}\) Ibid, p. 41.


theatre plays, TV and radio shows, flyers, and advertising have been organised with the support of IOM, but no pre-employment programmes and pre-departure orientation courses have been organised on a regular basis. This situation may be regretful but can hardly be surprising. It is indeed difficult – if not inappropriate – to develop an information dissemination strategy when there is not an institutionalised recruitment system for migrant workers.

Protection in countries of destination

Protection activities by Ghanaian consular and diplomatic posts are limited. However, assistance in cases of international human trafficking has been provided. For example, in a case where children had been trafficked in Côte d’Ivoire, Ghanaian authorities organised the return of the victims, provided temporary shelter, medical screening and treatment, and conducted family tracing.10

Social security agreements

The absence of bilateral social security agreements is an important issue. In the vast majority of cases, migrant workers can only fully benefit from social security benefits when social security agreements are concluded. The absence of a system of maintenance of acquired rights and provision of benefits abroad, as well as of rights in course of acquisition, is likely to be a deterrent to the permanent return of migrants in Ghana.

4.6.3 International, regional, and bilateral cooperation

International conventions

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

- the International Covenant on Civil and Political Rights (1966);
- the International Covenant on Economic, Social and Cultural Rights (1966);
- the Convention on the Elimination of All Forms of Discrimination against Women (1979);
- the Convention on the Rights of the Child (1990);
- 51 ILO Conventions (Ghana has not ratified the two specific ILO conventions on migrant workers, C 97 (1949) and C 143 (1975));
- the Convention on the Protection of the Rights of All Migrant Workers and Members of their Families (1990); and

In addition to the global conventions listed above, Ghana is also bound by ECOWAS texts, including its Treaty (1957) and its subsequent protocols regarding free movement of persons, residence and establishment.

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10 For more details regarding Ghana’s human trafficking policy, see section 4.6.2.2.4.
Cooperation within the ECOWAS region

At regional level, cooperation efforts are primarily undertaken through ECOWAS, and, as a member state, Ghana is involved in different initiatives of the organisation related to migration, including the continuation of the MIDWA process. Cooperation in the area of transnational crime is particularly developed. Ghana is an active member of the West African Police Chiefs Committee (WAPCCO), an institution dedicated to fighting transnational organised crime, including the smuggling of migrants. The same issues are covered by a memorandum of understanding concluded with Togo in 2009, as well as through tripartite cooperation with Togo and Burkina Faso. Furthermore, Ghana’s authorities cooperate closely with Nigeria’s National Agency for the Prohibition of Trafficking in Persons and Other Related Matters (NAPTIP).

Bilateral agreements

Outside the ECOWAS region, the only bilateral agreement concerning migration that appears to be in force is one concluded with Italy in 2010 which focuses on border management. According to Ghana’s News Agency, the agreement establishes cooperation between the GIS and the Italian Public Security Department (IPSD) in order to enhance the capacities of Ghana’s law enforcement agencies on irregular migration and trafficking in persons: “the IPSD will train and provide technical and equipment support for the GIS and the Ghana Police Service to strengthen the border management systems as well as the enforcement capacities to combat cross border threats”. A bilateral labour agreement is currently being negotiated between the two countries.

At the end of the 1990s, bilateral labour agreements were concluded with the U.K. and Jamaica in order to organise the selection, recruitment and training of Ghanaian nurses for employment in these countries. Both agreements have since fallen into disuse.

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611 ICMPD, ‘MTM - i-map Ghana’.
4.6.4 References


### 4.6.5 List of interlocutors

<table>
<thead>
<tr>
<th>Name of respondent</th>
<th>Position</th>
<th>Institution</th>
</tr>
</thead>
<tbody>
<tr>
<td>Korletey, E.</td>
<td>Deputy Chief Officer, Labour Department</td>
<td>Ministry of Employment and Labour Relations</td>
</tr>
<tr>
<td>Asima, P.</td>
<td>Assistance Director, Policy Planning, Monitoring and Evaluation Unit</td>
<td>Ghana Immigration Services</td>
</tr>
<tr>
<td>Mpereh, M.</td>
<td>Principal Policy Analyst</td>
<td>National Development Planning Commission</td>
</tr>
<tr>
<td>Agorsor, D.</td>
<td>Director</td>
<td>Ministry of the Interior</td>
</tr>
<tr>
<td>Kwabena Acheampong, J.</td>
<td>Manager</td>
<td>Bank of Ghana</td>
</tr>
<tr>
<td>Kyei-Gyamfi, S.</td>
<td>Head of Information, Research and Advocacy Unit, Department of Children</td>
<td>Ministry of Gender, Children and Social Protection</td>
</tr>
<tr>
<td>Kwaku, Y.</td>
<td>Consultants, Diaspora Support Unit, Legal and Consular Bureau</td>
<td>Ministry of Foreign Affairs and Regional Integration</td>
</tr>
<tr>
<td>G. OdeiGyebi</td>
<td>Principal Statistician, Statistical Production Unit</td>
<td>Ghana Statistical Service</td>
</tr>
</tbody>
</table>
4.7 Guinea

4.7.1 Migration trends

4.7.1.1 Immigration

The latest reliable data on immigration and the presence of foreigners in Guinea is some 18 years old and was collected through the 1996 General Population and Housing Census (RGPH).

<table>
<thead>
<tr>
<th>Data</th>
<th>Year</th>
<th>Absolute numbers</th>
<th>% of the total population</th>
</tr>
</thead>
<tbody>
<tr>
<td>General Population and Housing Census (RGPH)</td>
<td>1996</td>
<td>264,787 foreigners, excluding refugees</td>
<td>3.7%</td>
</tr>
</tbody>
</table>

4.7.1.1.1 Characteristics of immigrants/foreigners

- **Countries of origin:**
  - In 1996, the overwhelming majority of foreigners were Liberians (48.3%) and Sierra Leoneans (40%).
  - The remaining foreigner stock was made up of mainly ECOWAS Member States nationals (8.7%), including Senegalese, Malians, Ivorians, and Bissau-Guineans.
  - As well as the foreigners recorded in the RGPH, an estimated 650,000 refugees from Liberia (400,000) and Sierra Leone (250,000) were residing in the country.
  - During the past decade, most refugees have returned to their country of nationality.

- **Additional characteristics of immigrants/foreigners:**
  - The RGPH 1996 provides little information regarding the foreign population in Guinea. Although subsequent analysis published in 2000 focuses on migration, it does not distinguish between nationals and foreigners and therefore cannot be considered within the framework of the present study.
  - It is likely that the majority of foreigners are employed within the informal economy: in the mining sector, in the fishing industry, in small businesses, and in trade.

- **Vulnerable groups:**
  - Trafficking in persons appears to be mainly an internal phenomenon affecting children.
  - The U.S. Department of State’s *Trafficking in Persons Report 2013* identifies the following forms of international trafficking in Guinea:
    - Children from Mauritania, Costa Rica, Cape Verde, Mali, Gabon, Senegal, and Ghana have been identified as child trafficking victims within Guinea. A small number of girls from Mali, Sierra Leone, Nigeria, Ghana, Liberia, Senegal, Burkina Faso, and Guinea-Bissau migrate to Guinea, where they are subjected to domestic servitude and likely also to commercial sexual exploitation.

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614 After the end of data collection for the present study, a new population census took place.
615 Recensement général de la population et de l’habitation.
617 Ibid.
618 Ibid., p. 47.
620 UNHCR, Towards the Local Integration of Liberian and Sierra Leonean refugees in West Africa through enhancing self-reliance and promoting Regional integration: Regional Framework, 2008.
4.7.1.2 Emigration

<table>
<thead>
<tr>
<th>Data</th>
<th>Year</th>
<th>Estimates</th>
</tr>
</thead>
<tbody>
<tr>
<td>General estimates from research reports</td>
<td>Mid-1990s</td>
<td>Over one million nationals abroad</td>
</tr>
</tbody>
</table>

Similar to that which relates to immigration, national data on emigration of Guinea nationals is scarce and outdated. Data which may have been collected by Guinean consular and diplomatic posts has not been made available. The only census that included an international emigration component, the Migration and Urbanization Survey,\textsuperscript{178} dates back from 1992/1993. This Survey, however, does provide some initial indications that can be complemented by more recent data from countries of destination.

4.7.1.2.1 Characteristics of emigrants/nationals abroad

- Traditionally, Senegal is the main country of destination for Guinean migrants. Since the independence of the country, destinations have diversified to include Côte d’Ivoire, Mali, Sierra Leone, Liberia, Guinea-Bissau, the Gambia, Gabon, and Mauritania.\textsuperscript{625}
- Senegal and Côte d’Ivoire remain the two main countries of residence of Guinean nationals abroad. Although no precise estimate can be provided, it is generally well known that Guineans are the main foreign community in Senegal.\textsuperscript{626}
- With regard to Côte d’Ivoire, the National Population and Housing Census of 1998 estimated the Guinean population at 220,000 (5.5% of foreigners in the country).
- Emigration towards EU Member States and the U.S. is far lower. In the mid-1990s, only 2% of Guinean emigrants were established in EU Member States and the U.S.\textsuperscript{627}
- According to the OECD international migration database, the first non-African country of residence of Guineans is France, with an estimated 25,500 nationals in 2009.\textsuperscript{628} Spain is the second largest host country for Guinean migrants, with an estimated 12,311 residents in 2011. Italy, which has attracted significant Western African migration flows over the past decade, only recorded 3,400 Guinean nationals in 2010. The other main countries of destination are Belgium – 6,500 registered Guineans in 2011 – and Germany – 3,700 in 2011.
- According to the Sussex Development Research Centre on Migration, Globalisation and Poverty (Migration DRC), a little fewer than 7,000 Guinean emigrants were residing in the U.S. in 2007.\textsuperscript{629} However, this later estimate has to be taken with caution, given that it may include Liberian and Sierra Leonean refugees born in Guinea.


\textsuperscript{624} Enquête sur les migrations et l’urbanisation.

\textsuperscript{625} Lefebvre, G., 2003, op. cit., pp. 159-198.


\textsuperscript{627} Lefebvre, G., 2003, op. cit., pp. 159-198.

\textsuperscript{628} OECD, ‘International Migration Database’. The OECD migration database collects information on stay/resident permits and population registers. It must be noted that naturalisations of Guineans in France – which leads to their removal from the foreigners register – are not insignificant, with an average of more than 500 per year from 2001 to 2011.

\textsuperscript{629} University of Sussex, Development Research Centre, ‘Global Migrant Origin Database’, 2007.
Education level/ sectors of employment:

- Migration towards Senegal is traditionally based on seasonal movements (referred to as navétanat). Over time, seasonal migration evolved towards more permanent settlements abroad. In addition to this, and although agriculture-related migration remained important, there occurred increased movements towards the cities, primarily Dakar, implying employment in small trade and businesses.\(^{630}\)
- The existence and extent of the brain drain phenomenon remains unknown. With regard to the health sector, OECD data shows a rather limited risk of brain drain: circa 2000, the emigration rate of medical doctors was 9.1% and that of nurses 2.1%.\(^{631}\)

Remittances:

- According to the latest World Bank estimates, 72 million USD was remitted to Guinea in 2013, which corresponds to 1% of the GDP.\(^{632}\)
- National authorities estimate the amount of informal transfers at 200 million USD per year.

Vulnerable groups:

International trafficking of Guineans includes:

- boys sent to Senegal for Koranic education (talibés) that may be subjected to forced begging;
- children forced into labour in West African countries such as Senegal and Mali; and
- girls and women subjected to domestic servitude and sex exploitation in Nigeria, Côte d’Ivoire, Benin, Senegal, EU Member States, and the Middle East.\(^{633}\)

### 4.7.2 Migration policy

The attitude of the Guinean government towards migration management is somewhat paradoxical. Even though Guinea is more a country of origin rather than of destination, immigration legislation is well-established, while emigration policies are lacking. At the same time, immigration is not considered a significant political issue. Emigration, on the contrary, attracts more interest from national authorities. To date, however, little has been done regarding this. Having said that, the national authorities are planning to include migration-related issues in the national development plan and develop a national migration policy. The organising of a mapping of the country’s diaspora and the supporting of engagement with Guineans residing abroad, so as to reap the benefits in terms of economic and social development, is also envisioned.

#### 4.7.2.1 Institutional framework on migration

**Governmental stakeholders involved**

<table>
<thead>
<tr>
<th>Ministry</th>
<th>Agency, Directorate, Unit</th>
<th>Responsibilities</th>
</tr>
</thead>
<tbody>
<tr>
<td>Ministry of Security and Civil Protection(^{634})</td>
<td>Central Directorate for Air and Border Police(^{635})</td>
<td>Immigration management</td>
</tr>
<tr>
<td></td>
<td>Office for the Protection of Gender, Children and Morals(^{636})</td>
<td>Fight against trafficking in persons</td>
</tr>
</tbody>
</table>

\(^{630}\) Lefebvre, G., 2003, op. cit., pp. 159-198.


\(^{633}\) U.S Department of State, 2013, op. cit., p. 183.

\(^{634}\) Ministère de la Sécurité et de la Protection civile.

\(^{635}\) Direction centrale de la Police de l’air et des frontières.

\(^{636}\) Office de protection du genre, de l’enfance et des moeurs.
### Table: Main Institutes Involved in Migration Policies in Guinea

<table>
<thead>
<tr>
<th>Ministry of Employment, Vocational and Technical Education(^{637})</th>
<th>Guinean Agency for the Promotion of Employment(^{638})</th>
<th>Delivery of work authorisation to foreign workers</th>
<th>Ministry of Foreign Affairs and Guineans Abroad(^{639})</th>
<th>Relations of the state with the diaspora and the protection of nationals abroad</th>
</tr>
</thead>
</table>

**Inter-institutional coordination**

Migration management in Guinea is undertaken by distinct ministries and public institutions, with there being little consultation or cooperation between them. An inter-ministerial commission has been set up to develop a national migration policy.

**Main non-governmental institutions involved**

The national authorities cooperate with NGOs such as Sabou Guinée, Le Monde des Enfants, Réseau Afrique Jeunesse de Guinée (RAJGUI), and Réseau des Femmes du Fleuve Mano pour la Paix (REFMAP), especially on issues regarding trafficking in persons.

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\(^{637}\) Ministère de l’Emploi, de l’Enseignement technique et de la Formation professionnelle.

\(^{638}\) Agence guinéenne pour la promotion de l’emploi or AGUIPE.

\(^{639}\) Ministère des Affaires étrangères et des Guinéens de l’étranger.
### 4.7.2.2 Immigration: national policy framework and institutional practices

#### 4.7.2.2.1 General immigration provisions

<table>
<thead>
<tr>
<th>Legislation/Policy Framework</th>
<th>Description</th>
</tr>
</thead>
</table>
| **Law L/94/019/CTRN of 13 June 1994 on the Conditions of Entry and Stay of Foreigners in Republic of Guinea**<sup>640</sup> | **Entry**  
*Art. 3: Art. 5:* By principle, entry of foreigners to the national territory is subject to the delivery of a visa, either abroad through diplomatic and consular posts or upon arrival by the Ministry of Security and Civil Protection.  
*Art. 21:* An entry visa may authorise a stay of a maximum period of 90 days, which can be extended once.

**Stay and residence**

*Art. 26:* For a longer period of stay, foreigners are required to obtain a long-stay visa, a resident card<sup>641</sup> and, in the case of employment, a foreigner’s card.<sup>642</sup>  
The legislation distinguishes between three types of residents, who are granted three distinct stay permits:  
- foreign experts<sup>643</sup> employed by public authorities;  
- foreign residents<sup>644</sup> and  
- privileged foreign residents.<sup>645</sup>

*Art. 30:* The duration of validity of the stay permit granted to foreign experts<sup>646</sup> depends on the duration of their employment.  
*Art. 33:* Foreign residents’ permits are granted for a duration of one to three years, and are renewable.<sup>647</sup>  
*Art. 34:* Privileged foreign residents include religious missionaries, foreigners married to Guinean nationals, foreigners with a Guinean parent, students, and foreigners involved in economic activities related to “the national economic promotion” and who have resided in the country for a minimum of 10 years.  
The rights attached to their stay permit<sup>648</sup> are not foreseen by the legislation.  
*Art. 38:* The delivery of stay permits are by principle conditioned by the production of a medical certificate, an extract from the police record and the payment of fees. Foreign experts are exempted from these requirements and most privileged residents are not subject to permit fees.

The possibility of family reunification is implied in the case of foreign experts.<sup>649</sup> In other cases, family migration is only considered for family members of Guinean nationals. The specific status of ECOWAS Member States’ nationals is not explicitly defined. The legislation nevertheless states that nationals from countries with which Guinea has concluded reciprocal agreements on the matter of family reunification are not requested to obtain a resident card.<sup>650</sup>

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<sup>640</sup> Loi L/94/019/CTRN du 13 juin 1994 portant conditions d’entrée et de séjour des étrangers en République de Guinée.

<sup>641</sup> Carte de résident.

<sup>642</sup> Carnet d’étranger.

<sup>643</sup> Experts étrangers.

<sup>644</sup> Étrangers résidents.

<sup>645</sup> Étrangers résidents privilégiés.

<sup>646</sup> Carte d’expert étranger résident.

<sup>647</sup> Carte d’étranger résident.

<sup>648</sup> Carte de résident privilégié.

<sup>649</sup> Law L/94/019/CTRN of 13 June 1994 on the Conditions of Entry and Stay of Foreigners in Republic of Guinea, art. 32.

<sup>650</sup> Ibid., art. 27.
4.7.2.2 Labour migration

Access to national labour market

<table>
<thead>
<tr>
<th>Legislation/Policy Framework</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>Art. 58:</td>
<td>An employer seeking to engage a foreigner must obtain a work authorisation from the Guinean Agency for the Promotion of Employment (AGUIPE).</td>
</tr>
<tr>
<td>Art. 131.1:</td>
<td>ECOWAS Member States nationals are not subject to the obligation to obtain a work authorisation (the conditions described below apply to workers from third countries).</td>
</tr>
<tr>
<td>Art. 131.3:</td>
<td>The decision of AGUIPE is to be made within 30 days. The granting of a long-stay visa – a condition of stay in Guinea – to a foreign worker is subject to the prior delivery of the work authorisation.</td>
</tr>
<tr>
<td>Art. 131.4:</td>
<td>In the case that the employer does not comply with the work authorisation obligations, he/she is held responsible for the repatriation of the worker.</td>
</tr>
<tr>
<td>Art. 131.2:</td>
<td>Work contracts concluded with foreign nationals cannot extend to a period of over four years.</td>
</tr>
</tbody>
</table>

Although the conditions of delivery of the work authorisation – for instance, the implementation of a labour market test – are not explicitly foreseen by the legislation, the new Labour Code adopted in 2014 presents a significant improvement: it explicitly provides for the free access of ECOWAS Member States nationals to the Guinean labour market.

Rights within employment

<table>
<thead>
<tr>
<th>Legislation/Policy Framework</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>Art. 1:</td>
<td>provides for equal treatment with nationals. Foreigners, regardless of their legal status, benefit from all obligations and rights from the labour legislation as a principle.</td>
</tr>
<tr>
<td>Art. 322.4:</td>
<td>includes an exception to the principle of equal treatment. While all foreigners can join a trade union, only those who have stayed in Guinea for a minimum of three years can fulfil administrative or directing functions. This obligation does not apply to nationals of countries:</td>
</tr>
<tr>
<td>• with which agreements that include reciprocity clauses have been concluded; and</td>
<td></td>
</tr>
<tr>
<td>• which do not have national legislation limiting the fulfilling of administrative and directing functions of trade unions.</td>
<td></td>
</tr>
</tbody>
</table>

4.7.2.3 Irregular migration

<table>
<thead>
<tr>
<th>Legislation/Policy Framework</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>Art. 65; Art. 66; Art. 71:</td>
<td>Deportation is foreseen in case of irregular entry or stay.</td>
</tr>
<tr>
<td>Art. 67:</td>
<td>Expulsion applies to foreigners who pose a threat to public order, have been penalised or have remained on the national territory despite the refusal/removal of the stay permit.</td>
</tr>
<tr>
<td>Art. 70:</td>
<td>Exit bans are applicable in case of prosecution and violation of the immigration legislation.</td>
</tr>
<tr>
<td>Art. 73 to Art. 75:</td>
<td>Irregular stay, the use of fraudulent documentation and employment of irregular migrants are punishable by fines and, in certain cases, by one to five years of imprisonment.</td>
</tr>
</tbody>
</table>
Despite the existence of strict regulations, irregular migration is not considered a significant political issue by national authorities, and in practice, migrants in an irregular situation, especially nationals from ECOWAS Member States, are tolerated in Guinea.

4.7.2.2.4 Migrants at risk

Although Guinea has ratified the Palermo Protocol on trafficking in persons, it has yet to adopt a specific legislation in this regard. However, the Labour Code prohibits all forms of forced labour, the Penal Code condemns agreements that deprive third parties of their liberty, prescribing penalties of five to 10 years’ imprisonment, and the Child Code prohibits all forms of child trafficking – as per the international definition of the crime – and foresees penalties of three years to lifetime imprisonment for perpetrators.

A National Action Plan 2009-2013 has been adopted and a National Committee to Fight against Trafficking in Persons has been established, although its activities have remained limited. Within the police forces, an Office for the Protection of Gender, Children and Morals exists and includes a specific unit dedicated to fighting trafficking.

With regard to prosecution of trafficking activities, limited results appear to have been achieved over the past few years. Regarding protection, national authorities rely mainly on NGOs, with which formalised referral mechanisms have yet to be developed. In recent years, several nationwide awareness campaigns have been organised.

4.7.2.3 Emigration

4.7.2.3.1 Labour migration

National authorities are yet to identify competencies that can be promoted abroad, as well as those for which promotion should not be undertaken. Activities related to the identification and assessment of existing and potential new countries of destination are non-existent and public employment services do not have the means to match demand and supply on the international labour market.

In 2006, Guinea concluded a rather comprehensive migration-related bilateral agreement with Spain. This agreement, however, does not provide privileged access to the national labour market but instead includes a series of provisions that are favourable to Guinea. It envisions the promotion of labour migration on the basis of labour market studies and the communication by the Spanish authorities of job

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651 Labour Code, 1988, art. 2.
654 Comité national de lutte contre la traite des personnes.
656 Office de protection du genre, de l’enfance et des mœurs or OPROGEM.
657 Ibid.
658 Ibid.
659 Acuerdo de Cooperacion en material de inmigracion entra Espana y Guinea, 9 de octubre de 2006.
vacancies to their Guinean counterparts. The implementation of these provisions is, however, difficult, given the low capacities of the Guinean authorities in this respect. It is worth noting that the agreement makes reference to technical assistance for the development of migration management capacities in Guinea.

4.7.2.3.2 Migration and development

A migration and development policy has yet to be developed. There are no mechanisms to facilitate the involvement of the diaspora in the economic and social life of Guinea. Efforts are starting to be made for a better inclusion of nationals residing abroad within the political, economic and social life of the country. In 2010, a Minister Delegate for Guineans Abroad was appointed, and in May 2013, an agreement was concluded with the French Coordination of Guinean Associations. Mechanisms to better channel migrants’ remittances are limited, although a Memorandum of Understanding has been concluded with the Banque Populaire Maroco Guinéenne in this regard. The issue of brain drain has not been addressed at political level yet. The agreement between Guinea and Spain addresses the provision of technical assistance for the improvement of transfer services, the stimulation of remittances’ development potential, and, more generally, the engagement of the diaspora for the economic and social development of Guinea.

4.7.2.3.3 Migrants’ protection

Guinean diplomatic and consular posts do not provide a significant level of assistance services to their nationals abroad. Most protection-related efforts concern victims of trafficking (see section 4.7.2.2.4). The bilateral agreement concluded with Spain includes several provisions regarding protection, such as pre-departure training for migrants and further training upon arrival in Spain, with a view to facilitating their integration in the country of destination. It also pledges assistance to Guinean authorities with regard to anti-trafficking policies.

Guinea has not concluded any social security agreements with France, one of the main countries of destination and residence for its nationals, and it is not part of the CIPRES Convention.

4.7.3 International, regional, and bilateral cooperation

International conventions

Guinea has ratified all the main international conventions protecting human rights in general and migrants’ rights, more specifically, these include:

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660 Ibid., art. 3.
661 Ibid., art. 7.
662 Coordination des associations guinéennes en France or CAGF.
663 Acuerdo de Cooperacion en material de inmigracion entra Espana y Guinea, 9 de octubre de 2006, art. 6.
664 Ibid., art. 8.
665 Convention multilatérale de sécurité sociale de la Conférence interafricaine de la prévoyance sociale.
the International Covenant on Civil and Political Rights (1966);
the International Covenant on Economic, Social and Cultural Rights (1966);
the Convention on the Elimination of All Forms of Discrimination against Women (1979);
the Convention on the Rights of the Child (1989);
58 ILO Conventions (including ILO convention C 143 (1975) on migrant workers);
the United Nations Convention on the Protection of the Rights of All Migrant Workers and Members of their Families (1990); and

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

Bilateral agreements

Guinea’s institutionalised bilateral relations on migration-related matters are limited. The absence of agreements on entry, stay, and social security with such an important country of destination as France, is noteworthy. The main bilateral agreements which have been concluded are with Switzerland in 2011 and Spain in 2006.

Regarding entry and stay of Guineans in Switzerland, the agreement generally refers to the applicable national legislation. It nevertheless also states that “stay permit applications from Guinean nationals will be considered with care, diligence and goodwill”.\textsuperscript{666} The agreement includes a number of mechanisms to facilitate the reintegration of voluntary returnees in Guinea, including the payment of travel costs by Switzerland, a financial reinstallation grant, and assistance to the development of individual economic projects in Guinea.\textsuperscript{667} Assistance to Guinean national authorities in the development of migration management capacities is also envisioned, as are cooperation mechanisms to address challenges regarding irregular migration, smuggling of migrants and trafficking in persons.\textsuperscript{668} The agreement also includes classical readmission provisions.\textsuperscript{669}

The agreement concluded with Spain includes similar provisions as the convention with Switzerland, but is more comprehensive in character. As noted above, it also includes a number of provisions regarding labour migration, integration of Guineans in Spain and assistance in the field of trafficking in persons.\textsuperscript{670}

\textsuperscript{666} Accord de coopération en matière de migration entre la Guinée et la Suisse, 2011, art. 3 (2).
\textsuperscript{667} Ibid., art. 7; art. 8.
\textsuperscript{668} Ibid., art. 11.
\textsuperscript{669} Ibid., art. 12.
\textsuperscript{670} See section 4.7.2.3.
4.7.4 References


UNHCR, Towards the Local Integration of Liberian and Sierra Leonean refugees in West Africa through enhancing self-reliance and promoting Regional integration: Regional Framework, 2008.


### 4.7.5 List of interlocutors

<table>
<thead>
<tr>
<th>Name of respondent</th>
<th>Position</th>
<th>Institution</th>
</tr>
</thead>
<tbody>
<tr>
<td>A. Balde</td>
<td>Director of Legal Affairs</td>
<td>The Ministry of Foreign Affairs and Guineans Abroad^671</td>
</tr>
<tr>
<td>C. Kourouma</td>
<td>Adviser on migration and security</td>
<td>Delegated Ministry for Guineans Abroad^672</td>
</tr>
<tr>
<td>H. Oumou Bah</td>
<td>Deputy Director General for African integration</td>
<td>Ministry of International Cooperation^673</td>
</tr>
<tr>
<td>M. Kourouma</td>
<td>Secretary General</td>
<td>Ministry of Justice^674</td>
</tr>
<tr>
<td>S. Konate</td>
<td>Director, Office of Strategy and Development</td>
<td>Ministry of Social Affairs, Promotion of Women and Children^675</td>
</tr>
<tr>
<td>E.A.M.B. Sow</td>
<td>Central Directorate of Police and Air Borders</td>
<td>Ministry of Security, Civil Protection and Security Reform^676</td>
</tr>
<tr>
<td>M. Kaba</td>
<td>Guinean Agency for the Promotion of Employment</td>
<td>Ministry of Employment, Vocational and Technical Education^677</td>
</tr>
<tr>
<td>M.B. Diallo</td>
<td>National Statistics Institute</td>
<td>Ministry of Planning^678</td>
</tr>
<tr>
<td>J. Lama</td>
<td>National Director for Economy, Research and Prospects</td>
<td>Ministry of Economy and Finances^679</td>
</tr>
</tbody>
</table>

^671 Ministère des Affaires étrangères et des Guinéens de l’étranger.
^672 Ministère délégué des Guinéens de l’étranger.
^673 Ministère de la Coopération internationale.
^674 Ministère de la Justice.
^675 Ministère des Affaires sociales de la Promotion féminine et de l’Enfance.
^676 Ministère de la sécurité, de la Protection civile et de la Réforme des services de sécurité.
^677 Ministère de l’Emploi, de l’Enseignement technique et de la Formation professionnelle.
^678 Ministère du Plan.
^679 Ministère de l’Economie et des Finances.
^680 Banque Centrale de la République de Guinée.
4.8 Guinea-Bissau

4.8.1 Migration trends

4.8.1.1 Immigration

Very little is known about immigration in Guinea-Bissau. The existing literature makes no reference to the subject, which tends to substantiate the idea that it is a limited phenomenon. Such an assumption could be confirmed by the latest National Population and Housing Census (2009), which recorded only 1,316 foreign immigrants. However, the census only considered foreigners born abroad,\textsuperscript{681} which naturally leads to an underestimation of the foreign population residing in Guinea-Bissau. Other estimates provided by officials interviewed for the purpose of the present study suggest the existence of a much larger foreign community: around 55,000 foreigners in a regular situation (3.5% of the total population) and as many as 250,000 foreigners residing irregularly in the country (some 16% of the total population). If these estimates are correct, Guinea-Bissau is an important country of destination in West Africa. It has not been possible, however, to verify these estimates. One has to recognise that there is currently no means to measure, even in an approximate manner, the extent to which foreigners are present in Guinea-Bissau.

<table>
<thead>
<tr>
<th>Data</th>
<th>Year</th>
<th>Absolute numbers</th>
<th>% of the Total Population</th>
</tr>
</thead>
<tbody>
<tr>
<td>National Population and Housing Census</td>
<td>2009</td>
<td>1,316 foreign immigrants\textsuperscript{682}</td>
<td>0.1%</td>
</tr>
<tr>
<td>Interviewed officials</td>
<td>2013</td>
<td>around 55,000 foreigners (in a regular situation) and an estimated 250,000 foreigners in an irregular situation</td>
<td>19.5%</td>
</tr>
</tbody>
</table>

4.8.1.1.1 Characteristics of immigrants/foreigners

- **Countries of origin:**
  - The National Population and Housing Census shows the main countries of origin of immigrants as being: Guinea, Mauritania, and Senegal.\textsuperscript{683} According to state officials interviewed, the presence of immigrants from China, Portugal, Brazil, and Lebanon has also been noted.

- **Socio-economic profile and sectors of employment:**
  - According to state officials interviewed, immigrants in the country work mainly in the construction, trade, and fishing sector, as well as the banking sector.

- **Vulnerable groups:**
  - Regarding trafficking in persons, there seems to be no evidence to consider Guinea-Bissau as a country of destination, according to the U.S. Government.\textsuperscript{684} The cases that received the most attention were internal trafficking cases, largely of child victims. In addition, in the case of international trafficking, Guinea-Bissau was mostly the country of transit towards neighbouring Senegal and Guinea.\textsuperscript{685}

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\textsuperscript{681} Instituto nacional de estatística, Terceiro Recenseamento geral da população e habitação de 2009, Migrações, 2009, p. 34.
\textsuperscript{682} Ibid., p. 32.
\textsuperscript{683} Ibid., p. 33.
\textsuperscript{685} ECOWAS TIP Unit, Annual Synthesis Report on the implementation of the ECOWAS plan of action to combat trafficking in persons 2012-2013, forthcoming 2014.
4.8.1.2 Emigration

Guinea-Bissau has a long history of emigration. From the mid-19th century to the independence of the country (declared in 1973 and recognised by Portugal in 1974), emigration flows were primarily directed towards neighbouring Senegal, where migrants were employed in groundnut and rubber tree plantations. Senegal also served for some as a base for subsequent re-emigration towards France.686

After independence, migration flows towards Senegal and France continued, although they gradually decreased.687 The main change in the categorisation of the emigration that occurred after independence was the classification of the migration flow towards Portugal, the former colonial power, as being emigration to a foreign country. Initially, in the 1970's, migration flows were composed of so-called “Luso-Guineans”, or “returnees”, individuals – a majority of whom were of European-Portuguese descent - of high social status and connected to the ex-colonial regime. The 1980s saw a second wave of Bissau-Guinean migrants to Portugal whom were generally less educated and more diversified with regard to their geographical and ethnic origins.688

During the 2000s, emigration further diversified. In Europe, Portugal remained the main country of destination. However, some re-emigration from Portugal to other countries occurred, as well as direct migration to other, more economically attractive, European destinations.689 In Africa, Cape Verde continued to be an important country of destination because of its historical and cultural connection to Guinea-Bissau, and Angola was also an attractive destination for Bissau-Guinean emigrants due to its economy and common history of Portuguese colonisation. Due to the facility of circulation to other ECOWAS Member States, states such as Guinea, Burkina Faso, and Ghana also received Bissau-Guinean migrants.690

Although the general patterns of Bissau-Guinean migration flows are known, it is difficult to present an estimate of the current emigrant stock of Bissau-Guinean emigrants abroad. It is notably arduous to assess whether estimates only consider nationals with Bissau-Guinean citizenship residing abroad or also include individuals who are of Bissau-Guinean origin but do not hold the nationality of the country, especially because the decolonisation process in the 1970’s resulted in cases of statelessness among those from countries which became independent from Portugal. According to estimates by state officials interviewed for this report, the number of Bissau-Guinean emigrants is more than 100,000.

688 Ibid., p. 165, p. 167.
690 Sangreman, C. et. al., 2013, op. cit., p. 22.
691 The implementation of a rather restrictive legislation on nationality (see section 4.8.2.3.2) is indeed likely to have deprived migrants and their descendants of Bissau-Guinean nationality.
A Survey on Migration Policies in West Africa

<table>
<thead>
<tr>
<th>Data</th>
<th>Year</th>
<th>Estimates</th>
</tr>
</thead>
<tbody>
<tr>
<td>Guinea-Bissau, European Commission</td>
<td>2008</td>
<td>272,000 regular migrants (stock) residing in the EU</td>
</tr>
<tr>
<td>National Population and Housing Census</td>
<td>2009</td>
<td>186,865 migrants went abroad during the five years preceding the survey completion (stock)</td>
</tr>
</tbody>
</table>

4.8.1.2.1 Characteristics of emigrants/nationals abroad

- A minimum of around 33,000 Bissau-Guinean citizens reside in Senegal and around 10,000 nationals reside in Cape Verde. Among the other ECOWAS Member States, Guinea (around 7,000 Bissau-Guinean nationals), Burkina Faso (around 7,500), and Ghana (around 6,000) are significant countries of destination and residence. Besides these countries, The Gambia, Côte D’Ivoire, Togo, and Mali, were also mentioned in the interviews for this report. According to state officials interviewed, there are also Bissau-Guinean migrants in Mauritania, Angola and Morocco (especially students).

- As for the Bissau-Guinean communities in OECD Member States, estimates can be conflicting. According to the OECD Migration Database, around 19,000 nationals were estimated to be residing in Portugal in 2011. However, according to Abreu, between 40,000 and 50,000 Bissau-Guineans reside in Portugal. The most recent statistical data from the Portuguese Foreigners and Borders Service (SEF) for the year 2013 indicates a total of 17,846 Bissau-Guineans with residence documents. This number does not include immigrants without documents, nor Bissau-Guineans that have acquired Portuguese citizenship. Many nationals of Guinea-Bissau have also followed the migratory tendency of many Cape Verdians, namely of re-emigrating from Portugal to the U.S.

- France is considered to be the other important country of residence of Bissau-Guineans within the OECD. However, the OECD Migration Database shows an extremely low number of residents: 523 in 2009. This may be explained by the fact that Bissau-Guinean migration to France is an old phenomenon and that, as a consequence, naturalisations have become significant over time. Abreu provides an estimate of 50,000 Bissau-Guineans residing in France, although it is again not clear whether such data includes only nationals of Guinea-Bissau or all individuals of Bissau-Guinean origin.

- Spain is a more recent country of destination, where, in 2011, around 5,400 migrants in a regular situation were recorded. After a peak period of approximately 1,000 inflows per year between 2004 and 2008, migration has subsequently decreased. In Europe, state officials interviewed also mentioned the U.K., Luxembourg, the Netherlands, and Switzerland as countries of destination.

- In Latin America, only Brazil is a country of destination for a significant number of migrants from Guinea-Bissau.

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693 Instituto nacional de estatística, 2009, op. cit., p. 44.
695 Ibid., p. 171.
696 Ibid.
697 OECD, ‘International Migration Database’. The OECD migration database collects information on stay/resident permits and population registers.
700 Ibid., p. 171; Sangreman, C. et. al., 2013, op. cit., p. 27.
702 OECD, ‘International Migration Database’.
Lower- and higher-skilled migrants are overrepresented. In Cape Verde, Bissau-Guinean migrants are generally lower skilled and in an irregular situation. Higher-skilled nationals (a minority) appear to find themselves in a regular situation and work in occupations such as school teaching. The lower-skilled migrants tend to work mostly in construction and agriculture. According to state officials interviewed, in Senegal they also work in the banking sector.

In Portugal, Bissau-Guineans are primarily employed in construction, the hospitality sector, and domestic work. The migration of skilled individuals mainly concerns health professionals and high school teachers, but also lawyers, according to the interviewed state officials. In 2012, there were more Bissau-Guinean medical doctors in Portugal than in Guinea-Bissau.

OECD data has estimated the emigration rate of medical doctors at 49.2% and that of nurses at 18%. It should be underlined that such data does not include nationals who studied abroad and did not return to their country of origin.

As a general rule, health professionals are well integrated in the labour market of their country of residence. On the contrary, other higher-skilled nationals residing abroad tend to have high underemployment rates.

The World Bank has estimated the amount of remittances sent to the country at 49 million USD in 2013, corresponding to 5.1% of GDP. According to Abreu, remittances, including informal remittances, may constitute as much as 14-16% of GDP.

The majority of recorded remittances are sent from EU Member States – mainly from Portugal, France, and Spain. Only 18% is believed to originate from other African countries.

The Central Bank of the West African States (BCAEO) is responsible for collecting data on remittances transferred by formal methods and it indicated that remittances represented 4% of the country’s GDP in 2012.

Remittances are primarily used for food, health, education, and consumption purposes. Economic investments using remittances tend to centre on the construction sector, the acquisition of land for agricultural purposes, and small businesses such as shops, restaurants, and taxis. Community projects initiated by diaspora associations mainly concern education – including investments in education infrastructures and the payment of teachers’ salaries – and, to a lesser extent, the health sector.

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706 Sangreman, C. et. al., 2013, op. cit., p. 42.
709 Ibid., p. 176.
According to the available information, international trafficking of Bissau-Guineans primarily concerns children. The most reported phenomenon is where boys are sent to Senegal – and to a lesser extent to Guinea and Mali – for Koranic education (the boys are named talibés and the teachers marabouts) where they may be subjected to forced begging.712 The U.S. Department of State Trafficking in Persons Reports mentions also the existence of boys exploited in manual and agricultural work in Senegal as well as girls subjected to domestic servitude, and, in fewer cases, to commercial sexual exploitation in Senegal, and Guinea.713

Very little information on adult trafficking is available, which might lead to an underestimating of the phenomenon.

### 4.8.2 Migration policy

Whilst Guinea-Bissau does not have a migration policy in force, it is currently planning to develop one.714 Political will is particular visible in the areas of trafficking in persons and migration and development. The objective of channelling remittances into the economic and social development of the country is mentioned in the national development plan (DENARP II 2011-2015).715

#### 4.8.2.1 Institutional framework on migration

**Governmental stakeholders involved**

<table>
<thead>
<tr>
<th>Ministry</th>
<th>Agency, Directorate, Unit</th>
<th>Responsibilities</th>
</tr>
</thead>
<tbody>
<tr>
<td>Ministry of Internal Administration716</td>
<td>General Directorate for Immigration and Borders717</td>
<td>Immigration management</td>
</tr>
<tr>
<td>Ministry of Foreign Affairs, International Cooperation and Communities718</td>
<td>General Directorate for Communities719 General Directorate for Consular Assistance and Treaties720</td>
<td>Relations of the state with the diaspora Protection of nationals abroad</td>
</tr>
<tr>
<td>Ministry of Women, Family and Social Solidarity721</td>
<td>National Institute of Women and Children722</td>
<td>Fight against trafficking in persons</td>
</tr>
</tbody>
</table>

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712 As noted by Einarsdóttir et. al., parents and local communities may not consider this phenomenon as a form of exploitation: “Parents send their children away with their best interests in mind, wanting them to return home and become respected members of the community. They accept suffering as part of acquiring knowledge, while begging is a means to finance their studies.” Einarsdóttir, J. et al., *Child Trafficking in Guinea-Bissau, an Explorative Study*, UNICEF, 2010, p. viii. See also: ECOWAS TIP Unit, forthcoming 2014, op. cit.


714 According to the state officials interviewed, Guinea-Bissau presented a project to the Spain-ECOWAS Fund in 2010 in order to create a national policy for migration, but it was not followed up. One of the reasons for the stagnation in the process is, amongst other reasons, the coup d’État on 12 April 2012. Only two years later did the country return to an electoral democracy, with parliamentary elections leading to the forming of a new government.

715 Segundo Documento de Estratégia Nacional de Redução da Pobreza.

716 Ministério da Administração Interna.

717 Direcção Geral da Imigração.

718 Ministério dos Negócios Estrangeiros, da Cooperação Internacional e das Comunidades.

719 Direcção Geral das Comunidades.

720 Direcção Geral dos Assuntos Consulares e Tratado.

721 Ministério da Mulher, Família e da Solidariedade Social.

722 Instituto da Mulher e Criança.
Inter-institutional coordination

Within the framework of the Spain-ECOWAS Fund, a National Migration Platform was set up in 2010, coordinated by the General Directorate for Regional Integration under the Ministry of Economy. Although, regular bi-weekly meetings were foreseen, only a few meetings have been held in total as the activities of the Platform were suspended during the coup d’état and its aftermath (April 2012 – April 2014). The National Migration Platform is an inter-ministerial coordination mechanism aimed at implementing the projects of the Spain-ECOWAS Fund. Its members are: the Ministry of Foreign Affairs; the Ministry of Internal Administration; the Ministry of Economy and Regional Integration; the Ministry of Women, Family and Social Solidarity; the Ministry of Finance; the Secretary of State for Youth; the Secretary of State for Communities; Lusófona University; the National Institute of Studies and Research; ECOWAS; civil society representative; the Spanish Embassy in Guinea-Bissau and a private sector representative.

Moreover, in the Cacheu region, a consultation network for local entities, civil society, and relevant members of the National Migration Platform was established under the framework of the project ‘Strengthen-

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724 Direccção Geral do Trabalho.
725 Inspeção Geral do Trabalho.
726 Ministério da Economia e da Integração Regional.
727 Direcção Geral da Integração Regional.
728 Ministério da Justiça.
729 Direcção Geral da Política Legislativa.
730 Ministério das Finanças.
731 Direcção Geral da Conjuntura.
732 Plataforma Nacional das Migrações.
733 Ministério de Negócios Estrangeiros.
734 Ministério da Administração Interna.
735 Ministério da Economia e da Integração Regional.
736 Ministério da Mulher, Família e Solidariedade Social.
737 Ministério das Finanças.
738 Secretaria do Estado da Juventude.
739 Secretaria do Estado das Comunidades.
740 Instituto Nacional de Estudos e Pesquisa.
ing of the co-development initiatives in the region of Cacheu (RICODEV), implemented by the NGO ‘Grupo de Investigação e Realização no Desenvolvimento Rural’ (GRDR) and financed by the Spain-ECOWAS Fund. The network holds a meeting every month and aims to inform the Guinean diaspora and the local authorities, whilst also including the private sector.

Regarding the issue of trafficking in persons, in 2004 the National Commission for Preventing and Combating Trafficking in Persons, especially Women and Children, was established within the National Institute of Women and Children to coordinate public and NGO initiatives.

### 4.8.2.2 Immigration: national policy framework and institutional practices

#### 4.8.2.2.1 General immigration provisions

The Constitution provides for equal rights between nationals and foreigners, on the “basis of reciprocity.” According to the state officials interviewed, since 1974 there has only been five government articles published concerning the legal framework for foreigners. The act that regulates the entry, permanence, and exit of immigrants was still being formulated at the time of the coup d’état and it has not yet been approved.

#### 4.8.2.2.2 Labour migration

The country’s labour legislation does not include specific provisions regarding the access of foreigners to the labour market and, according to the state officials interviewed, in practice no difference is being made between foreign and national workers. Regarding rights within employment, the Labour Law of 1986 does not make any reference to nationality. It applies equally to all workers, regardless of their nationality and legal status.

#### 4.8.2.2.3 Irregular migration

According to officials interviewed for this report, police forces organise operations in some neighbourhoods of the city of Bissau, and to a lesser extent in other cities, in order to detect and detain irregular migrants. Regularisation of the immigration status is an administrative and immediate practice, especially in the case of ECOWAS Member States nationals and citizens from the Community of Portuguese Language Countries (CPLP), while immigrants from other countries, if identified as being in an irregular situation, are interviewed and subject to a fine.

#### 4.8.2.2.4 Migrants at risk

National initiatives on trafficking in persons are mainly discussed below in section 4.8.2.3.3. It is worth mentioning at this stage that the Law on Preventing and Combating Trafficking in Persons, Especially:

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741 Constituição da República da Guiné-Bissau, 1984, art. 28.
742 Lei geral do trabalho.
743 The countries of the CPLP are the following: Angola, Brazil, Cape Verde, Guinea-Bissau, Guinea Equatorial, Mozambique, Portugal, São Tomé and Príncipe, and East Timor.
Women and Children,\textsuperscript{744} adopted in 2011, details the delivery of a temporary stay permit for foreign victims and, under the condition that they cooperate with investigating authorities and under restricted conditions, the possibility of a more permanent stay in the country.

4.8.2.3 Emigration

4.8.2.3.1 Labour migration

Guinea-Bissau lacks a labour emigration policy. National authorities are yet to decide whether labour emigration should be promoted or not, and, if so, what kind of employment abroad should and should not be promoted. Public employment services do not have the means to match demand and supply on the international labour market. There is no legislation regulating the activities of private employment agencies.

However, Guinea-Bissau did conclude a rather comprehensive migration-related bilateral agreement with Spain in 2008.\textsuperscript{745} The agreement does not provide for a privileged access to the national labour market, but does include a series of favourable provisions. It asserts the promotion of labour migration on the basis of labour market studies and the communication by Spanish authorities about job vacancies to their Bissau-Guinean counterparts.\textsuperscript{746} The implementation of these provisions is, however, quite arduous, given the low capacities of Bissau-Guinean authorities in this respect. It should also be noted that the agreement addresses the issue of technical assistance for the development of migration management capacities in Guinea-Bissau.\textsuperscript{747}

4.8.2.3.2 Migration and development

National authorities have little knowledge about the nature, composition and interests of the Bissau-Guinean diaspora. According to officials interviewed, a mapping exercise and a diaspora congress is planned, although the details of this initiative remain to be agreed upon.

In 2010, the Citizenship Law was changed in order to end the principle that the acquisition of a foreign nationality leads to the loss of Bissau-Guinean citizenship, providing, therefore, for dual citizenship. The change also established that a foreigner can acquire Bissau-Guinean citizenship after a period of six years of habitual and legal residence in the Bissau-Guinean territory. According to the law, the following reasoning is presented:

\begin{quote}
"Today [...] Guinea-Bissau presents itself as a country of emigration, because its citizens that are living abroad are high in number and they have almost always needed to acquire the citizenship of the country that hosts them [...]. We have to, much like other countries with high emigration, assume openly the introduction of dual nationality, without restrictions of any kind, in our legal framework. On the other hand, our society has to be open to a total integration of foreigners, whom chose our country to live in and whom the State should\end{quote}

\textsuperscript{744} Lei No. 12/2011 da prevenção e combate ao tráfico de pessoas, em particular mulheres e crianças.

\textsuperscript{745} Acuerdo de Cooperación en materia de inmigración entre España y Guinea Bissau, 27 de enero de 2008.

\textsuperscript{746} Ibid., art. 3.

\textsuperscript{747} Ibid., art. 7.
therefore help by not making the acquisition of Bissau-Guinean nationality difficult […]” (translation by the author).

Nevertheless, national authorities have done little to further channel and mobilise remittances for development. The Investment Code\textsuperscript{749} includes general tax incentives to promote foreign investment that apply to all foreign residents, including members of the diaspora. The most important measure mentioned by the respondents is the customs exemptions for emigrants whom send goods to their country of origin. According to the officials interviewed for this report, better data collection mechanisms and facilitated access to money transfer services are also planned.

A specific project concerning the involvement of skilled migrants in the development of Guinea-Bissau is currently being developed: the UNDP-led TOKTEN (Transfer of Knowledge through Expatriate Nationals) programme, which sees the temporary return of skilled nationals in order to contribute to development projects in their country of origin and to discourage the exiting of skilled Bissau-Guineans.

4.8.2.3.3 Migrants’ protection

Information dissemination and protection in countries of destination

An Emigrant Assistance Institute\textsuperscript{750} was established and worked for a number of years before the coup, but produced little in the way of results.\textsuperscript{751} Its mandate is currently held by the General-Directorate for Communities, and for Consular Assistance and Treaties. Bissau-Guinean diplomatic and consular posts do not provide a significant level of assistance services to their nationals abroad.

A Consular Cooperation Agreement was concluded in 1979 with Portugal (amended in 1998), and provides the assistance of Portuguese consular and diplomatic posts to nationals of Guinea-Bissau in the following cases: death, accident and grave disease, detention, victims of acts of violence, repatriation in case of hardship, and evacuation.\textsuperscript{752}

The bilateral agreement concluded with Spain also includes several provisions regarding protection, such as pre-departure training for migrants and further training upon arrival in Spain with a view to facilitating their integration in the country of destination.\textsuperscript{753} It also provides assistance to Guinea-Bissau authorities with regard to anti-trafficking policies.\textsuperscript{754}


\textsuperscript{749} Códigode investimento.

\textsuperscript{750} Institutode apoioaoemigrante

\textsuperscript{751} Ibid., p. 76.

\textsuperscript{752} Protocolo Adicionalao Acordo de Cooperação Consular entre a República Portuguesa e a República da Guiné-Bissau para Protecção e Assistência Consularaos Seus Nacionais em Terceiros Países, 6 de Fevereiro de 1998, art. 2.

\textsuperscript{753} Acuerdo de Cooperación en materia de inmigración entre España y Guinea Bissau, 27 de enero de 2008, art. 6.

\textsuperscript{754} Ibid., art. 8.
Social security agreements

A social security agreement was concluded with Portugal in 1993. Another convention is currently being negotiated with Brazil. Guinea-Bissau is not party to the inter-African social security convention (CIPRES Convention).\textsuperscript{755}

Protection of victims of trafficking

In 2011, Guinea-Bissau adopted the comprehensive Law on Preventing and Combating Trafficking in Persons, especially Women and Children.\textsuperscript{756} The focus of this Law is on combatting the trafficking of children and, to a lesser extent, of adult women.\textsuperscript{757} The Law prescribes penalties of five to 20 years' imprisonment.\textsuperscript{758} It also enshrines in law protection measures for victims, including shelter, medical and psychological assistance, counselling, legal help, education and vocational training.\textsuperscript{759} Awareness campaigns and the training of relevant staff are also considered.\textsuperscript{760} Subsequent to the Law, a National Plan of Action for the Prevention and Fight against Child Trafficking was adopted in June 2011.

At the institutional level, the National Institute of Women and Children coordinates support to children at risk and is responsible for the monitoring and follow-up of cases related to the protection of women and children. The president of the institute also presides the National Commission on Combatting Trafficking in Persons, an inter-ministerial structure that meets every two months and which receives financial support from UNICEF. The Commission is charged with responsibility for coordinating the activities of NGOs in relations to trafficking in persons.\textsuperscript{761} The Commission collaborates with the National Commission on Combating Child Labour, a tripartite body that also includes a member of civil society\textsuperscript{762} and the Commission on Combatting Harmful Practices.

The Ministry of Justice is currently working on the Child Protection Code. This process has not yet seen any significant progress, nor has a preliminary law been drafted, although some studies and seminars have been carried out.

Despite this framework, the prosecutions of traffickers is still lacking.\textsuperscript{763} Protection and prevention activities are conducted by NGOs, such as Amigos de Criança (AMIC), SOS Talibé and Rede Ajuda, which assist repatriated children from Senegal and those whom have fled the country, provide temporary shelter, facilitate family reunification, develop awareness campaigns and support local schools to prevent child migration to Senegalese koranic schools.\textsuperscript{764} National authorities participate in some of these activities and provide small financial support to NGOs. Their main role is arguably to facilitate the repatriation of

\textsuperscript{755} Convention multilatérale de sécurité sociale de la Conférence interafricaine de la prévoyance sociale.

\textsuperscript{756} Lei da prevenção e combate ao tráfico de pessoas, em particular mulheres e crianças.

\textsuperscript{757} ECOWAS TIP Unit, forthcoming, op. cit.

\textsuperscript{758} Law on Preventing and Combating Trafficking in Persons, Especially Women and Children, 2011, art. 4 - art. 11.

\textsuperscript{759} Ibid., art. 20 - art. 21.

\textsuperscript{760} Ibid., art. 30 - art. 31.

\textsuperscript{761} U.S. Department of State, 2013, op. cit., p. 175.

\textsuperscript{762} Einarsdóttir, J. et al., 2010, op. cit., p. 47.

\textsuperscript{763} ECOWAS TIP Unit, forthcoming, op. cit.

\textsuperscript{764} Einarsdóttir, J. et al., 2010, op. cit., p. 47 - 51.
victims in Guinea-Bissau.\textsuperscript{765} The National Institute of Women and Children is part of the Steering Commission of the West African Network for Child Protection.

\section*{4.8.3 International, regional, and bilateral cooperation}

\textit{International conventions}

Among the most relevant international conventions protecting human rights, Guinea-Bissau has ratified:

- the International Covenant on Civil and Political Rights (1966);
- the International Covenant on Economic, Social and Cultural Rights (1966);
- the Convention on the Elimination of All Forms of Discrimination against Women (1979);
- the Convention on the Rights of the Child (1989);
- 36 ILO Conventions (Guinea-Bissau has not ratified the two specific ILO conventions on migrant workers: C 97(1949) and C 143 (1975));
- the Convention on the Protection of the Rights of All Migrant Workers and Members of their Families (1990); and

As well as these international conventions, Guinea-Bissau is bound by ECOWAS texts, including its Treaty (1975) and its subsequent protocols regarding free movement of persons, residence and establishment. Guinea-Bissau has signed the Multilateral Agreement for Cooperation on the Fight Against Child Trafficking in West Africa of 2005 and has ratified the ECOWAS/ECCAS Anti-Trafficking Joint Plan of Action (2006-2009).

\textit{Bilateral agreements}

Guinea-Bissau’s international cooperation on migration-related issues is limited. Few bilateral agreements regarding entry and stay have been signed. In 1979, a general agreement on migration was concluded with Portugal.\textsuperscript{766} The most comprehensive agreement was signed with Spain in 2008. This agreement outlines cooperation and assistance regarding labour migration,\textsuperscript{767} the integration of Bissau-Guineans in Spain, assistance in the field of trafficking in persons,\textsuperscript{768} and also includes provisions on the readmission of nationals in an irregular situation. In addition, bilateral agreements concerning cooperation in the fight against child trafficking between Guinea-Bissau and Senegal, Guinea, and The Gambia are all in the process of being validated.\textsuperscript{769}

\textsuperscript{765} U.S. Department of State, 2013, op. cit., p. 175.
\textsuperscript{766} Acordo Geral sobre Migrações entre a Portugal e Guiné-Bissau, 24 de Fevereiro de 1979.
\textsuperscript{767} See section 4.8.2.3.1.
\textsuperscript{768} See section 4.8.2.3.3.
\textsuperscript{769} ECOWAS TIP Unit, forthcoming, op. cit.
4.8.4 References


ECOWAS TIP Unit, Annual Synthesis Report on the implementation of the ECOWAS plan of action to combat trafficking in persons 2012-2013, forthcoming.


Republic of Guinea-Bissau, Investment Code [Códigode investimento, document in Portuguese].


### 4.8.5 List of interlocutors

<table>
<thead>
<tr>
<th>Name of respondent</th>
<th>Position</th>
<th>Institution</th>
</tr>
</thead>
<tbody>
<tr>
<td>Fernandes, I.</td>
<td>Director General for Communities</td>
<td>Ministry of Foreign Affairs, International Cooperation and Communities</td>
</tr>
<tr>
<td>Dabo, A.</td>
<td>Director General for Consular Assistance and Treaties</td>
<td></td>
</tr>
<tr>
<td>Dafé, T. C.</td>
<td>Director for Foreigners and Borders</td>
<td>Ministry of Internal Administration</td>
</tr>
<tr>
<td>Pedreira, C.</td>
<td>Director General for Regional Integration</td>
<td>Ministry of Economy and Regional Integration</td>
</tr>
<tr>
<td>Sanhá, M. I. / Barros Sá, Ana Emília</td>
<td>Former President of the National Institute of Women and Children / Current president</td>
<td>Ministry of Women, Family and Social Solidarity</td>
</tr>
<tr>
<td>Cunha, O.</td>
<td>Director of Economy</td>
<td>Ministry of Finances</td>
</tr>
<tr>
<td>Jata, A.</td>
<td>Director of the Statistical Office</td>
<td></td>
</tr>
<tr>
<td>Djedjo, C.</td>
<td>Director General for Legislative Policy</td>
<td>Ministry of Justice</td>
</tr>
<tr>
<td>Dias, F.</td>
<td>Director General of Labour</td>
<td>Ministry of Labour</td>
</tr>
</tbody>
</table>

770 Director Geral das Comunidades.
771 Ministério dos Negócios Estrangeiros, da Cooperação Internacional e das Comunidades.
772 Director Geral de Assuntos Consulares e Tratados.
773 Ministério da Administração Interna.
774 Directora Geral da Integração Regional.
775 Ministério da Economia e Integração Regional.
776 Presidente do Instituto da Mulher e Criança.
777 Ministério da Mulher, Família e da Solidariedade Social.
778 Director de Serviço da Conjuntura.
779 Ministério das Finanças.
780 Director de Serviço de Estatística.
781 Provided additional feedback via e-mail on 20 October 2014.
782 Director Geral da Política Legislativa.
783 Ministério da Justiça.
784 Director Geral do Trabalho.
785 Ministério do Trabalho.
4.9 Liberia

4.9.1 Migration trends

4.9.1.1 Immigration

Liberia has the unique historical feature of having been founded by Liberian slaves from the U.S. in the 19th century. Similar to other West African countries, it has also experienced wide intra-regional migration over the years.

Since the 1990s, migration in Liberia has been characterised by several waves of refugee flows, mainly from Sierra Leone and Côte d’Ivoire. During the Sierra Leonean internal armed conflict, which lasted from 1991 to 2002, an estimated 120,000 nationals found refuge in Liberia.\textsuperscript{786} Since 2002, most Sierra Leonean refugees have returned to their country of nationality. The decade of political unrest in Côte d’Ivoire, which began with the coup d’état in 1999, has also led to refugee movements. In 2013, an estimated 55,000 Ivorian refugees were residing in Liberia, which corresponds to 71% of the Ivorian refugee population in the region.\textsuperscript{787}

Although refugee movements have been a central demographic feature of the past decades, there is also considerable voluntary migration towards Liberia. Moreover, immigration in Liberia can be expected to increase in the coming years, given the restoration of political stability in the country and the gradual recovery of the national economy.

<table>
<thead>
<tr>
<th>Data</th>
<th>Year</th>
<th>Absolute numbers</th>
<th>% of the Total Population</th>
</tr>
</thead>
<tbody>
<tr>
<td>Population and Housing Census</td>
<td>2008</td>
<td>68,688 foreign residents\textsuperscript{788}</td>
<td>2%</td>
</tr>
</tbody>
</table>

\textsuperscript{786} IRIN, Sierra Leone: Repatriation of refugees after civil war finally ends, 2004.

\textsuperscript{787} OCHA, Côte d’Ivoire: répartition des réfugiés ivoiriens dans les pays limitrophes, 2013.

4.9.1.1 Characteristics of immigrants/foreigners

Countries of origin:
- Existing knowledge on foreign communities residing in Liberia is limited. However, by combining the 2008 Population and Housing Census data and UNHCR figures, it appears that the majority of recorded foreigners are voluntary migrants. In 2008, refugees were estimated at 10,230, including 6,600 Ivorians and 3,600 Sierra Leoneans.\(^{789}\)
- The Census includes information on immigration, disaggregated by country of birth of the individuals, but not by nationality. 73,861 immigrants were recorded, mainly from Guinea, which accounted for 33,746 immigrants, followed by Sierra Leone with 11,816, Côte d’Ivoire with 9,180, Ghana with 6,744, and Nigeria with 4,696.\(^{790}\)
- Such data has to be taken with caution. Given the large Liberian refugee outflows that occurred during the past decades, it is likely that a significant proportion of the recorded immigrants are nationals that have returned to their country of nationality rather than being foreigners who have migrated to Liberia.
- Despite the absence of data on the composition of the foreign population in Liberia, it is safe to assume that it is mainly composed of ECOWAS Member States’ nationals.
- Mention can also be made of non-African minority groups, such as the Lebanese community, which has been present for several generations.\(^{791}\)

Socio-demographic profile:
- According to the 2008 Population and Housing Census, the majority of foreigners (61.5%) are males.\(^{792}\)

Socio-economic profile and sectors of employment:
- ECOWAS Member States’ nationals tend to be employed within the informal labour market. Mention can be made of seasonal and more permanent migrants from Guinea and Mali, employed as small traders, craftsmen, and plantation workers.\(^{793}\)
- The Lebanese community is highly involved in trading within the main cities of the country.

Vulnerable groups:
- Trafficking in persons is predominantly an internal phenomenon.
- According to the latest U.S. Department of State Trafficking in Persons Reports, Liberia is also a country of destination for victims from Sierra Leone, Guinea, Côte d’Ivoire and Nigeria, who are subject to domestic servitude, forced begging, sex trafficking and forced labour in street vending, plantations and diamond mines.\(^{794}\)

4.9.1.2 Emigration

Recent emigration flows from Liberia have mostly been determined by nearly two decades of internal armed conflict. In accordance with the continuous rise and fall of violence in the country, Liberians have fled and returned. At the peak of the crisis, an estimated 700,000 refugees were recorded, mainly in neighbouring countries such as Guinea, Côte d’Ivoire, and Sierra Leone.\(^{795}\) Since the end of the conflict in 2003, most refugees have returned to Liberia. Concerning the remaining refugee populations subject to the cessation clauses, initiatives have been undertaken for their local integration, notably through the framework of the ECOWAS Treaty and its subsequent protocols on free movement and residence (see section 4.9.3.)

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\(^{790}\) Republic of Liberia, 2009, op. cit.
\(^{792}\) Ibid.
\(^{795}\) U.S. Department of State, Liberian Refugees in West Africa, 2013b.
With regards to voluntary migration flows and the stock of Liberians abroad, estimates are difficult to present. To date, no national data on emigration flows and stocks has been published.

<table>
<thead>
<tr>
<th>Data</th>
<th>Year</th>
<th>Estimates</th>
</tr>
</thead>
<tbody>
<tr>
<td>General estimates from national authorities (data sources unidentified)</td>
<td>2013</td>
<td>500,000 nationals residing abroad. Such an estimate should be taken with caution.</td>
</tr>
</tbody>
</table>

**4.9.1.2.1 Characteristics of emigrants/nationals abroad**

**Countries of destination/residence:**
- ECOWAS Member States’ national population censuses generally do not show a significant presence of Liberian nationals. The two exceptions are Guinea and Sierra Leone.
- In the case of Guinea, the latest population census is from 1996 and does not distinguish between refugees and migrants. As a consequence, its results cannot be taken into consideration.
- The Sierra Leone Population and Housing Census of 2004 does not seem to include refugees within its estimate of foreign residents. It shows a Liberian population of 21,150, which is arguably the largest Liberian diaspora in Western Africa.
- Within OECD Member States, the U.S. is the main country of residence of Liberian nationals. In 2007, this was estimated at 41,186 by the Sussex Development Research Centre on Migration, Globalisation and Poverty. In addition, from 2001 to 2011, an average of 2000 Liberians per year acquired U.S. nationality. It must be noted, however, that this data does not distinguish between refugees and migrants.
- According to the OECD Migration Database, migration towards other OECD countries is low. The only two countries where Liberian presence is not minute are Italy, which recorded 2,187 nationals in 2010, and Germany, with 953 nationals in 2011. It should be noted that the OECD database does not include the U.K.

**Education level/sectors of employment:**
- Lack of data on education level/sectors of employment.
- With regard to the health sector, OECD data shows a very high risk of brain drain: the emigration rate of medical doctors was estimated at 54.2% and that of nurses at 66.9%.

**Remittances:**
- According to the latest World Bank estimates, 400 million USD were remitted to Liberia in 2013, which corresponds to 20.4% of GDP.
- Studies are yet to be conducted on remittances in Liberia.

**Vulnerable groups:**
- Trafficking in persons is mainly an internal phenomenon.
- The latest U.S. Department of State Trafficking in Persons Report notes that “a small number of Liberian men, women, and children are subjected to human trafficking in Cote d’Ivoire, Guinea, Sierra Leone, Nigeria, and the United States.”

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799 OECD ‘International Migration Database’. The OECD migration database collects information on stay/resident permits and population registers.
800 Ibid.
803 U.S. Department of State, 2013a, op. cit., p. 236.
4.9.2 Migration policy

Liberia is currently in the process of adopting a National Policy on Migration. The document is strongly based on human rights concerns and relies on the ECOWAS framework on migration, including its founding treaty, its subsequent protocols regarding free movement of persons, residence and establishment, and the Common Approach on Migration.

The National Migration Policy accordingly seeks to:

- promote an enabling and predictable immigration environment for investment, trade and contribution of the Liberian diaspora without compromising national security, national integrity and the environment;
- provide a framework for facilitating legal and orderly cross-border and third-country movements while protecting the national borders from penetration or infiltration by undesirable persons, goods, services and influences; and
- develop national responsiveness to migration-related regional integration needs (Free Movement Protocol of ECOWAS) and international commitments, without undermining our national development drive and compromising national security.

Although the draft National Policy on Migration is a rather comprehensive document, it tends to focus more on immigration-related issues rather than on emigration management.

The draft policy is fully developed, but is yet to be endorsed by the competent authorities. With regard to applicable legislation, strategies and initiatives, developments are limited. Immigration legislation is generally outdated and few initiatives have been undertaken in the area of emigration management.

Although the national development plan, the Liberia National Vision 2030, includes few references to migration policies, the consultation process that led to its adoption included the participation of diaspora representatives.

4.9.2.1 Institutional framework on migration

Governmental stakeholders involved

<table>
<thead>
<tr>
<th>Ministry</th>
<th>Agency, Directorate, Unit</th>
<th>Responsibilities</th>
</tr>
</thead>
<tbody>
<tr>
<td>Ministry of Justice</td>
<td>Bureau of Immigration and Naturalization (BIN)</td>
<td>Immigration management</td>
</tr>
<tr>
<td>Ministry of Labour</td>
<td>Division of Alien Registration and Liberalization</td>
<td>Delivery of work permits to foreigners</td>
</tr>
<tr>
<td>Ministry of Foreign Affairs</td>
<td>Legal Affairs</td>
<td>Protection of nationals abroad</td>
</tr>
<tr>
<td>National Police</td>
<td>Women and Children Protection Section (WACPS)</td>
<td>Fight against trafficking</td>
</tr>
</tbody>
</table>

Inter-institutional coordination

With regard to the fight against trafficking in persons, an inter-ministerial institution, the Anti-Human Trafficking Taskforce, has been established. The drafting of the National Policy on Migration was supervised by another inter-institutional body, the National Migration Policy Taskforce.

4.9.2.2 Immigration: national policy framework and institutional practices

General immigration provisions

<table>
<thead>
<tr>
<th>Legislation/Policy Framework</th>
<th>Description</th>
</tr>
</thead>
</table>
| Aliens and Nationality Law, 1973                | **Art. 1.2** distinguishes between:  
  - visitors, who can stay for a maximum period of 60 days;  
  - alien residents, defined as "persons applying for admission or to remain in Liberia for a period of up to a year" although extension of their stay is foreseen; and  
  - immigrants, defined as "parents, spouses, or children of Liberian citizens, or other acceptable persons, applying for admission with the intention of remaining in Liberia indefinitely and becoming Liberian citizens".  
  **Art. 5.10; art. 6.1:** Foreigners intending to stay on the national territory for a period exceeding 60 days are required to obtain an immigrant or a non-immigrant visa, valid for four months, as well as a residence permit, valid for a period of one year, which is renewable.  
  **Art. 6.1:** Application for the residence permit is to be made before entry on the national territory.  
  **Art. 6.7:** "Immigrants may be directed by the Attorney General to settle in specified sections of the country in order to prevent unreasonable numbers from settling in one county, city, town, or village. An immigrant who establishes a residence in a place other than the one designated by the Attorney General shall be liable to payment of a civil penalty of $10 for every month of noncompliance."  
  **Art. 5.19:** Family migration is only foreseen for nationals and immigrants — thus excluding alien residents — and applies to the spouse, parents and children of the considered individuals. |

Art. 6.7 of the 1973 Law foresees limitations on the right of foreigners to freely choose their residence, which contravenes international law obligations. The Law does not apply to ECOWAS Member States’ nationals – it was adopted before the conclusion of the ECOWAS Treaty. The text also includes other limitations. Excluding alien residents from family migration rights is rather discriminatory given that the notion of immigrant is inherently linked to the acquisition of the Liberian nationality, which itself is discriminatory as it is only applicable to persons who are "Negro or of Negro descent". Residence permits are of very short duration and, as a general rule, conditions and procedures to obtain immigration statuses and the rights attached to them are not clearly defined.

To a large extent, the 1973 Law is obsolete. This is recognised in the draft National Policy on Migration. In the foreword to the document, the Minister of Justice notes: "it is in my view that the Aliens and Nationality Law, as a whole needs to be revised". This assumption is reiterated within the draft National Policy.

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on Migration itself, which states that "this policy is the first step towards reviewing national legislation that is no longer deemed to deal with current migration challenges". The guiding principles provided by the draft policy include the need to amend national legislation in line with international obligations, promote free and safe movement of people in the region, facilitate entry and residence of migrants who can contribute to the national development, and reduce irregular migration.

More specifically, the draft National Policy on Migration envisages the following amendments to the 1973 Law:

- instituting a visitor’s visa valid for 90 days – instead of 60 days;
- organising a procedure for the submission of residence permit upon arrival – rather than abroad; and
- organising procedures for ECOWAS Member States’ nationals to obtain ECOWAS residence cards or residence permits.

### 4.9.2.2.2 Labour migration

<table>
<thead>
<tr>
<th>Legislation/Policy Framework</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Aliens and Nationality Law, 1973</strong></td>
<td><strong>Art. 5.13</strong> sets the principle according to which foreigners seeking to be employed in Liberia are required to hold an employment permit. <strong>Art. 6.5:</strong> &quot;No alien shall change his employment nor his occupation, profession or means of livelihood, whether with the same or a different employer, nor shall an unemployed alien secure employment, without first obtaining the approval of the Minister of Justice. Such approval shall be granted only on condition that (a) the Minister of Labour has issued an employment permit for such change of employment or securing of employment or has advised in writing that no employment permit is required by law with respect to the particular employment; and (b) the prospective employer has furnished a bond in the amount of $3,000 as a guarantee of prompt departure of the alien upon the expiration of the permitted period of residence or upon order of the Minister of Justice to depart&quot;.</td>
</tr>
</tbody>
</table>

The labour law also foresees the possibility for the Ministry of Labour to "withhold permits in respect of nationals of any country not according at least equal reciprocal rights in employment to Liberians".

Given that human rights law and international labour law are based on the renouncement to reciprocity,
the legality of this provision is questionable.

With regard to rights within employment, the Labour Law states that equal treatment with nationals in terms of wages and conditions of employment is provided to foreign workers in a regular situation. In order for Liberia to comply with international obligations, however, all workers, regardless of their nationality and status, should be treated on an equal footing. The Labour Law also limits the access to administration and direction functions within trade unions to nationals.

As a general rule, Liberian labour immigration legislation is outdated and, in some cases, contravenes international law obligations. The draft National Migration Policy intends to modernise labour immigration management and provides better protection for migrant workers. It notably refers to the need to ratify the Convention on the Protection of the Rights of All Migrant Workers and Members of their Families. However, no mention of the ratification of relevant ILO Conventions, including C 143, is made.

The draft policy includes detailed objectives with regards to labour immigration management. First, it foresees the full implementation of the ECOWAS protocols. Second, with regard to non-ECOWAS Member States’ nationals, it puts forward the following proposals:

- assessments of labour shortages should be conducted and a quota system should be put in place;
- priority should be given to temporary migration and skilled workers – in combination with transfers of competences to nationals;
- different types of work permits should be created (such as for frontier workers, seasonal workers, etc.);
- equal treatment between nationals and foreign workers should be enforced; and
- foreign workers should be authorised to freely change employers.

4.9.2.2.3 Irregular migration

<table>
<thead>
<tr>
<th>Legislation/Policy Framework</th>
<th>Description</th>
</tr>
</thead>
</table>
| Aliens and Nationality Law, 1973      | **Art. 5.14:** Visas shall be refused to prohibited migrants as well as to individuals whose immigration is considered by the Minister of Justice to be contrary to the national interest.  
**Art. 7.1:** Deportation is foreseen for those who fall under the list of prohibited migrants, as well as foreigners who have been convicted of a crime "involving moral turpitude", have become a public charge, or have failed to maintain their status of non-immigrant.  
**Art. 5.21:** Fraudulent use of visas and other entry documents is punished by a maximum penalty of one year imprisonment and a fine.  
**Art. 5.91:** The same penalties apply to those who bring or "harbour" irregular migrants and excluded or expelled migrants re-entering the country. |

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812 Ibid.
813 Ibid., art. 4102.
816 Ibid.
The 1973 Aliens and Nationality Law includes numerous detailed provisions regarding irregular migration. In its review of the legislation, the American Bar Association noted that the established procedures are unnecessarily complicated.\footnote{American Bar Association, 2009, op. cit., pp. 7, 11, 15.}

In many cases, the 1973 Law is also outdated. For instance, its long list of prohibited migrants includes “aliens who are feeble-minded”, “insane”, “afflicted with psychopathic personality, epilepsy or mental defect”, “anarchists”, and “aliens who are members of or affiliated with the Communist Party or any other totalitarian party”.\footnote{Aliens and Nationality Law, 1973, op. cit., art. 5.1.} Such grounds of exclusion are likely to contravene international law provisions.

The draft National Migration Policy recognises the limited capacities of the state with regard to border management and plans to increase existing capacities through “regular comprehensive border management assessments”, “upgrading the capacities of border officials, developing border infrastructure”, and seeking “to outsource, install and operationalise a modern automated border management information system”.\footnote{Republic of Liberia, 2013, op. cit., pp. 31-33.} It also refers to existing efforts to improve border management, most notably through the establishment of a Joint Border Security and Confidence Building Unit within the framework of the Mano River Union.\footnote{Ibid., p. 31.}

4.9.2.2.4  Migrants at risk

<table>
<thead>
<tr>
<th>Legislation/Policy Framework</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>Act to Ban Trafficking in Persons within the Republic of Liberia, 2005</td>
<td><strong>Art. 1, Section 7</strong> foresees penalties comprised of between one and 21 years of imprisonment depending on the circumstances. For instance, child trafficking is punished by six years of imprisonment. <strong>Art. 1, Section 3</strong> and <strong>Section 8</strong> include minimal measures regarding victims’ protection. <strong>Art. 2, Section 1</strong> establishes an Anti-Human Trafficking Taskforce, responsible for the development of a National Plan for the Prevention of Trafficking, coordination and sharing of trafficking-related data and information among public institutions, as well as facilitating cooperation with other countries and with NGOs.</td>
</tr>
</tbody>
</table>

Liberia’s anti-trafficking law is globally in line with the Palermo Protocol on trafficking in persons. In practice, the numbers of prosecutions for trafficking has remained low. In 2012, the first conviction under the 2005 Law was obtained.\footnote{U.S. Department of State, 2013, op. cit., p. 236.} Protection activities also remain limited, as public authorities rely mainly on NGOs for support and assistance to victims. Standard operating procedures for trafficking support have been developed, but are yet to be formally adopted.\footnote{Ibid., p. 237.} Regarding training of relevant civil servants, all officers of the Women and Children Protection Section (WACPS) of the national police undergo a mandatory three-week course on trafficking.\footnote{Ibid.} Several awareness-raising activities have been organised, including anti-trafficking public campaigns.\footnote{Ibid.}
The draft National Policy on Migration is a continuation of the efforts from the past years. It calls for the allocation of regular funding to the Anti-Human Trafficking Taskforce, an increase of staff training courses, the development of information campaigns targeting potential victims, and the increase of protection activities through rehabilitation and reintegration support services.\(^{825}\)

### 4.9.2.3 Emigration

#### 4.9.2.3.1 Labour migration

Liberia lacks a labour emigration policy. National authorities are yet to decide whether labour emigration should be promoted or not, and, if so, what competencies should or should not be promoted. Activities related to the identification and assessment of existing and potential new countries of destination are non-existent and public employment services do not have the means to match demand and supply on the international labour market. To date, no bilateral labour or social security agreements appear to be in force.

The Labour Law’s first article includes a surprising provision that seems to ban all recruitment for employment abroad – with the exception of seafarers:

> “It is illegal:
> a) for any person to recruit or cause to be recruited within this Republic any Liberian citizen for service in any place, territory, or country outside this Republic;
> b) for any official to issue any license or otherwise give authorization for recruiting of any Liberian citizen for service in any place, territory, or country outside this Republic; and
> c) for any citizen or resident of the Republic to enter into contract or contracts for the recruitment of Liberian citizens for service in any place territory, or country outside this Republic or to act as agent or agents of any person so contracting; provided however, that the definition of service outside this Republic shall not include service as merchant seamen and seagoing labourers, as defined by section 280 of the Maritime Law.”\(^{826}\)

The draft National Policy on Migration does not include specific guidelines regarding labour migration. An exception, however, is the need to conclude bilateral social security agreements with established countries of destination.\(^{827}\)

#### 4.9.2.3.2 Migration and development

To date, public authorities do not intervene in the area of migration and development. There is, however, a growing interest among the Liberian government to develop initiatives in this regard. The draft National Policy on Migration reflects this orientation and proposes a series of actions to be developed with regard to the management of remittances, diaspora involvement, and the brain drain phenomenon.


\(^{826}\) Labour Law, art. 1.

\(^{827}\) Republic of Liberia, 2013, op. cit., p. 16.
Mobilising and channelling remittances for development

Actions suggested by the draft National Policy on Migration include the:

- reduction of transfer fees through an increased competition between service providers;
- improvement of access for rural population to formal transfer services through “partnerships between “mainstream” banks and those networks that are present in rural areas”; and
- introduction of a “modern Automated Transfer System (ATS) with Real Time Gross Settlement (RTGS) and low-value clearing capacity and Central Securities Depository (CSD)”.

Diaspora outreach and confidence-building measures

The draft National Policy on Migration acknowledges that the current ban on dual/multiple citizenship constitutes a major deterrent to the involvement of the Liberian diaspora within the economic and social life of the country. It suggests holding a referendum on this issue.

Addressing the challenges of highly-skilled migration

The draft National Policy on Migration puts forward initiatives regarding retention, return – temporary or more permanent – and replacement of skilled nationals. Notably, it considers the promotion of bilateral labour agreements based on ethical recruitment principles, mainly in the health and education sectors.

Assistance to returning migrants

Beyond the promotion for the return of skilled migrants, the draft National Policy on Migration indicates that “Liberia should facilitate each and every individual, including unskilled migrants and former refugees, who want to come back.”

4.9.2.3.3 Migrants’ protection

With the exception of trafficking in persons, protection of migrants does not appear to be a priority for Liberian authorities. No specific initiatives exist with regard to protection in Liberia – such as information dissemination and training of migrants before their departure – or in countries of destination.

The draft National Policy on Migration includes few references to the protection of migrants. An exception concerns social protection. The policy document notes the absence of relevant bilateral and regional agreements, the negative consequences of it for Liberian migrants and the need to promote the conclusion of such conventions.

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828 Ibid., p. 19.
829 Ibid., pp. 17-18.
830 Ibid., p. 20.
831 Ibid., p. 30.
832 Ibid., p. 16.
4.9.3 International, regional, and bilateral cooperation

International conventions

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

- the International Covenant on Civil and Political Rights (1966);
- the International Covenant on Economic, Social and Cultural Rights (1966);
- the Convention on the Elimination of All Forms of Discrimination against Women (1979);
- the Convention on the Rights of the Child (1989);
- 25 ILO Conventions (Liberia has not ratified the two specific ILO conventions on migrant workers, C 97 (1949) and C 143 (1975)); and

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

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

Regional cooperation

Liberia is not part of the inter-African social security convention (CIPRES Convention). Within the framework of the Mano River Union, efforts are being made to improve border management, notably through the establishment of a Joint Border Security and Confidence Building Unit.

Bilateral agreements

Liberia’s institutionalised bilateral relations on migration-related matters appear to be almost non-existent. There seems to be no bilateral labour or social security agreement in force.

Multipartite Agreement for the Local Integration of Liberian and Sierra Leonean Refugees in Nigeria, 2007

Regarding the implementation of the ECOWAS protocols on free movement of persons, freedom of residence, and establishment, mention must be made of the Multipartite Agreement for the Local Integration of Liberian and Sierra Leonean Refugees in Nigeria, which was signed in 2007 between Liberia, Sierra Leone, Nigeria, ECOWAS, and UNHCR (see comparative chapter for more details).

Draft National Policy on Migration

The draft National Policy on Migration is rather vague in its guidelines for international co-operation,

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833 Convention multilatérale de sécurité sociale de la Conférence interafricaine de la prévoyance sociale.
especially in comparison to the details provided in other thematic areas. However, the document clearly prioritises intra-regional cooperation among ECOWAS Member States:

“The necessity for developing a common migration policy, or tool, for Liberia and neighboring countries is very critical for harmonization of laws, rules, regulations, procedures, standards, information dissemination and sharing, statistics, documents, and efficient use of scarce resources.”

Ibid., p.42.
4.9.4 References


Republic of Liberia, National Vision 2030.

Republic of Liberia, Labour Law.


## 4.9.5 List of interlocutors

<table>
<thead>
<tr>
<th>Name of respondent</th>
<th>Position</th>
<th>Institution</th>
</tr>
</thead>
<tbody>
<tr>
<td>A. Gadegbeka Williams</td>
<td>Commissioner, Bureau of Immigration and Naturalization</td>
<td>Ministry of Justice</td>
</tr>
<tr>
<td>G. T. Kortu</td>
<td>Chief of Children Protection Section</td>
<td>Ministry of Gender and Development</td>
</tr>
<tr>
<td>J. S. W. Worlobah</td>
<td>Assistant Director for Research, Policy and Planning Department</td>
<td>Central Bank of Liberia</td>
</tr>
<tr>
<td>A. Satiah</td>
<td>National Coordinator—Counter Human Trafficking Secretarial</td>
<td>Ministry of Labour</td>
</tr>
</tbody>
</table>
4.10 Mali

4.10.1 Migration trends

4.10.1.1 Immigration

Mali is not an important country of immigration. It is, however, a country of transit for West and Central Africans travelling to Algeria, Libya, Morocco or Tunisia, who eventually seek to enter European states. Having said that, a small amount of foreigners do reside in Mali.

<table>
<thead>
<tr>
<th>Data</th>
<th>Year</th>
<th>Absolute numbers</th>
<th>% of the Total Population</th>
</tr>
</thead>
<tbody>
<tr>
<td>National Population and Housing Census&lt;sup&gt;837&lt;/sup&gt; (RGPH)</td>
<td>2009</td>
<td>160,216 foreign residents&lt;sup&gt;838&lt;/sup&gt;</td>
<td>1.1%</td>
</tr>
</tbody>
</table>

4.10.1.1.1 Characteristics of immigrants/foreigners

| Countries of origin: | According to the National Population and Housing Census of 2009, the vast majority of foreigners are Africans, principally from ECOWAS Member States, including Burkina Faso (22,174), Côte d’Ivoire (18,672), Guinea (16,464), Senegal (5,099), Mauritania (3,978) and Niger (3,540).<sup>839</sup> |
| Settlements: | Most foreigners reside in the capital Bamako (27.9%) and the following regions: Sikasso (22.1%), Kayes (12.6%) and Koulikoro (11.3%).<sup>840</sup> |
| Socio-demographic profile: | 52.5% of foreign residents are male.<sup>841</sup> |
| Socio-economic profile and sectors of employment: | • In 2009, 60% of foreigners did not have any formal education, which is lower than for the total population (67.5%).<sup>842</sup> • Like nationals, foreigners tend to be employed in the informal labour market. |
| Vulnerable groups: | • Trafficking in persons appears to be mainly an internal phenomenon: from 2002 to 2008, IOM registered 488 victims within the country, of which 96.3% were nationals.<sup>843</sup> • According to the U.S. Department of State’s Trafficking in Persons Reports, victims have included boys from Burkina Faso and Guinea who were exploited for the use in gold mines, as well as boys from Guinea, Burkina Faso, Niger and other countries who were sent to Mali for Koranic education (talibés) and subsequently subjected to forced begging. According to the report, women and girls from West African states are forced into prostitution.<sup>844</sup> |


<sup>837</sup> Recensement général de la population et de l’habitat du Mali.


<sup>839</sup> Ibid. The RGPH 2009 also refers to 31,068 nationals from “other African states” without any further specification.

<sup>840</sup> Ibid., p. 81.

<sup>841</sup> Ibid.

<sup>842</sup> Ibid., p. 82.

<sup>843</sup> Balo, M., 2009, op. cit., p. 50.

4.10.1.2 Emigration

Emigration has long existed in Mali and is a central component of Malian society. Its patterns and evolution during modern times are well-known and well-documented.\textsuperscript{845} During colonial times, Mali was used as a labour reserve for the development of major industrial and agricultural projects, such as the growing of groundnuts in Senegal.\textsuperscript{846} After the Second World War and the declaring of independence in 1960, the country remained an important supplier of workforce for coastal West African countries such as Côte d’Ivoire, Ghana, and Senegal. Migration towards France also gained prominence during this period.\textsuperscript{847}

Malian emigration trends have subsequently diversified. Given the more restrictive approach towards migration adopted by France from the mid-1970s on and the decline of Côte d’Ivoire as an attractive destination, new destinations within West Africa became increasingly popular. Intra-regional flows have remained dominant, although flows are also directed towards Europe (most notably Spain), the U.S., Gulf Cooperation Council Member States, and South-East Asia. In addition, Malian emigration, which was traditionally a low-skilled, male phenomenon, has become more feminised and now includes a higher share of skilled workers.\textsuperscript{848}

<table>
<thead>
<tr>
<th>Data</th>
<th>Year</th>
<th>Estimates</th>
</tr>
</thead>
<tbody>
<tr>
<td>General estimates from national authorities (data sources unidentified)</td>
<td>2013</td>
<td>4 to 4.5 million nationals abroad\textsuperscript{849}</td>
</tr>
<tr>
<td>Ministry of Malians Abroad</td>
<td>2001</td>
<td>2.7 million nationals abroad</td>
</tr>
<tr>
<td>Electoral Register (RACE)\textsuperscript{850}</td>
<td>2001</td>
<td>More than 900,000 nationals abroad</td>
</tr>
</tbody>
</table>


\textsuperscript{846} Keita, M., 2010a, op. cit., p. 1.


\textsuperscript{850} Recensement à caractère electoral.
4.10.1.2.1 Characteristics of emigrants/nationals abroad

<table>
<thead>
<tr>
<th>Countries of destination/residence:</th>
</tr>
</thead>
<tbody>
<tr>
<td>• While there is a general consensus on Malian emigration trends, there are conflicting estimates regarding the current emigrant stock.</td>
</tr>
<tr>
<td>• The Malian government often refers to a figure of 4 to 4.5 million nationals abroad (between 25% and 30% of the total population), including 3.5 million in Africa, and 2 to 2.5 million in Côte d’Ivoire alone. Such estimates are not based on reliable data, and, in the case of Côte d’Ivoire, seem excessive.</td>
</tr>
<tr>
<td>• In 2001, the Ministry of Malians Abroad provided an estimate of 2.7 million emigrants, including 1.7 million in Côte d’Ivoire. Here again, the sources of this data are unclear.</td>
</tr>
<tr>
<td>• Another national estimate conducted in 2001 by the Electoral Register (RACE) identified more than 900,000 nationals abroad. It also provided information concerning the main countries of residence. According to the register, Côte d’Ivoire was by far the most common country of residence, followed by Sudan, Senegal and Niger. Outside the African continent, Saudi Arabia and France were the main countries of residence. However, some data limitations exist: the register is based on the voluntary registration of individuals, it only concerns adults, and depends on the Malian diplomatic and consular presence in the respective countries. It is therefore likely that the RACE data constitutes an underestimation of the presence of nationals abroad.</td>
</tr>
<tr>
<td>• Notably, Libya has been a popular country of residence for Malian migrants. Indeed, in 2012, IOM reported some 11,385 Malian returnees fleeing from the Libyan civil war.</td>
</tr>
<tr>
<td>• With regard to European countries, France is the main country of residence. According to the OECD international migration database, an estimated 62,239 Malian residents in a regular situation were recorded in 2009. It should be noted, however, that naturalisations of Malians in France – which implies that they are not counted in the foreigner registers – are significant, with an average of more than 1,500 per year from 2001 to 2011. Over the past number of years, the extent of the irregular presence of Malians in France has been discussed extensively. There have been put forward estimates of between 70,000 and 250,000 irregular migrants, which would mean a total Malian population residing in France of between 130,000 and 310,000. These estimates, which are not based on reliable sources, are likely to constitute overestimations.</td>
</tr>
<tr>
<td>• Spain is the second largest host of Malian migrants in the EU, with an estimated 24,423 residents in 2011. However, immigration flows towards the country have decreased over the past few years.</td>
</tr>
<tr>
<td>• Italy has not attracted an important amount of Malian migration flows. In 2010, only 1,263 Malians were recorded by the Italian authorities.</td>
</tr>
</tbody>
</table>

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851 See footnote 849.
853 Merabet, O., Gendreau, 2007, op.cit., pp. 16-17. The electoral register is currently renewed under the name Recensement Administratif à caractère d’état civil (or RAVEC).
855 OECD, ‘International Migration Database’. The OECD migration database collects information on stay/resident permits and population registers.
856 It should be noted that data is missing for several years.
858 OECD, ‘International Migration Database’.
859 Ibid.
### Socio-demographic profile:
- Both ethnic and regional origin have strongly influenced the destinations and occupations of Malian migrants.
- For instance, Côte d’Ivoire has been a privileged destination for Fulani Diawambé traders, Algeria and Libya for Touareg herders, and France for Soninke manual labourers.\(^{660}\) There is a great diversity of employment among Malian migrants. For instance, in Côte d’Ivoire, Malians are employed in the agricultural sector, herding, fishing, and industry.\(^{661}\)
- Although all regions of Mali are concerned by migration, Kayes, in the West, where 2/3 of the households include at least one migrant, remains the main region of origin.\(^{662}\)

### Education level/ sectors of employment:
- The majority of Malian migrants are low-skilled workers employed within the informal labour markets of ECOWAS Member States.\(^{663}\)
- High-skilled nationals are also found among migrants and represent between 11.5% and 15% of the total number of migrants.\(^{664}\)
- With regard to the health sector, OECD data has estimated the emigration rate of medical doctors at 13.2% and that of nurses at 3.7%.\(^{665}\)

### Remittances:
- World Bank data provides an estimate of USD 530 million for 2013, corresponding to 4.6% of total GDP.\(^{666}\)
- Such estimates should be read with caution given that the majority of remittances, around three-quarters, are sent through informal channels.\(^{667}\) This situation can be explained by the absence of money transfer services in rural areas and the obligation for money transfer operators to work with local banks, which limits their scope of activity.\(^{668}\)
- Remittances are primarily used to buy food and other essential items. An estimated 14% of remittances are invested in business.\(^{669}\)
- Community projects financed through collective remittances (as opposed to individual transfers) compensate, to a certain extent, most notably in the case of water supplies and education, for the limited capacities of the Malian state.\(^{670}\)

### Vulnerable groups:
- Although trafficking is primarily an internal phenomenon, the U.S. Department of State’s Trafficking in Persons Reports mention the existence of Malian boys who have fallen victim to forced labour in Senegal, Guinea, and Côte d’Ivoire, as well as girls and women trafficked for commercial sex exploitation in Gabon, Libya, Lebanon, and Tunisia.\(^{671}\)

### 4.10.2 Migration policy

Emigration is a central political issue in Mali. Policy statements generally highlight two main aspects of emigration management: protection of Malians abroad and their involvement in the social and economic development of their home country.

\(^{662}\) Keita, M., 2010a, op. cit., p. 2.
\(^{664}\) Ibid.
\(^{668}\) Ibid.
\(^{669}\) Ibid., p. 8.
development of the country. The National Population Policy is rather comprehensive in these respects and envisions the implementation of the following aims:

- to identify Malians living abroad and undertake specific studies on this issue;
- to elaborate and implement a programme to assist emigrant communities;
- to organise awareness-raising campaigns on international migration;
- to facilitate reintegration of returning migrants;
- to create a guarantee and assistance fund for emigrants; and
- to enhance facilitation of remittance transfers to the country.

The national development plan (Plan for the Sustainable Recovery of Mali 2013-2014) also deals with migration in an extensive manner. However, no formal migration policy has been adopted. During 2006/2007, the Ministry for Malians Abroad and African Integration initiated the drafting of a policy document. However, at the time of writing, a migration policy has yet to be finalised and endorsed by the competent authorities.

Unlike emigration, immigration is not considered a significant issue and is therefore handled with tolerance.

### 4.10.2.1 Institutional framework on migration

**Governmental stakeholders involved**

<table>
<thead>
<tr>
<th>Ministry</th>
<th>Agency, Directorate, Unit</th>
<th>Responsibilities</th>
</tr>
</thead>
<tbody>
<tr>
<td>Ministry of Domestic Security and Civil Protection</td>
<td>Directorate of Border Police</td>
<td>Immigration and border management</td>
</tr>
<tr>
<td>Ministry of Labour, Public Service, and institutional Relations</td>
<td>National Labour Directorate</td>
<td>Ensuring respect for the labour legislation</td>
</tr>
<tr>
<td>Ministry of Employment and Vocational Training</td>
<td>National Employment Agency</td>
<td>Finding employment abroad for Malian jobseekers, Providing pre-employment information, Reintegration of returnees</td>
</tr>
</tbody>
</table>

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873 Politique nationale de population.
875 Ministère des Maliens de l’extérieur et de l’Intégration africaine.
877 After finalising this study, the Malian authorities announced the adoption of the national migration policy and its action plan in September 2014. However, the document was not accessible to the authors and its content is hence not reflected in this chapter.
878 Ministère de la Sécurité intérieure et de la Protection civile.
879 Direction de la police des frontières.
880 Ministère du Travail, de la Fonction publique et des Relations avec les institutions.
881 Direction nationale du travail.
882 Ministère de l’Emploi et de la Formation professionnelle.
883 Agence nationale pour l’emploi.
Other institutions dealing with migration management include the Centre for Migration Information and management (CIGEM), an institution which is open to the public, created in 2008 with the cooperation of the EU, ECOWAS, France, and Spain. It is placed under the authority of both the Ministry of Foreign Affairs and International Cooperation and the Ministry for Malians Abroad and African Integration, and its Technical and Steering Committees are inter-institutional institutions that not only include relevant Ministries, but also external partners. The focus areas of the CIGEM have evolved over time, from a focus on assistance to potential migrant workers and returnees to research, migration and development areas.

The High Council for Malians Abroad is a private structure which represents the Malian diaspora and liaises with government authorities.

Finally, local authorities also play a role in migration management, notably within the framework of co-development programmes and diaspora initiatives set up in cooperation with France and Spain (see section 4.10.2.3.2)
### 4.10.2.2 Immigration: national policy framework and institutional practices

#### 4.10.2.2.1 General immigration provisions

<table>
<thead>
<tr>
<th>Legislation/Policy Framework</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>Law No. 04-058 relating to the Conditions of Entry, Stay and Establishment of Foreigners in the Republic of Mali, 2004[^91]</td>
<td><strong>Entry</strong>&lt;br&gt;Law, Art. 8: Decree, Art. 2: Entry on the national territory is subject to the delivery of:&lt;br&gt;• an entry visa;&lt;br&gt;• the production of documents regarding the purpose and conditions of stay, a guarantee of return (which may take the form of a return ticket to the country of origin, a deposit, or a guarantee from a bank); and&lt;br&gt;• if applicable, proof of means of existence or a work authorisation (in practice, the latter is no longer requested).&lt;br&gt;Decree, Art. 7: the entry visa is valid for a maximum period of 90 days, and is renewable once.</td>
</tr>
<tr>
<td>Decree No. 05-322/P-RM, 2005[^92]</td>
<td><strong>Stay/residence</strong>&lt;br&gt;Law, Art. 5 distinguishes between two types of foreigners: non-immigrants, including tourists, visitors, students and temporary workers, and immigrants, defined as “foreigners entering Mali with the intention to establish their residence in the country or to perform, on a permanent basis, a lucrative activity or a profession.”&lt;br&gt;The distinction between non-immigrants and immigrants corresponds to two distinct immigration statuses, namely stay and residence (or “establishment”, as referred to in the law).&lt;br&gt;<strong>Stay</strong>&lt;br&gt;Law, Art. 12: Stay in Mali requires the granting of a temporary stay authorisation[^93], which leads to the delivery of a stay visa[^94] valid for a maximum period of one year, which is renewable.&lt;br&gt;Decree, Art. 23: The request of a temporary stay authorisation is made after entry on the national territory and must be accompanied by the following documentation: passport, extract from the police record, and medical certificate.&lt;br&gt;Decree, Art. 25: “the stay visa is only delivered if the foreigner proves that he/she can live on his/her own financial resources and makes the commitment of not exercising any professional activity”. This provision is most surprising as it implies that temporary work in Mali is prohibited. However, this provision can certainly be considered null as it contradicts art. 5 of the Law of 25 November 2004.&lt;br&gt;Law, Art. 13 foresees an off-right delivery of the temporary stay authorisation to the foreign spouse, children and parents of a Malian national, as well as to the spouse’s children (up to 18 years) of foreign holders of a resident card.&lt;br&gt;<strong>Residence</strong>&lt;br&gt;Law, Art. 16: Residence (or establishment) implies the delivery of a resident card[^95], which is valid for five years, and is renewable.&lt;br&gt;Decree, Art. 31: The resident card must be requested within 15 days of entry.&lt;br&gt;Decree, Art. 28 to Art. 30: In addition to the conditions applicable to the delivery of the temporary stay authorisation, the applicant must either prove his/her means of existence or obtain a work authorisation (in practice, the work authorisation is no longer requested).</td>
</tr>
</tbody>
</table>

One can note several contradictions between the law and its decrees, as well as the lack of precision regarding the conditions and procedural steps for obtaining stay and resident permits. Furthermore, despite its mention of the family reunification procedure, the legislation includes no details in this regard. The legislation also does not include specific provisions regarding the status of ECOWAS Member States’ nationals, with the exception of a very general derogation clause concerning international conventions applicable in Mali. According to D. Dembele, however, “administrative provisions” were made before the adoption of the Law of 25 November 2004 to fully implement the ECOWAS protocols on free movement of persons, right of residence and establishment. Indeed, according to M. Ballo, ECOWAS Member States’ nationals can enter and establish themselves in Mali upon the presentation of a valid identity card.

Mali has concluded bilateral agreements which include provisions on entry, stay and residence with the following countries: Burkina Faso, Ghana, Guinea, Mauritania, Niger, Cameroon, and France. These agreements are based on reciprocity and generally apply equally to Malians in the considered countries and foreigners from those countries in Mali. A review of these agreements is presented in section 4.10.3.

4.10.2.2.2 Labour migration

Access to national labour market


In addition to the common immigration rules, the employment of foreigners in Mali requires the approval of the work contract by the National Labour Directorate within the Ministry of Labour, Public Service, and State Reform. A work authorisation typically serves two purposes: first, and mainly, it protects the national labour market generally through a labour market test or a quota system; second, it ensures that the labour legislation – the rights of the worker – is respected. In the case of Mali, there is no provision in the legislation that foresees the protection of the national labour market. For instance, there is no obligation for the employer to look for a worker available on the national labour market before employing a foreigner. The only existing provisions concern the protection of the migrant worker, notably through ensuring that the labour legislation is respected and that the worker understands and agrees to the terms of the work contract.

Moreover, according to officials interviewed for the purpose of the present study, the work authorisation is no longer required in practice. In other words, foreigners who comply with common immigration rules can freely access the Malian labour market. In the case of ECOWAS Member States’ nationals, they can freely enter, stay and work as long as they hold a valid identity card.

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898 *Visa du contrat de travail*.
Rights within employment

<table>
<thead>
<tr>
<th>Legislation/Policy Framework</th>
<th>Description</th>
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<tbody>
<tr>
<td>Labour Code, Art. L.1</td>
<td>provides for equal treatment with nationals. Foreigners, regardless of their legal status, benefit from all obligations and rights from the labour legislation as a principle.</td>
</tr>
<tr>
<td>Labour Code, Art. L.233; L.235</td>
<td>Notably, foreigners can join and form trade unions, as well as perform administrative and executive functions within them.</td>
</tr>
<tr>
<td>Regulation, Art. A 267.6</td>
<td>limits the eligibility of trade union representatives to Malians and nationals from countries with which Mali has concluded agreements that “explicitly provide equality of access to salaried employment and equality of treatment regarding labour legislation and social security”, and as long as they “can express themselves in French”. As trade union delegates are normally chosen from candidates in profession-based elections, this provision is likely to strongly undermine the aforementioned equalitarian Labour Code principle. Its legality is therefore contestable.</td>
</tr>
<tr>
<td>Labour Code, Art. L. 27</td>
<td>imposes on the employer the duty to cover the cost of transportation from the country of origin to the place of employment, as well as that of the return on the occasion of legal and regulatory leave, and at the end of the contract.</td>
</tr>
</tbody>
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4.10.2.2.3 Irregular migration

<table>
<thead>
<tr>
<th>Legislation/Policy Framework</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>Decree, Art. 18</td>
<td>Illegal entry leads to deportation, the cost of which is by principle undertaken by the transporter.</td>
</tr>
<tr>
<td>Law, Art. 19</td>
<td>Violation of the immigration legislation justifies the withdrawal of the stay visa or the resident card, and therefore, deportation.</td>
</tr>
<tr>
<td>Law, Art. 20</td>
<td>Unauthorised stay and assistance to irregular entry and/or stay is punished by from three months to three years imprisonment and/or a fine.</td>
</tr>
<tr>
<td>Law, Art. 21</td>
<td>Higher penalties are foreseen in case of re-entry despite the existence of a ban.</td>
</tr>
<tr>
<td>Law, Art. 24</td>
<td>Expulsion is foreseen in case of criminal offence or threat to public order.</td>
</tr>
</tbody>
</table>

In practice, national authorities apply a tolerant approach towards irregular migration. Expulsion and deportation of foreigners are generally not based on their irregular immigration status, but rather on the considered threat they pose to public order. D. Dembele notes that irregular migrants apprehended by the police are not deported but referred to the competent diplomatic or consular post, which will issue an identity card to them. Arguably, this may only apply to ECOWAS Member States’ nationals, who can enter and reside in Mali with only an identity card.

With regard to border management, several bilateral and regional initiatives have been initiated over the

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901 Code du travail.
903 This principle was confirmed by the national authorities: Comité pour la protection des droits de tous les travailleurs migrants et des membres de leur famille, 2006, op. cit., p. 10.
905 See section 4.10.2.2.1.
years. In 1995, a cross-border cooperation agreement which included fighting against irregular border crossings, smuggling and security, was concluded with Algeria. Cooperation with Spain has included the providing of equipment and training to border police staff. Moreover, meetings are periodically organised with neighbouring countries with regard to border cooperation and management.

4.10.2.2.4 Migrants at risk

In 2012, Mali adopted Law No. 2012-023 relating to combatting Trafficking in Persons and Similar Practices, a comprehensive text covering all forms of trafficking in persons and prescribing penalties of 5 to 10 years’ imprisonment and up to 20 years in cases of aggravating circumstances. Given that previous anti-trafficking activities were based on the provisions of the Penal Code, which, it appears, was not sufficiently broad or stringent, the introduction of this law constitutes an improvement. However, due to the current internal political instability, efforts to fight against trafficking in persons have decreased during the past two years.

Malian authorities have generally been active in the fight against trafficking. Prosecution of offenders has increased in the past few years – 24 new cases were recorded in 2011 – and magistrates have been given training on trafficking-related issues. With regard to protection, national authorities have referred a significant number of victims to NGOs and international organisations, and have provided financial and in-kind support to NGO-run shelters. In addition, regular workshops, public debates, and meetings have been organised to inform the population on the risks of human trafficking.

Mali has also concluded bilateral agreements with Burkina Faso (2004) and Côte d’Ivoire (2000) in order to strengthen mutual cooperation in the fight against child trafficking.

4.10.2.3 Emigration

4.10.2.3.1 Labour migration

Mali lacks a comprehensive labour emigration policy. It has, however, made attempts to develop legal channels for employment abroad. The CIGEM has looked for job opportunities corresponding to Malian workers competencies in the following countries: Spain (agriculture, construction, and hospitality services), France (construction and hospitality services), Belgium (agriculture), and Canada (agriculture). It has also proposed vocational training in sectors where a labour demand exists both in Mali and abroad.

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911 Accord de coopération entre le Mali et le Burkina Faso en matière de lutte contre le trafic transfrontalier des enfants, 25 juin 2004.
912 Accord entre le Mali et la Côte d’Ivoire en matière de lutte contre le trafic transfrontalier des enfants, 1er septembre 2000.
914 Funakawa, N., Le CIGEM – Centre d’information et de gestion des migrations : sa place face aux défis des politiques migratoires, Université de Poitiers, 2009, pp. 49-50.
Despite the conclusion of a rather comprehensive bilateral agreement with Spain in 2007, the efforts undertaken by Malian authorities with regard to labour migration have not been taken much further.

Although the agreement concluded with Spain does not provide a privileged access to the national labour market, it does include a series of favourable provisions. It provides for the promotion of labour migration on the basis of labour market studies and the communication by Spanish authorities to their Malian counterparts of job vacancies. In practice, however, the implementation of these provisions has proved to be difficult, not only due to the current Spanish economic situation, but also to Mali’s low institutional capacities.

Neither the National Employment Agency nor the CIGEM have set up a system for the collection of job offers abroad. National institutions are therefore not able to pre-select job offers that may match the competencies of Malian jobseekers, or propose them to selected applicants and eventually organise the recruitment of workers. An exception is the Ministry for Malians Abroad and African Integration, which has organised the departure of temporary workers within the Mali-Spain agreement.

Given that the initial competencies of the CIGEM were to “receive, inform and assist potential migrants” and provide “information on legal conditions of migration”, jobseekers were expecting assistance in finding employment abroad. Unfortunately, the CIGEM and its partners have had little to offer in this respect. In 2009, for example, the CIGEM was only able to assist the Ministry for Malians Abroad and African Integration in sending 29 seasonal workers to Spain. Since a mid-term evaluation of the CIGEM activities in 2010, the centre has drawn back from its activities related to labour migration.

Mali has concluded bilateral agreements which include provisions on entry, stay and residence with the following countries: Burkina Faso, Ghana, Guinea, Mauritania, Niger, Cameroon, and France (see section 4.10.3. for more details).

4.10.2.3.2 Migration and development

Institutional developments

At the institutional level, the commitment of the national authorities can be observed in the creation of the Ministry for Malians Abroad and African Integration and, within its General Delegation for Malians Abroad, the High Council for Malians Abroad, and the CIGEM.

The objectives of the Ministry for Malians Abroad and African Integration include the following:

- to initiate, coordinate and monitor activities aimed at assisting in the return of Malian migrants;

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915 Acuerdo de Cooperacion en materia de inmigracion entra Espana y Mali, 23 de enero de 2007.
916 Ibid., art. 3.
917 Ballo, M., 2009, op. cit., p. 75.
918 Keita, M., 2010b, op. cit., p. 15.
to facilitate the creation of a favourable environment, which encourages the participation of Malians abroad in the economic and social development of the country.\textsuperscript{920}

The High Council for Malians Abroad, a federative structure composed of elected representatives in national councils (Conseils des Maliens de l’Extérieur) present in 63 countries, has the following aims:

- to represent Malians abroad at national forums and institutions;
- to assemble Malian emigrants residing abroad irrespective of their region of origin, ethnicity, religion, social status, sex and profession;
- to promote unity and solidarity among Malians abroad;
- to encourage their contribution to the economic, environmental, social, cultural and athletic development in Mali; and
- to promote peace and integration between peoples.\textsuperscript{921}

The CIGEM’s initial mandate included the “valorisation of [the] human, financial and technical capital of Malians abroad” as well as the “reception, informing and assisting of returning migrants”.\textsuperscript{922} After the reorientation of the activities of the centre, the focus has shifted towards channelling diaspora initiatives into the economic and social development of the country rather than assistance of returnees.\textsuperscript{923}

\textbf{Diaspora outreach and confidence-building measures}

The legislation authorises dual/multiple citizenship and recognises the right of nationals residing abroad to vote and to be eligible in presidential elections. The Ministry for Malians Abroad and African Integration organises visits to the main countries of destination to meet with diaspora members as well as leading information campaigns on existing initiatives available for the diaspora.\textsuperscript{924} Within Mali, diaspora forums are often organised, such as the Diaspora Forum\textsuperscript{925} in 2003, the Malian Diaspora Investor Forum\textsuperscript{926} in 2009, and the Forum of Intellectual, Scientific and Technical Diaspora\textsuperscript{927} in 2010.

\textbf{Mobilising and channelling remittances for development}

Malians abroad benefit from the general incentives of the Investment Code. Investments from the diaspora in the national development are mostly channelled through local associations and authorities. It is estimated that one out of every two Malian villages has long-term partnerships with associations present in countries of destination – mainly in France – including diaspora associations.\textsuperscript{928} Mali and France have concluded cooperation agreements, including co-financing mechanisms, for local development projects

\textsuperscript{920} IOM, ICMPD, 2010, op. cit., p. 12.
\textsuperscript{921} Ibid., p. 14.
\textsuperscript{922} Ballo, M., 2009, op. cit., p. 75.
\textsuperscript{923} Republic of Mali, 2013, op. cit., p. 2.
\textsuperscript{924} IOM, ICMPD, 2010, op. cit., p. 13.
\textsuperscript{925} Forum de la diaspora.
\textsuperscript{926} Forum des investisseurs de la diaspora malienne.
\textsuperscript{927} Forum de la diaspora intellectuelle, scientifique et technique du Mali.
\textsuperscript{928} Ballo, M., Diombana, L., 2009, op. cit., p. 17.
initiated by diaspora associations.\textsuperscript{929} A Technical Unit for Co-development was created and placed under the authority of the Ministry of Economy and Finance to implement the envisaged initiatives. The agreement with Spain includes the provision of technical assistance for the improvement of transfer services, the stimulation of remittances’ development potential, and, more generally, support for the engagement of the diaspora in the economic and social development of Mali.\textsuperscript{930} In 2012, a Circular from the Ministry of Economy, Finance and Budget lifted the exclusivity clauses on remittances.

\textit{Addressing the challenges of highly-skilled migration}

Projects concerning the involvement of skilled migrants in the development of Mali include the UNPD-led TOKTEN (Transfer of Knowledge through Expatriate Nationals) programme, which sees the temporary return of skilled nationals in order to contribute to development projects in their country of origin. The programme was initiated in 1998 and originally focused on developing the capacities of the higher education system. In 2011, it was extended to the health and agricultural sectors as well as to small and medium-sized enterprises.\textsuperscript{931} UNESCO has also initiated a project called TALMALI, which follows an approach similar to that of TOKTEN.\textsuperscript{932}

\textbf{4.10.2.3.3 Migrants’ protection}

\textit{Information dissemination and protection in countries of destination}

Although the protection of Malians residing abroad is one of the core responsibilities of the Ministry for Malians Abroad and African Integration,\textsuperscript{933} consular assistance appears to be limited. In Mali, the CIGEM’s initial mandate included the provision of information to potential migrants on the different aspects of migration. However, due to the fact that the centre’s services were not associated with recruitment mechanisms, these pre-employment and pre-departure orientation mechanisms have not proven to be fully satisfactory.

\textit{Social security agreements}

Mali has consistently promoted the conclusion of bilateral social security agreements with the main countries of residence of its nationals. Agreements have been signed with France, Burkina Faso, Guinea, Mauritania, Senegal, Togo, and the Netherlands. With Côte d’Ivoire, a payment agreement exists.\textsuperscript{934} Moreover, Mali has ratified the inter-African social security convention (CIPRES Convention).\textsuperscript{935}

\textsuperscript{929} Ballo, M., 2009, op. cit., p. 69.
\textsuperscript{930} Acuerdo de Cooperacion en materia de inmigracion entra Espana y Mali, 23 de enero de 2007, art. 7.
\textsuperscript{931} For a comprehensive analysis of the TOKTEN programme in Mali, see Dembele, D., \textit{La migration hautement qualifiée: cas du Mali}, CARIM AS No. 14, 2010c.
\textsuperscript{932} Keita, M., \textit{La migration de haut niveau au Mali}, CARIM AS No. 4, 2010c, p. 15
\textsuperscript{933} IOM, ICMPD, 2010, op. cit., p. 12.
\textsuperscript{935} Convention multilatérale de sécurité sociale de la Conférence interafricaine de la prévoyance sociale.
**Bilateral agreement with Spain, 2007**

The bilateral agreement concluded with Spain includes several provisions regarding protection, such as pre-departure training for migrants and further training upon arrival in Spain, with a view to facilitating their integration in the country of destination.\(^{936}\) It also pledges assistance to Malian authorities with regard to anti-trafficking policies.\(^{937}\)

**Assistance to returnees**

Assistance in the reintegration of returnees primarily involves a great number of local associations, such as Association pour la formation, l’insertion et le développement rural en Afrique (AFIDRA), Association des initiatives de développement (AIDE), Association malienne des expulsés (AME), Association malienne pour l’environnement, la jeunesse et le développement (AMEJD), and Association retour, travail, dignité (ARTD).\(^{938}\)

These associations benefit from financial and in-kind support from both the Directorate General for Malians Abroad and the CIGEM.\(^{939}\) The National Employment Agency also provides technical and financial support to returnees seeking to develop economic projects.\(^{940}\)

Since 1995, France funds individual and collective projects of voluntary returnees.\(^{941}\) Similarly, IOM operates an Assisted Voluntary Return and Reintegration program (AVRR) for returnees mainly from Libya, Morocco and Europe.\(^{942}\) In addition, Reception and Information Desks\(^{943}\) have been set up by the Ministry for Malians Abroad and African Integration in several airports, train and bus stations to orientate returnees toward relevant assistance services.\(^{944}\)

### 4.10.3 International, regional, and bilateral cooperation

**International conventions**

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

- the International Covenant on Civil and Political Rights (1966);
- the International Covenant on Economic, Social and Cultural Rights (1966);
- the Convention on the Elimination of All Forms of Discrimination against Women (1979);
- the Convention on the Rights of the Children (1989);
- 30 ILO Conventions (Mali has not ratified the two specific ILO conventions on migrant workers, C 97 (1949) and C 143 (1975));
- the Convention on the Protection of the Rights of All Migrant Workers and Members of their Families (1990); and

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\(^{936}\) Acuerdo de Cooperacion en materia de inmigracion entra Espana y Mali, 23 de enero de 2007, art. 6.
\(^{937}\) Ibid., art. 8.
\(^{938}\) IOM, GIP international, Répertoire des structures en charge de la migration professionnelle au Mali, 2011, pp. 62-77.
\(^{940}\) IOM, GIP international, 2011, op. cit., p. 9.
\(^{942}\) IOM, GIP international, 2011, op. cit., pp. 48-49.
\(^{943}\) Diembana, L., Bureaux d’accueil et d’information de Maliens de l’exterieur.
\(^{944}\) Diombana, L., 2009, op. cit., p. 22.

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

**Bilateral agreements**

Mali has concluded a large number of bilateral agreements on migration-related matters. While some of these conventions are rather old, their provisions generally remain applicable.

Regarding entry and stay of persons, Mali has concluded conventions with the following African states: Burkina Faso (1969), Ghana (1977), Guinea (1964), Mauritania (1973), Niger (1964), and Cameroon (1964). In 1980, a bilateral labour agreement was also signed with Libya. The conventions with Mauritania, Niger, and Cameroon are all similar in their content: they set up a principle of free entry, stay, residence and access to the national labour market – although exceptions are low because of economic reasons – for nationals of the contracting parties. The Convention concluded with Mauritania has ceased to be implemented – with both parties requesting stay permits from the considered individuals, while Cameroon is currently asking for a revision of the 1964 Agreement.

In addition, agreements removing visa obligations have been concluded with Morocco, Algeria, and Tunisia.

Outside the African continent, the Agreement on Circulation and Stay of Persons was concluded with France in 1994, as well as the Cooperation Agreement on Migration Matters with Spain in 2007. The agreement with France includes two derogations to the French immigration legislation: it provides for the delivery of the same stay/residence permit to family members in case of family reunification (instead of a temporary stay permit under French administrative law), as well as the possibility to obtain a 10-year residence permit after three years of stay in the country (instead of five years under French administrative law). These derogations remain limited and, on the whole, Malian nationals are subject to common French immigration legislation.

The agreement with Spain is more comprehensive: it includes provisions regarding labour migration.

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945 Convention d'établissement et de circulation des personnes entre le Mali et le Burkina Faso, 30 septembre 1969.
946 Accord sur la circulation et le séjour des personnes entre le Mali et le Ghana, 31 août 1977.
949 Convention d’établissement et de circulation des personnes entre le Mali et le Niger, 22 avril 1964.
950 Convention générale d’établissement et de circulation des personnes entre le Mali et le Cameroun, 06 mai 1964.
951 Convention relative à l’emploi de la main d’œuvre entre le Mali et la Libye, 12 décembre 1980.
954 Acuerdo de Cooperacion en materia de inmigracion entra Espana y Mali, 23 de enero de 2007.
955 See section 4.10.2.3.1.
assistance to voluntary return, migration and development,\textsuperscript{956} information dissemination and integration of Malian nationals in Spain, and the fight against trafficking and irregular migration.\textsuperscript{957}

Mali has not concluded any readmission agreements.

Agreements to strengthen mutual cooperation on the fight against child trafficking have been concluded with Burkina Faso (2004),\textsuperscript{958} Côte d’Ivoire (2000),\textsuperscript{959} and Guinea (2005). An agreement which includes provisions on border management was concluded with Algeria in 1995.

\textsuperscript{956} See section 4.10.2.3.2.
\textsuperscript{957} See section 4.10.2.3.3.
\textsuperscript{958} Accord de coopération entre le Mali et le Burkina Faso en matière de lutte contre le trafic transfrontalier des enfants, 25 juin 2004.
\textsuperscript{959} Accord entre le Mali et la Côte d’Ivoire en matière de lutte contre le trafic transfrontalier des enfants, 1er septembre 2000.
4.10.4 References


IOM, GIP international, Répertoire des structures en charge de la migration professionnelle au Mali, 2011.


### 4.10.5 List of interlocutors

<table>
<thead>
<tr>
<th>Name of respondent</th>
<th>Position</th>
<th>Institution</th>
</tr>
</thead>
<tbody>
<tr>
<td>Touré, A.</td>
<td>Head of Department, Cooperation and Migration</td>
<td>National Employment Agency[^960]</td>
</tr>
<tr>
<td>Konaté, A.</td>
<td>Director</td>
<td>CIGEM</td>
</tr>
<tr>
<td>Bathily, H.</td>
<td>Head of Unit</td>
<td>Technical Unit for Co-development[^961]</td>
</tr>
<tr>
<td>Sylla, I.</td>
<td>Executive Officer</td>
<td>General Delegation for Malians Abroad[^962]</td>
</tr>
<tr>
<td>Keita, S.</td>
<td>Technical Advisor on migration</td>
<td>Ministry for Malians Abroad and African Integration[^963]</td>
</tr>
<tr>
<td>Diakité, M.</td>
<td>National Director</td>
<td>Ministry of Employment and Vocational Training[^964]</td>
</tr>
</tbody>
</table>

[^960]: Agence nationale pour l’emploi.
[^961]: Cellule technique du codéveloppement.
[^962]: Délégation générale des Maliens de l’extérieur.
[^963]: Ministère des Maliens de l’extérieur et de l’Intégration africaine.
[^964]: Ministère de l’Emploi et de la Formation professionnelle.
4.11 Niger

4.11.1 Migration trends

4.11.1.1 Immigration

While Niger cannot be considered a major country of destination for international migrants, it is an important country of transit for sub-Saharan migrants, mostly from ECOWAS Member States, travelling towards Algeria, Libya, and eventually to European countries.965

The distinction between the notions of “country of transit” and “country of destination” is certainly useful and corresponds to reality, but it does have its limitations. In the case of Niger, transit within the country may take months and even years. Given the financial cost of travelling through the Sahara and eventually, by boat, to Europe, it is common for migrants to interrupt their trip in order to earn further sources of income. Nigerien cities such as Agadez, Arlit and Dirkou have become such stopover zones, where migrants prepare for the continuation of their trip.966 These cities are also places of initial return for expelled or stranded migrants. In many of these instances, it is not sufficient to consider Niger as simply a country of transit as it has de facto become a country of destination for temporary migration flows.

Moreover, such immigration for the purpose of temporary stay or longer residence exists in Niger and represents a phenomenon that deserves to be given an overview.

<table>
<thead>
<tr>
<th>Data</th>
<th>Year</th>
<th>Absolute numbers</th>
<th>% of the Total Population</th>
</tr>
</thead>
<tbody>
<tr>
<td>National Population and Housing Census (RGPH)967</td>
<td>2001</td>
<td>88,067 foreigners968</td>
<td>0.8%</td>
</tr>
<tr>
<td>National Survey of Migration in Niger (ENAMI)969</td>
<td>2011</td>
<td>57,679 foreigners970, 174,102 immigrants, i.e. individuals born abroad, regardless of their nationality971</td>
<td>0.4% 1.1%</td>
</tr>
</tbody>
</table>

Given that annual estimates of transit migration flows are between 40,000 and 80,000,972 it can be argued that both the figures presented in the RGPH and the ENAMI are underestimations.


967 Recensement général de la population et de l’habitat.


969 Enquête nationale sur la migration au Niger.


971 Ibid., p. 28.

972 Tabapssi, T., 2010a, op. cit., p. 5.
### 4.11.1.1 Characteristics of immigrants/foreigners

| Countries of origin: | • According to RGPH 2001 results, most foreigners were nationals of Mali (30,402), Burkina Faso (13,017), Nigeria (13,093), Benin (12,093), and Togo (6,535). Very few recorded foreigners were nationals from Côte d’Ivoire (810) or Ghana (1,132).  
• The ENAMI 2011 showed a similar distribution of foreigners with regard to their country of nationality. |
| Settlements: | • According to the RGPH 2001, there was an equal amount of ECOWAS Member States’ nationals living in rural and urban areas.  
• ECOWAS Member States’ nationals tended to be overrepresented in the departments of Niamey (35.5% of foreign born migrants), Tillabéri (18%), and Niasso (13%), while other Africans were mostly residing in Diffa (34%), Niamey (29%), and Tahoua (15%).  
• Very few migrants from ECOWAS Member States were reported in Agadez (1.3%).  
This may be surprising given that Agadez is considered one of the places of stay for migrants looking to continue their journey to the Maghreb and Europe.  
• According to the ENAMI 2011, the regions of residence (not disaggregated per country of origin) included mainly Niamey (36%), Tahoua (15.8%), Dosso (15.6%), and Tillabéri (12.5%). Here again, migration to Agadez was the most limited (2%). On the whole, the results from the ENAMI showed a continuation of the trends revealed in the RGHP. |
| Socio-demographic profile: | • The results from RGPH 2001 show a predominance of foreign men (64%) over women. |
| Socio-economic profile and sectors of employment: | • High-skilled foreign workers tend to be employed in the energy sector. At a lower skill level, the construction sector is an important employment sector where workers occupy jobs for which there is a lack of competencies within the national workforce.  
• Foreign women workers tend to occupy jobs in sectors where, due to cultural traditions, Nigerien women are not employed. These include domestic work and work in the hospitality sector.  
• African entrepreneurs operating either within the formal or the informal sector appear to be particularly active, notably within the social, trade, and tourism sectors. |
| Vulnerable groups: | • Existing information on trafficking of foreigners in Niger is limited. According to the U.S. Department of State’s latest Trafficking in Persons Report, the risks concerning trafficking of foreigners in Niger are mostly concentrated around those individuals transiting through the country, who may be subjected to forced labour in Niger.  
• OHCHR notes, however, that “over the past few years, Niger [has] shifted from being a platform for the transit of trafficked persons in West Africa to a country of origin and destination.” |

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974 Ibid., chapter 4, p. 28.  
975 Such statistics may be explained by the fact that in the RGHP immigrants were only considered as such when residing in the considered household for a minimum of six months, “with the intention to stay for a total duration of at least six months”. It is likely that following this methodology, which notably includes a subjective element, migrants in transit were not included in the census. See INS, Recensements général de la population et de l’habitat 2001. Rapport d’analyse migration, chapter 2.  
977 Ibid., chapter 6, p. 1.  
978 Tabapssi, T., La migration hautement qualifiée au Niger, CARIM AS No. 16, 2010b, p. 3.  
979 Tabapssi, T., Genre et migration au Niger, CARIM AS No. 4, 2011, p. 4.  
980 Maga, H. I., Les migrations hautement qualifiées depuis et vers le Niger: état des lieux et tentatives explicatives, CARIM AS No. 32, 2010, p. 7. Due to political instability in the region, tourism in Niger has significantly declined over the past years.  
4.11.1.2 Emigration

The modern history of Nigerien emigration includes several phases characterised by specific patterns. In the 1960s, migration flows were primarily those of low-skilled workers towards West African coastal states, such as Côte d’Ivoire. In the 1970s, increased demand for labour in oil-producing countries such as Nigeria, Libya, and Algeria led to a diversification of emigration flows. Emigration to these countries decreased in the 1980s as a consequence of depressed oil revenues, and in the early-1990s, emigration was dominated by nationals fleeing from the civil war.\textsuperscript{982} Since the end of the 1990s, emigration has mostly been led by economic factors, namely the structural difficulties of the agricultural sector and the insufficiency of job opportunities in Niger.\textsuperscript{983}

<table>
<thead>
<tr>
<th>Data</th>
<th>Year</th>
<th>Estimates</th>
</tr>
</thead>
<tbody>
<tr>
<td>National Survey of Migration in Niger (ENAMI)\textsuperscript{984}</td>
<td>2010</td>
<td>Migrant stock estimated at 583,066\textsuperscript{985}</td>
</tr>
<tr>
<td>University of Sussex, Development Research Centre (DRC), Global Migrant Origin Database</td>
<td>2005</td>
<td>Migrant stock estimated at 496,773\textsuperscript{986}</td>
</tr>
</tbody>
</table>


\textsuperscript{983} Tabasssi, T., Le cadre général de la migration de, vers et à travers le Niger, CARIM AS No. 81, 2010c, p. 2; USAID, La migration au Niger. Les transferts de fonds à Loga, Tahoua, Tanout et Gouré face aux crises en Libye et Côte d’Ivoire, 2011, p. 11.

\textsuperscript{984} Enquête nationale sur la migration au Niger.

\textsuperscript{985} INS, 2011, op. cit., p. 40. According to the ENAMI methodology, emigrants are considered as individuals for whom a household reported that they were residing abroad for more than six months (continuously) during the previous five years.

\textsuperscript{986} Maga, H., I., 2009, op. cit., p. 71.
### 4.11.1.2.1 Characteristics of emigrants/nationals abroad

<table>
<thead>
<tr>
<th>Countries of destination/residence:</th>
</tr>
</thead>
<tbody>
<tr>
<td>- According to the ENAMI study, the majority of emigrants were residing in Nigeria (37.8%), followed by Libya (12.6%), Côte d’Ivoire (12.4%), Benin (8.3%), Ghana (7.7%), Togo (5.2%), and Cameroon (3.5%).&lt;sup&gt;987&lt;/sup&gt; It must be underlined that while the study was published in 2011, the surveys were conducted in 2010, before the crises in Côte d’Ivoire and Libya, which led to massive returns of Nigerien migrants.</td>
</tr>
<tr>
<td>- According to the DRC database, most Nigerien migrants were residing in the following countries: Burkina Faso (27.8%), Côte d’Ivoire (26.2%), Nigeria (11.9%), Guinea (10.8%), Ghana (5.2%), Togo (3.4%), and Benin (3%).&lt;sup&gt;988&lt;/sup&gt; It is likely that the ENAMI study provides the most reliable overview of Nigerien emigration, as shown by the example of Libya. While the ENAMI estimated the Nigerien population residing in the country at 73,693, the DRC database only identified 468 Nigerien residents.&lt;sup&gt;989&lt;/sup&gt; Given that in 2012 IOM reported 75,600 Nigerien returnees fleeing from the Libyan civil war,&lt;sup&gt;990&lt;/sup&gt; the DRC data can clearly be considered an underestimation.</td>
</tr>
<tr>
<td>- Nigerien migration towards OECD Member States is limited. It is estimated that only 3% of migrants reside in European countries.&lt;sup&gt;991&lt;/sup&gt; According to the OECD international migration database, the only countries where evidence of the Nigerien presence is not anecdotal are France (3,055 Nigeriens in 2009), Belgium (1,161 in 2010), Italy (1,131 in 2010), and Germany (821 in 2011).&lt;sup&gt;992&lt;/sup&gt; It should be taken into account, however, that OECD data only takes into consideration regular migrants and that the dataset does not include information for a number of countries, including the U.S. and Canada.</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Socio-demographic profile:</th>
</tr>
</thead>
<tbody>
<tr>
<td>- Nigerien emigration is largely a male phenomenon. The ENAMI study reports a male proportion of migration as high as 93%.&lt;sup&gt;993&lt;/sup&gt; This may well be an overestimation, which can be explained by the fact that the methodology applied tends to over-represent temporary migration and thus underestimates family migration. Although the RGHP 2001 does not provide direct information on emigration, it estimates the male proportion of returning migrants at 61%.&lt;sup&gt;994&lt;/sup&gt; The share is similar concerning migration towards OECD countries.&lt;sup&gt;995&lt;/sup&gt;</td>
</tr>
<tr>
<td>- Outside family migration, migration of women is low. This can be explained by the presence of traditional cultural values that limit the possibilities for women to migrate on their own.&lt;sup&gt;996&lt;/sup&gt;</td>
</tr>
<tr>
<td>- Regarding the main regions of origin of Nigerien migrants, both the RGHP 2001 and the ENAMI study identify these as being Tahoua, Tillabéri and Dosso.&lt;sup&gt;997&lt;/sup&gt;</td>
</tr>
</tbody>
</table>

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987 Ibid.  
988 Ibid., p. 73.  
992 OECD, ‘International Migration Database’: The OECD migration database collects information on stay/resident permits and population registers.  
A Survey on Migration Policies in West Africa

### Education level/sectors of employment:
- Nigerien migrants are generally low-skilled, which mirrors the general level of education in Niger.\(^{998}\)
- It has been argued that the risk of brain drain has remained limited in Niger.\(^{999}\) According to OECD data regarding migration in the health sector, the emigration rate of nurses was estimated at 0.8% and that of medical doctors at 6.5%.\(^{1000}\) However, it was also estimated that skilled migrants represented 49% of all Nigerien migrants, which constitutes an extremely high percentage when compared to the average skill level of the national population.\(^{1001}\)
- The type of employment differs from one region to another. In neighbouring countries, Nigerien workers tend to be employed largely in the agricultural sector.\(^{1002}\) In OECD Member States, migrants are mainly employed within the industrial, trade, hospitality and health sectors.\(^{1003}\)

### Duration of stay abroad:
- Uniquely, the household survey conducted in 2011 by USAID in four regions of Niger provides data on the average duration of stay of Nigerien migrants. It indicates that most migration is temporary and circular.\(^{1004}\) The duration of stay abroad depends on the countries of destination involved.
- In ECOWAS Member States such as Côte d’Ivoire, Nigeria and Benin, the stay is generally for six or seven months and corresponds to seasonal agricultural activities.
- In countries beyond the ECOWAS region, Libya, Gabon and Cameroon, for instance, migration tends to be longer, for periods of one to two years.\(^{1005}\)

### Remittances:
- According to World Bank estimates, remittances in Niger amounted to USD 70 million in 2010.\(^{1006}\)
- The largest proportion (82.7%) was sent from African countries.\(^{1007}\)
- The use of informal channels appears to be prominent, although differences can be made between source countries. Within the CFA franc zone, formal channels are used more than in other countries of destination.\(^{1008}\)
- The crises that occurred in 2011 in important countries of destination such as Libya, Nigeria and Côte d’Ivoire led to a significant decrease in remittance inflows.
- In the main regions of origin for Nigerien migration, it is estimated that remittances constitute between 25% and 50% of household income. The most part of remittances is used for alimentary purposes.\(^{1009}\)

### Vulnerable groups:
- According to the U.S. Department of State Trafficking in Persons Report 2013, international trafficking of Nigerien nationals concerns mainly children.
- Boys may be subjected to forced begging or forced labour by corrupt marabouts (koranic teachers) in Mali and Nigeria.
- Girls may be subjected to forced prostitution along the border with Nigeria. They may also be exploited as domestic and sex workers after arranged marriages have been made with foreigners from Nigeria, Saudi Arabia and the United Arab Emirates.\(^{1010}\)

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\(^{998}\) Data from 2008 shows that although it had significantly increased, the level of primary education only reached 46%, while post-primary education was limited to 17% and university enrolment concerned only 73 students per 100,000 inhabitants. Maga, H., I., 2009, op. cit., p. 56.

\(^{999}\) Maga, H., I., 2010, op. cit., p. 11.


\(^{1005}\) Ibid., p. 15. Such different patterns may be explained by the higher cost of travelling to countries farther away and the difficulties connected to migrating outside the ECOWAS region, within which freedom of movement is facilitated.


\(^{1008}\) USAID, 2011, op. cit., p. 17.

\(^{1009}\) Ibid., pp. 21-22.

4.11.2 Migration policy

Immigration matters are largely treated with a laissez-faire approach. Issues relating to emigration are of growing interest, although they are largely focused on the contribution of Nigerien migrants to the economic and social development of the country. Despite the establishment of a special inter-ministerial committee on migration policy development in 2007 and the elaboration of a first draft policy document in 2014, a national migration policy has yet to be adopted.

Regarding the integration of migration within national development plans, mention can be made of the Action Plan of the Rural Development Strategy, which explicitly refers to the relationship between migration and development.

4.11.2.1 Institutional framework on migration

Governmental stakeholders involved

<table>
<thead>
<tr>
<th>Ministry</th>
<th>Agency, Directorate, Unit</th>
<th>Responsibilities</th>
</tr>
</thead>
<tbody>
<tr>
<td>Ministry of Interior&lt;sup&gt;1011&lt;/sup&gt;</td>
<td>Directorate of Territorial Surveillance&lt;sup&gt;1012&lt;/sup&gt;</td>
<td>• Entry, stay and removal of foreigners</td>
</tr>
<tr>
<td>Ministry of Employment&lt;sup&gt;1013&lt;/sup&gt;</td>
<td>National Agency for Promotion of Employment&lt;sup&gt;1014&lt;/sup&gt;</td>
<td>• Intermediary between employers and Nigerien jobseekers for employment on the international labour market • Delivers work authorisations to foreign workers • Implements measures to facilitate the transfer of remittances</td>
</tr>
<tr>
<td>Ministry of Foreign Affairs&lt;sup&gt;1015&lt;/sup&gt;</td>
<td>• Directorate for Nigeriens Abroad&lt;sup&gt;1016&lt;/sup&gt; • High Council of Nigeriens Abroad&lt;sup&gt;1017&lt;/sup&gt;</td>
<td>• Relations with nationals abroad</td>
</tr>
<tr>
<td>Ministry of Finance</td>
<td></td>
<td>• Implementation of policies regarding remittances</td>
</tr>
</tbody>
</table>

Other ministries and public institutions are also concerned with migration, such as the Ministry of Planning,<sup>1018</sup> the National Institute of Statistics,<sup>1019</sup> the ministries of Defence,<sup>1020</sup> Health,<sup>1021</sup> Justice,<sup>1022</sup> etc.

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<sup>1011</sup> Ministère de l’Intérieur, de la Sécurité publique, de la Décentralisation et des Affaires religieuses.
<sup>1012</sup> Direction de la Surveillance du territoire.
<sup>1013</sup> Ministère de la Formation Professionnelle et de l’Emploi.
<sup>1014</sup> Agence nationale de promotion de l’emploi.
<sup>1015</sup> Ministère des Affaires étrangères, de la Coopération, de l’Intégration africaine et des Nigériens à l’extérieur.
<sup>1016</sup> Direction des Nigériens de l’extérieur.
<sup>1017</sup> Haut Conseil des Nigériens de l’extérieur.
<sup>1018</sup> Ministère du Plan, de l’Aménagement du territoire et du Développement communautaire.
<sup>1019</sup> Institut national de la statistique.
<sup>1020</sup> Ministère de la Défense nationale.
<sup>1021</sup> Ministère de la Santé publique.
<sup>1022</sup> Ministère de la Justice, garde des Sceaux.
Inter-institutional coordination

The main inter-institutional structure entrusted with migration management responsibilities is the Inter-Ministerial Committee in charge of the Elaboration of a National Migration Policy. The Committee was established in 2007 and placed under the authority of the Ministry of Interior. It is composed of officials from the main ministries involved in migration management. International organisations (IOM and the EU) and representatives from civil society are also invited to participate. In 2014, a first draft National Migration Policy was developed. It is yet to be formally adopted.

Another inter-ministerial institution is the Committee instituted in 2013 to organise the follow-up of the 2012 Diaspora Forum. The Committee includes the main ministries as well as IOM, UNDP, representatives from the private sector and the civil society. In addition, ad hoc committees have been set up over the years to deal with specific challenges, such as, for example, the Libyan crisis in 2011.

4.11.2.2 Immigration: national policy framework and institutional practices

4.11.2.2.1 General immigration provisions

<table>
<thead>
<tr>
<th>Legislation/Policy Framework</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>Ordinance No. 81-40 on Entry and Stay of Foreigners in Niger, 1981</td>
<td>Decree, Art. 2: By principle, immigration to Niger is subject to the delivery of a visa and a stay permit.</td>
</tr>
<tr>
<td>Decree No. 87-076 on Entry and Stay Conditions of Foreigners in Niger, 1987</td>
<td>Decree, Art. 6: Visas are normally granted by diplomatic and consular posts abroad; they may exceptionally be delivered upon arrival.</td>
</tr>
<tr>
<td></td>
<td>Decree, Art. 2: Entry on the territory is subject to a guarantee of return, which may take the form of a return ticket to the country of origin, a deposit or a guarantee from a bank.</td>
</tr>
<tr>
<td></td>
<td>Decree, Art. 8: The duration of the entry visa cannot exceed three months.</td>
</tr>
<tr>
<td></td>
<td>Ordinance, Art. 5; Decree, Art. 11: During the period of validity of the visa, a foreigner intending to stay in Niger has to request the delivery of a stay permit from the Ministry of Interior.</td>
</tr>
<tr>
<td></td>
<td>Decree, Art. 12 to Art. 16: The delivery of the stay permit is subject to proof of regular entry, production of a medical certificate, a work authorisation when applicable, and for students, a guarantee of sufficient financial means.</td>
</tr>
<tr>
<td></td>
<td>Decree, Art. 17; Art. 21: The permit is valid for a period of two years and is renewable under the same conditions of its first delivery.</td>
</tr>
<tr>
<td></td>
<td>Decree, Art. 18: In case of stay abroad for a duration exceeding six months, the permit may be revoked.</td>
</tr>
</tbody>
</table>

On the whole, the provisions of the Nigerien legislation appear to be well-balanced. Nevertheless, a number of gaps can be identified. Provisions regarding visas are particularly brief. The legislation only foresees one type of stay permit, the duration of which – two years – may be too short to facilitate integration of long-term residents in the country. There are no provisions regarding family migration and the specific status of ECOWAS Member States’ nationals is not considered.

1023 Comité interministériel chargé de l’élaboration du document de politique nationale de migration.
1024 Comité de pilotage du suivi des recommandations du Forum de la Diaspora d’août 2012.
1025 Ordonnance relative à l’entrée et au séjour des étrangers au Niger.
1026 Décret réglementant les conditions d’entrée et de séjour des étrangers au Niger.
1027 In practice, the provisions on the guarantee of return are not implemented. Maga, H., I., 2009, op. cit., p. 97.
Niger has concluded bilateral agreements which include provisions on entry and stay/residence with the following countries: Algeria, Burkina Faso, France, Ghana, Libya, Mali, Morocco and Tunisia. These agreements generally apply equally to Nigeriens in these countries and foreigners from these countries in Niger. A review of these agreements is presented in section 4.11.3.

4.11.2.2 Labour migration

Access to national labour market

<table>
<thead>
<tr>
<th>Legislation/Policy Framework</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>Ordinance No. 81-40 on Entry and Stay of Foreigners in Niger, 1981</td>
<td>Decree, Art. 13: Access of foreigners to the national labour market is based on the principle of a work authorisation, which takes the form of a visa from public employment services on the work contract.</td>
</tr>
<tr>
<td>Decree No. 87-076 on Entry and Stay Conditions of Foreigners in Niger, 1987</td>
<td>Decree, Art. 13; Labour Code, Art. 48: The work authorisation is to be delivered before entry of the migrant worker on the national territory (exception is made in the case of nationals from ECOWAS countries and countries with which Niger has concluded agreements and/or which grant preferential treatment to Nigerien nationals so that the principle of reciprocity applies).</td>
</tr>
<tr>
<td>Labour Code, 2012</td>
<td>Labour Code, Art. 48 states that the admission of foreign workers is subject to the absence of “national competences”.</td>
</tr>
<tr>
<td></td>
<td>Labour Code, Art. 51 specifies that the decision regarding the work authorisation is to be taken within 30 days.</td>
</tr>
<tr>
<td></td>
<td>Labour Code, Art. 50 includes an obligation on the employer to organise the training of national staff in order to replace foreign workers.</td>
</tr>
</tbody>
</table>

Nigerien legislation does not specify whether access of foreigners to the national labour market is governed by a quota system or a labour market test system. According to representatives of the Ministry of Employment, the option adopted by Niger is the labour market test. Employers intending to engage a foreign worker have to submit a request to the National Agency for Promotion of Employment, which will first look for a competent worker available on the national labour market before delivering the work authorisation. In practice, the labour market test is not enforced. The work authorisation is delivered once the worker is already on the national territory and the role of the National Agency for Promotion of Employment is more to register foreign workers than to protect the national labour market.

Although the legislation does not include specific provisions on the status of ECOWAS Member States’ nationals, administrative practices apply the delivery of an ECOWAS residence permit for a period of one year, renewable off-right.

Rights within employment

<table>
<thead>
<tr>
<th>Legislation/Policy Framework</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>Labour Code, 2012</td>
<td>Art. 2 provides for equal treatment with nationals.</td>
</tr>
<tr>
<td></td>
<td>Art. 190 includes an exception to the principle of equal treatment concerning trade unions. While all foreigners can join a trade union, administrative and executive functions are limited to nationals that enjoy civic and political rights and foreigners that have resided in Niger for a minimum of three years (and whom enjoy the aforementioned civic and political rights).</td>
</tr>
</tbody>
</table>

Foreigners, regardless of their legal status, benefit from all the obligations and rights of the labour legislation as a principle.

4.11.2.2.3 Irregular migration

<table>
<thead>
<tr>
<th>Legislation/Policy Framework</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>Ordinance No. 81-40 on Entry and Stay of Foreigners in Niger, 1981</td>
<td>Decree, Art. 31: Deportation is foreseen for those foreigners who are not in possession of the documents required to enter the country.</td>
</tr>
<tr>
<td>Ordinance No. 87-076 on Entry and Stay Conditions of Foreigners in Niger, 1987</td>
<td>Ordinance, Art. 16: foresees expulsion of foreigners who constitute a threat to public order. While no explicit provision concerns the removal of foreigners in an irregular situation within the national territory, irregular stay is considered a criminal offence.</td>
</tr>
<tr>
<td>Decree No. 87-076 on Entry and Stay Conditions of Foreigners in Niger, 1987</td>
<td>Decree, Art. 27: Irregular migration is sanctioned by fines of 4,000 to 50,000 CFA francs (USD 7.50 to USD 95) and a maximum of 15 days of imprisonment.</td>
</tr>
<tr>
<td>Ordinance, Art. 13:</td>
<td>Ordinance, Art. 13: Foresees penalties of 25,000 to 500,000 CFA francs (USD 47 to USD 950) and up to two years of imprisonment for smugglers of migrants.</td>
</tr>
</tbody>
</table>

In practice, national authorities are flexible in their approach to irregular migration as it is not considered a threat to Niger. For instance, removal of foreigners is rarely based on their illegal migration status but rather on the criminal offences they have committed. However, due to the instable political situation and the existence of terrorist threats in the region, removal of foreigners has become more frequent recently.

The capacities of the Directorate of Territorial Surveillance, which is in charge of border control, are low, due to limited staff and equipment. A number of initiatives have been implemented during the past number of years to develop border management capacities in cooperation with the EU, Italy, France, Germany, Spain, and Nigeria. In 2007, Niger and Mali agreed to jointly guard their common border.

4.11.2.2.4 Migrants at risk

<table>
<thead>
<tr>
<th>Legislation/Policy Framework</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>Ordinance No. 2010-86 on Combating Trafficking in Persons</td>
<td>Art. 10 foresees penalties of five to ten years’ imprisonment.</td>
</tr>
<tr>
<td>Art. 29 foresees 10 to 30 years’ imprisonment in the case of aggravating circumstances, and life imprisonment in the case of death of the victim.</td>
<td></td>
</tr>
<tr>
<td>Art. 4 to Art. 8 establish a National Coordinating Commission on the Fight against Trafficking in Persons and a National Agency. These institutions are charged with the responsibility of conducting prevention activities, collecting and sharing information among competent authorities, and training public services staff members.</td>
<td></td>
</tr>
<tr>
<td>Art. 50 states that protection and assistance activities apply equally to nationals and foreigners.</td>
<td></td>
</tr>
<tr>
<td>Art. 53: Protection and assistance activities notably include medical, psychological, and legal support, as well as shelter.</td>
<td></td>
</tr>
<tr>
<td>Art. 62: Foreign victims in an irregular situation are granted temporary stay during penal proceedings and may obtain a permanent status.</td>
<td></td>
</tr>
<tr>
<td>Art. 63: In case of repatriation to the country of origin, the security of the victim has to be taken into consideration.</td>
<td></td>
</tr>
</tbody>
</table>

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1029 Ordonnance No. 2010-86 du 16 décembre 2010 relative à la lutte contre la traite des personnes.
1030 Commission nationale de coordination de la lutte contre la traite des personnes.
1031 Agence nationale de lutte contre la traite des personnes.
In practical terms, the national authorities have made significant steps to fully implement the Ordinance’s provisions. The National Coordination Commission is effective and has been involved in training and awareness campaigns. Prosecution and convictions of offenders have increased over the past years. Regarding protection activities, national authorities provide limited medical assistance and shelter, mainly relying on local NGOs and international organisations.

4.11.2.3 Emigration

4.11.2.3.1 Labour migration

Niger lacks a labour emigration policy. No activities have been undertaken for the development of legal labour migration opportunities. According to Maga, national development policies attempt to improve living conditions, especially within rural areas, with a view to limiting internal and international migration.

Niger has concluded bilateral agreements dealing with migration issues. While most of these agreements cannot be considered bilateral labour agreements per se, they often include provisions applicable to the entry and stay of workers. A review of these instruments is given in section 4.11.3.

Although the National Agency for Promotion of Employment is responsible for the placement of Nigerien workers abroad, to date, its capacities in this regard have been quite limited. In addition, there is no legislation regulating the activities of Nigerien private employment agencies on the international labour market.

4.11.2.3.2 Migration and development

During the past few years, Nigerien authorities have developed initiatives in order to harness the benefits of migration for the economic and social development of the country. In practice, however, effectively implemented activities are rare.

Mobilising and channelling remittances for development

With regard to remittances, efforts have been made by the Ministry of Finance to facilitate the use of formal channels. For instance, a project is currently being developed to set-up “proximity counters” in major countries of destination in order to improve transfer services through cooperation with international banks.

National authorities have shown a growing interest in mobilising and channelling remittances in the context of development. The Action Plan of the Rural Development Strategy (2006) envisions the following actions:

1033 Ibid., p. 285.
1036 Guichets de proximité.
inform Nigerien emigrants regarding investment opportunities in rural areas of Niger; enhance remittances through conventions with financial stakeholders (International Monetary Fund, banks, etc.); and encourage interactions between migrants and local development actors.  

The core responsibilities of the Ministry of Foreign Affairs, Cooperation, African Integration and Nigeriens Abroad, as well as those of the High Council for Nigeriens Abroad, include the identification and promotion of investment in Niger for nationals residing abroad. Exploratory missions have been organised in the main African destination countries, as well as in France, in order to meet members of the diaspora and provide information on investment opportunities in Niger. The Nigerien Investment Code includes a number of fiscal and customs incentives to encourage investments. However, these provisions do not specifically target Nigeriens residing abroad.

**Diaspora outreach and confidence-building measures**

Relations between Nigerien emigrants and diaspora members and national authorities are generally weak. The Law on Nationality denies dual/multiple nationality: the acquisition of a foreign nationality leads to the loss of the Nigerien nationality. Nigeriens residing abroad cannot participate in elections held in the country. Recent developments show that the Nigerien government is seeking to reach out to the diaspora through confidence-building measures.

In 2012, a Nigerien Diaspora Forum was held in Niamey. The participants recognised the existence of difficulties between Nigeriens abroad and public authorities as well as the need for the state to adopt a number of measures in this regard. The recommendations adopted during the Forum include:

- the need to adopt measures in order to improve the relations between nationals and diplomatic and consular posts;
- the delivery of consular cards with a view to organising the participation of Nigeriens abroad in future elections;
- the delivery of passports by diplomatic and consular posts; and
- the promotion of Nigerien culture by diplomatic and consular posts.

The Forum led to the establishment of an inter-ministerial Committee entrusted with the duty of following up on the recommendations of the Forum.

During a conference organised in 2013 as a follow-up event to the Forum, the Minister of Foreign Affairs

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1038 Ibid., pp. 11-13.
1039 Ibid., pp. 16-17.
1040 Ibid., p. 10.
1043 Law No. 1961-26 on Nationality, art. 38.
1045 Comité de pilotage du suivi des recommandations du Forum de la Diaspora d’août 2012.
recognised the importance of allowing Nigerien nationals to hold dual/multiple citizenship. A law proposal in this regard has been submitted to the Nigerien Parliament.\textsuperscript{1046}

With regard to the direct relationship between members of the diaspora and national authorities, the High Council for Nigeriens has opened offices in 38 countries of destination. In addition, an Advice Centre\textsuperscript{1047} has been instituted within the Directorate for Nigeriens Abroad with a view to liaising with the diaspora and mobilising resources for the social and economic development of Niger. Efforts are also currently being made to organise a mapping of the Nigerien diaspora, notably through the use of an online registration system.

\textit{Addressing the challenges of highly-skilled migration}

With regards to policies concerning high-skilled migration, mention can be made of the UNDP-led TOK-TEN (Transfer of Knowledge Through Expatriate Nationals) programme, which sees the temporary return of skilled nationals in order to contribute to development projects in their country of origin. While the programme was due to begin in Niger in 2009, initially as a pilot project, there appears to have been few developments during these past years. Policies targeting brain drain are scarce. However, recruitments of young graduates have been organised by the Nigerien administration (20,000 in 2012) with a view to halting the emigration of skilled nationals.

4.11.2.3.3 Migrants’ protection

\textit{Information dissemination}

Niger has yet to adopt and implement a policy concerning the protection of migrants. Within the country, there are no information programmes to provide migrants and potential migrants with information on the different aspects of migration processes and living/working conditions in countries of destination. There is also no legislation regulating the activities of private employment agencies on the international labour market.

\textit{Protection in countries of destination}

Protection activities of diplomatic and consular posts appear to be limited. While efforts have been recently undertaken to build confidence between migrants and the authorities, activities are currently concentrated on cultural aspects and the promotion of investments in Niger. These may nevertheless pave the way for increased protection activities.

\textit{Social security agreements}

Niger has ratified the inter-African social security convention (CIPRES Convention).\textsuperscript{1048} At bilateral level, a

\textsuperscript{1046} Nigerdiaspora.net, ‘Conférence sur la diaspora nigérienne : la diaspora, un acteur indispensable au développement national’, 23 September 2013.

\textsuperscript{1047} Bureau d’accueil et d’orientation.

\textsuperscript{1048} Convention multilatérale de sécurité sociale de la Conférence interafricaine de la prévoyance sociale.
social security convention was concluded with France in 1973 and was followed by several protocols and administrative arrangements. The convention does not include coordination provisions regarding medical care. However, under Protocol No. 1, workers can benefit from the maintenance of cash payments with regard to medical insurance for a period of six months.

Protection of victims of trafficking

Regarding victims of trafficking, protection also remains limited. According to the U.S. Department of State Trafficking in Persons Report 2013, a small number of child victims were provided with medical assistance and temporary shelter, primarily through the services of NGOs. Adult victims do not benefit from specific protection measures.1049

4.11.3 International, regional, and bilateral cooperation

International conventions

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

- the International Covenant on Civil and Political Rights (1966);
- the International Covenant on Economic, Social and Cultural Rights (1966);
- the Convention on the Elimination of All Forms of Discrimination against Women (1979);
- the Convention on the Rights of the Child (1989);
- 36 ILO Conventions (Niger has not ratified the two specific ILO conventions on migrant workers: C 97 (1949) and C 143 (1975));
- the Convention on the Protection of the Rights of All Migrant Workers and Members of their Families (1990); and

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

Bilateral agreements

Niger has concluded a relatively large number of bilateral agreements on migration-related matters. While most of these conventions are rather old, their provisions generally remain applicable.

<table>
<thead>
<tr>
<th>Convention</th>
<th>Description</th>
</tr>
</thead>
</table>
| Convention with Burkina Faso (Upper Volta), 1964 | • Nationals from the considered countries can enter and reside on the territory of the other state party without the need for a visa or a stay/resident permit.  
• The only requirement is the possession of an identity document from the country of nationality.  
• Not only are these provisions more favourable than those foreseen by the ECOWAS texts but they are also easier to implement as they do not impose on the states obligations to be carried out but rather a duty to abstain. |
| Convention with Mali, 1964 | |
| Convention with Tunisia, 1966 | • Its content is similar to the agreements with Burkina Faso and Mali and foresees the entry, stay and residence without the requirement of a visa or a permit. It also specifically mentions the principle of access to the labour market on an equal footing with nationals. |
| Convention with Morocco, 1967 | • This foresees the removal of visa requirements for nationals of the state parties. |
| Convention with Algeria, 1981 | • Foresees the removal of visa requirement for nationals of the state parties.  
• While the agreement with Morocco has been in force since the 1990s, visas are still required for nationals of Algeria to enter Niger and vice-versa.  
• The agreement includes a provision on readmission of migrants in an irregular situation (art. 5) which remains applicable today. |
| Conventions with Libya, 1971, 1988 | • The convention of 1988 does not include specific rights regarding entry and stay, but rather guarantees the general civil and economic rights of the considered individuals.  
• The 1971 convention foresees a specific legal regime for Nigerien seasonal workers in Libya. It sets up cooperation mechanisms between the competent authorities of the two states for the recruitment of workers, foresees the delivery of a three month visa, and a stay permit valid for one year, which is renewable up to a limit of two years. |
| Conventions with France: Social security, 1973 | • The 1994 convention includes the following derogation to the common French immigration legislation: Nigerien nationals have the possibility to obtain a 10-year residence permit after three years of stay in the country (instead of five years under French administrative law). |
| Agreement on circulation and stay of persons, 1994 | |
| Agreement with Italy, 2010 | • This agreement focuses on security and most notably foresees cooperation activities in the area of trafficking in persons and irregular migration. |

1050 Protocole d’accord (délimitation des frontières, mouvements des populations, coopération entre les autorités frontalières) entre le Niger et la Haute-Volta signée le 23 juin 1964.
1051 Convention d’établissement et de circulation des personnes entre le Niger et la Mali, 22 April 1964.
1052 Convention d’établissement entre le Niger et la Tunisie, 18 October 1966.
1053 Accord pour la suppression du visa entre le Niger et le Maroc, 7 November 1967.
1056 Organisation de la délivrance des visas, du déplacement et de l’emploi de la main d’œuvre saisonnière dans la zone frontalière nigérienne, 19 October 1971.
1058 See section 4.11.2.3.3.
1059 Convention entre le gouvernement de la République française et le gouvernement de la République du Niger relative à la circulation et au séjour des personnes, 18 September 1997.


OECD, ‘Immigrant Health Workers in OECD Countries in the Broader Context of Highly Skilled Migration’,


## 4.11.5 List of interlocutors

<table>
<thead>
<tr>
<th>Name of respondent</th>
<th>Position</th>
<th>Institution</th>
</tr>
</thead>
<tbody>
<tr>
<td>Daouda, A.</td>
<td>Chairman, National Commission for coordinating the fight against trafficking in persons</td>
<td>Ministry of Justice</td>
</tr>
<tr>
<td>Issaka, A. D.</td>
<td>Head of Department, Vocational Orientation and Prospecting, National Agency for Promotion of Employment</td>
<td>Ministry of Employment</td>
</tr>
<tr>
<td>Mamane, M.</td>
<td>Deputy Director General, National Agency for Promotion of Employment</td>
<td></td>
</tr>
<tr>
<td>Housseini, S.</td>
<td>Head of Operations Division, Police, Directorate of Territorial Surveillance</td>
<td>Ministry of Interior</td>
</tr>
<tr>
<td>Kafougou, F.</td>
<td>Police Commissioner, Directorate of Territorial Surveillance</td>
<td></td>
</tr>
<tr>
<td>Garba, R.</td>
<td>Officer, Data and Statistics Division, Directorate of Territorial Surveillance</td>
<td></td>
</tr>
<tr>
<td>Soli, A</td>
<td>Head of Migration Division, Directorate of Civil Status and Refugees - HCNE</td>
<td>Ministry of Foreign Affairs</td>
</tr>
<tr>
<td>Boubacar, O. S.</td>
<td>Technical Adviser to the Minister on Migration</td>
<td></td>
</tr>
<tr>
<td>Salifou, A.</td>
<td>Person in charge, Migration and Development Division</td>
<td></td>
</tr>
<tr>
<td>Adamou, A.</td>
<td>Director, Legal Affairs</td>
<td></td>
</tr>
<tr>
<td>Yayé, B.</td>
<td>Secretary General, High Council of Nigeriens Abroad</td>
<td></td>
</tr>
<tr>
<td>Dan Nana</td>
<td>Director, High Council of Nigeriens Abroad</td>
<td></td>
</tr>
<tr>
<td>Baare, M.</td>
<td>Director, Currency, Credit, Savings</td>
<td>Ministry of Finance</td>
</tr>
<tr>
<td>Naany, I.</td>
<td>Statistician and economist, National Institute of Statistics</td>
<td></td>
</tr>
<tr>
<td>Souley, M.</td>
<td>Director, External Relations and Military Cooperation</td>
<td>Ministry of National Defence</td>
</tr>
</tbody>
</table>

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1060 Ministère de la Justice, Garde des Sceaux.
1061 Ministère de la Formation Professionnelle et de l’Emploi.
1062 Ministère de l’Intérieur, de la Sécurité Publique, de la Décentralisation et des Affaires Religieuses.
1063 Ministère des Affaires étrangères, de la Coopération, de l’intégration africaine et des Nigériens à l’extérieur.
1064 Ministère des Finances.
4.12 Nigeria

4.12.1 Migration trends

4.12.1.1 Immigration

<table>
<thead>
<tr>
<th>Data</th>
<th>Year</th>
<th>Absolute numbers</th>
<th>% of the Total Population</th>
</tr>
</thead>
<tbody>
<tr>
<td>Population and Housing Census</td>
<td>2006</td>
<td>999,273 foreign residents(^{1065})</td>
<td>0.7%</td>
</tr>
<tr>
<td></td>
<td></td>
<td>2,342,645 Nigerians by naturalisation</td>
<td>1.7%</td>
</tr>
</tbody>
</table>

4.12.1.1.1 Characteristics of immigrants/foreigners

- **Countries of origin:**
  - According to the Population and Housing Census of 2006, 51% of foreign residents were nationals from ECOWAS Member States,\(^{1066}\) 16% were nationals from other African states and 33% were non-Africans.
  - More specifically, Benin, Ghana, Mali, Togo, and Niger appear to be the main countries of origin.\(^{1067}\)

- **Settlements:** ECOWAS Member State nationals principally reside in Lagos, Ogun and Oyo states.\(^{1068}\)

- **Socio-demographic profile:** 58% of male foreign residents.\(^{1069}\)

- **Socio-economic profile and sectors of employment:**
  - Existing information is limited. One can estimate that, as Nigerian nationals, migrants are mainly employed within the informal labour market, and therefore, do not have the opportunity to benefit from a legal migration status.
  - With regard to skilled migrants, data from the Ministry of Health shows a high rate of foreigners within the medical sector. As noted by Adepoju, "nearly three thousand (2,968) expatriate doctors out of a total of about 39,210 doctors and 215 expatriate dentists (out of a total of 2,773 dentists) were practicing [...] in 2006."\(^{1070}\)

- **Vulnerable groups:** Foreign victims of trafficking are mainly children from Benin, Togo, Côte d’Ivoire and Niger, exploited in domestic work, prostitution, agriculture, mining, street trading, petty crimes and the drug trade.\(^{1071}\)

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\(^{1066}\) Ibid.


\(^{1069}\) Ibid.


4.12.1.2 Emigration

<table>
<thead>
<tr>
<th>Data</th>
<th>Year</th>
<th>Estimates</th>
</tr>
</thead>
<tbody>
<tr>
<td>Adepoju, A</td>
<td>2009</td>
<td>Between 10,000,000 and 20,000,000 nationals abroad.¹⁰⁷²</td>
</tr>
<tr>
<td>Draft National Migration Policy</td>
<td>2013</td>
<td>6,000,000 nationals abroad.¹⁰⁷³</td>
</tr>
</tbody>
</table>

The National Population Commission (NPopC) is currently preparing a study of the Nigerian diaspora.

4.12.1.2.1 Characteristics of emigrants/nationals abroad

- Sub-Saharan Africa is the main recipient of Nigerian migration flows.
- It is often said that Sudan has the largest Nigerian population among all countries of destination.¹⁰⁷⁴ This is due to a long tradition of settlement of nationals from Muslim northern Nigeria. Sudan appears to remain an attractive country for younger Nigerians, for both employment and study.¹⁰⁷⁵
- In West and Central Africa, arguably the main destination of Nigerian migration flows, Cameroun, Ghana, and Niger are believed to be preferred destinations.¹⁰⁷⁶
- Among OECD countries, the U.K. and the U.S. are the main countries of destination. In 2008, the U.S. Census Bureau American Community Survey estimated the Nigerian population at 206,604. 114,000 regular migrants were recorded in the U.K. in 2011.¹⁰⁷⁷
- During the past decade, a diversification of Nigerian migration among EU Member States, primarily towards Italy and Spain, has been noted. Nigerian regular migrants were estimated at 53,613 in Italy (2010) and 45,991 in Spain (2011).¹⁰⁷⁸ While figures show a constant increase of the Nigerian population in the two countries during the past decade, immigration flows have tended to slow down during the past years. This is particularly striking in the case of Spain, which recorded a peak of 7,000 inflows in 2008, progressively decreasing to 3,600 in 2011.¹⁰⁷⁹
- Beyond OECD countries, Gulf Cooperation Council (GCC) Member States, primarily Saudi Arabia and the U.A.E., are believed to be the main countries of destination, especially for individuals from the north of Nigeria.¹⁰⁸⁰ Given the lack of published data among GCC Member States, little is known about the volume and typology of such migration.

- Among the OECD countries, the majority (65%) of regular migrants have a tertiary education, and are mainly employed within the health, real estate, and wholesale sectors.¹⁰⁸¹
- This pattern of high-skilled migration may have slightly declined over the past decade due to the rise of Italy and Spain as countries of destination.

¹⁰⁷⁵ The information on Sudan as a destination country originates from a study published in 2010, i.e. before the independence of the Republic of South Sudan. Mberu, B. U., 2010, op. cit.
¹⁰⁷⁸ OECD, ‘International Migration Database’. The OECD migration database collects information on stay/resident permits and population registers.
¹⁰⁷⁹ Ibid.
Remittances:

- According to the Central Bank of Nigeria, remittances amounted to 20.5 billion USD in 2012.\textsuperscript{1082} Similar estimates are provided by the World Bank, with a figure of 21 billion USD for 2013 (7.9% of total GDP).\textsuperscript{1083}
- All sources converge to estimate that the majority of remittances are sent from OECD countries, mainly the U.S. and EU Member States.\textsuperscript{1084}
- Adepoju indicates that remittances serve as “a lifeline to poor relations left behind; for investment in real estate; payment for basic services, healthcare in particular; for the education of siblings and children; for setting up enterprises; and for enhancing agricultural production through improved irrigation schemes.”\textsuperscript{1085}

Vulnerable groups:

- International trafficking of Nigerians involves a great variety of countries of destination, from West and Central African countries, to EU Member States, North Africa, the Middle East, and Asia.\textsuperscript{1086}
- According to Mberu, most victims of trafficking are children and women exploited within West and Central African countries.\textsuperscript{1087}
- Trafficking of women and girls for sexual exploitation in Europe, primarily Italy, has concentrated most of the attention. These migrants are mainly recruited in Edo State, in the southern part of Nigeria.
- It is believed that movements towards the EU are largely illegal. While a minority is able to enter the EU by plane, most irregular migrants travel towards Europe through the Sahara and eventually by ship.\textsuperscript{1088} In 2008, Nigeria’s Minister of Foreign Affairs estimated that at least 59,000 nationals seeking to enter Europe were stranded in North Africa.\textsuperscript{1089}

4.12.2 Migration policy

Over the past years, Nigerian authorities have worked towards the development of a comprehensive national migration policy. To date, a draft Labour Migration Policy for Nigeria and a draft National Migration Policy have been drafted. Both documents are yet to be endorsed by the Federal Executive Council. It should also be noted that the national development plan, Nigeria Vision 20: 2020, refers to migration, mentioning the need to limit emigration of high-skilled nationals, control labour immigration, and mobilise the diaspora for the development of the country.\textsuperscript{1090}

\textsuperscript{1082} Such data does not include remittances sent through informal channels, which are estimated by the Central Bank of Nigeria at 30% of the total amount of remittances.
\textsuperscript{1083} World Bank, \textit{Remittances Data 2013}, 2013.
\textsuperscript{1084} Adepoju, A., 2009, op. cit., p. 31.
\textsuperscript{1085} Ibid. p. 32
\textsuperscript{1086} U.S. Department of State, 2013, op. cit., p. 285.
\textsuperscript{1087} Mberu, B. U., 2010, op. cit.
\textsuperscript{1088} See for instance Carling, J., \textit{Migration, Human Smuggling and Trafficking from Nigeria to Europe}, IOM, 2006.
\textsuperscript{1089} Mberu, B. U., 2010, op. cit.
4.12.2.1 Institutional framework on migration

Governmental stakeholders involved

<table>
<thead>
<tr>
<th>Ministry</th>
<th>Agency, Directorate, Unit</th>
<th>Responsibilities</th>
</tr>
</thead>
</table>
| Ministry of Interior              | Nigeria Immigration Service                                    | • Entry, stay and removal of foreigners  
• Delivery of work authorisations |
| Ministry of Labour and Productivity | State Labour Offices                                            | • Matching the supply and demand of labour labour offer and supply  
• Licensing and monitoring private employment agencies and review of foreign contracts |
| Ministry of Foreign Affairs       |                                                                | • Assistance of nationals abroad                                                 |
| Secretary to the Government of the Federation | Nigerian National Volunteer Service (NNVS)                  | • Diaspora issues                                                               |
| Ministry of Justice               | National Agency for Prohibition of Traffic in Persons and Other Related Matters (NAPTIP) | • Fight against trafficking                                                     |

The Central Bank of Nigeria is responsible for the implementation of policies on remittances. Other public institutions concerned with migration include the National Planning Commission (NPC), the Ministry of Health, the Ministry of Education, the Ministry of Youth Development, the Ministry of Women Affairs, as well as the National Population Commission (NPopC) and the National Bureau of Statistics (NBS).

Inter-institutional coordination

Nigerian authorities have developed a series of mechanisms to ensure coherence between the different stakeholders interested in migration policy development. It is worth mentioning in this regard the National Commission for Refugees, Migrants and Internally Displaced Persons (NCFRMI), which is entrusted with coordination functions, as well as playing a leading role in the implementation of the draft National Migration Policy. The Commission, placed under the authority of the Secretary to the Government of the Federation, was initially established in 1989 as the National Commission for Refugees. Its role was extended to internally displaced persons in 2002, and to migration as a whole in 2009.

The draft National Migration Policy and the draft National Labour Migration Policy were drafted by distinct technical working groups, which gathered representatives from different relevant ministries and public institutions, as well as social partners and international organisations.

4.12.2.2 Immigration: national policy framework and institutional practices

4.12.2.2.1 General immigration provisions

Immigration legislation

Immigration in Nigeria is governed by the Immigration Act of 1963 (Chapter 171) and its subsequent regulations: the Immigration Regulations (LN 93) and the Immigration (Control of Aliens) Regulations (LN 94), both adopted in 1963. This legislation is outdated, is failing to address immigration management
needs in a comprehensive manner, and is currently being reviewed by national authorities with a view to amending it.

The Immigration Act is mostly concerned with migration control. It concentrates on admission rules and expulsion procedures. Issues related to the stay/residence of foreigners and their access to employment are scarcely considered. The delivery of residence permits is governed by a single article of the Immigration Act, which reads as follows:

Any person not a citizen of Nigeria, desirous of entering Nigeria for the purpose of residence shall, unless exempted under this Act, give security in such amount as the Minister may prescribe, and shall supply such information as the Director of Immigration may reasonably require; and if the Director of Immigration is satisfied, he may issue a residence permit accordingly.\footnote{Immigration Act, 1963, art.10(2).}

These provisions are slightly complemented by the Immigration Regulations:

A residence permit may be issued subject to such conditions as to
(a) the area in which the holder of such permit shall reside;
(b) the occupation or business (if any) in which the person may engage, and the restrictions, prohibitions or limitations subject to which he may engage therein;
(c) the duration of the person’s stay in Nigeria;
(d) the control of any activities which may offend the religious beliefs of any member of the community; and
(e) any provision for security, as the Director of Immigration may direct or require to be endorsed on such permit.\footnote{Immigration Regulations, 1963 (LN 93), art. 3.}

Not only are such provisions likely to contravene Nigeria’s international obligations (especially regarding freedom of movement and belief), they also lack precision: the procedures and conditions for the granting and renewal of a residence permit are not detailed; the duration of a permit is not stated; and family migration is not addressed. The immigration legislation has, therefore, considerable gaps.

Administrative practices

These gaps are partially filled by administrative practices, which distinguish between ECOWAS Member States nationals and other foreigners. ECOWAS Member States nationals are granted an ECOWAS Residence Card, valid for five years and renewable.\footnote{The fees for issuance of the ECOWAS Residence Card is 250 Naira (1.5 USD), with the exception of Côte d’Ivoire nationals, who are subject to a fee of 3,290 Naira (20 USD), and Togolese who have to pay a fee of 12,500 Naira (77 USD).} Other foreigners can apply for a Combined Expatriate Residence Permit and Aliens Card (CERPAC), which is valid for two years and is renewable.\footnote{The fees for issuance of the CERPAC are the following: 400 USD for students, 400 USD for non-ECOWAS African nationals, 480 USD for Cameroonian, and 700 USD for all other nationals.} The CERPAC can be delivered to migrant workers, foreign students and foreign wives of Nigerian nationals.
While these administrative practices fail to fully cover immigration management, the most significant issue is the wide spectrum left to administrative arbitration in the absence of proper legal texts governing immigration.

**Draft National Migration Policy**

The draft policy seeks a review of the legislation “on the principle of non-discrimination of migrants” as well as the “strict adherence to migrant rights as stipulated in various conventions to which Nigeria is signatory”, but does not go on to provide more precise guidelines.

### 4.12.2.2.2 Labour migration

**Access to national labour market**

<table>
<thead>
<tr>
<th>Legislation/Policy Framework</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Immigration Act, 1963</strong></td>
<td>Art. 8(1): Salaried employment of foreigners is subject to the “consent in writing” of the Director of Immigration while self-employment of foreigners depends on the “consent in writing” of the Minister in charge of immigration. Art. 34(1) requires that potential employers of foreign workers “make application to the Director of Immigration as may be prescribed”. It is not clear what the employer has to apply for. One can only suggest that the procedure for labour immigration is to be initiated by the employer, who has to request a work authorisation.</td>
</tr>
<tr>
<td><strong>Immigration Regulations (LN 93), 1963</strong></td>
<td>Art. 3(2) makes reference to business permits, which are to be granted in addition to a residence permit for foreigners to engage in self-employment. Art. 4(3) implicitly recognises that in the case of salaried employment, a resident permit may include a work authorisation (a single permit is therefore delivered): “A residence permit may be issued subject to such conditions as to […] (b) the occupation or business (if any) in which the person may engage, and the restrictions, prohibitions or limitations subject to which he may engage therein [...]”</td>
</tr>
</tbody>
</table>

The Immigration Act and its Regulations lack clarity with regard to the access of foreigners to employment. The gaps in the legislation are partially filled by administrative practices. ECOWAS Member States Nationals can apply for an ECOWAS Residence Card, upon presentation of a “letter of employment” and payment of fees. In the case of other migrant workers, the common procedure includes the application for a Subject to Regularization (STR) Visa /Entry Permit. The delivery of such a visa is subject to a quota system and the presentation of a “letter of employment”. After entry, the individual has to request the delivery of a Combined Expatriate Residence Permit and Aliens Card (CERPAC). In addition to this immigration scheme, administrative practices also provide for the delivery of a Temporary Work Permit (TWP) valid for a maximum period of three months, with the possibility of extension. The delivery of the TWP is limited to “experts invited by corporate bodies to provide specialized skilled services, such as after sales installation, maintenance, repairs of machines and equipment”.

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1097 Ibid. Quotas of foreign workers can be attributed to employers, under the condition that transfers of technology are performed. The quota system therefore focuses on high-skilled migration.
On the whole, these administrative practices appear to be well-grounded, notably through the distinction made between ECOWAS Member States nationals and other foreigners. There is a need, however, to amend the legislation in this regard in order to avoid administrative arbitrary.

Rights within employment

The Labour Act of 1990 (Chapter 198) does not include any reference to foreign workers. All its provisions apply equally to both national and migrant workers.

Draft National Labour Migration Policy

The draft National Labour Migration Policy focuses primarily on emigration rather than on immigration. It does not explicitly recognise the need to revise the Immigration Act. However, while it does not include guidelines regarding entry and stay of migrant workers, it plans to uphold the principle of equality of treatment between national and migrant workers, including with regard to trade union rights. It also calls for the improvement of labour inspection activities in sectors and workplaces where migrants are employed.

4.12.2.2.3 Irregular migration

Although the Immigration Act of 1963 (Chapter 171) and its subsequent regulations tend to focus on migration control, the legislation fails to provide a comprehensive framework for irregular migration management. The outdated character of a number of provisions can also be noted. For instance, when referring to the deportation of foreigners, the Immigration Act mentions the following categories: “an idiot, insane person, or person suffering from any other mental disorder”.

It should be noted, however, that the immigration legislation has been reviewed and the revisions are currently awaiting adoption. The adoption of a specific law on smuggling is also pending.

During the past years, there has been an increase in the deportation of foreigners, mostly Chadians and Nigeriens, related to national security issues in the north part of the country. In practice, Nigerian authorities are facing significant challenges in terms of border management. Borders are long – some 4,900 km – and with a varied topography – desert, mountains, swamps, and sea. Only 84 legal border crossing points exist, border services are understaffed and underequipped, and patrols are generally limited to a five kilometre radius around border posts.

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1099 Ibid., p. 22.
1100 Immigration Act, 1963, art.18(1).
4.12.2.4 Migrants at risk

<table>
<thead>
<tr>
<th>Legislation/Policy Framework</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>Trafficking in Persons (Prohibition) Law Enforcement and Administra-</td>
<td>• Provides a comprehensive framework for the prosecution of the crime of trafficking, the protection of victims, and the implementation of pre-</td>
</tr>
<tr>
<td>tion Act, 2003 (amended in 2005)</td>
<td>• A central component of the legislation is the establishment of a specialised public institution covering trafficking issues, the NAPTIP. The</td>
</tr>
<tr>
<td></td>
<td>Agency is entrusted with all the core responsibilities related to prosecution, protection and prevention.</td>
</tr>
<tr>
<td></td>
<td>Art. 50 (e); Art. 51 ensure a legal immigration status during the course of legal actions and prevent detention and prosecution of foreign</td>
</tr>
<tr>
<td></td>
<td>victims in an irregular situation.</td>
</tr>
<tr>
<td></td>
<td>aspects, exploitative labour and unlawful removal of children from legal custody.</td>
</tr>
<tr>
<td></td>
<td>• It has nevertheless been noted that the minimum age for employment was set too low to meet international standards.</td>
</tr>
</tbody>
</table>

Although it is reported that NAPTIP is underfunded, it has implemented a wide range of activities over the years. According to the U.S. Department of State, in 2012, “NAPTIP initiated 117 trafficking investigations, commenced at least 17 prosecutions, and achieved 25 convictions”\(^{1102}\).

NAPTIP has established nine shelters across the country. Victims are provided with initial screening assistance, medical care and psychological services, legal assistance, vocational training and education\(^{1103}\). In the case of child trafficking, family tracing is conducted in cooperation with relevant diplomatic and consular posts in Nigeria. A Victim’s Trust Fund was established in 2009, primarily financed by confiscated assets from traffickers. In 2012, it provided 22,000 USD to victims of trafficking\(^{1104}\).

Prevention activities have taken the form of extensive media campaigns, advocacy meetings with community leaders, town hall meetings to share information with the population, and training sessions for public officials\(^{1105}\).

4.12.2.3 Emigration

4.12.2.3.1 Labour migration

Labour migration policy

In 2013, Nigeria finalised a Labour Migration Policy, which is yet to be endorsed by the competent authorities. This policy does the following:

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\(^{1102}\) U.S. Department of State, 2013, op. cit., p. 286.

\(^{1103}\) Ibid.

\(^{1104}\) Ibid., p. 287.

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- provides comprehensive guidelines in the area of labour emigration;
- recognises the need for a national labour market assessment and a study of the relevant characteristics of countries of destination;
- limits promotion activities to sectors of the economy where migration does not impede national economic and social development;
- recognises the necessary involvement of public employment agencies (State Labour Offices) in the recruitment of migrant workers, as well as the need to regulate and monitor the activities of private employment agencies; and
- calls for measures to protect migrant workers before their departure and in the countries of destination.

Regarding existing activities, assessments of the national labour market and countries of destination (both already-established and potential) are yet to be conducted, promotion activities are non-existent, there are no bilateral labour agreements in force, and State Labour Offices are not involved in placing national workers abroad. However, as noted in the draft National Migration Policy:

In 2006, the International Labour Migration Desk/National Electronic Labour Exchange (ILMD/NELEX) was established within the Department of Employment and Wages [of the Ministry of Labour] to, among other things, formulate and implement a national policy on labour migration, provide information on jobs and conditions of service abroad, give pre-departure counseling, and ensure overseas placement and the implementation of bilateral employment agreements.\textsuperscript{1106}

Private employment agencies

Private employment agencies (PEAs) play an important role in Nigeria as intermediaries for international migration. They mainly operate outside the scope of the legislation and are likely to engage in fraudulent practices, which can amount to their involvement in trafficking in persons.\textsuperscript{1107}

The activities of PEAs in Nigeria are primarily regulated by the Labour Act, 1990 (Chapter 198), which provides for a licensing system, monitored by the Ministry of Labour. In 2009, 199 license applications were filed and 93 were issued, mostly in Lagos State and, to a lesser extent, in Rivers State.

\textsuperscript{1106} Federal Republic of Nigeria, 2013, op. cit., p. 67.

<table>
<thead>
<tr>
<th>Legislation/Policy Framework</th>
<th>Description</th>
</tr>
</thead>
</table>
| Labour Act (Chapter 198), 1990 | Art. 25(2): Licenses are granted for a period of one year.  
Art. 27(4) imposes an age limit of 18 for recruitment.  
Art. 30(1): Travel expenses are to be covered by the employer or the private employment agency.  
Art. 27(1) requests the tenure of records of the agencies’ operations.  
Art. 26(1) forbids recruitment in the “labour health area”. |
| Labour Act CAP L1 LFN, 2004 | • Includes a detailed form to be filed by private employment agencies applying for a licence.  
• Requires the payment of a security deposit, ranging from NGN 1.5 million (approx. USD 9,044) to NGN 5 million (USD 30,147)\textsuperscript{1108}, depending on the number of individuals employed by the consider agency and the type of recruitment to be undertaken.  
• The deposit serves as a proof of financial capability as well as a means to paying indemnities to workers, if need be. |

Private employment agencies are also bound by a Code of Conduct (2011), which sets the following guiding principles, and allows the adoption of sanctions in case of their breach.

\textsuperscript{1108} OANDA currency converter applied (September 2013).
<table>
<thead>
<tr>
<th>Legislation/Policy Framework</th>
<th>Description</th>
</tr>
</thead>
</table>
[...]  
**Principle 2 – Respect for Laws**  
[...]  
**Principle 3 – Respect for Transparency of Terms of Engagement**  
PEAs shall ensure that workers are given details of their working conditions, the nature of the work to be undertaken, rates of pay and pay arrangements and working hours. This principle obligates PEAs to inform employees of the conditions applicable to the contract or employment relationship.  
**Principle 4 – Respect for free-of-charge provision of services to jobseekers**  
PEAs shall not charge directly or indirectly, in whole or in part, any fees or costs to prospective employees and workers, for the services directly related to temporary assignment or permanent placement.  
**Principle 5 – Respect for Health and Safety at Work**  
PEAs shall act diligently in assessing risks related to health and safety prior to the assignment of agency workers in their workplace. PEAs shall inform agency workers whenever they have reason to believe that any particular assignment could cause an occupational health or safety risk.  
**Principle 6 – Respect for Diversity**  
[...]  
**Principle 7 – Respect for the Worker’s Rights**  
Equitable, objective and transparent principles for the calculation of agency workers’ wages shall be promoted, considering national legislation and practices. PEAs shall not restrict agency workers’ right of freedom of association. PEAs shall not make workers available to a user company to replace workers of that company who are legally on strike.  
**Principle 8 – Respect for Confidentiality**  
[...]  
**Principle 9 – Respect for Professional Knowledge and Quality of Service**  
[...]  
**Principle 10 – Respect for Fair Competition**  
[...]  
**Principle 11: Social Dialogue**  
[...]  
**Principle 12: Commitment to Professional Development**  
[...] |

On the whole, the guiding principles are well-founded. However, the issue of fee collection by private employment agencies can be debated. While the prohibition to charge a fee is justified in many instances, especially where temporary work agencies dominate the private employment market, it is not realistic in the context of labour migration. In practice, migrant workers pay, in one way or another, recruitment fees that are likely to be high. Part of the solution to limit abuses in this regard is to impose a ceiling on recruitment fees and make it widely known. Such a practice is addressed by ILO Convention No. 181, which authorises derogations to the principle of gratuity for legitimate reasons.\(^{1109}\)

**Foreign Contracts**

The Labour Act, 1990 (Chapter 198) includes a number of provisions on foreign contracts. Those contracts are to be validated by the competent authorities within the Ministry of Labour.\(^{1110}\) Contracts are limited to

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\(^{1109}\) ILO Convention No. 181, art. 7.  
\(^{1110}\) Labour Act, 1990, (Chapter 198), art. 40(2).
a period of one year if the worker travels alone or two years if he/she is accompanied by his/her family.\textsuperscript{1111} Obligations are imposed on the foreign employer, including payment of travel and provision of free food and accommodation.\textsuperscript{1112} Most of these provisions appear to be obsolete and, in some cases, likely to violate the rights of the individual (e.g. the limited duration of the work contract). It must also be outlined that if not explicitly specified in the work contract, these provisions will generally be dismissed, given that the applicable legislation in case of a labour dispute is most likely to be that of the country of destination.

4.12.3.2 Migration and development

Institutional developments

Since the beginning of the 2000s, Nigeria has adopted measures concerning migration and development issues. The main institutional developments in this regard are the creation of the Nigerian National Volunteer Services (NNVS) and the Nigerians in the Diaspora Organisation (NIDO).

The NNVS is an intergovernmental institution placed under the authority of the Secretary to the Government, and tasked with the duty to coordinate the relations between the state and the diaspora. NIDO is a global network of diaspora associations established with the assistance of the Nigerian government with a view to harnessing the knowledge, experience and skills acquired by Nigerians abroad for development purposes in Nigeria. NIDO has local branches in most European countries, the U.S., and in several African and Asian states.

To date, activities undertaken in relation to migration and development have followed three principal aims: promoting investments from the diaspora, promoting returns – temporary or permanent – of skilled Nigerian migrants, and lowering the cost of remittances.

Mobilising and channelling remittances for development

A national Diaspora Trust Fund of 5,000,000 USD has been set up.

Under national legislation, only banks are entitled to perform international payments.\textsuperscript{1113} Most Nigerian Banks have entered into agreements with large money transfer operators, such as Western Union and MoneyGram, in order to channel remittances.\textsuperscript{1114} Such practices have led to high transfer costs. Public authorities, including the Central Bank of Nigeria, are currently undertaking negotiations for a reduction of remittances` costs.

Diaspora outreach and confidence-building measures

A Nigerian Diaspora Day is celebrated every year to recognise the contribution of migrants to the development of the country and dual/multiple citizenship is authorised (although this is limited to Nigerian

\textsuperscript{1111} Ibid., (Chapter 198), art.38(1).
\textsuperscript{1112} Ibid., (Chapter 198), art.40(1).
\textsuperscript{1113} ICMPD, 2011, op. cit., p. 21.
\textsuperscript{1114} Ibid.
Addressing the challenges of highly-skilled migration

Both NIDO and NNVS promote the temporary return of skilled migrants. NNVS supports annual medical missions carried out by Nigerian doctors of the diaspora and provides financial incentives for the import of medical equipment into the country. Other projects promoting temporary return of skilled migrants include the LEADS programme (Linkage with Experts and Academics in the Diaspora) monitored by the National Universities Commission (NUC).

Draft National Migration Policy

The draft National Migration Policy foresees the continuation of existing efforts. It also seeks to conduct a comprehensive mapping of the Nigerian diaspora and the remittances that they send. Although both the NNVS and NIDO have spoken of the development of a database of the Nigerian diaspora, significant results are yet to be produced. The draft Migration Policy also emphasises the need to improve reintegration schemes for Nigerian returnees and adopt mechanisms to retain high-skilled workers – such as an increase in their salaries.

4.12.3.3 Migrants’ protection

Information dissemination

Nigeria has yet to organise a comprehensive strategy to provide migrants and potential migrants with information on the different aspects of migration processes and living/working conditions in the countries of destination. However, the Ministry of Labour has collaborated with the ILO to develop information material concerning five important countries of destination: Italy, Spain, Switzerland, the U.K., and the U.S. Moreover, there is also a plan to create migrant resource centres with the assistance of the ILO and IOM. The draft Labour Migration Policy plans to organise “pre-employment orientation seminars” and intensify “information campaigns, especially in rural communities”.

Protection in countries of destination

Consular assistance activities mainly focus on facilitating returning migrants in an irregular situation. The draft Labour Migration Policy foresees the appointment of labour attachés in countries where there is a strong presence of Nigerian nationals and encourages the creation of a migrant welfare fund.

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1116 Federal Republic of Nigeria, 2013, op. cit., p. 27; p. 29.
1118 Ibid., p. 30.
1119 Migrant welfare funds are insurance schemes that are based on the assumption that a number of usual protection and social welfare services offered domestically may not be accessible to migrant workers in countries of destination (in law and/or in practice). In such cases, migrant welfare funds, generally administered by public or semi-public agencies and funded mostly by migrants’ contribution, can cover issues such as protection of the job site, death, disability and health insurance, repatriation of remains, and fares for involuntary return.
Protection of victims of trafficking

The aforementioned protection measures (see section 4.12.2.2.4.), including shelter, initial screening, legal assistance, vocational training, and education applies to Nigerian nationals.

4.12.3 International, regional, and bilateral cooperation

International conventions

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

- the International Covenant on Civil and Political Rights (1966);
- the International Covenant on Economic, Social and Cultural Rights (1966);
- the Convention on the Elimination of All Forms of Discrimination against Women (1979);
- the Convention on the Rights of the Child (1989), as well as 30 ILO Conventions. Nigeria has ratified one of the two specific ILO conventions on migrant workers: C 97 (1949);
- the Convention on the Protection of the Rights of All Migrant Workers and Members of their Families (1990); and

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

Bilateral agreements

Over the past decade, Nigeria has concluded four readmission agreements: with Ireland, Italy, Spain, and Switzerland. All four agreements have similar content, which includes facilitation of the repatriation process, coordination between the parties through the Nigerian consular post in the country involved, procedures to be followed in case of doubt as to the nationality of the individual, and payment of transportation by the requesting party. In addition, these agreements include general provisions regarding support to the reintegration of returnees in Nigeria as well as the protection of victims of trafficking.

During the early 2000s, Nigeria negotiated preferential quotas for the admission of Nigerian workers in

\[\text{\hspace{1cm}1120}\text{ Agreement on immigration matters between the governments of Nigeria and Ireland, signed 29 August 2001 and ratified 30 November 2002.}\]
\[\text{\hspace{1cm}1121}\text{ Agreement on immigration matters between the governments of Nigeria and Italy, signed 12 September 2000 and ratified 30 November 2000.}\]
\[\text{\hspace{1cm}1122}\text{ Agreement on migration matters between the Government of the Federal Republic of Nigeria and the Kingdom of Spain, signed 12 November 2001 and ratified 30 November 2002.}\]
\[\text{\hspace{1cm}1123}\text{ Agreement on immigration matters between the Swiss Federal Council and the Government of the Federal Republic of Nigeria, signed 9 January 2003.}\]
Italy and Spain. Quotas were eventually abandoned by the Spanish authorities and in the case of Italy, they have been used to regularise irregular migrants residing in the country rather than to authorise the entry of newcomers.\(^{1125}\)

In 2005, a Memorandum of Understanding was concluded with the U.K. on trafficking issues,\(^{1126}\) which included provisions regarding the protection of victims, notably through counselling and social rehabilitation, as well as institutional capacity-building measures with regard to protection, prevention and prosecution.\(^{1127}\)

In 2011, a broad Memorandum of Understanding covering most areas of migration management was concluded with Switzerland.

With the exception of two agreements concluded with Spain, which are limited in scope,\(^{1128}\) Nigeria has yet to conclude bilateral social security agreements.

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\(^{1126}\) Cooperation agreement between the governments of Nigeria and the U.K. to prevent, suppress and punish trafficking in persons especially women and children, signed June 2005.

\(^{1127}\) Adepoju, A., 2009, op. cit., p. 49.

\(^{1128}\) An Exchange of Notes of 1978 concerns the affiliation to the Spanish social security system of non-diplomatic personnel assigned to the Nigerian embassy in Spain, and an agreement of 1979 considers the situation of public officers’ pensions.
4.12.4 References


### 4.12.5 List of interlocutors

<table>
<thead>
<tr>
<th>Name of respondent</th>
<th>Position</th>
<th>Institution</th>
</tr>
</thead>
<tbody>
<tr>
<td>Anaelo, C. N.</td>
<td>Head, Migration Division</td>
<td>National Commission for Refugees, Migrants and Internally Displaced Persons</td>
</tr>
<tr>
<td>Igbinosun, E.</td>
<td>Labour Officer, Head, International Labour Migration Desk</td>
<td>Ministry of Labour and Productivity</td>
</tr>
<tr>
<td>Ayangade, R. F. A.</td>
<td>Deputy Director</td>
<td>Nigerian National Volunteer Services</td>
</tr>
<tr>
<td>Dankano, A-A. M.</td>
<td>Director, Consular and Immigration Desk</td>
<td>Ministry of Foreign Affairs</td>
</tr>
<tr>
<td>Mozi, N. H.</td>
<td>Chief State Counsel, International and Comparative Law Depart</td>
<td>Ministry of Justice</td>
</tr>
<tr>
<td>Odetunde, T. A.</td>
<td>Superintendent, Migration Unit</td>
<td>Nigerian Immigration Service</td>
</tr>
<tr>
<td>Tsuma Terna Esq.</td>
<td>Migration Focal Person, Head, Intelligent and International Cooperation Unit</td>
<td>National Agency for Prohibition of Traffic in Persons and Other Related Matters</td>
</tr>
<tr>
<td>Dashe, N. J.</td>
<td>Assistant Director, Investigation Unit</td>
<td></td>
</tr>
<tr>
<td>Okoro, C. C.</td>
<td>Chief Planning Officer</td>
<td>National Planning Commission</td>
</tr>
<tr>
<td>Duke, O. O.</td>
<td>Assistant Director, Research Department</td>
<td>Central Bank of Nigeria</td>
</tr>
<tr>
<td>Yakubu, A. A.</td>
<td>Director, Office of the Executive Secretary</td>
<td>Human Rights Commission</td>
</tr>
<tr>
<td>Gavar, A.</td>
<td>Deputy Director, Legal and Head, Focal Areas</td>
<td>Human Rights Commission</td>
</tr>
<tr>
<td>Aduba, N.</td>
<td>Senior Legal Officer</td>
<td>Human Rights Commission</td>
</tr>
</tbody>
</table>
4.13 Senegal

4.13.1 Migration trends

4.13.1.1 Immigration

Although Senegal has traditionally been an important country of destination for West and Central African migrants, it has gradually lost its attractiveness. It still remains a country of transit for migrants seeking to reach European states and, to a certain extent, it is also a country of immigration.

### Data

<table>
<thead>
<tr>
<th>Year</th>
<th>Absolute numbers</th>
<th>% of the Total Population</th>
</tr>
</thead>
<tbody>
<tr>
<td>2002</td>
<td>Foreign immigrant stock: 43,651</td>
<td>0.5%</td>
</tr>
<tr>
<td></td>
<td>Recent immigration (foreigners) flows (within the five years preceding the census): 19,268</td>
<td></td>
</tr>
<tr>
<td>2001</td>
<td>Foreigners: 126,054</td>
<td>1.3%</td>
</tr>
</tbody>
</table>

### Characteristics of immigrants/foreigners

- **Countries of origin:** West African states, primarily Guinea.
- **Settlements:** Mostly in the Dakar region.
- **Socio-demographic profile:** The proportion of female foreigners was estimated at 45.5% in 2001.
- **Socio-economic profile and sectors of employment:** While foreigners only constitute a small proportion of the Senegalese population, they play an important economic role. For instance, Guineans are active in the fruit and vegetable trade, as well as in the transport sector. Malian women are known to specialise in selling paintings, while Malian men are mainly active in the cola nut business. Migrants from the Gulf of Guinea, primarily Ivorians, Beninese, and Togolese, are generally higher-skilled migrants.
- **Vulnerable groups:**
  - It appears that trafficking is primarily an internal phenomenon that concerns children.
  - Regarding international trafficking, cases of boys from The Gambia, Mali, Guinea and Guinea-Bissau forced into begging, as well as artisanal and agricultural work occur.
  - Exploitation of foreign women and girls is not well-documented.

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1129 Recensement général de la population et de l’habitat.
1130 ANSD, Rapport national de présentation des résultats du troisième Recensement général de la population et de l’habitat en 2002, RGPH III, 2006, p. 39. According to the RGPH’s methodology, immigrants are individuals born abroad, who have resided in Senegal for at least six months and plan to stay in the country for at least another six months. The census distinguishes between immigrants of Senegalese nationality and foreigners.
1131 Ibid., p. 41.
1132 Enquête sénégalaise auprès des ménages.
1134 As the U.S. Department of State puts it in its 2013 Trafficking in Persons Report: “Women and girls from other West African countries, particularly Liberia, Ghana, Guinea, Guinea-Bissau, Sierra Leone, and Nigeria, may be subjected [we underline] to domestic servitude and commercial sexual exploitation in Senegal, including for sex tourism” (p. 320).
4.13.1.2 Emigration

Before the independence of the country and throughout the decade following independence, Senegalese emigration was principally directed towards France and West and Central Africa. The 1970s marked a turning point for Senegalese emigration flows. With the country experiencing a progressive economic downturn, push-factors became stronger. Emigration no longer originated from the Senegal River Valley region only. The groundnut basin (in the west-central part of Senegal) and urban areas were now affected, as well as groups traditionally not inclined to migrate, such as the Mouride Brotherhood. The countries of destination also tended to diversify as traditional countries of destination also faced economic difficulties.

While African states, and primarily West African states, remain the main countries of residence of Senegalese migrants, significant changes in the trends of migration flows can be observed. Traditional countries of destination, such as Côte d’Ivoire and Gabon, have become less attractive. At the same time, migration towards OECD countries, primarily Italy and Spain, has grown significantly since the 1990s.

According to the ESAM, OECD countries have replaced African countries as the main countries of destination for recent migration flows, receiving 53.5% of Senegalese migrants during the period 1997-2002. In addition, the survey shows that only 13.8% of recent migration was directed towards the West African Economic and Monetary Union (UEMOA) Member States, while 30% concerned other African countries. Such a change in migration trends is surprising given that EU Member States implement restrictive immigration policies and that the ECOWAS region is characterised by the principle of freedom of circulation and a *laissez faire* approach.

<table>
<thead>
<tr>
<th>Data</th>
<th>Year</th>
<th>Estimates</th>
</tr>
</thead>
<tbody>
<tr>
<td>ESAM</td>
<td>2001</td>
<td>168,953 nationals emigrated during the five years preceding the survey. The data gives an overview of recent emigration flows rather than an estimate of the existing migrant stock.</td>
</tr>
<tr>
<td>Diplomatic and consular posts data</td>
<td>2004</td>
<td>648,000 nationals residing abroad, which corresponds to 6.8% of the total population of the country.</td>
</tr>
<tr>
<td>General estimates from national authorities (data sources unidentified)</td>
<td>2013</td>
<td>3 to 4 million nationals abroad.</td>
</tr>
</tbody>
</table>

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1137 Ibid.
### Characteristics of emigrants/nationals abroad

#### Countries of destination/residence:
- It is widely recognised that most Senegalese migrants reside within the African continent.
- The Gambia may be the main country of residence of Senegalese abroad. P.D. Fall puts it at 300,000.\textsuperscript{139}
- Côte d’Ivoire remains an important place of residence for Senegalese nationals, with an estimated 97,000 residents.\textsuperscript{140}
- Mauritania, Guinea, Guinea-Bissau, and Gabon are estimated to host a Senegalese population comprising of between 20,000 and 40,000 each.\textsuperscript{141}
- Migration towards Libya appears to have been limited: in 2012, IOM reported only 406 Senegalese returnees fleeing from the Libyan civil war.\textsuperscript{142}
- According to the UN Population Division’s latest estimates, Senegalese residing in Morocco and Algeria were estimated at around 3,000 individuals.\textsuperscript{143} Given the recognised importance of irregular migration in these countries, it is highly likely that these figures greatly underestimate the presence of Senegalese in both.
- The OECD international migration database identifies Italy (80,989 registered Senegalese nationals in 2010), France (51,510 in 2009), and Spain (63,491 in 2011) as the main countries of destination.\textsuperscript{144} The database does not include statistics regarding the U.S. According to Fall, 60,000 Senegalese were residing in the U.S. in 2010.

#### Socio-demographic profile:
- Traditionally, Senegalese migration has been a male phenomenon. This largely remains the case, although a rise in female migration has been observed over time.
- Between 1997 and 2002, migration of Senegalese women was estimated at 18.2%.\textsuperscript{145}

#### Education level/sectors of employment:
- Senegalese migrants tend to be low-skilled, although high-skilled individuals are overrepresented in comparison to the general population.
- In OECD Member States, an estimated 19.2% of Senegalese migrants have a tertiary education.
- Brain drain: with regard to the health sector, the emigration rate of nurses towards OECD Member States was estimated at 8.9% and that of medical doctors at 43%.\textsuperscript{146}

#### Remittances:
- USD 1.6 billion in 2013.\textsuperscript{147}
- A large portion of transfers are made through informal channels.\textsuperscript{148}
- It is estimated that 43% of remittances originate from African countries.
- Remittances are mainly used to cover food, education, health and celebration expenses. It is also common for migrants to use their savings to build houses in Senegal.
- Diaspora associations and their initiatives in the social field are dynamic.

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\textsuperscript{140} Ibid.
\textsuperscript{141} Ibid.
\textsuperscript{144} OECD, ‘International Migration Database’. The OECD migration database collects information on stay/resident permits and population registers.
\textsuperscript{147} World Bank, ‘Remittances Data’, 2013.
4.13.2 Migration policy

Senegal has yet to adopt a formal migration policy. While immigration management does not constitute a priority for public authorities, a great deal of attention has been given to emigration-related policies. Over the past years, Senegal has developed a large number of initiatives, especially in the areas of protection, migration and development, and initiatives relating to the return and reintegration of Senegalese migrants. In addition, close cooperation has been organised with EU Member States in the field of border management.

The latest national development plan (PSE),\textsuperscript{1150} adopted in 2014, makes reference to the relationship between migration and national development and refers more specifically to the contribution of the Senegalese diaspora in this regard.

4.13.2.1 Institutional framework on migration

Governmental stakeholders involved

<table>
<thead>
<tr>
<th>Ministry</th>
<th>Agency, Directorate, Unit</th>
<th>Responsibilities</th>
</tr>
</thead>
<tbody>
<tr>
<td>Ministry of Interior\textsuperscript{1151}</td>
<td>Directorate of Forreigners Police\textsuperscript{1152} Directorate of National Security\textsuperscript{1153}</td>
<td>• Immigration management</td>
</tr>
<tr>
<td>Ministry of Youth, Employment and Promotion of Civic Values\textsuperscript{1154}</td>
<td>National Agency for the Promotion of Youth Employment\textsuperscript{1155} (previously known as: Youth Employment Agency or ANEJ)\textsuperscript{1156} Directorate of Employment\textsuperscript{1157}</td>
<td>• Match the labour demand and supply</td>
</tr>
</tbody>
</table>
| Ministry of Public Service, Labour, Social Dialogue and Professional Organisations\textsuperscript{1158} | General Direction of Labour and Social Security\textsuperscript{1159} | • Ensures the respect of labour legislation  
  • Authorises work contracts signed by foreigners                                    |

\textsuperscript{1150} \textit{Plan Sénégal Emergent}, 2014.  
\textsuperscript{1151} Ministère l’Intérieur.  
\textsuperscript{1152} Direction de la Police des étrangers.  
\textsuperscript{1153} Direction de la Sûreté nationale.  
\textsuperscript{1154} Ministère de la Jeunesse, de l’Emploi et de la Promotion des Valeurs civiques.  
\textsuperscript{1155} Agence nationale pour la Promotion de l’emploi des jeunes.  
\textsuperscript{1156} Agence de l’Emploi des jeunes.  
\textsuperscript{1157} Direction de l’emploi.  
\textsuperscript{1158} Ministère de la Fonction publique, du Travail, du Dialogue social et des Organisations professionnelles.  
\textsuperscript{1159} Direction générale du Travail et de la Sécurité sociale.
Inter-institutional coordination

Existing institutionalised inter-ministerial institutions are rare and their fields of competences are generally limited to very specific areas. This is the case with the National Commission of Job Offers,\(^\text{1167}\) which is in charge of implementation of existing bilateral labour agreements, and the Committee in charge of the Support Fund for Investments of Senegalese Abroad (FAISE).\(^\text{1168}\)

Main non-governmental institutions involved

The network of NGOs operating in the field of migration in Senegal is considerable. It includes the Conseil des organisations non-gouvernementales d’appui au développement (CONGAD), which coordinates the activities of 178 national and foreign NGOs, Rencontre africaine pour la défense des droits de l’homme (RADDHO), Association pour le Co développement (ASCODE), Plateforme d’appui aux petites entreprises du Sénégal (PAPES), Développement par l’éducation la formation et l’insertion (DEFI), Centre d’orientation et de documentation sur les migrations (CODM), ENDA tiers-monde, pôle DIADEM, Groupe AGORA de recherche pour l’éducation aux droits de l’enfant et à la paix, etc.
4.13.2.2 Immigration: national policy framework and institutional practices

4.13.2.2.1 General immigration provisions

<table>
<thead>
<tr>
<th>Legislation/Policy Framework</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Law No. 71-10 of 25 January 1971 on the conditions of entry, stay and establishment of foreign nationals</strong>&lt;sup&gt;1169&lt;/sup&gt;</td>
<td><strong>Entry</strong></td>
</tr>
<tr>
<td></td>
<td>Decree, Art. 1: Art. 39 to Art. 74: Admission on the national territory is subject to the delivery of a visa, and the production of a guarantee of return, which may take the form of a return ticket to the country of origin, a deposit or a bank guarantee.</td>
</tr>
<tr>
<td><strong>Decree No. 71-860 of 28 July 1971 on the conditions of entry, stay and establishment of foreign nationals</strong>&lt;sup&gt;1170&lt;/sup&gt;</td>
<td><strong>Stay</strong></td>
</tr>
<tr>
<td></td>
<td>A distinction is made between two legal statuses: non-immigrant and immigrant</td>
</tr>
<tr>
<td></td>
<td>Law, Art. 3: Non-immigrant status applies notably to foreigners who do not seek to engage in a remunerative activity, as well as those who intend to work temporarily in specific fields, such as journalism, research, and art.</td>
</tr>
<tr>
<td></td>
<td>Law, Art. 2; Art. 3: Non-immigrants are required to request the delivery of a stay authorisation&lt;sup&gt;1171&lt;/sup&gt; before entry on the national territory. This authorisation is valid for a period of four months.</td>
</tr>
<tr>
<td></td>
<td>Law, Art. 4: Immigrant status applies to foreigners who “have the intention to establish their residence in Senegal, engage in a lucrative activity in a permanent manner, or exercise a profession”.</td>
</tr>
<tr>
<td></td>
<td>Law, Art. 4: Immigrant stay in Senegal is subject to the delivery of a residence authorisation&lt;sup&gt;1172&lt;/sup&gt;, which is to be delivered before entry on the national territory.</td>
</tr>
<tr>
<td></td>
<td>Law, Art. 4: Foreigners holding a stay authorisation who wish to change their legal status can request the delivery of a residence authorisation on the territory.&lt;sup&gt;1173&lt;/sup&gt;</td>
</tr>
<tr>
<td></td>
<td>Decree, Art. 13: Delivery of the residence authorisation leads to the issuance of a foreigner identity card,&lt;sup&gt;1174&lt;/sup&gt; which is to be requested within fifteen days of entry.</td>
</tr>
<tr>
<td></td>
<td><strong>Family migration</strong></td>
</tr>
<tr>
<td></td>
<td>Law, Art. 4: A specific provision regarding family migration that applies to the spouse, ascendants, dependent minor children and adult unmarried children of the migrant. The law does not recognise a right of the individual to be accompanied by his/her family members but simply foresees this possibility.</td>
</tr>
</tbody>
</table>

A number of gaps can be identified in the Senegalese immigration legislation, such as the absence of provisions regarding the duration of validity of the residence authorisation, and the status of long-term residents and that of ECOWAS Member States’ nationals.

Senegal has concluded bilateral agreements which include provisions on entry and stay/residence with several countries, among them France, Gabon, Mauritania, Morocco, and Spain. A review of these agreements is presented in sections 4.13.2.3.1. and 4.13.3.

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<sup>1169</sup> Loi No. 71-10 du 25 janvier 1971 relative aux conditions d’admission, de séjour et d’établissement des étrangers.

<sup>1170</sup> Décret No. 71-860 du 28 juillet 1971 relatif aux conditions d’admission, de séjour et d’établissement des étrangers.

<sup>1171</sup> Autorisation de séjour.

<sup>1172</sup> Autorisation de residence.

<sup>1173</sup> Law No. 71-10 of 25 January 1971 on the conditions of entry, stay and establishment of foreign nationals, art. 4.

<sup>1174</sup> Carte d’identité d’étranger.
4.13.2.2.2 Labour migration

Access to the national labour market

<table>
<thead>
<tr>
<th>Legislation/Policy Framework</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>Labour Code, 1997</td>
<td>Art. L 33; L 34: Work contracts that include “the establishment of the worker outside of his/her place of habitual residence” are to be approved by the General Direction of Labour and Social Security within the Ministry of Public Service, Labour, Social Dialogue and Professional Organisations. Art. L 224 foresees the possibility to adopt secondary legislation to “forbid or limit the employment of foreigners for specific occupations or professional qualification levels” in order to ensure full-employment of the national workforce. Such secondary legislation has yet to be adopted.</td>
</tr>
</tbody>
</table>

Rights within employment

<table>
<thead>
<tr>
<th>Legislation/Policy Framework</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>Labour Code, 1997</td>
<td>Art. L 1 provides for equal treatment between foreigners and nationals. Foreigners, regardless of their legal status, benefit, as a principle, from all obligations and rights from the labour legislation. Art. L 9 includes an exception to the principle of equal treatment. While all foreigners can join a trade union, only those who have stayed in Senegal for a minimum of five years can fulfil administrative and executive functions, provided that their country of nationality grants similar rights to Senegalese nationals. Art. L 156 states that the cost of transportation from the country of origin to the place of employment must be undertaken by the employer. This principle does not only apply to the migrant worker but also to the spouse and minor children. Art. 106: Housing must be provided by the employer.</td>
</tr>
<tr>
<td>N/A</td>
<td>Old age benefits can be received on the national territory as well as in the country of origin of the worker, or in any other place of his/her choice.</td>
</tr>
</tbody>
</table>

Although the legislation foresees the possibility for a labour market test, regulations in this regard are absent. However, in its report to the UN Migrant Workers Committee, the government of Senegal refers to the existence of a work permit system.1177 According to Fall, employment of foreigners is subject to a labour market test:

The authority delivering the work permit takes into consideration the situation of the labour market, and in particular, the possibilities of employment for nationals with a professional profile corresponding to the particular job. [Translation by the author]1178

Another notable administrative practice is that the end of the work contract does not automatically lead to the removal of the stay permit.1179

1175 Code du Travail.
1176 Senegal, Initial Report to the Committee on the Protection of the Rights of all Migrant Workers and Members of Their Families, 2009, p. 8.
1177 Ibid., p. 13.
1178 Fall, P.D., 2003, op. cit., p. 27.
1179 Ibid., p. 17.
4.13.2.2.3 Irregular migration

<table>
<thead>
<tr>
<th>Legislation/Policy Framework</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>Law No. 71-10 of 25 January 1971 on the conditions of entry, stay and establishment of foreign nationals</td>
<td>Decree, Art. 32; Art. 33 foresee deportation of foreigners who are not in possession of the documents required to enter the country. Art. 10; Decree, Art. 34 to Art. 38 foresee expulsion of those who have committed a criminal offence or pose a threat to public order. Law, Art. 11; Art. 12: irregular stay and irregular employment constitute a criminal offence, which expose the individual to a fine and imprisonment for one month to two years.</td>
</tr>
<tr>
<td>Decree No. 71-860 of 28 July 1971 on the conditions of entry, stay and establishment of foreign nationals</td>
<td></td>
</tr>
<tr>
<td>Law No. 2005-06 of 10 May 2005 on Trafficking in Persons and Assimilated Practices and Victims’ Protection</td>
<td>Art. 4; Art. 5: Smugglers, and those who falsify visas, travel documents and stay permits are subject to fines comprised of between 1,000,000 and 5,000,000 CFA francs (USD 1,895 to 9,480), as well as penalties of five to ten years’ imprisonment.</td>
</tr>
</tbody>
</table>

In practice, expulsion of foreigners is rare and individuals in an irregular situation have the possibility to regularise their situation. Irregular immigration is not considered a major threat and relevant policies, implemented in cooperation with EU Member States, mainly concern the irregular emigration of Senegalese nationals and foreigners who transit through the country with a view to entering the EU.

4.13.2.2.4 Migrants at risk

<table>
<thead>
<tr>
<th>Legislation/Policy Framework</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>Law No. 2005-06 on Trafficking in Persons and Assimilated Practices and Victims’ Protection</td>
<td>Art. 1: Penalties foreseen range from five to ten years’ imprisonment and 5 to 20 million CFA francs (USD 9,480 to 37,920). In case of aggravating circumstances, such as the use of torture or barbaric acts, penalties rise to 10 to 30 years in prison. Art. 15: Foreign victims have a right to stay in the country during penal proceedings. They can also apply for temporary or permanent stay in Senegal.</td>
</tr>
</tbody>
</table>

In addition, Senegal has set up a National Taskforce against Trafficking, especially of Women and Children. It also signed an agreement with Mali in 2004 (and is currently discussing another one with Guinea-Bissau) to organise and facilitate the return of child victims of trafficking to their country of origin.

Over the past few years, Senegalese authorities have organised a series of training sessions and conferences for public officials, including for law enforcement personnel and the judiciary, as well as representatives from the private sector. However, no public awareness campaigns have been launched during the past years. With regard to the protection of victims, public authorities run a shelter that provides food, medical, and psychological assistance, family mediation, and education services. Cooperation with NGO-run shelters also exists, despite a lack of standard operating procedures.

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1180 Loi No. 2005-06 du 10 mai 2005 relative à la lutte contre la traite des personnes et pratiques assimilées et à la protection des victimes.
1181 Cellule de lutte contre la traite des personnes en particulier des femmes et des enfants.
1183 Ibid., p. 321.
4.13.2.3 Emigration

4.13.2.3.1 Labour migration

Over the years, Senegalese authorities have developed a large number of initiatives and projects related to labour migration. However, the country lacks an articulated labour migration policy.

It is commonly thought that any labour migration policy should include the following components or phases: an identification of the national competencies that can be promoted abroad and those that should not be promoted; an assessment of existing and potential countries of destination; the development of an efficient recruitment system; and the implementation of promotion activities.

Assessment of the national labour market

Concerning the first component, two main projects can be identified: the establishment of an Operational Register of Occupations (ROME) in 2011 and the development of the Information System for Efficient Migration Management (SIGEM). SIGEM is a database set up by the Ministry of Youth, Employment and Promotion of Civic Values that collects relevant information on Senegalese candidates for emigration. Despite both these initiatives, there is a lack of in-depth analysis of the national labour market with a view to providing policy guidance on those occupations that can be promoted abroad and those that should not.

Identification of countries of destination

In terms of analysis of the labour market, labour legislation, and migration policies of established and potential countries of destination, little has been accomplished. Although the National Commission of Job Offers, which was set up in 2008, is entrusted with the duty to list employment sectors and type of occupations available in “partner countries”, this task is understood to be limited to countries with which Senegal has concluded bilateral labour agreements, and, primarily, France and Spain.

Recruitment system

The placement of Senegalese workers is primarily under the responsibility of the National Agency for the Promotion of Youth Employment (previously known as the Youth Employment Agency). Within the framework of bilateral labour agreements, the National Commission of Job Offers is responsible for receiving and circulating job offers, supervising the selection and recruitment of candidates, and ensuring the respect of work contracts. Except a small number of provisions concerning temporary employment firms, the legislation does not include provisions on private employment agencies.

Répertoire opérationnel des emplois et métiers.

Système d’information pour la gestion efficace des migrations.

Arrêté ministériel No. 396 du 11 janvier 2008 portant organisation et fonctionnement de la Commission nationale de gestion et de suivi des offres d’emploi dans le cadre de la migration légale, art. 2.

Arrêté ministériel No. 396 du 11 janvier 2008 portant organisation et fonctionnement de la Commission nationale de gestion et de suivi des offres d’emploi dans le cadre de la migration légale, art. 2.
Bilateral labour agreements

Senegal has signed several bilateral labour agreements over the years, as well as more general migration-related agreements that include provisions on labour migration.\textsuperscript{1188}

<table>
<thead>
<tr>
<th>Convention</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>Convention of establishment with Morocco, 1964\textsuperscript{1189}</td>
<td>Agrees equal access to the labour market for nationals of the country of residence and nationals of the other state party.</td>
</tr>
<tr>
<td>Agreement with Mauritania, 1972\textsuperscript{1190}</td>
<td>Addresses the facilitation of workers' mobility between the two countries.</td>
</tr>
<tr>
<td>Agreement with Gabon, 1982</td>
<td>This agreement specifically deals with the placement of Senegalese education workers. Although the agreement was never ratified by Gabon, both governments implemented cooperation mechanisms in this regard.</td>
</tr>
<tr>
<td>Agreement with Saudi Arabia, 1988</td>
<td>Both of these agreements seek to organise the employment of Senegalese migrant workers in the construction sector.\textsuperscript{1191}</td>
</tr>
<tr>
<td>Agreement with Kuwait, 1992</td>
<td></td>
</tr>
</tbody>
</table>

Several agreements were also concluded with Spain in order to organise seasonal migration. The system set up between the two countries was particularly comprehensive. It included the dissemination of job offers to Senegalese authorities through the Spanish Embassy in Dakar, the pre-selection of candidates by the Youth Employment Agency (ANEJ), and the final selection and recruitment by Spanish employers.\textsuperscript{1192} An inter-ministerial institution, the National Commission of Job Offers was created to follow-up on this process. In addition, an agreement between Spanish trade unions and the National Confederation of Workers of Senegal\textsuperscript{1193} (CNTS) foresaw vocational training of selected workers in the areas of hospitality and agriculture\textsuperscript{1194} and, in cooperation with the ILO, pre-departure courses on living and working conditions in Spain were organised.\textsuperscript{1195} In practice, however, the results of this seasonal migration scheme were not fully satisfactory. In 2008, 640 Senegalese women were recruited as seasonal workers, and 70 did not return at the end of their work contract in Spain.\textsuperscript{1196} The programme was eventually discontinued.

4.13.2.3.2 Migration and development

Mobilising and channelling remittances for development

There are a number of initiatives adopted by the Senegalese authorities and private banks to better

\textsuperscript{1188} These agreements, mainly concluded with France, will be discussed in section 4.13.2.3.

\textsuperscript{1189} Convention d'établissement entre le Maroc et le Sénégal, Dakar, 27 mars 1964.

\textsuperscript{1190} Accord entre le Sénégal et la Mauritanie du 8 octobre 1972 relatif à l'emploi et au séjour au Sénégal des travailleurs mauritaniens et des travailleurs sénégalais en Mauritanie.

\textsuperscript{1191} Tall, S. M., Tandian, A., Migration circulaire des Sénégalais: des migrations tacites aux recrutements organisés, CARIM CARIM AS No. 52, 2011, p. 9.

\textsuperscript{1192} Some, A. N., 2009, op. cit., p.86.

\textsuperscript{1193} Confédération nationale des travailleurs du Sénégal.

\textsuperscript{1194} Fall, P. D., 2010, op. cit., p. 41.

\textsuperscript{1195} Some, A. N., 2009, op. cit., p. 86.

channel remittances within the national economy. This section will only provide an overview of the major developments in this respect. The Investment Code and the Law No. 2008-47 of 3 September 2008 both include fiscal incentives to attract investments from foreigners and nationals residing abroad, notably with regard to mutual savings and microcredit.\textsuperscript{1197} Regarding members of the diaspora, a specific Support Fund for Investments of Senegalese Abroad (FAISE)\textsuperscript{1198} was set up by Decree No. 2008-635 of 11 June 2008. A programme called ‘Cités de la diaspora’ was developed to facilitate access to housing property for migrants organised in associations.\textsuperscript{1199} Promotion missions\textsuperscript{1200} were also organised in several European countries by the Ministry of Senegalese Abroad to inform migrant communities about existing initiatives regarding investments in Senegal.\textsuperscript{1201} The IOM-run programme Migration for Development in Africa (MIDA) co-financed the development of agricultural projects by diaspora associations and migrants in Senegal, as well as business projects developed by Senegalese female migrants.\textsuperscript{1202} However, the programme was terminated in 2012.

\textit{Diaspora outreach and confidence-building measures}

The Senegalese diaspora is very active. In Paris and its immediate surroundings, some 300 associations have been mapped, which is actually considered to be an underestimation.\textsuperscript{1203} In order to take the interests of the diaspora into consideration, Senegalese authorities have undertaken a number of initiatives. Senegalese abroad can vote and be elected in national elections.\textsuperscript{1204} Although in principle acquisition of a foreign nationality leads to the loss of Senegalese nationality, in practice, dual/multiple nationality is authorised. In 1995, a Superior Council of Senegalese Abroad\textsuperscript{1205} was established which includes delegates elected among members of the diaspora. Its activities have been suspended since 2013.\textsuperscript{1206} Cultural activities are also undertaken by Senegalese authorities such as, for example, summer camps in Senegal for children residing abroad.\textsuperscript{1207} Although the relationship between Senegalese residing abroad and consular posts may differ from one country to the next, in the case of Italy, close cooperation links have been established over the years with Senegalese diaspora associations.\textsuperscript{1208}

The mapping of the Senegalese diaspora is a long-term ongoing project, which was initiated in 2007 by the Ministry of Senegalese Abroad. It makes use of on-line registrations, consular registers and diaspora associations.\textsuperscript{1209} The results of this project are yet to be shared.

\textsuperscript{1198} Fonds d’appui à l’investissement des Sénégalais de l’extérieur.
\textsuperscript{1199} Fall, P. D., 2010, op. cit. pp., 41-42.
\textsuperscript{1200} Caravanes d’information.
\textsuperscript{1201} Sarr, A, 2009, op. cit., 19.
\textsuperscript{1202} Maggi, J. et al. Migrations transnationales sénégalaises, intégration et développement. Le rôle des associations de la diaspora à Milan, 2013, p. 33.
\textsuperscript{1203} Ibid., p. 90.
\textsuperscript{1204} Dioh, A., La migration hautement qualifiée de, à travers et vers le Sénégal, CARIM AS No. 3, 2010, p.11.
\textsuperscript{1205} Conseil supérieur des Sénégalais de l’extérieur.
\textsuperscript{1206} Fall, P. D., 2003, op. cit., p. 35.
\textsuperscript{1208} Maggi, J. et al., 2013, op. cit., p. 53.
Addressing the challenges of highly-skilled migration and reintegration of returning migrants

Projects dealing with the involvement of skilled migrants in the development of Senegal include the UNPD-led TÖKTEN (Transfer of Knowledge through Expatriate Nationals) programme as well as the PAiSD (Programme d’Appui aux Initiatives de Solidarité pour le Développement) project run in cooperation with France. A more permanent reintegration of migrants has been the aim of assistance programmes, notably within the agricultural sector. Examples of this include the REVA plan (now ANIDA)\textsuperscript{1210} and the GOANA.\textsuperscript{1211}

4.13.2.3.3 Migrants’ protection

Information dissemination

To date, most information dissemination activities have focused on the risks of irregular migration. A more comprehensive approach to information dissemination is planned by the Ministry of Foreign Affairs and Senegalese Abroad through the institution of Information Centres\textsuperscript{1212} across the country. Five Centres are currently in the process of being established. Under the seasonal migration scheme organised between Senegal and Spain, the ILO organised pre-departure courses to inform selected migrant workers on living and working conditions in the country of employment.

Protection in countries of destination

In countries of destination, protection activities undertaken by diplomatic and consular posts appear to be limited. Although the Ministry of Foreign Affairs and Senegalese Abroad developed an initiative to set up Assistance Offices for Senegalese Abroad\textsuperscript{1213} in selected countries of destination, the project was never implemented. In 2013, the activities of the Superior Council of Senegalese Abroad, which included the protection of nationals abroad, were suspended.

Social security agreements

The Senegalese authorities have consistently promoted the conclusion of bilateral social security agreements with its diaspora’s main countries of residence. Agreements have been signed with France, Mali, and Mauritania. Senegal also signed the inter-African social security convention\textsuperscript{1214} (CIPRES Convention) and ratified it in June 2014. Regarding agreements with Italy and Gabon, negotiations are still ongoing.

Protection of victims of trafficking

An overview of Senegal’s policy on trafficking in persons has been presented in section 4.13.2.2.4. Mention can be made here of the agreement concluded with Spain in 2006 for the prevention of emigration

\textsuperscript{1210} Retour volontaire vers l’agriculture. Agence nationale d’insertion et de développement agricole.
\textsuperscript{1211} Grande offensive agricole pour la nourriture et l’abondance. Fall, P. D., 2010, op. cit., p. 41.
\textsuperscript{1212} Bureaux d’accueil et de suivi.
\textsuperscript{1213} Bureaux d’appui aux Sénégalais de l’extérieur.
\textsuperscript{1214} Convention multilatérale de sécurité sociale de la Conférence interafricaine de la prévoyance sociale.
of unaccompanied Senegalese minors, their protection, repatriation and reintegration. Prevention activities detailed by the agreement include information dissemination, control of trafficking networks and assistance to the economic and social development of regions of origin. Protection and repatriation activities through cooperation mechanisms between the Senegalese and Spanish authorities are also included.

### 4.13.3 International, regional, and bilateral cooperation

**International conventions**

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

- the International Covenant on Civil and Political Rights (1966);
- the International Covenant on Economic, Social and Cultural Rights (1966);
- the Convention on the Elimination of All Forms of Discrimination against Women (1979);
- the Convention on the Rights of the Child (1989);
- 37 ILO Conventions (Senegal has not ratified the two specific ILO conventions on migrant workers: C 97 (1949) and C 143 (1975));
- the Convention on the Protection of the Rights of All Migrant Workers and Members of their Families (1990); and

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

**Cooperation on irregular migration management**

Actions against irregular migration has been the most significant area of international cooperation since the mid-2000s, when sea routes from Senegal towards the Canary Islands became a prominent phenomenon. Policy initiatives have mainly taken the form of FRONTEX operations, a Memorandum of Understanding between Senegal and Spain to organise joint border patrols, the presence in Senegal of Interpol immigration liaison officers from several European countries, and the implementation of the regional SEA HORSE project, which includes Cape Verde, Mauritania, Morocco, Portugal, and Spain, to strengthen border management through operational cooperation, staff training, and the sharing of best practices.

**Bilateral agreements**

Bilateral agreements on migration-related issues have been concluded with several countries over the years. Beyond the bilateral labour agreements and social security agreements that have already been

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1215 Convention entre le Sénégal et l’Espagne sur la coopération dans le domaine de la prévention de l’émigration des mineurs sénégalais non accompagnés, leur protection, leur rapatriement et réinsertion, 5 décembre 2006.
mentioned\textsuperscript{1216}, mention can be made of the agreements concluded with France, which still constitutes the most comprehensive bilateral regime intended to organise Senegalese migration flows. Three main conventions are applicable:

- The 1995 Convention on Circulation and Stay of Persons\textsuperscript{1217} includes some derogations to common French immigration legislation: it lays out the possibility to obtain a 10-year residence permit after three years of stay in the country (instead of five years under French administrative law).
- The 2001 Agreement on Exchange of Young Professionals\textsuperscript{1218} provides that young graduates (French or Senegalese), aged 18 to 35, who wish to supplement their professional experience in the other state party are granted a temporary stay authorisation, valid for a maximum period of twelve months (with the possibility of a six-month extension), without application of the labour market test. A quota of 100 admissions per year is set.
- The 2006 Agreement on Concerted Management of Migratory Flows (amended in 2008)\textsuperscript{1219} includes:
  a) a list of 105 occupations for which the delivery of a stay permit is not subject to the application of the labour market test\textsuperscript{1220};
  b) provisions concerning assistance to the reintegration of Senegalese migrants in their country of origin;
  c) promotion of the involvement of the diaspora in the development of Senegal;
  d) cooperation in the area of border management, procedures to facilitate readmission of nationals in an irregular situation; and
  e) the funding of development projects.

\textsuperscript{1216} See Sections 4.13.2.3.1 and 4.13.2.3.3.
\textsuperscript{1217} Convention entre le Sénégal et la France relative à la circulation et au séjour des personnes signée le 1er août 1995.
\textsuperscript{1218} Accord entre le Sénégal et la France relatif aux échanges de jeunes professionnels signée le 20 juin 2001.
\textsuperscript{1219} Accord entre le Sénégal et la France relatif à la gestion concertée des flux migratoires signé le 23 septembre 2006. Avenant signé le 23 septembre 2008.
\textsuperscript{1220} This provision primarily concerns higher-level technical jobs, although some less-skilled occupations are also included.
4.13.4 References


### 4.13.5 List of interlocutors

<table>
<thead>
<tr>
<th>Name of respondent</th>
<th>Position</th>
<th>Institution</th>
</tr>
</thead>
<tbody>
<tr>
<td>Sonko, S.</td>
<td>Programme manager, Directorate of Technical Support</td>
<td>Presidency of the Republic</td>
</tr>
<tr>
<td>Diallo, A.</td>
<td>Director of Investment Support Fund and Projects</td>
<td>Ministry of Foreign Affairs and Senegalese Abroad</td>
</tr>
<tr>
<td>Badara Coulibay, A.</td>
<td>Communications Officer, Support Fund investment Senegalese Abroad</td>
<td></td>
</tr>
<tr>
<td>Ba, H.</td>
<td>Technical Advisor on Population, ANSD</td>
<td></td>
</tr>
<tr>
<td>Sakho, M.</td>
<td>Research Assistant, Centre for Development Studies</td>
<td></td>
</tr>
<tr>
<td>Faye, B.</td>
<td>Director, Youth Employment Agency (ANEJ)</td>
<td>Ministry of Youth, Employment and Promotion of Civic Values</td>
</tr>
<tr>
<td>Touré, A.</td>
<td>Coordinator, Information System on the Labour Market</td>
<td></td>
</tr>
</tbody>
</table>

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1221 Ministère des Affaires étrangères et des Sénégalais de l’extérieur.
1222 Ministère de l’Economie, des Finances, et de la Planification.
1223 Ministère de la Fonction publique, du Travail, du Dialogue social et des Organisations professionnelles.
1224 Ministère de la Jeunesse, de l’Emploi et de la Promotion des Valeurs civiques.
4.14 Sierra Leone

4.14.1 Migration trends

4.14.1.1 Immigration

<table>
<thead>
<tr>
<th>Data</th>
<th>Year</th>
<th>Absolute numbers</th>
<th>% of the Total Population</th>
</tr>
</thead>
<tbody>
<tr>
<td>Population and Housing Census</td>
<td>2004</td>
<td>89,876 foreigners.\textsuperscript{1225}</td>
<td>1.8%</td>
</tr>
</tbody>
</table>

Census data shows a progressive decrease of the number of foreigners over the past three decades.\textsuperscript{1225}

4.14.1.1.1 Characteristics of immigrants/foreigners

<table>
<thead>
<tr>
<th>Countries of origin:</th>
<th>According to the 2004 census data, 97% of foreigners were nationals of West African states, primarily from Guinea (65.3%) and Liberia (23.5%).\textsuperscript{1226}</th>
</tr>
</thead>
<tbody>
<tr>
<td>Settlements:</td>
<td>Around four-fifths of the country’s foreigners resided in the Western Area – which includes the capital Freetown – and the Eastern Province.\textsuperscript{1227}</td>
</tr>
<tr>
<td>Socio-demographic profile:</td>
<td>The results from the census showed a predominance of foreign men (54.4%) over foreign women.\textsuperscript{1228}</td>
</tr>
<tr>
<td>Socio-economic profile and sectors of employment:</td>
<td>• Officials interviewed for the purpose of the present study estimated that around 3,000 foreigners held a stay/work permit. Most of them, regardless of their nationality, were employed in the mining sector. \textsuperscript{1229} • Indirectly, such an estimate shows that the vast majority of foreigners work in the informal sector.</td>
</tr>
<tr>
<td>Vulnerable groups:</td>
<td>• Although trafficking of human beings is recognised as being a significant issue, it is mainly an internal phenomenon.\textsuperscript{1229} • International trafficking towards Sierra Leone is limited. However, its scope remains unclear. The latest U.S. Department of State Trafficking in Persons Report notes that the country “may […] be a destination country” for victims of trafficking.\textsuperscript{1230} In 2005, R. Surtees highlighted the fact that the “dire economic circumstances in Sierra Leone as well as the decreasing number of peacekeeping forces, often a catalyst for trafficking into prostitution, makes it unlikely that Sierra Leone is currently considered a desirable destination for traffickers”.\textsuperscript{1231}</td>
</tr>
</tbody>
</table>

4.14.1.2 Emigration

Emigration from Sierra Leone is not a recent phenomenon; in the 19th century, emigration flows already existed. These flows were not limited to the West African region, but also included such destination coun-

\textsuperscript{1226} Ibid.
\textsuperscript{1227} Ibid., p. 27.
\textsuperscript{1228} Ibid., p. 26.
\textsuperscript{1229} U.S. Department of State, Trafficking in Persons Report 2013, 2013, p. 325.
tries as Great Britain, other European countries and the U.S. However, the decade of civil war, from 1991 to 2002, changed emigration patterns dramatically. During this period, more than 500,000 nationals were estimated to have found refuge abroad, mainly in West African states, including Guinea, Liberia, The Gambia, Ghana, Côte d’Ivoire, Mali and Nigeria, and to a lesser extent in countries overseas, mainly the U.S. and the U.K. Most Sierra Leonean refugees in West African states have returned since 2002. This does not appear to be the case for those who fled towards OECD Member States.

<table>
<thead>
<tr>
<th>Data</th>
<th>Year</th>
<th>Estimates</th>
</tr>
</thead>
<tbody>
<tr>
<td>General estimation from national authorities.</td>
<td>2010</td>
<td>500,000 diaspora members.</td>
</tr>
<tr>
<td>UNDP</td>
<td>2010</td>
<td>Nearly one million, of which 60-70% are first generation.</td>
</tr>
</tbody>
</table>

4.14.1.2.1 Characteristics of emigrants/nationals abroad

- It is generally acknowledged that the U.S. and the U.K. are the main host countries of the Sierra Leonean community abroad. According to the Permanent Representative of Sierra Leone to the United Nations in Geneva, in 2012 more than half a million nationals were residing in the U.S. and the U.K. alone.
- U.S. official data: 20,000 Sierra Leonean residents in 2000.
- OECD migration database: 10,000 Sierra Leonean residents in the U.K. in 2008, and a high level of naturalisation of Sierra Leone nationals over the past decade (15,407 from 2000 to 2011).
- National authorities highlight that since 2003, Gulf countries, including Kuwait, Iraq, and more recently, Qatar, have become increasingly important countries of destination.
- There are currently no means to properly assess the Sierra Leonean presence in West African countries. Given the extent of movements of both Sierra Leone nationals and foreigners in and out of the country during the past decade, available data, such as that put forward by the UN Population Division, Trends in International Migrant Stock: Migrants by Destination and Origin, can only be misleading.
Brain drain is an acute problem in Sierra Leone. The civil war led to massive departures of the most educated nationals. In the post-conflict era, the poor state of the country’s infrastructure, a lack of economic development opportunities, low wages and a deteriorated working environment further served as push factors for high-skilled individuals.\textsuperscript{1242}

- In 2000, the latest year for which data is available, 52.5\% of tertiary-educated nationals were residing abroad.\textsuperscript{1243}
- With regard to the health sector, OECD data showed the extent of the brain drain phenomenon: the emigration rate of medical doctors was estimated to be as high as 58.4\% and that of nurses to be as high as 56.3\%.\textsuperscript{1244}

According to UNDP, transfers amounted to 168 million USD in 2009, which corresponded to 12\% of the country’s GDP.\textsuperscript{1245}
- Government estimates for the same year were even higher, comprising between 250 and 400 million USD, or about 20–25\% of GDP.\textsuperscript{1246}
- UNDP’s and the Government’s estimates include both formal and informal transfers, with the former accounting for only 1/3 to 1/4 of all remittances.\textsuperscript{1247}
- The latest World Bank data shows a lower estimate of 66 million USD for 2013.\textsuperscript{1248} However, if based on formal transfers, it is in line with the aforementioned figures.

Remittances are believed to be mostly sent from the U.S. and the U.K., where an estimated 86\% of Sierra Leonean residents transfer money to their country of origin on a regular basis.\textsuperscript{1249}
- It is also estimated that as much as two-thirds of the population in Sierra Leone receive remittances, which for the most part – between 70\% and 80\% – are used for the consumption of goods.\textsuperscript{1250}

Trafficing in persons in Sierra Leone is believed to be mainly an internal phenomenon.\textsuperscript{1241}
- National authorities emphasise the risk of trafficking faced by migrants employed in Gulf and Mashrek countries, including, more specifically, female domestic workers.\textsuperscript{1241}

4.14.2 Migration policy

Sierra Leone lacks a comprehensive migration policy. A number of initiatives have been undertaken in the past years, notably in the field of migration and development, as well as with regard to trafficking in persons. Moreover, national authorities are currently involved in drafting both a comprehensive national migration policy and a labour migration policy. With regard to immigration, the existing legislation is generally obsolete and lacks enforcement. It is currently under review.

\textsuperscript{1242} Republic of Sierra Leone, European Community, 2007, op. cit., p. 74.
\textsuperscript{1245} UNDP, 2010, op. cit., p. 2.
\textsuperscript{1246} Ibid.
\textsuperscript{1247} Ibid., pp. 5-6. This pre-eminence of informal transfers is partially due to the fact that only remittances sent by official money transfer operators – such as MoneyGram and Western Union – are recorded as such by Sierra Leonean banks. Other transfers, including money directly brought in cash, mobile phone transfers, as well as the use of merchant’s agents and foreign exchange bureaus are informal.
\textsuperscript{1249} UNDP, 2010, op. cit., p. 2
\textsuperscript{1250} Ibid.
4.14.2.1 Institutional framework on migration

Governmental stakeholders involved

<table>
<thead>
<tr>
<th>Ministry</th>
<th>Agency, Directorate, Unit</th>
<th>Responsibilities</th>
</tr>
</thead>
<tbody>
<tr>
<td>Ministry of Internal Affairs</td>
<td>Department of Immigration</td>
<td>• Immigration management</td>
</tr>
<tr>
<td>Ministry of Labour and Social Security</td>
<td>Work Permit Bureau</td>
<td>• Delivery of work permits to foreign workers</td>
</tr>
<tr>
<td>Ministry of Foreign Affairs</td>
<td>Consular section</td>
<td>• Protection of nationals abroad</td>
</tr>
<tr>
<td>Presidency</td>
<td>Office of Diaspora</td>
<td>• Supporting the engagement of the diaspora for development</td>
</tr>
<tr>
<td>Ministry of Social Welfare, Gender and Children’s Affairs</td>
<td></td>
<td>• Fight against trafficking in persons</td>
</tr>
<tr>
<td>Ministry of Finance and Economic Development</td>
<td></td>
<td>• Remittances-related issues</td>
</tr>
</tbody>
</table>

Inter-institutional coordination

Migration-related legislation has established three main inter-ministerial institutions: the Work Permit Committee, the Inter-Ministerial Committee on Human Trafficking and the National Task-Force on Human Trafficking.

4.14.2.2 Immigration: national policy framework and institutional practices

4.14.2.2.1 General immigration provisions

Entry, stay and removal of foreigners in Sierra Leone are primarily regulated by the Non-Citizens (Registration, Immigration and Expulsion) Act of 1965. Although the Act was complemented in 2007 by the General Law (Business Start-up) Amendment Act, with regard to labour migration related matters, no secondary legislation exists to further specify its provisions.

The 1965 Act mainly includes provisions related to border control, public order and security. It merely regulates entry, stay and residence of foreign nationals. The only relevant provision in this regard is art. 16(1), which submits stay and residence to guarantees concerning “duration and place of residence, occupation, or business or any matter or thing, whether similar to those before enumerated or not, as may be prescribed”. The 1965 Act does not contain any reference to the delivery of stay permits, and therefore to the procedures and conditions for granting permits, the duration of their validity, their renewal or withdrawal. The legislation does not contain any provision regarding family reunification either.

The 1965 Act excludes from its scope of application nationals from The Gambia, Ghana, Guinea, Côte d’Ivoire and Liberia, who are considered “privileged Africans”. While the common immigration regime does not apply to those nationals, no specific regulation has been adopted in order to organise their immigration status.

1251 Non-Citizens (Registration, Immigration and Expulsion) Act, 1965, art. 4(e).
On the whole, the 1965 Act is a rather obsolete text that lacks a comprehensive character and fails to provide a solid basis for immigration management in Sierra Leone and the drafting of a new law is being considered. To date, a proposal for a new law is yet to be presented to the Parliament.

### 4.14.2.2.2 Labour migration

**Access to the national labour market**

<table>
<thead>
<tr>
<th>Legislation/Policy Framework</th>
<th>Description</th>
</tr>
</thead>
</table>
| General Law (Business Start-up) Amendment Act, 2007 | **Art. 34** institutes a Work Permit Committee, consisting of representatives from the Ministries of Labour and Social Security, Internal Affairs, and Finance and Economic Development.  
**Art. 34 C**: The employer has to present to the Committee a request for the delivery of a work permit, “not less than six months before the arrival” of the worker in Sierra Leone.  
**Art. 34 D(2)(b)**: The issuance of the work permit follows a labour market test procedure: the Work Permit Committee “consider[s] whether or not there are no [sic] Sierra Leonean workers who are able, willing, qualified and available to take and perform the work for which the application has been made”.  
**Art. 34 D(2)**: In addition to the labour market test, a series of conditions protecting the national labour market are to be “considered” by the Work Permit Committee:  
  - “[whether] the person has a valid passport or other travelling document which establishes to its satisfaction his identity and nationality;  
  - the granting of the permit will not, adversely affect the wages and working conditions of Sierra Leoneans working in the organisation;  
  - the applicant has not laid off any employees within the period of three months prior to the application unless the action is justified;  
  - the carrying out of the operations of the applicant will be substantially disrupted without the services of the person in respect of whom the application is made;  
  - the applicant will take timely and significant steps designed to recruit and retain Sierra Leonean workers;  
  - the granting of the permit will be consistent with the laws of Sierra Leone relating to labour; and  
  - the applicant has or intends to design a programme for the transfer of skills to Sierra Leoneans through appropriate training facilities”.  
**Art. 34 E**: By principle, the work permit is granted for a period of three years, and is renewable. |

Art. 34 C imposes on the employer seeking to engage a foreign worker the obligation to request a work permit at least six months before the beginning of employment. Given the constraints in the private sector, such a long delay is likely to be impossible to implement in practice.

Indeed, the General Law (Business Start-up) Amendment Act of 2007 is not rigorously implemented. The labour market test and other conditions protecting the national labour market do not seem to be implemented. In other words, there does not seem to be restrictions regarding the employment of foreigners in Sierra Leone.

Sierra Leone has concluded bilateral agreements with Cuba, China and India, which allows access to the national labour market without the need to obtain a work permit. Work permit fees are reduced for nationals of ECOWAS Member States.
Rights within employment

Regarding the rights of foreigners within employment, it must be pointed out that existing labour legislation, the Employers and Employed Act, Chapter 212, dates from colonial times and does not correspond to the current needs of the country. In practice, national and foreign workers are treated on an equal footing.

4.14.2.2.3 Irregular migration

<table>
<thead>
<tr>
<th>Legislation/Policy Framework</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>Non-Citizens (Registration, Immigration and Expulsion) Act, 1965</td>
<td>Art. 21 to art. 28 envisage deportation and imprisonment of six months for foreigners in an irregular situation, as well as expulsion of convicted foreigners.</td>
</tr>
</tbody>
</table>

The 1965 Act is outdated – it includes, for instance, as “prohibited migrants” “idiots or insane persons”\(^{1252}\) – and requires extensive amendments.

In practice, the national authorities have a tolerant approach to irregular migration. ECOWAS Member States’ nationals are tolerated, even though they generally do not hold the required stay and work permits. The possibilities to regularise the stay, based on duration of stay, family ties, or employment, are generalised. Deportations/expulsions are rare and are based on criminal behaviours rather than on the violation of immigration rules.

Border management capacities are limited. According to the Country Strategy Paper and National Indicative Programme for the Period 2008-2013 of Sierra Leone and the European Community, only 33 out of more than 400 crossing points on the south-eastern borders were controlled.\(^ {1253}\) However, efforts have been made over the past years, notably in cooperation with IOM, to strengthen national capacities in this respect. For instance, the Immigration Department has received assistance to develop staff capacities, introduce a Passenger Information Registration System (PIRS) at Freetown airport and border areas, and to improve IT and logistics equipment.\(^ {1254}\)

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\(^{1252}\) Non-Citizens (Registration, Immigration and Expulsion) Act, 1965, art. 19(2).

\(^{1253}\) Republic of Sierra Leone, European Community, 2007, op. cit., p. 75.

### Migrants at risk

<table>
<thead>
<tr>
<th>Legislation/Policy Framework</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>Anti-Human Trafficking Act, 2005</td>
<td>Art. 22: “A person convicted of the offence of trafficking shall be liable to a fine not exceeding fifty million Leones or to imprisonment for a term not exceeding ten years or to both such fine and imprisonment”. Art. 3 establishes an Inter-Ministerial Committee on Human Trafficking, charged with the responsibility to “oversee and provide advice and policy guidance” to another specialised body, the National Task Force on Human Trafficking. Art. 4: The Task Force, which is also an inter-ministerial structure, has the main responsibility of coordinating the implementation of the trafficking legislation. Art. 5 includes a list of measures to prevent trafficking through the enhancement of economic opportunities for potential victims: • microcredit lending programmes, training in business development, skills training and job counselling; • programmes to promote women’s participation in economic decision making; • programmes to keep children, especially girls, in elementary and secondary schools, and to educate persons who have been victims of trafficking, and • the development of educational curricula regarding the dangers of trafficking.</td>
</tr>
</tbody>
</table>

As well as the Anti-Human Trafficking Act of 2005, useful provisions can be found in the Child Rights Act of 2007 and the Sexual Offences Act of 2012.

National capacities remain limited for a comprehensive anti-trafficking policy to be efficiently implemented. Law enforcement staff lack specialised training and public information campaigns are yet to be organised. With regard to protection, national authorities rely on the capacities of NGOs and international organisations, without the existence of a formal reference mechanism. Although the legislation does not include a specific protection scheme for foreign victims of trafficking, the U.S. Department of State noted that in 2012, “the government offered temporary residency to seven Indian nationals who were victims of forced labour; these victims were housed at a police facility and eventually repatriated upon their request.”

### Emigration

#### Labour migration

Sierra Leone lacks a labour emigration policy. National authorities are yet to decide whether labour emigration should be promoted or not, and, if so, what competencies should or should not be promoted. Activities related to the identification and assessment of existing and potential new countries of destination are non-existent and public employment services do not have the means to match demand and supply on the international labour market.

As a consequence, most departures of migrant workers are undertaken in a spontaneous way. That being
said, Sierra Leone has concluded several bilateral recruitment agreements with private companies operating in the Middle East, such as Eurest Support Services (ESS), First Kuwaiti Trading Company (FKTC), and Sabre International. Recruitment of Sierra Leonean nationals is organised by the Labour Migration Unit of the Ministry of Labour, for jobs in catering, construction and security, and which are mostly located in Iraq. Pre-departure training courses are provided either by national authorities, NGOs and international organisations or the employing companies themselves. In the country of employment, food, accommodation and healthcare are granted for free. Complaints have been raised by workers regarding the quality of medical treatments and deduction of wages in case of illness. Another problematic issue has been the change of preferred destination – from Kuwait to Bagdad – under the same contractual conditions, despite the rise of safety issues.

4.14.2.3.2 Migration and development

Given the importance of the brain drain phenomenon and the dependency of the country on remittances, the relationship between migration and development constitutes a critical issue that needs to be addressed by the national authorities. Although Sierra Leone has yet to adopt a full-fledged policy in this regard, a number of initiatives have been developed over the years.

Institutional developments

In 2008, an Office of Diaspora Affairs was created within the Presidency in order to strengthen the engagement of the diaspora – mainly in the U.K. and the U.S. – in the economic and social development of the country.

Mobilising and channelling remittances for development

In 2010, the Government published, in cooperation with UNDP, a comprehensive study on remittances, which included the following main recommendations:

- reduce the limits on individual bank transactions;
- allow foreign exchange offices to receive remittances;
- create exchange rate linked bonds within public utility companies in Sierra Leone;
- allow nationals residing abroad to open non-resident foreign currency bank accounts;
- establish terminating credit societies to finance house-building or school fees; and
- issue diaspora bonds.

The latter proposal was eventually included in the 2013-2018 national development plan.

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1254 Larsen, S., 2012, op. cit
1255 Ibid.
1256 Ibid.
1257 Ibid.
1258 Ibid.
Addressing the challenges of highly-skilled migration

In order to tackle the brain drain phenomenon, a UNDP project, “Delivering Results and Accelerating Public Sector Reform with Diaspora Resources and Experts from the South” was implemented from 2008 to 2011. The objective was to organise the temporary return of skilled nationals residing abroad so as to improve the capacities of Sierra Leonean public services.

The UNDP project included a short-term public sector capacity building measure, which facilitated qualified nationals in the diaspora to return home and to participate in national development. Through the project, technical experts from the diaspora were placed in critical government ministries, departments and agencies of the public service for an initial one-year period.\textsuperscript{1262}

More recently, efforts have been made to raise the salaries of skilled workers in order to retain them in the country.

Reintegration of returning migrants

Regarding social and economic reintegration of returnees, assistance has mainly been provided by IOM – since 2003 – and two NGOs, ABC Development and Christian Brothers.\textsuperscript{1263}

\textbf{4.14.2.3.3 Migrants’ protection}

It is evident that recent emigration policy developments have been focused on the relationship between migration and development and the need to limit brain drain, channel remittances for development and involve the Sierra Leonean diaspora, rather than on the protection of nationals abroad.

That being said, with regards to bilateral agreements concluded with private companies operating in the Middle East, protection issues have not been neglected. These agreements notably include provisions regarding healthcare, housing and food. When disputes arose between Sierra Leonean workers and their employers, embassies in Kuwait and Saudi Arabia were active in ensuring that agreements between the parties were reached.

\textbf{4.14.3 International, regional, and bilateral cooperation}

\textit{International conventions}

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

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


\textsuperscript{1263} Derksen, M., \textit{Return Migration to Sierra Leone. Monitoring the Embeddedness of Returnees}, CIDIN, Radboud University Nijmegen, AMIDSt, University of Amsterdam, 2008, p. 5.
the Convention on the Rights of the Child (1989);
- 35 ILO Conventions (Sierra Leone has not ratified the two specific ILO conventions on migrant workers, C 97 (1949) and C 143 (1975)); and

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

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

Bilateral agreements

Sierra Leone institutionalised bilateral relations on migration-related matters remain limited. Readmission agreements have been concluded with the U.K. and the Netherlands. As previously mentioned, several agreements with private companies operating in the Middle East have also been signed.

Multipartite Agreement for the Local Integration of Liberian and Sierra Leonean Refugees in Nigeria, 2007

Regarding the implementation in Sierra Leone of the ECOWAS protocols on free movement of persons, freedom of residence, and establishment, specific mention can be made of the Multipartite Agreement for the Local Integration of Liberian and Sierra Leonean Refugees in Nigeria, which was signed in 2007 between Liberia, Sierra Leone, Nigeria, ECOWAS, and UNHCR (see comparative analysis).
4.14.4 References


Republic of Sierra Leone, Non-Citizens (Registration, Immigration and Expulsion) Act, 1965.


Republic of Sierra Leone, Sexual Offences Act, 2012.

Republic of Sierra Leone, Employers and Employed Act.


4.14.5 List of interlocutors

<table>
<thead>
<tr>
<th>Name of respondent</th>
<th>Position</th>
<th>Institution</th>
</tr>
</thead>
<tbody>
<tr>
<td>D. King</td>
<td>Head of Community Relations, National Registration Secretariat</td>
<td>Ministry of Internal Affairs</td>
</tr>
<tr>
<td>K. Koroma</td>
<td>Chief Immigration Officer, Immigration Department</td>
<td>Ministry of Internal Affairs</td>
</tr>
<tr>
<td>H. S. Z. Smith</td>
<td>Senior Labour Inspector, Head of Labour Migration</td>
<td>Ministry of Labour and Social Security</td>
</tr>
<tr>
<td>D. S. Lungay</td>
<td>Director, International and Legal Division</td>
<td>Ministry of Foreign Affairs</td>
</tr>
<tr>
<td>I. K. Bangura</td>
<td>Consular Officer</td>
<td>Ministry of Foreign Affairs</td>
</tr>
<tr>
<td>D. Shiaka</td>
<td>Deputy Director, Social Welfare</td>
<td>Ministry of Social Welfare, Gender and Children’s Affairs</td>
</tr>
<tr>
<td>M. Kamara</td>
<td>Senior Economist</td>
<td>Ministry of Finance and Economic Development</td>
</tr>
</tbody>
</table>
4.15 Togo

4.15.1 Migration trends

4.15.1.1 Immigration

The National Population and Housing Census conducted in 2010 is the main source of data on immigration.\textsuperscript{1264} It constitutes an important element of demographical data collection in Togo. The previous population and housing census was conducted over three decades ago, in 1981.

<table>
<thead>
<tr>
<th>Data</th>
<th>Year</th>
<th>Absolute numbers</th>
<th>% of the Total Population</th>
</tr>
</thead>
<tbody>
<tr>
<td>National Population and Housing Census (RGPH)\textsuperscript{1265}</td>
<td>2010</td>
<td>241,212 foreigners\textsuperscript{1266}</td>
<td>4.1%</td>
</tr>
</tbody>
</table>

4.15.1.1.1 Characteristics of immigrants/foreigners

| Countries of origin: | The overwhelming majority of foreigners (around 90%) are nationals of ECOWAS Member States, primarily Benin (67,665), Niger (61,126), Ghana (29,416), Nigeria (29,347), Burkina Faso (12,075), and Mali (7,641).\textsuperscript{1267} |
| Settlements: | Foreigners mainly reside in the capital city, Lomé, as well as in the Maritime and the Plateaux regions. |
| Socio-demographic profile: | The 2010 census also shows a gender balance among foreigners (50.8% of males and 49.2% of females).\textsuperscript{1268} |
| Socio-economic profile and sectors of employment: | Like nationals, most migrants are likely to be employed in the informal labour market. The number of stay/residence permits delivered annually between 2009 and 2011 was limited to approximately 2000.\textsuperscript{1269} Despite the absence of a collated database on regular migrants, such numbers give an idea of the limited character of regular migration in Togo. |
| Vulnerable groups: | Trafficking in persons is primarily an internal phenomenon.\textsuperscript{1270} Most foreign victims of trafficking in Togo are children from Ghana and Benin, who are forced into domestic servitude.\textsuperscript{1271} There are indications of Nigerian women and girls being forced into prostitution.\textsuperscript{1272} |

\textsuperscript{1264} Direction Générale de la Statistique et de la Comptabilité Nationale, RGPH4 Recensement Général de la Population 2010.
\textsuperscript{1265} Recensement général de la population et de l’habitat.
\textsuperscript{1266} Direction Générale de la Statistique et de la Comptabilité Nationale, RGPH4 Recensement Général de la Population 2010, Volume 1: Résultats prioritaires, Tableau 1.3: Répartition de la population résidente selon la nationalité et le sexe, 2013.
\textsuperscript{1267} Ibid.
\textsuperscript{1268} Ibid.
\textsuperscript{1271} Ibid.; UNESCO, La traite des personnes au Togo: facteurs et recommandations, 2007, p. 25.
\textsuperscript{1272} UNESCO, 2007, op. cit., p. 25.
To date, no further relevant information has been published on the basis of the census’ results. A special publication is currently being drafted by the General Directorate of Statistics and National Compatibility, which will provide additional information on immigration in Togo.1273

4.15.1.2 Emigration

In order to understand the current challenges of migration management in Togo, it is useful to provide a brief historical overview of emigration flows. From the independence of the country in 1960 up until the 1980s, Togo benefitted from prosperous economic conditions. During this time, migration flows were dominated by the temporary movement of civil servants and students, with a view to strengthening the state’s competencies.1275 In the 1990s, severe human rights violations, widespread ethnic violence and political repression occurred. At the same time, the economic situation worsened. This led to mass population outflows, mainly towards neighbouring Ghana and Benin, and, to a lesser extent, to France and other European countries.1276 Arguably, this period constitutes the most determinant phase in the modern history of Togolese migration. In 2005, renewed political violence led to additional flows of individuals fleeing the country for fear of persecution. During the past years, the political situation has become more stable and migration flows have become mostly motivated by economic reasons.1277

<table>
<thead>
<tr>
<th>Data</th>
<th>Year</th>
<th>Estimates</th>
</tr>
</thead>
<tbody>
<tr>
<td>University of Sussex, Development Research Centre (DRC), Global Migrant Origin Database</td>
<td>2005</td>
<td>Migrant stock not exceeding 300,0001278</td>
</tr>
<tr>
<td>General estimates from national authorities (Data sources unidentified)</td>
<td>2013</td>
<td>Togolese officials commonly refer to a diaspora comprised of between 1,500,000 and 2,000,000 members</td>
</tr>
</tbody>
</table>

1273 Direction Générale de la Statistique et de la Comptabilité Nationale.
### 4.15.1.2.1 Characteristics of emigrants/nationals abroad

**Countries of destination/residence:**
- Togolese officials commonly refer to a diaspora distributed as follows: two-thirds in Africa (mostly in West and Central African states) and one third outside of the continent, mostly in France, Germany, Italy, and the U.S. Such estimates, which are not based on specific sources, are to be taken with caution.
- According to the DRC database, the Togolese migrant stock is primarily located in West and Central African states. Among these, Nigeria dominates, followed by Benin, Burkina Faso, Guinea, Gabon, and Ghana.\(^\text{1279}\)
- The number of Togolese residents in OECD countries appears to be low. The OECD migration database identifies Germany (10,219 registered Togolese nationals in 2011), France (9,371 in 2009), Italy (4,422 in 2010), and Belgium (2,708 in 2010) as the only significant countries of destination among OECD Member States.\(^\text{1280}\)
  The predominance of Germany is somehow surprising given that France is usually considered the main country of destination for Togolese nationals in the EU. This may be explained by two factors. First, and contrary to data on France, Italy, and Belgium, German statistics include asylum seekers. Second, it is likely that numerous Togolese who came to France during the 1990s eventually obtained French nationality. It must also be noted that the OECD database fails to provide data concerning Togolese migrants in the U.S. and Canada.

**Education level/sectors of employment:**
- According to ICMPD, the highly-skilled emigration rate amounted to 20% in 2000.
- It is believed that Togo faces considerable brain drain, primarily in the education and health sectors.
- There is, among OECD countries, a great discrepancy between the emigration rate of nurses and that of doctors, the former being estimated at 4%, and the latter at 40.5%.\(^\text{1281}\)

**Remittances:**
- The World Bank and the Central Bank of West African States (BCEAO) datasets provide similar estimates on remittances. For the year 2010, the former provided an estimate of USD 337 million\(^\text{1282}\) and the latter, a slightly lower estimate of USD 314 million.
- According to the BCEAO, such an amount represented 14 times the amount received ten years ago.\(^\text{1283}\)
- The same source indicates that remittances are primarily sent from EU Member States (31.1%), the U.S. (16.5%), and the West African Economic and Monetary Union (WAEMU) region (15.9%).\(^\text{1284}\)
  This geographical estimate has understandable limitations, given that the proportion of informal transfers from different countries and regions of destination of migrants remain unknown.
- With regard to what remittances are used for, consumption purposes as well as community projects, such as schools, clinics, and water systems dominate.\(^\text{1285}\)
  Investments comprise between 3% and 7% of remittance inflows.\(^\text{1286}\)

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\(^{1279}\) Ibid.

\(^{1280}\) OECD, ‘International Migration Database’. The OECD migration database collects information on stay/resident permits and population registers.


\(^{1283}\) Radji, S., 2012, op .cit., p. 11.

\(^{1284}\) Ibid.


\(^{1286}\) Radji, S., 2012, op .cit., p. 11.
International trafficking involves numerous countries of destination, from West and Central African to EU Member States, the U.S., and the Middle East. The phenomenon is nevertheless primarily concentrated in West and Central Africa. Women are trafficked to Nigeria and Burkina Faso and subjected to domestic servitude or forced prostitution. Children are trafficked in Nigeria, Benin, Côte d’Ivoire, Niger, Burkina Faso, Gabon, and the Democratic Republic of Congo, and subsequently exploited in agricultural and domestic work, as well as in street markets.

4.15.2 Migration policy

The interest of Togolese national authorities in migration management is recent. It is only in the past few years that initiatives have been developed with the support of regional and international organisations. Existing policies, legislation, and projects remain limited with regard to both immigration and emigration management. Most of the government’s efforts aim at the increased participation of the Togolese diaspora in the development of the country, as well as, to a lesser extent, reducing and ultimately eliminating child trafficking.

The closest Togo has come to the development of a national migration policy is the Migration and Development Strategy, which – at the time of writing – is being drafted under the framework of the ICMPD-led Migration EU Expertise (MIEUX) project. Simultaneously, the government is planning to incorporate migration-related issues within sectoral policies, such as employment and gender. The current national development plan includes several references to migration, mainly in regard to the economic involvement of the diaspora and child trafficking.

4.15.2.1 Institutional framework on migration

**Governmental stakeholders involved**

<table>
<thead>
<tr>
<th>Ministry</th>
<th>Agency, Directorate, Unit</th>
<th>Responsibilities</th>
</tr>
</thead>
<tbody>
<tr>
<td>Ministry of Security and Civil Protection</td>
<td>Directorate General of National Documentation</td>
<td>Immigration management</td>
</tr>
<tr>
<td></td>
<td>National Commission for the Reception and Social Reinsertion of Trafficked Children</td>
<td>Fight against trafficking in persons</td>
</tr>
<tr>
<td>Ministry of Labour, Employment, and Social Security</td>
<td>National Employment Agency</td>
<td>Matching labour demand and supply Certifying work contracts of foreign workers as well as those concluded by Togolese migrant workers</td>
</tr>
</tbody>
</table>

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1288 Stratégie de croissance accélérée et de promotion de l’emploi 2013-2017 or ‘SCAPE’.
1289 Ministère la Sécurité et de la Protection civile.
1290 Direction générale de la Documentation nationale.
1292 Ministère du Travail, de l’Emploi et de la Sécurité sociale.
1293 Agence Nationale de l’Emploi.
Other public institutions concerned with migration include the Directorate General of Statistics and National Accounts\textsuperscript{1298}, the Ministry of Economy and Finances,\textsuperscript{1299} and the Ministry of Social Action, Women Promotion, and Alphabetisation.\textsuperscript{1300}

\textit{Inter-institutional coordination}

Migration management in Togo is undertaken by distinct ministries and public institutions, with there being little consultation and cooperation between them. The only institutionalised inter-ministerial institution is the unit in charge of the Diaspora Programme. Although its purpose is currently limited to the implementation of a specific project, this institution, initially operating under the authority of the services of the Prime Minister and now functioning within the Ministry of Foreign Affairs and Cooperation, should eventually be granted more permanent functions and operate under the title of the National Agency for Togolese Abroad.\textsuperscript{1301}

\begin{verbatim}
\begin{tabular}{|l|l|l|}
\hline
Ministry of Foreign Affairs and Co- & Directorate for Togolese & Relations with nationals abroad, including their protection \\
operation\textsuperscript{1294} & Abroad\textsuperscript{1295} & \\
& Unit in charge of the Diaspora Programme\textsuperscript{1296} & \\
\hline
Ministry of Planning, Development, & Elaborating and monitoring the implementation of the national development plan \\
and Territory Planning\textsuperscript{1297} & & \\
\hline
\end{tabular}
\end{verbatim}
4.15.2.2 Immigration: national policy framework and institutional practices

4.15.2.2.1 General immigration provisions

<table>
<thead>
<tr>
<th>Legislation/Policy Framework</th>
<th>Description</th>
</tr>
</thead>
</table>
| Law No. 87-12 on Foreigners’ Police, 1987 | Law, Art. 5 foresees three types of visas:  
- entry visas, the validity of which may vary from one day to six months;  
- stay visas, which may be valid for between one day and two years; and  
- exit visas.  
Decree, Art. 5 makes further distinctions between:  
- short-term stay visas – valid for a maximum of 90 days; and  
- long-term stay visas – valid for more than 90 days.  
Decree, Art. 8 states that continuous stay under either short- or long-term stay visas is limited to three months per semester. For a longer stay in the country, a stay permit has to be delivered.  
Law, Art. 6 distinguishes between three types of stay/residence permits: temporary resident stay permit, ordinary resident stay permit, and privileged resident stay permit.  
Law, Art. 7: The validity of the temporary resident stay permit shall not exceed the duration of validity of the “authorisations and visas obtained by the individual to stay in Togo”. It can be extended for periods of one year.  
Law, Art. 8: The ordinary resident stay permit is valid for three years, and is renewable.  
Law, Art. 9: The privileged resident stay permit is initially delivered for a period of six years and can be renewed for periods of ten years. It is delivered to foreigners that have resided in Togo in a continuous manner for more than five years, as well as to spouses of Togolese nationals (without this requirement).  
Decree, Art. 4; Art. 12: As a general rule, the delivery of visas and permits is submitted on condition of sufficient financial means, an extract of the police register, and a medical certificate. |
| Decree No. 96-113 on General Conditions for Delivery of Visas, Stay Permits and Special Regimes 1996 | |

The legislation does not explicitly define entry and stay visas. It is most probable, given that Togolese immigration legislation is largely inspired by French administrative law that, following the French example, immigration in Togo is subject to the delivery of a long-term visa. The long-term visa serves as an ‘immigration visa’, the purpose of which is not simply to control entry but also stay and residence in the country. The main consequence of such a system is the requirement that application for an immigration status should be made abroad rather than upon arrival in the country.

Togolese immigration legislation contains a ‘number of gaps. Conditions and procedures for the delivery of visas and permits, as well as the rights attached to the different immigration statuses are not clearly stated. More specifically, the legislation lacks provisions on family migration and the status of ECOWAS Member States’ nationals.

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1302 Loi No. 87-12 relative à la police des étrangers, 1987.  
1303 Décret No. 96-113 déterminant les conditions générales de délivrance des visas et cartes de séjour et fixant des régimes spéciaux, 1996.  
1304 Carte de séjour de résident temporaire.  
1305 Carte de séjour de résident ordinaire.  
1306 Carte de séjour de résident privilégié.
Any overview of Togolese immigration legislation would not be complete without reference to the bilateral agreement on circulation and stay of persons concluded with France in 1996. The Convention includes similar provisions with regard to the entry and stay of Togolese in France and French nationals in Togo. The main provisions concern the delivery of the same permit to the family member in the framework of family reunification, and the possibility to obtain a 10-year residence permit after three years of stay in the country. While such provisions mainly target Togolese nationals in France, they also apply to French nationals in Togo.

4.15.2.2.2 Labour migration

Access to national labour market

<table>
<thead>
<tr>
<th>Legislation/Policy Framework</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>Decree No. 96-113 on General Conditions for Delivery of Visas, Stay Permits and Special Regimes, 1996</td>
<td>Sets the principle that foreigners seeking employment in Togo are required to obtain a work authorisation in addition to their stay permit.</td>
</tr>
<tr>
<td>Labour Code, 2006</td>
<td>Art. 47 of the Code: • specifies that the employer has to apply for a work authorisation and needs to obtain certification of the work contract from the Director of Employment: • lists the conditions for certification of the work contract: professional aptitude of the worker, conformity of the contract to imperative labour norms, and respect of the immigration legislation; and • states that the work contract certification is valid for a period of two years, and may be renewed once.</td>
</tr>
</tbody>
</table>

The conditions and procedure of delivery, as well as the rights attached to the work authorisation, are partially elaborated in art. 47 of the Labour Code. It is not clear, however, whether the work authorisation and certification of the contract have to be obtained before or after entry of the individual on the national territory. Moreover, the very distinction between the two procedures – certification and delivery of the work authorisation – is not clearly established.

No conditions are specified regarding the delivery of the work authorisation. No mechanism is legally set up to designate the levels of need for foreign workers through taking into account the possible impact of their admission on the domestic labour force. A labour market test or a quota system is not foreseen. According to officials from the Ministry of Labour, the process of certification of work contracts does nevertheless give the opportunity, before authorising the employment of a foreigner, to ensure that there is not a competent local worker available.

The work contract certification is valid for a period of two years, and may be renewed once. In other words, migrant workers cannot stay for more than four years in the country. While the Labour Code provides for the possibility of derogations to this principle, without specifying their grounds, this remains a

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1307 **Convention relative à la circulation et au séjour des personnes.**
1308 **Loi No. 2006-010 du 13 décembre 2006 portant code du travail.**
1309 **Directeur général du travail.**
very strict provision. It must be noted that the Togolese legislation does not include provisions concerning the articulation of work authorisations/contract certifications and different stay permits. It is not clear whether a work authorisation/contract certification is simply required for foreigners holding a temporary resident stay permit or if it also applies to ordinary and/or privileged residents.

It should also be noted that the legislation does not provide a specific status for ECOWAS Member States’ nationals.

**Rights within employment**

<table>
<thead>
<tr>
<th>Legislation/Policy Framework</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>Labour Code, 2006</td>
<td>Art. 2 provides for equal treatment with nationals. Foreigners, regardless of their legal status, generally benefit from all obligations and rights of the labour legislation. Art. 11 includes an exception to the principle of equal treatment concerning trade unions: while all foreigners can join a trade union, only those “regularly residing on the national territory and enjoying civic rights” can fulfil administrative and executive functions.</td>
</tr>
</tbody>
</table>

**4.15.2.2.3 Irregular migration**

<table>
<thead>
<tr>
<th>Legislation/Policy Framework</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>Law No. 87-12 on Foreigners Policy, 1987</td>
<td>Art. 7 and Art. 11 impose the duty to leave the country in case of rejection of a stay permit request or expiry of the permit. Art. 13 foresees withdrawal of the permit in case of imprisonment for a penal offence. Art. 16: Imprisonment of two to six months and a fine are also considered in case of breach of the immigration legislation. Art. 17: Fraudulent use of a stay permit is punished by three months’ to one year’s imprisonment and a fine.</td>
</tr>
</tbody>
</table>

Law No. 87-12 on Foreigners’ Policy of 1987 includes some provisions regarding irregular migration. It is notable that it does not include explicit grounds for refusal of entry and deportation.

Togolese authorities have practiced a tolerant approach towards irregular migration. Deportation and expulsion orders are rare and, according to officials interviewed for the purpose of the present study, only occur in case of criminal behaviour.

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1310 Labour Code, art. 47: […] Le visa est valable pour une durée maximale de deux ans, renouvelable une fois. Cependant, des dérogations peuvent être accordées par le ministre en charge du travail sur demande de l’employeur [...].
4.15.2.2.4 **Migrants at risk**

<table>
<thead>
<tr>
<th>Legislation/Policy Framework</th>
<th>Description</th>
</tr>
</thead>
</table>
| **Law No. 2005-009 on Child Trafficking**<sup>1311</sup> | **Art. 10** prescribes penalties comprised of between two and five years in prison for perpetrators.  
**Art. 11:** In case of aggravating circumstances – such as subjection of the child to worst forms of labour – penalties are of five to ten years’ imprisonment.  
**Art. 12:** Parents and legal guardians who facilitate trafficking of children are subject to penalties of six months’ to one year’s imprisonment. |

Law No. 2005-009 on Child Trafficking does not contain detailed provisions regarding protection of the victims and prevention of the crime. It refers to the creation of a national commission against trafficking.<sup>1312</sup> In practice, this institution, the National Commission for the Reception and Social Reintegration of Trafficked Children,<sup>1313</sup> was created in 2002 before the enactment of the law.

The Child Code adopted in 2007<sup>1314</sup> includes a comprehensive set of provisions in order to protect children at risk. It also incorporates, and in some instances, complements, the provisions of the Law on Child Trafficking.<sup>1315</sup>

Togolese policies focus on children at risk and less on adults. A law on trafficking of adults was drafted in 1999, but never adopted. In the absence of specific legal provisions, trafficking of adults falls under the Labour Code, which prohibits forced labour, and the Penal Code’s provisions related to prostitution. These norms are rather inadequate. The Penal Code fails to provide satisfactory protection mechanisms for victims of trafficking forced into prostitution and the penalties applicable to forced labour (three to six months’ imprisonment) are not sufficiently stringent to tackle the crime of trafficking.<sup>1316</sup>

The number of arrests of traffickers has risen over the past years, a trend arguably accounted for by the increased level of training of law enforcement officials. The National Commission for the Reception and Social Reinsertion of Trafficked Children has worked on developing the capacities of the administration, including border officials, so as to better identify trafficked children. A referral system has been put in place and the Ministry of Social Action, Women Promotion and Alphabetisation runs two shelters, providing legal, medical, and social services. It also cooperates with NGO-run shelters. Standard operating procedures have been set up for all shelters to ensure protection of the victims. National authorities have also developed awareness-raising campaigns using radio broadcasts and direct meetings with local communities, and training of relevant officials has also been organised.<sup>1317</sup>

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<sup>1311</sup> Loi No. 2005-009 relative au trafic d’enfants au Togo, 2005. Although the title of the law refers to smuggling (trafic in French), its content focuses on trafficking.
<sup>1312</sup> Law on child trafficking, 2005, art. 8.
<sup>1313</sup> Commission Nationale d’Accueil et de Réinsertion Sociale des Enfants Victimes du Trafic.
<sup>1314</sup> Loi No. 2007-017 du 6 juillet 2007 portant code de l’enfant.
<sup>1315</sup> Child Code, 2007, art. 410 - art. 420.
<sup>1317</sup> U.S. Department of State, 2013, op .cit., p. 364.
4.15.2.3 Emigration

4.15.2.3.1 Labour migration

Identification of countries of destination and assessment of the national labour market

National authorities are yet to identify competencies that can be promoted abroad, or those for which promotion should not be undertaken, although several projects are currently being implemented or envisioned in this respect. The ILO-led Project for the Support of Employment Promotion and Poverty Reduction (APERP) plans to create an Employment Observatory\textsuperscript{1318} and publish a study on national labour market needs. The ICMPD’s MIEUX project centres on the institution of an African Employment and Occupations Operational Index,\textsuperscript{1319} as well as the identification and assessment of existing and potential new countries of destination.

Recruitment system

The National Employment Agency is charged with the responsibility of facilitating the placement of workers within the national and the international labour market. To date, its activities have been limited to the former. The MIEUX project has the objective of stimulating its role in the placement of workers abroad. The role which private employment agencies play as intermediaries for employment of Togolese workers abroad is not precisely known. National authorities do not possess the means to regulate and monitor private employment agencies. The legislation in this regard is also limited. The Labour Code simply recognises the possibility for such agencies to operate, although it does not specify whether their role shall be limited to the national labour market or may include placement abroad. It states that agencies may not collect fees from workers\textsuperscript{1320} and requires that they communicate “information related to the placements undertaken” to the National Labour Agency.\textsuperscript{1321}

In the absence of a licensing system, national authorities cannot ensure in advance that agencies meet minimum criteria to operate in accordance with workers’ rights and interests. The capacities to monitor the activities of agencies are subsequently limited. As the provisions of the Labour Code do not permit effective management of the contemporary realities of labour emigration, amendments to the legislation have been drafted and are awaiting validation from the government and adoption by the Parliament.

The Labour Code also specifies that all foreign work contracts shall be approved by the Director of Employment.\textsuperscript{1322} No further details are provided, such as, for instance, the conditions a foreign work contract has to meet for its approval. In practice, the means to monitor foreign contracts are limited as private employment agencies operate outside the scrutiny of public authorities and the National Employment Agency is yet to play the role of intermediary for workers seeking employment abroad.

\textsuperscript{1318} Observatoire de l’emploi.

\textsuperscript{1319} Répertoire opérationnel africain des métiers et des emplois or ROAME.

\textsuperscript{1320} Labour Code, 2006, art. 197. It must be noted that while the principle of free placement services is conceivable within the domestic market, especially when most private employment agencies are temporary work agencies, it is generally not realistic in the context of labour migration.

\textsuperscript{1321} Ibid., art. 198.

\textsuperscript{1322} Ibid., art. 45.
4.15.2.3.2 Migration and development

The elaboration of a policy in the field of migration and development in Togo is only at an early stage. Responsibilities in this regard are mainly shared between the Directorate of Togolese Abroad and the unit in charge of the Diaspora Programme, with both being under the authority of the Ministry of Foreign Affairs and Cooperation.

The activities of the Directorate of Togolese Abroad remain limited, although study visits have been organised to Mali and Senegal as well as Europe and the U.S., and NGOs engaged in the mobilisation of the diaspora for the national development have been provided with technical support.

The Diaspora Programme is supported by UNDP and the African Development Bank. Its managing unit is charged with the following responsibilities:

- mobilising diaspora competencies to reinforce national institutional capacities;
- improving the investment climate in Togo;
- developing initiatives with a view to engaging the Togolese diaspora in the economic and social development of the country; and
- facilitating the reintegration of returning migrants.

The unit could eventually be granted more permanent functions and operate under the title ‘National Agency for Togolese Abroad’.

A landmark in the elaboration of a migration and development policy was the adoption of a Strategic Plan for the Mobilisation of the Togolese Diaspora in 2013. The document includes the following proposals:

- the creation of a High Council for Togolese Abroad to formally recognise members of the diaspora as interlocutors of national authorities;
- the institution of a National Agency for Togolese Abroad in charge of the relationship between the state and the Togolese diaspora;
- the organising of forums of the diaspora on a regular basis;
- the improvement of the channelling of remittances into national development through the creation of an Investment Fund for Togolese Abroad;
- the encouraging of members of the diaspora to invest in Togo;
- the improvement of public awareness on programmes related to the diaspora;
- the assisting of professional and social reintegration of returning migrants; and
- the development of decentralised cooperation with diaspora members for local development.

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1323 Plan stratégique pour la mobilisation de la diaspora togolaise.
1324 Haut Conseil des Togolais de l’extérieur.
1325 Fond d’investissements des Togolais de l’extérieur.
1326 Unité de gestion du Programme Diaspora Togo, Plan stratégique pour la mobilisation de la diaspora togolaise, 2013, p. 42.
4.15.2.3.3 Migrants’ protection

Information dissemination

Togo has yet to organise comprehensive information programmes to provide migrants and potential migrants with information on the different aspects of migration processes and living/working conditions in countries of destination. Some information sharing activities have been organised by a local NGO, Visions Solidaires, which operates a centre called Maison des citoyens du monde in Lomé.

Protection in countries of destination

Protection activities undertaken by diplomatic and consular posts mainly concern child victims of trafficking. Togo has concluded agreements with several ECOWAS Member States, namely Benin, Burkina Faso, Ghana, and Nigeria, to organise cooperation with regard to referral and repatriation. Repatriated children are reunited with their families and/or benefit from protection measures proposed by shelters. No specific protection measures have been adopted for adult victims of trafficking.

Social security agreements

Togo has signed and ratified the regional social security convention (CIPRES Convention). At bilateral level, a social security convention was concluded with France in 1971, followed by several protocols and administrative arrangements. The convention does not include coordination provisions regarding medical care. However, under Protocol No. 1, workers can benefit from maintenance of cash payments with regard to medical insurance for a period of six months.

4.15.3 International, regional, and bilateral cooperation

International conventions

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

- the International Covenant on Civil and Political Rights (1966);
- the International Covenant on Economic, Social and Cultural Rights (1966);
- the Convention on the Elimination of All Forms of Discrimination against Women (1979);
- the Convention on the Rights of the Child (1989);
- 28 ILO Conventions (Togo has ratified one of the two specific ILO conventions on migrant workers: C 143 (1975)); and

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1328 See section 4.15.2.3.3.
1329 See section 4.15.2.2.4. and section 4.15.2.3.3.
1330 Convention multilatérale de sécurité sociale de la Conférence interafricaine de la prévoyance sociale.
Togo has also signed, but not yet ratified, the Convention on the Protection of the Rights of All Migrant Workers and Members of their Families (1990).

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

Agreements related to the fight against trafficking in persons and smuggling of migrants

With regard to the fight against transnational organised crime, including the smuggling of migrants, a Memorandum of Understanding was concluded with Ghana in 2009 and a tripartite cooperation organised with Ghana and Burkina Faso in 2011. Togo has also concluded bilateral agreements with Benin, Burkina Faso, Ghana, and Nigeria to coordinate protection of child victims of trafficking and their repatriation.\textsuperscript{1331}

Bilateral agreements with France

Outside West and Central Africa, agreements have been concluded with France. While no bilateral labour agreement has been signed, a social security convention was concluded in 1971,\textsuperscript{1332} as well as two agreements related to entry, stay, and residence:

- the 1996 Agreement on circulation and stay of persons\textsuperscript{1333} which includes two principal derogations to the common French immigration legislation. It foresees the delivery of the same stay/residence permit to family members in case of family reunification (instead of a temporary stay permit under French administrative law), and the possibility to obtain a 10-year residence permit after three years of stay in the country (instead of five years under French administrative law); and
- the 1996 Convention of establishment which protects investments and property rights of French and Togolese migrants. It also includes some provisions regarding cooperation measures in case of expulsion and return of migrants in an irregular situation.

The Spanish Funds/ECOWAS

Togo has received assistance from the Spanish Funds/ECOWAS, notably with a view to developing and implementing a migration policy within the Ministry of Women Promotion. The activities of two local NGOs, Visions Solidaires and MARS, have also been supported through these funds.

\textsuperscript{1331} UNESCO, 2007, op .cit., p. 48.
\textsuperscript{1332} See section 4.15.2.3.3.
\textsuperscript{1333} Convention relative à la circulation et au séjour des personnes.
4.15.4 References


Unité de gestion du Programme Diaspora Togo, Plan stratégique pour la mobilisation de la diaspora togolaise.


## 4.15.5 List of interlocutors

<table>
<thead>
<tr>
<th>Name of respondent</th>
<th>Position</th>
<th>Institution</th>
</tr>
</thead>
<tbody>
<tr>
<td>Koutob-Naoto, T.</td>
<td>Judge</td>
<td>Ministry of Justice[^334]</td>
</tr>
<tr>
<td>Afokpa, K. V.</td>
<td>Director, International Cooperation, Togoese Abroad</td>
<td>Ministry of Foreign Affairs and Cooperation[^335]</td>
</tr>
<tr>
<td>Viagbo, I.</td>
<td>Director of Studies, Research, and Statistics, General Directorate of Labour</td>
<td>Ministry of Labour, Employment, and Social Security[^336]</td>
</tr>
<tr>
<td>Doevi, A. D.</td>
<td>Director of Population Planning</td>
<td>Ministry of Planning, Development, and Territory Planning[^337]</td>
</tr>
<tr>
<td>Akakpovi, Y.</td>
<td>Director of Passports and Identity Cards</td>
<td>Ministry of Security and Civil Protection[^338]</td>
</tr>
</tbody>
</table>

[^334]: Ministère de la Justice.
[^335]: Ministère des Affaires étrangères et de la Coopération.
[^336]: Ministère du Travail, de l’Emploi et de la Sécurité sociale.
[^337]: Ministère de la Planification, du Développement et de l’Aménagement du territoire.
[^338]: Ministère la Sécurité et de la Protection civile.
Annex
## PART I: SECTORIAL MIGRATION POLICIES

### 1.1 Immigration

#### 1.1.1 Institutional framework

1. Which Ministries are involved in the process of developing and implementing immigration policies?

2. What is the role of the concerned Ministries?

   Interviewer’s additional comments

### 1.1.2 Labour immigration

3. What is the estimated number of foreign workers in the country?

4. What are the main countries of origin of foreign workers?

5. What are the main sectors of employment of foreign workers?

6. Are there needs for the recruitment of foreign workers in the national labour market?

   - YES [ ]
   - NO [ ]

   If yes:
   In what sectors?

   For what type of jobs?

   If no, please specify the reason:

   ____________________________________________________________
   ____________________________________________________________
7. Labour immigration legislation
   What is the national legislation applicable to labour immigration?

   Are these texts publicly available?
   YES □ (Specify where)  NO □

8. Does the national legislation give preferential treatment to ECOWAS nationals according to the ECOWAS protocols?
   YES □  NO □

9. Beyond ECOWAS nationals, are there bilateral agreements giving preferential treatment to migrant workers from specific countries?
   YES □  NO □

   If yes:
   Which countries are concerned?

   Can we receive a copy of the texts?
   YES □  NO □

10. Does the national labour legislation treat national and foreign workers on an equal basis?
    YES □  NO □

    If no, in what areas is the treatment different?

Interviewer’s additional comments

1.1.3 Irregular Immigration

11. What is the estimated number of irregular immigrants in the country?

12. What are the main countries of origin of irregular immigrants?

13. Have measures to prevent irregular migration been adopted?
    YES □  NO □
If yes, what measures have been adopted?

- regulation of private recruitment agencies
- labour inspections and employer sanctions
- visa restrictions
- border management measures
  (e.g. biometric equipment for passenger identification, increased border patrols)
- others (please specify)

If no, why have no measures been adopted?
________________________________________________________________________________________
________________________________________________________________________________________
________________________________________________________________________________________

14. Does your government enforce deportation orders for irregular immigrants?
YES ☐  NO ☐

15. Has your government signed readmission agreements with other countries?
YES ☐  NO ☐

If yes, which ones?
________________________________________________________________________________________
________________________________________________________________________________________
________________________________________________________________________________________

16. Are Assisted Voluntary Return Programmes to return migrants to their country of origin ongoing in your country?
YES ☐  NO ☐

If yes, please specify with which countries agreements for Assisted Voluntary Return Programmes have been signed:
________________________________________________________________________________________
________________________________________________________________________________________
________________________________________________________________________________________

17. Have regularization processes been adopted?
YES ☐  NO ☐

If yes, please specify when such regularization processes have been implemented.

Please also specify on what criteria they were based:

Interviewer’s additional comments
**1.1.4 Protection of migrant groups at risk**

18. Is there a system in place in order to protect the rights and interests of migrant children? (eg. child protection committees, shelters, network of child protection actors etc.)

<table>
<thead>
<tr>
<th>YES</th>
<th>NO</th>
</tr>
</thead>
</table>

If yes, are there mechanisms to address children’s immediate needs?

<table>
<thead>
<tr>
<th>YES</th>
<th>NO</th>
</tr>
</thead>
</table>

Please specify

19. Are there family tracing mechanisms for unaccompanied children, in order to organise family reunification (when applicable)?

<table>
<thead>
<tr>
<th>YES</th>
<th>NO</th>
</tr>
</thead>
</table>

If no, please specify the reasons

________________________________________________________________________________________

________________________________________________________________________________________

________________________________________________________________________________________

20. Do you know the West Africa Network for the protection of children which has developed regional standards for the protection and reintegration of vulnerable children including children on the move and young migrants?

<table>
<thead>
<tr>
<th>YES</th>
<th>NO</th>
</tr>
</thead>
</table>

21. Are there specific procedures for identifying women and girls at risk of exploitation (labour, sexual exploitation, etc.)?

<table>
<thead>
<tr>
<th>YES</th>
<th>NO</th>
</tr>
</thead>
</table>

If yes, please specify

If no, please specify the reason

22. Are there specific regulations and procedures to protect victims of exploitation including trafficking?

<table>
<thead>
<tr>
<th>YES</th>
<th>NO</th>
</tr>
</thead>
</table>

If yes please specify

If no please specify the reason

23. Are there specific mechanisms to support the reintegration of returning nationals (spontaneous, forced, assisted voluntary return)?

<table>
<thead>
<tr>
<th>YES</th>
<th>NO</th>
</tr>
</thead>
</table>


If yes please specify
If no, please specify the reason

Interviewer’s additional comments

1.2 Emigration

1.2.1 Institutional framework

24. Which Ministries are involved in the process of developing and implementing policies for migrants moving or living abroad?

25. What is the role of the concerned Ministries?

Interviewer’s additional comments

1.2.2 Labour emigration

26. What is the estimated number of national workers abroad?

27. What are the main countries of destination for migrant workers?

28. What are the main sectors of employment of migrant workers?

29. Protection of migrant workers

Is there legislation regarding private employment agencies in your country?
YES ❑ NO ❑

Are these texts publicly available?
YES ❑ NO ❑

Is there an information strategy for potential migrant workers on work and life conditions abroad?
YES ❑ NO ❑

If yes, what are the means of conveying such information?
<table>
<thead>
<tr>
<th>Question</th>
<th>Yes</th>
<th>No</th>
</tr>
</thead>
<tbody>
<tr>
<td>Does the information reach migrants?</td>
<td></td>
<td></td>
</tr>
<tr>
<td>What are the main activities of consular and diplomatic posts regarding the protection of migrant workers?</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Have labour attachés been appointed?</td>
<td></td>
<td></td>
</tr>
<tr>
<td>If yes:</td>
<td></td>
<td></td>
</tr>
<tr>
<td>In which countries?</td>
<td></td>
<td></td>
</tr>
<tr>
<td>What are their main activities?</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

30. Have policies aimed at limiting the negative effects of brain drain been adopted?  
   YES ☐ NO ☐  
   If yes what policies have been adopted?  
   If no, is the Government considering the adoption of such policies?  

31. Promotion of employment abroad  
   Is there a policy regarding promotion of employment abroad?  
   YES ☐ NO ☐  
   If yes, what are the main components of such a policy?  

32. Bilateral labour agreements  
   With which countries have bilateral labour agreements been signed?  
   Are copies of the texts publicly available?  
   YES ☐ NO ☐  

Interviewer’s additional comments
### 1.2.3 Diasporas

33. What is the estimated size of your country’s diaspora population?

34. Does your Government have a specific diaspora policy?

<table>
<thead>
<tr>
<th>YES</th>
<th>NO</th>
</tr>
</thead>
</table>

If yes:

Is there a Ministry, Department or Agency tasked to implement this policy?

<table>
<thead>
<tr>
<th>YES</th>
<th>NO</th>
</tr>
</thead>
</table>

If yes, which one and since when?

Does it have a specific budget to implement activities?

<table>
<thead>
<tr>
<th>YES</th>
<th>NO</th>
</tr>
</thead>
</table>

Have you implemented a diaspora mapping exercise in order to better understand its nature, composition and interests?

<table>
<thead>
<tr>
<th>YES</th>
<th>NO</th>
</tr>
</thead>
</table>

If yes, when and how was the last mapping exercise realized?

Can you give us one or several examples of recent cooperation with your diaspora through the above-mentioned Ministry?

Are there diaspora offices/ contact points established at consular and diplomatic posts?

<table>
<thead>
<tr>
<th>YES</th>
<th>NO</th>
</tr>
</thead>
</table>

Does the diaspora policy also consider the diaspora living in the ECOWAS sub-region and/or other parts of Africa?

<table>
<thead>
<tr>
<th>YES</th>
<th>NO</th>
</tr>
</thead>
</table>

If no, are you in the process of developing, or planning to develop, a diaspora policy?

<table>
<thead>
<tr>
<th>YES</th>
<th>NO</th>
</tr>
</thead>
</table>

If no, what are the reasons for not having started the process?

- Not a priority for the Government
- Lack of resources (financial, human)
- Lack of knowledge on how to address the issue/ lack of existing capacities
- Other reasons, please specify
1.2.4 Remittances

35. Are there mechanisms in place to collect data on remittances, including informal transfers?
   YES [✓] NO [✓]
   If yes:
   What are these mechanisms?
   If no, is the development of such mechanisms planned?
   YES [✓] NO [✓]

36. Are there mechanisms in place in order to improve transfer services? (e.g. access to transfer services)
   YES [✓] NO [✓]
   If yes, what are these mechanisms?
   If no, is the development of such mechanisms planned?
   YES [✓] NO [✓]

37. Are there incentives in place in order to stimulate the development potential of remittances? (e.g. financial incentives such as tax exemptions etc.)
   YES [✓] NO [✓]
   If yes, what are these mechanisms?
   If no, is the development of such mechanisms planned?
   YES [✓] NO [✓]

Interviewer’s additional comments
PART II: NATIONAL MIGRATION POLICY

2.1 Institutional framework

38. Is one Ministry mandated to coordinate migration issues within the government? If yes, which one and since when?

39. Do you have mechanisms of inter-ministerial cooperation for migration related issues?
   YES ☑ NO ☐ If NO ➔ 39(b)

   If yes:

   What kind of inter-ministerial coordination mechanism is in place?

   What are the principle functions of the inter-ministerial coordination mechanism on migration?

   How often are meetings held at inter-ministerial level?

   Who is a member of the inter-ministerial coordination mechanism?

   Are there external partners (Civil Society, Academia, Development Partners, International Organisations etc.) that are invited as observers?

   Does the inter-ministerial coordination mechanism have decision making powers or does it make recommendations to the hierarchy?
   YES ☑ NO ☐

   If it has decision making power, please specify

   If it makes recommendations is there a line-ministry to which the recommendations are being addressed to?

   Does the inter-ministerial coordination mechanism have an operational budget to implement certain activities?
   YES ☑ NO ☐

   If no, do you intend to create such an inter-ministerial coordination mechanism on migration?
   YES ☑ NO ☐
40. Do you interact with local governments on questions related to migration (for example formulation and implementation of policies, exchange of data and information etc.)?
   YES ☐ NO ☐

   If yes,

   What are the key areas of collaboration?

   Could you give one or several examples?

   Is this cooperation based on a specific national law or regulation?
   YES ☐ NO ☐

   Please specify

41. Has migration been mainstreamed into the national development planning process?
   YES ☐ NO ☐ If NO → Q41(b)

   If yes:

   Which development policy documents include migration as a development factor?

   Are there specific budget allocations to implement activities related to migration and development?
   YES ☐ NO ☐

   At which level has migration been mainstreamed into development plans (i.e. at national level, at local level)?

   Please specify

   What mechanisms are in place to ensure the implementation of development strategies related to migration?

   What does your Government believe to be the most important development objectives for your country related to migration?

   ☐ Facilitate the inflow and reducing the costs of remittances
   ☐ Increasing the involvement of the diaspora in the economic development of your country
   ☐ Transfer of knowledge by the diaspora
   ☐ Facilitating circular migration
   ☐ Labour market access
   ☐ Recognition of university degrees, training certificates and work certificates
   ☐ Cooperation with diaspora organisations
   ☐ Other elements
If no:

Are you in the process of mainstreaming or planning to mainstream migration into development policies?

YES ☐ NO ☐

ii. What are the reasons for not having started the process?

☐ Not a priority for the Government
☐ Lack of resources (financial, human)
☐ Lack of knowledge on how to address the issue/lack of existing capacities
☐ Other reasons

Interviewer’s additional comments

2.2 Migration Policy Framework

42. Has your Government adopted a comprehensive National Migration Policy?

YES ☐ NO ☐ If NO ☐ Q42.b) →

If yes:

When was the Migration Policy adopted (month & year)?

What is the title of the Policy?

Can we get a copy of the document?

What references and sources of information were used for drafting the policy (please indicate all documents used):

☐ The ECOWAS Common Approach
The Free Movement Protocols

AU Documents (please specify)

UN documents (please specify)

IOM documents (please specify)

ICMPD documents (please specify)

ILO documents (please specify)

Other sources (please specify)

What areas does your migration policy cover (please indicate all areas)

Free Movement of Persons within ECOWAS
  a. immigration
  b. emigration

Diaspora. Please specify:
  a. permanent emigrants
  b. temporary emigrants
  c. citizens
  d. emigrants who have naturalized in their country of settlement
  e. other: __________________________________________________________________________

Migration and Development
  a. immigration
  b. emigration
  Labour Migration

Family migration
  a. immigration
  b. emigration

Naturalisation/access to nationality

Migrants Rights
  a. immigration
  b. emigration

Return and Reintegration of Migrants
  a. immigration
  b. emigration

Protection of Migrants
  a. immigration
  b. emigration
Protection of Refugees and Asylum Seekers
Border Management
Human Trafficking & Smuggling
Internal Displacement
Institutional Cooperation within the Government
External partners (Civil Society, Academia, Development Partners, International Organisations etc.)
Resources (budget, human resources etc.)

Who was involved in the policy development process?

How was the policy development process finalized/endorsed?

Is the National Migration Policy currently being implemented?
YES ☐ NO ☑

Please specify

________________________________________________________________________________________
________________________________________________________________________________________
________________________________________________________________________________________

If yes:

a. What mechanisms exist for monitoring/tracking the implementation of the Policy?
   1. Regular reports to parliament
   2. Regular reports to intergovernmental organisations
   3. Publicly available reports
   4. Other (please specify)

b. What are the key challenges in implementing the Migration policy?

If no, please specify the main reasons

If no:

Are you in the process of developing a national migration policy, or planning to do so?
YES ☐ NO ☑

ii. If no, what are the reasons for not having started the process?
   1. Not a priority for the Government
   2. Lack of resources (financial, human etc.)
   3. Have other policies (labour, social affairs etc.) that cover migration
   4. Other reasons (please specify)
PART III: REGIONAL AND INTERNATIONAL COOPERATION

43. Who are your principle partners in the field of migration?

International Organisations (please specify)

International Development Cooperation Partners (please specify)

ECOWAS Commission (please specify the departments)

African Union

Civil Society Organizations (please specify)

International NGO (please specify)

Other (please specify)

44. The ECOWAS Commission has taken steps this summer to strengthen the Migration Dialogue in West Africa (MIDWA). MIDWA is intended among other activities to organize regular Senior Expert meetings on important topics related to migration. What migration issues does your Government consider to be the most important to be addressed in the framework of these MIDWA meetings?

45. In September 2013 the second UN High Level Dialogue on Migration and Development will be held during the UN General Assembly.

What steps does your government intend to take in preparing for the UN High Level Dialogue?

________________________________________________________________________________________

________________________________________________________________________________________

________________________________________________________________________________________

Are you at this point able to name some expectations your Government will likely have from the UN High Level Dialogue?

________________________________________________________________________________________

________________________________________________________________________________________

________________________________________________________________________________________
Do you consider that the Civil Society should be actively involved in the UN High Level Dialogue?

_________________________________________________________________________________________
_________________________________________________________________________________________
_________________________________________________________________________________________

46. A process has been launched to formulate a new development agenda for the post-2015 period, once the Millennium Development Goals – as formulated in the year 2000, come to an end. Would your Government favour Migration to be explicitly mentioned as a key development factor in a new post 2015 development agenda?
   YES ❑ NO ❑

47. In 2007, the Global Forum on Migration and Development was established to advance understanding and cooperation on the relationship between migration and development and to foster practical and action-oriented outcomes. Has your Government actively participated at GFMD conferences in the past?
   YES ❑ NO ❑

If yes, please specify
_________________________________________________________________________________________
_________________________________________________________________________________________
_________________________________________________________________________________________

Did your Government draw any direct results from the GFMD?
YES ❑ NO ❑

Please specify
_________________________________________________________________________________________
_________________________________________________________________________________________
_________________________________________________________________________________________

Have discussions and dialogue on migration at regional and international level had an impact on national migration policy development in your country?
YES ❑ NO ❑

Please specify
_________________________________________________________________________________________
_________________________________________________________________________________________
_________________________________________________________________________________________

Interviewer’s additional comments
A Survey on Migration Policies in West Africa

International Centre for Migration Policy Development and International Organization for Migration, 2015