



International
Labour
Organization



Better
Regional
Migration
Management



EAEO

EAST AFRICAN EMPLOYERS ORGANISATION



MAPPING REPORT:

Labour Migration
in East Africa

ACRONYMS AND ABBREVIATIONS

AfCFTA	African Continental Free Trade Area
ATE	Association of Tanzania Employers
AU	African Union
AU-FMP	African Union Protocol on the Free Movement of Persons
BLA	Bilateral Labour Agreements
CBC	COMESA Business Council
CIE	Confederation of IGAD Employers
COMESA	Common Market for Eastern and Southern Africa
COTU-K	Central Organization of Trade Unions Kenya
CMP	Common Market Protocol
DRC	Democratic Republic of the Congo
EAC	East African Community
EAC-CMP	East African Community Common Market Protocol
EAEO	East African Employers Organization
EATUC	East Africa Trade Union Confederation
EBMO	Employers and Business Membership Organization
EO	Employers Organization
EU	European Union
FKE	Federation of Kenya Employers
FMPT	Free Movement of Persons and Transhumance
FUE	Federation of Uganda Employers
GCC	Gulf Cooperation Council
HACTU	Horn of Africa Confederation of Trade Unions
IGAD	Intergovernmental Authority on Development
IGAD-FMP	Protocol on Free Movement of Persons in the IGAD Region
ILO	International Labour Organization

ACRONYMS AND ABBREVIATIONS CONTINUED



IO	International Organization
IOE	International Organization of Employers
IOM	International Organization for Migration
ITC	International Trade Centre
MFA	Ministry of Foreign Affairs
MGLSD	Ministry of Gender, Labour, and Social Development
MIA	Ministry of Internal Affairs
MNE	Multinational Enterprises
MoU	Memorandum of Understanding
MRA	Mutual Recognition Agreements
NCM	National Coordination Mechanisms
NGO	Non-Governmental Organization
NOTU	National Organization of Trade Unions
PEA	Private Employment Agency
REC	Regional Economic Communities
SADC	Southern African Development Community
SADC-FMP	Protocol on Free Movement of Persons in the SADC Region
SME	Small and Medium Sized Enterprises
SPSF	SADC Private Sector Forum
TPSF	Tanzania Private Sector Foundation
TTTFT	Tripartite Transport and Transit Facilitation Programme
TUCTA	Trade Union Confederation of Tanzania
TVET	Technical and Vocational Education and Training
UAERA	Uganda Association of External Recruitment Agencies
UNDP	United Nations Development Programme
UNECA	United Nations Economic Commission for Africa

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Any inaccuracies in this report are entirely the authors' fault.

FOREWORD BY CHAIRPERSON

East Africa has long been a major origin and destination for migrants from within Africa and other regions. In 2019 the region hosted approximately 7.7 million international migrants the highest share of international migrants in Africa. 73 per cent of these migrants are estimated to be of working age, that is 15 years and older. As a popular host for migrant workers, East Africa also experiences considerable levels of outward labour migration, particularly to Gulf Cooperation Council (GCC) States.

However, the lack of official migration data is particularly critical, given that migration flows in East Africa are mixed and encompass refugees, asylum-seekers, as well as regular and irregular migrants. Anecdotal evidence suggests a highly heterogeneous picture, whereby migrant workers are employed in a broad range of sectors and occupations, across all skill levels, both formally and informally.

Labour migration governance in East Africa is regulated at continental level by the African Union (AU), in particular by the 2018 African Continental Free Trade Area, and at the sub regional level by the East African Community (EAC). The EAC and its 2010 Common Market Protocol (CMP) has been fully ratified. This is a very good starting point but more needs to be done

Whilst some barriers to labour mobility have been eliminated, especially among the EAC Member States, the regulatory environment is in many ways still unconducive. High work permit and relocation fees, long administrative processes, futile documentation requirements and skill recognition problems especially in highly regulated professional bodies are seen as key barriers for labour mobility.

To get a better sense of the actual realities in respect of migration in the sub region, the East African Employers Organization (EAEO) with the support of the Better Regional Migration Management project, funded by the United Kingdom of Great Britain and Northern Ireland, commissioned a mapping exercise to identify the key issues from an employer's perspective. The exercise focused on three countries United Republic of Tanzania, Kenya, and Uganda. I believe that this was a hugely important exercise, and it arms the EAEO and Employers and Business Membership Organization (EBMO) in the region with critical intelligence that can inform policy debates, nationally and within the region.

Salahi Salim Salahi
Chairperson
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EXECUTIVE SUMMARY

This synthesis report provides a snapshot of (labour) migration governance in East Africa and, in particular, highlights how employers' organizations seek to shape labour migration policy at the regional and national level.

East Africa has a long history of migration and trade networks. The first attempts to promote the free movement of goods, capital, labour, and services in the region can be traced back to 1919 when Kenya, Uganda, and United Republic of Tanzania – the three target countries of this study – established a Customs Union under British colonial rule.

Today, labour migration governance in the three target countries is regulated at continental level by the AU, in particular by the 2018 African Continental Free Trade Area (AfCFTA), and at regional level by four regional economic communities (RECs) - the Common Market for Eastern and Southern Africa (COMESA), EAC, Intergovernmental Authority on Development (IGAD), and the Southern African Development Community (SADC) – of which each has developed at least one protocol to facilitate freedom of movement across Member States. This has resulted in a complex and overlapping regional labour migration governance architecture. As a result, the implementation of these protocols at national level has been stalled – in some cases for decades. The only exception is the EAC and its 2010 CMP which has been fully ratified, and is today the most advanced free movement regime in East Africa.

National employers' organizations have formed four regional employers' organizations to (1) accompany regional policy development processes and present the concerns of their members, (2) to ensure that Member States ratify protocols and advance with the harmonization of domestic laws, and (3) to provide its membership with targeted guidance and support. The four organizations are the EAEO, the Confederation of IGAD Employers (CIE), the COMESA Business Council (CBC), and the SADC Private Sector Forum (SPSF). Together with their trade union counterparts, and with the support of international organizations (IOs) such as the ILO, the International Organization of Employers (IOE), and the International Organization for Migration (IOM), the four organizations participate actively in policy dialogue related to labour migration governance at regional level.

Interviews with employers' organizations in Kenya, United Republic of Tanzania and Uganda highlight that employers regard labour migration as a vehicle for balancing labour supply and demand; for sparking innovation; and for transferring skills. Whilst some barriers to labour mobility have been eliminated, especially among the EAC Member States, employers highlight that the regulatory environment is still unconducive from a business perspective. High work permit and relocation fees, long administrative processes, futile documentation requirements and skill recognition problems especially in highly regulated professional bodies are seen as key barriers for labour mobility. Overall employers request clear, transparent, and efficient national immigration laws and policies that permit the movement of workers when and where they are needed. In the absence of conducive policies, some employers admit resorting to hiring irregular migrant workers informally, particularly in the agricultural sector (for example, tea, tobacco, maize and sugar cane) during the harvesting season, which bears risks for the protection of the individual worker and for the supply chain compliance requirements of the employer.

Three critical factors have been identified which impede effective labour migration governance in

East Africa and that limit the potential impact of advocacy and lobbying activities by employers' organizations.

First, labour market data on migrant workers is extremely scant and limits evidence-based policy making. Anecdotal evidence from stakeholder interviews suggests a highly heterogeneous picture, whereby migrant workers are employed in a broad range of sectors and occupations, across all skill levels, both formally and informally. The paucity of official migration data is particularly critical, given that migration flows in East Africa are mixed and encompass refugees, asylum-seekers, as well as regular and irregular migrants. Although differences in migration status bear significant legal distinctions, in practice, employers use the term migrant or migrant worker as an umbrella term that includes migrants of all categories. Without a clear understanding of the number of different migrant workers in the country, let alone their economic activities, employers are unable to correctly analyse labour supply and demand, and cannot leverage the economic potential of migrant workers effectively.

Second, policy makers in East Africa do not seem to appreciate the benefits of labour immigration. In the absence of robust labour market data of migrant workers, policy makers appear to be unaware of the benefits that labour immigrants can provide to their countries. Instead, policy makers focus largely on regulating labour emigration to the Middle East and beyond as a means to spur remittances and provide national low-skilled job seekers with economic opportunities abroad. However, labour externalisation does not address the interests and concerns of national employers who regard labour immigration as a means to balance labour supply and demand, to spread innovation and to transfer skills.

Third, labour migration is intertwined with security concerns and politics which limit opportunities for employers' engagement. Stakeholder interviews confirmed that, while policy makers at the regional level promote labour mobility, labour migration is often still seen more negatively by Governments at country level. This can be partly explained by security and border control concerns given East Africa's history of ethnic conflicts and by the political stakes that are involved when government officials provide foreigners with access to the labour market and social services in contexts of high domestic unemployment. Several interviewees argued that East African policy makers see free movement of labour as a threat due to popular fears among the electorate that "migrants steal jobs" and therefore rather implement restrictive policies. Employers reported challenges to participate in policy dialogues when (labour) migration is regarded through a security lens and highlighted the need to emphasise the social and economic benefits of migration.

Overall, labour migration and mobility will gain more momentum in the coming years and decades. The political and economic landscape of East Africa, and indeed of the entire continent, is rapidly transforming, and employers' organizations will need to keep an eye to the horizon and anticipate the challenges and opportunities that initiatives such as the AfCFTA will bring about. To rise to this challenge, employers' organizations will need sustained and renewed support from the ILO, IOE, IOM and other international partners to strengthen their internal capacities, access critical resources and to enhance their knowledge and expertise. Critical areas of support will include a deepened engagement with the RECs and their organizational structures, technical advice to shape employer-favourable policy frameworks and up-to-date information in relation to the implementation of the AfCFTA. Finally, the promotion of peer-learning and knowledge exchange across the different regional employers' organizations offers a strategic opportunity to gain knowledge from other RECs.

INTRODUCTION

Approximately 3.6 per cent of the world's population – some 281 million people – are living (and in large part working) in a country other than that of their birth. Some are fleeing from conflicts, instability, climate change or economic hardship, while others chose to leave their country for better living conditions and income opportunities elsewhere; and for many of them, it might be a combination of factors.

Human mobility and migration raise complex and sensitive political, human rights, economic and social concerns, as well as an array of legal and regulatory challenges.

Countries around the world are trying to address these concerns and challenges through global initiatives such as the Global Compact for Safe, Orderly and Regular Migration, multi-lateral frameworks and bi-lateral agreements. Perhaps most notably, countries have started to form regional blocks to promote economic integration and, as part of this, to facilitate the free movement of labour. The experience of the European Union (EU) and its common market has inspired other regions to form similar alliances such as the Association of Southeast Asian Nations, the Southern Common Market, the Central American Integration System, to name but a few.

East Africa is no exception to this trend. Over the past decades, a complex political and economic architecture has emerged in East Africa which consists of four RECs – COMESA, the EAC, the IGAD and the SADC – that promote labour migration as a vehicle for regional integration through an array of protocols, policies, and action plans. To ensure that such regional initiatives result in effective labour migration policies, the involvement of employers in the development, implementation and monitoring is imperative. Their experience with the practical workings of regulatory frameworks, as well as knowledge of emerging market and staffing trends, can supply important information to governments and IOs and enhance migration governance. Thus, the participation of the private sector in public-private dialogue is essential to the development of well-regulated migration systems.

This synthesis report provides a snapshot of (labour) migration governance in East Africa and, in particular, highlights how employers' organizations (Eos) seek to shape labour migration policy at the regional and national level. The study was produced as part of the "Better Regional Migration Management" development cooperation project of the ILO. The Project aims to improve labour migration governance in East Africa by using evidence-based policies, enhancing migrant workers' qualifications and skills, and engaging the social partners for improved development outcomes through three inter-related pillars of intervention: (I) Established and strengthened foundations for enhanced labour market and migration information systems; (II) Better skills matching, recognition and development along specific migration corridors; and (III) Strengthened capacities of the social partners to engage in labour migration policy development and implementation.

This study contributes to the objectives of pillar III of the Project and consist of two parts. The first part is a regional report that provides an overview of regional migration trends, of labour migration governance frameworks that have been developed at the continental and REC level, and a summary

of employers' perspectives on labour migration in East Africa. The second part consists of three country reports with a specific focus on Kenya, United Republic of Tanzania, and Uganda. Each country report outlines the national migration context, provides an overview of labour migration policy and practices, and summarizes the perspectives of national employers' organizations and companies on labour migration. A conclusion highlights key takeaways and provides a possible entry point for prospective ILO work on employers' engagement in labour migration governance in East Africa.

RESEARCH METHODOLOGY

The data and information included in this report was obtained through a desk review of policy and grey literature as well as through semi-structured interviews with stakeholders from employers and business membership organizations (EBMOs), private employers, trade unions, governments, development agencies, and others (including NGOs and academia) in East Africa. An overview of the interview questions can be found in annex 2. The interviews were conducted online between January and March 2022. A total of 81 stakeholders were invited to take part in interviews, of these 41 completed the interviews (see table 1). Substantive efforts were made to interview at least one representative of each stakeholder category per country, but given the low response rate, this was not possible in either of the three countries. An initial list with stakeholder interview partners was provided by the ILO. Additional stakeholders were identified through chain-referral-sampling and through targeted "cold-calls."

Table 1: Overview of the completed stakeholder interviews

Country	EBMOs	Private employers	Trade unions	Government	Develop. Agencies	Others*	Total
Kenya	2	0	1	1	2	2	8
United Republic of Tanzania	4	1	1	1	2	0	9
Uganda	5	3	0	1	3	0	12
Regional	2	0	1	0	7	2	12
Total	13	4	3	3	14	4	41

**Including NGOs, Academia and other civil society organizations*

The country selection of this report was informed by the REC memberships of the three target countries. A focus on Kenya, United Republic of Tanzania and Uganda provides the unique opportunity to do two things at once: (1) cover all RECs in East Africa and (2) focus on one REC to which all three countries are members (the EAC).

A NOTE ON TERMINOLOGY

The current migration situation in East Africa is complex and includes various forms of migration, such as flows of refugees, asylum-seekers, and regular and irregular migrants. Whilst the authors are aware of the conceptual and legal importance to distinguish “regular” labour migrants from refugees and irregular migrant workers, drawing such a distinction proved futile and irrelevant during the interview process. Most interview partners use the term migrant or migrant worker as an umbrella term that includes migrant workers with regular, irregular and/or refugee status. In practice, employers are less concerned about the status of a migrant worker, and more about the skill level and the ways in which migrant workers can be absorbed into the workforce. Finally, a significant share of interview partners distinguished between expatriate workers (that is, regular, high-skilled, labour migrants who work formally at above-average working conditions) and migrants (that is, workers whose status is irregular or that of a refugee and who work informally in low-skilled occupations). For the purpose of this report, the following terminology is used:

- ▶ **(International) migrant:** Anyone moving to another country with the intention of staying for a certain period of time – not, in other words, tourists or business visitors. It includes both permanent and temporary migrants with a valid residence permit or visa, asylum seekers, and undocumented migrants who do not belong to any of the three groups (OECD 2016).
- ▶ **Migrant worker:** A person who migrates or who has migrated from one country to another with a view to being employed otherwise than on his own account and includes any person regularly admitted as a migrant worker (ILO 1975).
- ▶ **Refugee:** Someone who is unable or unwilling to return to their country of origin owing to a well-founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group, or political opinion (UN General Assembly 1951)
- ▶ **Regular:** A person who migrates through formal channel and holds a valid work and residence permit.
- ▶ **Irregular:** A person who migrates through informal channels, holds no valid permit and may be undocumented.

For a complete overview of all terminology used in this report, please refer to annex 1.

REGIONAL REPORT

East Africa has a long history of migration and trade networks which can be traced to the spread of Islam in Ancient Africa, and which intensified in the early 20th century under colonial rule. The so-called “Lunatic Express”, a railway that was built around the turn of the century to connect Mombasa in Kenya with Kampala in Uganda, is an early example of how the British colonists attempted to foster regional integration in East Africa. Interestingly enough, nearly all the workers involved in the construction of the railway came from British India – premodern migrant workers who subsequently settled in Kenya and created the first community of Indians in East Africa (Patowary 2019). In 1919, Kenya, Uganda, and United Republic of Tanzania – the three target countries of this study – established a Customs Union which allowed for the free movement of goods, capital, labour, and services, and which was a predecessor of the first EAC founded in 1967 (Reith and Boltz 2011). Such developments accelerated migration flows in East Africa. Rural-urban migration in particular increased as cities emerged as economic centres and salaried work gained more importance. People from Rwanda and Burundi moving to Uganda to work on coffee and cotton plantations is another early example of intra-regional labour migration. Other causes of intra-regional migration in the early and mid-20th century are famines and refugee movements as a result of ethnic conflicts and inter-state wars (Black, Hilker, and Pooley 2004).

Today, at the beginning of the 21 century, East Africa is home to an estimated population of 463 million and spans a total of 19 territories, including Burundi, Comoros, Djibouti, Eritrea, Ethiopia, Kenya, Madagascar, Malawi, Mauritius, Mayotte, Mozambique, Reunion, the Republic of United Republic of Tanzania, Rwanda, Seychelles, Somalia, Sudan, South Sudan, Uganda, Zambia, and Zimbabwe, each with its unique migration pattern, and profile. Migration in East Africa is a complex, multi-faceted and significant phenomenon. The flows of people in, between and from countries in the region can be best characterized as mixed migration flows that encompass refugees, asylum-seekers, and economic migrants (European Commission 2022). In addition, victims of trafficking may also be among these migrants (Marchand, Reinold, and Dias e Silva 2017). These migrants often use the same routes and modes of travel, including smugglers, and may enter countries through irregular and regular channels. Given the paucity of migration data in East African countries, these groups of migrants cannot be quantified nor reported separately and are therefore commonly referred to as “international migrants”.

MIGRATION DRIVERS

The drivers that lead people to make the decision to migrate through both regular and irregular channels in East Africa are equally diverse and, above-all, country specific. However, the World Migration Report 2020 (IOM 2020) identifies four broad trends that provide an appropriate summary of the mixed migration trends across the region:

- 1. *Protracted conflicts, political and communal violence, and peacebuilding setbacks have resulted in the displacement of millions in East Africa, with most countries in the subregion affected.*** The protracted conflicts in South Sudan and Somalia as well the Tigray civil conflict

in Ethiopia create large numbers of internally displaced persons and refugees. At the same time, other countries in East Africa, in particular Kenya, United Republic of Tanzania and Uganda, continued to host substantial numbers of refugees, predominantly from the subregion.

- 2. *East Africa has long been a major destination for migrants from within Africa and other regions, while East Africa is also increasingly a significant origin of migrant workers heading to GCC States.*** Immigration from India has historically been significant in countries such as Kenya and Uganda, while in recent years, there has been a sharp increase in the number of Chinese migrant workers moving to countries in the subregion. At the same time, East Africa continues to experience considerable levels of outward labour mobility, driven by poverty, low wages, and high unemployment. This is most evident in the large number of low- and semiskilled East Africans who are moving to GCC States on temporary work contracts. Around 30 per cent of the migratory movements documented during 2019 in East Africa were towards or within the region, whilst another 63 per cent were eastwards towards the Arab Peninsula, in particular to the Kingdom of Saudi Arabia (Migration Data Portal 2022).
- 3. *In East Africa, intraregional migration is driven by the growing demand for high and low-skilled labour.*** As East African economies, such as Kenya, are becoming increasingly diversified, demand for workers in the services industry, for example, has drawn migrant workers from other East African countries, including United Republic of Tanzania and Uganda. The East African Community Common Market Protocol (EAC-CMP), which provides for the free movement of labour, has helped to facilitate labour migration within the subregion. Several countries have ratified the Protocol, and some have already abolished work permits for East African citizens, making it easier for people to work across the subregion.
- 4. *Environmental change and disasters in East Africa are increasing and influencing human movement and displacement.*** The subregion has faced increased variability in precipitation and a higher occurrence of droughts in recent decades. These slow-onset environmental changes have a major impact on food security, given that agriculture is a dominant economic sector in East Africa. Droughts have become a regular occurrence in countries such as Somalia and are a major driver of displacement in the country. In 2018, there were a quarter of a million new displacements in Somalia due to drought.

LABOUR MARKET PROFILE OF INTERNATIONAL MIGRANTS

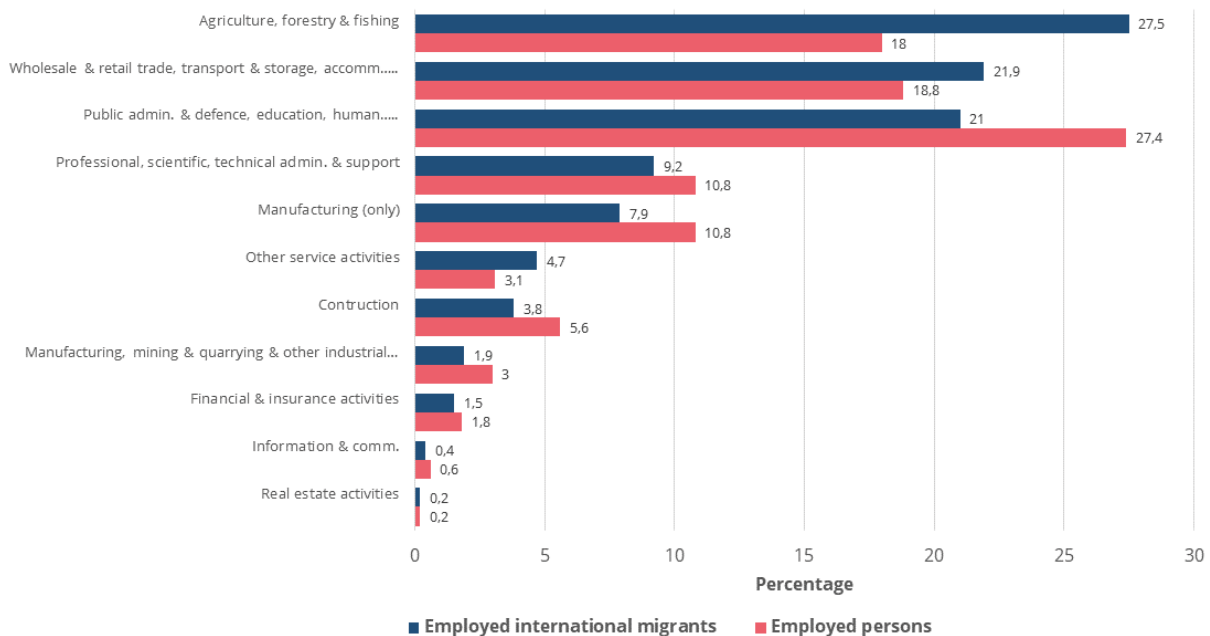
In 2019, the East Africa subregion hosted approximately 7.7 million international migrants – the highest share of the total migrant population in Africa (African Union 2019a). Most of these migrants (72 per cent) are estimated to be in working age, that is, aged 15 years and older, and male (53 per cent). This is indicative of the selectivity of migration: most migratory flows are known to involve people of working-age who are looking for employment opportunities.

Out of all African countries, only 11 store labour market data that includes international migrants

– Kenya, United Republic of Tanzania and Uganda are not among these countries. However, in the absence of any other information, the overall labour market trends observed across the African continent may still serve as a helpful reference (African Union 2019a).

The agricultural sector, which comprises agriculture, forestry, and fishing, was the biggest employer of international migrants, accounting for 27.5 per cent of employed migrant workers in 2018. It is worth noting that the agricultural sector is labour-intensive and that the work is often poorly paid. The next two largest sectors were “wholesale and retail trade; transport and storage; accommodation and food service activities”, which employs 21.9 per cent of migrant workers, and “public administration and defence; education; human health and social work activities” (21.0 per cent). These three sectors together accounted for almost three quarters (70.4 per cent) of employed migrant workers in 2018 (see figure 1).

Figure 1: Employed persons (international migrants and total), by economic activity (2018)

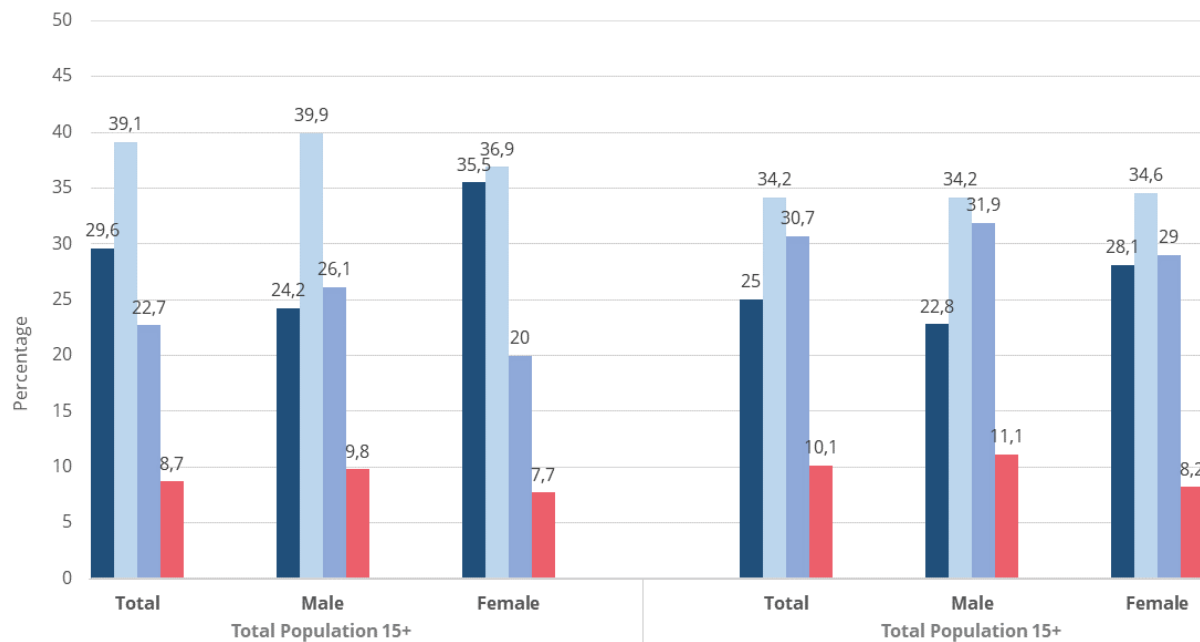


Source: (African Union 2019a)

International migrants in African countries worked primarily as employees and own-account workers with 32.1 per cent and 31.7 per cent respectively. A further 16 per cent of migrants in employment were members of producers’ cooperatives, 11.5 per cent were employers and 7.0 per cent were contributing family workers (African Union 2019a).

Most international migrants are low or semi-skilled with nearly 60 per cent holding no or only basic education. A further 30.7 per cent have intermediate education and 10.1 per cent have advanced education. However, overall international migrants in working age appear to have higher levels of educational attainment than the rest of the population (see figure 2).

Figure 2: Educational attainment of total and migrant working-age populations, by sex, 2010–19



Source: (African Union 2019a)

Note: The values in this figure do not refer to a specific year but to an average for the years within the period 2010–19 reported by each country. Because of rounding, the individual shares in some of the bar charts do not add up to 100 per cent.

Overall, the paucity of country-level migration data and the mixed nature of migration in East Africa poses a critical challenge to identify different types of migrants and their economic activities correctly. Another compounding factor is the informal nature of employment, in particular among migrant workers, in East Africa. As one representative of IO explained: ***“Migrant workers are mostly concentrated in informal sector, they mainly work in informal businesses, when they engage with formally registered businesses, their engagement is mostly informal. [...] You also see this type of vulnerable employment, some of them might have their own small business or are contributing to a family or a friend’s business. Others are casual workers with unstable employment and decent work deficits.”***¹ Whilst it is beyond the scope of this study to provide a comprehensive analysis of informal employment among migrant workers, anecdotal evidence obtained through qualitative interviews with stakeholders can provide a basic overview of the economic activities that migrant workers pursue in the informal economy and their working conditions.

Migrant workers in East Africa engage in a wide range of informal economic activities. In the agriculture sector, migrant workers assist as casual workers during the harvesting of tea, tobacco, sugar cane and maize.² In the tourism sector, migrant workers engage in particular in “hidden jobs” such as dish washing and cleaning. Other popular activities include the production and trade of

¹ Anonymous informant #15, interviewed by Julian Schweitzer, February 15, 2022

² Anonymous informant #35, interviewed by Julian Schweitzer, March 04, 2022, and Anonymous informant #36, interviewed by Julian Schweitzer, March 01, 2022

counterfeit goods, artisanal (gold) mining, construction work and the street vending economy.³ These activities are predominantly undertaken by irregular migrants or refugees who do not have access to formal employment opportunities. The main drivers for such work arrangements are that these jobs are not attractive for the domestic workforce. In contrast refugees are desperately looking for employment opportunities and are willing to accept any sort of work.⁴ This observation was also confirmed during other interviews. Gold mines in Kenya, for example, are located in neglected regions in proximity to refugee camps.⁵ Among the refugees, it is typically the men who seek employment opportunities while their families stay in the camps. Some move to urban areas (for example, Nairobi and Kampala) where the overwhelming majority ends up in the informal sector. Compared to local workers, migrant workers are disproportionately exposed to decent work deficits due to the informal nature of the work they engage in and due to their irregular or refugee status. Most migrant workers are paid on a piece rate in cash without a contract and work longer hours and receive a lower income.⁶ This is the case for example in very labour-intensive jobs in the construction sector. There is also anecdotal evidence that some refugees in the United Republic of Tanzania tobacco industry are children.⁷

REGIONAL LABOUR MIGRATION GOVERNANCE AND POLICY

Faced with the complex and mixed nature of migration in East Africa, States have increased efforts to enhance migration governance and policy in the AU and through the RECs.

LABOUR MIGRATION GOVERNANCE AND POLICY IN THE AFRICAN UNION

The AU has become a central forum for exchanges on labour migration law, policies, and practice and brings together origin, transit, and destination countries from East Africa and beyond. The AU's most noteworthy initiatives are:

- ▶ **Africa's Development Framework Agenda 2063** (Agenda 2063) which includes goals and targets related to the free movement of persons within RECs and Member States and a continent-wide visa waiver programme for intra-African travel (African Union Commission 2015).
- ▶ **The African Continental Free Trade Area (AfCFTA)** which was founded in 2018 and is a flagship project of the Agenda 2063. AfCFTA aims to create a single African market for the free movement of goods, service, labour, and capital to deepen the continent's economic integration. The AU Protocol on the Free Movement of Persons (AU-FMP) is one of the main instruments to bring the AfCFTA to life and contains eleven labour migration-mobility related provisions which foresee among others the progressive abolition of visa requirements, the issuance of work permits, the mutual recognition of qualification, the portability of social security benefits and the transfer of remittances. Member States are expected to harmonize their policies and implement the integration process through their respective RECs. However, as of March 2022, only 35 (including Kenya, United Republic of Tanzania and Uganda) out of the 54 Member States had signed the AfCFTA. Similarly, only "32 countries had signed (including Kenya, United Republic of Tanzania and Uganda) the AU-FMP and only four of those had ratified it (Hirsch 2021; African Union 2018b).

³ Anonymous informant #9, interviewed by Malte Drewes, January 25, 2022

⁴ Anonymous informant #12, interviewed by Malte Drewes, February 09, 2022

⁵ Anonymous informant #9, interviewed by Malte Drewes, January 25, 2022

⁶ Anonymous informant #28, interviewed by Malte Drewes, February 28, 2022

⁷ Anonymous informant #12, interviewed by Malte Drewes, February 09, 2022

- ▶ The 2018 revision of the **AU Migration Policy Framework for Africa** which recognizes that mixed migration is an essential component of the AU's economic and political landscape and that cross-border movements represent vital livelihood and coping strategies in the face of economic, humanitarian, and ecological disasters. The Framework contains recommendations for Member States on eight pillars: migration governance, labour migration and education, diaspora engagement, border governance, irregular migration, forced displacement, internal migration and trade (African Union 2018a).
- ▶ The **African Labour Migration Advisory Committee**, which was inaugurated in 2015 to facilitate, in line with the AU Migration Policy Framework, the harmonization of labour, social security and fiscal legal frameworks that promote and protect the rights of migrant workers across the continent. The Committee promotes intra- and inter RECs cooperation and includes representative of the AU bodies, the RECs, the ILO, IOM, the United Nations Economic Commission for Africa (UNECA), the social partners (Business Africa, Organization of African Trade Union Unity, and International Trade Union Confederation) and civil society (African Union 2019b).

LABOUR MIGRATION GOVERNANCE AND POLICY IN THE REGIONAL ECONOMIC COMMUNITIES (RECs)

The Member States of the AU are grouped into eight officially recognized RECs which play a critical role in policy development and implementation and in facilitating regional economic integration. It is worth noting that the RECs overlap, and that most Member States belong to more than one REC, including Kenya, United Republic of Tanzania, and Uganda, (see table 2).

Table 2: Target countries and their membership in regional economic communities

Regional Economic Community / Country	Kenya	Rep. of United Republic of Tanzania	Uganda
Common Market for Eastern and Southern Africa (COMESA)	x		x
East African Community (EAC)	x	x	x
Intergovernmental Authority on Development (IGAD)	x		x
Southern African Development Community (SADC)		x	

Source: Authors' own elaboration

The COMESA, EAC, IGAD, and SADC are promoting labour migration and mobility as a means to bolster regional integration and socio-economic development. Each of the four RECs, has developed at least one protocol to facilitate freedom of movement across Member States:

- ▶ **The COMESA** created, in 1994, a new free trade area among 19 Member States⁸ in the Horn of Africa and Central and East Africa, including Kenya and Uganda. The free movement of people in COMESA is governed by the 1984 Protocol on the Gradual Relaxation and Eventual Elimination of Visa Requirements, and the 1998 Protocol on Free Movement of Persons, Labour, Services, the Right of Establishment and Residence. However, in 2022 - more than two decades after its creation - only four Member States, including Kenya, have signed the 1998 Protocol and only one, Burundi, ratified it. In addition, three other Member States decided to waive visas requirements for COMESA nationals. To accelerate the implementation of the Protocol, Member States agreed to harmonize their national laws on the basis of the COMESA Model Law on Immigration. In 2015, the Member States of COMESA, EAC, and SADC established a Tripartite Free Trade Area to facilitate, among other objectives, the movement of business persons (UNECA n.d.; COMESA 1998; 1984).
- ▶ **The EAC** was re-established in 2000 and comprises five countries, including Kenya, United Republic of Tanzania, and Uganda. The EAC strives to establish a customs union, a common market, a monetary union, and eventually a political federation. The free movement of persons, labour, and services is addressed in Article 104 of the Treaty and operationalized through the 2010 EAC-CMP. As of 2022, the EAC-CMP is the most advanced free movement regime in Africa. While impediments to the free movement of persons remain, EAC Member States' citizens have access to one another's labour markets and the right to residence and establishment, according to certain criteria. A complementary EAC Labour Migration Policy is currently under development (EAC n.d.). Since 1999, an EAC passport is operational within the region to allow EAC citizens to move freely in the community for up to six months (UNECA n.d.; EAC 2010).
- ▶ **The IGAD** was established in 1996 to foster cooperation and economic integration in the region. IGAD comprises eight Member States including Kenya and Uganda.⁹ Free movement of persons is anchored on Article 13 of the Agreement establishing IGAD and operationalized through the 2012 Regional Migration Policy Framework and IGAD Migration Action Plan 2015-2020. However, as of 2022, none of the Member States have established labour migration policies although some have taken steps to draft labour migration policies with the support of National Coordination Mechanisms (NCM). In June 2021, the Protocol on Free Movement of Persons in the IGAD Region (IGAD-FMP) was adopted to further underpin IGAD's commitment to promote free movement and right of residence of Member States' citizens in the region. The signing and ratification of the Protocol is in process at the time of writing this report (UNECA n.d.; IGAD 2020; IGAD Council of Ministers 2012; IGAD 2015).
- ▶ **The SADC** was established in 1992 to promote political and security cooperation and economic integration among 16 countries in southern Africa, including United Republic of Tanzania.¹⁰ SADC promotes the free movement of people through various protocols and action plans. The 2005 Protocol on Free Movement of Persons (SADC-FMP) seeks to waive

⁸ These are Burundi, Comoros, Democratic Republic of the Congo, Djibouti, Egypt, Eritrea, Ethiopia, Kenya, Libya, Madagascar, Malawi, Mauritius, Rwanda, Seychelles, Sudan, Swaziland, Uganda, Zambia, and Zimbabwe

⁹ These are Djibouti, Ethiopia, Eritrea, Somalia, Sudan, South Sudan, Kenya, and Uganda. Note, Eritrea's membership in IGAD is currently not regularized following its suspension in 2007 and its re-admission in 2011.

¹⁰ These are Angola, Botswana, Comoros, Democratic Republic of Congo, Eswatini, Lesotho, Madagascar, Malawi, Mauritius, Mozambique, Namibia, Seychelles, South Africa, United Republic of Tanzania, Zambia, and Zimbabwe

visa requirements, provide the right for residency, facilitate access to Member State's labour markets, and to harmonize immigration practices. As of 2022, nine Member States have signed the Protocol and four have ratified it. Overall, bilateral agreements are prioritized to waive visa obligations. The 2014 Protocol on Employment and Labour includes provisions to safeguard migrant workers' rights. The 2014 Regional Labour Migration Policy Framework and the 2020-2025 Labour Migration Action Plan aim to progressively eliminate obstacles to the free movement of capital and labour, goods, and services. The Plan includes notable actions to promote skills transfer, to match labour supply and demand, and to protect the rights of migrant workers. The exact roll-out of the Action Plan is unclear at the time of writing this report (UNECA n.d.; SADC 2005; 2014).

RATIFICATION AND IMPLEMENTATION AMONG MEMBER STATES

The labour migration governance architecture in East Africa is complex and multi-layered and requires Member States to consider multiple labour migration regimes at the REC level, in addition to the labour migration initiatives promoted by the AU. When developing their own national labour migration policy, Kenya and Uganda would need to be in alignment – at least theoretically - with the four protocols established by COMESA, EAC, IGAD and United Republic of Tanzania with the two protocols by the EAC and SADC. This multitude of protocols, policy frameworks and action plans not only complicate the harmonization of domestic laws, but it also creates a capacity challenge for the ministries that have to execute the work - and for EOs that seek to accompany the processes – since they need to be fully acquainted with several policy instruments instead of just one. Taking this complexity and the required efforts into account, it is unsurprising that the ratification and implementation of the six protocols related to freedom of movement in East Africa have been slow and remain incomplete as of today. It remains to be seen whether the AfCFTA brings order into the harmonization process or adds another lay of complexity.

In addition to the sheer complexity and practical challenges related to the harmonization of immigration laws and qualification recognition systems, Member States have further reasons to stall the ratification of the Protocols. These range from security and border control concerns given East Africa's history of ethnic conflicts and displacement to the political stakes that are involved when government officials provide foreigners with access to the labour market and social services in contexts of high domestic unemployment. Indeed, several interviewees argued that East African policy makers see free movement of labour as a threat due to popular fears among the electorate that "migrants steal jobs" and therefore rather implement restrictive policies.¹¹ A representative from an employers' organization concluded that "the narrative drives policies and if *the narrative is bad, you will have restrictive policies.*"¹²

The only exception is the EAC-CMP which has been fully ratified, and which stands out as the most advanced regional integration process as of today. However, even the EAC-CMP comes with its challenges. For example, Annex 2 of the Protocol EAC-CMP includes a schedule for the free movement of labour alongside a list of the types of skilled workers that have market access, and to which Member States. Much to the dissatisfaction of employers in the three countries, the list has not been updated since 2014 and largely excludes low-skilled workers (IOE 2022). Likewise, the lack of awareness regarding the EAC-CMP and high work permit costs come out as significant barriers to the Protocol's harmonization process (Walusimbi, Bakunda, and Bakunda 2013).

¹¹ Anonymous informant #28, interviewed by Malte Drewes, February 28, 2022

¹² Anonymous informant #8, interviewed by Malte Drewes, January 12, 2022

Finally, it is worth it to highlight that despite the decade-long efforts to promote labour migration within East Africa, as of early 2022, none of the three target countries has adopted a labour migration policy. However, preparations are underway in all three countries to further enhance the policy framework on labour migration through the harmonization of national law, the development of (labour) migration policies, or the revision of the national employment policy (for more details, see sections on “National labour migration policy” in the country profiles).

Table 3: Policy instruments and ratification of RECs

REC	Policy Instrument	Ratification of Member States as of 2022
COMESA	1984 Protocol on the Gradual Relaxation and Eventual Elimination of Visa Requirements	<ul style="list-style-type: none"> • 10/19 partial ratification (Kenya, Madagascar, Malawi, Mauritius, Rwanda, Eswatini, Seychelles, Uganda, Zambia, and Zimbabwe) • 3/19 full ratification (Mauritius, Rwanda, and Seychelles)
	1998 Protocol on Free Movement of Persons, Labour, Services, and the Right of Establishment and Residence	<ul style="list-style-type: none"> • 1/19 (Burundi)
EAC	2010 CMP	<ul style="list-style-type: none"> • 5/5
IGAD	2021 the Protocol on Free Movement of Persons in the IGAD Region	<ul style="list-style-type: none"> • Ratification pending
SADC	2005 Protocol on Free Movement of Persons	<ul style="list-style-type: none"> • 4/16 (Botswana, Mozambique, South Africa and Swaziland)
	2014 Protocol on Employment and Labour	<ul style="list-style-type: none"> • 9/16 (Democratic Republic of Congo, Lesotho, Malawi, Mozambique, Namibia, Seychelles, South Africa, Zambia and Zimbabwe)

Source: (SAMM n.d.)

REGIONAL EMPLOYERS' PERSPECTIVES ON LABOUR MIGRATION

To accompany the policy processes in the AU and within the RECs, employers from across East Africa have united to establish supra-national employers' and business membership organizations at continental and regional level. The organizations that are immediately relevant for employers in Kenya, United Republic of Tanzania and Uganda include:

- ▶ **Business Africa:** The organization was established in 1986 and is the recognized voice of employers in Africa and brings together employers' confederations from across the continent. Business Africa is hosted by the Federation of Kenyan Employers (FKE) in Nairobi. Labour migration is one of Business Africa's policy priorities which is reflected by the Business Africa's engagement with the Global Forum on Migration and Development, the IOM, the ILO's Fair Recruitment Initiative, the Global Compact for Safe, Orderly, and regular Migration and its participation in the AU's Labour Migration Advisory Committee.

- ▶ **East African Employers' Organization (EAEO):** The EAEO was established in 2010 to represent employers in the EAC and to monitor the implementation of the EAC-CMP. The EAEO is based in United Republic of Tanzania and its membership comprises EOs of all EAC member States¹³ except South Sudan. At the time of writing this report, the EAEO is in discussion with the Employers Association of South Sudan to facilitate its admission.¹⁴ The EAEO is currently developing a regional migration policy for its members. At regional level, the EAEO cooperates closely with the East African Trade Union Confederation (EATUC) to collectively lobby and advocate to foster a vibrant regional labour market among EAC member states.
- ▶ **The Confederation of IGAD Employers (CIE):** The CIE was established in 2019 with support from the ILO and is the youngest of all regional EOs in the region. The CIE is hosted by the Ethiopian Employers Confederation and its membership includes six EOs out of the eight IGAD member states¹⁵. The FKE is submitting a membership request at the time of writing this report and it is hoped that Eritrea will ultimately join the CIE as well.^{16 17} The CIE is currently developing a regional strategy that will include areas of work ranging from “promoting fair migration and recruitment among direct investors” to “campaigns to lobby for the ratification of key ILO conventions related to labour migration”, and “a joint declaration on Labour Migration Governance” together with the Horn of Africa Confederation of Trade Unions (HACTU). In addition, the CIE and the HACTU have signed in 2021 a Memorandum of Understanding (MoU) with the intention to “promote the free movement of people and transhumance” and to “address the challenges of labour migration”.¹⁸
- ▶ **The COMESA Business Council (CBC):** The CBS is the recognized Business Member Organization, established as a private sector institution of COMESA in 2005. The CBC serves as a consultative committee for the business community at the policy organs of COMESA. The CBC’s engagement with labour migration appears marginal and focuses primarily on the free movement of persons and the elimination of visa for business people as means to facilitate trade within the region. In 2012 the CBC published a position paper titled “A Common Private Sector Position on the Gradual Elimination of Visa Requirements in the COMESA Region”(CBCCOMESA Business Council 2019).
- ▶ **The SADC Private Sector Forum (SPSF):** The genesis of SPSF dates back to 1977 when the first meeting of East, Central, and Southern African employers was convened. Today, the SPSF secretariat is hosted by Botswana Business and comprises employers' organizations of all the 16 SADC member States.¹⁹ The SPSF is recognized by the ILO, the IOE, the EU International Trade Centre (ITC) and Business Africa as the representative entity for the private sector community in SADC Member States. In 2020, SPSF with support from the ILO published the SADC Labour Law Guide, an online tool, that provides up-to-date labour laws from the SADC region in one central location to help companies do business across the region. Among others, the guide provides information on the employment of migrant workers. Overall, labour migration does not seem to be a priority topic of the SPSF and is not highlighted in its 2017-2022 Strategic Plan (DPC 2016).

¹³ These are the Association des Employeurs du Burundi, Association of United Republic of Tanzania Employers, Federation of Kenya Employers, Federation of Uganda Employers, Private Sector Federation of Rwanda and Zanzibar Employers' Association.

¹⁴ Anonymous informant #14, interviewed by Julian Schweitzer, February 3, 2022

¹⁵ These are the Confederation of Ethiopian Employers, Confederation Nationale des Entreprises de Djibouti, Employers Association of South Sudan, the Federation of Ugandan Employers, Somali Chamber of Commerce and Industry, and Sudanese Business and Employer Federation.

¹⁶ Eritrea's membership in IGAD is currently not regularized following its suspension in 2007 and its re-admission in 2011.

¹⁷ Anonymous informant #29, interviewed by Julian Schweitzer, March 3, 2022

¹⁸ Anonymous informant #29, interviewed by Julian Schweitzer, March 3, 2022

¹⁹ These are the Chamber of Commerce and Industry of Angola, Business Botswana, Mouvement des Entreprises Comoriennes, Federation des Entreprises du Congo, Business Eswatini, Association of Lesotho Employers & Business, Groupement des Entreprises de Madagascar, Employers' Consultative Association of Malawi, Business Mauritius, Confederation of Business Associations of Mozambique, Namibian Employers' Federation, Federation of Employers' Associations of Seychelles, General Employer Trade Union of Seychelles, Business Unity South Africa, Association of United Republic of Tanzania Employers, Zambia Federation of Employers, and Employers Confederation of Zimbabwe.

DISCREPANCIES BETWEEN REGIONAL COMMITMENTS AND NATIONAL POLICY

A key activity of the four regional EOs is to advocate for the ratification of the free movement protocols and to hold governments accountable in case of incomplete or slow domestication. In 2014 the EAEO and EATUC published a joint Position paper that advocates to remove barriers on free movement of workers in the EAC region. The Position paper includes a comprehensive analysis of the de-jure and de-facto work permit regimes among EAC member States and concludes that *“the vision of having a common labour market within the EAC with non-discrimination and equal treatment of all EAC citizens [...] remains to be made a tangible reality on the ground”* (EAEO and EATUC, n.d.). Whilst some progress has been made in the meantime, many of the Position paper’s original findings and recommendations remain valid today and illustrate the slow and scattered implementation of the EAC-CMP over the past decade. It therefore comes as no surprise that regional EOs frequently express their frustration with the slow ratification of protocols and urge to accelerate the domestication of regional labour migration initiatives.

A critical impediment is the lack of clear guidance for implementing regional policies. A representative of a regional EO criticized that: *“these people express commitments at regional level, but then what is the plan for national level? [...] There is no basis for harmonization, each country has its own policies and there is no enforcement. The EAC partner countries need to agree on the extent of harmonization, but there are no policies to influence harmonization. [...] Take, for example, the mechanism of social security portability, what is the standard, what is the guiding tool to implement?”*²⁰ The lack of guidance and tools appears to be a fair observation – the question that poses itself is then, who ought to produce such guidance? As it appears, no, or only limited support can be expected from the national line ministries whose ability to domesticate regional labour migration initiatives is hampered by a lack of capacity and resources. A representative of the Ministry of Labour from an EAC member State readily admitted that: *“they [the politicians] have regional meetings, come up with commitments and then pass them on to the ministries to find solutions, but sometimes ministries don’t have resources or capacities to review laws.”*²¹ Adding to this complexity is a high-turnover among public officials which further undermines an effective collaboration between ministries and employers’ organizations – as one employers’ representative lamented: *“There is also a high turnover of ministries and directors in the high government level. In the last four years we have seen three ministers. So, then there is a new minister, they don’t understand the landscape, don’t make labour mobility a priority and they don’t get into commitment. Then we need to go back and sensitize ... go back to square one.”*²²

UNEVEN ADVANCEMENTS TOWARDS REGIONAL LABOUR MOBILITY

Despite the aforementioned challenges, progress towards fostering labour mobility in East Africa has been made. EO representatives however acknowledge that some countries are advancing at greater speed and rigor than others, or as a representative of an IO argued: *“you have a block of willing ones, Kenya, Rwanda and Uganda are doing their utmost to facilitate integration” and “then we have the non-willing ones such as Burundi, United Republic of Tanzania and South Sudan”*.²³ The distinct work permit regimes of the three target countries offer an illustrative example: Kenya issues work permits for free to all EAC Member States, whereas Uganda charges foreigners between US\$400 to US\$3,000 annually depending on the class of the work permit and US\$1,550 to citizens of United Republic of Tanzania irrespective of the work permit class (Ministry of Internal Affairs

²⁰ Anonymous informant #14, interviewed by Julian Schweitzer, February 3, 2022

²¹ Anonymous informant #30, interviewed by Julian Schweitzer, March 8, 2022

²² Anonymous informant #29, interviewed by Julian Schweitzer, March 3, 2022

²³ Anonymous informant #23, interviewed by Julian Schweitzer, February 8, 2022

Uganda 2017; Directorate of Immigration Services Kenya 2022; High Commission of the United Republic of United Republic of Tanzania 2022). United Republic of Tanzania charges all foreigners, regardless of their REC membership US\$1,600. Some observers worry that this uneven removal of labour mobility barriers may result in setbacks: *“We also saw a trend, where others have moved a step higher. Work permits fees, were initially waved, but then reciprocity is needed – why do you charge my citizens, if I don’t charge yours?”*²⁴

AMBITIONS TO DEVELOP A REGIONAL LABOUR MARKET INFORMATION SYSTEM

Another matter of concern that was expressed by several regional EO representatives is the lack of regional labour market data to analyse the supply of and demand for labour within and across East African countries. Without a data-informed evidence base, policy makers will be unable to design appropriate policies and take decisions on issues like quotas for migrant workers. A case in point is the Annex 2 of the EAC-CMP which includes a list of admissible occupations that has not been updated since 2014 and no longer reflects the labour demand of East African employers. To overcome this data gap, regional EOs are advocating to establish a regional labour market information system: *“A regional functional labour market information system, should inform government action. We did a study with the AU to enhance free movement of labour – we did identify this as a challenge, the lack of information on skills and where to find them. Employees are also not aware of opportunities.”*²⁵ As part of the ILO’s Free Movement of Persons and Transhumance (FMPT) in the IGAD Region project, interventions are currently underway to build the capacity of IGAD and its Member States to collect and analyse labour migration and labour market indicators. In addition, the ILO is currently supporting the Federation of Uganda Employers (FUE) to develop a job portal which would include national workers, migrant workers in the country as well as returnees.

REGIONAL SKILLS RECOGNITION – A CRITICAL COMPONENT OF LABOUR MOBILITY

An issue that is closely tied to labour market information systems and a prerequisite to advance labour mobility across East Africa is that of regional skills recognition. Skills and qualifications operate as a form of currency in the labour market, especially where the qualifications are of a high quality from reputable education institutions and can be trusted. Migrant workers – and even more so refugees – are often at a severe disadvantage when it comes to their ability to provide evidence of such achievements. Skills and qualification recognition schemes therefore play a critical role in the implementation of the freedom of movement protocols and are a main concern of employers in East Africa.²⁶

Among the four RECs, the EAC appears to have made the most progress with the mutual recognition of qualifications and skills across Member States through the Inter-University Council which guarantees the harmonization of the higher education systems within the EAC as well as the MRAs that are stipulated in Annex 4 of the EAC-CMP and relate to individual regulated professions. A representative of a regional EO explained that: *“There are issues with the Technical and Vocational Education and Training (TVET) certificates, they are currently not recognized. I studied in United Republic of Tanzania, when I come here my certificate has to go through a process. This is still cumbersome, but it works. Then there are mutual recognition agreements, once entered into force they allow workers to move freely, for example veterinaries – they are helpful but need to*

²⁴ Anonymous informant #14, interviewed by Julian Schweitzer, February 3, 2022

²⁵ Anonymous informant #14, interviewed by Julian Schweitzer, February 3, 2022

²⁶ Skills recognition was a priority topic that was intensively discussed between employers’ organizations during a workshop on “Business Perspectives on Skills Mobility: A roadmap to recovery”. The workshop was organized under the auspices of the International Organization for Employers on 22 February 2022 in Nairobi, Kenya.

*be expanded. We are now developing a regional qualifications framework for TVET for the EAC.”²⁷ Once in force, the regional TVET qualifications framework would help workers with non-academic qualifications to look for work abroad. The experiences in facilitating regional skills recognition schemes of the EAC will provide other RECs with important insights and lessons learnt as noted by a representative from the CIE: **“United Republic of Tanzania, Uganda and Kenya, they recognize each other’s qualifications, they have standardized that one and make it very simple to properly and regularly migrate from one country to another, we should follow a similar path [...] they are one step ahead.”²⁸***

The transport sector in East Africa offers another powerful example of how mutual qualification recognition across the RECs can foster labour mobility, trade and integration: **“There are some issues for cross-border driving – where there are protectionist policies, you go, handover the cargo, or container, or truck head. But now we are getting into regional blocks. A Ugandan truck driver can now drive through COMESA, SADC and EAC. Through the Tripartite Transport and Transit Facilitation Programme (TTTFT) we have harmonized the driving curricular to see that standards are endorsed across three blocks. EAC was the last to implement the mutually harmonized driving license. If you, have it, you can drive all the way down from the EAC to the SADC.”²⁹**

POLICY MAKERS AND THE PERCEIVED BENEFITS OF LABOUR MIGRATION

Many EO representatives who were interviewed highlighted that policy makers in Kenya, United Republic of Tanzania, and Uganda have thus far dedicated most of their efforts towards regulating the labour mobility of low-skilled national workers that emigrate to the Middle East and Gulf countries. Enhancing labour mobility among East African countries and integrating migrant workers within their own territories appears to be a second-order priority among East African policy makers. Whilst the mobility and protection of national workers should of course be a matter of concern, it is a topic of much lesser relevance for employers’ organizations in East Africa given that outward migration has no impact on regional economic integration and does not help to address their interest to have timely and unrestricted access to the right pool of skills and talent. In this context, a representative of an employers’ organization remarked that policy makers do not seem to appreciate the intrinsic value that migrant workers can contribute to the domestic market and workforce: **“I see it as a misunderstanding of the whole big picture. By letting workers into the country, they [the policy makers] don’t understand what they [the countries] gain in terms of skills transfer and enhanced quality of production and service which in turn will be gained by local workers. All these are the advantages that migrant workers bring, but their talent, practice and ethics are not seen by government - it is too abstract and complex – they only want to send out workers and get remittances, but they don’t give it a value in what we can gain by bringing workers into the country from advanced industrial nations or even South-South partners in Africa. [...] Outwards migration is very visible. There will be a cousin or family member of a government official who sends money, that is very visible. But the benefits of the incoming migrant workers are not visible – unless you are an employer!”³⁰**

²⁷ Anonymous informant #14, interviewed by Julian Schweitzer, February 3, 2022

²⁸ Anonymous informant #29, interviewed by Julian Schweitzer, March 3, 2022

²⁹ Anonymous informant #31, interviewed by Julian Schweitzer, March 3, 2022

³⁰ Anonymous informant #29, interviewed by Julian Schweitzer, March 3, 2022

WORKING CONDITIONS AND SUPPLY CHAIN COMPLIANCE

The heterogeneity of the migrant workforce in East Africa in terms of economic activities, status, and skill level, is also reflected in the quality of working conditions. What emerges then, is a segmented labour market whereby high-skilled expatriate workers in management positions in Multinational Enterprises (MNEs) in the telecommunications, finance and oil and gas sectors enjoy favourable working conditions – to the extent that they are often even better off compared to their local peers – and low-skilled migrant workers in the informal economy are prone to decent work deficits, and in some cases exposed to the worst forms of child labour and/or forced labour. As one interviewee explained: *“The picture is complex. There are various migrant communities that work in all kinds of jobs. You can find high-skilled workers that are being recruited via competency-based interviews to work for an MNE in Kenya. However, most workers are low-skilled workers looking for jobs often employed in casual employment”*.³¹

Overall, there seems to be a divergence in the extent to which companies comply with International Labour Standards. Several interviewees confirmed that export-oriented companies in the formal economy producing for European or North American markets have appropriate social and environmental management systems in place.³² These companies typically do not hire irregular migrant workers nor tolerate them in their supply chains (at least, as far as they are aware) to avoid compliance risks. However other companies, especially in the agriculture sector which is characterised by spikes in labour demand during the harvesting season, do rely on irregular and undocumented migrant workers to bridge skills shortages, even on farms and plantations that are certified by the Fairtrade Foundation or the Rainforest Alliance.³³

PORTABILITY OF SOCIAL SECURITY BENEFITS

In additions to the perspectives highlighted above, representatives of IO highlighted the importance of promoting the portability of social security benefits among REC Member States.³⁴ Establishing an effective mechanism – without too many administrative hurdles – that ensures that social security benefits are indeed portable, would especially encourage mid-career workers in formal employment who enjoy favourable working conditions in their country of origin to consider pursuing work opportunities abroad. Currently, however, the portability of social security benefits does not appear to feature high on the agenda of employers’ organizations, nor does it feature as a priority topic in the IOE’s manual on migration governance.

³¹ Anonymous informant #9, interviewed by Malte Drewes, January 25, 2022

³² Anonymous informant #32, interviewed by Malte Drewes, February 24, 2022

³³ Anonymous informant #25, interviewed by Julian Schweitzer, February 24, 2022

³⁴ Anonymous informant #24, interviewed by Julian Schweitzer, February 24, 2022

KEY TAKEAWAYS

East Africa has a history of migration and trade networks that can be traced to the spread of Islam in ancient Africa. A first attempt to regulate migration and trade was done in 1919 when Kenya, Uganda, and United Republic of Tanzania established East Africa's first Customs Union, an early predecessor of the EAC. Since then, governments in East Africa have launched a multitude of regional initiatives to regulate the free movement of workers and their families across the region. Today, East Africa comprises four RECs; COMESA, EAC, IGAD and SADC of which all promote labour mobility as a vehicle for greater regional economic integration, albeit with varying degrees of rigor and success. In practice, this has resulted in a complex and multi-layered labour market governance architecture at regional level where different free movement protocols, policies and action plans are seemingly competing for ratification and harmonization at country level. As of 2022, the EAC is one of the most advanced RECs in the region.

Efforts to promote labour mobility in East Africa, and indeed across the continent, is likely to gain momentum in the coming decade under AfCFTA. Amid this complexity, EOs (and their trade union counterparts!) have successfully established supra-national entities to secure themselves a seat at regional fora, to influence regional policy development and to accompany harmonization processes at national level. Based upon the compilation of reflections and feedback, it is evident that regional employers' organizations are motivated to take action to accelerate regional integration and that they can play an integral role to advance labour mobility and the free movement of workers across East Africa.

Given their bottom-up membership structures, regional employers' organizations are particularly well-positioned to act as *"bridge builders"* who could support ministries to articulate regional policy at country level through their national members. At the same time, the sheer complexity and required long-term engagement of this process also become apparent: Continuous advocacy efforts are needed to push Member States to ratify protocols as well as detailed engagement with policy makers to ensure that the harmonization of domestic laws is effective and within the interests of their membership.

COUNTRY REPORTS

This study features three country reports to analyse specific labour migration trends, policies, and practices as well as the perspectives of the respective employer organizations at country level. Each country report follows as standardized outline:

- ▶ **Economy at a glance** – a brief overview of the economic activities that drive the country's economy and that provide employment opportunities not only to its own citizens but also to migrant workers.
- ▶ **Migration trends** – data permitting, this section provides an overview of the migrant stock in each country and the economic activities in which migrants are typically involved in.
- ▶ **National labour migration policy and practices** – a summary of the main law and practices that govern inward migration at country level and the main initiatives promoted by government.
- ▶ **Employers' perspectives on labour migration** – based on qualitative findings, a snapshot of the priorities, challenges and opportunities among national employers' organizations and private employers.

However, the depth and scope of the country reports vary which reflects the quantity and quality of information that the authors were able to obtain through the literature review and key informant interviews.

COUNTRY REPORT #1: KENYA

Kenya is a lower-middle income East African country bordered by Ethiopia to the north, Somalia to the east, South Sudan to the north-west, United Republic of Tanzania to the south, Uganda to the west and the Indian Ocean to the south-east. Its population is estimated as high as 55.9 million in 2022 with an annual population growth rate of 2,28 per cent. Given its high birth rate and declining mortality rates, Kenya's population is very young with a median age of 20 years. Kenya's youth bulge puts pressure on the labour market that already suffers from high unemployment and underemployment rates especially for youth aged between 15-24 (Central Intelligence Agency n.d.). Existing employment challenges are exacerbated by low education levels and skills gaps (Employers' organizations from East, Central, and Southern Africa 2017). Many young Kenyans find themselves forced to undertake occupations in the informal sector which encompasses 83 per cent of the workforce in Kenya (Kenya Ministry of Labour 2020; KNBS 2020).

KENYA'S ECONOMY AT A GLANCE

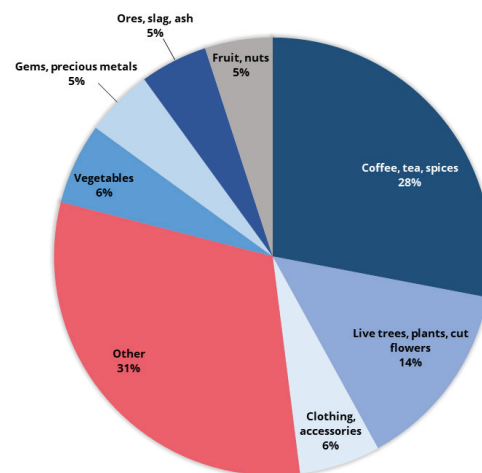
Kenya is the largest and most diversified economy in East Africa. In 2020, Agriculture, forestry and fishing remains the most important economic activity with regards to both, contribution to gross domestic product (20.6 per cent) and employment (54.4 per cent), followed by wholesale and retail (GDP 8.8 per cent / EMP 16.4 per cent); transport, storage and communication (GDP 13.4 per cent / EMP 2.4 per cent); manufacturing (GDP 9.2 per cent / EMP 2.2 per cent); and other services, including domestic work (GDP 2.1 per cent / EMP 9.3 per cent). Accommodation services, despite its overall low contribution to GDP and employment is another critical sector as it generates one of the highest foreign exchange revenues (ILO 2020a; IOM 2015b).

Kenya's principal export commodities are tea, spices, coffee, cut flowers, vegetables and clothing accessories. Most of its exports go to partner states in the EAC, namely, Uganda (10 per cent) and United Republic of Tanzania (5 per cent), followed by international trade partners, namely, the US (9 per cent), the Netherlands (8 per cent), Pakistan (7 per cent), the United Kingdom (6 per cent), the United Arab Emirates (6 per cent) and United Republic of Tanzania.

MIGRATION TRENDS

Kenya has had a negative net migration rate since 2002. From 2013 to 2017, 50,000 more people migrated out of than into Kenya (Danish Trade Union Development Agency 2020). Most of these migrants are low-skilled migrants that emigrate to the GCC States to work in domestic services or construction work. In addition, the country sees, each year, the departure of its high-skilled citizens such as professionals, technicians, and business persons especially in the field of technology, health, education, and administration in order to access better work or training opportunities (Kinuthia 2003; Shitundu 2006; IOM 2015b). The personal remittances of Kenyan emigrants make an important contribution to Kenya's economy – on average 2.4 per cent of GDP between 2013-2017 (Danish Trade Union Development Agency 2020).

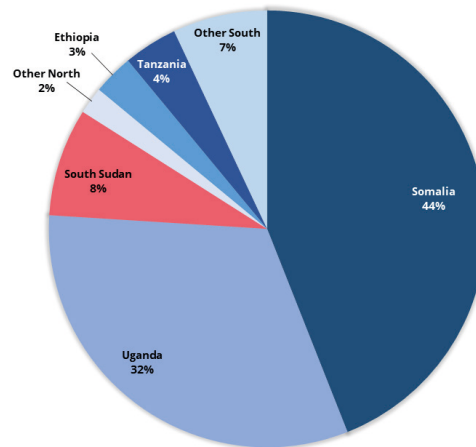
Figure 3: Kenya's top exports (2020)



Source: Workman 2020a

International immigrants constitute 2 per cent of Kenya's population, this number is increasing since the 90s and encompasses mainly individuals from East African countries. While the number of irregular migrants living in the country is undetermined, the total number of international migrants is estimated as 1 million with 46,7 per cent being refugees originating mainly from Somalia and South Sudan (UN DESA 2019a). In the absence of any official labour market statistics, the economic activities that these international migrants pursue are unclear. To complement this data gap, qualitative information on the type of work that migrant workers engage in, and their typical migration status and skills level was collected during the research phase of this report (see: table 4).

Figure 4: Origins of international migrants in Kenya (2015)



Source: Maastricht Graduate School of Governance 2017a

Table 4: Overview of migrant workers by sector

Sector	Sub-sector	Country of origin	Occupation	Migration Status	Skills level
Agriculture	Tobacco	Uganda and United Republic of Tanzania	Harvesting, loading, weeding, cultivating	Irregular, cross-border	Low
	Sugar Cane	India	n/a	Regular	Low
	Flower	India	Higher positions	Regular	High
Industry	Construction	China and India	Engineer, construction worker, cook	Regular	High and low
	Mining (gold)	Somalia and Uganda	Artisanal mining	Refugees, irregular, cross-border	Low
	Textile	China and Pakistan	Tailors	n/a	Semi
Services	Commodity trading	Somalia	n/a	Cross-border	n/a
	Domestic work	Uganda and Somalia	n/a	Irregular, cross-border	Low
	Services	Uganda, United Republic of Tanzania, DRC	Beauty parlours	Refugee, irregular, cross-border	High and low
	Health	India and Cuba	Doctors and nurses	Regular	High

Table 4: Overview of migrant workers by sector

Sector	Sub-sector	Country of origin	Occupation	Migration Status	Skills level
Services	Construction	China and India	Engineer, construction worker, cook	Regular	High and low
	IOs and MNEs	Various nationalities	n/a	Regular	High
	Hospitality	China	Hotels	n/a	n/a
	Information Technologies	India	n/a	Regular	High s
	Hospitality	China	Restaurants	n/a	n/a
	Hospitality	Uganda	Restaurants; Waitressing	Casual	Low-skilled
	Retail	China and India	Supermarkets, shops	n/a	n/a
	Services	Ethiopia	Prostitution	Informal/Forced labour	n/a
	Services	Ethiopia	Entertainment/ Tourism	Informal/Forced labour	n/a
	Transport	DRC, Somalia, Uganda	Transportation of goods	Formal/Cross-border	High-skilled

Source: Stakeholder interviews

International migrants are active in nearly all sectors of Kenya's economy. According to interviewees, migrant workers are formally employed mainly in the health sector, the construction sector, and the energy sector. Their presence in these sectors is often linked to bilateral labour agreements (BLAs) between Kenya and investor countries which can impose conditions such as the recruitment of their own staff. Thus, Kenya hosts significant numbers of both high-skilled (engineers) and low-skilled (cooks, construction workers) Chinese and Indian workers because of important infrastructure projects such as the construction of roads and railways and Cuban doctors that entered the country with the signature of a MoU between the two countries. These migrant workers enjoy above average working terms which, on the one hand, create an important pull factor and render Kenya a favourable destination country for migrant workers in East Africa, and on the other hand, create inequalities and tensions with local communities. For example, wage disparities between local and expatriate workers doing the same work are often a source of hostility in IOs³⁵.

Given Kenya's importance as a regional hub for the United Nations, IOs and MNEs employ a significant number of high-skilled expatriates from various countries to comply with diversity requirements or funding conditionalities. Semi-skilled migrants from neighbouring countries such as Somalia, Uganda, and the Democratic Republic of the Congo (DRC) can also be found especially in the transport sector, but this is mostly considered as cross-border migration that follows the

³⁵ Anonymous informants #1, interviewed by Cansu Özmert, January 18, 2022

northern corridor to transport goods. In the flower industry, high-skilled migrant workers (often investors) can be found from India or Europe (for example, the United Kingdom, Netherlands, Germany). In turn, the majority of the workforce is recruited from within the country.

The majority of migrant workers take part in the informal economy due to restrictions in accessing the formal labour market.³⁶ These workers are often low-skilled and at risk of being exposed to precarious and exploitative working conditions, especially in agriculture and domestic work.³⁷ For instance, refugees seeking employment opportunities are often not aware of their rights or do not have work permits. One interviewee said that they are often paid on a piece rate, in cash and without contracts³⁸.

Therefore, local administrations are encouraging workers to register and inform authorities about their employer to minimize such transgressions even though they do not have the proper papers.³⁹ Although most of the sectors encompass a large variety of nationalities, female Ugandans are reported to be essentially found working as domestic workers or beauticians; Ethiopians as tourism workers or prostitutes, especially in cities such as Nairobi and Mombasa; United Republic of Tanzanians as hawkers; and Indian and Chinese migrants as retailers in small shops or supermarkets. Cross-border migration is a common phenomenon in the Rift Valley where Ugandan and United Republic of Tanzanian migrants are crossing the border to work in tobacco plantations.⁴⁰ Overall, because of language barriers, it is more typical to find migrants from Uganda, United Republic of Tanzania, and the DRC than from South Sudan, Somalia, and Ethiopia.⁴¹ Interestingly, except for tobacco, international labour migration remains very marginal in top export sectors such as horticulture and tea.⁴² Presumably due to supply chain compliance considerations, employers mainly fulfil labour demand in agriculture with local labour⁴³.

The above analysis illustrates that labour demand and the sectors in which migrant workers prevail align only partially. The Kenyan labour market information system identifies accounting/finance, public administration, human resource management, education, law, business administration, commerce, economics, marketing, and medicine as the top ten sectors in which labour demand is high (KLMIS 2021). Anecdotal data from stakeholder interviews points out that migrants in manufacturing, financial services, and domestic work are also highly demanded. While the demand in the first two sectors comes from skill shortages, the demand for domestic work is mainly related to the disregard of the local population for these categories of jobs that are poorly paid⁴⁴.

NATIONAL LABOUR MIGRATION POLICY AND PRACTICES

Kenya has ratified the ILO Migration for Employment Convention (Revised), 1949 (No. 97), and the ILO Migrant Workers (Supplementary Provisions) Convention, 1975, (ILO 2020a). However, it is still not a signatory to the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (IOM 2015b).

³⁶ Anonymous informant #3, interviewed by Cansu Özmert, January 31, 2022; Anonymous informant #4, interviewed by Cansu Özmert, February 14, 2022

³⁷ Anonymous informant #2, interviewed by Cansu Özmert, January 17, 2022; Anonymous informant #3, interviewed by Cansu Özmert, January 31, 2022

³⁸ Anonymous informants #28, interviewed by Malte Drewes, February 28, 2022

³⁹ Anonymous informant #2, interviewed by Cansu Özmert, January 17, 2022

⁴⁰ Anonymous informants #1, interviewed by Cansu Özmert, January 18, 2022; Anonymous informant #2, interviewed by Cansu Özmert, January 17, 2022; Anonymous informant #3, interviewed by Cansu Özmert, January 31, 2022; and Anonymous informant #5, interviewed by Cansu Özmert, February 2, 2022⁴¹ Anonymous informant #2, interviewed by Cansu Özmert, January 17, 2022; Anonymous informant #3, interviewed by Cansu Özmert, January 31, 2022

⁴¹ Anonymous informant #5, interviewed by Cansu Özmert, February 2, 2022

⁴² Anonymous informant #32, interviewed by Malte Drewes, February 24, 2022; and Anonymous informant #11, interviewed by Malte Drewes, January 26, 2022

⁴³ Anonymous informant #3, interviewed by Cansu Özmert, January 31, 2022

⁴⁴ Anonymous informant #4, interviewed by Cansu Özmert, February 14, 2022

The development of the National Labour Migration Policy for Kenya has been in preparation since 2010 (IOM 2015b, 119) and has been led by the Ministry of Labour under the auspices of the National Employment Authority. The ILO and IOM provided technical support to orient the stakeholders on the international labour standards, to ensure a right-based approach, and to promote alignment with existing laws. According to stakeholder interviews, the social partners and representatives of migrant workers were consulted in the development of the policy. In early 2022, the policy received the approval of the Attorney General (AG) and is waiting to be endorsed by the cabinet to be subsequently discussed in parliament.⁴⁵

Thus, for the past decades, regular migrant workers have been covered by Kenya's national labour laws and policies (ILO 2020a). Work permits must be requested by employers and are only granted if the employer can prove that it was not possible to find a Kenyan citizen with the required qualifications. Permanent residency is granted after seven years of legally living and working in Kenya (IOM 2018b). Obtaining a work permit in Kenya is administratively complex and may require long waiting times. However, for citizens of the EAC, the process is facilitated and the fees are waived (ILO 2020a). This is also the case for refugees. However, despite being issued freely, work permits are rarely given to refugees which often pushes them to work in the informal sector (ILO 2020a). Given the high unemployment rates among nationals, the government increased in 2011 the labour market access restrictions for migrant workers, including a prohibition to employ foreigners under the age of 35 and those who earn less than US\$24,000 a year, as well as new requirements to apply for non-renewable two-year work permits, and restrictions to work in key sectors, such as medical, accounting, legal and real estate among others (IOM 2015b, 161).

In addition, under the *"Kenyanization program"*, migrant workers are *"required to train a Kenyan understudy to take over responsibilities, as part of an effort to build the capacity of Kenyan citizens to take up the functions of the job"* (IOM 2015b, 161). Their access to employment opportunities in the public sector is also highly restricted (IOM 2018b). Despite these restrictions, Kenya is not completely closed to migrant workers. A limited amount of foreign work permits are granted to external investors to encourage them to set up a business in Kenya (ILO 2020a), promote the transfer of technology and technical know-how, and enable foreign money entry. According to one EO representative, Kenya is a very attractive economy for foreign investors⁴⁶. This is especially the case for investors in the Manufacturing Under Bond⁴⁷ and export promotion programs (Shitundu 2006, 8). Moreover, Kenya offers a fast track to temporary migrant workers (up to three months), with a "Special Pass" (Scott and Morowitz 2021). The Kenyan government also seeks to engage the diaspora in the development of its economy. The 2014 Diaspora Policy aims, notably, to engage Kenyan emigrants into the national development process of Kenya by reducing cost of remittances and tapping into the resources and skills of Kenyans abroad. It also has the objective to improve the protection of the Kenyan diaspora (EUDIF 2020).

At regional level, Kenya is member of COMESA, EAC, and IGAD and aims to attract high-skilled migrant workers from Member States in East Africa (Oucho, Oucho, and Ong'ayo 2013, 29). EAC is considered as the most advanced free movement regime in East Africa and some of its programs such as the EAC passport are operational in Kenya. Likewise, labour mobility between IGAD Member States recently gained momentum with the IGAD-FMP. However, interviewees point out that the EAC and IGAD still have a long way to go in harmonizing labour migration policies as the

⁴⁵ Anonymous informant #5, interviewed by Cansu Özmert, February 2, 2022

⁴⁶ Anonymous informant #32, interviewed by Malte Drewes, February 24, 2022

⁴⁷ Manufacture under Bond refers to an incentive extended to manufacturers import plant, machinery, equipment and raw materials tax free, for exclusive use in the manufacture of goods for export. It is meant to encourage manufacturers, both local and foreign, to manufacture for export within the country (East African Community 2021).

movement of commodities remains the main focal point compared to the movement of workers and their families. In addition, an appraisal of the implementation of the EAC-CMP in Kenya shows that the refusal of work permits and long delays in their processing are important barriers for the mobility of EAC workers to the country (Ogalo 2012).

Overall, most efforts by the Kenyan government to date have focused on promoting labour emigration which yields remittances and a significant contribution to GDP. Labour immigration on the other hand, is not considered as important to national development and therefore attracts less interest from the authorities. The fact that most of the migrant workers in Kenya are part of the informal economy makes it difficult to appreciate the tangible and intangible value of their economic activities: *“There is a dearth of information on what is the impact or what is the contribution of these workers. I think if we can reflect on that probably that will gain a momentum.”*⁴⁸ Overall, labour migration issues in Kenya seem to be introduced through a top-down approach - first at the continental level, then at the regional level, and finally at country level, presumably due to a lack of interest, resources, and capacities in national ministries.⁴⁹

Among the numerous employer and business associations, the FKE is the main body that represents employers in Kenya, including foreign companies, from China, Japan, the Netherlands, and the United Kingdom. Recently, the FKE introduced the employer of the year award which, among others, evaluates how members include migrant workers at the workplace.⁵⁰ In addition, the FKE assists members that are foreign companies with obtaining work permits for migrant workers.⁵¹ At continental level, the FKE hosts the headquarters of Business Africa and represents the organization at the labour migration advisory committee of the Africa Union Commission. At regional level, FKE is part of the EAEO, and its membership is being processed at the CIE.⁵² The Central Organization of Trade Unions (COTU-K), represents workers' interest in Kenya. Founded in 1965, COTU-K aims to address unfair labour practices, to influence policies and legislation at national level, to raise awareness regarding fundamental labour rights targeting migrant workers including the returnees and to support the capacity-building of 36 trade unions that represent more than 1,5 million workers in Kenya⁵³ (COTU-K 2022).

EMPLOYERS' PERSPECTIVES ON LABOUR MIGRATION

REASONS FOR HIRING MIGRANT WORKERS

From an employers' perspective, labour migration in Kenya is seen primarily as an opportunity to fill skill gaps, especially in green skills, the energy sector, and the blue economy.⁵⁴ Skills exchange and transfer between the foreign and local workers is beneficial as well as the networking opportunities that come with it.⁵⁵ In addition, low-skilled migrant workers with refugee or irregular status provide cheaper labour, notably in the agricultural sector, artisanal mining, construction or domestic work: *“Generally, the migrants from Uganda or United Republic of Tanzania are paid much less than the Kenyan workers. Smallholders actually prefer migrant labour because they're cheaper than the local Kenyan labour”*⁵⁶ Moreover, some interviewees highlighted that migrant workers'

⁴⁸ Anonymous informant #4, interviewed by Cansu Özmert, February 14, 2022

⁴⁹ Anonymous informants #1, interviewed by Cansu Özmert, January 18, 2022

⁵⁰ Anonymous informants #1, interviewed by Cansu Özmert, January 18, 2022

⁵¹ Anonymous informant #5, interviewed by Cansu Özmert, February 2, 2022

⁵² Anonymous informant #29, interviewed by Julian Schweitzer, March 3, 2022

⁵³ Anonymous informant #3, interviewed by Cansu Özmert, January 31 2022

⁵⁴ Anonymous informant #3, interviewed by Cansu Özmert, January 31 2022

⁵⁵ Anonymous informants #1, interviewed by Cansu Özmert, January 18 2022

⁵⁶ Anonymous informant #2, interviewed by Cansu Özmert, January 17 2022

have a better work ethic than local workers.⁵⁷ Other interviewees explained that the jobs are often not attractive for the local workforce and are taken by refugees or irregular migrants since they are desperately looking for work⁵⁸. Therefore, these workers are prone to decent work deficits. From an investors' perspective, the ability to employ skilled migrant workers is imperative for successful business expansion. An employers' representative explained that *"It is about business models that are being implemented in the formal sector where we are saying: Okay, I'm an investor, I'm coming in, I'm trying to set up my company. There are certain skills I need or certain people I need to have that already understand the way I operate my businesses. So, the investor moves in with the staff and they do the recruitment themselves."*⁵⁹

ASSESSMENT OF POLICY ENVIRONMENT

Stakeholders highlighted that Kenyan policy makers view labour migration to a large extent from a security angle as a result of security threats within Kenya and its neighbouring countries. This in turn creates barriers for the engagement of employers who are unlikely to participate in policy dialogue on security issues. One representative of an EO called for the inclusion of economic and political angles in the labour migration related policy discussions: *"Labour migration and migration in general is viewed from a security perspective. We've had a lot of instabilities around Kenya in the neighbouring countries that has led to refugees and other terrorism. So, that has had a bigger influence in the policies. Sometimes, the point of divergence between us, the social partners and the government might be this. We insist more to be looked at it from an economic and political angle and not from a security angle. We are dealing with a country that has high unemployment. Highly trained people that have no employment. So, especially labour migration elicits a lot of emotions when it comes to political costs that are involved. We try to look at it from the three sides in order to have more balanced policies."*⁶⁰

In addition to the prevailing security perspective on labour migration, stakeholders⁶¹ raised several challenges leading to an uncondusive environment for hiring foreign labour. They notably pointed out the time and cost implications that come with foreign labour recruitment. High work permit and relocation fees, long administrative processes, futile documentation requirements and skill recognition problems especially in highly regulated professional bodies are seen as key barriers for foreign employment: *"I think one of the challenges that employers may face is you have to convince the government or some institutional bodies that the specific skill that you need is not available in the country and as such you need to hire someone from a different country to come work for you here. At some point we had a case where the guys were coming into the country with work permits then before the end of the duration, they quit and started their own businesses, and it was a challenge for the government which led to a crackdown and non-renewal of work permits. They had to tighten their nose a bit so that only guys who really deserve to get into the country as workers are given the chance to do so"*.⁶²

Finally, employers representatives highlighted that Small and Medium Sized Enterprises (SMEs) often lack the resources and knowledge to employ migrant workers regularly which is a critical drawback since they constitute a large portion of the economy.

⁵⁷ Anonymous informant #5, interviewed by Cansu Özmert, February 2 2022; Anonymous informant #2, interviewed by Cansu Özmert, January 17 2022; Anonymous informant #28, interviewed by Malte Drewes, February 28, 2022; and Anonymous informant #9, interviewed by Malte Drewes, January 25, 2022

⁵⁸ Anonymous informant #12, interviewed by Malte Drewes, February 9, 2022

⁵⁹ Anonymous informants #1, interviewed by Cansu Özmert, January 18 2022

⁶⁰ Anonymous informants #1, interviewed by Cansu Özmert, January 18 2022

⁶¹ Anonymous informants #1, interviewed by Cansu Özmert, January 18 2022; and Anonymous informant #3, interviewed by Cansu Özmert, January 31 2022

⁶² Anonymous informants #1, interviewed by Cansu Özmert, January 18, 2022

ENGAGEMENT IN POLICY AND SOCIAL DIALOGUE

The FKE is active in policy discussions through continental, regional and national social dialogue. At regional level, employers' representatives support the harmonization of laws and skill recognition and were engaged in the drafting process of the EAC migration policy. At national level, the FKE and the COTU-K contributed to the development of the employment policy. The FKE also takes part in various National Migration Committees, including the Counter-Trafficking in Persons Advisory Committee.

Overall, however, labour migration does not appear to be a priority for employers in Kenya. This may be attributed to the fact that the social partners are only sporadically included in public fora related to labour migration and need more capacity-building to participate effectively in discussions on migration.⁶³ For example, social partners are not given a seat in the NCM which is the government-led national platform for coordination on migration issues. However, they do participate in the NCM's technical working group on Labour Migration and Diaspora Affairs. Discussions in the working group seem to focus primarily on labour emigration of low-skilled local workers to the GCC, but not on labour immigration to Kenya. In addition, the FKE and the COTU-K participate in a Task Force under the National Labour Board that deals with migration issues where they advocate for the vetting of Private Employment Agencies (PEAs) and their compliance with the international labour standards. This Task Force has influenced the regulation of PEAs. Their recommendations, which have been implemented by the Government, have included the deregistration of PEAs until they are all vetted, and the deployment of labour attachés to Middle Eastern countries. However, interviewed stakeholders implied that, in practice, the government lacks the capacity to fully enforce these regulations.⁶⁴ While the protection of low-skilled Kenyans in GCC States remains the focus of policy dialogues, employers are also seeking to engage more with the high-skilled Kenyan diaspora to encourage skills transfers and/or direct investment into Kenya, including through a diaspora bond with which Kenyans in the diaspora can pull their resources and venture in Kenya.

KEY TAKEAWAYS

Labour mobility constitutes one of the key priorities in Kenya's regional integration objectives. Demand for skills, especially in emerging sectors such as the energy sector constitute a crucial driver for employers to hire foreign labour. Yet, given the prevailing security perspective on labour migration, Kenya continues to privilege the employment of local workers and discourages foreign employment through high work permit fees and lengthy administrative procedures. Meanwhile, the predominance of the informal economy and irregular migration flows render it almost impossible to get an accurate understanding of labour migrations trends within Kenya. Overall, employers' and workers' organizations focus primarily on the protection and the inclusion of the Kenyan diaspora into the national development processes.

⁶³ Anonymous informants #1, interviewed by Cansu Özmert, January 18, 2022

⁶⁴ Anonymous informant #3, interviewed by Cansu Özmert, January 31, 2022

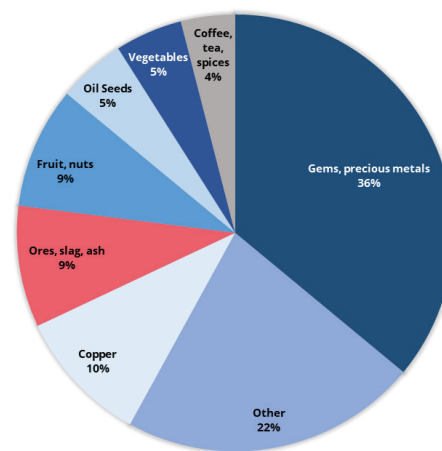
COUNTRY REPORT #2: THE UNITED REPUBLIC OF UNITED REPUBLIC OF TANZANIA

United Republic of Tanzania is a lower-middle income country that shares its borders with Uganda and Kenya in the north, with the Comoro Islands and the Indian Ocean in the east, with Mozambique, Malawi, and Zambia in the south, and with Rwanda, Burundi and the DRC Congo in the west. United Republic of Tanzania has the fourth largest population in sub-Saharan Africa estimated at 62.8 million people in 2022 with approximately 1.3 million living in Zanzibar. The United Republic of Tanzanian workforce represented around 27.2 million in 2019, out of which 22.3 million (88 per cent) were in employment which indicates a higher employment-to population ratio at all levels than Eastern African averages. An estimated 850,000 young people enter the country's labour market annually, but only 50,000 to 60,000 formal sector jobs are created each year (Danish Trade Union Development Agency 2021). With the prospects of being either informally or un- and underemployed in United Republic of Tanzania, many young job seekers are motivated to seek employment opportunities abroad.

UNITED REPUBLIC OF TANZANIA'S ECONOMY AT A GLANCE

United Republic of Tanzania's economy is highly dependent on Agriculture, forestry and fishing which generated 27.0 per cent of GDP and 65.1 per cent of all employment in 2019. Other relevant economic activities include wholesale and retail (GDP 9.6 per cent / EMP 13.2 per cent); construction (GDP 15.7 per cent / EMP 2.3 per cent); transport, storage and communication (GDP 10.2 per cent / EMP 3.1 per cent); and manufacturing (GDP 8.9 per cent / EMP 2.8 per cent). It is worth noting that the economy and labour market varies considerably between mainland United Republic of Tanzania

Figure 5: United Republic of Tanzania's top exports (2020)



Source: Workman 2020b

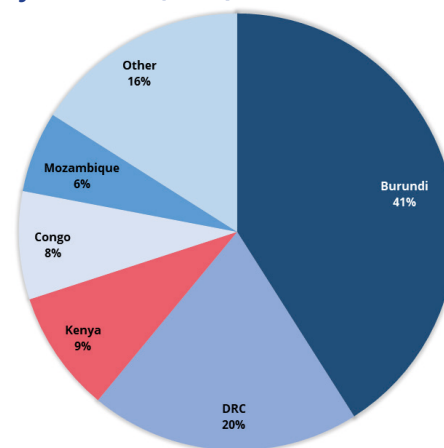
and Zanzibar. The majority of the labour force in United Republic of Tanzania mainland works in agriculture, forestry, and fishing (61,8 per cent) while in Zanzibar the majority works in services (47,4 per cent) (NBS 2021). Similarly, the informal sector represents 28,5 per cent of the economy in United Republic of Tanzania mainland, and 41,7 per cent in Zanzibar (NBS 2021). United Republic of Tanzania's principal export commodities are gems and precious metals, ores, slag and ash, as well as horticultural products, cashew nuts, fish, coffee, tobacco, among others, which are sold to India (20 per cent), the United Arab Emirates (13 per cent), China (8 per cent), Switzerland (7 per cent), Rwanda (6 per cent), Kenya (5) and Vietnam (5 per cent) (Workman 2020b).

KEY LABOUR MIGRATION TRENDS

United Republic of Tanzania has had a negative net migration rate for the past decade. From 2013 to 2017, 200,000 more people migrated out of United Republic of Tanzania than into. Almost two thirds of these emigrants are presumably (high-) skilled workers that have migrated to the United States of America (58 per cent) and the United Kingdom (16 per cent). The other third has emigrated to neighbouring countries in East Africa, including Rwanda (16 per cent), Kenya (5.9 per cent) and Burundi (3.4 per cent). Between 2015 and 2019, personal remittances of emigrants contributed on average 0.8 per cent to United Republic of Tanzania's GDP (Danish Trade Union Development Agency 2021).

The overall share of international migrants in United Republic of Tanzania is small. In 2020, there were an estimated 426,000 international migrants living in the country constituting 0,7 per cent of the total population (Migration Data Portal 2020). Out of those, approximately 265,000 (62 per cent) are refugees, the majority of whom are coming from Burundi and the DRC and live in camps in the country's north-western areas (UN DESA 2019c; NBS 2015; World Bank 2017). In addition to in- and outward international migration, United Republic of Tanzania faces important internal migration flows

Figure 6: Origins of international migrants in United Republic of Tanzania (2013)



Source: UNICEF 2013

from rural to urban areas which contribute to the country's large informal sector (NBS 2015).

There is no reliable data about the extent to which migrant workers participate in the United Republic of Tanzanian labour market in general or in specific economic sectors.⁶⁵ This is particularly the case for refugees as their freedom of movement and capacity to work are highly restricted (Danish Trade Union Development Agency 2021). Stakeholder interviews suggest a highly heterogeneous picture, whereby migrant workers are employed in a broad range of sectors and occupations, across all skill levels, both formally and informally (see Table 5).

⁶⁵ There is no recent Labour Force Survey and data on work permit applications/approvals are not publicly available.

Table 5: Overview of migrant workers by sector ⁶⁶

Sector	Sub-sector	Country of origin	Occupation	Migration Status	Skills level
Agriculture	Sisal	Malawi, Zimbabwe	Harvesting	Irregular, cross-border	Low
	Tobacco	Burundi, DRC	Harvesting	Refugee	Low
Services	Hospitality	Kenya	Lower-level management and supervisors	Regular	High
		European	Management	Regular	High
	Tourism	Kenya	Supervisors	Regular	High
	Logistics	India	Warehouses	Regular	High
	Accounting	Kenya		Regular	High
Industry	Construction	China, India	Investors, managers	Regular	High
		Egypt	Managers	Regular	High
	Mining	South Africa, Canada	Middle and higher positions	Irregular	High
	Oil and gas	International	n/a	Regular	High
	Shipping industry	Turkey	n/a	n/a	n/a

Source: Stakeholder interviews

KEY SECTORS

Based on stakeholder interviews, Agriculture, Mining, Construction and Tourism appear to be the sectors that absorb most migrant workers.

ORIGINS

International migrants working in United Republic of Tanzania come both from neighbouring countries and other world regions (Asia, Europe, North America). While migrants from neighbouring countries appear to work mostly in Agriculture and Services, workers from outside the sub-region are concentrated in sectors such as Mining, Manufacturing and Construction, typically in connection with foreign-owned companies operating in United Republic of Tanzania and bringing their own nationals.

⁶⁶ Other sectors mentioned (less frequently) are the health sector, accounting, and the international social & public sector (NGOs, embassies).

FORMALITY

While international migrants from outside the subregion typically enter the country legally by obtaining residence and work permits, this is not the case for (seasonal) cross-border migration which has a history. Hence, many migrants from the sub-region appear to be engaged in informal employment relationships despite the free movement of workers stipulated in regional agreements. As informal workers, they are also not covered by local labour law and are vulnerable to conflicts with employers (for example, when not receiving their agreed-upon pay)⁶⁷. Informal work (for example, lack of contracts, casual labour) and non-observance of labour standards appears to be particularly common in Tourism⁶⁸ and Agriculture. Work permit applications/approvals alone are therefore not a good indicator of labour market participation of migrant workers.

OCCUPATIONS

While work in the agricultural sector appears to be largely low-skilled, international migrants in other sectors often occupy technical, supervisory, and managerial positions to compensate for skills gaps among local workers (UNIDO 2014). For instance, in the tourism industry, higher management positions in hotel chains are often occupied by Europeans while Kenyans occupy mid-level management and supervisory functions.⁶⁹

LABOUR MIGRATION POLICY AND PRACTICES

While United Republic of Tanzania has ratified a total of 37 ILO conventions (incl. the 8 core conventions), it has not ratified any of the ILO conventions on labour migration.⁷⁰ United Republic of Tanzania is part of the EAC-CMP which also stipulates the free movement of persons and workers; however, in practice, it has only opened up to selected categories of (higher-skilled) workers, such as health care professionals, experts in oil and gas, and teachers and university lectures in science and mathematics (Kilindu Giattas & Partners 2020). An EAC Labour Migration Policy is under development (EAC n.d.). In 2021, the United Republic of Tanzania parliament ratified the AfCFTA, however ratification of the AU-FMP is still pending. Among the three target countries, United Republic of Tanzania is the only one that is part of the SADC which adopted a Regional Migration Policy and a Labour Migration Action Plan (2020-2025) in 2020 (SADC 2020; 2021).

In practice, it is unclear how the United Republic of Tanzania government perceives and responds to international migration. While official documentations claim that United Republic of Tanzania views international migration flows positively and as a pillar of development when channelled in a good manner (NBS 2015, 46), there continued to be important barriers to migrants' employment in recent years.

United Republic of Tanzania does not have a national migration or labour mobility policy in place. Instead, labour migration is addressed through United Republic of Tanzania's Employment and Labour Relations Act which stipulates that migrant workers ought to be treated equal to United Republic of Tanzania citizens in terms of labour and social rights (IOM 2018a) as well as through the Non-Citizens Employment Regulation Act (issued in 2015, updated in 2021). The key authorities on labour migration are the Prime Minister's Office – Labour, Youth, Employment and Persons

⁶⁷ Anonymous informant #13, interviewed by Kevin Hempel, February 2, 2022

⁶⁸ Anonymous informant #20, interviewed by Kevin Hempel, February 15, 2022

⁶⁹ Anonymous informant #18, interviewed by Kevin Hempel, January 24, 2022

⁷⁰ There are four ILO International Labour Standards (ILS) on labour migration governance and the protection of migrant workers: the Migration for Employment Convention (Revised), 1949 (No. 97), the Migrant Workers (Supplementary Provisions) Convention, 1975 (No. 143), the Migration for Employment Recommendation (Revised), 1949 (No. 86), and the Migrant Workers Recommendation, 1975 (No. 151). However, from the employers' perspective, ILO Convention Nos 97 and 143 are outdated, no longer correspond to current realities and need update. https://www.ilo.org/dyn/normlex/en/f?p=1000:11200:0::NO:11200:P11200_COUNTRY_ID:103476

with Disabilities (incl. the Labour Commission responsible for work permits) and the Department of Immigration Services under the Ministry of Home Affairs. Policymaking on labour migration at national level is complicated by the fact that mainland United Republic of Tanzania and Zanzibar have different governments and legal systems: while each has their own labour laws (ILO 2013b), migration itself is considered a union matter that is dealt with centrally⁷¹.

In practice, United Republic of Tanzania privileges international high-skilled migrant workers and has established significant restrictions that limit the access of low- to mid-skilled migrant workers to its labour market including if they are citizens of EAC partner states.⁷² Residence and work permit fees have been high and applied to all migrants including from neighbouring countries.⁷³ In addition, the process to obtain a work and residence permits has been administratively complex and lacked transparency (IOM 2018a).⁷⁴ Moreover, the 2016 Non-citizens Act hinders to a large extent the employment of migrant workers by requiring employers to provide evidence that they were not able to fill the position with locals and requiring them to submit a succession plan that stipulates skills transfer to a national worker. In addition, United Republic of Tanzania applies local content regulations in the laws and regulations applying to specific economic sectors, such as mining, construction or tourism (The National Economic Empowerment Council 2019). Such restrictions can pose important challenges to employers who cite the lack of a high-skilled local workforce as one of their key concerns (Employers' organizations from East, Central, and Southern Africa 2017). As a result, United Republic of Tanzania scores extremely low among foreign investors and local employers' organizations with regards to the ease of hiring foreign labour (130 out of 141 countries) (Danish Trade Union Development Agency 2021). The restrictive environment is also considered a key driver for migrants to take up informal employment, especially those from the sub-region (Danish Trade Union Development Agency 2021). That said, an amendment of the Non-Citizens Act in 2021 has brought some improvements by increasing the duration of work permits and simplifying the administrative procedures when applying for residence and work permits (through a digital system that has helped reduce processing times).

The United Republic of Tanzanian government is increasing its efforts to engage the diaspora into national development through enhancing capacities of its Diaspora department and anchoring diaspora engagement into the United Republic of Tanzania Development Vision 2025. In addition, the Zanzibar Diaspora Affairs Act defines the Zanzibari diaspora as someone who is affiliated with, and has allegiance to, Zanzibar; it gives the Zanzibari diaspora the right to obtain a Zanzibar identity card and other privileges, including exemption from needing a work permit, multiple-entry long-term visas, and the right to long stays in the country (Danish Trade Union Development Agency 2021).

Among the numerous employer and business associations active in United Republic of Tanzania, the Association of United Republic of Tanzania Employers (ATE) is the leading voice on labour and migration related issues.⁷⁵ It is a member of the United Republic of Tanzania Private Sector Foundation (TPSF) which is the umbrella organization of all employer organizations. The Trade Union Confederation of United Republic of Tanzania (TUCTA) represents worker interests in the country, though (irregular) migrants are generally reluctant to join unions. Both are also active at the regional/international level: ATE is a member of the EAEO, the SPSF, Business Africa, the ILO, and the IOE TUCTA is a member of the EAEO. IOs such as the ILO and IOM, while actively

⁷¹ Anonymous informant #21, interviewed by Kevin Hempel, February 21, 2022

⁷² Some stakeholders perceive that United Republic of Tanzania is more protectionist towards neighbouring countries and more open for skilled migrants from outside of East Africa (Anonymous informant #33, interviewed by Kevin Hempel, March 8, 2022).

⁷³ For residence permits, there is a discount for migrants from East Africa.

⁷⁴ Applicants had to make separate applications to the Immigration Department for the residence permit and the Labour Commission for the work permit.

⁷⁵ Other employer associations include the United Republic of Tanzania Chamber of Commerce, Industry and Agriculture (TCCIA), as well as many sector level employer associations.

contributing to policy dialogue on labour migration at the regional level in the context of EAC (ILO 2021) and SADC, have limited engagement on labour migration issues at the country level in United Republic of Tanzania.

EMPLOYERS' PERSPECTIVES ON LABOUR MIGRATION

RATIONALE FOR HIRING MIGRANT WORKERS

Among the stakeholders consulted, the lack of local skills has been highlighted as the main determinant for demand in foreign labour. For instance, in the tourism sector, Kenyans are considered to have much better training than United Republic of Tanzanians, making them attractive hires even at higher salaries because of their qualifications and productivity.⁷⁶ The demand for foreign labour is therefore considered to be directly linked to weaknesses in the United Republic of Tanzania's own education and training system. Similarly, the need for importing foreign skills has also been mentioned in the context of technology adoption (for example, in agro-processing) and to meet export requirements (for example, ISO certification)⁷⁷.

Demand for specialized mid- and higher-skilled professionals appears to also be a major factor for hiring foreign labour in industries such as mining and construction (megaprojects) where migrant workers come predominantly from outside the subregion, often in line with the origin of the investor/mother company⁷⁸. In some cases, employers may also rely on migrant workers to save costs, hiring them informally to save social security contributions and potentially circumvent minimum wage regulations⁷⁹.

ASSESSMENT OF POLICY ENVIRONMENT

With regards to the general policy dialogue on labour migration, several stakeholders consulted indicated a perception that migration continues to be generally looked at by the Government as a security concern that has to be restricted rather than an opportunity for private sector growth and local economic development. There is also a perception that labour migration is a very political and sensitive issue, and that the Government feels the need to protect the national labour market given the lack of available employment opportunities⁸⁰. While one stakeholder consulted noted that the general tone on labour migration appears to have improved since the new President entered office in 2021,⁸¹ others do not believe that the negative government attitude towards (labour) migration will change quickly.⁸²

Contrary to the Government's more restrictive stance on labour migration, the business community has an interest in free movement of labour and unconstrained hiring of foreign nationals as needed. Key issues raised included:

- ▶ **High costs** (several thousand USD)⁸³ and long delays (up to 6 months or more until recently) to obtain work and residence permits, combined with a large administrative burden to obtain the necessary permits. In addition, the permits are often only valid for a relatively short period of time.

⁷⁶ Anonymous informant #18, interviewed by Kevin Hempel, January 24, 2022

⁷⁷ Anonymous informant #17, interviewed by Kevin Hempel, January 20, 2022

⁷⁸ Anonymous informant #19, interviewed by Kevin Hempel, January 21, 2022

⁷⁹ Anonymous informant #7, interviewed by Kevin Hempel, January 13, 2022

⁸⁰ Anonymous informant #21, interviewed by Kevin Hempel, February 21, 2022; Anonymous informant #18, interviewed by Kevin Hempel, January 24, 2022; Anonymous informant #33, interviewed by Kevin Hempel, March 8, 2022; and Anonymous informant #19, interviewed by Kevin Hempel, January 21, 2022

⁸¹ Anonymous informant #33, interviewed by Kevin Hempel, March 8, 2022

⁸² Anonymous informant #18, interviewed by Kevin Hempel, January 24, 2022

⁸³ Work permits: 500-1000 USD (regardless of citizenship); Residence permit: 2050,- USD (550, for East Africans) for employees and 3050,- USD (1550,- for East Africans) for investors or self-employed. (United Republic of Tanzania Investment Centre 2018; United Republic of Tanzania Prime Minister's Office 2019)

- ▶ **Restrictions to the free movement** of workers in the subregion, whereby no permits are usually granted in certain professions⁸⁴ for which workers are deemed available locally and requiring firms to prove that no locals are available for the jobs they are planning to fill.
- ▶ **Restrictive local content** principle requiring employers to hire ten locals for each foreigner when making bulk recruitments and ensuring knowledge transfer to local staff. Enforcement appears to have been mixed, with stricter rules in some sectors (for example, mining) than in others (for example, tourism).⁸⁵

However, stakeholders also recognize that there have been recent improvements. For instance, thanks to the digitalization of the application process for residence and work permits⁸⁶ the overall processing time has been shortened from several months to often less than one week.⁸⁷ In addition, the amendment of the Non-citizens Act in 2021 allows for work permits to be extended for up to eight years after they were originally issued and for investors to employ up to ten non-citizens (rather than five) during the initial period of investment outside the conditions of the Act (Clyde and Co 2021). While one representative of an employer association therefore suggested that work permits may no longer be a major constraint for employers⁸⁸, others indicate that fees are still too high especially for smaller companies.⁸⁹

ENGAGEMENT IN POLICY DIALOGUE

EOs, and in particular the ATE, appear to be very active in national and regional social dialogue, with sector-level employer organizations partly working through ATE (and TPSF) to engage in relevant policy discussions.

At regional level, employer representatives are actively engaged in the context of meetings by EAC, SADC and bilateral (labour) agreements between United Republic of Tanzania and other countries.⁹⁰ Employers seem to have successfully influenced the EAC Labour Migration Policy, SADC Labour migration protocol and economic partnership agreements, often in partnership with trade union representatives from TUCTA and EATUC.⁹¹ Indeed, collaboration between employers' and workers' representatives appears to be quite strong and both sides generally push in the same direction⁹². Major topics of discussion in the past have been related to work permits and (portability of) social security.

At national level, employer representatives are engaged in exchange with the Ministry of Labour (main counterpart) and the Ministry of Home Affairs (Immigration Department) and do generally perceive that they are being consulted.⁹³ Indeed, recent lobbying by the business community is said to have led to several successes, such as changes to the law on non-citizen employment (for example, longer permits), administrative improvements to request work and residence permits through online system (thus reducing delays) and a reduction of work permit fees (The East African 2021). Despite these successes, there is also a recognition that the private sector voice on labour migration issues can sometimes be weak due to the political sensitivity of the topic and the fact that it only concerns a small share of the business community.⁹⁴

⁸⁴ For instance, occupations such as nurse, waiter, many teacher profiles, junior accountant, etc. (Anonymous informant #13, interviewed by Kevin Hempel, February 2, 2022)

⁸⁵ Anonymous informant #18, interviewed by Kevin Hempel, January 24, 2022

⁸⁶ Applications are now done through the Online Work Permit Application and Issuance System (OWAIS).

⁸⁷ Anonymous informant #18, interviewed by Kevin Hempel, January 24, 2022

⁸⁸ Anonymous informant #16, interviewed by Kevin Hempel, February 9, 2022

⁸⁹ Anonymous informant #18, interviewed by Kevin Hempel, January 24, 2022

⁹⁰ For instance, with GCC countries on domestic workers or with Kenya on the portability of social security (Anonymous informant #34, interviewed by Kevin Hempel, March 8, 2022.)

⁹¹ Anonymous informant #16, interviewed by Kevin Hempel, February 9, 2022; Anonymous informant #20, interviewed by Kevin Hempel, February 15, 2022; and Anonymous informant #13, interviewed by Kevin Hempel, February 2, 2022

⁹² Anonymous informant #16, interviewed by Kevin Hempel, February 9, 2022; Anonymous informant #20, interviewed by Kevin Hempel, February 15, 2022; and Anonymous informant #13, interviewed by Kevin Hempel, February 2, 2022

⁹³ Anonymous informant #16, interviewed by Kevin Hempel, February 9, 2022

⁹⁴ Anonymous informant #33, interviewed by Kevin Hempel, March 8, 2022

Consultations with employers at national level take place through various official and ad-hoc channels (with varying degrees of inclusiveness), such as Ministerial dialogue formats, invitations to specific meetings, requests for written inputs on policy documents, and parliamentary committees.⁹⁵ There is also a Labour Economic and Social Council (tripartite national structure) where consultations take place before laws go to parliament (for example, in the context of a new mining law a few years ago)⁹⁶ as well as the United Republic of Tanzania National Business Council that meets twice per year (chaired by the President).

KEY TAKEAWAYS

The paucity of official labour market statistics impedes a more nuanced understanding of the labour force participation of migrant workers in United Republic of Tanzania. However, anecdotal evidence suggests that migrant workers are employed in a broad range of sectors and occupations, across all skill levels, both formally and informally. Despite multiple policy processes at regional level to facilitate labour migration, hiring migrant workers in United Republic of Tanzania through regular channels has remained expensive and difficult in the past. Employer representatives are already active in regional and national policy dialogue, which has led to recent improvements on obtaining work permits. While official employer perceptions tend to capture the benefits and challenges related to legal labour migration, it is important to note that a large share of migrant workers, especially those from neighbouring countries working in low-skilled occupations, is employed informally. The lack of locally available skills for medium and high-skilled occupations is a key driver for employers to hire migrant workers, highlighting that as long as the local education and training system does not meet the needs of the labour market, companies will continue to look at labour migration to close this gap.

COUNTRY REPORT #3: UGANDA

Uganda is a landlocked, lower middle-income country bordered to the east by Kenya, to the north by South Sudan, to the west by the DRC, to the south-west by Rwanda, and to the south by United Republic of Tanzania. With an estimated population of 48,2 million in 2022, and an annual population growth rate of 3.3 per cent, Uganda has one of the youngest and most rapidly growing populations in the world. Although 45 per cent of the workforce is economically inactive, Uganda's rapid population growth creates pressure on job creation. Most workers end in informal, low-productive, and precarious low-paid occupations (Andersen and Lyboek 2019). Youth employment is another pressing issue: About 700,000 young people reach working age every year in Uganda, but the economy creates only 75,000 new jobs annually (IGAD and ILO 2021). This results in a critical youth employment challenge that is aggravated by an education system that provides youth with only seven years of schooling on average, exacerbating huge challenges of developing a workforce equipped for employment at home or abroad.

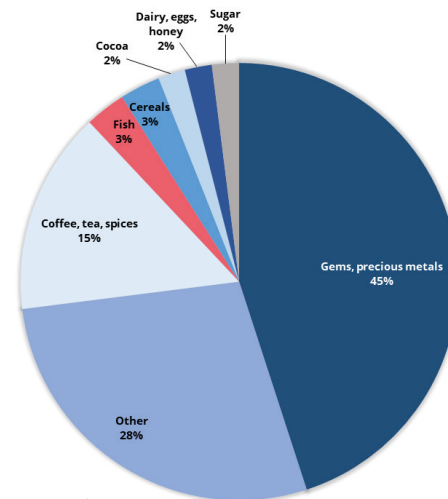
⁹⁵ Anonymous informant #33, interviewed by Kevin Hempel, March 8, 2022

⁹⁶ Anonymous informant #20, interviewed by Kevin Hempel, February 15, 2022

UGANDA'S ECONOMY AT A GLANCE

Uganda's economy is dominated by Agriculture, forestry and fishing which generated in 2020 24.8 per cent of GDP and a staggering 72.1 per cent of all employment. Other relevant economic activities include wholesale and retail (GDP 9.3 per cent / EMP 8.9 per cent); manufacturing (GDP 16.3.7 per cent / EMP 3.9 per cent); transport, storage and communication (GDP 5.6 per cent / EMP 2.2 per cent); education (GDP 8.9 per cent / EMP 2.8 per cent) and construction (GDP 6.6 per cent / EMP 2.1 per cent) The majority of the labour force is self-employed (86 per cent) (ILO 2013)

Figure 7: Uganda's top exports (2020)



Source: Workman 2020b

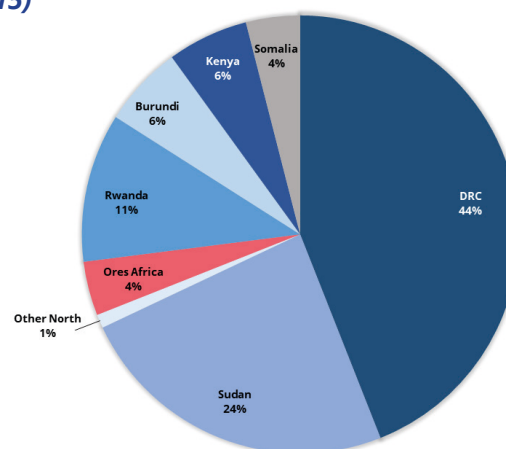
whilst employer's constitute just over 3 per cent of the total employment (Andersen and Lyboek 2019). Given recent oil discoveries in Uganda, the oil and gas sector is expected to increase its contributions to Uganda's economy in the coming years and will attract presumably highly-skilled labour migrants to the country (Maastricht Graduate School of Governance 2017b).

Uganda's main exported goods are gold, followed by coffee, tea, spices, cereals, milk, and fish (UBOS 2021) of which more than half are sold to the United Arab Emirates (58 per cent) and 9 per cent to Kenya.

KEY LABOUR MIGRATION TRENDS

Uganda has had a negative net migration rate since 1993. From 2012, 150,000 more people migrated out of than into Uganda which makes Uganda the 12th highest emigrant country for high-skilled expatriates in OECD countries. Uganda receives higher personal remittances as a share of GDP than the sub-Saharan Africa average (4 per cent) (Danish Trade Union Development Agency, 2019)

Figure 8: Origins of international migrants in Uganda (2015)



Source: Maastricht Graduate School of Governance 2017b

International migrants constitute 3.9 per cent of the population in Uganda out of which, 80 per cent are refugees from South Sudan and the Democratic Republic

of Congo (UN DESA 2019b). These numbers make Uganda the largest refugee-hosting country in Africa.

In addition to being a destination country for displaced populations, Uganda is also an important source and transit region for human trafficking. Although the country has taken provisions to suppress and punish such crimes, women and children are often smuggled into the country and become victims of forced labour and prostitution. Internal migration from rural to urban areas has increased over the past years as a result of environmental degradation that caused a significant decline in agricultural yields.

Despite being collected, data about the extent to which migrant workers participate in Uganda's labour market in general or in specific economic sectors is not publicly available.⁹⁷ Informal employment, which constitutes 87 per cent of total employment (outside agriculture), and the irregular status of many migrants make it difficult to grasp the profile of migrant workers in Uganda (UBOS 2019; ILO 2013). In addition, there are migrant workers in Uganda who work under the guise of being Ugandans. These migrant workers enter Uganda from neighbouring countries, and due to similarities in language, ethnicity, and other aspects, are able to work in Uganda as Ugandans (ILO 2020a). However, non-representative findings from interviews with key stakeholder in Uganda suggest a highly heterogeneous labour force participation, whereby migrants are employed in a broad range of sectors and occupations, across all skill levels, both formally and informally (see Table 6).

Table 6: Overview of migrant workers by sector

Sector	Sub-sector	Country of origin	Occupation	Migration Status	Skills level
Agriculture	Coffee	Burundi, DRC	Harvesting	Refugee, irregular, cross-border	Low
	Fishery	DRC	Raising, harvesting, and selling fish	Refugee	Low
	Flower	Europe	Investors, managers	Regular	High
	Sugar cane	South Sudan	Harvesting	Refugee	Low
		Brazil, India	Sugar engineers	Regular	High
	Tea	Burundi, DRC	Packing	Irregular, cross-border	Low
Services	Beauty services	DRC, South Sudan	Hairdresser	Refugee	Semi
	Finance	Nigeria	Bankers	Regular	High
	Hospitality	Ethiopia, Kenya, South Africa	General managers,	Regular	High
	Logistics	Kenya, Somalia	Truck drivers	Regular	Semi

⁹⁷ The National Population and Housing Census 2014, the National Household Survey 2017, and the National Labour Force Survey 2016/17 include questions on international migration, among others "What is (NAME)'s ethnicity? If non-Ugandan write code of country of citizenship."

Table 6: Overview of migrant workers by sector

Sector	Sub-sector	Country of origin	Occupation	Migration Status	Skills level
Services	Restaurants	South Sudanese	Waiters	Irregular, cross-border	Low
	Telecommunications	India, South Africa	General managers,	Regular	High
Industry	Construction	China, India	Investors, managers	Regular	High
	Gold mining	Burundi, DRC, Rwanda, United Republic of Tanzania	Artisanal and small-scale miners	Irregular	Low
	Textile	DRC, South Sudan	Tailors	Refugee	Semi

Source: Stakeholder interviews

Given that Uganda grants refugees almost full access to the labour market, ***“they tend to be employed in whatever sector is providing opportunities”*** as one EO representative confirmed.⁹⁸ At the same time, Uganda hosts a sizeable number of regular labour migrants who may work in the same sector as refugees or irregular migrants, but at different occupational and skill levels.

Agriculture is a popular sector for irregular and cross-border migrant workers who work in Uganda’s tea, coffee, and sugar plantations during the harvesting season when labour demand for unskilled workers peaks. As one stakeholder explained: ***“We have acute shortage of labour at the tea packing stage. To be able to supply quality tea at competitive prices into the export market, we do hand packing – machine packing yields lower quality. During the harvesting season we have a high demand for labour, and we have to engage seasonal workers.”*** These are typically casual workers who come from Rwanda and the DRC. In the sugarcane industry, seasonal, casual workers are predominantly recruited from Northern Uganda and may include internal migrant workers as well as South Sudanese refugees. In addition, the sugarcane industry employs several regular, high-skilled migrant workers, for example sugar engineers from Brazil and India as well as accountants from South Africa who work in industrial sugar mills. Uganda’s horticulture sector appears to attract European investors who are regular migrant workers and manage larger farms. Finally, Uganda’s fishery sector has become increasingly regulated in recent years but still offers income generating activities for artisanal fishers who are refugees from the DRC.

The **service** sector offers ample employment opportunities to migrant workers and international migrants alike across a wide spectrum of economic activities. The hospitality sector is a prominent employer of high-skilled, regular migrant workers from Ethiopia, Kenya and South Africa who take up managerial and supervisory positions. Low-skilled activities such as beauty and restaurant services are popular income generating activities for refugees from the DRC, South Sudan and beyond. Given the prevalence of Nigerian banks in Uganda, the financial sector in Uganda is host to several high-skilled and regular working bankers from Nigeria. The telecommunications sector

⁹⁸ Anonymous informant #22, interviewed by Julian Schweitzer, January 12, 2022

employs high-skilled regular migrant workers from India and South Africa in managerial positions. Finally, the logistics and transport sector appear to feature a significant number of semi-skilled truck drivers from Somalia and Kenya who have entered the country through regular channels.

The **industry** sector in Uganda attracts foreign investors – in particular the construction sector which is driven by companies from China and India. These investors typically bring a sizable proportion of their workforce from their countries of origin, mostly for high-skilled work. Uganda’s mining sector is dominated by multi-national companies who require high-skilled engineers from abroad. At the same time, artisanal mining, in particular goldmining, remains an important livelihood activity for many households and has attracted irregular cross-border workers from Burundi, DRC, Rwanda, and United Republic of Tanzania.

LABOUR MIGRATION POLICY AND PRACTICES

Uganda promotes labour mobility and free movement at regional level in the COMESA, EAC and IGAD and has partially ratified the COMESA 1984 *“Protocol on the Gradual Relaxation and Eventual Elimination of Visa Requirements”*, fully ratified the 2010 EAC-CMP and publicly expressed its support for the 2021 IGAD-FMP. Over the past years, Uganda has taken significant steps to ease visa restrictions for citizens of other African countries and is now considered to be *“the most open country in the region [East Africa] and 3rd in Africa to Africans visiting and seeking opportunities”* (Okello 2019). Moreover, Uganda has an open-door policy for refugees and provides some 550,00 forcibly displaced persons from over 13 countries with land and access to the labour market.

Despite its openness towards international migrants, Uganda lacks ratification of important normative and legal frameworks related to labour migration. As of 2022, Uganda has ratified only one of the four ILO International Labour Standards on labour migration governance and the protection of migrant workers, namely the Migrants Workers Convention 1975 (No.143). Moreover, Uganda has not established a labour migration policy and the development of its migration policy (which includes a section on labour migration) has been stalled since 2012. As of today, government initiatives related to labour migration have focused almost exclusively on the externalization of labour through concluding BLAs with countries in the Middle East including Jordan, Saudi Arabia, and the United Arab Emirates. Additional BLAs with Bahrain, Kuwait, Oman, and Qatar are in progress (IGAD and ILO 2021). Public and political scandals resulting from abuses of Ugandan migrant workers and the repatriation of the bodies of Ugandan workers who died in the Middle East, have heightened the attention of policy makers and civil society concerning the human rights and decent work protection of Uganda’s migrant workers. In addition, the outflow of qualified Ugandan doctors and nurses is a concern, which has pushed the government to look for foreign health professional from countries such as Cuba, the United Kingdom, India, and China (ILO 2020b; IOM 2013; Andersen and Lyboek 2019).

Over the past five years, efforts have been made with support from the IOM and the ILO to develop legislation that covers both migrants from Uganda and migrants coming into Uganda. A recent attempt to develop a stand-alone labour migration policy has proven to be inconclusive. After

having conducted a regulatory impact assessment in 2021 of the proposed labour migration policy, it was recommended to instead mainstream labour migration into the upcoming migration policy. No further action has been taken and at the time of writing this report, and the current state and direction of the policy development process is unclear⁹⁹. The lack of a clear national policy to regulate labour mobility and governance in Uganda is a critical bottleneck. As one stakeholder from Uganda argued: *“The whole problem starts with the national policy framework – we don’t have one, we are handling it on an ad-hoc basis.”*¹⁰⁰ Indeed, the government approach to labour migration appears to be missing in Uganda: Currently, the Ministry of Gender, Labour, and Social Development (MGLSD) is primarily responsible for overseeing the external employment of Ugandan labour migrants, the Ministry of Education is responsible for developing skills recognition frameworks, the Ministry of Internal Affairs (MIA) is responsible for issuing work permits to regular in-coming labour migrants and for shaping Uganda’s refugee policy, and the Ministry of Foreign Affairs (MFA) is responsible for BLAs and diaspora engagement. The multitude of Ministries involved in governing labour migration in Uganda not only risks creating inefficiencies, but also makes it difficult for employers’ organizations and IOs to find a seat at the table and to lobby for and support labour mobility in Uganda effectively.

In the absence of a national (labour) migration policy framework, migrants are currently covered by Uganda’s national labour law that covers regular migrants and prevents discrimination in terms of access to trade unions and work conditions. Migrant workers also have access to the Industrial Court of Uganda and the Tribunal of the Equal Opportunities Commission as well as to various bodies for the acknowledgment of their skills and qualifications (ILO 2020b). However, reports point out that, in practice, compliance with international norms and standards is weak and mutual recognition mechanisms do not often work well (IOM 2015a; ILO 2020b). This is, for example, the case for trade union rights which are often violated by employers with anti-union sentiments (Andersen and Lyboek 2019). This gap between theory and practice is also apparent at the level of the EAC. While migration from EAC Member States is anchored in the treaties and protocols of the COMESA, EAC and IGAD, the harmonization of national law has been sluggish and several practical barriers to labour mobility remain in place. For example, work permits are tied to employers, their costs are high and non-refundable in case the employer - migrant worker relationship ends prematurely, the processing time takes several weeks, and permits are only granted if the employer can successfully prove that it was not possible to find local workers who meet the job requirements. Employers are also required to train a Ugandan to fill the position afterwards and to provide proof of training to the authorities. Permit extensions are only possible if they are considered beneficial to the country and if it is still not possible to find local talent to fill the position. However, despite these barriers, employer’s organizations rank the ease of hiring foreign labour in Uganda high (Andersen and Lyboek 2019). Moreover, efforts are currently underway to digitize work permit applications and other business-related services through eBiz; a one-stop-shop electronic business portal hosted by the Uganda Investment Authority (Uganda Investment Authority 2020).

In addition to actively promoting the externalization of labour, Uganda has also increased efforts to benefit from a *“brain-gain”* effect and to promote the involvement of the diaspora in the development of the country. The diaspora services department, of the MFA has launched initiatives that include among others (1) the development of a national diaspora policy, (2) the promotion of public-private partnerships with the diaspora to develop Uganda’s energy, road and railway

⁹⁹ Anonymous informant #23, interviewed by Julian Schweitzer, February 8, 2022; and Anonymous informant #37, interviewed by Julian Schweitzer, March 10, 2022

¹⁰⁰ Anonymous informant #30, interviewed by Julian Schweitzer, March 8, 2022

sectors, (3) the creation of an investment opportunities compendium, and (4) the organization of annual diaspora networking events in Uganda and abroad including the “Home is Best Summit” and the “Uganda Conventions”. As of 2022, it is too early to evaluate the impact of these initiatives and, as a representative of an IO noted, *“the government needs to do more profiling of the diaspora, currently they don’t have an estimation of their diaspora, nor do they know their interest to engage with the country. Our organization is trying to help to build trust with diaspora, this is potentially a big gain for the country, it is an ongoing initiative.”*¹⁰¹

In recent years, the Ugandan employers and workers have increased their involvement in labour migration policy. Among the numerous employer and business associations active in Uganda, the FUE is the leading voice on labour and migration related issues both locally and internationally. The FUE has members that are foreign companies to which it disseminates information on labour law and labour mobility. The FUE’s counterpart, the National Organization of Trade Unions (NOTU), represents workers’ interests in Uganda, though (irregular) migrants are generally reluctant to join unions. Both organizations are also active at the regional, continental, and international level. The FUE is affiliated to the EAEO, CIE, Business Africa, the IOE and ILO. The NOTU is a member of the EATUC, the HACTU, the African Regional Organization of the International Trade Union Confederation and the ILO. The Uganda Association of External Recruitment Agencies (UAERA) is an umbrella of agencies professionally working together to spur growth of external recruitment in Uganda. UAERA regulates and monitors the activities of member agencies together with the MGLSD. IOs, most notably the IOM, ILO and United Nations Development Programme (UNDP) support the Ugandan government and civil society to improve labour migration policy and practices in Uganda through different projects and policy initiatives.

EMPLOYERS’ PERSPECTIVES ON LABOUR MIGRATION

RATIONALE FOR HIRING MIGRANT WORKERS

The motivation of Ugandan employers to hire migrant workers is threefold. First, employers want to have the right set of skills available at the right moment in time. This is especially relevant in the context of Uganda where the labour market is characterized by significant skills shortages and low labour productivity, which indicates an overall mismatch between labour demand and the national education system (ILO 2013; Andersen and Lyboek 2019). Reform of the national qualifications framework is underway and has been a key advocacy point for Ugandan employers for several years (Employers’ organizations from East, Central, and Southern Africa 2017). This is, however, a medium to long-term process. In the meantime, and until the mismatch has been addressed, employers need to rely on migrant workers who can provide the right set of skills and qualifications today.

Secondly, employers recognise that migrant workers can contribute to the up skilling of local workers through on the job training and skills transfer. Indeed, succession planning is a pre-requisite of the work permit application process in Uganda, and employers must take steps to replace migrant workers with local workers at the end of their assignment. A representative of the tourism sector, which is dominated in Uganda by high-skilled migrant workers that fill managerial

¹⁰¹ Anonymous informant #23, interviewed by Julian Schweitzer, February 8, 2022

positions, acknowledged that *“there are now deliberate efforts to reduce the number of expatriates. Previously [...], they came, worked, and left and after 10 years there has been no skills transfer. Today, when we do get expatriate manpower, there must be a deliberate training effort, we are still long way from reality – this deliberate effort is not yet out into law, but it is only fair and right. There must be a balance and expatriate workers must give back to local community and contribute to the system.”*¹⁰²

Finally, employers in Uganda appreciate migrant workers not only for their important technical skills, but also for their attitude and work ethic. Employers’ representatives highlighted that the *“skills and competencies [of migrant workers], are relative, it has more to do with the mindset.”*¹⁰³ Especially, low-skilled migrant workers who entered Uganda as a refugee and/or irregularly are valued for their adaptability and motivation. An employers’ representative explained that *“Uganda is home to a big number of refugees but there is not much stigma. We will even forget that they are not from the same community – I am impressed by their attitude, determination, and ambition.”*¹⁰⁴ Another employer highlighted that migrant workers’ take up jobs that local workers do not want to do: *“They bring talent, are more productive, and fill labour shortages in agriculture, especially during the seasonal labour demand. This is low paid labour that nationals don’t want to do, and we suffer from high-skill shortages.”*¹⁰⁵

MIGRANTS AS TRADING PARTNERS AND CUSTOMERS

In addition to the benefits that migrant workers can bring to the Ugandan workforce, employers’ also see migrant communities as an emerging segment of the domestic market for trade and sales. As one employers’ representative highlighted: *“we can absorb them in workforce [...] or we can engage them in the value chains. Our firms need inputs, for example sesame, sunflower seeds, and so on, they can include migrants in their supply chain and source from them. Some of our members use aggregation models to enable an area to supply the required quantities.”*¹⁰⁶ In addition, employers see that *“there is a very vibrant economic system in refugee settlement areas. Several refugees are also coming on board as agents and runners of retail outlets – these are channels for distribution of manufacturing products and provide opportunities to push down to the last mile.”*¹⁰⁷

CHALLENGES OF HIRING AND EMPLOYING MIGRANT WORKERS

Employers highlight a multitude of challenges that they are facing when hiring and employing migrant workers. Most of these are connected to the specific characteristics of migrant workers with refugee status and of irregular cross-border migrants.

The recognition of skills and language proficiency emerged as a key challenge to the hiring of refugee and irregular migrant workers. One employers’ representative explained that *“many immigrants are refugees who had to leave their countries in a big hurry and were unable to carry proof of skills.”*¹⁰⁸ Upon arrival in Uganda, it is therefore extremely difficult to determine the level of skills and qualifications that these workers hold. A further complicating factor is the heterogeneity of official and tribal languages in Uganda and within its neighbouring countries: *“Uganda alone has 48 languages, now add to that the languages from the areas around us, the low levels of literacy, and low levels of homogeneity of national languages, this makes it difficult to communicate, even if the right skills have been found. For example, you get somebody from DRC who speaks, Swahili and*

¹⁰⁶ Anonymous informant #22, interviewed by Julian Schweitzer, January 12, 2022

¹⁰⁷ Anonymous informant #22, interviewed by Julian Schweitzer, January 12, 2022

¹⁰⁸ Anonymous informant #22, interviewed by Julian Schweitzer, January 12, 2022

*French – how do you communicate with these workers? They need English and local languages in manufacturing to understand clearly the instructions for OSH [occupational safety and health] and producing. Otherwise, that comes back to bite you as an employer.”¹⁰⁹ In the absence of targeted language and integration services, refugees and irregular migrant workers are often unable to integrate into the labour market quickly: *“the first years are typically spent to acclimatize and learn languages, along the way, the skills are hampered or become forgotten.”¹¹⁰**

A challenge that appears relevant for migrant workers with regular, refugee or irregular status alike, is that of integration and poor mental health. A private employer highlighted “loneliness” as a common problem among all migrant workers and emphasized that poor mental health can in turn result in negative social behaviour and ultimately undermine productivity in the workplace. Especially, young male irregular workers in the agriculture sector are at risk of alcohol or drug abuse. *“Loneliness is a big challenge in a remote location, you either get a women or wine. In our colonies, we put up football and volleyball pitches. We also started to do some dialogues and social activities. While we do all these things, we still have to let go of 8 per cent of our workers.”¹¹¹ The same challenge, albeit to a lesser extent, appears to apply to regular, high-skilled workers. Overall, a private employer emphasized that *“one of our biggest problems is the absenteeism of migrant workers - it affects business performance.”¹¹²**

PROTECTION OF MIGRANT WORKERS AND SUPPLY CHAIN COMPLIANCE

Private employers in the agricultural sector highlighted the difficulty of providing adequate working conditions to the large number of migrant workers that are hired each year on a casual basis to support the harvesting season. Especially in the tea, maize and sugar cane farms, employers rely on irregular and cross-border workers to bridge labour shortages. As one private employer explained: *“Many workers we use in packing of teas are undocumented. I would love to be very sure about the kind of labour we are getting and where they are coming from. In event of tragic incidents, sickness, or accidents, it becomes very difficult to repatriate their bodies. This is one of the biggest challenges.”¹¹³ During interviews, employers expressed their concern about these informal hiring practices and the consequences this may have for the protection of workers and for the compliance requirements of their businesses. Some employers highlighted that they are *“a certified producer with the fair-trade organization [...] and with rainforest alliance. In all of those standards, everything that has to do with labour is there – these organizations do demand protection.”¹¹⁴ Employers noted that they had tried to raise the issue of irregular migrant workers in agriculture with the authorities, but given the casual employment model, no solution was found.**

PERCEPTIONS OF REGULATORY FRAMEWORK

When discussing labour migration governance in Uganda, employers seem to focus primarily on policy and practices related to work permits. Overall, the ways in which employers understand and manage labour migration appears to correlate with enterprise size.

A key concern among employers are the costs, and the administrative process, of work permits in Uganda. A representative of a multi-national company in Uganda remarked that *“compared to neighbouring countries, the costs of work permits are huge in Uganda - it is 2,500 USD annually, in Kenya it is 500 USD and in Rwanda 350 USD.”¹¹⁵ In theory, employers could cut costs by applying*

¹⁰⁹ Anonymous informant #22, interviewed by Julian Schweitzer, January 12, 2022

¹¹⁰ Anonymous informant #22, interviewed by Julian Schweitzer, January 12, 2022

¹¹¹ Anonymous informant #35, interviewed by Julian Schweitzer, March 4, 2022

¹¹² Anonymous informant #35, interviewed by Julian Schweitzer, March 4, 2022

¹¹³ Anonymous informant #25, interviewed by Julian Schweitzer, February 24, 2022

¹¹⁴ Anonymous informant #25, interviewed by Julian Schweitzer, February 24, 2022

¹¹⁵ Anonymous informant #35, interviewed by Julian Schweitzer, March 4, 2022

for a discounted three year-long work permit. However, if the employment relationship between employer and migrant workers ends prematurely, these costs are not refundable which is a point of critique among employers: *“You have the option to apply for three years... but as an employer I don’t do that. They don’t give us any credit if the expatriate leaves earlier, for this reason we don’t apply for three years, there is no credit given.”*¹¹⁶ In addition to the work permit fees, employers must also shoulder expenses for salary, housing, insurance, and annual home leave of migrant workers. These combined costs, make it *“in practice unaffordable for smaller enterprises to hire migrant workers”* as one employers’ representative observed¹¹⁷.

Perspectives on the ease to apply for and obtain work permits diverge among employers. A representative of a multi-national company explained that *“the government is very efficient in processing the work permit. [...] For the past two years, work permits are made online, I can finish in 30 min online, automatically make the payment and get the invoice. [...] Out of 20 [applications], 19 are accepted.”*¹¹⁸ However, other employers of smaller enterprises reported to have difficulties to obtain work-permits for high-skilled workers from Kenya.¹¹⁹ Moreover, some employers criticize the application process as lengthy, untransparent, and poorly enforced: *“We have challenges with work permits [...]. It is a lengthy and bureaucratic process. Being a developing country, we have lots of security concerns and getting a work permit is really hard. [...] Not everyone who is employed has actually a work permit. It is not a straightforward process there are people along the chain, public and private, who benefit. The government should make it transparent.”*¹²⁰

ENGAGEMENT IN SOCIAL DIALOGUE

Employers’ organizations in Uganda, and their trade union counterparts, participate actively in social dialogue related to labour migration governance in Uganda. In February 2022, the UAERA and NOTU concluded a MoU which was witnessed by the FUE. Among others, the MoU foresees that (1) the NOTU and FUE support UAERA to be recognized by the government of Uganda as a sole association representing external recruiters, and (2) to create a partnership to promote decent work in external employment.

The FUE and NOTU engage in national tripartite consultations where labour migrations issue are discussed and participate in the national Labour Advisory Board to advise the MGLSD on labour-related affairs. However, the social partners are currently not included in the NCM, the government-led platform for national coordination on migration issues. Overall, employers find it challenging to engage with the Ugandan government on labour migration issues, not least because of the different ministries involved. One employers’ representative explained that it is overall *“really hard to find a place at the table way when labour migration is discussed – it is a sub sector that is not regulated. Do I talk to the Ministry of Labour - that is just for people who want to leave. Then, do I talk to the Ministry of Internal affairs? But there are so many sections, and they are not as efficient as they should be.”*¹²¹

KEY TAKEAWAYS

Uganda has a long-standing tradition of welcoming international migrants within its borders. Today, migrants with regular, irregular or refugee status participate across Uganda’s economy. However, despite its reputation for being the most “open country” in East Africa, the harmonization

¹¹⁶ Anonymous informant #35, interviewed by Julian Schweitzer, March 4, 2022

¹¹⁷ Anonymous informant #31, interviewed by Julian Schweitzer, March 3, 2022

¹¹⁸ Anonymous informant #35, interviewed by Julian Schweitzer, March 4, 2022

¹¹⁹ Anonymous informant #25, interviewed by Julian Schweitzer, February 24, 2022

¹²⁰ Anonymous informant #31, interviewed by Julian Schweitzer, March 3, 2022

¹²¹ Anonymous informant #31, interviewed by Julian Schweitzer, March 3, 2022

of the EAC-CMP and the IGAD-FMP is incomplete. Employers in Uganda highlight the criticality of migrant workers to bridge skills shortages in both, low-skill casual agricultural work during the tea, maize, and sugar-cane harvest, and in high-skill managerial roles in the hospitality, logistics, and banking sector. Employers are also aware of the challenges those migrant workers experience in Uganda with regards to language barriers, skills recognition, and mental health. Undocumented and irregular migrant workers in the agricultural sector are likely to face precarious working conditions which are a risk for the welfare of the individual worker as well as to the supply chain compliance of the employer. Finally, employers appear to have mixed views on the work permit application process for regular migrant workers. Whilst all employers agree that work permits are expensive and in practice, unaffordable for small enterprises, opinions on the extent to which the application process is transparent and efficient differ.

CONCLUSION

This synthesis report has shed light on (labour) migration governance in East Africa and, in particular, on how employers' organizations seek to shape labour migration policy at the regional and national level. The following lessons and key-takeaways summarize its main findings:

Labour migration policy in East Africa is complex and multi-layered. The AU, COMESA, EAC, IGAD and SADC promote labour mobility as a vehicle for regional integration through numerous free movement protocols, labour migration policies and action plans. However, in practice the implementation at country level of most of these initiatives has been sluggish and remains incomplete as of early 2022. This can be attributed to (1) political concerns and the perceived need to protect the labour market amid high domestic unemployment rates, (2) a lack of resources and undefined responsibilities among public servants to harmonise national laws with regional frameworks. Employers' organizations have tried to find a seat at the table to push for the full ratification of the protocols and to facilitate the harmonization of national law. However, especially the unclear and/or overlapping mandates among ministries impede employers' organizations from undertaking effective advocacy and lobbying. Overall, employers need clear, transparent, and efficient national immigration laws and policies that permit the movement of workers when and where they are needed. Overly complex and sometimes frequently changing systems hinder compliance with national laws and threaten labour market protections.

Widespread informality undermines effective labour migration governance. While the EAC-CMP and other protocols allow for free movement of highly-skilled workers across the region, the sheer size of the informal sector in East Africa – accounting for 70 to 80 per cent of employment – limits the role of existing formal labour legislation in regulating overall labour migration flows. Hence, even if East African countries would fully ratify and implement the free movement protocols, a large part of the foreign work force would continue to work informally and outside of national regulations. This creates a challenge for employers who appreciate level playing fields that foster healthy competition for talent and resources. The widespread informality may be partly explained by a simple lack of awareness of labour mobility regulatory frameworks among migrant workers and smaller employers. More information sharing combined with advocating for simple

and transparent administrative procedures, may be a prospective action area for employers' organizations.

Lack of proper data limits evidence-based policy dialogue. Evidence-based policy dialogue on labour migration requires quality data on the situation of migrant workers in national labour markets, in particular with regard to their sociodemographic profile (for example, countries of origin, level of education), the sectors and occupations in which they are working, and under what conditions (for example, formal or informal). Yet, this information is largely missing, or inaccessible, highlighting the need to (1) improve the collection of data through future labour force surveys and other efforts aimed at improving national Labour Market Information Systems, and (2) share the data and analysis with relevant stakeholder, including employers' organizations.

Policy makers in East Africa undervalue the contributions of migrant workers within their own territories. In the absence of robust labour market data of migrant workers, policy makers appear to be unaware of the benefits that labour immigrants can provide to their countries. Instead, policy makers focus largely on regulating labour emigration to the GCC States and beyond as a means to spur remittances and provide national low-skilled job seekers with economic opportunities abroad. However, labour externalisation does not address the interests and concerns of national employers who regard labour immigration as a means to balance labour supply and demand, to spread innovation and to transfer skills. More research, evidence and case studies might help employers' organizations to better communicate the positive contributions of labour immigrants towards national development objectives and to articulate the business case for labour mobility with policy makers.

Labour migration is intrinsically linked to other policy domains. Stakeholder interviews in the context of this report confirmed that, while policy dialogue at the regional level (AU, EAC and so on.) seeks to foster international mobility and has adopted a positive stance on labour migration, labour migration is often still seen more negatively by Governments at the country level. This contrasts with employer perspectives who look to labour migration to overcome local skills deficits. As education and training system reform take time, employers' demand for migrant workers is therefore unlikely to change in the near future. Hence, conducting future policy dialogue on labour migration also under the umbrella of skills development and other related policy areas (for example, private sector development) might present a window of opportunity. In this scenario, labour migration could be framed more positively as a solution to meet the private sector's current skills needs while education and training systems are being improved. This could be particularly relevant in countries where the topic of labour migration is politically sensitive and/or where there is limited demand for a self-standing policy framework on labour migration.

Anecdotal evidence suggests that irregular migrant workers in labour-intensive sectors such as agriculture, construction and artisanal mining face decent work deficits. This in turn creates compliance risks for businesses that are part of global supply chains. Given the labour requirements of the agricultural harvesting cycle, employers in the tea, tobacco, maize and sugar cane sectors need access to a readily available pool of seasonal workers. Currently, this labour demand is supplied by internal migrants as well as irregular cross-border workers who often work undocumented and with a high likelihood of facing work deficits. Similar working

conditions have been reported to occur in the construction and artisanal mining sectors. This not only creates protection risks for the individual workers, but also creates compliance risks for employers that are part of global supply chains. However, so long as the free movement protocols of the EAC and other RECs promote, exclusively, the mobility of high-skilled professions, employers in the agricultural sector will remain unable to fulfil their labour demands through regular labour migration channels. In addition, irregular migrants and refugees who engage in informal activities will continue to engage in informal work that is prone to decent work deficits.

Labour mobility and freedom of movement will become even more important topics in the near future. Labour migration and mobility will gain more momentum in the coming years as a result of the AfCFTA. The AU-FMP, one of the main instruments to bring AfCFTA to life, contains eleven labour migration-mobility related provisions which foresee among others the progressive abolition of visa requirements, the issuance of work permits, the mutual recognition of qualification, the portability of social security benefits and the transfer of remittances among Member States. Employer organizations can play a critical role in holding governments accountable to implement the protocol and to provide targeted advice to ensure that the harmonization process of national law is effective and conducive to national enterprises.

The involvement of employers' organizations in labour migration policy is imperative but constrained by a lack of resources and capacity. Promoting labour mobility is a complex process that requires long-term engagement and continuous advocacy efforts from employers' organizations to ensure that (1) Member States ratify protocols and (2) that the harmonization of domestic laws is effective and within the interests of their membership. At the same time, the political and economic landscape of East Africa and, indeed, the entire continent is rapidly transforming, and employer organizations will need to keep an eye on the horizon and anticipate the challenges and opportunities that initiatives such as the AfCFTA will bring about. To rise to this challenge, employers' organizations will need sustained and renewed support from the ILO, IOE, IOM and other international partners to strengthen their internal capacities, access critical resources and to enhance their knowledge and expertise. Critical areas of support will include a deepened engagement with the RECs and their organizational structures, technical advice to shape employer-favourable policy frameworks and up-to-date information in relation to the implementation of the AfCFTA. Finally, the promotion of peer-learning and knowledge exchange across the different regional employers' organizations offers a strategic opportunity to collect lessons learnt from other RECs. There is, for example, a lot that the CIE could learn from the EAEO experience. Indeed, as a representative of a regional employers' organization remarked: *"What is happening elsewhere, will sooner or later happen in East Africa. Unless we have experience sharing platforms, we will not move forward, we must collaborate with other regional employers' organizations."*¹²²

¹²² Anonymous informant #29, interviewed by Julian Schweitzer, March 3, 2022

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ANNEX 1: GLOSSARY

Term	Definition
International migrant	Anyone moving to another country with the intention of staying for a certain period of time – not, in other words, tourists or business visitors. It includes both permanent and temporary migrants with a valid residence permit or visa, asylum seekers, and undocumented migrants who do not belong to any of the three groups (OECD 2016).
International immigrant	International immigrant refers to any person who (a) enters a country by crossing the border; (b) was a usual resident of another country before entering, or who is not a usual resident of the country of destination when entering; and (c) is staying or intending to stay in the country of destination for at least one year (UNDESA, 2017b).
International emigrant	International emigrant refers to any person who (a) leaves a country by crossing the border; (b) was a usual resident of that country; and (c) is staying or intending to stay in another country or abroad for at least one year (UNDESA, 2017b).
Labour force	The Labour force comprises all people who are of working age (that is aged 15 or above) and are either employed or unemployed (that is not in employment, available and seeking employment) during a short reference period (that is the last seven days) (ILO, 2013).
Migrant worker	A person who migrates or who has migrated from one country to another with a view to being employed otherwise than on his own account and includes any person regularly admitted as a migrant worker (ILO 1975).
Mixed migration	Mixed migration refers to “cross-border movements of people, including refugees fleeing persecution and conflict, victims of trafficking and people seeking better lives and opportunities. Motivated to move by multiple factors, people engaged in mixed migration have different legal statuses, and face a variety of vulnerable situations. Although entitled to protection under international human rights law, they may often be exposed to multiple rights violations along their journey. Moreover, refugees and migrants travel along similar routes, using similar means of travel – often travelling irregularly and wholly or partially assisted by human smugglers. (Mixed Migration Centre, 2019)
Stock of international migrants	The Stock of international migrants comprises of all people who have changed their country of usual residence, that is to say, who have spent at least a year of their lives in a country other than the one in which they live at the time the data are gathered (UNDESA, 2017a).

ANNEX 2: KEY INFORMANT QUESTIONNAIRES

Four interview questionnaires have been used to ensure a coherent data collection process across the three target countries and per interviewee category.

QUESTIONNAIRE FOR EBMOs

OPENING

Q1: Please briefly introduce yourself, your organization, its origins, current activities, and membership base. Summarize how your organization is addressing labour migration

LABOUR MIGRATION TRENDS

Q2: In which (sub-) sectors /occupations do migrant workers work currently in [country]? What makes these sectors attractive for migrant workers?

Q3: What are the (sub-) sectors /occupations with the highest demand for migrant workers in [country]? What are the reasons for this demand (for example, unattractive work for national workers, brain drain, skills' shortages, and so on.)?

Q4: What is the typical socio-economic background of migrant workers in the respective (sub-) sectors? Namely, country of origin, gender, low/high skills, and regular/irregular migrant?

PERSPECTIVES ON LABOUR MIGRATION

Q5: From a business perspective, what are the challenges and opportunities that migrant workers bring to [country]?

Probing questions:

- ▶ **Q5a Labour mobility:** Can employers hire migrant workers easily (differences by origin, and so on.)? Which current rules are most problematic?
- ▶ **Q5b Responsible and fair recruitment:** Are migrant workers often being recruited with the help of Employment Agencies in the aforementioned sectors? If so, how can employers ensure fair recruitment of migrant workers?
- ▶ **Q5c Skills shortages and skills development:** Do employers face skills-related challenges when seeking to hire migrant workers (for example recognition of foreign degrees, language, and so on.)?
- ▶ **Q5d Human rights due diligence:** Do employers in [country] face external pressure (for example, through trading partners, regulatory authorities, civil society, and so on.) to report on measures that mitigate human rights risks for migrant workers in their business/supply chain (for example occupational safety & health standards, living wage, working time, no forced labour, and so on.)? Are you aware of any good practices how companies ensure decent working conditions for migrant workers?

SOCIAL DIALOGUE AND OTHER COLLABORATION

Q6: How are government, employers and workers organizations addressing labour migration (for example advocacy work related to work permits)? What are the areas of agreement and disagreement (with governments and/or worker organizations)?

Q7: What are the key policies related to labour migration in [country]? What ministry/ies are responsible for drafting the policies? To what extent are these policies coherent and enforced? Were employers consulted in the drafting of these policies?

PRIORITIES

Q8: In your view, what are the three top priorities to help employers benefit from labour migration?

CLOSING

Q9: Is there anything else that you would like to add? Is there anybody else who we should speak with?

QUESTIONNAIRE FOR PRIVATE EMPLOYERS

OPENING

Q1: Please briefly introduce yourself, your business, and its main activities. Summarize your business' experience with migrant workers.

LABOUR MIGRATION TRENDS

Q2: Do you employ any migrant workers? If so, in what positions? Do your suppliers / customers employ any migrant workers? If so, in what positions?

Q3: Are there any positions in your business that you prefer to fill with migrant workers rather than nationals? If so, which ones and why?

Q4: What is the typical socio-economic background of migrant workers in your business? Namely, country of origin, gender, low/high skills, and so on.?

PERSPECTIVES ON LABOUR MIGRATION

Q5: What are the challenges and opportunities that migrant workers bring to your business?

Probing questions:

- ▶ **Q5a Labour mobility:** Can you easily hire migrant workers?
- ▶ **Q5b Responsible and fair recruitment:** Have you taken any steps to establish fair recruitment practices of migrant workers and to make your workplace inclusive?
- ▶ **Q5c Skills shortages and skills development:** Can migrant workers help your business to overcome skills shortages?

- ▶ **Q5d Human rights due diligence:** Do your company face external pressure (for example, through trading partners, regulatory authorities, civil society, and so on.) to report on measures that mitigate human rights risks for migrant workers in your business/supply chain (for example occupational safety & health standards, living wage, working time, no forced labour, and so on.)? How does your company ensure decent working conditions for its migrant workers?

PRIORITIES

- Q6:** In your view, what are the three top priorities that would help your business benefit from labour migration?

CLOSING

- Q7:** Is there anything else that you would like to add? Is there anybody else who we should speak with?

QUESTIONNAIRE FOR TRADE UNIONS

OPENING

- Q1:** Please briefly introduce yourself, your organization, its origins, current activities, and membership base. Summarize how your organization is addressing labour migration

LABOUR MIGRATION TRENDS

- Q2:** In which (sub-) sectors /occupations do migrant workers work currently in [country]? What makes these sectors attractive for migrant workers?
- Q3:** What are the working conditions for migrant workers in these sectors / occupations in [country]? Are they different than for national workers?
- Q4:** What is the typical socio-economic background of migrant workers in the respective (sub-) sectors? Namely, country of origin, gender, low/high skills, and regular/irregular migrant?

PERSPECTIVES ON LABOUR MIGRATION

- Q5:** From a workers perspective, what are the challenges and opportunities that migrant workers bring to [country]?

Probing questions:

- ▶ **Q5a Labour mobility:** Can migrant workers easily access the labour market?
- ▶ **Q5b Responsible and fair recruitment:** Are migrant workers often being recruited with the help of Employment Agencies in the aforementioned sectors? If so, how can employers ensure fair recruitment of migrant workers?
- ▶ **Q5c Skills shortages and skills development:** Do national workers and migrant workers have different or comparable skills and qualifications?

- ▶ **Q5d Human rights due diligence:** Do employers in [country] face external pressure (for example, through trading partners, regulatory authorities, civil society, and so on.) to report on measures that mitigate human rights risks for migrant workers in their business/supply chain (for example, occupational safety & health standards, living wage, working time, no forced labour, and so on.)? Are you aware of any good practices how companies ensure decent working conditions for migrant workers?

SOCIAL DIALOGUE AND OTHER COLLABORATION

- Q6:** How are government, employers and workers organizations addressing labour migration (for example, advocacy work related to work permits)? What are the areas of agreement and disagreement (with governments and/or worker organizations)?
- Q7:** What are the key policies related to labour migration in [country]? What ministry/ies are responsible for drafting the policies? To what extent are these policies coherent and enforced? Were workers consulted in the drafting of these policies?

PRIORITIES

- Q8:** In your view, what are the three top priorities to make labour migration in [country] safe, fair, and productive?

CLOSING

- Q9:** Is there anything else that you would like to add? Is there anybody else who we should speak with?

QUESTIONNAIRE FOR GOVERNMENT

OPENING

- Q1:** Please briefly introduce yourself, your organization, its origins, its mandate and current activities. Summarize how your organization is addressing labour migration

LABOUR MIGRATION TRENDS

- Q2:** In which (sub-) sectors/occupations do migrant workers work currently in [country]? What makes these sectors attractive for migrant workers?
- Q3:** What are the sectors/occupations with the highest demand for migrant workers in [country]? What are the reasons for this demand (for example, unattractive work for national worker, brain drain, skills' shortages, and so on.)?
- Q4:** What is the typical socio-economic background of migrant workers in the respective (sub-) sectors? Namely, country of origin, gender, low/high skills, and regular/irregular migrant?

PERSPECTIVES ON LABOUR MIGRATION

Q5: From a policy perspective, what are the challenges and opportunities that migrant workers bring to [country]?

Probing questions:

- ▶ **Q5a Labour mobility:** What are the current admission policies for migrant workers and to what extent are they enforced?
- ▶ **Q5b Responsible and fair recruitment:** What are the national policies that promote responsible and fair recruitment of migrant workers? How is the work of Employment Agencies regulated to ensure that migrant workers are being hired responsibly?
- ▶ **Q5c Skills shortages and skills development:** To what extent are national migration policies based on labour market needs and skills forecasting?
- ▶ **Q5d Human rights due diligence:** How are public authorities enforcing national migration policies to protect migrant workers?

SOCIAL DIALOGUE AND OTHER COLLABORATION

Q6: How are government, employers and workers organizations addressing labour migration? What are the areas of agreement and disagreement?

Q7: What are the key policies related to labour migration in [country]? What ministry/ies are responsible for drafting the policies? Were employers' and workers' organizations consulted in the drafting of these policies?

PRIORITIES

Q8: In your view, what are the three top priorities to make labour migration in [country] safe, fair, and productive?

CLOSING

Q9: Is there anything else that you would like to add? Is there anybody else who we should speak with?

QUESTIONNAIRE FOR DEVELOPMENT AGENCIES AND OTHERS (INCL. NGOs, ACADEMIA AND OTHER CIVIL SOCIETY ORGANIZATIONS)

OPENING

Q1: Please quickly introduce yourself and explain how you support the [organization]'s work on labour migration in Uganda.

LABOUR MIGRATION TRENDS

- Q2:** In which (sub-) sectors/occupations do migrant workers work currently in [country]? What makes these sectors attractive for migrant workers?
- Q3:** What are the sectors/occupations with the highest demand for migrant workers in [country]? What are the reasons for this demand (for example, unattractive work for national worker, brain drain, skills' shortages, and so on.)?
- Q4:** What is the typical socio-economic background of migrant workers in the respective (sub-) sectors? Namely, country of origin, gender, low/high skills, and regular/irregular migrant?

LABOUR MIGRATION POLICY

- Q5:** What are the key policies related to labour migration in [country]? What ministry/ies are responsible for drafting the policies? To what extent are these policies coherent and enforced? Were social partners consulted in the drafting of these policies?
- Q6:** How do you explain the discrepancy between regional initiatives by AU, IGAD, EAC, and so on. that promote greater regional economic integration and free movement of labour and the incomplete harmonization of national laws in [country]?

SOCIAL DIALOGUE AND OTHER COLLABORATION

- Q7:** How are government, employers and workers organizations addressing labour migration? What are the areas of agreement and disagreement?

PRIORITIES

- Q8:** In your view, what are the three top priorities among employers in [country] with regards to labour migration?

CLOSING

- Q9:** Is there anything else that you would like to add? Is there anybody else who we should speak with?