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ASSOCIATION OF TANZANIA EMPLOYERS

Employers' Choice

MEMBER BRIEFING

Sustainable Migration



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MIGRATION POLICIES IN VIEW OF CHANGING EMPLOYMENT LANDSCAPE

A call for stronger dialogue

INTRODUCTION

Migration within, into and out of Africa is an important demographic dynamic closely tied to broader social, economic and political processes. Due to the multitude of “push-pull” factors in the continent, labour migration has been steadily on the rise and United Republic of Tanzania is no exception. United Republic of Tanzania has had a negative net migration rate for the past decades, where more people migrated out of than into United Republic of Tanzania. Majority of the emigrants are high-skilled workers that have migrated to the United States of America, Europe and Northern Ireland, and the neighbouring countries in East Africa.

United Republic of Tanzania’s geographic location makes it a key transit corridor to mixed migration flows in the region. Approximately 20,000 irregular migrants enter the country each year, with a large proportion of irregular migrants coming from the Horn of Africa, to seek asylum in South Africa. United Republic of Tanzania also receives asylum seekers and refugees particularly from Burundi and the Democratic Republic of Congo. 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% of the total population¹. While international migrants from outside the subregion typically enter the country legally by obtaining residence and work permits, many migrants from the sub-region take part in the informal work despite the free movement of workers stipulated in regional agreements.

LEGAL AND POLICIES FRAMEWORK ON LABOUR MIGRATION

While United Republic of Tanzania has ratified a total of 37 ILO conventions including the 8 core conventions, it has not ratified any of the ILO conventions on labour migration. As a Partner States of East Africa Community (EAC) and signatory to the East African Community Common Market Protocol (EAC-CMP), Tanzanians benefit from visa-free entry; access to Partner States’ labour markets; and the right to residence and establishment, according to certain criteria. Through this framework, regular labour mobility and migration take place between United Republic of Tanzania and the other EAC Partner States.

United Republic of Tanzania is also part of the Southern Africa Development Community (SADC) which adopted a Regional Migration Policy and a Labour Migration Action Plan (2020-2025) in 2020. In 2021, the Tanzanian Parliament ratified the Africa Continental Free Trade Area (AfCFTA). The agreement includes a Protocol on Free Movement of Persons which seeks to establish a visa-free zone within the AfCFTA countries, but this protocol has not yet been ratified by United Republic of Tanzania.

¹ https://www.migrationdataportal.org/international-data?i=stock_abs_&t=2020&cm49=834

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 shall be treated equally to United Republic of Tanzanian citizens in terms of labour and social right as well as through the Non-Citizens Employment Regulation Act. The Labour, Youth, Employment and Persons with Disabilities Divisions of the Prime Minister Office and the Department of Immigration Services of the Ministry of Home Affairs are the main authorities governing labour migration in United Republic of Tanzania. Even though migration is dealt with centrally, Zanzibar has different government and legal systems in its administration.

ISSUES AND CHALLENGES

- 1. Restrictions in workers' movement across the region.** The EAC-CMP on Free Movement of Workers came into force in July 2010, however both workers and employers are still constrained in their efforts to utilize the freedom of movement of workers. The Government imposes significant restrictions that limit the access of low-to mid-skilled migrant workers including the citizens of EAC partner states. Residence and work permit fees have been high and applied to all migrants including those from neighbouring countries, imposing a heavy burden on migrant workers and employers, and making it difficult for the youth to benefit from the free movement of workers.

Furthermore, despite the occupation list in the Schedule for Free Movement of Workers in the Protocol only includes qualified skilled workers and low-skilled workers are largely excluded, the Government has been more restrictive and only opened up selected categories of higher-skilled workers, such as health care professionals, experts in Oil & Gas, teachers and university lectures in science and mathematics. The restrictive environment is not conducive to employer, business and development of the country and lead to migrants taking up informal employment, especially those from the sub-region.

- 2. Difficulties and complexity in getting a work permit.** The process of obtaining work and residence permits in United Republic of Tanzania has been administratively complex and requires a long waiting time, making it difficult for a company to implement the intra-companywide transfer. The lengthy and bureaucratic processes could also lead to corruption. The 2016 Non-citizens Act hinders, to a large extent, that required employers seeking to hire foreign workers provide evidence that they were not able to fill the position with locals and requires 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. Such restrictions pose significant challenges to employers that are facing a shortage of high-skilled local workers to fill the demand.

- 3. Lack of a comprehensive legal and policy framework on labour migration** that provide clear objectives, guidance and actions in the governance and management of labour migration. While the legal framework and policies show that United Republic of Tanzania views international migration flows positively and as a pillar of development, there continue to be significant barriers to migrants' employment. In practice, United Republic of Tanzania privileges international high-skilled foreign workers and has established significant restrictions that limit the access of low- to mid-skilled migrant workers including citizens of EAC partner states. Such restrictions hinder the spirit of the free movement of labour as stipulated in the protocol.
- 4. Lack of job opportunities especially low to mid-skilled jobs'.** According to Danish Trade Union Development Agency United Republic of Tanzania & Zanzibar Labour Market Profile 2021/2022, 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. With the prospects of being either informally or un- and underemployed in United Republic of Tanzania, many young job seekers have to seek employment opportunities abroad.
- 5. "Mismatch" and "inadequate" skills** to meet market demand. National education systems do not align with labour market needs, and public education and training do not lead to employment. Skills development and training including technical and vocational training are required to prepare the workforce to meet the changing demand, especially in view of the technological adoption.
- 6. Perception of labour migration.** The Government view migration 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 there is a need to protect the national labour market given the lack of available employment opportunities.

Association of Tanzania Employers (ATE) Policy Approach on labour migration is based on Mobility, Development and Protection. ATE regards regular labour migration as a key pillar of economic integration and development and believes both countries of origin and destination benefit from fair, efficient and well-implemented migration policies that permit the free movement of workers when and where they are needed.

ATE supports clear, transparent and efficient migration policies that are good for business, catalysing innovation, investment and entrepreneurship - the building blocks of sustainable growth and development and stresses the importance of putting in place well thought and practical policies that are predictable and adaptable for harnessing the developmental benefits of migration and meeting the fast-changing requirements of the business and the different groups of workers.

In this context and building on East African Employers Policy Framework for Sustainable Labour Migration, four priorities drive ATE's policy framework on labour migration.

In this context, four priorities drive FKE's policy framework on labour migration.

1. CLEAR, PREDICTABLE AND CONDUCTIVE FRAMEWORK FOR THE MOBILITY OF SKILLS

The Common Market Protocol (CMP) came into force on 1st July 2010 and provides for free movement of persons, labour, services, capital and goods across the EAC. ATE applauds the integration process as the facilitation of all factors of production to freely move across a common market within the EAC. This as a driving force for economic growth and job creation in the region. The free mobility of labour not only leads to macro-economic benefits but also is a very tangible benefit of regional integration. Employers benefit from free labour mobility by having better chances of matching job requirements with skills and qualifications when recruiting new employees, thus improving productivity and efficiency. However, the free movement of labour is still restricted by a number of barriers including complexity and cost of applying for work permits, skills recognition, minimum age and salary, portability of social security benefits across borders and the rights of workers in other EAC member states.:

Further, migration systems should be predictable, conducive and transparent and be comprised of a variety of mechanisms to meet the need for human resources at all skill levels. Different instruments should be in place for different categories of migrants including high-skilled workers who help organizations fill managerial, executive and top research jobs with the most qualified candidates; intra-corporate transferees; and those on short-term assignments. However, policymakers view labour migration to a large extent from a security angle as a result of security threats within United Republic of Tanzania and its neighbouring countries. Thus, the policy has been restrictive rather than conducive.

Even though the amendment of the Non-Citizens Act in 2021 and the simplifying of the administrative procedures when applying for residence and work permits has brought some improvements, for instance by increasing the duration of work permits for up to eight years after they were originally issued and for investors to employ up to ten non-citizen, and the digitalization of the application process for residence and work permits has shortened the overall processing time from several months to often less than one week, there remains significant barriers for free movement of workers across the region.

ATE urges the Government to take the lead to accelerate the implementation of the EAC-CMP on Free Movement of Workers and make migration eco-systems more efficient and business-friendly by:

- ▶ Removing all restrictions on the free movement of labour in accordance with Article 10 of the EAC-CMP including the abolition of discrimination based on nationality regarding employment, remuneration and other conditions of employment and work.

- ▶ Reviewing the immigration, employment and migration laws and policies and aligning them with the EAC-CMP.
- ▶ Harmonizing fees, classification and procedures of work and residence permits and forms as stipulated in the Common Market Protocol, including rights of establishment and business.
- ▶ Establishing a centralized data management system that allows the different national institutions and agencies to upload and access information including migrant workers.
- ▶ Developing in consultation with social partners and stakeholders a comprehensive national policy framework and strategy on sustainable labour migration.

2. SKILLS DEVELOPMENT PROGRAMMES, SKILLS RECOGNITION SCHEMES AND SKILLS MATCHING FRAMEWORKS THAT RESPOND TO LABOUR MARKET REALITIES

To remain competitive in global markets, employers require a readily available pool of talented workers equipped with the right knowledge and skills to be employable and work in productive, secure jobs which grow enterprises and economies. From an investors' perspective, the ability to employ skilled migrant workers is imperative for successful business expansion. ATE regards labour migration as an opportunity to fill skill gaps, especially in green skills, the energy sector, and the agriculture sector. Skills exchange and transfer between the foreign and local workers is beneficial as well as the networking opportunities that come with it. In addition, low-skilled migrant workers with refugee or irregular status provide cheaper labour, notably in the agricultural sector and domestic work and are valued for their work ethic.

The Tanzania Qualifications Framework (TzQF) is a comprehensive framework covering all sectors of education and training including the Technical and Vocational Education and Training (TVET). It also facilitates the recognition of qualification across institutions in the region. In the EAC, the Inter-University Council for East Africa (IUCEA) coordinates inter-university cooperation and promotes the maintenance of internationally comparable education standards in the region. The IUCEA also works on the harmonization of curricula across the region and has developed a Regional Qualifications Framework for Higher Education, but it is not fully implemented. Moreover, several EAC mutual recognition agreements (MRAs) for professional services have been developed, including for accounting, engineering, architectural, and veterinary services enabling easy mobility of candidates in the above profession. However, the MRAs are not functioning well.

The government is currently reviewing the National Employment Policy (NEP) of 2008, which intends, among other things, to deal mainly with skills mismatch that aim to build a society engaged in sustainable decent gainful employment, capable of generating a decent income especially youths to be more competitive and employable, in line with United Republic of Tanzania Development Vision 2025.

To support the Government in the implementation of the United Republic of Tanzania Development

Vision and Development Plan 2025, which recognises the importance of linking education and the labour market, the need to create entrepreneurial skills and competencies, and the implementation of the EAC Treaty on Skills Development, ATE calls for:

- ▶ Developing and implementing more bilateral and regional agreements on recognition of diplomas, skill certification and validation of prior learning. Acknowledgment of universal work certificates in both destination and origin countries;
- ▶ Enhance Public-private partnership and collaboration that reflects employers' views to improve skills development, skills certification, recognition and matching;
- ▶ Higher engagement with the United Republic of Tanzanian diaspora particularly high-skilled United Republic of Tanzanian to return and transfer their skills or invest in the country;
- ▶ Leverage the use of technology in data collection, analysis and skill matching of demand and supply.

3. RESPONSIBLE RECRUITMENT AND PROTECTION OF MIGRANT WORKERS

United Republic of Tanzania is a transit corridor for irregular migration with the majority of migrant workers taking part in the informal economy due to restrictions in accessing the formal labour market. These workers are often low-skilled and at risk of being exposed to precarious and exploitative working conditions, especially in agriculture and domestic work.

ATE strongly condemns any form of exploitation and abuse of migrant workers, and supports Government's initiative and effort to eradicate labour exploitation and human trafficking for the protection of migrant workers. In addition to ensuring better migration experiences for workers, ATE believes there is a strong business case for companies to uphold responsible recruitment and employment practices. Hiring in an unethical manner can result in enormous administrative, legal and reputational costs for businesses. Further, fair recruitment and employment practices tend to attract meritorious candidates which contribute to higher productivity, efficiency and competitiveness ATE considers it is the duty of the Government to uphold human rights, consistent with international standards, including those of migrant workers, and to create an enabling legal and policy environment that support the fair recruitment and employment of migrant workers. In this regard, ATE urges the Governments to initiate and lead efforts for effective and sustainable policy, regulatory and behavioural changes needed to more effectively and efficiently, promote fair recruitment and protection of migrant workers, by:

- ▶ Creating awareness and disseminating information to educate potential migrant workers and their employers on rights and responsibilities, including the migrant workers in United Republic of Tanzania for their social and economic integration in the country;
- ▶ Strengthen cooperation with host countries, more bilateral agreement to foster fair recruitment and portability of social security to enhance protection and security of workers;

- ▶ Support due diligence by the private sector to prevent and respond to risks of exploitation including forced labour, while ensuring labour mobility is not compromised and the environment for cross-border recruitment remains conducive for employers to fill manpower needs;
- ▶ Digitalization of recruitment processes is key, and it can be facilitated to build more inclusive policies with better protection for migrant workers and more transparency for employers.
- ▶ Strengthen enforcement of laws and regulations;

4. SOCIAL DIALOGUE AND CAPACITY BUILDING OF EMPLOYERS ORGANIZATIONS AND EMPLOYERS

ATE is active in policy discussions through continental, regional and national social dialogue. At the regional level, ATE actively engaged in the context of meetings by the EAC, SADC and bilateral labour agreements between United Republic of Tanzania and other countries. ATE supports the harmonisation of laws and skill recognition and have successfully collaborated with the TCUTA and EATUC to influence the development of EAC Labour Migration Policy, SADC Labour migration protocol and economic partnership agreements, particularly related to work permits and portability of social security.

Consultations with employers at national level take place through various official and ad-hoc channels such as Ministerial dialogue formats, invitations to specific meetings, requests for written inputs on policy documents, and parliamentary committees. There is also a Tripartite Labour Economic and Social Council where consultations take place before laws go to parliament as well as the Tanzanian National Business Council (TNBC) that meets twice per year. ATE and the Trade Union Confederation of United Republic of Tanzania (TUCTA) contributed to the development of the national employment policy, take part in various sectoral and national migration policy discussions, particularly with the Ministry of Labour and the Ministry of Home Affairs, and led to several successes, such as changes to the law on non-citizen employment, administrative improvements to request work and residence permits through online systems and a reduction of work permit fees.

To effectively participate and engage in the labour migration policymaking and debate, employers and employer organizations must have a good understanding of the migration issues and trends in the country, in the region and the world, and be able to conduct research and engage in evidence-based advocacy in labour migration policymaking and debate. ATE urges:

- ▶ The Government to put in place mechanisms for active and continuous engagement with employers so that they can proactively voice their recommendations and proposals with their governments to have real impact.

- ▶ To fill the information gaps regarding labour migration in United Republic of Tanzania and sharing of the data and information with employers and stakeholders.
- ▶ Strengthening the technical capacity of employers and employers' organization in evidence-based advocacy in order to support their effective engagement and support to the labour migration policy making and debate.

CONCLUSION

Labour mobility constitutes one of the key priorities in United Republic of Tanzania's regional integration objectives. Demand for skills, especially in cutting-edge sectors constitute a crucial driver for employers to hire foreign labour. Yet, given the prevailing security perspective on labour migration, United Republic of Tanzania continues to privilege the employment of local workers and discourages foreign employment through high work permit fees and lengthy administrative procedures which made hiring foreign workers in United Republic of Tanzania to be expensive.

In the continuous effort to advocate for conducive business environment, ATE calls for clear, predictable, conducive and transparent framework for the mobility of skills and free movement of workers within the region. ATE also calls for greater engagement of social partners to have more robust and inclusive policy processes, and capacity building of employers' organization and employers to enable the effective participation in the migration policy debate and discussion.