African Union frameworks for migration: current issues and questions for the future

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Acknowledgements

Acronyms

ACP	African, Caribbean and Pacific (Group of States)
AfDB	African Development Bank
APRM	African Peer Review Mechanism
AU	African Union
AUC	African Union Commission
DRC	Democratic Republic of Congo
DSA	Department of Social Affairs
CENSAD	Community of Sahel-Saharan States
CIDO	African Citizens Directorate
CIGEM	Centre d'information et de gestion des migrations
COMMIT	Commission Initiative against Trafficking
EAC	East African Community
EC	European Commission
ECOSOCC	Economic, Social and Cultural Council
ECOWAS	Economic Community of West African States
EU	European Union
FIIAPP	Foundation of Administration and Public Policies (Spain)
ICMPD	International Centre for Migration Policy Development
IDEP	African Institute for Economic Development and Planning
IDP	Internally displaced person
IGAD	Intergovernmental Authority on Development
IOM	International Organisation for Migration
JAES	Joint Africa-EU Strategy
MIEUX	EC-ICMPD Migration EU Expertise initiative
MME	Migration, Mobility and Employment
NEPAD	New Partnership for Africa's Development
NGO	Non-governmental organisation
OAU	Organisation of African Unity
PRSP	Poverty Reduction Strategy Paper
REC	Regional Economic Community
SADC	Southern African Development Community
UNCTAD	United Nations Conference on Trade and Development

Executive summary

Regional integration in relation to migration in Africa, i.e. promoting free movement and labour migration, and countering forced migration, could greatly improve the lives of the 16 million regular and irregular migrants estimated to be living in Africa. During the period since the Abuja Treaty was signed in 1991, the African Union has developed a number of policy frameworks for regional integration in migration.

The primary purpose of this paper is to summarise recent developments in the African Union's (AU) policy on migration. The paper introduces a number of key African Union frameworks (among others the African Common Position on Migration and Development and the Strategic Migration Policy Framework) and explains what steps have been taken to operationalise them. It discusses the extent to which the African Union and the regional economic communities (RECs) have been implementing these AU frameworks, taking into account factors like institutional structures, ratification and enforcement, which may either facilitate or hamper operationalisation. The paper also discusses the key challenges facing the actors on the road ahead. The paper looks at the European Union's role in the development of these frameworks in the context of EU-AU cooperation and dialogue, particularly regarding regional integration in Africa. Finally, the paper draws some policy-relevant conclusions for EU support in this area, based on an analysis of the AU's work on migration.

The paper argues that the African Union has set itself high standards in terms of frameworks. The majority of its initiatives tend to focus on capacity-building and standard-setting, and on encouraging the RECs and member states to get engaged. While some RECs have developed their own strategies and initiatives based on AU agreements, it is difficult to assess at this stage whether AU and REC initiatives have led to noticeable changes in the member states' legal frameworks, thereby improving the lives of migrants, refugees and IDPs. Many initiatives are relatively recent and need time to take effect. Also, not much evidence is available on operationalisation. Many initiatives in the area of migration are heavily donor-funded. The EU has influenced the development of African frameworks and also influences the type of initiatives the African Union can take, because of the limited amount of funding provided by African member states. This raises questions of ownership and accountability.

Migration crosses both national and regional boundaries. It is an issue that affects all policy areas – economics, politics, social policy and security. It has a strong international relations dimension. For these reasons, it should ideally be addressed at a regional or continental level. However, the results and impact will depend on the degree of engagement, implementation and enforcement at a national level. While it remains vital for the African Union to propose frameworks and set standards to encourage its member states to become engaged, the implementation of these frameworks depends ultimately on the buy-in of member states and the priority they attach to migration issues. The current operationalisation efforts in the form of awareness-raising and capacity-building are the first steps on the long road towards a more migration-friendly Africa. As a key partner and supporter of the African Union, the European Union has a responsibility to develop a coherent policy that strengthens regional integration and promotes domestic accountability.

The paper is based on desk research and interviews held in Brussels and Addis Ababa in February 2011.

1. Introduction

'The member states agree to adopt, individually, at bilateral or regional levels, the necessary measures, in order to achieve progressively the free movement of persons, and to ensure the enjoyment of the right of residence and the right of establishment by their nationals within the Community. For this purpose, member states agree to conclude a Protocol on the Free Movement of Persons, Right of Residence and Right of Establishment.'

Abuja Treaty, establishing the African Economic Community, Chapter VI, Article 43

The Abuja Treaty establishing the African Economic Community, signed in 1991, commits African countries progressively to bring about the free movement of persons, and to ensure that Community nationals enjoy the right of residence and right of establishment. The Abuja Treaty puts forward six subsequent stages of integration, within a maximum period of 34 years. The free movement of people and their right of residence and establishment (along with the movement of goods, capital and services) is part of stage six, in line with the consolidation of the African Common Market, which is to have been created during stage five. The complete free movement of persons in the regions and their partial free movement between the regions is one of the objectives of the first phase (2009-2012) of the AU's Minimum Integration Programme agreed with the regional economic communities (African Union Commission, 2010b). This paper examines the African Union's (AU) migration policy frameworks, the initiatives taken on the basis of the commitments in the Abuja Treaty, and the role played by the European Union (EU) in this process.

The free movement of people is generally regarded as a key element of regional integration. Much like the free trade in goods and services, the free movement of people is expected to lead to increased economic prosperity and poverty reduction. Voluntary migration can promote political integration by stimulating intra-regional trade and closer social interaction between countries. This should have a positive effect on economic development, provided that it goes hand in hand with the opening of markets. Free movement and the right of residence and establishment also demonstrate the benefits of regional integration to ordinary people.

This assumption is also bound up in the Abuja Treaty and the Minimum Integration Programme, which stipulate that the free movement of people should be achieved in parallel with the free movement of goods, services and capital. As the building blocks of the continent, the AU's regional economic communities are responsible for promoting free movement in conjunction with intra-regional trade, which has reached very different levels in different regions. The African Union's role is to coordinate, monitor and evaluate (African Union Commission, 2010b).

Forced migration, on the other hand (i.e. the involuntary movement of refugees, trafficked or smuggled persons), is a factor that works against regional integration. This is precisely why countries want to avoid the free movement of people. However, forced migration is a reality in Africa. It is largely uncontrolled, because many borders are artificial and many countries are too weak to control their borders, often a mission impossible in any case. In other instances, governments have little interest in controlling them. The African Union has made several attempts to address the causes of forced migration and its implications, but these agreements still need to be operationalised.

Much of the focus of the literature on African migration has been on African migration to Europe, despite the fact that such flows represented only 29% of African migratory movements in 2009. Of these, 52% were intra-continental. The figure for intra-continental migration in sub-Saharan Africa was 65%, the highest intra-continental movement worldwide. In the case of North Africans, on the other hand, 90%

emigrated to a destination outside Africa. A total of 31 million Africans are believed to have lived outside their country of origin in 2010, or 3% of the total African population. Of the 31 million emigrants, about 2.3 million were refugees (Shimeles, 2010). In addition to this, there were an estimated 12 million internally displaced persons (iDMC, 2009). Reliable data on trafficking is difficult to obtain.

Adepoju (2008) places African migratory movements in four broad categories:
1. labour migration to and within West Africa (90% of West African migrants stayed within their region and 39% of all intra-African migrants went to West Africa in 2009-2010; Shimeles, 2010) and Central Africa;
2. refugee flows in East Africa;
3. labour migration from Southern African countries to South Africa;
4. (irregular) cross-border migration (of specific ethnic groups and pastoral peoples) in West and East Africa, which Adepoju describes as probably the most common form of migration in Africa.

Adepoju (2005) distinguishes the following three categories of frequent trafficking in sub-Saharan Africa:
1. trafficking in children (for farm labour and domestic work; mainly from West Africa);
2. trafficking in women and young people for sexual exploitation (mainly from West and East Africa to Europe and the Gulf);
3. trafficking in women for the sex industry in South Africa (mainly from Southern African countries).

Much sub-Saharan migration is circular: people move in circles within countries and to neighbouring countries, taking advantage of the different harvesting seasons. Short-term and frontier workers are a very common phenomenon in the formal and informal economy (Adepoju, 2007; Shaw, 2007). Although the specificity of African migration flows should ideally inform national, regional and continental policy-making, the type of migration data required to make informed policy choices is often not available and few attempts have been made to track legal and illegal migration movements (Lucas, 2006).

Although the focus of this paper is on continental migration policies, it is important to recognise that some regional economic communities (particularly ECOWAS) have gained a lead on the AU in terms of migration policy. Although this paper refers to RECs where they work with the AU and where they have played an especially important role in influencing AU policy, it is beyond the scope of this paper to go into individual migration policies in depth. The paper defines migration both as a movement within the borders of one country and as a movement across international borders.

My interest here is in the type of frameworks that the African Union has developed for migration and in whether and how it has operationalised them. This paper examines the threats and opportunities relating to the African continental migration framework and raises a number of pertinent issues for the future. The paper also looks at the role played by the European Union in developing and implementing AU migration policy. Since the formation of the African Union in 2002, the European Union has seen opportunities for forging a close partnership with the AU and has prided itself as its main supporter. The EU has always perceived migration as one of the priorities of its relations with Africa, even prior to the AU's formation and the adoption in 2007 of the Joint Africa-EU Strategy, which includes a Partnership on Migration, Mobility and Employment. This paper raises various questions on the role that the EU has played in promoting African regional integration in the field of migration.

2. African Union policy frameworks on migration

2.1. General migration frameworks

The most important AU policy frameworks on migration adopted so far are the African Common Position on Migration and Development, and the Migration Policy Framework (both adopted in 2006). They were preceded by various meetings and summits on migration. The African Heads of State and Government met in Cairo in 1995, making recommendations on the legal, economic, political, social and administrative aspects of inter-African migration. The Assembly of Heads of State and Government endorsed these recommendations in 1996 (African Union, 2008a). In 2001, the Assembly of Heads of State and Government decided to create a strategic framework for a migration policy in Africa.[1] It took a further five years before the framework was actually adopted.

2.1.1. The Migration Policy Framework for Africa

The **Migration Policy Framework for Africa** is a wide-ranging document covering nine key issues:
*   labour migration;
*   border management;
*   irregular migration;
*   forced displacement;
*   the human rights of migrants;
*   internal migration;
*   migration data;
*   migration and development;
*   inter-state cooperation and partnerships.

The document recommends strategies for certain issues and sub-themes. The Executive Council mandated the African Union Commission to develop a follow-up mechanism (African Union, 2006a).

Box 1: The Migration Policy Framework for Africa

<u>**Objectives:**</u>
*   contribute to addressing the challenges posed by migration and ensure the integration of migration and related issues into national and regional agendas for security, stability, development and cooperation;
*   work towards the free movement of people and strengthen intra-regional and inter-regional cooperation in matters concerning migration, on the basis of the established processes of migration at regional and sub-regional levels;
*   create an environment conducive to facilitating the participation of migrants, in particular those in the diaspora, in the development of their own countries.

<u>**Recommendations:**</u>
*   establish *regular, transparent* and *comprehensive labour migration policies;*
*   develop a *pan-African framework* for the *free movement of persons;*
*   enhance the *role of the AU* and other regional organisations in *effective border management;*
*   *harmonise sub-regional migration policies*;
*   *strengthen policies* to prevent *trafficking* and develop *regional countermeasures;*
*   create *standards* for *return and readmission,* implement the *principle of non-refoulement;*

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[1] Decision CM/Dec 614 (LXXIV), 2001.

- safeguard the *human security needs* of refugees;
- strengthen *intra-regional cooperation* in relation to the maximum *influx of refugees;*
- formulate a *strategic policy* on the management of *IDPs, address causes of internal migration;*
- ensure the *humane treatment of detained migrants* and guarantee their *access to the courts;*
- promote the *integration* of migrants;
- gather *data* for effective migration management, policy and cooperation, develop common data standards;
- foster stronger relations with African *diaspora;*
- promote a *NEPAD strategy for the retention of Africa's human capacities;*
- foster the transfer of *skills;*
- encourage *remittances.*

Implementation: member states, RECs and the AU. No resource mobilisation frameworks are provided, but international organisations are invited to provide technical assistance and resources.
AUC mandate: Develop a follow-up mechanism.
Reports on follow-up: African Union 2008a, 2009d.

In a report on the strategic framework (African Union, 2006b), the African Union Commission stated that the policy was a reference document that was not legally binding, and that the member states and RECs could retain those elements they felt appropriate or applicable to the specific migration situation in their country or region. The AUC made clear that member states could implement the policy in accordance with their own priorities and resources. The AUC also stated that the framework did not envisage priorities or resource mobilisation mechanisms for implementation, nor evaluation mechanisms for the recommendations, the idea being to allow states and regions to address their specific challenges and determine their own resources. International organisations were invited to provide technical assistance and support to states and RECs in implementing the framework.

A draft strategic migration policy framework was already published in 2004. It was initially planned to develop an accompanying implementation mechanism and to adopt the framework in the same year (African Union, 2004a, b). However, it took two years to agree on the final version of the framework. At the same time, the proposal for an implementation mechanism was dropped so as to enable member states to implement whatever parts they wanted. The lack of an implementation mechanism for the framework leaves the AUC without any clear instructions on how the framework should be enforced. One could also say that it is not clear what such a follow-up should consist of; it leaves the framework without any teeth. Black (2004) claims that the framework was not adopted earlier due to the neutral stance or outright hostility of African governments. Having examined the contents of various PRSPs on migration, Black found that a link between migration and poverty reduction was either not mentioned at all or seen as having negative implications (i.e. as contributing to population growth, crime, HIV-AIDS, etc). He noted that government migration policies were restrictive, except for their interest in linking up with the diaspora.

2.1.2. The African Common Position on Migration and Development

In parallel with the negotiations on the strategic framework, an expert meeting was held in Algeria to prepare a **Common African Position on Migration and Development** in 2006, in preparation for a conference with the European Union on the same topic. The Position was adopted[2] at the AU Summit in July 2006, prior to the Africa-EU Conference on Migration and Development in November in Libya (see section 1.3). The Position (African Union, 2006c) highlights 11 priority issues (see Box 2) and makes a

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[2] (Doc.Ex.CI/277 (IX)), 2006.

number of recommendations for action at national, continental and international levels. At a continental level, the Position recommends:

- creating legal frameworks for combating illegal migration;
- concluding cooperation agreements to manage migration;
- striking a balance between security for legal migrants, freedom of movement and the humanitarian obligation to protect;
- setting up mechanisms to bring together national focal points on migration;
- promoting effective border controls;
- encouraging the involvement of the diaspora.

At an international level, the AU called on the EU to implement the Cairo Plan of Action, and to recognise academic and professional qualifications obtained in Africa. It called for visa facilitation to ease the movement of persons and reduce the role of traffickers, requested all actors to ratify the UN Convention on the Protection of the Rights of All Migrant Workers, and called on developed countries to reduce the costs of money transfers.

Box 2: The African Common Position on Migration and Development

> **Objective:** developing a **comprehensive and balanced approach** to migration in light of the increase in migratory flows.
>
> **Agreements:**
> - **Migration** as an effective tool for **development:** enhances income distribution, productive growth and the empowerment of women, and improves partnership amongst the developed and African countries.
> - The loss of **human resources and brain drain** is a handicap for sustainable development.
> - **Labour migration** is beneficial to both countries of origin and countries of destination. African countries should establish regular, transparent and comprehensive labour migration policies.
> - **Remittances** play a significant role in developing nations, but should not be confused with official development aid.
> - African states should strengthen and enhance the involvement of the **diaspora** to foster the migration-development nexus.
> - Irregular migration is closely linked with **peace, security and stability**. Combating irregular migration and establishing migration management systems can help to foster security and stability.
> - Migrants' **human rights** should be safeguarded.
> - More **women** migrate and their rights must be taken into particular consideration in migration management.
> - Increasing numbers of **children** migrate irregularly. The challenge of child trafficking must be addressed.
> - The consequences of the **migration of elderly people** need to be understood in order to cater for their needs.
> - There is a need for **common regional policies** for the management of migration within RECs. Capacity-building initiatives should be promoted at national, regional and continental levels.
> - Bilateral and multilateral efforts to strengthen cooperation on labour migration are needed.
>
> **Implementation:** member states, RECs, the African Union and the European Union.
> **Role of the AUC:** Chairperson to engage with the AU at ministerial conferences, and present positions at conferences and at the UN High-Level Dialogue on Migration and Development.
> **Reports on follow-up:** African Union 2008a, 2009d.

2.2. AU Frameworks on refugees, returnees and internally displaced persons

In 2009, the AU adopted the African Union Convention for the Protection and Assistance of Internally Displaced Persons in Africa, the **Kampala Convention**, which is the first legally binding document on internal displacement worldwide. The Convention was preceded by a number of OAU and AU decisions in the area of refugees and IDPs. For example, the OAU adopted a Convention governing the specific aspects of refugee problems in Africa in 1969 (the 'OAU Refugee Convention'). This provides the most comprehensive legal basis for refugee protection worldwide.

Box 3: OAU Refugee Convention

<u>**Objective:**</u> Humanitarian approach to solving the problems of refugees.

<u>**Obligations:**</u>
- member states must receive and settle recognised refugees;
- member states may appeal to the OAU or directly to other member states to lighten their burden;
- refugees may not undertake subversive activities against another member state;
- no refugee is to be repatriated against his or her will;
- refugees who voluntarily return must not be penalised;
- member states must issue travel documents for refugees.

<u>**Implementation:**</u> MS to provide the OAU Secretariat with information and data on:
1. the condition of refugees;
2. the implementation of the Convention;
3. laws, regulations and decrees currently in force in relation to refugees.

Within the African Union, it was felt that an IDP Convention was also needed alongside the OAU Refugee Convention, as the majority of forced migrants in Africa in the past two decades had been IDPs (African Union, 2009a).[3]

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[3] The OAU passed resolutions on refugees and displaced persons in Africa in 1992 ((CM/RES1370 (LV) and in 1997. These called for a ministerial meeting to 'discuss and find durable solutions to the problem of refugees and internally displaced persons in Africa' (CM/dec.362 (LXVI)). This meeting was subsequently held in Khartoum in 1998. After the OAU was transformed into the AU, the AU Executive Council called on the Commission in 2004 to ensure that an appropriate legal framework was created to ensure the protection of IDPs (EX/CL/Dec.127(V). Prior to the AU, the Heads of State and Government of the member states of the International Conference on the Great Lakes Region adopted a Protocol on the Protection and Assistance to IDPs in 2006.The first AU Ministerial Conference on Refugees, Returnees and Internally Displaced Persons took place in Ouagadougou in June 2006. The subsequent declaration called for a special summit on the issue (African Union, 2006d). The AU Executive Council of the African Union, in its decision EX.CL/Dec.289 (IX) adopted in the same month, called on the Commission to prepare a special summit on IDPs and notably also called on the Commission to establish a mechanism to monitor forced displacement. The member states were asked to review the draft Convention in preparation for the Summit in 2007-2008 and the draft version was adopted at the 3rd AU Ministerial Conference on Refugees, Returnees and IDPs in November 2008. According to Abebe (2010), the member states generally welcomed the idea of codification and participated actively in the drafting process. In October 2009 (African Union, 2009b), the Convention was signed at the Special Summit (originally planned for 2008) in Uganda. Apparently, the delay had to do with funding uncertainties and the need to hold the Latin America-Africa Summit at the same time (Abebe, 2010).

Box 4: The AU Convention for the protection and assistance of internally displaced persons in Africa

Objective: to create a legal framework to prevent or mitigate, prohibit and eliminate the root causes of internal displacement.

Obligations
- prohibits arbitrary displacement as a result of various man-made causes, such as conflicts and development projects;
- prohibits armed groups and their members from engaging in arbitrary displacement, or other violations of the basic human rights of internally displaced persons;
- reiterates the individual responsibility of members of armed groups under national and international criminal law, for violations committed against IDPs

Implementation: Conference of State Parties to monitor and review implementation.
Role of the AUC: ?
Follow-up reports: None published so far.

Under the Kampala Convention (African Union, 2009c), States have a primary duty and responsibility to provide protection and human assistance to IDPs within their territory. The Convention obliges signatories to prohibit and prevent arbitrary displacement, guarantee the human rights of IDPs under international humanitarian law, and devise an early warning system. The Convention includes a monitoring and compliance article (Article 14), formulated as the result of lengthy negotiations (Abebe 2010). This article proposes that a Conference of State Parties be established, to monitor and review the implementation of the objectives and enhance the capacity for cooperation. The same article also stipulates that this Conference should be convened and facilitated by the AU. When presenting their reports under Article 62 of the African Charter on Human and People's Rights and under the African Peer Review Mechanism (APRM, only applicable to members), the member states are required to specify the legislative and other measures that have been taken to give effect to the Convention. The Convention does not contain references to international concepts like humanitarian intervention and the responsibility to protect. These were omitted so as to avoid problems with its adoption (Abebe, 2010). By January 2011, the Convention had been signed by 31 of the 53 AU member states, but only ratified by four, i.e. Uganda, Sierra Leone, Zambia and Chad (African Union, 2011a). It needs to be ratified by 15 States in order to enter into force.

2.3. Africa-EU policy frameworks for migration

Beyond the 'purely' African migration policy frameworks, the AU has also signed a number of joint frameworks with the EU. The EU and the OAU met for the first time at summit level in Cairo in 2000, where they committed themselves to adding a new strategic dimension to the global partnership between Africa and Europe. They adopted the **Cairo Plan of Action** during this summit. This includes a section on migration, in which both parties agree to:

1. support African countries in ensuring free intra-African mobility of labour and migration in the spirit of the Abuja Treaty;
2. collaborate in addressing the root causes of migration and asylum-seeking in source, transit and recipient countries;
3. collaborate further on the issue of the reciprocal integration of migrants, migrant rights and re-admission agreements between the European and African countries;

4. recognise the need for measures to combat racism and xenophobia and to secure the respect of the dignity and protection of the migrants' rights (EU, OAU, 2000).

At a subsequent ministerial troika meeting between the EU and the AU In 2002, ministers considered the joint Draft **Ouagadougou Action Plan to Combat Trafficking in Human Beings, especially Women and Children** . This was **signed in 2004** and adopted in 2006.

Various joint communiqués issued by the Troikas in 2003 and 2004 note the growing importance of jointly addressing migration-related problems. In Bamako in 2005, the two sides agreed to start a comprehensive dialogue on migration; the EU delegation proposed holding a joint ministerial conference on migration. During this period, there was a large influx of irregular African migrants into the EU. These flows also consisted of smuggling and trafficking. Spain and France initiated a **Euro-African Conference on Migration and Development in Rabat in 2006**, focusing on West African migratory routes.

However, the EU felt that, in the spirit of the continental partnership between Africa and Europe, it was in its interests to build a wider, continental partnership on migration. The result was the **Joint Africa-EU Declaration on Migration and Development**, adopted at the joint ministerial meeting in **November 2006 in Tripoli**, at which the Joint Action Plan on Trafficking was also adopted. The Joint Declaration forms the basis for the Migration, Mobility and Employment Partnership of the Joint Africa-EU Strategy, adopted in 2007 (see section 4.1).

2.3.1. The Joint Africa-EU Declaration on Migration and Development

The Joint Declaration (AU & EU, 2006) adopted in Tripoli commits the two parties 'to a partnership between countries of origin, transit and destination to better manage migration in a comprehensive, holistic and balanced manner, in a spirit of shared responsibility and cooperation'. It covers nine key areas:

- migration and development;
- migration management challenges;
- peace and security;
- human resources and brain drain;
- concern for human rights and the well-being of the individual;
- sharing best practices;
- regular migration opportunities;
- illegal or irregular migration;
- the protection of refugees.

A comparison of the African Common Position on Migration and Development with the Joint Declaration suggests that the issues addressed are an amalgam of AU recommendations from the African position and EU interests, with two exceptions:

- The Joint Declaration contains a section on illegal migration and another on migration management challenges that are not found in the African position. These call for concrete action to regulate the influx of migrants from Africa. The Joint Declaration also emphasises the link between high African unemployment and illegal migration.
- On legal migration, the Joint Declaration is more cautious, describing it as 'regular migration opportunities' while the AU refers to 'labour' migration. The Joint Declaration notes that simplified entry procedures for specific people may be discussed and seasonal temporary migration schemes developed. The EU undertakes to assist with the implementation of African regional free-movement

arrangements. Strangely, this section in the Joint Declaration does not refer to the need for circular migration, although this is mentioned in the section on migration and development.

2.3.2.   The Joint Africa-EU Ouagadougou Action Plan to Combat Trafficking

Another joint product is the **Ouagadougou Action Plan to Combat Trafficking in human beings, especially women and children**. It focuses on prevention, awareness-raising, and victim protection and assistance. It makes a number of proposals for legislative frameworks and policies that states should adopt or develop. On prevention and awareness-raising, states are asked to provide education and training and viable employment, empower girls, safeguard children's rights, mount media campaigns against trafficking, and mobilise families and NGOs. On victim protection and assistance, states are called upon to adopt appropriate measures for the former, encourage victims to testify against offenders (albeit taking their safety into account), avoid their criminalisation and provide psychological, medical and social assistance. They are asked to ensure the effective prosecution of traffickers and strengthen training for government personnel. The Action Plan calls for the creation of focal points and the development of regional action plans as mechanisms against trafficking.

2.4.   Reflections on the frameworks

The AU has adopted two very comprehensive migration frameworks, demonstrating that it recognises the threats and opportunities facing Africa on account of migration. The documents contain useful recommendations that, if fully adopted, could improve the lives of those forced to migrate and help those who choose to migrate. However, member states can choose to ignore the Common Position and Framework as they are reference documents and the AUC was not mandated to develop implementation mechanisms. The member states have not limited their sovereignty vis-à-vis the continental level in any way. Some commentators argue that presenting the frameworks as guidelines was the only way to get them adopted, as there was no political traction to adopt anything more powerful (interviews, 2011).

The Kampala Convention is the only legally binding document. Its adoption represents considerable progress, recognising as it does that refugees and IDPs are a big problem that African countries need to address. The problem is twofold: both the reasons why people become refugees or IDPs and the resultant effects. More member states still need to ratify the Convention for it to come into effect and it needs recognisable follow-up. The AU is holding regional consultative meetings on the implementation of the Convention.

The fact that the EU plays a role in African migration policy is obvious merely from the fact that two of the AU's migration policy frameworks have been jointly agreed with the EU. It also seems likely that the fact that the Migration Policy Framework (five years after it was first mentioned in AU documents) and the African Common Position on Migration were both adopted in 2006 had something to do with the EU's push for a joint summit meeting on migration. Before then, the AU had wanted to have its own internally agreed documents. The Kampala Convention is an exception in this regard, seemingly based on African traction with less external influence.

Beyond explicit agreements on migration, the AU has also discussed a number of issues linked to migration (NEPAD, 2002 Durban Conference on Security, Stability, Development and Cooperation) and specific aspects of migration policy (for instance, the work on diaspora, see also section 3.2) since the signing of the Abuja Treaty (Gnisci, 2008).

3. The implementation of AU migration policy frameworks

3.1. The role of the African Union Commission and RECs

Within the African Union Commission, a number of departments are involved in preparing and implementing AU migration policy. The **Department of Social Affairs** (DSA) has a Division on Labour, Employment and Migration and is regarded as the focal point for migration within the AUC.[4] The DSA also has officers for trafficking and employment. The **Department of Political Affairs** has a Humanitarian Affairs, Refugees and Displaced Persons Division. One of their staff also deals with mobility issues. CIDO, the **African Citizens Directorate** deals with the diaspora. For the amount of migration issues they have to cover, the AUC Divisions dealing with migration are understaffed and consultants are often recruited to handle certain tasks.[5]

The ECOWAS has a 'Free Movement of Persons Department', operating under the Commissioner for Trade, Customs and Free Movement. The 'Trafficking in Persons Unit' in the Humanitarian and Social Affairs Department is answerable to the Commissioner for Human Development and Gender. There is a 'labour and immigration department' in the EAC, operating under the Director of Social Sectors. The IGAD has a subsection on migration under Economic Cooperation and Social Development, focusing on border management and illegal migration. The organisational chart for the SADC does not include a unit dealing with migration.

3.2. Implementation initiatives

All the frameworks mentioned in section 2 include either a follow-up mechanism or recommendations which the AU, the RECs and the member states can take forward. The migration framework speaks of a follow-up mechanism, yet it is difficult to see what this could consist of, given that the framework is a reference document without any 'teeth'. The AUC took it to mean the dissemination of the document, for which they visited various RECs in 2008 and held consultative meetings and workshops to share information, produce reports on the progress made by the various RECs on migration policy, and identify issues that should be dealt with by the AU, the RECs and individual countries. Unfortunately, the outcomes of these deliberations have not been made public.

The IGAD, one of the less advanced RECs in the area of migration policy, seems to have been most open to AU involvement in its policy-making. The AU report notes that the IGAD, in consultation with and with the assistance of the AUC, should develop a draft regional migration policy framework. This had not yet happened in 2010. Other RECs seem to have been less willing (in the case of CENSAD) or see less need (ECOWAS) to have the AU involved, given that the conclusions drawn from the meetings stated that they would keep each other informed and that AU representatives would be invited to attend REC workshops. The EU funded or co-funded these visits (African Union, 2009d). They can be regarded as first steps on the long road towards achieving the ambitions set out in the various policy frameworks.

The following sections examine the initiatives taken by the AU, most of them after these visits had taken place. The focus is on migration and development, irregular migration and mobility. The operationalisation of the Joint Africa-EU Declaration on Migration and Development is discussed in section 4.

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[4] For example, the Migration Programme Coordinator leads the migration partnership with the EU. The post is funded by the EU.

[5] The recruitment of staff takes a long time. For example, the previous DSA Migration Programme Coordinator left in 2009. A new incumbent was recruited in March 2010, but has yet to take up his post.

3.2.1.   Irregular migration

The main AU initiative in the area of irregular migration is COMMIT (**AU Commission Initiative against Trafficking**, 2009-2012), which seeks to follow up on the Ouagadougou Action Plan on trafficking (see section 1.3.2). The African Union presented a strategy for COMMIT in 2009 (African Union, 2009e).[6] The AUC launched COMMIT in Addis in June 2009 and subsequently in SADC in July 2009, in ECOWAS in March 2010 and in IGAD and EAC in December 2010. In ECOWAS, IGAD and EAC, workshops to operationalise the Ouagadougou Action Plan were held after the COMMIT launch. The IGAD and EAC are supposed to develop regional action plans on trafficking, as well as regional monitoring and evaluation mechanisms ((African Union Commission, 2010a).[7] The AUC will be organising workshops on enhancing victim and witness protection during criminal prosecutions in 2011, probably in ECOWAS, IGAD and EAC as well as for North African member states. In May 2011, the AUC, in cooperation with EAC, IGAD and IOM, organised a meeting to design EAC and IGAD awareness-raising campaigns on trafficking and to build capacity for the drafting of national strategies (African Union, 2011c). The implementation of the strategy is thus more or less on track, although doubts have been raised about its impact on the ground so far.[8] There is a need for national and regional focal points on human trafficking that could make the initiative more effective.

As is mentioned in section 1.2, the **Kampala Convention on internally displaced persons** (IDPs) contains an article (Article 14) on implementation. In February 2010, the Executive Council decided that a **Plan of Action** for the promotion and implementation of the outcomes of the Special Summit on refugees, returnees and internally displaced persons in Africa should be drawn up.[9] AU Ministers in charge of forced displacement agreed on the Action Plan in June 2010 ((AUC, 2009a),[10] and asked the member states to submit regular progress reports. However, the Plan has not been made publicly available.[11] The AUC is holding regional consultative meetings in 2011, to develop and harmonise implementing activities. The meetings are designed to propose region and country plans (African Union, 2011b). It is not entirely clear how the Plan of Action promoting and implementing the outcomes of the Special Summit on refugees, returnees and IDPs, which is essentially the Kampala Convention, links to the monitoring of the Convention itself through the Conference of State Parties as laid down in the Convention (once it comes into force). In other words, the Plan of Action cannot replace effective monitoring mechanisms.

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[6] According to the strategy, 2009-2010 was to be used for consultant research on the status of trafficking in Africa to allow for evidenced-based advocacy and to help member states design national legislative and policy reforms to address trafficking. Awareness-raising and capacity development workshops were also to be held to inform policy-makers and enforcement officials about the Ouagadougou Action Plan and develop mechanisms to monitor its implementation. The two years, 2010 and 2011, were to be used to hold conferences on the protection of victims/survivors of trafficking, to encourage member states to reform their criminal justice system and harmonise their policy and legal frameworks, including protection for victims and survivors of trafficking. For 2011-2012, the strategy foresees conferences on the prosecution of traffickers for judicial and enforcement officials to encourage member states to reform their systems accordingly.

[7] Prior to the AUC initiative, ECOWAS and SADC had adopted their own plans on trafficking, the 2009-2012 SADC Strategic Plan of Action on Combating Trafficking in Persons, the Declaration of Action against Trafficking in Persons of ECOWAS (subsequent plans, starting in 2001) and the ECOWAS and ECCAS (Economic Community of Central African States) Joint Action Plan against Trafficking in Persons, especially women and children in West and Central Africa. ECOWAS set up an anti-trafficking unit after the 2001 Action Plan was adopted, to act as a focal point on counter-trafficking. ECOWAS has also developed tools such as a 'Model Bilateral Agreement on cooperation and mutual legal assistance in protecting children from trans-border trafficking' (UN Office of the High Commissioner of Human Rights, 2010).

[8] Some commentators claim that AU member states have failed to send experts to the meetings and have sent different people to each meeting, which limits their effectiveness and makes them a capacity-building exercise for people who may never work on human trafficking.

[9] (EX.CL/Dec.529 (XVI)

[10] (EX.CL/DEC.567 (XVII)

[11] The Council also decided to increase member states' contribution to the refugees and IDPs fund from two to four percent of the operational budget of the Commission. This is a gradual rise, starting in January 2011.

3.2.2. Migration and Development

Since its beginnings, the African Union has sought to include the **diaspora** in its activities. The first ordinary session of the Executive Council in July 2002 mandated the AU to work with the diaspora. In 2003, the AU inserted a new clause in the Constitutive Act to invite and encourage the full participation of the African diaspora in the building of the African Union. The AUC's 2004-2007 Plan of Action included a 'Citizens of Africa' Programme'.[12] Its aims are to set up a diaspora expert database, systematically include diaspora expertise in AU programmes, and fully involve the diaspora in ECOSOCC (African Union, 2004c). An AU-South Africa-Caribbean Diaspora Conference was held in the Caribbean in 2005. Together with other partners, the AU organised regional consultative conferences in Latin America, Europe, the US, the Caribbean and Africa in 2007. As a result of these meetings, the first African Diaspora Ministerial Conference was organised in South Africa in November 2007 (Government of South Africa, 2008).

The delegates attending the regional consultative meetings agreed on six themes that needed to be addressed:

- global dialogue, peace and stability;
- historical, socio-cultural and religious commonalities;
- knowledge-sharing;
- women, youth, children and vulnerable groups;
- economic cooperation;
- regional development and integration (South African Department of Foreign Affairs, 2007).

The first African Diaspora Summit was originally planned for 2008 in South Africa. It was postponed several times and has still not taken place, but is now thought likely to take place in Botswana in 2011. The AUC has since launched a project with the World Bank to conduct a global mapping of African diasporas. It is establishing a framework to engage with diasporas by setting up regional networks (African Union Commission, 2009b). It remains to be seen how the AU can add value to the existing efforts of member states and RECs to engage their diaspora.

On **remittances,** the African Union, supported by the World Bank (together with IOM, the EC and the AfDB), is in the process of establishing the African Remittances Institute. The institute aims to strengthen the capacity of member states of the African Union, payers and beneficiaries, the private sector, universities and other stakeholders to develop and implement strategies and operational instruments for using remittances as tools for poverty reduction. The project was launched in June 2010. A Secretariat for the Establishment of an African Remittances Institute, paid by the World Bank, has been formed within the AUC. Some AU officials note that the project is not (yet?) fully integrated with the AU's other activities in the area of migration (interviews, 2011).

The AU has tried to influence EU decision-making on **brain drain**. It contributed to a workshop on policy coherence for development and brain drain in January 2008, arguing that the EU's proposal for the blue card directive (i.e. providing attractive conditions for entry into the EU for highly qualified migrants) was not in line with EU's commitment to promote policy coherence for development, as it did not contain binding measures to counteract the brain drain (African Union, 2008b).

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[12] Adopted at the 4th ordinary session of the Executive Council.

3.2.3. Mobility

On mobility, little can be reported on AU action to implement agreed policy frameworks, although free movement is a key factor in achieving closer African economic integration. As noted in the introduction, even though circular migration (both regular and irregular) is in fact the most common form of migration in sub-Saharan Africa, no major policy initiatives would appear to have been taken to better respond to or facilitate these movements at a continental level.

The African Union Commission established the Mwalimu Nyerere Scholarship Scheme in 2007, allowing qualified nationals to attend leading African universities and institutions of higher education. Several donors support the programme (among them the EU and India). It obviously helps mobility if nationals apply to universities in other member states.

Established in 2007 and with a focus on border demarcation, the AU Border Programme has a component promoting the development of local initiative cross-border cooperation. Under the Programme, initiatives have already been developed in West Africa.

Some RECs are much more advanced in this area in terms of policy-making and policy implementation.

- Long before the Abuja Treaty, *ECOWAS* adopted a Protocol in 1979 on the free movement of persons and the right of residence and establishment. The Protocol on Free Movement, which allows for 90 days of visa-free stay, has accelerated labour migration and is regarded as a key ECOWAS achievement. Plans for a borderless sub-region were restated in 2000, including an ECOWAS passport, the elimination of rigid border formalities and residence permit requirements (Adepoju, 2007).

- *COMESA* adopted a Protocol on the Free Movement of Persons, Labour, Services, Right of Establishment and Residence in 2001. However, by March 2010, only four member states (Kenya, Rwanda, Burundi and Zimbabwe) had signed it, and only Burundi had ratified it (COMESA, 2010). In the absence of real progress on the Protocol, COMESA continues to work on the basis of the Protocol relating to the gradual relaxation of and the eventual elimination of visa requirements, which is part of COMESA's 1981 preferential trade agreement (PTA, UNCTAD, 2009).

- S*ADC's* attempts to bring about free movement have also encountered problems. An initial Protocol on Free Movement from 1997 was withdrawn, revised several times following objections, mainly from South Africa, and finally signed in 2005. It allows for visa-free entry for up to 90 days and authorises permanent and temporary residence. Only five member states (Botswana, Lesotho, Mozambique, Swaziland and South Africa) have ratified the Protocol (Adepoju, 2007; UNCTAD, 2009; Zodiakmalawi, 2010) to date.

- The *EAC*'s Common Market Protocol has been in place since July 2010. It contains an Annex on the Free Movement of Persons, setting out the right to visa-free entry. The EAC has issued an EAC passport for travel within the region. Kenya and Rwanda have abolished work permits following the ratification of the Protocol (EAC, 2011; allAfrica, 2010).

- During a visit of the AU to the *IGAD* in April 2008, it was agreed that, in consultation with and with the assistance of the AU Commission, the IGAD would draft a protocol on mobility (African Union, 2009d). In October 2010, at the first meeting of the IGAD Regional Consultative Process (IGAD-RCP) on Migration since its launch in 2008, it was agreed that 'there is a need to develop an IGAD Regional Protocol on Free Movement of Persons with clearly established operational modalities, in support of

IGAD regional integration and economic cooperation' (IGAD, 2010). It would therefore seem that little progress has been made on this in two years.

- One of the core objectives of *CENSAD*, when it was created in 1998, was the free movement of persons, but the Community has not yet signed a Protocol on free movement (African Union Commission, 2010b).

This shows that, while the RECs are more advanced in policy terms, in practice visa-free entry is the most they have accomplished so far. It is a valuable first step towards free movement. The issue of overlapping memberships in different RECs complicates further action. Beyond this, there is a lot of political resistance to facilitating free movement, as countries fear that they will lose sovereignty to regional institutions. There is also a lack of trust among members, a lack of interest in harmonising immigration laws, xenophobia etc. (UNCTAD, 2009, interviews, 2011). Free movement being closely linked to intra-regional trade, the RECs are probably better placed than the AU to get member states to move forward on the issue; the AU's role remains to coordinate, monitor and evaluate. The AU has an overall responsibility to publicise the Protocol in the Abuja Treaty and to help the IGAD and CENSAD to catch up with the more advanced RECs.

3.3.   Problems and questions

In conclusion, the AU has put in place a comprehensive migration policy framework with many constructive ideas for implementation. In practice, however, the AUC has limited leeway: the monitoring obligations are couched in weak terms and the frameworks do not call for follow-up proposals that would be legally binding on member states. In other words, all the AUC can do is standard-setting. So is there any scope for progress on the issue of migration given these limitations?

The lack of implementation is not just a problem in relation to migration. As Okumu (2009) notes, the AU Assembly has taken 209 decisions and published 36 declarations on various issues since 2002; and the Executive Council has issued 469 decisions and 3 declarations. All of these have either been poorly implemented or not implemented at all. At the same time, we need to bear in mind that the AU is still a very young institution: many processes are still under development and more time is needed to ensure adequate delivery.

3.3.1. Key questions

What is the added value of the AU and the AUC vis-à-vis the regions in terms of migration?

Given its limited capacity on migration, the AUC needs to set priorities and find a niche for itself vis-à-vis the work of the RECs if it is to be of added value to them.

- **Monitoring & evaluation on irregular migration.** The AU is most heavily engaged in relation to forced migration: it has tabled Conventions on refugees and IDPs, and has formulated a strategy on human trafficking. It has a clear role here to ensure that the various regions adopt similar standards. ECOWAS and SADC are already further ahead than regions that are more prone to conflict. The AU could emphasise this aspect and develop its monitoring and evaluation capacity, which is not something RECs or member states are likely to do.
- **Standard-setting and conviction work**. The AU should continue to 'lobby' regions and states on the (evidence-based) value of a balanced approach to regular and irregular migration. In the area of voluntary migration, it could focus on popularising the Abuja Treaty and other migration frameworks

and disseminate information on the advantages of regular labour migration for receiving and sending countries.

- **Further reflection.** What can the AU add to work already performed by the member states and regions on diaspora and remittances? Is there a need for continental engagement?

There is clearly a **role for academia and civil-society organisations** to address the issue of the niche role that the African Union can play. There are very few African scholars working on intra-African migration, and even fewer on pan-African migration. On pan-African migration frameworks, some African academic commentators have written about the Kampala Convention, mainly from a legal perspective. There is still considerable scope for analysis in other areas of continental and regional migration policy and it would be best if it originated from within the continent.

What structural adjustments could be made?

- **Incentivisation to form a cross-departmental AU working group on migration.** More incentives could be created for exchanges between departments of the African Union Commission, who could be encouraged to work more closely together (opportunities for this could be created in the next AUC Strategic Plan, starting in 2013). If the AUC had a consultative forum, it could develop integrated policy design for itself and advise RECs and member states. Many RECs and member states (not only in Africa) lack this type of inter-service consultation. The NEPAD Agency should also become part of the migration 'network' within the AUC, in line with its responsibility for reducing human resource shortages. NEPAD could play a bigger role in the management of intra-regional labour migration (Adepoju, 2008).

What type of initiatives could promote migration efforts?

- **Peer pressure.** Even if there is not much political scope for initiatives that go beyond standard-setting, the AUC could apply peer pressure by publicising success stories, so as to attract attention in less advanced regions and member states.

- **'Behind the scenes'.** Conferences and workshops should be organised in tandem with 'behind the scenes' work, where the AUC could facilitate small mobility schemes between neighbouring countries, and so on. This type of work would be less high-profile, but could have a big impact on those affected.

- **SMART action plans**. New action plans should be SMART, i.e. specific, measurable, attainable, relevant and time-bound, and contain performance indicators. The COMMIT initiative was already a good step in this direction, with an underlying strategy and a series of steps in relation to which progress can be measured.

4.   The role of the EU

Europe adopted a three-pronged, 'global approach' to migration in 2005, centring on the following aspects:

- legal migration;
- illegal migration;
- migration and development.

Irregular migration from Africa has always been a concern for the European Union, even though comparatively few African migrants actually make it to Europe (see introduction for figures). In terms of cooperation, Europe's focus has been on North Africa in the past, as most Africans pass through North African countries on their way to Europe. In recent years, Mediterranean member states (particularly France and Spain) have sought agreements on migration with West African countries. Much of the force behind European migration policy stems from a fear of irregular migration. In recent years, the European Commission has made a number of proposals to facilitate labour migration to Europe, but only highly skilled migration schemes meet the interests of member states in the current European political climate and given the current economic crisis. Europe's cooperation with the AU on migration should be seen against this background.

4.1.1.   The first Action Plan: 2007-2010

On the basis of the comprehensive agenda provided by the Joint AU-EU Declaration on Migration and Development (see section 2.3.1), the African Union and the European Union agreed to include a Partnership on Migration, Mobility and Employment in the Joint Africa-EU Strategy adopted in Lisbon in 2007. Employment was included at the specific request of the African delegations. The Joint Strategy was hailed as a new start in the relationship between Africa and Europe, taking it beyond aid to a partnership of equals.

Box 5: Priority actions of the MME Partnership

The Partnership's Action Plan spelled out three priority actions (AU & EU, 2007):

1.   implement the Declaration of the Tripoli Ministerial Conference on Migration and Development;
2.   implement the Africa Plan of Action on Trafficking of Human Beings;
3.   implement and follow-up the 2004 Ouagadougou Declaration and Action Plan on Employment and Poverty Alleviation in Africa.

On the basis of the defined priority actions (see Box 5), the two Commissions developed a 'road map' (latest version: European Commission & African Union Commission, 2010). The road map included 33 initiatives in total. Rather than being a strategic planning tool, the road map provided a sort of analysis of on-going migration activities. Most of the activities were conducted by the two Commissions, and a few activities reported on by the EU member states. The majority of projects were not new and involved not only the regional and continental levels, but also the national level. This allowed governments to argue that many of the initiatives they had already taken were 'under the framework of' the MME Partnership.

At the joint ministerial meeting in November 2006 in Tripoli, the African delegation asked for a fund to finance new initiatives under the MME partnership. They stressed that the various types of funding sourced from different EU envelopes and facilities were difficult to access. The first meetings between the two continents on migration were dominated by this topic: the EU delegation felt there was already plenty of

funding available and it was not necessary to create additional means solely for the MME partnership. As the 2009 assessment report (AU & EU, 2009) of the JAES notes, 'in recent years the EU Commission alone has allocated some €266 million to projects related to migration in Africa. Substantial bilateral contributions by EU member states can be added to this. Even though many of these interventions are not strictly presented under the banner of the Africa-EU Partnership on Migration, Mobility and Employment, in material terms they do contribute to it.'

The Assessment Report claimed that the MME Partnership faced further challenges. It said that the absence of an operational coordinator and a lead country for Africa was an obstacle to progress, on both the EU and the AU side. States should take more initiatives on specific actions, and the employment strand of the partnership needed to be developed.

To ensure visibility and sustainability, it was proposed to organise a follow-up conference to Tripoli in 2010, prior to the Africa-EU Summit in Libya in December 2010. This proposed conference did not materialise.

After three years, few people would argue that the MME Partnership is one of the more successful partnerships conceived as part of the JAES Strategy. Although a great deal of emphasis has been placed on 'dialogue', there is little to show in terms of the concrete outcomes of this dialogue at a continental level. This illustrates the difficulty of reconciling conflicting African and European interests in relation to migration.

4.1.2. The second Action Plan: 2011-2013

The second Action Plan devised as part of the MME Partnership is more focused: it contains just 12 initiatives, all of which are clearly delineated, and the emphasis is on the regional and continental levels. Yet this focus has come at the cost of the areas of circular migration and international protection. This is in spite of the agreements reached at the Senior Officials Meeting held prior to the adoption of the Action Plan, which recommended that international protection should be strengthened as part of the partnership (ICMPD, FIIAPP & IDEP, 2010). Box 6 shows the agreed initiatives and the imbalance between different areas – or rather, the shift of focus as the partnership concentrates more on education.

Box 6: The 'balance' in activities in the 2011-2013 Action Plan on Migration, Mobility and Employment

POLICY AREA	INITIATIVE IN THE ACTION PLAN	FUNDING FROM THE EC[13]
• Political dialogue	'Facilitating the Dialogue' initiative ACP Observatory on Migration	€3 million (DCI) €8 million (intra-ACP envelope) ***TOTAL: €11 million***
Migration and Development		***TOTAL: €3.1 million***
• Diaspora	Diaspora Outreach Initiative	€1.4 million (+ funding from NL and DE)
• Remittances	African Remittances Institute	€1.7 million (DCI)
• Brain Drain	-	
• Migrants' Rights	-	
Mobility		***TOTAL: O***
• Circular Migration		
Irregular Migration		***TOTAL: O (so far)***
• Human Trafficking	Human Trafficking Initiative	EDF 10 Proposal for post-

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[13] Source: European Commission, 2010.

		2012 funding pending (COMMIT funded by UNHCR, IOM, UNODC)
• International Protection	-	
Employment		*TOTAL: approx. €36million*
• Higher Education	Nyerere Programme	€30 million (intra-ACP, EDF 10), €5 million (DCI, for SA)
	Pan-African University	PAU to apply for funding from the EU
	Higher Education Harmonisation and Tuning	€1.08 million so far (mainly from Erasmus Mundus)
• Decent Work	Decent Work Initiative	€140,000 (Study and Conference Facility)
• Job Creation	Labour market governance and capacity-building initiative	?
	Regional and sub-regional fora on employment, labour, social protection and labour migration	?
	African Guarantee Fund	?

Most of the funding is spent on higher education. The AU's recommendation, already made in the 2006 African Migration Policy framework, to work towards the recognition in the EU of academic and professional qualifications obtained in Africa, is not included in the agenda. Instead, the 'tuning' project focuses on the harmonisation of higher education programmes within Africa. This is surprising, given the 2nd JAES Action Plan's emphasis on education and migration and development.

Only the 'facilitation of dialogue' initiative can be said to have been devised specifically for the MME Partnership. The remaining initiatives originated elsewhere and/or are already included in the first Action Plan. Most AU and regional projects and programmes covered by the 2nd Action Plan were already conceptualised and partly established by the AU before 2010 (e.g. COMMIT and the Remittances Institute) and the EU's role seems to be limited to providing funding or co-funding. This makes it hard to pinpoint the added value of the MME Partnership.

As the management of the JAES is likely to be revised in 2011, in the course of overall changes in the EU structures for external relations, it remains to be seen whether the MME Partnership will survive. The report (AU & EU, 2011) published on the Joint Task Force Meeting between the EU and the AU in April 2011 does not contain a section on the MME Partnership (indeed, it is the only partnership that is not discussed). However, the importance the EU attaches to migration issues means that it will continue funding this area in one way or another.

4.2.   Innovative EC initiatives on migration

4.2.1. The Intra-ACP Migration Facility

The EU has allocated a budget of €25 million to an intra-ACP migration facility for 2009-2013. The aim of this facility is to build capacity on migration and development in ACP countries. Although the facility has been slow to get off the ground, it may be able to help the AU and the RECs to build a stronger migration policy. The facility has three objectives:

1. to strengthen the institutional capacities of the six ACP regions and 12 pilot countries (in Africa these are Senegal and Nigeria, Cameroon and the DRC, and Kenya and Tanzania, Angola and Lesotho);
2. to create a network of migration observatories;
3. to enable civil society to participate in the dialogue.

As part of the first component, the facility will support the inclusion of a 'migration and development unit' in the organisational structure of the mandated regional institutions, and the pursuit of a dialogue between regional and national institutions within and among the regions (in all ACP regions and among pilot countries). This should help to remedy one of the weaknesses of the current African framework. It also aims to extend knowledge of migratory flows and of their relationship with policies implemented in the sectors of health, education, employment, trade, environment, and to strengthen capacity in planning and in producing documents promoting the integration of migration into development policies (Acpmigration, 2011).

4.2.2. The MIEUX initiative

Under the migration and asylum component of the European Commission's Development Cooperation Instrument (DCI), the Commission has launched a joint initiative in conjunction with the International Centre for Migration Policy Development (ICMPD). This is known as Migration EU Expertise (or MIEUX for short) and has been allocated a budget of approximately €3 million. The initiative supports non-EU countries in addressing **irregular migration and mixed migratory flows**. Since the initiative was launched in 2009, it has supported or will support ten African governments and regions.

Box 7: Actions under the MIEUX initiative

Country	Type of support
Malawi	Capacity-building in border management.
Ethiopia	Technical Assistance (TA) with the implementation of the Conference on National Dialogue on Tackling Illegal Migration and advice on the development of a national strategy on irregular migration.
Mozambique	Capacity-building in border management and document security.
COMESA	TA for the Chief of Immigration Officers/Ministerial Meeting promoting the application of its Model Law on Immigration (national implementation of protocols and council decisions, harmonisation of national laws and cooperation on immigration matters to facilitate trade).
Cape Verde	Support for the development of national migration policies with a view to reducing irregular migration and maximising migration benefits.
Angola	Provision of legal advisory services and practical tools, in raising awareness on issues, costs, risks, rights and responsibilities associated with migration amongst selected target groups.
Sierra Leone	Technical expertise through training on border management and security, and the organisation of a seminar on migration legislation.
Zambia	Provision of institutional and staff capacity-building in the field of anti-trafficking.
Senegal	Support for the development of a border management strategy (gaps and needs analysis, training in border management).
West Africa	Capacity-building in irregular migration.

Source: www.icmpd.org

The activities are based on technical assistance requests from regions or national governments. The EU's interest in supporting these actions is clear as addressing irregular migration is one its priorities. Most technical assistance is provided by European border police officers.

4.3.   What role does the EU play at present?

4.3.1. Does the EU support pan-African regional integration in the area of migration?

The EU spends a **large amount of funds** on continental and regional migration issues in Africa. Its funding allows for **closer cooperation** between RECs and the AU and is intended to **strengthen capacity** in the fields of migration and development and legal migration, as well as irregular migration. Initiatives such as the intra-ACP migration facility, which address data gaps and seeks to support the development of migration and development units in national ministries and in the RECs, are important means of bolstering the African migratory framework.

The EU sees support for **regional integration** as one of its strengths and an area in which the European Commission wishes to be a particularly strong player. This is not true of all European Commission initiatives. Initiatives like MIEUX create an impression that deterring migration through better African border management is a European priority. At the same time, initiatives to promote the free movement of people and hence regional integration is much lower on the European funding agenda.

A number of European member states have been criticised for the way they negotiate migration agreements, particularly with West African countries. As Gnisci (2008, p.105) notes, 'if the discussion takes the form of negotiations between quotas, readmission and development aid, this situation is likely to give rise to a form of competition vis-à-vis their European interlocutors **to the detriment of cooperation among neighbouring countries**'.

4.3.2. Does the EU respect African ownership in the area of migration?

Through the Joint Africa-EU Strategy, the EU is heavily involved in most pan-African migration initiatives. It has developed joint strategies on migration and development and human trafficking in cooperation with the African Union. Because of its financial involvement and larger capacity, the EU (particularly the European Commission) has been consulted during the compilation of various internal documents. Some commentators believe that the EU is therefore able to drive the pan-African agenda to a certain extent. This is problematic in terms of African ownership, domestic accountability, etc.

African ownership of JAES MME initiatives has not always been clear. The Africans had reservations about including the African Remittances Institute in the JAES (ICMPD, FIIAPP & IDEP, 2010) because it was felt that private sector initiatives in this area already existed, remittances were private money and the diaspora should be the driving force behind such an initiative. The African delegation also questioned its ownership of the governance architecture of the African Guarantee Fund, run by Europeans (ICMPD, FIIAPP & IDEP, 2010).

4.4.   What role should the EU play in the future?

- The EU should ensure that there is a balance between the different initiatives pursued under the MME Partnership (or any future type of partnership on migration with the AU & RECs). In Cairo in 2000, the EU already committed itself to promoting free movement. It reiterated this commitment in the 2006 Joint Declaration, in which it endorsed the implementation of regional free movement in Africa. Circular migration and the movement of pastoral peoples is a particularly African migratory phenomenon and the EU could support the legalisation of these movements and promote migrants' rights. Naturally, the EU cannot provide support for issues that African member states are not interested in furthering.

- The EU is involved in many African migration initiatives, by facilitating visits, conferences and workshops. Could it not invest more by helping the AUC to develop proper monitoring systems for its various initiatives? African member states have been asked to file reports on many migration-related-issues, but in practice they often fail to do so. AU staff could provide support if this failure is the result of a shortage of capacity on the part of the member states rather than due to a lack of political will. If the AUC had better information on the challenges in various regions and countries, it could provide useful advice to RECs, helping them to formulate programme proposals.

- The EU could consider funding more AU staff working on migration. However, the AU is rightly reluctant to earmark donor funding for specific staff and prefers to recruit staff in areas of its own choosing. Such a proposal would thus have to be discussed in detail with African representatives. The use of consultants undermines institutional memory.

- Data collection is still a very important issue. The ACP migration observatory aims to link up different African initiatives, but as an ACP initiative it excludes North Africa. The findings of the observatory should be presented to African member states in order for them to inform policy-making. Senior migration officials meeting in 2010 recommended that the ACP observatory or another body should produce data on human trafficking. The groundwork on this has already been done as part of the COMMIT strategy. It is important to create synergies between the two initiatives.

- The EU (particularly the member states) should be careful not to undermine regional cooperation through bilateral agreements that link readmission and development cooperation and lead to competition between different countries in the same region. The EU is committed to promoting regional integration in Africa and should not retreat in favour of its preoccupation with limiting irregular migration. The European External Acton Service, once fully functional, could engage in this area, where European security concerns and developmental goals clash.

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