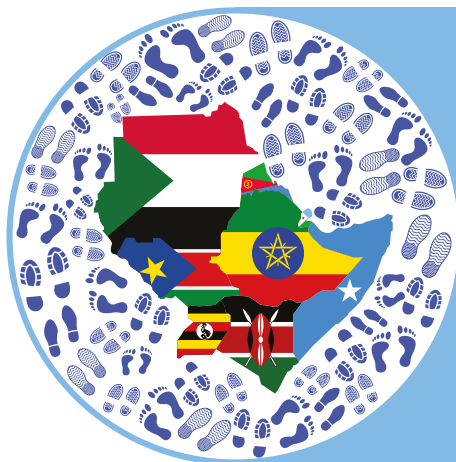




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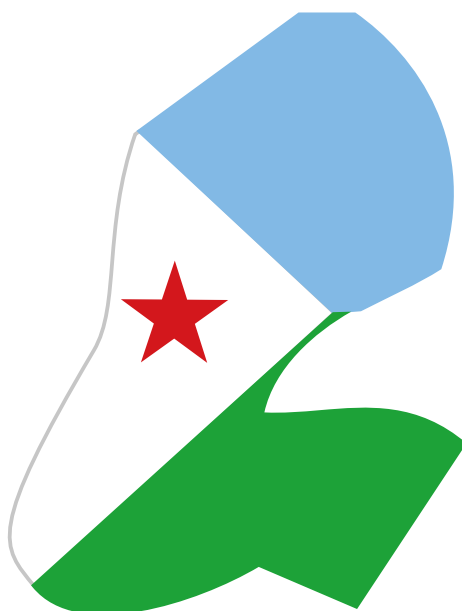


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An assessment of labour migration and mobility governance in the IGAD region Country report for

Djibouti



FMPT

Free Movement of Persons and Transhumance
in the IGAD Region: Improving Opportunities
for Regular Labour Mobility

An assessment of labour migration and mobility governance in the IGAD region: Country report for Djibouti

**Free Movement of Persons and Transhumance
in the IGAD Region: Improving Opportunities
for Regular Labour Mobility**

Funded by the European Union

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An assessment of labour migration and mobility governance in the IGAD region: Country report for Djibouti

Free Movement of Persons and Transhumance in the IGAD Region: Improving Opportunities for Regular Labour Mobility

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List of abbreviations and acronyms

ANEFIP	Agence Nationale de l'Emploi, de la Formation et de l'Insertion Professionnelle (National Agency for Employment, Training and Professional Integration)
APZFD	Autorité des Ports et Zones Franches Djibouti (Djibouti Ports and Free Zones Authority)
AU	African Union
BBC	British Broadcasting Corporation
BLA	bilateral labour agreement
BMM	Better Migration Management Programme
CNDH	Commission Nationale des Droits de l'Homme (National Human Rights Commission of Djibouti)
CNE	Commission Nationale d'Eligibilité au Statut de Réfugié (National Commission on Eligibility for Refugee Status)
CNR	Commission Nationale de Recours au Statut de Réfugié (National Commission of Appeal on Refugee Status)
CNSS	Caisse Nationale de Sécurité Social (National Social Security Fund)
COMESA	Common Market for Eastern and Southern Africa
DISED	Direction Statistique et des Études Démographique (Statistics and Demographic Studies Department)
DJF	Djiboutian franc [currency]
EUTF	European Union Emergency Trust Fund for Africa
GDP	gross domestic product
IGAD	Intergovernmental Authority on Development

ILO	International Labour Organization
IO	International organization
IOM	International Organization for Migration
JLMP	Joint Labour Migration Programme
LMIS	Labour Market Information System
MOFA	Ministry of Foreign Affairs and International Cooperation
MOI	Ministry of Interior
MOJ	Ministry of Justice, Prison Affairs and Human Rights
MOL	Ministry of Labour and Administrative Reform
NCM	National Consultative Mechanism
NGO	non-governmental organization
ONARS	Office National d'Assistance aux Réfugiés et Sinistrés (National Office for Assistance to Refugees and Disaster Victims)
PEA	private employment agency
RCP	Regional Consultative Process
REC	regional economic community
SEAS	Secrétariat d'Etat chargé des Affaires Sociales (State Secretariat for Social Affairs)
<i>TIP Report</i>	US Department of State <i>Trafficking in Persons Report</i>
UNECA	United Nations Economic Commission for Africa
UNHCR	United Nations High Commissioner for Refugees

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Foreword

The International Labour Organization (ILO) in close collaboration with the IGAD Secretariat has produced this report titled *Labour migration and mobility governance in the IGAD region: Country report for Djibouti* as part of the project on “Free Movement of Persons and Transhumance in the IGAD Region: Improving Opportunities for Regular Labour Mobility” financed by the European Union. The report forms part of the knowledge-generation component of the project, and aims to generate an evidence base for improving labour migration and mobility governance in the Intergovernmental Authority on Development (IGAD) region, which is characterized by forced displacement, mixed migration flows, and limited options for regular labour migration and mobility.

However, increasing opportunities for labour mobility through an IGAD Free Movement of Persons Protocol is believed to promote regional integration and reduce pressure on national labour markets that are unable to provide sufficient decent work opportunities. In addition, countries of destination within IGAD could benefit from labour and skills that they require for socio-economic development. Furthermore, increased opportunities for legal migration are expected to lead to more migrants migrating safely and enjoying decent work opportunities. The monitoring and enforcement of migrants’ rights are also expected to be improved through the normative framework that such a Protocol will put in place.

In this context, the country report for Djibouti highlights major trends and examines various policy and legal frameworks governing labour migration and mobility in the country using a comprehensive Analytical Framework developed for this study. The findings and recommendations of the study are structured around three major pillars and 12 thematic areas that are building blocks of labour migration and mobility governance. The first pillar, Strengthening Labour Migration Governance, examines national systems and capacities to collect and analyse labour migration data; capacity to develop and implement labour migration policies; the regulating of recruitment agencies; and improving coordination on migration issues at various levels. The second pillar, Advancing Opportunities for Regulated Labour Migration and Decent Work, assesses migrants’ access to labour markets, information, education, and finance, and facilitating the social inclusion and integration of migrants. The third pillar, Enhancing the Protection of Migrant Workers and their Families, reviews migrants’ rights, social security, labour inspection, and reception and return.

I believe the findings of the study will provide a comprehensive overview of migration and mobility governance in Djibouti and significantly contribute to the development of the IGAD Free Movement of Persons Protocol, as well as its implementation once it is adopted.

Alexio Musindo,

Director

ILO Country Office for Ethiopia,
Djibouti, Somalia, South Sudan,
Sudan and Special Representative
for AU and UNECA

Executive summary

The International Labour Organization (ILO) is implementing the European Union Emergency Trust Fund-funded project “Free Movement of Persons and Transhumance in the IGAD Region: Improving Opportunities for Regular Labour Mobility” in collaboration with the Intergovernmental Authority on Development (IGAD).

The project aims to improve opportunities through the development of models of intervention in the broader context of regional integration. In the long-term it is expected to extend decent work opportunities to current and potential migrants in the region, and further contribute to regional integration.

In this context, the ILO is conducting a series of studies to better understand the migration and labour market dynamics in the region, including the constraints and opportunities for employment creation and the causes of skills shortages. Labour migration and mobility governance assessments have been undertaken of the IGAD Member States, which are captured in country reports and a global report. These assessments should support the development and implementation of the IGAD Free Movement of Persons Protocol.

For these assessments an Analytical Framework was developed, which assesses policies, laws and practices on labour migration and mobility. The Analytical Framework is structured around three pillars that are building blocks for enhancing labour migration in the IGAD region:

- ▶ **Pillar I.** Strengthening labour migration governance;
- ▶ **Pillar II.** Advancing opportunities for regulated labour migration and decent work; and
- ▶ **Pillar III.** Enhancing the protection of migrant workers and their families.

Each pillar contains a set of thematic areas with guidelines that contribute towards achieving the respective pillar. The guidelines are derived from the:

- ▶ *ILO Multilateral Framework on Labour Migration: non-binding principles and guidelines for a rights-based approach to labour migration* (ILO, 2006);
- ▶ IGAD Regional Migration Policy Framework; and
- ▶ Draft IGAD Free Movement of Persons Protocol.

The last part of the report contains pivotal recommendations for advancing the governance of labour migration in Djibouti and the IGAD region, which are derived from the Analytical Framework assessment. Data for this assessment was gathered through desktop research and semi-structured interviews with government officials, civil society organizations, employers’ and workers’ organizations, international organizations (IOs), and European Union (EU) Delegations during a field mission to Djibouti City from 19–26 June 2018.

Overview of Djibouti's migration trends and migration management

Djibouti is mainly a transit country for migrants in mixed migration flows from the Horn of Africa to Yemen and the Gulf States (RMMS, 2016). The journey through Djibouti can be treacherous, with migrants facing exploitation at the hands of smugglers or succumbing to extreme heat and dehydration. Djibouti is also an important destination for asylum-seekers and refugees from IGAD countries, as well as for Yemenis who are fleeing war in their country. Djibouti adopted a progressive refugee law in 2017 that grants refugees the same fundamental rights as nationals. The country also attracts economic migrants from the region, Europe, and Asia. Its relatively stability in the fragile Horn of Africa and strategic location at the southern entry of the Red Sea has led to the establishment of several foreign military bases in Djibouti and investment in infrastructure. Few Djiboutians migrate internationally, partly due to relatively low salaries in neighbouring countries and language barriers – Djibouti is the only Francophone country in the IGAD region. Some Djiboutians migrate for education and work to France and Canada. Labour migration to the Middle East and Gulf countries also takes place, and is facilitated by private employment agencies (PEAs). A previous bilateral labour agreement (BLA) with Saudi Arabia was halted due to the exploitation of domestic migrant workers in that country. Djibouti currently has a BLA with Qatar.

Various ministries and agencies play a role in migration and mobility governance in Djibouti, including the:

- ▶ Ministry of the Interior (MOI);
- ▶ Ministry of Labour and Administrative Reform;
- ▶ Agence Nationale de l'Emploi, de la Formation et de l'Insertion Professionnelle (ANEFIP – National Agency for Employment, Training and Professional Integration);
- ▶ Office National d'Assistance aux Réfugiés et Sinistrés (ONARS – National Office for Assistance to Refugees and Disaster Victims); and the
- ▶ Ministry of Foreign Affairs and International Cooperation (MOFA).

Social partners are not active in Djibouti and the National Coordination Mechanism on Migration (NCM) is yet to be fully established. The ministries of interior, education, health, women and family, labour, and justice do, however, participate in an inter-ministerial working group on migration.

The next section below presents an assessment of Djibouti's labour migration and mobility governance in terms of the thematic areas of the Analytical Framework, while offering recommendations that are more fully developed in the final chapter of this report.

Analytical Framework analysis

Pillar I. Strengthening labour migration governance

Thematic Area 1. Capacity to collect and analyse labour migration data

Djibouti's Labour Market Information System (LMIS) remains rudimentary. ANEFIP has a database that captures data on jobseekers' work interests and employers' demand for labour, which is used to produce annual statistics on jobseekers and the placement of workers. Djibouti needs to fully develop its LMIS and capture the sectorial, occupational, and regional dimensions of labour supply and demand. Djibouti should assess the long-term impact of demographic trends on the demand for and supply of labour, and determine current and future skills needs and gaps.

Various government agencies collect migration data, but it is not coordinated, compiled, or collectively analysed. Relevant government ministries and agencies should be trained on labour migration data collection and analysis, and applying it to labour migration policy.

Little information exists on labour flows between IGAD Member States and Djibouti. Regular data collection, analysis, and sharing of labour flows and needs between Djibouti and the IGAD countries should be undertaken to enhance labour migration and fill skills gaps.

Thematic Area 2. Coordination on labour migration

Little inter-ministerial coordination on labour migration takes place and tripartite consultation is insignificant. More comprehensive dialogue on all dimensions of labour migration should take place at the inter-ministerial level and at national level with partners, such as non-governmental organizations (NGOs), academia, and IOs. The NCM could be an avenue for such dialogue and coordination, once it is developed. The sharing of labour market information and profiles of good practices on labour migration should be instituted in existing regional and continental forums, such as the IGAD Regional Consultative Process and African Union meetings.

Thematic Area 3. Capacity to formulate and implement policy

Djibouti does not have a migration or labour migration policy, and the country's development framework (Vision 2035) and National Employment Policy do not specifically address labour migration. However, Djibouti does have a number of laws and regulatory frameworks that address migration management and which are in the process of being further consolidated. Moreover, the Government of Djibouti plans to develop a labour migration policy. The labour migration policy development process should take into account and ensure policy coherence with relevant national policies, and be developed through a whole-of-government approach that engages all the relevant ministries and agencies whose work touch on labour migration. This process should be informed by research on the current and potential future contribution of labour migration to Djibouti, of which little currently exists.

The policy development process should be used to raise awareness among government ministries of the ILO Migration for Employment Convention (Revised), 1949 (No. 97); the ILO Migrant Workers (Supplementary Provisions) Convention, 1975 (No. 143); the ILO Private Employment Agencies Convention, 1997 (No. 181); and the 1990 International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families. The ultimate aim being to achieve the Government's signature of these Conventions. Moreover, the labour migration policy should comprehensively address the protection concerns of incoming and outgoing migrant workers, and lay out the steps needed to put in place the necessary protection mechanisms. In addition, to promote the protection of migrant workers, BLAs should comprehensively cover working conditions and migrants' rights.

Thematic Area 4. Regulating recruitment agency practices

Djibouti promotes written and enforceable employment contracts, but should require all of the obligations and responsibilities of workers, employers, and PEAs to be specified in employment contracts, to ensure that migrant workers are fully informed of their rights.

A standardized system of licensing for PEAs exists, including sanctions if the system is not adhered to or if migrant workers' rights are violated. According to the legal framework, recruitment fees are not borne directly or indirectly by migrant workers. The extent to which PEAs are effectively monitored and regulated and the legal framework enforced is not clear. Bespoke complaint mechanisms through which migrants can raise complaints with their PEAs or their employers should be put in place. A standard pre-departure training curriculum should be developed with modules for specific countries of destination and/or sectors. Pre-departure training for migrant workers should be enforced. Djibouti should accede to the ILO Private Employment Agencies Convention, 1997 (No. 181).

Pillar II. Advancing opportunities for regulated labour migration and decent work

Thematic Area 1. Labour mobility schemes to support labour market needs

An online portal (www.evisa.gouv.dj) exists to obtain a single-entry e-visa for business and tourism trips to Djibouti. Djibouti's e-visa system was developed by the Directorate General of the National Police with support from the IOM and the Better Migration Management programme, which is funded by the EU Emergency Trust Fund for Africa and the German Federal Ministry for Economic Cooperation and Development (BMZ), and led by the Deutsche Gesellschaft für Internationale Zusammenarbeit (GIZ). On 7 April 2019, Djibouti's first e-Visa counter was launched at the Djibouti International Airport, which allows visitors to apply for the visa in advance and receive it on arrival at the airport (IOM, 2019).

To enhance labour migration and mobility, all admission, employment, and resident requirements for migrant workers should be placed on the Government's e-visa web portal. In addition, the Government should consider reducing the cost of work permit costs. The private sector and migrant workers should be consulted on further simplifying the administrative requirements and procedures that govern entry, work, residence, and establishment in Djibouti. The Investment Code prohibits discrimination between foreign

investors and national investors. To promote business development, the Government should consider reducing obstacles to the entry of the foreign personnel of companies that are conducting business in Djibouti.

Engaging the diaspora is a new issue area for the Government, which is working on a Diaspora Strategy. ANEFIP is implementing a pilot circular migration project that is sending about 50 Djiboutian labour migrants to work in food processing in Quebec, Canada. The Government should build on this experience and explore opportunities for circular labour migration elsewhere, including in Africa and the IGAD region. Djibouti allows for dual citizenship, which promotes circular and return migration. Labour exchanges in the form of teacher exchanges take place between the University of Djibouti, the University of Nairobi, and the University of Somalia.

Thematic Area 2. Supporting functions for participation in the labour market, including access to information, education, training, skills recognition, and finance

IOs and NGOs disseminate information to refugees and vulnerable migrants, but not specifically to migrant workers in Djibouti. The Government, IOs, and NGOs should proactively disseminate information to migrant workers on their rights and opportunities, such as access to finance, education, and skills recognition, to facilitate their integration into the labour market and society.

Potential Djiboutian migrant workers may receive information on the migratory process from PEAs or companies they will work for abroad, including through pre-departure training.

There are currently no efforts to harmonize Djibouti's education system with those of other countries in the region. A regional exchange among IGAD countries on education curricula, examinations, standards, certification, and accreditation of educational and training institutions should take place, in order to pave the way for the harmonization of these systems across the region. Regular migrants and refugees in Djibouti have access to education, skills recognition, and the banking system.

Little information on remittance flows to and from Djibouti exists, though according to the MOFA, remittances to Djibouti are largely sent informally. An ACP (African Caribbean Pacific) EU Migration Action to address this knowledge gap is underway and should inform policy development to reduce the cost of remittances and enhance their contribution to Djibouti's development.

Thematic Area 3. Promoting social integration and inclusion

While there are no education or public awareness-raising campaigns regarding the contribution that migrant workers are making to Djibouti, the country fares relatively well with the integration of migrants. It tolerates the inflow of irregular migrants from neighbouring countries, who perform essential jobs, such as domestic work, despite their impact on social services. By law, a regular migrant worker can be accompanied by their spouse and children to Djibouti. Spouses and children must obtain a residence permit to live in Djibouti and to access the education system; they also require a work permit to access employment.

Djibouti should regularize irregular migrants, with a view to enhancing social integration and inclusion and to securing their contribution to the social security system and tax base.

The Government is making significant efforts to integrate refugees. The 2017 Refugee law, *inter alia*, gives refugees access to employment and freedom of movement. Awareness of the 2017 Refugee law should be raised among the public and among refugees, in order to build knowledge of the rights and obligations of refugees and to aid their integration and contribution to society.

Pillar III. Enhancing the protection of migrant workers and their families

Thematic Area 1. Protection of migrant workers' human rights

The legal framework and enforcement mechanisms to protect human rights and labour rights in Djibouti – which includes Djibouti's Constitution, the National Human Rights Commission of Djibouti, and the Labour Code, 2006 – apply to migrant workers. The extent to which these rights are effectively enforced is not clear. Migrant workers, including irregular migrants, appear to access labour inspection services to settle work-related disputes. The Government, employers, and PEAs should actively inform migrant workers of their rights and the pertaining enforcement mechanisms. Legislation to protect migrant workers from forced labour, trafficking, and exploitation is in place, and enforcement should be further strengthened.

Thematic Area 2. Social security and social protection

National labour laws and social protection offer protection to migrant workers in a regular status in Djibouti. The provisions of the Labour Code should be extended to the Economic Free Zones, which are currently not covered by national labour law.

Regular migrant workers, including refugees and the self-employed, contribute to the Government's National Social Security Fund (CNSS). According to the Government, migrant workers will be reimbursed their pension contributions (if they have worked in Djibouti for five years) and 4 per cent of their total health-care contributions, but the modalities of how these transfers will be made are not clear. Djibouti does not participate in any bilateral, multilateral, or regional agreements on social security coverage for migrant workers or the portability of benefits.

Thematic Area 3. Labour inspection for migrant workplaces

Migrant workers' workplaces are reportedly inspected, as prescribed by the Labour Code, 2006. These inspections appear to be infrequent, as there are too few labour inspectors. It is not clear whether labour inspections take place in the Economic Free Zones. The number of labour inspectors should be increased, and they should be trained on the legal framework governing migrant workers and their rights.

Thematic Area 4. Facilitating reception and return

It is not clear to which extent pre-departure training is systematically provided to Djiboutian migrant workers, and ANEFIP should enforce this requirement, especially for those migrating to Gulf countries and Middle East, where exploitation has been reported. There is no system in place to systematically inform incoming migrant workers of their rights and obligations. The Government should provide on arrival training and/or information to incoming migrant workers, including on the legal framework governing migrant workers; their rights; access to services, such as education, health, finance, and social security; cultural awareness; and the dispute settlement mechanisms available.

1. Introduction

“

The long-term objective of FMPT project is to extend decent work opportunities to current and potential migrants in the region, and further contribute to regional integration.

The International Labour Organization (ILO) is implementing the project “Free Movement of Persons and Transhumance in the IGAD Region: Improving Opportunities for Regular Labour Mobility” in collaboration with the Intergovernmental Authority on Development (IGAD). The project is a key component of the European Union Emergency Trust Fund for Africa (EUTF) financed programme “Towards Free Movement of Persons and Transhumance in the IGAD Region”. The overall objective of the programme is to support the free movement of persons in the IGAD region, with a view to spurring regional economic integration and development.

The specific objective of the Free Movement of Persons and Transhumance in the IGAD Region: Improving Opportunities for Regular Labour Mobility project is to improve opportunities for regulated labour mobility and decent work within the IGAD Member States, through the development of models of intervention, in the broader context of the regional integration. In the long term, it is expected to extend decent work opportunities to current and potential migrants within the region, as well as to contribute to regional integration, strengthen the link between economic and job growth, and enhance the social and economic integration of migrants.

This report forms part of the knowledge-generation component of the project and aims to create an evidence base on labour migration and mobility governance in the region. This should contribute to the development of the IGAD Free Movement of Persons Protocol, as well as to building the capacities of Member States to implement the Protocol, once it is adopted. To this end, labour migration and mobility assessments of the IGAD Member States have been undertaken, to gain an overview of how labour migration and mobility are governed by these States, as well as areas that require reinforcement at the national and international level.

The assessments capture:

- ▶ the key policies and laws that regulate labour migration and mobility;
- ▶ the roles and responsibilities of the ministries and agencies whose work touches on labour migration;
- ▶ the involvement of social partners; and
- ▶ the inter-ministerial and national coordination mechanisms on migration.

Comprehensive country assessment reports on Djibouti, Ethiopia, Kenya, Somalia, South Sudan, Sudan, and Uganda have been developed, and follow the same structure and assessment exercise. This enables the identification of areas of commonality and divergence, as well as where capacities need to be strengthened or policies harmonized to pave the way for the implementation of the IGAD Free Movement of Persons Protocol. Moreover, a regional report captures the findings of the country reports; provides an overview of the governance of labour migration and mobility in the IGAD region; and details recommendations for how it can be advanced. The implementation of these recommendations should support the implementation of the IGAD Free Movement of Persons Protocol and aid countries in meeting IGAD and international labour migration governance standards.

The report commences in chapter 2 with an overview of the analytical framework employed in the study. This is followed by an overview of Djibouti and its migration trends in chapter 3. Chapter 4 presents an overview of the roles and responsibilities of the key government ministries and agencies whose work touches on labour migration. Chapter 5 covers Djibouti's National Coordination Mechanism on Migration. Chapter 6 is an overview and assessment of Djibouti's policies, laws, and practices on labour migration and mobility, as per the analytical framework presented in chapter 2.

The last part of the report contains key recommendations for advancing governance of labour migration in Djibouti and the IGAD region, which are derived from the Analytical Framework assessment. These recommendations, which include policy areas that need to be developed or capacities that need to be built, could be implemented by the Free Movement of Persons and Transhumance in the IGAD Region: Improving Opportunities for Regular Labour Mobility project, or by other actors, partners, or projects.

2. Methodology

“

Data gathered through desk research and semi-structured interviews with government officials, civil society organizations, employers' and workers' organizations, international organizations (IOs), and EU.

The research methodology employed for the assessments conducted in this study consists of interviews with key informants undertaken during field missions to the capitals of seven IGAD countries, for which semi-structured interview questionnaires were used. The organizations interviewed include:

- ▶ relevant government ministries and agencies;
- ▶ the IGAD Secretariat;
- ▶ international organizations (IOs);
- ▶ employers' and workers' organizations; and
- ▶ civil society organizations.

The field research was complemented by desktop research and interviews via Skype/phone. A field mission was undertaken to Djibouti City from 19-26 June 2018. Appendix I contains the list of key informants that were interviewed for this assessment.

In addition, an analytical framework was used to analyse the adherence of national laws, policies, practices, and coordination and consultation mechanisms on labour migration and mobility to the provisions of:

- ▶ the draft IGAD Free Movement of Persons Protocol;
- ▶ the IGAD Regional Migration Policy Framework; and
- ▶ ILO standards on labour migration as put forward in the *ILO Multilateral Framework on Labour Migration: Non-binding principles and guidelines for a rights-based approach to labour migration* (ILO, 2006).

The analytical framework is structured around three pillars, which are all building blocks for enhancing labour migration in the IGAD region:

- ▶ **Pillar I.** Strengthening labour migration governance;
- ▶ **Pillar II.** Advancing opportunities for regulated labour migration and decent work; and
- ▶ **Pillar III.** Enhancing the protection of migrant workers and their families.

Each pillar contains a set of thematic areas with guidelines that contribute towards achieving the respective pillars. These guidelines are derived from the three key documents mentioned above: the ILO Multilateral Framework on Labour Migration; the IGAD Regional Migration Policy Framework; and the draft IGAD Free Movement of Persons Protocol. In order to ease reading of this report, the analytical framework is presented in table 1 below.

In brief outline, the thematic areas of the three pillars are as follows:

- ▶ **Pillar I. Strengthening labour migration governance:**
 1. Capacity to collect, analyse, and share labour migration data;
 2. Coordination on labour migration;
 3. Capacity to formulate and implement policy; and
 4. Regulating employment agency practices.
- ▶ **Pillar II. Advancing opportunities for regulated labour migration and decent work:**
 1. Labour mobility schemes to support labour market needs;
 2. Supporting functions for participation in the labour market, including access to information, education, training, skills recognition, and finance; and
 3. Promoting social integration and inclusion.
- ▶ **Pillar III. Enhancing the protection of migrant workers and their families:**
 1. Protection of migrant workers' human rights;
 2. Social security and social protection;
 3. Labour inspection for migrant workplaces; and
 4. Facilitating reception and return.

In table 1, each thematic area contains a set of guidelines that are used to assess the relevant governance structures and mechanisms in the country. Certain thematic areas contain sub-headings, under which a set of related guidelines are captured to facilitate reading of the report.

In chapter 6 below, each thematic area and sub-heading will be expanded upon through "Overview" and "Assessment" passages. The Overview provides the background information that informed each Assessment, such as the relevant laws and policies. The Assessment contains an evaluation of how Djibouti is faring with regards to each sub-heading and its related guidelines. In cases where information is limited, all the information is captured in the Assessment, and an Overview is not provided.

TABLE 1. Overview of guidelines related to the pillars and thematic areas of the study¹

Pillar I. Strengthening labour migration governance
Thematic Area 1. Capacity to collect, analyse, and share labour migration data
<i>Labour market information and data: Guidelines</i>
ILO Multilateral Framework on Labour Migration
5.1. Establishing systems and structures for periodic, objective labour market analyses that take into account gender issues and that include: 5.1.1 sectorial, occupational and regional dimensions of labour shortages and their causes, and relevant issues of labour supply; 5.1.2 shortages of skilled workers in both origin and destination countries, including in the public, health and education sectors; and 5.1.3 long-term impact of demographic trends, especially ageing and population growth, on the demand for and supply of labour.
<i>Labour migration data collection and analysis, and applying it to labour migration policy: Guidelines</i>
ILO Multilateral Framework on Labour Migration
3.1. Improving government capacity and structures for collecting and analysing labour migration data, including sex-disaggregated and other data, and applying it to labour migration policy.
<i>Sharing of labour market information and labour migration data and analysis at the regional level: Guidelines</i>
IGAD Regional Migration Policy Framework
4.2. Regional Cooperation and Harmonization of Labour Migration Policies
<i>Recommended Strategies:</i>
iv. Institute routine data collection, analysis and exchange on labour flows, stock and needs in labour-supply vis-à-vis labour-demand countries in IGAD to eliminate skills mismatch and to maintain proper skills audit.
Thematic Area 2. Coordination on labour migration
<i>Coordination of labour migration at national, regional, and continental levels: Guidelines</i>
ILO Multilateral Framework on Labour Migration
2.2. Developing intergovernmental dialogue and cooperation on labour migration policy, in consultation with the social partners and civil society and migrant worker organizations.
2.5. Establishing mechanisms for tripartite consultations at regional, international and multilateral levels.
3.5. Collecting and exchanging profiles of good practices on labour migration on a continuing basis.
4.7. Establishing a mechanism to ensure coordination and consultation among all ministries, authorities, and bodies involved with labour migration.

¹ The numbering of the articles and clauses presented in this table are the same as the numbering in the documents they originate from.

IGAD Regional Migration Policy Framework

4.1. National Labour Migration Policies, Structures and Legislation

Recommended Strategies:

x. Establish formal national and IGAD-wide social dialogue mechanisms to address migrant labour issues (including social protection and social security benefits, insurance, compensation for employment due to injury and old age pension for labour migrants while working abroad and/or upon their return to the countries of origin).

4.2. Regional Cooperation and Harmonization of Labour Migration Policies

Recommended Strategies:

iii. Hold regular dialogue among IGAD Member States and between them and the Member States of contiguous RECs [regional economic communities] to enhance communication between countries of origin, transit countries, and destination through reviews of national policies and legislation.

Thematic Area 3. Capacity to formulate and implement policy

Labour migration policy development and implementation: Guidelines

ILO Multilateral Framework on Labour Migration

- 4.2. Ensuring coherence between labour migration, employment, education and other national policies, in recognition of the wide social and economic implications of labour migration and in order to promote decent work for all and full, productive and freely chosen employment.
- 4.8. Ensuring that specific structures and mechanisms within these ministries have the necessary competencies and capacities to develop, formulate and implement labour migration policies, including, where possible, a special unit for issues involving migrant workers.
- 15.2. Expanding analyses of the contribution of labour migration and migrant workers to the economies of destination countries, including employment creation, capital formation, social security coverage and social welfare.

Policies that protect the rights of migrant workers, including bilateral labour agreements and gender-sensitive policies: Guidelines

ILO Multilateral Framework on Labour Migration

- 4.4. Implementing policies that ensure that specific vulnerabilities faced by certain groups of migrant workers, including workers in an irregular situation, are addressed.
- 4.5. Ensuring that labour migration policies are gender-sensitive and address the problems and particular abuses women often face in the migration process.
- 5.3. Where appropriate, establishing policies and procedures to facilitate the movement of migrant workers through bilateral, regional or multilateral agreements.

Ratification and domestication of international labour migration Conventions: Guidelines

IGAD Regional Migration Policy Framework

4.1. National Labour Migration Policies, Structures and Legislation

Recommended Strategies:

i. Promote the signing, ratification and domestication by the Member States of international instruments relating to labour (e.g. the ILO [Migration for Employment Convention (Revised), 1949] No. 97 and Migrant Workers (Supplementary Provisions) Convention, 1975] No. 143 and the 1990 International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families) through national legislation.

Thematic Area 4. Regulating employment agency practices

Employment contracts: Guidelines

ILO Multilateral Framework on Labour Migration

- 10.3. Promoting the establishment of written employment contracts to serve as the basis for determining obligations and responsibilities and a mechanism for the registration of such contracts where this is necessary for the protection of migrant workers.
- 13.3. Ensuring that migrant workers receive understandable and enforceable employment contracts.

Licensing and monitoring of private employment agencies: Guidelines

ILO Multilateral Framework on Labour Migration

- 13.1. Providing that recruitment and placement services operate in accordance with a standardized system of licensing or certification established in consultation with employers' and workers' organizations.
- 13.2. Providing that recruitment and placement services respect migrant workers' fundamental principles and rights.
- 13.5. Working to implement legislation and policies containing effective enforcement mechanisms and sanctions to deter unethical practices, including provisions for the prohibition of private employment agencies engaging in unethical practices and the suspension or withdrawal of their licences in case of violation.

Recruitment and placement fees: Guidelines

ILO Multilateral Framework on Labour Migration

- 13.7. Providing that fees or other charges for recruitment and placement are not borne directly or indirectly by migrant workers.

Pillar II. Advancing opportunities for regulated labour migration and decent work

Thematic Area 1. Labour mobility schemes to support labour market needs

Rules and regulations governing labour migration and mobility: Guidelines

ILO Multilateral Framework on Labour Migration

- 5.2. Establish transparent policies for the admission, employment and residence of migrant workers based on clear criteria, including labour market needs.
- 5.5. Ensuring that temporary work schemes respond to established labour market needs, and that these schemes respect the principle of equal treatment between migrant and national workers.
- 12.3. Simplifying administrative procedures involved in the migration process and reducing processing costs to migrant workers and employers.
- 6.3. Promoting dialogue and consultation with employers' organizations on practical opportunities and challenges they confront in the employment of foreign workers.
- 6.4. Promoting dialogue and consultation with workers' organizations on particular concerns posed by labour migration and their role in assisting migrant workers.

Draft IGAD Free Movement Protocol

Part A: Free Movement of Persons and Labour

Article 3. Free Movement of Workers

3. For the purpose of this Article, the free movement of workers shall entitle a worker to:
 - d. stay in the territory of a Member State for the purpose of employment in accordance with the national laws and administrative procedures governing the employment of workers of that Member State;
8. The national laws and administrative procedures of a Member State shall not apply where the principal aim or effect is to deny citizens of other Member States the employment that has been offered.

Circular and return migration: Guidelines

ILO Multilateral Framework on Labour Migration:

- 15.8. Adopting policies to encourage circular and return migration and reintegration into the country of origin, including by promoting temporary labour migration schemes and circulation-friendly visa policies.

Labour exchanges and critical skills: Guidelines

ILO Multilateral Framework on Labour Migration:

- 15.7. Adopting measures to mitigate the loss of workers with critical skills, including by establishing guidelines for ethical recruitment.

IGAD Regional Migration Policy Framework

4.2. Regional Co-operation and Harmonization of Labour Migration Policies

Recommended Strategies:

- vi. Establish bilateral and multilateral labour exchanges among IGAD Member States and with contiguous non-Member States of neighbouring RECs to employ or deploy temporarily human resources with scarce or desirable skills

Establishment and investment: Guidelines

Draft IGAD Free Movement Protocol:

Part B: Rights of Establishment and Residence

Article 6. Rights of Establishment

11. For the purposes of this Article, the Member States shall:
 - a. remove the administrative procedures and practices, resulting from national laws or from agreements previously concluded between the Member States, that form an obstacle to the right of establishment;
 - b. progressively remove any administrative procedures and practices resulting from national laws that restrict the right of establishment, in respect of the conditions for:
 - i. setting up agencies, branches or subsidiaries of companies or firms in their territories; and
 - ii. the entry of personnel of the companies or firms registered in another Member State into managerial or supervisory positions in agencies, branches or subsidiaries in that Member State.

Thematic Area 2. Supporting functions for participation in the labour market, including access to information, education, training, skills recognition, and finance

Disseminating information to migrant workers: Guidelines

ILO Multilateral Framework on Labour Migration

- 12.4. Promoting the participation of employers' and workers' organizations and other relevant non-governmental organizations in disseminating information to migrant workers.

Education, training, skills recognition, the harmonization of qualifications, and access to finance: Guidelines

ILO Multilateral Framework on Labour Migration

- 14.3. Improving the labour market position of migrant workers, for example, through the provision of vocational training and educational opportunities.
- 12.6. Promoting the recognition and accreditation of migrant workers' skills and qualifications and, where that is not possible, providing a means to have their skills and qualifications recognized.

IGAD Regional Migration Policy Framework

- 4.1. National Labour Migration Policies, Structures and Legislation

Recommended Strategies:

- ix. Facilitate the integration of migrants in the labour market including the education and training sector.

Draft IGAD Free Movement Protocol

Part A: Free Movement of Persons and Labour

Article 4. Harmonization and Mutual Recognition of Academic and Professional Qualifications

For the purpose of ensuring the free movement of labour, the Member States undertake to:

- a. mutually recognize the academic and professional qualifications granted, experience obtained, requirements met, licences or certifications granted, in other Member States; and
- b. harmonize their curricula, examinations, standards, certification and accreditation of educational and training institutions.

Facilitating remittances: Guidelines

ILO Multilateral Framework on Labour Migration

- 15.6. Reducing the costs of remittance transfers, including by facilitating accessible financial services, reducing transaction fees, providing tax incentives and promoting greater competition between financial institutions.

Thematic Area 3. Promoting social integration and inclusion

Public education and awareness-raising campaigns on the contribution of migrants: Guidelines

ILO Multilateral Framework on Labour Migration

- 14.9. Promoting public education and awareness-raising campaigns regarding the contributions migrant workers make to the countries in which they are employed, in order to facilitate their integration into society.

IGAD Regional Migration Policy Framework

- 4.1. National Labour Migration Policies, Structures and Legislation

Recommended Strategies:

- vi. Promote integration of migrants by enhancing local citizenry, inclusive policies and engaging with societies in destination countries; address discrimination and xenophobia through civic education and awareness-raising campaigns.

Family reunification, and access to employment for family members and education for children: Guidelines

ILO Multilateral Framework on Labour Migration

- 14.10. Facilitating the reunification of family members of migrant workers as far as possible, in accordance with national laws and practice.
- 14.12. Facilitating the integration of migrant workers' children into the national education system.

Draft IGAD Free Movement Protocol

Part A: Free Movement of Persons and Labour

Article 3. Free Movement of Workers

5. A worker shall have the right to be accompanied by a spouse and a child, and:
- a spouse who accompanies the worker shall be entitled to be employed as a worker or to engage in any economic activity;
 - as a self-employed person in the territory of that Member State;
 - child who accompanies the worker shall be entitled to be employed as a worker or to engage in any economic activity as a self-employed person in the territory of that Member State subject to the age limits under the national laws of that Member State

Pillar III. Enhancing the protection of migrant workers and their families

Thematic Area 1. Protection of migrant workers' human rights

Protecting the human rights of migrants: Guidelines

ILO Multilateral Framework on Labour Migration

- 8.1. Governments should ensure that national laws and practice that promote and protect human rights apply to all migrant workers and that they are respected by all concerned.
- 8.2. Information should be provided to migrant workers on their human rights and obligations and assisting them with defending their rights.
- 8.3. Governments should provide effective enforcement mechanisms for the protection of migrant workers' human rights and provide training on human rights to all government officials involved in migration.
- 10.5. Providing for effective remedies to all migrant workers for violation of their rights, and creating effective and accessible channels for all migrant workers to lodge complaints and seek remedy without discrimination, intimidation or retaliation.
- 10.7. Providing effective sanctions and penalties for all those responsible for violating migrant workers' rights.

Draft IGAD Free Movement Protocol

Part A: Free Movement of Persons and Labour

Article 1. Free Movement of Persons

- 1.3. The Member States shall, in accordance with their national laws, guarantee the protection of the citizens of the other Member States while in their territories.

Protecting migrants from forced labour and exploitation: Guidelines

ILO Multilateral Framework on Labour Migration

- 8.4.2 Legislation and policies should be adopted, implemented and enforced to protect migrant workers from conditions of exploitation and forced labour, including debt bondage and trafficking, particularly migrant workers in an irregular situation or other groups of migrant workers who are particularly vulnerable to such conditions.

Thematic Area 2. Social security and social protection

National labour laws and social protection laws applying to migrant workers: Guidelines

ILO Multilateral Framework on Labour Migration

- 9.8. Adopting measures to ensure that national labour legislation and social laws and regulations cover all male and female migrant workers, including domestic workers and other vulnerable groups, in particular in the areas of employment, maternity protection, wages, occupational safety and health and other conditions of work, in accordance with relevant ILO instruments.

Social security coverage and portability: Guidelines

ILO Multilateral Framework on Labour Migration

- 9.9. Entering into bilateral, regional or multilateral agreements to provide social security coverage and benefits, as well as portability of social security entitlements, to regular migrant workers and, as appropriate, to migrant workers in an irregular situation.

Draft IGAD Free Movement Protocol

Part A: Free Movement of Persons and Labour

Article 3. Free Movement of Workers

- 3.3. For the purpose of this Article, the free movement of workers shall entitle a worker to:
- f. enjoy the rights and benefits of social security as accorded to the workers of the host Member.

Part B: Rights of Establishment and Residence

Article 6. Rights of Establishment

3. For the purposes of paragraph 1, the right of establishment shall entitle:
- b. a self-employed person who is in the territory of another Member State to join a social security scheme of that Member State in accordance with the national laws of that Member State.

Thematic Area 3. Labour inspection for migrant workplaces

ILO Multilateral Framework on Labour Migration

- 10.1. Extending labour inspection to all workplaces where migrant workers are employed, in order to effectively monitor their working conditions and supervise compliance with employment contracts.
- 10.2. Ensuring that the labour inspectorate or relevant competent authorities have the necessary resources and that labour inspection staff is adequately trained in addressing migrant workers' rights and in the different needs of men and women migrant workers.

Thematic Area 4. Facilitating reception and return

ILO Multilateral Framework on Labour Migration

- 12.1. Facilitating migrant workers' departure, journey, and reception by providing, in a language they understand, information, training and assistance prior to their departure and on arrival concerning the migration process, their rights and the general conditions of life and work in the destination country.
- 12.2. Wherever possible facilitate migrant workers' return by providing information, training, and assistance prior to their departure and on arrival in their home country concerning the return process, the journey and reintegration.

3. Overview of Djibouti and its migration trends

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Djibouti is mainly a transit country for migrants in mixed migration flows from the Horn of Africa to Yemen and the Gulf States.

Djibouti lies on the Bab el-Mandeb Strait at the southern entry of the Red Sea, and serves as a gateway to one of the world's busiest shipping routes, the Suez Canal. Situated in the volatile Horn of Africa, and bordering conflict in the Middle East, Djibouti is regarded by investors and foreign powers as a haven of relative stability. Due to its stability and strategic location, it hosts several military bases, including those of China, France, Japan, and the United States, as well as Spanish and German soldiers from the EU's anti-piracy force. These bases are an important income source for the Government, while Djibouti's deep-water port is its greatest financial resource and source of employment. It offers services as a transit port, and refuelling and transshipment centre, and serves as the main import-export route for neighbouring Ethiopia. Ninety per cent of Ethiopia's imports enter through Djibouti's port, which accounts for 90 per cent of the port's traffic. (*The Economist*, 2016; Oladipo, 2015; World Bank, 2018a; BBC, 2018; CIA, 2018). To enhance the importance of this trade route, the Addis Ababa–Djibouti Railway, the first fully electrified cross-border railway line in Africa, was built with Chinese support and launched in 2016 (BBC, 2016).

Djibouti enjoys substantial foreign investment, with US\$9.5 billion for energy and infrastructure projects recorded in 2016, including for constructing four additional ports and two new international airports. China is the country's biggest investor, largely through soft loans. Djibouti's debt to China is linked to its growing public debt, which stood at 60.5 per cent of gross domestic product (GDP) in 2014. The International Monetary Fund and World Bank have both issued warnings about Djibouti's swelling public debt (*The Economist*, 2016).

Djibouti is one of Africa's smallest countries, and has a total land area of 23,180 square kilometres and a population of 865,267 people (CIA, 2018). Approximately 74 per cent of the population is under the age of 35 (Government of Djibouti, 2014a, p. 6). Its GDP for 2017, at official exchange rate, stood at US\$2.029 billion, while its growth rate was 6.7 per cent for 2017 (CIA, 2018). Transportation and logistics services have driven Djibouti's fast

and consistent economic growth over the last 15 years, which has on average increased by 3.1 per cent per year over the period 2001–2017 (World Bank, 2018a). The World Bank (2018b) classifies Djibouti as a lower-middle income country. However, Djibouti has little industry, few natural resources, and 23 per cent of the population lives in extreme poverty (CIA, 2018; World Bank, 2018a). With sparse rainfall and less than 4 per cent of arable land, it is highly dependent on food imports. Consequently, the country is vulnerable to external shocks, such as fuel and food price increases (World Bank, 2018a). Unemployment is a major challenge. According to the Government, unemployed persons that are available for work amount to 48.2 per cent of the population (Government of Djibouti, 2014a, p. 7). Djibouti remains highly dependent on foreign assistance to support its balance of payments and development initiatives (CIA, 2018).

Djibouti's hot and arid climate has led to a concentration of people in its capital. Three quarters of the country's inhabitants live in Djibouti City, while the rest are mainly nomadic herders (CIA, 2018). Internal migration is largely limited to nomadic herders in search of food and water for their cattle (MGSOG, 2017, p. 5). Despite harsh living conditions and a shortfall of economic opportunities, few Djiboutians migrate. Relatively low salaries abroad, and the fact that their neighbouring countries generally use English as their business language (as opposed to French), render work in these countries unattractive and/or unattainable. Some Djiboutians migrate to France for education, and choose to reside there after the completion of their studies. Djiboutians also migrate to Canada to work as teachers and nurses – this trend is viewed by some Government stakeholders as contributing to brain drain.

The Government has initiated programmes and agreements to facilitate some outbound labour migration. For example, the Agence Nationale de l'Emploi, de la Formation et de l'Insertion Professionnelle (ANEFIP – National Agency for Employment, Training and Professional Integration), with the support of the International Organization for Migration (IOM), is implementing a pilot circular migration project wherein roughly 50 Djiboutian labour migrants are being sent to work in food processing in Canada with the company Olymel. Moreover, Djiboutian bus and truck drivers work in Qatar, which is facilitated by a bilateral labour agreement (BLA). A BLA with Saudi Arabia facilitated the deployment of Djiboutian domestic workers to that country, but was stopped due to poor working conditions, such as excessive working hours without compensation. Djibouti is currently working on a BLA with Kuwait.

Government efforts to engage with the diaspora are at a nascent stage, with a national strategy for diaspora engagement under development. The annual remittance inflow to Djibouti was US\$69 million for 2017, which represented 3.3 per cent of GDP (KNOMAD, 2018). To date, little information is available on Djibouti's remittances flows and their impact on communities.

Djibouti is mainly a transit country for migrants in mixed migration flows from the Horn of Africa to Yemen and the Gulf States (RMMS, 2016). Discussions with informants indicate that, in mid-2018, 10,000 migrants were estimated to cross from Djibouti to Yemen every month. This flow is believed to be stable, except during Ramadan, when it can double, probably due to the perception that police and security forces are more lenient over this period. Pastoralists from the region, who move through Ethiopia, Kenya, and Somalia, also cross Djibouti, according to the seasons, as they search for water (MGSOG, 2017, p. 5). War in Yemen

has fuelled migration from Yemen to Djibouti, with more than 37,000 Yemenis travelling to Djibouti in 2017. The route through Djibouti is a dangerous one, with migrants vulnerable to human rights abuses, trafficking, kidnapping, and being held for ransom (Moran, 2018). Extreme heat and dehydration pose further threats to migrants crossing Djibouti.

According to the US Department of State's *Trafficking in Persons Report 2018* (hereafter "TIP Report"), Djibouti is a source, transit, and destination country for men, women, and children trafficked for forced labour and sex. The sex trafficking of Djiboutian and migrant women and street children takes place in Djibouti City, along the Ethiopia–Djibouti trucking corridor, and in Obock, the most important departure point for Yemen. In some cases, migrants who intend to be smuggled across Djibouti are subjected to trafficking. They may also be kidnapped while trying to cross Djibouti and held for ransom in Djibouti's neighbouring countries.

Djibouti is also an important country of destination for asylum-seekers and refugees seeking refuge from poverty, insecurity, and persecution, and has generously hosted refugees for more than 20 years (RMMS, 2016). In March 2018 Djibouti was hosting 27,366 refugees and asylum-seekers, mainly from Somalia, Ethiopia, Yemen, and Eritrea (MMC, 2018). Djibouti is implementing the Comprehensive Refugee Response Framework, which follows the adoption of the New York Declaration on Refugees and Migrants in September 2016. In 2017 a new refugee law came into force to enhance the integration of refugees, including by offering them better access to health and education systems, as well as to the labour market (UNHCR, 2018).

Djibouti also attracts economic migrants – though many are in an irregular status. According to the Ministry of Interior, 127,000 irregular migrants reside in Djibouti.² While statistics on labour migration are not available, discussions with informants indicate that Ethiopian and Somali female migrants engage in domestic work; while Ethiopian and Somali male migrants work as masons, mechanics, and guards. Chinese, Eritreans, Ethiopians, and Somalis work in construction, and Indians in the IT sector. Yemenis tend to own or work in small businesses and shops.

Moreover, collaboration between the University of Djibouti, the University of Nairobi, and the University of Somalia facilitates the exchange of lecturers between these countries; while teachers from Rwanda teach in private schools in Djibouti. Specialized Cuban doctors are temporarily deployed to Djibouti on the basis of a temporary labour migration scheme between Cuba and Djibouti's Ministry of Health, which was developed in response to a labour shortage. In addition, regular labour migrants include the migrant workers at the various military bases; IGAD citizens and other nationals working at the IGAD Secretariat in Djibouti City; and expatriates working for IOs, international non-governmental organizations (NGOs), and embassies.

² The Ministry was not able to share the source of these numbers.

Djibouti is a member of the Common Market for East and Southern Africa (COMESA), which has 21 Member States. COMESA's Protocol on the Gradual Relaxation and Eventual Elimination of Visa Requirements, 1984, is in force, but is not fully implemented. The COMESA Protocol on Free Movement of Persons, Labour, Services, the Right of Establishment and Residence was adopted in 2001, but has only been ratified by Burundi and signed by Kenya, Rwanda, and Zimbabwe (COMESA, 2017, p. 4). Moreover, Djibouti is a member of IGAD, which is developing a protocol to allow for the free movement of persons among its members.

4. Overview of the roles and responsibilities of the key ministries and agencies

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Various ministries and agencies play a role in migration and mobility governance in Djibouti while social partners are not active in the national coordination mechanism on migration.

The Ministry of the Interior (MOI)

The MOI is responsible for coordinating migration management for the Government of Djibouti. Decree N° 2016-148/PRE Establishing the Powers of the Ministries, places the MOI in charge of developing and coordinating the Government's policies on migration flows and countering irregular migration and organized crime related to trafficking in persons and smuggling. The MOI is tasked with maintaining law and order inside the country, as well as controlling the borders of the country. It coordinates the activities of the national police force, which is in charge of collecting data on persons entering and leaving Djibouti, as well as activities related to civil protection. The Gendarmerie, which falls under the Ministry of Defence, is responsible for the deportation of migrants, and does so by following procedures prescribed by the MOI. Moreover, the MOI issues residence cards to migrant workers once they have obtained a work permit, which is issued by the Ministry of Labour and Administrative Reforms.

The MOI's leading role on migration, also extends to refugee issues, as laid out in Decree N° 2017-409/PR/MI Establishing the Rules of Procedure, Organizational and Functional Arrangements of the Bodies in Charge of the Refugees Status in the Republic of Djibouti. The MOI determines the application process for refugee status, which is handled by the Office National d'Assistance aux Réfugiés et Sinistrés (ONARS – National Office for Assistance to Refugees and Disasters). The MOI also participates in the Commission Nationale d'Eligibilité au Statut de Réfugié (CNE – National Commission on Eligibility for Refugee Status), which decides on the issuing of refugee status, and the Commission Nationale de Recours au

Statut de Réfugié (CNR – National Commission of Appeal on Refugee Status), which considers appeal cases if refugee status is not granted. The CNR's decisions are subject to appeal before the administrative court, in accordance with the refugee law of 2017.

In addition, other Government ministries that participate in the CNE and CNR must inform the MOI in writing of the identity of their representatives who have been selected to participate in these commissions. Representatives must have expertise on refugee issues, and no representative may be part of both commissions. Draft decisions of the CNE and CNR are submitted to the MOI. Once the CNE decides to grant refugee status, the MOI will issue the refugee with a refugee identity card and travel document. Decree N° 2017-410/PR/MI Establishing the Rules of Procedure, Organizational and Functional Arrangements of the Bodies in Charge of the Refugees Status in the Republic of Djibouti states that a refugee card is valid for five years, is renewable, and serves as a work permit and residence permit (article 3). Refugees enjoy free movement in Djibouti.

The CNE contains representatives from the:

- ▶ MOI;
- ▶ Presidency;
- ▶ National Security;
- ▶ Ministry of Foreign Affairs and international Cooperation (MOFA);
- ▶ Ministry of Justice, Prison Affairs, and Human Rights (MOJ);
- ▶ Ministry of Public Health;
- ▶ Ministry of State for Solidarity and Social Affairs;
- ▶ National Office for Assistance to Refugees and Disaster Victims (ONARS); and
- ▶ United Nations High Commissioner for Refugees (UNHCR), which participates as an observer

The CNR contains representatives from the:

- ▶ MOJ
- ▶ MOI;
- ▶ Presidency;
- ▶ National Security;
- ▶ MOFA;
- ▶ ONARS; and
- ▶ UNHCR, which participates as an observer

The Ministry of Labour and Administrative Reform (MOL)

Decree N° 2016-148/PRE places the MOL in charge of implementing the Government's policies on labour, employment, social relations, and social welfare. The MOL develops and implements rules on working conditions, the rights of employees, and social security. It also develops BLAs. The MOL oversees the work of the Caisse Nationale de Sécurité Sociale (CNSS – National Social Security Fund), as well as the Agence Nationale de l'Emploi, de la Formation et de l'Insertion Professionnelle (ANEFIP – National Agency for Employment, Training and Professional Integration).

CNSS

The CNSS is in charge of managing social security, and since the introduction of Universal Health Insurance in December 2014, has the responsibility to guarantee universal medical coverage for all. Employers are obligated to register their employees with the CNSS, including migrant workers.

ANEFIP

ANEFIP was created by law No. 203 of 2007, which, inter alia, tasks it with:

- ▶ reconciling the supply and demand for labour;
- ▶ providing information on job opportunities and skills that are in demand to jobseekers and employers (through the use of an online platform or by directly contacting jobseekers and employers who have registered with the Agency);
- ▶ validating employment contracts, including those of foreigners;
- ▶ ensuring that rules regarding the regularization of migrant workers are respected; and
- ▶ issuing work permits to migrant workers.

ANEFIP assists nationals in acquiring internship and work opportunities, including with foreign companies. Djiboutians can register with ANEFIP as jobseekers by providing their qualifications, CV, and work interests to ANEFIP, and receive a registration card. Employers can register their labour needs with ANEFIP, which matches jobseekers and employers. The Agency also has an online platform that can be used independently for job matching by jobseekers and employers.

The National Office for Assistance to Refugees and Disaster Victims (ONARS)

Decree N° 2017-409/PR/MI on the Rules, Procedures, Organizational, and Functional Arrangements of the Bodies in Charge of Refugees Status, sets ONARS' role. Asylum-seekers need to apply for refugee status with the Eligibility Office of ONARS – or through the UNHCR – within 30 days of entering Djibouti. ONARS prepares the file of the applicant, which includes information on the applicant's civil status, nationality, and reasons for seeking refugee status. It issues a certificate to the asylum-seeker, which provides temporary, renewable residency for a period of six months. Decree N° 2017-410/PR/MI states in article 3 that the certificate serves as a temporary residence permit and work permit for asylum-seekers. It also states that the refugee card, which is valid for five years and is renewable, serves as a residence permit and work permit in Djibouti.

The person in charge of the Eligibility Office of ONARS performs the role of the CNE Secretariat and the CNR Secretariat. ONARS, as the commissions' secretariat, notifies asylum-seekers or their legal representatives of the commissions' decisions; maintains the records of refugee applications; and prepares draft decisions of the CNE and CNR, which are submitted to the MOI.

The Ministry of Foreign Affairs and International Cooperation (MOFA)

Decree N° 2016-148/PRE, which establishes the powers of the Ministries, places the MOFA in charge of implementing foreign policy, conducting international negotiations, and international cooperation, including the coordinating of cooperation between technical ministries and the international community, and acting as the Government's spokesperson. It prepares international agreements and commitments, and facilitates their approval and ratification. Once BLAs have been prepared by the MOL, they are handed over to the MOFA for finalization.

MOFA's Department Juridique en Charge Diaspora (Legal Department in Charge of the Diaspora) has been collaborating with the diaspora since 2016, and is responsible for registering diaspora births.

Secrétariat d'Etat chargé des Affaires Sociales (SEAS – State Secretariat for Social Affairs)

Law No. 162/AN/16/7th L of October 2016 transformed the State Secretariat for National Solidarity into the SEAS, and places it in charge of the Government's policy for combating poverty. It develops, coordinates, implements, and monitors social development strategies, including social assistance programmes for the poor, vulnerable, and socially excluded. The 2017 Refugee Law grants refugees access to these social assistance programmes, which may include cash handouts.

The Ministry of Justice, Prison Affairs, and Human Rights (MOJ)

The MOJ leads on issues regarding access to justice and human rights. It also leads the Government's efforts to address trafficking in persons. The MOJ works on refugee issues by participating in the CNE and CNR, and oversees the administrative court that can be appealed to against decisions of the CNR.

The Ministry of Women and Family

The Ministry is charged with developing the Government's child protection policy, and coordinates the services provided to children by different agencies and actors. In collaboration with the IOM, the Ministry is currently conducting the first study on street children in Djibouti, which is being financed by the EU. To date there are no statistical data on these children, who include migrant children from Ethiopia and Somalia. Their numbers are believed to be significant and increasing, and they are vulnerable to abuse and exploitation. The study is collecting data on their numbers, place of origin, and needs, and should result in a national action plan to assist these children in Djibouti City and other regions of the country (IOM, 2017a).

Direction Statistique et des Études Démographique (DISED – Statistics and Demographic Studies Department)

The DISED falls under the Commissaire au Plan Chargé des Statistiques (Commission for Statistical Planning). It coordinates and undertakes the collection and analysis of statistical data for the Government, public authorities, and the private sector, as well as the dissemination of findings. The DISED undertakes the national census, labour force surveys, labour market assessments, and surveys of the informal economy.

5. National Coordination Mechanism on migration

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MOI is in charge of developing and coordinating the Government's policies on migration flows and countering irregular migration and organized crime related to trafficking in persons and smuggling.

Djibouti is yet to fully establish a National Coordination Mechanism on migration (NCM). The IOM has been collaborating with the Government to establish the NCM, and discussions with the MOI, which leads government coordination on migration, are ongoing. In March 2018 ministries that would participate in the NCM travelled to Morocco on a study visit to learn from Morocco's experience of coordinating migration. Draft Terms of Reference exist for the NCM, but could not be obtained for this study.

The MOI indicated that there is a working group on migration, in which the ministries of interior, education, health, women and family, labour, and justice participate. In addition, there is a Comprehensive Refugee Response Framework group, which discusses the implementation of the Framework. Participants include the UNHCR and relevant ministries. The MOI informed the study team that a coordination committee on addressing trafficking in persons is foreseen.

The Mixed Migration Task Force is co-chaired by the MOI, the IOM, and the UNHCR, and was established in 2007. It serves as a coordination forum between partners who work to enhance the protection of migrants in mixed migration flows in Djibouti. Participants include the Red Crescent and local NGOs.

6. Analytical Framework analysis

6.1 Pillar I. Strengthening labour migration governance

6.1.1 Thematic Area 1. Capacity to collect, analyse, and share labour migration data

6.1.1.1 Labour market information and data

Overview

According to the National Employment Policy 2014–2024, Djibouti's Labour Market Information System (LMIS) should form part of the National Statistical System, as foreseen in the Master Plan for Statistics 2011–2015. At present, the National Statistical System has not been fully developed and the LMIS remains rudimentary. ANEFIP has a database that captures data on jobseekers' work interests and employers' demand for labour, which they acquire by employers and jobseekers registering their respective labour needs with ANEFIP on a voluntary basis. This data is used to produce annual statistics on jobseekers and the placement of workers. The statistics on jobseekers and the placement of these jobseekers covers their sex, age, civil status, education level, whether they have experience or not, and the area they are from.

The DISED undertakes labour market assessments and labour force surveys every five years. The last survey – *Enquete Djiboutienne sur l'emploi, le secteur informel et la consommation des menages* [Djiboutian survey on employment, the informal sector and household consumption] – was conducted from October to November 2015 by the DISED, in collaboration with ANEFIP and with technical support from the Economic and Statistical Observatory of Sub-Saharan Africa (AFRISTAT) and financial support from the African Development Bank. It combines an informal sector survey – the first to be undertaken at the national level – and an employment survey. Together these surveys collected data on age, sex, civil status, educational level, urban and rural dimensions, and sectorial and occupational characteristics of the labour force, as well as their employment, unemployment, underemployment, and wages. Labour shortages and long-term demographic trends were not assessed.

In terms of capacity building, the DISED indicated that they need support with skills development and human resources to enhance the production of statistics. They have received training from the IOM in the framework of the project "Strengthening the Capacity of the Government of Djibouti to Better Collect and Analyse Statistics on Migration", which was financed by the IOM Development Fund. On 27–28 September 2017, the IOM trained the DISED on migration data collection and emigration and migration variables (IOM, 2017b). On 1 October 2017, within the framework of the same project, the IOM, in collaboration with the MOI, organized a training on migration data collection and sharing, with a view to

enhance the management of data on regular and irregular migration. The training covered both administrative and statistical data sources in Djibouti. Its participants included the MOI, MOL, DISED, the Ministry of Women and Family, SEAS, the Djiboutian Social Development Agency, the national army, the national police, the Gendarmerie, and the Coast Guard (IOM, 2017a).

Assessment

Djibouti needs to fully develop its LMIS. More comprehensive data on the demand for labour, including data on the sectorial, occupational, and regional dimensions of labour shortages should be collected. The long-term impact of demographic trends should be assessed, such as the effect of population growth on the demand for and supply of labour.

6.1.1.2 Labour migration data collection and analysis, and applying it to labour migration policy

Overview

The last census was undertaken in 2009 and its report does not cover international migration. Pending funding, the next census is scheduled to take place in 2020. It is not certain that migration will be covered in this census. The DISED indicated that a survey on international migration is yet to be undertaken. It would like to undertake a survey on migrants in Djibouti, in collaboration with the various agencies dealing with migration. This survey would collect information on the nationality of migrants, the economic activities they engage in in Djibouti, their period of stay in Djibouti, the impact of migrants on the education and health sector, and the link between immigration and poverty.

Different government agencies collect data on migration, but it is not coordinated, compiled, or collectively analysed. According to the MOI, the police manages the data on people entering and leaving Djibouti. The MOI collects data on migrants through the process of issuing them residence cards. The MOL oversees the issuing of work permits by ANEFIP and has a database on regular migrant workers, consisting of data obtained from the processing of work permits. According to ANEFIP, there is no database on Djiboutian migrant workers. ANEFIP plans to create an office that will be in charge of dealing with all matters related to Djiboutian migrant labour, and may also put in place a database on Djiboutian migrant workers.

Assessment

The Government's labour migration data is incomplete; scattered between different agencies; and not systematically compiled, analysed, and applied to labour migration policy development. Labour migration data collection and analysis, as well as its application to labour migration policy, should be strengthened.

6.1.1.3 Sharing of labour market information and labour migration data and analysis at the regional level

Overview

Djibouti does not have a skills inventory with compiled data on the skills available in the country; nor does it take a systematic approach to identifying skills shortages. In addition, there is little information and research on labour migration between Djibouti and the IGAD countries. It is therefore difficult to address skills gaps through labour migration from IGAD countries, as a solid understanding of the skills shortages, labour demand, and existing labour migration flows is lacking.

Labour flows and skill shortages are at times discussed in IGAD meetings, such as the Regional Consultative Process (RCP), but there are no systems in place for regularly sharing data on labour supply and demand between the IGAD countries. This also applies to the COMESA region, where information may be exchanged ad hoc at COMESA meetings and RCPs, but where there is no routine sharing of such data.

Assessment

Djibouti should develop a skills inventory and a comprehensive system to identify current and future skills gaps. In addition, research of labour migration flows between Djibouti and IGAD Member States should be undertaken to better understand these flows, and to identify opportunities for enhancing labour migration to aid economic development and meet skills gaps. Regular data collection and analysis of labour flows, stocks, and needs between Djibouti and the IGAD countries is not undertaken, and systems should be put in place to collect and share this data among ministries and IGAD Member States.

6.1.2 Thematic Area 2. Coordination on labour migration

6.1.2.1 Coordination of labour migration at national, regional, and continental levels

Overview

Little inter-ministerial coordination on labour migration takes place. Workers' and employers' organizations appear not to be active in Djibouti. Tripartite consultation is insignificant and does not address labour migration. Less than 1 per cent of Djiboutian workers belong to a trade union (DISED, 2016, p. 8). Migrant workers are allowed to participate in trade unions, but generally do not do so.

Moreover, while there is no established mechanism for collecting and exchanging good labour migration practices at the IGAD level or with Member States of neighbouring regional economic communities, labour migration policy issues are at times discussed at the IGAD RCP or COMESA RCP. It is also being discussed in consultations on the development of the IGAD Free Movement of Persons Protocol. Moreover; in exchanges on labour migration data, policy, and practice at African Union (AU) meetings; and in meetings of the Joint

Labour Migration Programme (JLMP). The JLMP, which is led by the AU and implemented by ILO, IOM, and the UN Economic Commission for Africa (UNECA), promotes migration and development by strengthening capacities for improved labour migration management at national, regional, and continental levels.

The AU has increasingly focused on migration, including labour migration, and serves as a useful forum for bringing together origin, transit, and destination countries. In the past two years the AU has held numerous migration consultations as it reviewed the AU Migration Policy Framework; developed the AU Protocol to the Treaty Establishing the African Economic Community Relating to Free Movement of Persons, Right of Residence and Establishment; and cultivated inputs for the Global Compact on Migration. Moreover, implementation commenced in 2018 on the revised AU Migration Policy Framework for Africa and its Action Plan (2018–2030), which has a strong focus on labour migration and the free movement of persons. In addition, the African Labour Migration Advisory Committee was inaugurated in May 2018 to promote and protect the rights of migrant workers and members of their families across the continent. Participants of the Committee include representative of the regional economic communities, AU bodies, ILO, IOM, UNECA, and social partners. The AU is therefore expected to continue to serve as central forum for exchanges on labour migration law, policies, and practice.

Assessment

More comprehensive dialogue on all dimensions of labour migration should take place at the inter-ministerial level and at the national level with partners, such as NGOs, academia, and IOs. The NCM – which is usually a multi-stakeholder forum that brings together NGOs, academia, and IOs – could serve as a good platform for discussions and collaboration on migration issues, including labour migration, once it is established.

At the international level, regular exchanges on labour migration laws, policies, and best practices should be instituted in existing forums, such as the IGAD RCP, the COMESA RCP, AU meetings, and JLMP meetings.

6.1.3 Thematic Area 3. Capacity to formulate and implement policy

6.1.3.1 Labour migration policy development and implementation

Overview

Labour migration is not addressed in Djibouti's development policies. Djibouti's development framework, Vision 2035; its Strategy for Accelerated Growth and Promotion of Employment 2015–2019; and the National Employment Policy do not specifically address labour migration. Research and analysis on the contribution that labour migration is making to Djibouti's current development – and could potentially make in future – is lacking, both in terms of incoming and outgoing labour migration.

Djibouti does not have a migration policy. The Government has requested assistance from the IOM to develop a labour migration policy. The MOL indicated that priorities in the policy would include reducing unemployment and equipping Djiboutians with technical and

vocational skills so they can work abroad. Registering Djiboutians at the embassies abroad would be another priority to aid their protection.

Assessment

The labour migration policy development process should take into account and ensure policy coherence with employment, education, and other relevant national policies (including Vision 2035) in recognition of the wide social and economic implications of labour migration and the need to have synchronized, mutually reinforcing policies. Labour migration policy should therefore be developed through a whole-of-government approach that engages all the ministries and agencies whose work touches on labour migration, such as the MOI, MOL, ANEFIP, MOFA, MOJ, DISED, and ministries working on economic, social, health, and gender issues. In addition, policy development should include the participation of academia, civil society, and social partners. As a first step, it is recommended that a comprehensive training programme be implemented for these actors that covers all aspects of labour migration (including BLAs, employment agencies, migrants' rights, protection, social integration, remittances, and diaspora engagement, etc.) in order to arrive at a shared, solid understanding of labour migration policy issues. On this basis, a common policy vision can be crafted, and the contribution, roles, and responsibilities of government ministries and agencies as well as other actors can be defined. As part of the policy development process, research should be undertaken on the contribution of labour migration and migrant workers to Djibouti, including employment creation and capital formation, as well as the contribution of Djiboutian migrant workers to their home country. This is important in order to understand the contribution that labour migration is making to the development of Djibouti, and to inform the labour migration policy development process. Very little information, research and data are currently available on labour migration to and from Djibouti, which hampers evidence-based policy-making.

6.1.3.2 Policies that protect the rights of migrant workers, including bilateral labour agreements and gender-sensitive policies

Overview

Djibouti does not have labour attachés in its embassies who can assist Djiboutian migrant workers in countries of destination. Djiboutian migrant workers can contact their embassy or honorary consul/representative if they face challenges.

Requests from other governments for Djiboutian migrant workers are received by commercial attachés in Djibouti's embassies. Djibouti has developed BLAs to promote the protection of its migrant workers. BLAs are first developed by the MOL and then reviewed by the MOFA. BLAs cover two types of labour migration: labour migration that is facilitated through government-to-government agreements (such as a request made to the Djiboutian Government by another government for a certain number of Djiboutian workers); and labour migration that is facilitated through private employment agencies (PEAs). As noted above, a BLA with the Saudi Arabia previously facilitated the deployment of Djiboutian domestic workers to that country, but was stopped due to poor working conditions, such as excessive working hours without compensation. Djibouti currently has a BLA with Qatar, and is in

the process of developing a BLA with Kuwait, whose Government has requested French language teachers, as well as medical professionals.

Djibouti's BLAs are not publicly accessible and could not be reviewed for this study. According to the MOL, already concluded BLAs stipulate that the employer pays for migrant workers' return air travel at the end of the contract (this is not the case, however, if the Djiboutian migrant worker left their employment due to a mistake on their own part); return air travel to Djibouti for one month of annual leave; and medical insurance. Under the BLAs, Djiboutian migrant workers have to pay the cost of obtaining a passport and travel insurance. Employment contracts were foreseen to be for a period of two years. The BLAs also stipulated working hours and free accommodation for migrant workers. Future BLAs may look different, as Decree N° 2018-103/PR/MTRA on PEAs, which was adopted in 2018, differs in terms of the party responsible for covering certain expenses. It states that PEAs must pay for migrant workers' visa fees; round-trip travel; work permit and residence permit fees; insurance; and the social security coverage of migrant workers (article 32). ANEFIP indicated that PEAs undertake pre-departure training, but it is not clear whether this enforced.

Assessment

Djibouti has a BLA with Qatar and is developing a BLA with Kuwait, which should aid the protection of migrant workers. BLAs should include all aspects related to working conditions and migrants' rights, including:

- ▶ wages;
- ▶ working environment and health and safety standards;
- ▶ labour inspection;
- ▶ social security and portability of social security benefits;
- ▶ family reunification possibilities; and
- ▶ labour dispute settlement mechanisms.

Moreover, migrants should be given pre-departure training on their rights.

Furthermore, Djibouti's labour migration policy, which is still to be developed, should comprehensively address the protection concerns of incoming and outgoing migrant workers, as well as the steps needed to put in place the necessary protection mechanisms.

6.1.3.3 Ratification and domestication of international labour migration Conventions

Assessment

Djibouti has not signed up to the ILO Migration for Employment Convention (Revised), 1949 (No. 97); the ILO Migrant Workers (Supplementary Provisions) Convention, 1975 (No. 143); or the 1990 International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families. Djibouti should sign, ratify, and domesticate all of these Conventions. The MOL indicated that the Government would do so once it has developed the labour migration policy.

6.1.4 Thematic Area 4. Regulating employment agency practices

6.1.4.1 Employment contracts

Overview

Article 1 of the Labour Code, 2006, states that the Labour Code applies to all paid workers, regardless of nationality. Article 9 stipulates the contracts that must appear in writing, including:

- ▶ apprenticeship contracts;
- ▶ fixed-term contracts of more than one month;
- ▶ employment contracts executed outside of the worker's place of residence;
- ▶ contracts of foreign workers; and
- ▶ provisions regarding a trial period in a contract.

Renewable fixed-term contracts are limited to 12 months, and can only be renewed once (article 11). The following contracts are to be regarded as fixed-term contracts:

- ▶ seasonal or temporary workers;
- ▶ workers hired for a specific task not exceeding six months;
- ▶ occasional workers;
- ▶ workers hired by the hour or by the day;
- ▶ workers hired for the duration of a construction project;
- ▶ substitute workers for a temporary duration due to illness, maternity, or training of another worker;
- ▶ workers specifically recruited during a temporary work volume increase (article 12).

Fixed-term contracts need to specify the duration of the contract (article 14). Other contracts will be considered open-ended (article 15). Open-ended employment contracts may be concluded in writing or orally, and for full-time as well as part-time work (article 22). However, from article 9 it can be inferred that migrant workers' employment contracts should be written, and therefore article 22 does not apply to migrant workers. The trial period of different types of contracts is specified in section 3 of Chapter 1.

Temporary work contracts that are facilitated through PEAs must be made in writing, and consist of two contracts: a contract between the client company and the PEA, and a contract between the employee and the PEA (article 37). Temporary work contracts between the client company and PEA must specify: the type of work or the name and qualifications of the employee that is being replaced; the duration of the work; and the conditions for extending the duration of the contract. The latter is not required if the contract of the employee who is being replaced was suspended; for seasonal or temporary jobs; or for employment that is required for the duration of a construction project (article 38). The contract between the PEA and the temporary worker shall contain the specifications of article 38, as well as specify the qualification and/or level of training of the temporary worker; cover remuneration; cover repatriation in cases where the temporary worker does not usually reside in the Djibouti; and commit to declare the paid worker to the social protection agency (article 39). Temporary

contracts of the same worker in the same company shall be renewable for a maximum total duration of two years (article 40).

Decree N° 2018-103/PR/MTRA is the latest regulatory framework that sets out the operating conditions of the activities of PEAs and contains further specifications regarding employment contracts between temporary workers³ and PEAs, such as:

- ▶ The written employment contract shall be handed over to the worker after verification of its legal and regulatory compliance, as well as visa compliance by the Labour Inspection (article 23);
- ▶ The contract shall specify the duration of the trial period;
- ▶ The contract will include a clause mentioning that at the end of the assignment, the recruitment of the worker by the client company is not forbidden (article 24).

ANEFIP approves the work contracts of regular migrant workers coming into Djibouti, and such a contract is required to issue a work permit to a migrant worker. ANEFIP also approves the contracts of Djiboutians who are deployed by PEAs.

As per the Labour Code, 2006, any worker or employer may request a labour inspector to resolve a labour dispute amicably. The labour inspector shall inform the parties of the rights the worker is entitled to by law, by regulations, and/or by collective agreements and the terms of the employment contract (article 159). Discussions with informants suggest that migrant workers, even those in an irregular status, turn to labour inspectors for assistance in case of labour disputes, and that these inspectors do intervene to solve disputes on migrant workers' behalf.

Moreover, the Labour Court can resolve disputes that arise due to employment contracts (Labour Code, 2006, article 162). The Labour Court is composed of a judge who acts as the President of the court; an employer assessor and a worker assessor selected among those on the lists established by the most representative employers' and workers' unions; and a court clerk (Labour Code, 2006, article 163).

Assessment

Djibouti promotes written and enforceable employment contracts. However, the Labour Code does not stipulate that written employment contract should be in a language that the worker understands. Nor does it require all obligations and responsibilities to be specified in the employment contract, such as working hours and maternity leave in the contracts of migrant workers in Djibouti. Employment contracts issued by PEAs need to contain more specifications regarding obligations and responsibilities, but migrant workers in Djibouti are unlikely to be deployed by PEAs.

Djibouti should require all obligations and responsibilities to be specified in employment contracts. This will ensure that migrant workers are directly informed of what their rights are. Currently, various responsibilities and rights are covered in the Labour Code, but if they are not also covered in the employment contracts, workers may not necessarily be aware of them.

³ These may be Djiboutians working in Djibouti or abroad, or migrant workers working in Djibouti.

6.1.4.2 Licensing and monitoring of private employment agencies

Overview

Decree N° 2018-103/PR/MTRA sets out the operating conditions of PEAs. Article 2 requires PEAs to be registered with the Registry of Commerce and Companies. To carry out the activities of a PEA, authorization needs to be obtained from the MOL Minister (article 7). An application for authorization must include various documents, such as:

- ▶ an application form, which can be obtained from ANEFIP;
- ▶ an extract from the Registry of Commerce (presumably proof of registration);
- ▶ the organizational chart, names, place of residence, and nationality of the leader(s) of the PEA;
- ▶ proof of the financial deposit;
- ▶ a certified copy of the PEA's valid civil liability insurance;
- ▶ a copy of the receipt of the payment of fees to ANEFIP; and
- ▶ the tax identification number of the PEA (article 11).

The authorization and application fees to be paid to ANEFIP amount to 300,000 Djiboutian francs (DJF) (US\$1,686⁴) per year (article 16). The fixed deposit referenced above is paid to the Public Treasury, with the number of employees of the PEA determining the amount to be paid:

- ▶ 1 to 49 employees – DJF4 million (US\$22,474);
- ▶ 50 to 150 employees – DJF8 million (US\$44,948); and
- ▶ more than 150 employees – DJF10 million (US\$56,185).

In the event of bankruptcy, the deposit will be used to pay unpaid salaries, social contributions, leave, and other allowances of the PEA's employees.

The authorization to operate as a PEA is granted for one year, and renewal needs to be requested one month before the authorization expires. This process requires the submission of an extract from the company's financial statements for the last completed financial year; a CNSS certificate certifying that the PEA has paid its social security contributions; and a tax clearance certificate (article 13). PEAs whose requests for renewal are received at the time that their authorization expires will be penalized by paying 20 per cent on top of the authorization fees for its renewal. Renewal requests submitted any later will not be accepted and the PEA will be closed (article 14).

Various provisions of Decree N° 2018-103/PR/MTRA require PEAs to respect workers' rights. Workers should enjoy equal opportunities and equal treatment in the field of employment and may not be discriminated against on the basis of race, colour, gender, religion, political opinion, national origin, or social origin (article 3). PEAs may only collect, store, and communicate data related to workers that is business-related and for non-commercial purposes (article 4). Contravening these provisions can lead to penalties and closure of the PEA (article 5). The

⁴ The exchange rate used for the conversions from DJF to USD in this report are from <https://www.xe.com/> on 14 September 2018.

leaders of a PEA will also be subjected to an ethics investigation by the competent services (presumably MOL/ANEFIP), and this is one of the conditions for them to be allowed to operate.

PEAs wishing to deploy workers outside of Djibouti must, in addition to the documents listed above, also submit to the MOL Minister:

- ▶ authenticated documents certifying that the PEA has an office or a legal representative officially recognized by the country where it intends to deploy the migrant workers; and
- ▶ evidence that the PEA has the required capacities to take responsibility for the migrant workers in the country of deployment.

Moreover, the PEA must ensure that the job it intends to place a migrant worker in abroad is indeed available, and that the migrant worker possesses the qualifications and skills required for the job (article 30). The PEA must register the workers at the embassy or consulate; facilitate medical assistance for a migrant worker who has a work accident; and repatriate the worker if necessary (article 31).

PEAs must provide a report on its recruitment of workers to the Labour Inspection services every three months, and annually submit a summary statement of the contracts concluded. The latter must include:

- ▶ the identity of each placed worker, with their national identity card number, or passport;
- ▶ the exact nature and level of qualification and/or training of the worker;
- ▶ the intended duration of the worker's contract; and
- ▶ the client company's identity (article 35).

Non-compliance with these reporting requirements can lead to temporary or permanent closure of the PEA, and forfeiture of the PEA's deposit (article 36).

PEAs that do not comply with the provisions of this Decree may be subject to administrative sanctions, such as a warning with the obligation to remedy the committed violation; a temporary suspension of its authorization; or a permanent withdrawal of its authorization (article 38). A PEA's authorization may be suspended in case of lawsuits against a director or manager of a PEA for exercising prohibited and illicit activities (especially human trafficking and smuggling), and this can be independent of the judicial procedure.

Assessment

A standardized system of licensing for PEAs exists, but it is not clear to what extent it is enforced. Moreover, PEAs are not obligated to inform migrant workers of their rights or to provide them with pre-departure training. It should be obligatory for migrant workers whose migration is facilitated by PEAs to receive pre-departure training. Bespoke complaint mechanisms through which migrants can raise complaints concerning their PEAs or their employers should be put in place.

Djibouti has not signed the ILO Private Employment Agencies Convention, 1997 (No. 181). It is recommended that the MOI, MOL, ANEFIP, MOFA, and MOJ receive training on the provisions of Convention No. 181 to further develop and enforce the regulatory framework governing PEAs, as well as to facilitate signing, ratification, and domestication of the Convention by the Government.

6.1.4.3 Recruitment and placement fees

Assessment

Decree N° 2018-103/PR/MTRA states in article 18 that PEAs must not charge workers, directly or indirectly, totally or partially, any fees or other expenses. The PEAs' fees and expenses will be borne by its client companies (those that the PEA assists with employee placement). PEAs must pay the following for migrant workers deployed abroad: the visa fees; round trip travel; work permit and residence permit fees; insurance; and social security coverage (article 32). Enforcement of this legal framework is unclear.

6.2 Pillar II. Advancing opportunities for regulated labour migration and decent work

6.2.1 Thematic Area 1. Labour mobility schemes to support labour market needs

6.2.1.1 Rules and regulations governing labour migration and mobility

Overview

Entry visas

An online portal exists to obtain a single-entry e-visa for business and tourism trips to Djibouti, for which an online application needs to be completed.⁵ A passport with a minimum six months validity; a flight reservation, or proof of other means of transportation; an accommodation address; and a credit card to pay for the visa are needed to complete the application process. There are two types of e-visas: a transit visa, which allows a stay for up to 14 days and costs US\$12; and a short-stay visa for a stay from 15 to 90 days (US\$23).

The website states that an e-visa application will be emailed to the applicant within 72 hours of completing their application. Djibouti's e-visa system was developed by the Directorate General of the National Police with support from the IOM and the Better Migration Management programme, which is funded by the EU Emergency Trust Fund for Africa and the German Federal Ministry for Economic Cooperation and Development (BMZ), and led by the Deutsche Gesellschaft für Internationale Zusammenarbeit (GIZ). On 7 April 2019, Djibouti's first e-visa counter was launched at the Djibouti International Airport, which allows visitors to apply for the visa in advance and receive it upon arrival at the airport (IOM, 2019). The e-visa can only be used to enter Djibouti at the Ambouli International Airport.

Entry visas for the purpose of working in Djibouti need to be obtained at the embassy in the country where the applicant is residing. The relevant embassy needs to be contacted to obtain information on the requirements to apply for this visa.

⁵ See www.evisa.gouv.dj.

Work permits

ANEFIP is responsible for issuing work permits. A key informant from ANEFIP explained that a company can recruit internationally once a position has been advertised for three months, and could not be filled by a Djiboutian. The employer needs to provide ANEFIP with the employment contract, CV, and valid passport of the migrant worker. If approved, the worker will be issued a work permit that is valid for one year. Per article 27 of the Labour Code, 2006, the work permit can be renewed several times, but is only issued for a specific position. If a migrant worker terminates their contract, the employer should inform ANEFIP and the work permit will be cancelled immediately. The MOL may refuse to grant or renew a work permit if it considers the migrant worker to not have (or no longer have) the necessary professional qualifications for the position, or if it believes that the position can be filled by a national (article 28).

Law No. 172/AN/17/7th L of 2017 sets out the costs of work permits. The first category of work permit costs DJF200,000 (US\$1,124), and is issued to:

- ▶ the heads of humanitarian organizations and companies;
- ▶ senior managers in a number of different fields, including in agriculture, forestry, and fisheries; manufacturing industries; and public works; as well as senior managers not listed anywhere else;
- ▶ managers and directors of small businesses in a number of different fields, including wholesale and retail; restaurants and hotels; and transportation, warehousing and communications; as well as managers and directors not listed anywhere else;
- ▶ experts in physical, mathematical, and technical sciences;
- ▶ life sciences and health specialists;
- ▶ experts in intellectual and scientific professions, which includes numerous professions, such as secondary and higher education teachers, accountants, and journalists;
- ▶ intermediate professionals in physical and technical sciences, which includes numerous professions, such as chemical and physical sciences technicians, industrial designers, and computer assistants;
- ▶ intermediate professionals in life and health sciences, which includes numerous professions, such as hygienists, health inspectors, and environmental officers;
- ▶ craftsmanship and metal working, mechanical construction, and similar professions; and
- ▶ heavy lifting and handling machinery operators, and similar professions.

The second category of work permit costs DJF100,000 (US\$562), and is issued to:

- ▶ primary teachers and other education experts; and
- ▶ a list of “other professions”, including models, dancers, and caregivers.

The third category of work permit costs DJF50,000 (US\$281), and is issued to numerous categories of workers, including domestic staff, cooks, and hairdressers.

Residence permits

Once a work permit has been issued, the MOI will issue a residence permit. Employees of private companies and public institutions need to submit a request for a residence permit to the Director General of the national police, which should include:

- ▶ a copy of their passport;
- ▶ a copy of the entry visa (or old residence permit in case of renewal);
- ▶ two photos;
- ▶ the application form;
- ▶ the work permit;
- ▶ an invoice from the National Office of Water and Sanitation or the National Electricity Company; and
- ▶ a tax stamp of DJF1000 (US\$6).

Investors and traders need to submit the same documents, as well as the status of the company, the commercial lease document of the company, and a trading license for the current year.

NGO workers need to submit:

- ▶ a passport copy;
- ▶ a tax stamp of DJF1000 (US\$6);
- ▶ a copy of the entry visa (or old residence permit in case of renewal);
- ▶ two photos; and
- ▶ an agreement signed with the Government of Djibouti.

Residence and work permits for asylum-seekers and refugees

ONARS issues certificates to asylum-seekers that provide temporary, renewable residency for a period of six months. Decree N° 2017-410/PR/MI states in article 3 that the certificate also serves as a work permit. It also states that the refugee card, which is valid for five years and is renewable, serves as a residence and work permit in Djibouti. Refugee cards are issued by the MOI.

The Djibouti Ports and Economic Free Zones

Labour migration to the Djibouti Ports and to Economic Free Zones are regulated by different rules and regulations, which are set by the Autorité des Ports et Zones Franches Djibouti (APZFD – Djibouti Ports and the Free Zones Authority). The entry, residence, and work requirements are specified on the APZFD website⁶, but the costs of the relevant permits are not indicated.

The APZFD provides short-stay single-entry visas valid for one month, and long-stay multiple-entry visas valid for 12 months. Short-stay visas applications need to be accompanied by a passport copy, copy of the work contract, and a copy of the company's license. Long-term visas are issued for migrant workers who have an employment contract for a period longer than one month.

Once a visa has been obtained, employers need to simultaneously apply for a residence permit and work permit for their foreign staff. The work permit application requires the same documents as the visa application, and also a copy of the visa. The employer needs

⁶ See <http://dpfza.gov.dj>.

to send a written request to the APZFD to apply for a residence permit for an employee. Residence permits are valid for one year and can be renewed.

The APZFD website also contains information on how employers need to register their employees with the CNSS.

Assessment

The admission, employment, and residency requirements for migrant workers need to be collected from different government ministries and agencies to gain a complete picture of the requirements and processes governing labour migration. Therefore, it is recommended that all this information be placed on the Government's e-visa web portal: www.evisa.gouv.dj.

It is also recommended that the web portal contain information on social security, namely the contributions that employers and migrant workers will need to pay, and how the portability of the related benefits will be ensured, as this forms part of the conditions of working and living in Djibouti.

Workers' and employers' organizations do not appear active in Djibouti, and were not consulted on the development of administrative procedures for labour migration and mobility. The private sector and migrant workers should be consulted on how to further simplify the process and make Djibouti an attractive destination for work and doing business. The prescribed work permit fees could be considered costly, and the Government should consider reducing them to facilitate labour migration.

The national laws and administrative procedures do not have the principal aim of denying the citizens of other IGAD Member States employment that has been offered to them, but a work permit will only be granted if a Djibouti national cannot fill the position for which the permit is being requested. In this sense the requirements for work permits respond to labour market needs. Temporary work schemes exist to attract teachers from the region, as well as Cuban medical professionals, to fill identified gaps in the labour market, but should be developed further.

6.2.1.2 Circular and return migration

Overview

Engaging the diaspora is a new issue area for the Government. The IOM organized a Diaspora Consultation Day on 21 December 2017 in cooperation with the MOFA, who leads diaspora engagement, and the World Bank. Diaspora Consultation Day featured exchanges between members of the diaspora, who came from France and Canada, and the Government, and these focused on diaspora mobilization, transfer of human capital, philanthropy, and tourism. The discussions and recommendations of the meeting are supposed to lead to the development of a roadmap and national diaspora strategy by 2025 (IOM, 2017a). The IOM has started to develop the diaspora strategy with the MOFA and Global Diaspora Djibouti, a diaspora organization in Djibouti. In addition, there is an ongoing ACP–EU Migration Action

that is assessing the capacity-development needs of the diaspora units of IGAD Member States' governments with a view to maximize the development potential of migration.⁷

ANEFIP, with the support of the IOM, is working on a pilot circular migration project, which has started by sending about 50 Djiboutian labour migrants to work in food processing in Quebec, Canada, with the company Olymel. The project started in January 2017 and is based on similar initiatives that the IOM has implemented in Mauritius and Latin America. The IOM is providing ANEFIP with "on the job" training by guiding them through the process of implementing such a labour migration scheme – from selection, to interviewing, to deployment. The IOM has also trained ANEFIP on labour mobility, the labour migration cycle, and diaspora mobilization. Pre-departure training, which focuses on Canadian culture; the environment (most importantly the cold climate); social security; and tax requirements has been provided by Olymel to the migrant workers, as well as to some of their close family members. The IOM provides training on IT, financial literacy, banking, budgeting, and paying taxes. The first Djiboutian migrant workers were deployed in September 2018. The migrant workers will receive a two-year contract, with the possibility of extension and permanent residency.

The IOM is also looking into the possibility of South–South circular labour migration schemes in Africa for Djiboutians to participate in. Moreover, Law N° 79/AN/04/5ème L of 2004 on Djiboutian nationality allows for dual citizenship, which promotes circular and return migration.

Assessment

Djibouti should complete its Diaspora Strategy and continue to build on its experiences of circular and temporary labour migration schemes, including by exploring possibilities for such schemes in Africa and the IGAD region. Temporary labour migration schemes will hopefully be facilitated by the IGAD Protocol.

6.2.1.3 Labour exchanges and critical skills

Assessment

Labour exchanges in the form of teacher exchanges take place between the University of Djibouti, the University of Nairobi, and the University of Somalia. The Government has tried to address the loss of critical skills through paying higher salaries to nurses. Labour exchanges should be further developed to address skills gaps. Training programmes should accompany these exchanges in order to build nationals' skills in these areas.

6.2.1.4 Establishment and investment

Overview

The National Investment Promotion Agency (NIPA) was established in 2001 and promotes investment in Djibouti. NIPA's One Stop Shop facilitates business, including by assisting investors with setting up the legal status of a company; providing licenses for establishment

⁷ The ACP–EU Migration Action is a programme implemented by the IOM and funded by the EU, which offers demand-driven technical assistance to African, Caribbean, and Pacific States and regional organizations.

in the special economic zones; obtaining visas, work permits, and residence cards; obtaining a tax identification number from the Tax Office; and business after-care services.

LAW N°58/AN/94/3rd L on the Investment Code contains the Government investment incentives that are granted to investors to invest in Djibouti, including in the free zones. The incentives are mostly in the form of tax exemptions, for which certain criteria need to be met. For example, companies that contribute to the economic and social development of Djibouti, as well as to job creation, are exempted from a number of different types of taxation, such as the Home Tax of Consumption and Import Taxes for the materials required for investment programmes, which are specified in a list annexed to the Code (article 13). These incentives are granted if certain criteria are met, such as the creation of a minimum number of jobs (to be determined by Council of Ministers decree) and an investment of a minimum amount of DJF5 million (US\$28,103).

The Investment Code applies equally to Djiboutian and foreigners, and guarantees equality in front of the law to all companies that operate in Djibouti.

Article 1 states that all companies established in Djibouti are free to:

- import all capital goods, materials and equipment;
- determine and to lead its policy of production and marketing;
- determine its policy of recruiting and dismissal of the staff; and
- choose its customers and suppliers and to fix its prices.

Companies can hire foreign workers as long as the skills are not available in the national labour market (NIPA, n.d.).

Assessment

The Government is promoting foreign investment in Djibouti, and prohibits discrimination between foreign investors and national investors through its Investment Code. Obstacles to the entry of foreign personnel of a company remain; as per the law, they should only be granted the right to work in Djibouti if their skills are not available in the national labour market.

6.2.2 Thematic Area 2. Supporting functions for participation in the labour market, including access to information, education, training, skills recognition, and finance

6.2.2.1 Disseminating information to migrant workers

Overview

Employers' and workers' organizations do not seem to play a significant role in Djibouti, particularly because of a hostile environment that undermines social dialogue, especially tripartism. Similarly, employers' and workers' organizations have not made the issue of labour migration one of their priorities. IOs and NGOs disseminate information to refugees and vulnerable migrants, but not specifically to migrant workers. Potential Djiboutian migrant workers may receive information on the migratory process from PEAs that provide them with pre-departure training or from the companies they will be working for abroad.

Assessment

The Government, IOs, and NGOs should proactively disseminate information to migrant workers on their rights and opportunities, such as access to finance and education, to facilitate their integration into the labour market and society.

6.2.2.2 Education, training, skills recognition, harmonization of qualifications, and access to finance

Overview

According to the Ministry of Higher Education and Research, all residents in Djibouti have access to education. A residence card is required for migrants to access education. In order for migrants to access school-level education, they need to take a written exam. There are currently no efforts to harmonize Djibouti's education system with those of other countries in the region. The Ministry of Higher Education and Research and the Ministry of National Education and Vocational Training would like to receive support to understand how education systems work in the different countries in the region, such as through a regional exchange, with a view to work towards the harmonization of their education system with those in other IGAD countries.

- ▶ Regarding skills recognition, the Ministry of National Education and Vocational Training gazetted the conditions and procedures for granting equivalence/recognition of higher education diplomas in 2014 (Keevy, Paterson, and Boka, 2018, p. 81). Moreover, bilateral agreements exist with universities in Ethiopia and Kenya to automatically recognize their degrees in Djibouti.

According to the Ministry of National Education and Vocational Training, a practical exam is undertaken by migrants with a private technical and vocational training institution, and a diploma is issued by the Ministry in recognition of the migrant's skills.

The Central Bank informed the study team that regular migrant workers and refugees have the same rights as nationals to open bank accounts. If three different banks refuse to open a bank account for a regular migrant worker, and if that worker meets the criteria for opening a bank account, the Central Bank will intervene and ensure that a bank provides them with a bank account. Regular migrants also have the same rights to access finance as nationals, but each bank in Djibouti has their own rules regarding access to finance and the criteria which need to be met.

In July 2018 ONARS issued an official letter to the Governor of the Central Bank stating that refugee cards provide refugees with the rights to residence, work, and the same fundamental rights as nationals under national labour and social security legislation. The letter requested the Central Bank to assist refugees with the opening of bank accounts. The Central Bank complied by proceeding to draft a decree to give effect to this request. Moreover, the UNHCR is actively informing refugees of their right to open bank accounts, and is willing to back the loans that refugees take from financial institutions.

Assessment

Information on skills recognition should be proactively disseminated to migrants by the Government, IOs, and NGOs to facilitate their integration into the labour market.

The Government is not currently working towards the harmonization of Djibouti's curricula, examinations, standards, certification, and accreditation of educational and training institutions with those of other IGAD Member States. The Ministry of Higher Education and Research and the Ministry of National Education and Vocational Training would like to receive support in this area. Such efforts are necessary to facilitate labour migration and mobility, and the implementation of the IGAD Free Movement of Persons Protocol once it is adopted.

6.2.2.3 Facilitating remittances

Overview

The annual remittance inflow to Djibouti was US\$69 million for 2017, which represented 3.3 per cent of GDP (KNOMAD, 2018). Little information on remittance flows to and from Djibouti exists. An ACP–EU Migration Action to address this gap is underway.

According to the MOFA, remittances are largely sent to Djibouti informally through the *hawala* system, whereby money is paid to an agent in the country of origin who then instructs a local associate in the country of destination to pay out the money to the recipient. A 2017 study by Leon Isaacs points out that irregular migration from Djibouti is a major factor causing remittances to be sent to Djibouti through informal means. Migrants in an irregular status do not have the means to access formal channels for remitting in countries of destination. Formal identification is required in many countries to meet the “Know Your Customer”⁸ requirements for cross-border transfers through official channels.

Djibouti's Central Bank compiles data on remittances quarterly, which consist of the amount of funds that has been received over the past quarter; the country it was remitted from; the identity of the sender and receiver; and whether the transfers were personal or for business. In addition, if a money transfer company in Djibouti receives or sends more than DJF2 million (US\$11,238) in one month, it has to be reported to the Central Bank. On a quarterly basis, the Central Bank shares the data it collects with a committee that works to counter illegal transfers. The committee members include the national police, the Gendarmerie, MOFA, the tax authorities, and the intelligence service.

The Central Bank is in charge of policy-making on remittances, and there are currently no policies or laws in place to reduce the cost of remittances. The IOM and the World Bank have held meetings with the Government to discuss actions that can be taken to reduce the cost of remittances.

Assessment

A better understanding of the Djibouti's remittances landscape is needed. The ACP–EU Migration Action will hopefully help in filling this gap, with a view to putting in place policies

⁸ Know Your Customer requirements are used by financial institutions across the world to prevent money laundering and international crime.

and mechanisms to reduce the cost of remittances and enhance their contribution to the development of Djibouti.

6.2.3 Thematic Area 3. Promoting social integration and inclusion

6.2.3.1 Public education and awareness-raising campaigns on the contribution of migrants

Overview

Djibouti fares relatively well with the integration of migrants, and remains open towards its neighbouring countries, despite the impact this has on its social services. Irregular migrants are tolerated and accepted, as they perform essential jobs, such as domestic work, that nationals may not want to perform. Djibouti introduced universal health care in 2014, which gives the most vulnerable people access to free health care. The Government is currently developing a database of people who are eligible for free health care. Even though health care is one of the sectors most affected by the large inflow of migrants (more than 40 per cent of patients are estimated to be migrants), irregular migrants are also accessing the health system, at a small fee.

Djibouti is making significant efforts to integrate refugees. It introduced a new refugee law in 2017, which gives refugees the same rights as nationals, including access to education, employment, freedom of movement, the right to open a business, access to free health care (if they cannot afford to pay for it), and access to the social security system, which includes cash transfers.

In December 2017, Djibouti hosted a regional IGAD conference on improving education for refugees, at which the Djibouti Declaration on Refugee Education was adopted. The conference followed an August 2017 agreement between the Government of Djibouti and the UNHCR on providing quality education to all refugee children by including them in the national education system. Consequently, Eritrean, Ethiopian, and Somali refugees in the Holl-Holl and Ali Addeh settlements now follow Djibouti's national curriculum in English, while Yemeni refugees in the Markazi settlement follow the Yemeni curriculum (UNHCR, 2017).

Article 5 of Decree N° 2017-410/PR/MI states that refugees and asylum-seekers are to receive the same treatment as nationals in terms of access to primary, secondary, and higher education, as well as vocational training. This law also grants asylum-seekers and refugees access to the labour market (article 3).

Most refugees still work informally. In an interview for this study, the UNHCR highlighted that an obstacle to the integration of refugees is that they lack the skills and resources to engage in formal work and start businesses. The UNHCR is currently profiling the skills of refugees, with a view to assist them in engaging in formal employment or starting businesses. The UNHCR has an agreement with the Protestant Church of Djibouti to train a number of refugees on solar energy and installation. They are also discussing training for refugees on masonry with private companies. The UNHCR is also collaborating with the Chamber of Commerce to support the employment of refugees. Together they plan to organize a workshop with big business to promote the employment of refugees.

Moreover, the IOM and ONARS implemented the project “Livelihood Support to Eritrean Refugees for Self Reliance and Local Integration in Djibouti City”, which was financed by the Belgian Government, in 2017 and 2018 (IOM, 2017c). The project created 40 businesses (in food, recycling, and transportation) for 40 refugees and 40 Djiboutians by providing the participants with equipment to start their small businesses and with support to develop a business plan and train staff.

The next step in their integration of refugees will be for refugees to start engaging in the formal sector and paying taxes. Employed refugees will also need to contribute to the health care and social security system.

Assessment

There are no education or public awareness-raising campaigns regarding the contribution that migrant workers are making to Djibouti. However, Djibouti accepts migrants from the region, and more migrants should be regularized in order for them to contribute financially to social services. Discussions with informants suggest that irregular migrants can be regularized, if employers are willing to cover the work permit fees.

Djibouti’s 2017 refugee law is ambitious regarding the integration of refugees, by giving them access to the same fundamental rights as nationals. The UNHCR highlighted that more awareness raising on the new law is needed, both among refugees and among the local population, so that refugees know both their rights and their duties.

6.2.3.2 Family reunification, and access to employment for family members and education for children

Assessment

A migrant worker can be accompanied by their spouse and children to Djibouti. To obtain a residence permit for the spouse and children, the following documents need to be submitted to the Director General of the national police:

- ▶ a copy of their passport;
- ▶ a copy of the entry visa (or old residence permit in case of renewal);
- ▶ national identity card of the spouse;
- ▶ two photos;
- ▶ their marriage certificate;
- ▶ the children’s birth certificates; and
- ▶ a stamp of DJF1000 (US\$6).

However, in order for the accompanying spouse or child to engage in formal employment, a work permit needs to be obtained, which will serve as the basis for a resident permit for work purposes. Migrant workers’ children can access the education system, for which a resident permit is required. The UNHCR estimates that more than 30,000 children in Djibouti schools are the children of migrants.

6.3 Pillar III. Enhancing the protection of migrant workers and their families

6.3.1 Thematic Area 1. Protection of migrant workers' human rights

6.3.1.1 Protecting the rights of migrants

Overview

Human rights are enshrined in the Constitution of Djibouti, 1992, which also applies to migrant workers. The Constitutional Court is responsible for upholding human rights. The Commission Nationale des Droits de l'Homme (CNDH – National Human Rights Commission of Djibouti) was created in 2008. By law, the Commission is an independent institution responsible for ensuring respect for human rights in Djibouti. Its work includes organizing training on human rights for magistrates, police representatives, gendarmes, and prison guards; giving legal opinions on human rights issues; and organizing awareness-raising activities on human rights (CNDH, n.d.). GIZ has been working with CNDH under the EUTF-funded Better Migration Management Programme (BMM), to enhance the Committee's capacity to assess migrant rights violations. On 05 December 2017 GIZ-BMM organized a workshop to raise awareness on migrants' rights for the CNDH and other relevant ministries and NGOs. The CNDH also participated in a regional conference to enhance the protection of migrant children in the Horn of Africa, which took place in Djibouti on 12–13 March 2018, and which was organized by the BMM programme in collaboration with Save the Children, the UN Children's Fund, and the UNHCR.

The Labour Code, 2006, promotes the protection of labour rights, including employment contracts; working hours and leave; working conditions; and participation in a trade union. The Labour Code also includes dispute settlement and enforcement mechanisms for the protection of workers' rights. These include a functioning labour inspection system and access to labour courts for resolving disputes. Migrant workers working in the Economic Free Zones are not covered by the Labour Code, 2006, and a regulatory framework for their protection still needs to be developed.

Assessment

The legal framework to protect human rights and labour rights also applies to migrant workers. The extent to which these rights are effectively enforced is not clear. Migrants do appear to have access to labour inspection services to solve disputes regarding labour rights. The Labour Code, 2006, requires a copy of the Code to be given to staff representatives by the employer. In addition, migrant workers should be actively informed of their rights and the mechanisms to enforce those rights.

6.3.1.2 Protecting migrants from forced labour and exploitation

Overview

The Labour Code, 2006, forbids forced labour in article 2, which it defines as “work or service that is exacted from a person by physical and/or moral force, and which the person does not voluntarily engage in”. Under the Labour Code, “forced labour” does not include:

- ▶ military service;
- ▶ work resulting from a judicial conviction, provided that this work or service is carried out under the monitoring and control of public authorities;
- ▶ work or service exacted due to force majeure, such as during war and threats of natural disasters; and
- ▶ work exacted in the direct interest of the community by the community members, which may be considered as normal civic obligations.

Article 290 of the Labour Code, 2006, states that forced labour or attempts to exact forced labour from a person is punishable by a fine of DJF1 million to DJF2 million (US\$5,619–US\$11,238) and one month imprisonment and, and in case of renewed offence, by two months imprisonment and a double fine, or by only one of these two penalties.

Law N° 133/AN/16/7th L of 2016 on Combating Human Trafficking and Migrant Smuggling outlaws human trafficking. It includes forced labour in its definition of human trafficking in article 1. The Law defines “forced labour as “any work or service that a person is obliged to perform under the threat of retaliation of any kind and to which s/he has not freely consented”. The Law includes prison terms and penalties for human trafficking convictions, such as 10 to 15 years imprisonment for submitting another person to forced labour for a period of up to one month, and which does not result in physical and mental complications.

Law No. 111 of 2011 on the Fight Against Terrorism and Other Serious Crimes also prohibits trafficking for labour, and prescribes penalties of 10 to 15 years imprisonment (US Department of State, 2018).

According to the US Department of State's 2018 TIP Report, the Djibouti Government increased its law enforcement efforts to combat trafficking over the last reporting period, and issued the first conviction for forced labour under the 2016 anti-trafficking law, with a sentence of 20 years imprisonment delivered.

A number of activities were implemented by the Government to enhance anti-trafficking capacities. This includes the appointment of a deputy prosecutor to boost anti-trafficking law enforcement efforts, and creating a senior adviser position on human trafficking at the MOJ to increase trafficking investigations and prosecutions.

Assessment

Legislation to protect migrant workers from trafficking, exploitation, and forced labour is in place, and enforcement should be further strengthened. The upcoming coordination committee on addressing trafficking in persons could serve as a useful avenue to boost anti-trafficking efforts.

6.3.2 Thematic Area 2. Social security and social protection

6.3.2.1 National labour laws and social protection laws applying to migrant workers

Overview

The Labour Code, 2006, applies to migrant workers in a regular status in Djibouti, apart from those that work in the Economic Free Zones. The Labour Code contains various provisions to offer protection to workers, including:

- ▶ regulations regarding employment contracts;
- ▶ working hours – set at 48 hours per week (from which agricultural facilities are exempted, but limitations are not further specified [article 84]); additional hours may not exceed 60 hours per week or 12 hours per day in total, and need to be paid at a higher rate, which has to be set through an agreement between the employer and employee(s);
- ▶ the right to paid leave, set at two and a half business days per month of effective service (article 99);
- ▶ leave periods for marriage, mourning the death of a family member, and parental leave for childbirth, which collectively should not exceed 11 days per year (article 100)
- ▶ unpaid leave for training, representing Djibouti in international sport competitions, and participating in trade union events (article 101);
- ▶ paid maternity leave, which starts mandatorily eight weeks prior to the due date of childbirth and ends six weeks after the date of childbirth, of which half is paid by the employer and half by the Social Protection Agency;
- ▶ no female worker may be dismissed for being pregnant (article 114);
- ▶ health and safety standards at work (chapter 4); and
- ▶ equal pay for work of equal value, irrespective of the worker's origin, gender, age, status, and religion (article 137).

Moreover, Decree N° 2017-410/PR/MI on the rules of procedural, organizational, and functional arrangements of the bodies in charge of refugees' status in Djibouti states in article 4 that refugees and asylum-seekers receive the same treatment as nationals in terms of national labour law and social security.

Assessment

National labour laws and social protection laws apply to migrant workers in a regular status in Djibouti. There appears to be a gap in national legislation in terms of the Economic Free Zones. Discussions with informants indicate that the labour code for the Economic Free Zones is yet to be developed.

6.3.2.2 Social security coverage and portability

Overview

Decree N° 2014-156/PR/NITRA on creating the Health Solidarity Fund of the Universal Health Insurance aims to ensure that all Djiboutians have access to health care, and the most vulnerable to free health care. The Government is developing a social register of vulnerable people who are eligible for free health care and other types of social assistance from the SEAS. The Refugee Law of 2017 entitles refugees to benefit from social security. Employed regular migrant workers are obligated to participate in the Government's social security scheme, for which employers pay 20 per cent on top of their employees' salaries to the Social Affairs Secretariat. The self-employed have to contribute 7 per cent of their income to social security.

Assessment

Djibouti does not participate in any bilateral, multilateral, or regional agreements on social security coverage or their portability. Regular migrant workers contribute to the social security system. In order to obtain a pension, a migrant worker needs to have worked in Djibouti for five years. Migrant workers will be reimbursed their pension contributions and 4 per cent of their total health-care contributions. (The self-employed, however, cannot receive a pension.) According to the MOL, these social security benefits are portable, but the modalities of how these transfers will be made are not clear.

6.3.3 Thematic Area 3. Labour inspection for migrant workplaces

Overview

Labour inspection is governed by the Labour Code, 2006, under which labour inspectors may:

- ▶ without notification enter workplaces to inspect them;
- ▶ carry out all necessary investigations to ensure that legislative and regulatory provisions are complied with;
- ▶ question, with or without witnesses, the employer or the staff members of the company;
- ▶ demand to see all records that should be kept as specified by the law;
- ▶ take along for analysis materials and substances used or manipulated, provided that the employer or its designate is informed; and
- ▶ request, if need be, the opinions and consultations of medical doctors and other technicians, especially with regards to the hygiene and safety prescriptions of a workplace (article 199).

According to the Labour Inspection Service of the MOL, migrant workers' workplaces are inspected. They inspect the conditions of the workplace; the measures taken in the workplace to prevent accidents and ensure the security of workers; and the employer's compliance with the law in terms of employment contracts and other documents required by law. The Labour Inspection Service lack a sufficient number of inspectors to carry out inspections regularly. In addition, they do not have offices across the country (there are only three offices: one in Djibouti City, one in the north of the country, and one in the south) or sufficient transport.

Currently the Labour Inspection Service only has seven labour inspectors, though it should have 20. The Labour Inspection Service indicated that labour inspectors have not received any training on migrant workers' rights.

Assessment

Inspection of migrant workers' workplaces is taking place, but the extent to which it takes place regularly is unclear, including the extent to which it takes place in the Economic Free Zones, which are not governed by the labour inspection provisions of the Labour Code, 2006.

The number of labour inspectors should be increased, and they should all be trained (and retrained at regular intervals) on the legal framework governing migrant workers and migrant workers' rights.

6.3.4 Thematic Area 4. Facilitating reception and return

Overview

According to ANEFIP, PEAs should provide pre-departure training to migrant workers. The extent to which this is systemically provided to Djiboutian migrant workers is not clear. No on-arrival training is provided to migrant workers entering Djibouti.

Djibouti does not have a reintegration strategy, but as few Djiboutians migrate, the development of a reintegration strategy is not crucial. However, ANEFIP indicated that it may form part of the labour migration policy that the Government intends to develop.

Assessment

Pre-departure training should be provided to Djiboutian migrant workers, especially those migrating to Gulf countries and the Middle East for work, where exploitation has been reported. A pre-departure training curriculum should be developed, and should include training on migrants' rights; health and safety issues; basic financial literacy; conditions in the country of destination; and information on how migrants can seek help, in case of distress. This should be made a requirement for PEAs to deploy migrants abroad.

On-arrival training or information should be provided to incoming migrant workers, and should cover the legal framework governing migrant workers; their rights; access to services, such as education, health, finance, and social security; cultural awareness; and the dispute settlement mechanisms available to them.

7. Recommendations

Pillar I. Strengthening labour migration governance

Thematic Area 1. Capacity to collect, analyse, and share labour migration data

- ▶ The Government of Djibouti should fully develop its LMIS and capture the sectorial, occupational, and regional dimensions of labour supply and demand. The Government should assess the long-term impact of demographic trends on the demand for and supply of labour, and undertake skills forecasting to determine future labour needs.
- ▶ The DISED, MOL, ANEFIP, and other relevant government ministries and agencies should be trained on labour migration data collection and analysis, as well as applying it to labour migration policy. This training should form part of the process to develop a labour migration policy. Labour migration data, and knowledge on how it is collected, analysed, and shared will be important in shaping and implementing the labour migration policy.
- ▶ The Government should develop a skills inventory that captures skills by sector and occupation. Research of labour migration flows between Djibouti and IGAD Member States should be undertaken to better understand these flows, and to identify opportunities for enhancing labour migration to aid economic development and meet skills gaps. In addition, manpower surveys should be undertaken in the IGAD countries to better understand the skills that are available in the different countries and to identify the sectors wherein labour exchanges between countries could be mutually beneficial. A regional body of evidence, in term of existing skills and shortages across the IGAD countries, could serve as a basis for opening up national labour markets in certain sectors and implementing the IGAD Free Movement of Persons Protocol. Manpower surveys were undertaken in Partner States of the East African Community, and this experience could be learned from and applied to the IGAD region.
- ▶ Labour migration data and information and the skills inventory should be shared on a regular basis with the inter-ministerial working group on migration and the National Commission on Eligibility for Refugee Status (CNE - la Commission Nationale d'Eligibilité au statut de réfugié).

Thematic Area 2. Coordination on labour migration

- ▶ The Government should drive more comprehensive dialogue on all dimensions of labour migration at the inter-ministerial level, and at national level with social partners and NGOs, academia, and IOs. The NCM, which is usually a multi-stakeholder forum that brings together NGOs, academia, and IOs, could serve as a good platform for discussions and collaboration on migration issues, including labour migration, once it is established.
- ▶ The relevant regional economic communities and the AU should institute the sharing of labour market information and profiles of good practices on labour migration in existing forums, such as the IGAD RCP, the COMESA RCP, East African Community meetings, AU meetings, and meetings of the JLMP.

Thematic Area 3. Capacity to formulate and implement policy

- ▶ The Government of Djibouti should ensure that the labour migration policy development process takes into account employment, education, and other relevant national policies, in recognition of the wide social and economic implications of labour migration and the need to have synchronized, mutually reinforcing policies. The labour migration policy should therefore be developed through a whole-of government-approach that engages all the ministries and agencies whose work touch on labour migration, such as the MOI, MOL, ANEFIP, MOJ, DISED and ministries working on economic, social, health, and gender issues. In addition, academia, civil society, and social partners should be included in the policy development.

As a first step in the development of the labour migration policy, it is recommended to implement a comprehensive training programme for the actors that will be engaged in this process. This should cover all aspects of labour migration (including BLAs; employment agencies; migrants' rights; protection; social integration; remittances; and diaspora engagement) in order to arrive at a shared, solid understanding of labour migration policy issues. On this basis, a common policy vision can be crafted, and the contribution, roles, and responsibilities of the government ministries and agencies, as well as other actors, can be defined. As part of the policy development process, research should be undertaken on the contribution of labour migration and migrant workers to Djibouti, including employment creation and capital formation, as well as the contribution of Djiboutian migrant workers to their home country. This is important in order to understand the contribution that labour migration is making to the development of Djibouti, and to inform the labour migration policy development process. Moreover, Djibouti's labour migration policy should comprehensively address the protection concerns of incoming and outgoing migrant workers, and steps should be taken to put in place the necessary protection mechanisms.

- ▶ The Government should strengthen its engagement with social partners, and provide opportunities for such partners to contribute to the formulation and implementation of labour migration policy.
- ▶ IOs and NGOs should raise awareness on ILO Conventions No. 97, No. 143, and No. 181, as well as the 1990 International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families among government ministries, with a view to achieve accession to these Conventions. The labour migration policy development process should be used as part of the awareness-raising process.
- ▶ The Government should ensure that BLAs cover all aspects related to working conditions and migrants' rights, including:
 - wages;
 - working environment;
 - health and safety standards;
 - labour inspection;
 - social security and the portability of social security benefits;
 - family reunification possibilities; and
 - labour dispute settlement mechanisms.

Thematic Area 4. Regulating employment agency practices

- ▶ The Government should require all obligations and responsibilities of workers, employers, and PEAs to be specified in employment contracts, to ensure migrant workers are fully informed of their rights.
- ▶ The Government, with the support of partners, should develop a standard pre-departure training curriculum with modules for specific countries of destination and/or specific sectors. This curriculum should serve to inform migrants of their rights and obligations.
- ▶ The Government should enforce pre-departure training for migrant workers.
- ▶ The Government and partners should enhance the capacities of ANEFIP in facilitating the placement of Djiboutian migrant workers abroad.
- ▶ The Government should establish a system to inform migrant workers coming to Djibouti of Djiboutian labour legislation and conditions in the country.
- ▶ The Government should create bespoke complaint mechanisms through which migrants can raise complaints they may have with their PEAs or their employers.
- ▶ The ILO should provide the MOL, ANEFIP, MOI, MOFA, and MOJ training on the topics raised by ILO Convention No. 181 in order for the Government to further develop and enforce the regulatory framework governing PEAs and to accede to and comply with the provisions of the Convention.

Pillar II: Advancing opportunities for regulated labour migration and decent work

Thematic Area 1. Labour mobility schemes to support labour market needs

- ▶ The Government of Djibouti should consult the private sector and migrant workers on further simplifying the administrative requirements and procedures that govern entry, work, residence, and establishment in Djibouti.
- ▶ The Government should consider reducing the cost of work permits, with a view to enhance labour migration.
- ▶ The Government should place the admission, employment, and residence requirements for migrant workers on the e-visa web portal (www.evisa.gouv.dj). In addition, the website should host information on social security contributions, benefits, and their portability.
- ▶ The Government should complete its Diaspora Strategy and continue to build on its experiences of circular and temporary migration schemes, including by exploring possibilities for such schemes in the IGAD region, Africa, and the Middle East.
- ▶ The Government should develop labour exchanges to address skills gaps. Training programmes to build nationals' skills in these areas should take place simultaneously, and thereby facilitate the transfer of these skills from migrant workers to nationals.
- ▶ To promote business development, the Government should review and consider reducing obstacles to the entry of foreign personnel of companies conducting business in Djibouti.

Thematic Area 2. Supporting functions for participation in the labour market, including access to information, education, training, skills recognition, and finance

- ▶ The Government, social partners, and NGOs should proactively disseminate information to migrant workers on their rights and opportunities – such as access to finance, education, and skills recognition – to facilitate their integration into the Djibouti labour market and society.
- ▶ The IGAD Secretariat should organize a regional exchange among IGAD countries on education curricula, examinations, standards, certification, and accreditation of educational and training institutions in order to pave the way for the harmonization of these systems across the region.
- ▶ The Government should use the results produced by the ACP–EU Migration Action to build an evidence base on Djibouti's remittances flows, with a view to putting in place policies and mechanisms to reduce the cost of remittances and enhance their contribution to Djibouti's development.

Thematic Area 3. Promoting social integration and inclusion

- ▶ The Government should regularize irregular migrants with a view to enhancing social integration and inclusion, including the contribution of migrants to the health system, social security system, and tax base.
- ▶ The Government, social partners, IOs, and NGOs should enhance awareness raising on the 2017 Refugee Law to build knowledge of the rights and obligations of refugees and to aid refugees' integration into and contribution to society.

Pillar III. Enhancing the protection of migrant workers and their families

Thematic Area 1. Protection of migrant workers' rights

- ▶ The Government, employers, workers' organizations, and PEAs should actively inform migrant workers of their rights and the pertaining enforcement mechanisms to secure their rights.
- ▶ The Government should strengthen enforcement of legislation that protects migrant workers from trafficking, exploitation, and forced labour.

Thematic Area 2. Social security and social protection

- ▶ The Government should extend the provisions of the Labour Code to the Economic Free Zones.
- ▶ The Government should clarify the modalities for the portability of social security benefits and make this information available on the CNSS website and e-visa web portal.

Thematic Area 3. Labour inspection for migrant workplaces

- ▶ The Government should increase the number of labour inspectors; ensure that they have the necessary resources to conduct regular inspections; and train them on the legal framework governing migrant workers and migrant workers' rights. They should also be re-trained every two years.

Thematic Area 4. Facilitating reception and return

- ▶ The Government should provide on-arrival training or information to incoming migrant workers on the legal framework governing migrant workers; their rights; access to services, such as education, health, finance, and social security; cultural awareness; and the dispute settlement mechanisms available to them.

Appendix I – List of key informants

Central Bank of Djibouti

Abbas Daher Djama, Director, Financial Intelligence Unit Director
Abdirahman Robleh Bouraleh, Chief of service, Statistics Department

Chamber of Commerce

Syad Ali Hassan, Head of Economic Intelligence
Idil Aden Robleh, Training Department Manager

Commission for Statistical Planning

Sekou Tidiani Konate, Statistician, Statistics and Demographic Studies Department

Deutsche Gesellschaft für Internationale Zusammenarbeit /GIZ

Samatar Natalis, Senior Programme Officer

European Union Delegation to Djibouti

Isabelle De Ruyt, EU Trust Fund Manager

Gendarmerie

Ahmed Mohame Helem, Commander
Houssein Ahmed, Deputy Commander

Intergovernmental Authority on Development

Salah Mohamed Egueh, Program Assistant, Health and Social Development Division
Kokebe Hailegabriel Dagne, GIZ Advisor, IGAD Migration Unit
Charles Obila, Migration Officer

International Organization for Migration

Lalini Veerassamy, Chief of Mission

Ministry of Economics, Finance and Industry

Ali Mohamed Ali, Director of Exterior Financing

Abdallah Mohamed Burhan, Deputy Director in charge of monitoring external financing

Hassan Mohamed Hassan, senior executive, Economic division

Ministry of Foreign Affairs and International Cooperation

Mohamed Ibrahim Houmed, Deputy Director of International Organization

Ministry of Higher Education and Research

Mahdi Mahamoud Issa, Technical Advisor

Ministry of Interior

Sirag Omar Abdoulkader, Secretary General

Ministry of Justice, Prison Affairs, and Human Rights

Farhiya Djama Ibrahim, Technical Advisor

Ministry of Labour and Administrative Reform

Ikram Awaleh Farah, Director of Labour, Employment and Social Security

Abdi Farah Idleh, General Inspector, Inspection of Labour and Social Law

Ministry of National Education and Vocational Training

Chehem Mohamed, National Education Inspector

Ministry of Women and Family

Osman Djama, Technical advisor

Hamida Houssein Barkhat, Chief of Service

Ismail Mohamed Ismail, Technical advisor

Hassan Ali, Technical Advisor

National Agency for Employment, Training and Professional Integration (ANEFIP)

Houssein Ismael Aden, General Director

Iltireh Osman, Director for Planning and Studies

National Confederation of Djibouti Employers

Hikmat Daoud, President

National Investment and Promotion Agency

Awad Moussa Hersi, Development Department Manager

Moumina Houssein, Promotion Officer

National Office for Protection of Refugees and Disaster Victims (ONARS)

Arbahim Witt, Legal Advisor

United Nations High Commissioner for Refugees

Abdoulaye Barry, Representative

United Nations Office on Drugs and Crime

Maria Temesvari, Crime Prevention and Criminal Justice Officer, Transnational Organized Crime, Illicit Trafficking and Terrorism Programmes, Regional Office for Eastern Africa

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