

The draft Regional Labour Migration Policy Framework

Preamble

Having regard to the objectives set forth in the founding treaty of the Southern African Development Community (SADC) in particular article 5(1) d which relates to the movement of labour

Acknowledging the SADC Charter on Fundamental Social Rights; the SADC Protocol on facilitation of the movement of Persons; the SADC, Protocol on Education and Training and the SADC protocol on Employment and Labour

Noting the AU Migration Policy Framework for Africa, the ILO Multilateral Framework on Labour Migration and other ILO and UN instruments on labour migration which are open to ratification by member states

Affirming the role of the Migration Dialogue for Southern Africa (MIDSA) in promoting a managed intra-regional labour migration regime and fostering regular interface of the SADC ministers of responsible for Home Affairs and those responsible for Employment and Labour

Mindful of the need to realise the goals set out in the SADC Decent Work Agenda

Desirously to promote safe and legal intra-regional labour migration as well as upholding the rights of migrant workers, the SADC hereby adopts a Regional Labour Migration Policy Framework.

Definitions

(1) Aspirations

Underpinning this regional labour migration policy framework is the desire to;

- Improve governance in intra –regional labour migration
- Strengthen protection of migrant workers
- Mainstream migration in the national and regional development plans

(2)Overall Objective

The policy framework seeks to promote sound management of intra regional labour migration for the benefit of the both the sending and receiving countries as well as the migrant workers.

(3)Specific Objectives

The regional labour migration policy framework seeks to promote;

- the development and implementation of national labour migration policies

- Multilateral and bilateral labour agreements for the benefit of persons working or intending to work in the territory of another State Party
- Migrant workers' rights
- Protection of migrant workers at the workplaces and in the communities
- Harmonisation and standardisation of labour migration policies
- integration of the intra –regional labour migration data into the SADC LMIS

(4) Outcomes

Pursuant to this framework and through the implementation of national labour migration policies, multilateral/bilateral labour agreements and MoUs;

- Governance of intra –regional of labour migration is enhanced
- Protection of Migrant workers is strengthened
- Intra regional Labour Migration is mainstreamed into the national development plans and the region's development strategic agenda
- Intra regional labour migration data collected, analysed and used in the planning processes

(4) National Labour Migration policies

Member States are urged to put in place national labour migration policies that inter alia;

- Address both inward and outward migration issues pursued under multilateral/bilateral labour agreements and MoUs
- Provide for a platform for tripartite social dialogue on labour migration
- promote demand driven, legal and safe labour migration
- Provide for mechanisms to identify and maintain up to date information of areas of skills deficiencies
- provide clear mechanisms and structures to deal with work permits among other aspects which are within the domain of labour migration
- strengthen the coordination of labour migration issues by the different State organs
- Protect migrant workers of all against discrimination at the workplaces
- Promote portability of social security benefits
- Facilitate the voluntary participation in trade union activities by the migrant workers
- Promote the integration of the migrant workers in the respective communities in which they stay
- Provide for the establishment of labour migration centres or foreign recruitment offices(public or private)
- Confirm with the national migration and labour policies or legislation

(5) Multilateral and bilateral Labour Agreements

Without derogation from the spirit of this framework and the numerous instruments adopted by SADC and other international bodies cited herein, member states entering into multilateral or bilateral labour migration agreements shall ensure that the agreements;

- Are in tandem with and give effect to the respective national labour migration policies or become the basis of standardising or harmonising the policies
- Provide details of the recruitment and repatriation mechanisms, and the roles to be played by both sending and receiving countries, the recruitment agents if applicable and the employers
- Contain sufficient details with regard to the processing of work permits and other documentation necessary to legalise the whole foreign recruitment process
- Provide some insight into the nature of contracts to be entered into between the migrant workers and the employing companies or individuals.
- Have social clauses to address the situation of migrant workers in the communities in order to promote cultural ties.
- Specify where applicable the sectors in which the foreign labour is required and in the case of foreign recruitment of non skilled and semi skilled persons the general conditions of employment applicable in the sectors concerned may be spelt
- Provide for pre-departure information sessions in the case recruitment of large groups or simply avail information sheets on departure.
- Address the remittance mechanisms available to the migrant workers.
- Provide for regular bilateral meetings involving social partners of the countries of origin and destination.

(6) Creation of National Labour migration data banks and the regional data base on regional labour migration

All member States should mainstream labour migration into the labour force survey modules in order to create national labour migration data banks which are regularly updated. Such information shall be shared with SADC secretariat using the agreed SADC template on Labour Market Information.

SADC Secretariat is to maintain a regional data base on intra-regional labour migration which is updated on a regular basis

(7) Monitoring mechanisms

The SADC -ELS on its own or in a special sitting with the Ministers responsible for Home Affairs shall on regular intervals assess the progress towards the achievement of the objectives and realisation of the goals set out in this framework.

(8) Follow up mechanisms

At an agreed interval the SADC secretariat shall present to the meetings of Minister and Social partners a comprehensive report on intra regional labour migration for discussion within the appropriate sector meetings.

The Secretariat shall upon request or acting on its own initiative mobilise resources for national and regional programmes aimed at pursuing the goals set out in this framework

Notes

1. Issues in articles 4 and 5 can still be ranked in terms of importance or relationships
2. Articles 7 and 8 can be collapsed
3. Definitions of terms used has not been provided