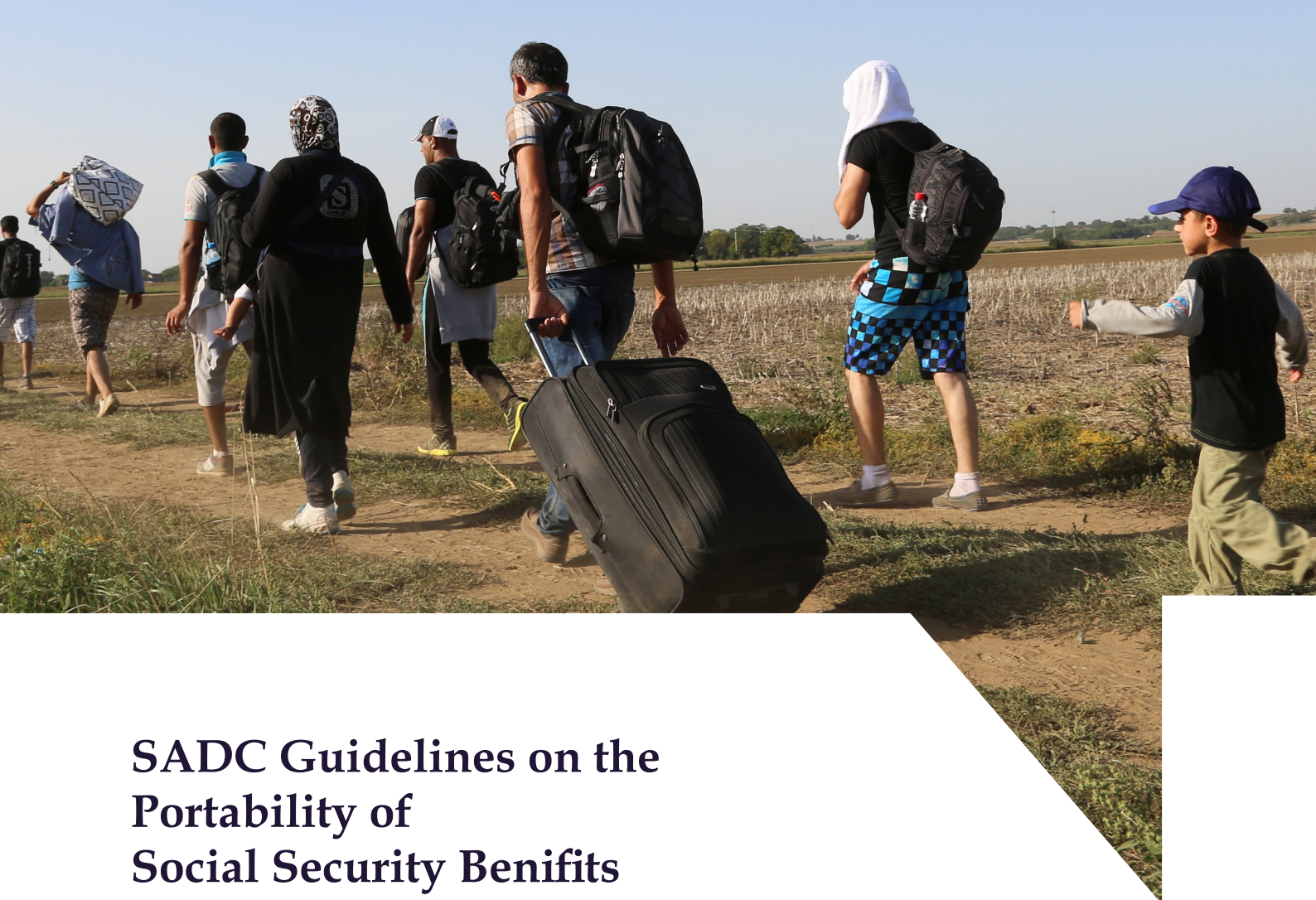


A Guide for Migrant Workers

Social Protection for Migrant
Workers and their Families
in the Southern African
Development Community



SADC Guidelines on the Portability of Social Security Benefits

(Short Version)



International
Labour
Organization



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Social Protection for Migrant Workers and their Families in the Southern African Development Community

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Background

Having access to social protection is a human right and has been recognized by the UN Sustainable Development Goals as a key instrument to support social cohesion, reduce inequality and poverty and promote inclusive growth. It is widely recognized that migrant workers are major contributors to social and economic development and that they are vital to the SADC region's vision of prosperity. Their rights and those of their families, to accrue and receive social security benefits, needs to be secured. These rights also extend to self-employed migrant workers. However, in reality, migrants face huge challenges in exercising their rights to social security, compared to nationals working their entire lives in one country.

In response to the challenges faced by migrant workers and their families to access social protection, the SADC Ministers of Employment and Labour and Social Partners adopted in March 2020 the **SADC Guidelines on the Portability of Social Security Benefits**. The SADC Guidelines aim to support the creation of a favourable system across the SADC region that enables workers to accumulate and access social security benefits, regardless of which country they are in. Institutions responsible for social security across the SADC region will have the primary responsibility for implementing the Guidelines through appropriate policy measures. Before the Guidelines go into effect, benefits for social risks will be payable in accordance with existing legislation.

The guidelines are based on the principle of non-discrimination and equal treatment of nationals and non-nationals. Thus, Member States will guarantee migrant workers and their survivors the same social security rights and benefits as those accorded to citizens. The Guidelines are further inspired by ILO Conventions, in particular: Social Security (minimum standards) Convention, 1952 (n° 102); Equality of Treatment (social security) Convention, 1962 (n° 118); and Maintenance of Social Security Rights Convention, 1982 (n° 157). It is applicable to the 9 key branches of social security (mentioned below) and covers all workers, who are nationals of a SADC Member State, as well as members of their family and their survivors. It is further applicable to migrants with irregular status as well as workers in informal employment.

To enhance social security for migrant workers and their families in the SADC region, the SADC Secretariat and its 16 Member States are working with partners, notably the ILO, to increase awareness and knowledge of the Guidelines and support its implementation.



“Social Protection for Migrant Workers and their Families in the Southern African Development Community”

“Member States also agree to cooperate in facilitating payments across borders”

Am I covered by the SADC Guidelines?

All nationals of the SADC community (16 Member States) are covered by them:

- 1. Angola**
- 2. Botswana**
- 3. Union of the Comoros**
- 4. Democratic Republic of the Congo**
- 5. Eswatini**
- 6. Lesotho**
- 7. Madagascar**
- 8. Malawi**
- 9. Mauritius**
- 10. Mozambique**
- 11. Namibia**
- 12. Seychelles**
- 13. South Africa**
- 14. United Republic of Tanzania**
- 15. Zambia**
- 16. Zimbabwe.**



Story:

Marisa is a citizen of Zimbabwe. Since she has relatives living in South Africa and in search of a better paid job, she decides to migrate with her family to South Africa. Once arrived in South Africa, Marisa starts a new job in a grocery store. As both Zimbabwe and South Africa are countries of the SADC community, Marisa knows that she and her family members who reside with her in South Africa will be treated equally to nationals in South Africa and that she is entitled to benefits from the South African social security system as per legislation.

The Benefits covered by the Guidelines may include the 9 key branches of social security:

1. Retirement benefits
2. Unemployment benefits
3. Survivors benefits
4. Occupational injury and disease benefits
5. Health insurance
6. Maternity benefits
7. Invalidity
8. Sickness benefits
9. Family benefits



In practice, the actual benefits covered depend on those included in the social security system of the country where the migrant worker is employed.

The total of the insurance contributions borne by the employees protected shall not exceed 50 per cent of the total of the financial resources allocated to the protection of employees and their wives and children. Employers therefore have to cover at least 50 per cent of the contribution payments for any type of social security contingency (ILO Social Security (Minimum Standard) Convention 102).

Story:

Marisa has been contributing to a public pension scheme in Zimbabwe with her previous employment. In South Africa she is now able to contribute to the public pension scheme in South Africa. Her contribution years from her employment in South Africa will later be accredited to the scheme where she will be retiring from. She will therefore be able to combine her entitlements from both schemes, allowing her to receive her pension in full, protecting her and her family from poverty in old age.

Likewise as she has previously contributed to an unemployment scheme in Zimbabwe, her contribution years are taken into consideration in the scheme that she is now contributing to in South Africa. As her accumulated contribution periods qualify her for receiving benefits in the case of unemployment, she will not have any waiting period in South Africa before receiving unemployment benefits in full.



I. Applicable Legislation

The term *migrant worker* refers to a person who migrates or who has migrated from one country to another with a view to being employed otherwise than on his own account and includes any person regularly admitted as a migrant worker - *ILO Migrant Workers (Supplementary Provisions) Convention, 1975 (No. 143), Article 11(1)*.

Which State's Social Security legislation will apply to me as a migrant worker ?

In general, the legislation of a worker's country of employment takes precedence over their country of residence. The same applies to the self-employed.

Workers sailing on board a ship flying the flag of a Member State will be subject to the ship's flag country's legislation.

Story:

During a short period of unemployment while living in South Africa, Marisa is entitled to unemployment benefits which help her maintain her standard of living and to continue supporting her family back home. While she has been contributing to an unemployment insurance scheme in Zimbabwe prior to her employment in South Africa, she will be subject to the legislation of the South African unemployment insurance scheme which she has been contributing to since having started work in South Africa.

For more details, please visit chapter 2 of the SADC Guidelines: [www....](http://www.sadcguidelines.org)



II. Maintenance of rights in the course of acquisition

If I work in several countries, how are my benefits going to be calculated?

- You can accumulate qualifying periods under different national social security schemes. This allows you to aggregate periods of insurance, employment or residence that may be necessary for the acquisition, maintenance or recovery of rights and benefits.
- One Member State should recognize and calculate the completed periods of contribution for a specific social security benefit.
- If a specific type of benefit depends on the completion of periods of employment, insurance, occupational activity or residence, the respective Member States will collate the periods completed by you in other Member States.

Story:

Marisa has contributed five years to the public pension scheme the Zimbabwe before moving to South Africa. Yet in order to qualify for pension payments upon retirement, she will have to have accumulated 10 years of contribution payments according to Zimbabwe's pension insurance regulation.

She plans to retire in Zimbabwe and with the portability of social security benefits in the SADC region, her contribution payments from the period worked in South Africa will be recognized and added to the contribution periods that she acquired with her previous employment in Zimbabwe.

With the portability of pension rights between Zimbabwe and South Africa, Marisa will be able to qualify for receiving a pension when retiring.

For more details, please visit chapter 3 of the Guidelines: [www....](http://www...)

III. Maintenance of acquired rights and provision of benefits abroad.



How are my benefits going to be paid abroad?

- Any acquired right to social protection benefits should be guaranteed to you in the SADC country where you reside, even if your right has been acquired in another country. Acquired rights are therefore portable.
- Furthermore, there should be no restriction on the payment of benefits for which you qualify. Legislation restricting payment of benefits will not apply to migrants who are working or residing in a SADC Member State.



Story:

After having spent 10 years in South Africa, Marisa decides to move back to Zimbabwe. She has spent two more years working and contributing to the social security system in Zimbabwe.

She is now retiring, also knowing that the social security system in Zimbabwe recognizes and collates her contribution periods from her employment in South Africa in addition to the contribution periods that she earned from the social security system in Zimbabwe. The funds from her pension scheme in South Africa are transferred without any restrictions or application of fees, thus allowing her to have the full amount accredited to her pension.

For more details, please visit chapter 4 of the Guidelines: [www....](http://www...)

IV. Maintenance of rights between public social insurance schemes and provident insurance funds

How will my benefits be transferred between a provident type insurance fund and a public social insurance scheme?

- You can request to withdraw or transfer funds accumulated under a pension scheme to the pension institution in the country where you are now a member. If the new institution is a provident fund, the amount transferred shall be credited to the account opened by this institution.
- By transferring funds, you will be able to buy contribution periods for the purpose of acquiring or improving your right to benefits with the new social security institution.

Story:

Carlos, who is Marisa's cousin from Mozambique, has also worked in South Africa for a period of 15 years. During his time working in South Africa, he contributed to a provident fund pension scheme. Previous to his employment in South Africa, he has earned pension credits when working in Mozambique, where he contributed to a public pay-as-you-go pension scheme.

When he decides to retire in South Africa and not return home, his pension entitlements from the scheme in Mozambique are transferred and credited to his provident fund pension account.

He is now receiving his full pension through the provident fund that he is affiliated to in South Africa, allowing him to cover his basic needs and maintain his lifestyle in old-age, while his children and grandchildren can focus on their work and schooling respectively. The portability of pension entitlements between the public pension scheme in Mozambique and the provident fund pension scheme in South Africa allow Carlos to receive higher levels of pension benefits, better protecting him against old-age poverty.

For more details, please visit chapter 5 of the Guidelines: www....

V. Administrative Measures

Which country's administration shall I contact when applying for benefits?

- When you and your family apply for benefits, Claims will be submitted to competent institutions in countries where you reside.
- Applications will be submitted with the documentation required by the legislation of the Member State in which you (the applicant) are a resident.
- A claim will be processed by the competent institution that receives it.



In which currency will my benefits be paid?

- Benefits will be paid in the currency of the Member State whose social security institution is liable for the payment and in its full amount.

What do I have to do if I change my country of residence?

- If you move within the SADC Region you will have to notify the social security institution liable for the payment of a benefit when relocating to the territory of another Member State.

In which language will I have to submit my claim or other documents?

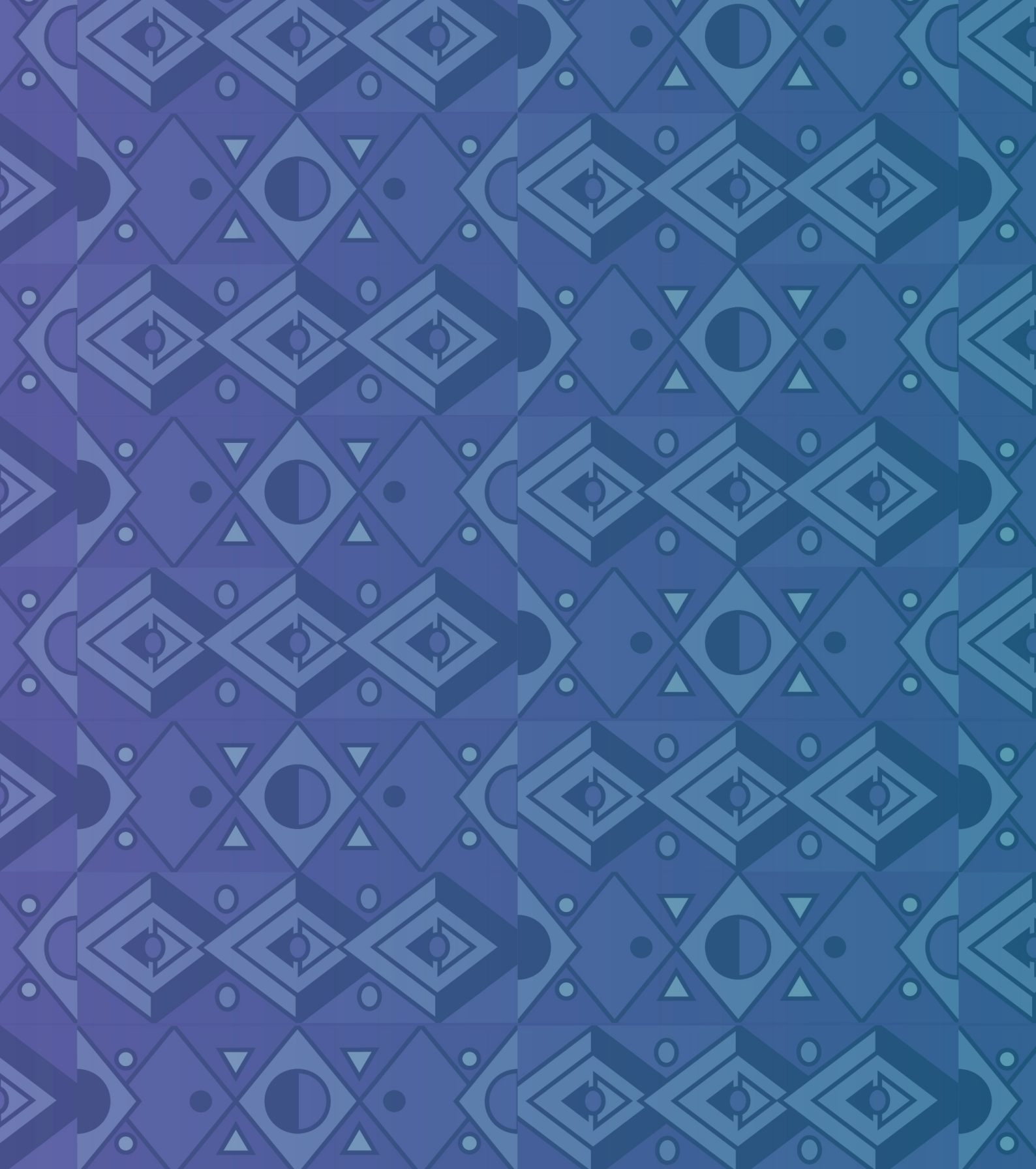
- Authorities will accept claims or other documents submitted to them in any of the official SADC Region languages (English, French and Portuguese).

Story:

Carlos, who decided to retire in South Africa is submitting his claim through the South African social security office. In order to get his contribution period from Mozambique accredited, Carlos is submitting the necessary documents to the South African social security office. The original documents from Mozambique are in Portuguese, which is an official language of the SADC region and therefore accepted by any SADC countries authorities.

A few years later, Carlos decides to move to Namibia. He is informing the South African social security office about his relocation, so that he can continue receiving his pension in Namibia. With the portability agreements across the SADC region, Carlos and Marisa have the possibility to relocate across the region without losing their right to social security.

For more details, please visit chapter 6 of the Guidelines: [www....](http://www...)



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