

SADC's Labour Migration Action Plan (2020-2025)

The broad objective of the **SADC Labour Migration Action Plan (2020-2025)** is to enhance the contribution of labour migration to regional cooperation and integration in SADC. The specific outcome is to improve labour migration management for regional socio-economic development. The Strategic objectives (SOs) of the Plan are the following:

- **Strategic Objective 1:** To strengthen labour migration policies and regulatory systems for better labour migration governance including the following outputs
 - Ratification and implementation of key global, continental and regional migration instruments promoted, including the SADC Protocol on Employment and Labour, 2014, and the SADC Protocol on Facilitation of Movement of Persons, 2005.
 - National policy frameworks that address labour migration, including in combination with other thematic areas, adopted and implemented in all SADC Member States.
 - Bilateral cooperation on labour migration strengthened.
 - Institutional mechanisms, including the Secretariat, strengthened
- **Strategic Objective 2:** To protect migrant workers' rights and improve advocacy and awareness of their contribution to development and regional integration comprising the following targeted outputs:
 - Core labour standards and those relating to labour migration ratified and implemented, through responsive legislation and practice
 - Fair and ethical recruitment initiatives implemented.
 - Labour migration knowledge products, including statistical reports and research papers, produced and disseminated.
- **Strategic Objective 3:** To enhance the participation of migrant workers in socio-economic development processes in countries of origin and destination that encompasses the following outputs
 - Mechanisms for remittance transfers improved.
 - Social protection for migrant workers is enhanced.
 - SADC Qualifications Framework promoted.

The SADC Labour Migration Action Plan (2020-2025) re-emphasizes the call for all Member States to develop comprehensive national labour migration policies and while no specific timeline is attached, it is assumed that it has to be done within the framework of the LMAP and 2025 would be the target year. Indeed, the most recent LMAP calls to 1.2.1 "Undertake a scoping study of existing labour migration policies and laws within SADC Member States to assess their compatibility with regional efforts on migration governance"; and "1.2.3. "Develop rights based, gender sensitive national labour migration policies/instruments in at least 10 Member States.

To date, four Member States (Lesotho, Namibia, Seychelles and Zimbabwe) have comprehensive national labour migration policies and are initiating implementation of their national Labour Migration Policies' Action Plans, whereas other four Member States are at various stages of development: Botswana, Eswatini, Malawi, and South Africa. At the same time, five additional SADC Member States (Comoros, the DRC, Madagascar, Mozambique and Zambia) recently expressed their interest to develop a labour migration policy.



The labour migration components of the “SADC Employment and Labour Policy Framework (2020-2030)”

The **SADC Employment and Labour Policy Framework (2020-2030)** was adopted in April, 2021. It was developed to guide Member States on key priorities for addressing decent work deficits. Labour Migration is one of its five Key intervention areas.

Labour migration is reflected in **Strategic objective 5**: To enhance labour migration governance for safe, orderly and regular labour migration. Strategic objective 5 seeks to improve labour migration governance for safe, orderly and regular migration, through a whole of government/whole of society approach to effectively leverage labour mobility as a development enabler.

The SADC Employment and Labour Policy Framework (2020-2030) recalls that the expedited removal of obstacles to the free movement of goods and services, and of people in general, will be a key milestone in the process of regional integration in SADC and that the SADC Labour Migration Action Plan (2020-2025) has been adopted to enhance the contribution of labour migration to regional cooperation and integration in the region. To achieve its objectives, it prioritises the following:

1. Promoting and monitoring the ratification and domestication of key global and regional migration instruments, including core ILO conventions, through responsive legislation and practice;
2. Developing national policy frameworks that address labour migration, taking into consideration the need to leverage migration as a development enabler

and thus requiring a whole of government/societal approach to achieve and maximize the gains from well managed gender-responsive labour mobility,;

3. Strengthening bilateral and multilateral cooperation on labour migration to leverage the development potential of labour migrants throughout the mobility continuum, while preventing and mitigating exploitative migrant labour practices, including through fair and ethical recruitment initiatives;
4. Producing and disseminating labour migration knowledge products, utilising digital technologies, to enhance broad understanding of labour migration’s role in development, including aspects of social cohesion and integration/reintegration; and
5. Implementing the SADC Guidelines on Portability of Social Security Benefits, including enhancing mechanisms for remittance transfers in cooperation with finance sector, together with other state and non-state actors.



The SADC Guidelines on the Portability of Social Security Benefits

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 have the primary responsibility for implementing the Guidelines through appropriate policy measures.

The guidelines are based on the principle of non-discrimination and equal treatment of nationals and non-nationals. Thus, Member States 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). The Guidelines cover all workers, who are nationals of a SADC Member State, as well as members of their family and their survivors. They are applicable to migrants in an irregular status as well as workers in informal employment. The Guidelines apply to 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

The Guidelines only affect benefits that Member States assure under their laws. For the guidelines to become effective countries have to sign bilateral/multilateral agreements.

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 their implementation. Five SADC countries (Eswatini, Lesotho, Malawi, South Africa and Zimbabwe) decided to pilot the SADC Guidelines on the portability of social security benefits in March 2020. Additional SADC Member States have recently showed interest in joining this effort: Botswana, Comoros, DRC, Mauritius, Madagascar and Seychelles.



The SADC Qualifications Framework (SADCQF) and the recognition of migrant workers' qualifications

The low capacity of national recognition bodies and processes in both sending and receiving countries has been one of the major barriers of skills portability and recognition of migrant workers' skills. Migrant workers are over-represented in jobs and tasks that require fewer and lower level skills, are lower paid and offer restricted career prospects. Migrant workers, especially women migrant workers, are often subject to “deskilling” and “brain waste”, through their migration experience.

In order to gain access to employment migrant workers not only need to possess relevant skills, but also need to be able to signal and validate these skills to potential employers. Different methods may apply for the validation and recognition of academic education, vocational education and work experience. Skills matching, portability and skills recognition can be advanced at the continental and RECs level through Qualifications Framework, but also through mutual recognition agreement (MRA), specific bilateral or multilateral skills portability and recognition agreements, or through unilateral measures. Unilateral measures are the most common and can include recognition of informal and non-formal learning (RPL), partial recognition of formal learning and bridging courses, etc.

Skills recognition at country level and between countries can be promoted by instruments available at international level or negotiated at bilateral, regional, or multilateral levels. At the same time, the portability of skills depends on effective policies and trusted sources of information. Therefore, recognition tends to be most successful when established through social dialogue involving governments, employers' and workers' organizations and education and training institutions. This is true for both formally certified qualifications and informally acquired skills. At international level the following instruments call for the recognition of migrant workers' skills and qualifications:

- ILO Migrant Workers (Supplementary Provisions) Convention, 1975 (No. 143). Article 14(b) specifically refers to the recognition of occupational qualifications acquired abroad, including certificates and diplomas;
- ILO Human Resources Development Convention, 1975 (No. 142), which promotes the adoption and development of “comprehensive and coordinated policies and programmes of vocational guidance and vocational training, closely linked with employment, in particular through public employment services”; and,
- ILO Human Resources Development Recommendation, 2004 (No. 195). Part VI, paragraph 12 indicates that “Special provisions should be designed to ensure recognition and certification of skills and qualifications for migrant workers.”

The ILO Human Resources Development 2004 Recommendation No. 195 concerning human resources development: education, training and lifelong learning defines portability of skills as:

- Employable skills which can be used productively in different jobs, occupations, industries; and;

- Certification and recognition of skills within national and international labour markets.

The **SADC Qualifications Framework (SADCQF)** is a comprehensive Regional Qualifications Framework (RQF) for schooling, Technical and Vocational Education and Training (TVET) and higher education. It was established in 2011 by the SADC Ministers of Education. Its purpose is to enable easier movement of learners and workers across the SADC region and internationally. The SADCQF is a 10-level RQF underpinned by learning outcomes and quality assurance (QA) principles that will provide a regional reference for qualifications and QA mechanisms in SADC. Member States agreed to align their qualifications and QA mechanisms to the SADCQF.

The vision is that, in the SADC region, all new qualification certificates, diplomas and other qualification credentials issued by competent authorities will contain the relevant level on the SADCQF. Alignment will enable this recognition of achievement at a regional level. The resulting transparency and information about the qualifications and QA of aligned Member States will further assist in embedding mutual trust in and between SADC countries. Regional alignment would also enable institutions and individuals to compare their learning and competence levels, and would reduce unnecessary duplication of learning and effort when moving through SADC for study or work purposes.

To give effect to this decision by the Ministers, a Technical Committee on Certification and Accreditation (TCCA) was given the task of overseeing implementation of the SADCQF. The TCCA is a group of experts from the SADC Member States and is supported by the SADC Secretariat. In order to provide support and centrally drive co-ordination of implementation, a TCCA Executive Committee (EXCO) was established, based on the SADC Troika principles. To ensure the sustainability of the SADCQF, funding mechanisms for a SADCQF implementation unit have been developed. In the meantime, Member States volunteer to support the SADC Secretariat with the implementation efforts.

The main purpose of the SADCQF is to promote mobility, and as such, it plays a key role in setting the regional reference point for comparing qualifications obtained in SADC. Currently the SADCQF is a reference framework only with the prospect of later developing into a framework that has qualifications registered onto it. Eight SADC countries are piloting alignment of their National Qualifications Frameworks (NQFs) or National Qualifications Systems (NQS) with the SADCQF. The pilot countries are Botswana, Eswatini, Lesotho, Mauritius, Namibia, the Seychelles, South Africa and Zambia. South Africa has started to implement a digital **E-Credentialing system** and the SADC **E-certificate** is being piloted in four countries of the SADC region (Botswana, Namibia, South Africa and Zambia as part of the SADCQF implementation plan “verification cluster”).

The labour migration components of the “COMESA Protocol on the Free Movement of Persons, Labour, Services, Right of Establishment and Residence”

The COMESA Protocol on the Free Movement of Persons, Labour, Services, Right of Establishment and Residence was adopted in 2001, but only four countries have signed it (Burundi, Kenya, Rwanda and Zimbabwe), and only one country, Burundi, has ratified it. It was developed with the vision towards the operationalization of the COMESA Common Market and its objective is to remove all restrictions to the free movement of persons, labour, and services and provide for the right of establishment and right of residence.

According to article 9(1) of the Protocol, Member States agree to progressively remove, within six years after its ratification, all restrictions to the movement of labour within the Common Market. The removal of the restrictions are meant to entail the abolition of any discrimination based on the nationality between workers of the Member States as regards employment, remuneration and other conditions of work or employment. This implies that foreign workers from other COMESA Member States have to receive equal treatment with national workers in the Member State to which they have migrated.

Firstly, the notion of employment includes a business, calling, craft, art, employ, job, line, occupation, profession, pursuit, services, trade, vocation or work. This means that migrant workers involved in such diverse contexts as professional work, business enterprises, trade-related work or craft work are meant to benefit from the free movement of labour provision.

Secondly, it is not every migrant worker that has the permission to move freely to another COMESA Member State for purposes of employment. The definition of “labour” in article 1 of the Protocol is significant, as it restricts this to skilled labour of persons, whose specialized skills are needed in the Member State where the person concerned is or wants to be employed.

The Protocol describes the extent or implications of the freedom of movement of labour principles. These are said to include the following (Article 9(2)):

- To accept offers of employment actually made;
- To move freely within a Member State for this purpose; and
- To stay in a Member State for the purpose of such employment of nationals, in accordance with the provisions governing the employment of nationals of such Member State laid down by law, regulations or administrative action.

Thirdly, the Protocol also contains certain other limitations on and exceptions to the right to free movement of labour:

- Limitations can be imposed by the relevant Member State

on grounds of public policy, public security or public health; and

- Freedom of movement of labour does not apply to employment in the public service.

Finally, but importantly, the Protocol enjoins the COMESA Council of Ministers to adopt certain measures in the fields of social security and labour law within one year after the entry into force of the Protocol. According to article 9(4) of the Protocol, these measures:

- Are required to provide for the freedom of movement of labour;
- Need to be implemented progressively and in stages; and
- Cover the fields of social security, labour laws (including laws on collective bargaining), pensions and other working conditions

The implementation of the Protocol is in the following five stages:

- **Stage I:** Free movement of persons through the gradual removal of visa requirements and cooperation in the prevention and fight against crime. Being implemented effectively;
- **Stage II:** Free movement of labour by enhancing movement of skilled labour. Progressively implemented since 2004.
- **Stage III:** Free Movement of services – No information available
- **Stage IV:** Right of Establishment – No information available
- **Stage V:** Right of Residence- No information available.



The labour migration statistics component of the SADC Labour Market Observatory

The **SADC Labour Market Observatory** (LMO). The LMO will integrate and harmonize critical information on labour markets, skills, and labour migration - including statistical and non-statistical information - to inform the development and implementation of regional policies and strategies.

One of SADC's aspirations is to harmonize labour market regulatory regimes across Member States and to ensure a progressive improvement of labour standards. For progress in these areas to be realized data, and hence a functional Labour Market Information System (LMIS), is an essential pre-requisite. To date, however, the region has not been able to produce high quality labour market information to track trends and inform policymaking in support of regional integration.

The African Union Plan of Action on Employment Creation, Poverty Eradication and Inclusive Development (2015), includes a Key Priority Area on well-functioning and inclusive labour market institutions, and requires RECs to support or facilitate the establishment of national LMIS. While many Member States have prioritized the development of national data structures, most countries continue to be constrained by data availability limitations, both in terms of complex information such as informality, as well as infrequent data collection. Critical information on such issues as minimum wages, vacancies and skills needs, labour migration and labour market institutions is not easily obtainable nor is it comparable across the region, constraining policy makers from developing, implementing and monitoring responsive labour market policies. Moreover, labour migrants' decision-making is impaired, as they have no signals about where and how to best integrate into the regional labour market; and the business sector is disadvantaged due to the absence of efficient matching of labour demand and labour supply.

The SADC LMO means to address this gap. It is on the one hand a mechanism for the collection, consolidation, storage and management of regional labour market information from Member States through a regional repository and web portal; while on the other hand it forms a central node for a nascent network of national LMIS. The ultimate purpose of the proposed LMO will be to ensure the aggregation and availability of up-to-date and comparable labour market, skills, and labour migration information generated by tracking selected labour market indicators across Member States.

The SADC LMO is currently being developed by a project team consisting of technical experts from SADC and ILO, focusing on:

- setting up governance structures, identifying relevant national stakeholders (i.e. governments, workers' and employers' organizations, academia, civil society organizations, etc.);
- developing a user-friendly web portal which provides access to data as well as other interactivity functionality;
- assessing national data availability, as well as capacity building needs at regional and national levels; and
- developing a data repository (hardware infrastructure as well as implementing ILO's .Stat software suite);
- promoting awareness and visibility of the LMO (through regional publicity and media events).

