

Extending social security access and portability to migrant workers and their families through selected RECs in Africa

EXTENDING SOCIAL SECURITY TO MIGRANT WORKERS AND THEIR FAMILY TO FOSTER DEVELOPMENT

Social security is a basic human right enshrined in major international instruments, such as the Universal Declaration of Human Rights (1948), the International Covenant on Economic, Social and Cultural Rights (1966), and the International Convention on the Protection of the Rights of All Migrant Workers and Their Families (1990) as well as various ILO Conventions and Recommendations.

However, due to their particular circumstances, especially the length of their periods of employment and residence, their status as non-nationals, as well as their particular immigrant status, migrant workers are often prevented from obtaining coverage from social protection schemes. They risk the loss of entitlement to social security benefits in their country of origin due to their absence, and may at the same time encounter restrictive conditions under the social protection system of the host country. Although these barriers to social security coverage are faced to varying degrees by migrant workers worldwide, they are especially acute for African migrant workers in Africa. Even when migrant workers are covered during their employment period by the host social protection system, their dependents often remain excluded from health care provisions, usually provided to residents or nationals of the destination country. This situation also impacts on the organization of the family and shared responsibilities between men and women within the left behind household. The restriction in accessing social health insurance by migrant workers and their dependents particularly affects HIV prevention and access to health care for workers and their families affected by HIV/AIDS, as well as female migrants - almost half of the migration flows in Africa - who face specific vulnerabilities and higher risks of abuse and human trafficking.

Effective labour migration governance which fosters the development benefits for the migrants, as well as the countries of destination and departure, remains a global challenge; particularly in Africa. Extending

social security access and portability to migrant workers and their families would realise numerous continental policy frameworks' priorities, including the 2006 African Union Migration Policy Framework, which recommends to "Provide social protection and social security benefits particularly unemployment insurance, compensation for employment injury and old age pension for labour migrants while working abroad and/or upon their return".

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Establishing and strengthening a social protection floor in migrants' countries of origin by extending social pensions and other non-contributory or partially subsidized benefits to all, in line with Recommendation No. 202, can facilitate the return and reintegration of migrants as well as for family left behind, while respecting their human right to social security and a life in dignity. By promoting comprehensive and efficient cooperation to avoid the consequences of irregular migration through fighting poverty, such an initiative advances legal migration and mobility by better organising legal migration and fostering well-managed mobility within the continent.

"Promoting comprehensive and efficient cooperation to avoid the dramatic consequences of irregular migration"

Protecting the rights of migrant workers to social security is important, not only for ensuring equality of treatment with respect to social security for migrant workers, but also for extending social security coverage to currently unprotected migrants. In addition to supporting the conclusion and effective implementation of proper coordination mechanisms, there is a need to explore measures that could be taken either by adapting domestic legislation and/or multilateral or bilateral agreements to extend social protection coverage to specific groups of the population, including to those

who have some contributory capacity, such as domestic migrant workers, self-employed migrant workers, agricultural migrant workers and other types of migrant workers in atypical forms of employment.

OBJECTIVE

The overall objective of the action is to extend decent work and social protection to migrant workers and their families, by strengthening the Regional Economic Communities' capacities to provide, as well as drive the implementation of regional frameworks on the extension of social protection to migrant workers and their families.

TARGET GROUPS AND BENEFICIARIES

The policy makers responsible for the preparation and implementation of strategies to extend social security coverage, administrators responsible for the preparation, application and monitoring of social security agreements, and social security institutions, as well as social partners involved in labour migration and social security issues, are the intermediary target groups, whilst the final beneficiaries are the women and men migrant workers and their families.

STAKEHOLDERS

This project has been prepared and will be implemented as part of the implementation of the **Joint Labour Migration Programme (JLMP)**, which was developed with full cooperation and involvement of Africa's RECs and organisations representing the interests of business, workers and migrants. Stakeholders and target groups include the AU, the AUC, the ECOWAS Commission, the EAC, SADC, regional social partners, relevant social security institutions, and relevant Member States.

REVITALIZING REGIONAL PROCESSES

Although regional social security conventions exist in Africa, there is a real need for revitalizing regional processes and enforcing agreements. The preparation and implementation of multilateral social security agreements

will require strengthening the capacity of social security policy makers and administrators in ECOWAS, SADC and the EAC, in order to guarantee that the agreed provisions and mechanisms fully match the priority and social context of the migrant workers and their families. The AUC and the ILO have chosen to focus on doing so in these three RECS – ECOWAS, SADC and the EAC - as it answers to a demand formulated by the named RECs to provide support to implement and strengthen achievements and build on ongoing work. This demonstrates strong regional political commitment to extending social protection to migrant workers and their families, which provides guarantees for a greater project impact. These portability initiatives, which this project will build on, are already well advanced in these three regions. The involvement of the AUC will also help to advance work on social protection beyond the RECs, and forge a continent wide initiative.

The AUC will lead the implementation of this project and foster exchange of practices and expertise on the extension of social protection to migrant workers. To play this role, AUC's present capacity will be strengthened through training and direct support. Being closer to Member States than the AUC, the RECs will be the building blocks for the extension of social protection to migrant workers and therefore responsible for the implementation of project most activities.

In the wake of the adoption of the ILO Social Protection Floors Recommendation, 2012 (No. 202) an increasing number of West African countries are seeking to extend social protection and implement national social protection floors, which contain basic social security guarantees that ensure universal access to essential health care and income security, at least at a nationally defined minimum level. The ECOWAS Authority of Heads of State adopted the General Convention on Social Security as an additional act to the ECOWAS Revised Treaty in 2013. The Convention is based on the principles of equal treatment and the preservation of social security rights, and is in line with relevant ILO Conventions, as well as ECOWAS and AU policy frameworks on labour migration and employment. This project will build the capacity of ECOWAS to improve the implementation of its General Convention on Social Security in its Member States.

The recently adopted SADC Cross-Border Portability of Social Security Benefits Policy Framework by the SADC Labour Ministers and Social Partners in May 2016 is a window of opportunity demonstrating the political commitment to make progress towards the progressive coordination and integration of social protection systems in the region, including the provision of mechanisms to ensure equality of treatment and maintenance of acquired rights and rights in course of acquisition. The policy framework complements other existing SADC instruments and policies including the SADC Treaty, the SADC Protocol on Employment, and Labour (article 19), and the SADC Code on Social Security of 2007 amongst others. Administrative, regulatory and institutional challenges remain to be efficiently addressed to support the implementation of the regional policy instruments and frameworks. This project will aim to address these challenges and support the implementation of the social security related frameworks.

Building on previous cooperation with the EAC Secretariat in the coordination of social protection systems, this action will assess the remaining challenges to coordinating social protection systems in the sub-region that would pave the way to making portability of social security rights feasible. Based on these findings, it will engage with tripartite constituents to develop a roadmap and key steps to advance the process of harmonizing social protection schemes.

MAIN ACTIVITIES

Improved implementation of ECOWAS General Convention on Social Security by ECOWAS Member States

Based on the results of the ILO study “Analysis of ECOWAS Member States’ social security systems and their consistency with the ECOWAS General Convention on Social Security” carried out under the FMM project¹, this project will focus on the implementation of the ECOWAS General Convention on Social Security, through: (1) Support to the establishment of the Committee of Experts for the ECOWAS General Convention; (2) Facilitation of annual technical and

¹ FMM West Africa: Support to Free Movement of Persons and Migration in West Africa

coordination meetings for representatives of social protection schemes and other relevant stakeholders; (3) Training of representatives of social protection schemes, funds and relevant national administrations on the provisions of the ECOWAS General Convention; (4) Development and dissemination of information leaflets or other communication tools on the principles and provisions of the General Convention on Social Security; and (5) Assess the feasibility to extend social protection coverage to migrant workers in the informal economy and develop and selectively test concrete policy proposals for a progressive extension to all.

SADC's capacity and policy instruments on social security provision, including portability or rights acquired in countries of origin, strengthened:

This project will aid the implementation of the social protection related aspects of the SADC Protocol on Employment and Labour, and the SADC Policy Framework on Portability of Social Security benefits through the following activities: (1) Formal launch and validation of the activities foreseen; (2) Assessment proposal and support of pilot implementation of policy and programmatic options for the three SADC pilot countries for distinct economic sectors; (3) Development of suitable administrative arrangements and management systems to support a regional social protection regime; including training material; (4) Facilitation of coordination technical and consultation meetings and consultations with social partners; (5) Support to the establishment of an Independent Committee of Experts within the relevant SADC structures; and (6) Support the implementation of the SADC policy framework in the three pilot countries.

EAC's capacity and knowledge base enhanced to advance the regional coordination and protection framework as per Common Market Protocol to improve migrant workers access to social protection.

Building on the achievements of previous projects, this project will pursue the following activities: (1) Conduct a baseline desk review of social protection laws and policies challenges and opportunities, and suggest required steps for supporting the finalisation of a multilateral social protection instrument; (2) Facilitate regional dialogue and consultations to agree on a roadmap;

(3) Conduct a feasibility study, including on actuarial and financial issues, assessing the implications of concluding a multilateral social protection instrument; and (4) Provide technical, legal and actuarial advisory services to a selected number of EAC Partner States.

Improved capacity of the AUC, RECs and regional social partners to effectively coordinate and contribute to regional and sub-regional social protection programmes for migrant worker in both the formal and informal economy through: (1) Support of the AUC to promote south-south cooperation, create a community of practices, and support intra-RECs technical cooperation, including through a high-level international conference; (2) Building the capacity of the AUC, selected RECs and regional and sub-regional social partners; and (3) Initiating the systematic collection and analysis of statistical information, amongst others, to inform policy making and support AU member states monitor progress made towards the achievement of relevant SDG target.

For implementation and technical matters please contact:

Ms. Cynthia Samuel-Olonjuwon, Deputy Regional Director and responsible official for the programme implementation, (samuel-olonjuwon@ilo.org)

Mr. Georges Okutho, Director of the ILO Country Office for Ethiopia, Djibouti, Somalia, Sudan and South Sudan, and for the Special Representative to the AU and the ECA (okutho@ilo.org)

Ms. Samia Kazi Aoul, Technical Officer International Migration, ILO HQ Labour Migration Branch (kaziaoul@ilo.org) Ms. Clara van Panhuys, Social Protection Officer (vanpanhuys@ilo.org)

