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**Working Paper**

## The influence of EU migration policy on regional free movement in the IGAD and ECOWAS regions

Discussion Paper, No. 11/2019

**Provided in Cooperation with:**

German Institute of Development and Sustainability (IDOS), Bonn

*Suggested Citation:* Castillejo, Clare (2019) : The influence of EU migration policy on regional free movement in the IGAD and ECOWAS regions, Discussion Paper, No. 11/2019, ISBN 978-3-96021-101-3, Deutsches Institut für Entwicklungspolitik (DIE), Bonn, <https://doi.org/10.23661/dp11.2019>

This Version is available at:

<https://hdl.handle.net/10419/205251>

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# The Influence of EU Migration Policy on Regional Free Movement in the IGAD and ECOWAS Regions

*Clare Castillejo*

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Bonn 2019

Discussion Paper / Deutsches Institut für Entwicklungspolitik  
ISSN (Print) 1860-0441  
ISSN (Online) 2512-8698

Die deutsche Nationalbibliothek verzeichnet diese Publikation in der Deutschen Nationalbibliografie; detaillierte bibliografische Daten sind im Internet über <http://dnb.d-nb.de> abrufbar.  
The Deutsche Nationalbibliothek lists this publication in the Deutsche Nationalbibliografie; detailed bibliographic data is available in the Internet at <http://dnb.d-nb.de>.

ISBN 978-3-96021-101-3 (printed edition)

DOI:10.23661/dp11.2019

Printed on eco-friendly, certified paper

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*Published with financial support from the Federal Ministry for Economic Cooperation and Development (BMZ).*

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## Foreword

This study of the influence of EU migration policy on regional free movement in two African regions was commissioned as part of the project titled Reducing Root Causes of Forced Displacement and Managing Migration. This three-year project of the German Development Institute / Deutsches Institut für Entwicklungspolitik (DIE) is funded by the German Federal Ministry for Economic Cooperation and Development (BMZ) and aims to deepen empirical knowledge on drivers of forced displacement and regional migration governance. In the context of an increasing emphasis by EU policy makers on reducing irregular migration from Africa, Clare Castillejo's study enquires about the consequences for regional free movement policies in Africa. Comparing the impacts of EU migration programming in West Africa and the Horn of Africa, the report provides readers with a nuanced understanding of both external and internal factors influencing progress on free movement. Despite the mixed commitment of African regional powers in the past, the report suggests that ambitions for regional integration and free movement have recently grown. It is therefore critical for African growth, development and stability that the EU supports, rather than undermines, these ambitions and related regional initiatives.

Bonn, August 2019

Eva Dick, Benjamin Schraven

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## Abbreviations

AfCFTA	African Continental Free Trade Agreement
AU	African Union
AUC	African Union Commission
BMM	Better Migration Management
COMESA	Common Market for Eastern and Southern Africa
DG DEVCO	European Commission Directorate-General for International Cooperation and Development
ECOWAS	Economic Community of West African States
EDF	European Development Fund
EEAS	European External Action Service
EU	European Union
EUTF	EU Emergency Trust Fund for Africa
FMM	Free Movement of Persons & Migration in West Africa
ICMPD	International Centre for Migration Policy Development
IGAD	Intergovernmental Authority on Development
ILO	International Labour Organization
IOM	International Organization for Migration
JVAP	Joint Valletta Action Plan
MIDWA	Migration Dialogue in West Africa
MMD	Migration and Mobility Dialogue
NGO	non-governmental organisation
REC	regional economic community
RIP	regional indicative programme
RFM	regional free movement
UN	United Nations
UNECA	United Nations Economic Commission for Africa

## **Executive summary**

Establishing regional free movement (RFM) regimes is an ambition for most African regional economic communities, with some well advanced in achieving this. Such RFM regimes are widely understood as important for regional economic integration and as a significant driver of growth and development. The European Union has long championed moves towards regional integration and RFM in Africa. However, in recent years it seems that RFM is being side-lined – or even undermined – by the EU's current migration policies and priorities, which are narrowly focused on stemming irregular migration from Africa to Europe. This paper examines how the EU's current migration agenda affects African ambitions and progress on free movement. It focuses first on the continental level, and then looks in depth at the two regions where the EU invests most heavily in migration. These are the Intergovernmental Authority on Development (IGAD) in the Horn of Africa, and the Economic Community of West African States (ECOWAS).

The paper begins by examining how RFM has featured within EU and African migration agendas in recent years. It describes how the issue of RFM has been increasingly side-lined within the EU's migration policy framework and programming over the last few years, and suggests that upcoming processes to reshape EU–Africa engagement may be an opportunity to rectify this. It goes on to discuss the growing momentum for regional integration and RFM at continental level in Africa, while recognising the significant political and capacity challenges to actually delivering on these ambitions. It examines what implications the EU's political engagement on migration with African states has for RFM, in particular whether an increasing shift towards bilateral engagement undermines African regional and continental coherence. It also discusses whether the EU's instruments for funding work on migration – notably the EU Trust Fund for Africa (EUTF) – are appropriate for supporting African ambitions for RFM.

The paper goes on to discuss the status of progress towards RFM, and how the EU approaches RFM, in the IGAD region. It argues that current geo-political dynamics in the region offer positive momentum on RFM that should be built upon. However, it also highlights significant political and capacity constraints to realising RFM, both at member-state level, and in terms of the weakness of IGAD. It finds that EU and IGAD interests on RFM are generally seen as aligned and that the EU is broadly supportive of efforts to establish an IGAD RFM regime, although in practice the EU gives this little priority in comparison with other migration issues. The paper argues that the EU's engagement on RFM could be strengthened in a number of ways, notably by making RFM more central within EU dialogue with and support for IGAD member states, and by using traditional development instruments to provide long-term support for ratification and national-level implementation of IGAD's Free Movement Protocol. The paper argues that the EU should strengthen the capacity of its delegation in Djibouti, as well as coordination among its delegations across the region, in order to more effectively support the RFM agenda. It goes on to make specific recommendations on how the EU can enhance its support for RFM in the IGAD region.

The paper then turns its focus to ECOWAS. It examines the status of RFM in the region and the challenges for fully implementing the ECOWAS Free Movement Protocol, including those related to regional and national political will and capacity, and to the nature of



ECOWAS. The paper examines the EU's engagement in the region, which is strongly focused on preventing irregular migration and returning irregular migrants. It asks whether there is an innate tension between this EU agenda and the ambitions of ECOWAS to advance RFM. It also asks whether the EU's migration engagement is actually undermining free movement, including by reframing RFM through the lens of irregular migration, tightening borders, and persuading people not to move. In addition, the paper questions whether the EU's emphasis on bilateral engagement with individual ECOWAS countries is undermining regional unity and coherence, as well as exacerbating disparities between countries in their capacity to manage migration. The paper examines the EU's existing programme in support of RFM and argues that plans not to continue such programming will leave a major gap in EU support for regional integration in Africa. It suggests that the EU's irregular migration agenda is crowding out funding for longer-term, regionally owned, migration priorities. The paper goes on to make specific recommendations on how the EU can better support RFM in the ECOWAS region.

The paper contrasts the differences within the EU's approach to RFM in these two regions, as well as the differences in how EU engagement is impacting their nascent or existing free movement regimes. It argues that these differences are due to a number of factors including: the number of irregular migrants arriving from each region; the extent to which free movement is already a reality and is a factor in irregular migration pathways to Europe; the extent of regional integration and collaboration that exists and can therefore be undermined; whether regional interests in RFM are seen as aligned to EU interests in stemming irregular migration; and perceptions of the political momentum and opportunities for progress in the region.

Finally, the paper offers a number of overarching recommendations. These include making support for RFM central migration engagement at both regional and MS level; seeking to strengthen regional-level coherence and action on migration and RFM; and avoiding bilateral engagement that undermines regional RFM ambitions. The paper suggests that the EU should provide support for long-term RFM priorities through traditional development programming, building on existing projects and offering tailored capacity support for regional bodies. It argues that the EU should examine existing migration programmes to assess how they affect both regional coherence and RFM and to mitigate negative impacts. Finally, the paper suggests that there is a need to improve EU delegations' capacity and coordination to effectively support RFM.

## 1 Introduction

Establishing regional free movement (RFM) regimes is an ambition for most African regional economic communities, with some – notably ECOWAS – well advanced in achieving this. Such RFM regimes are widely understood as important for regional economic integration and as a significant driver of growth and development. At African Union (AU) level, the establishment of free movement regimes within all regional economic communities is seen as a critical basis on which to build continental-level economic integration and free movement – although the realisation of such an ambition is still a long way off.

The European Union (EU) provides the world's leading model of regional integration and RFM and has long been a supporter of regional integration in Africa. However, since 2015 the EU institutions have come under increasing political pressure from European member states to stem irregular migration from Africa to Europe, and this issue now dominates EU engagement on migration and mobility issues with Africa. Within this intense focus on irregular migration, the issue of RFM within Africa has been largely side-lined. Moreover, there is growing concern that the EU's engagement on irregular migration may actually be undermining progress on free movement in some African regions.

It is in this context that this paper examines how the EU's current migration agenda affects African ambitions and progress on free movement. It focuses first on the continental level, and then looks in depth at the two regions where the EU invests most heavily in migration issues. These are the Intergovernmental Authority on Development (IGAD) in the Horn of Africa, and the Economic Community of West African States (ECOWAS).

Section 2 of this paper discusses how RFM has featured within EU and African migration agendas in recent years and contrasts the low priority the EU gives to RFM with the growing momentum on this issue at the level of the AU. Section 3 examines progress towards RFM in the IGAD region, the extent to which EU and IGAD interests align on the issue of RFM, and the nature of the EU's engagement in this area. It offers suggestions of how the EU can strengthen its support for RFM in the IGAD region. Section 4 explores the status of RFM in the ECOWAS region, the strong priority that the EU gives to preventing irregular migration in the region, and whether this irregular migration agenda may be undermining progress in realising RFM. It offers suggestions as to how the EU can strengthen its support for RFM in the ECOWAS region. Finally, the concluding section discusses why the EU approaches RFM differently in each region, and why the EU's migration engagement has such different impacts on progress towards free movement and broader regional coherence within each regional economic community. It identifies common recommendations emerging from both regions regarding how the EU could strengthen its support for RFM at policy and programming level.

This report is based on desk research, in-person interviews conducted in Abuja, Addis Ababa, Brussels and Djibouti, and telephone interviews with stakeholders in Niger. In total, 50 individuals were interviewed during the period December 2018 to March 2019. These included officials from the European Commission and European External Action Service; diplomats and development officials from European member states; government officials and diplomats from African countries; officials and technical specialists from IGAD and ECOWAS; United Nations (UN) officials (ILO, IOM, UNECA); staff from agencies that are implementing EU migration projects; migration experts and academics; and representatives of civil society organisations.

## 2 Regional free movement (RFM) within EU and African agendas

This section examines how RFM has featured within EU and African migration agendas in recent years. It contrasts the low priority the EU currently gives to RFM in Africa with the growing momentum on this issue at continental level in Africa. It also examines the implications for RFM both of the EU's approach to political engagement on migration with African states, and of the funding instruments the EU uses for its migration programming.

### 2.1 RFM within EU's migration policy and dialogue

The EU's approach to migration has shifted significantly since 2015, moving from a more multi-lateral engagement that focused on both African and European interests in relation to migration, to more bilateral forms of engagement that focus strongly on EU interests in curbing irregular migration. RFM has not been an important focus of this post-2015 approach to migration, although there have been some limited references to it in various policy documents. Moreover, in the last couple of years RFM has become an increasingly marginal issue, as the EU has further hardened its migration stance and intensified its focus on "externalising migration policies and shifting responsibilities for migration control onto countries of origin and transit" (Zoomers, van Noorloos, & van Liempt, 2019).

RFM was not a priority at the Valletta summit. However, it does feature in some elements of the Joint Valletta Action Plan (JVAP), which the EU is committed to supporting, including through the EU Emergency Trust Fund for Africa (EUTF). Under Pillar 2 of the JVAP, on legal migration and mobility, there is a commitment to "support continental, regional and sub-regional frameworks for mobility and migration, such as the Joint Labour Migration Programme adopted at the African Union Summit in January 2015 and other initiatives developed by ECOWAS and IGAD" (EU [European Union], 2015).

While the JVAP was to some extent a shared EU–African agenda on migration, the way it has been implemented has been unbalanced. In particular, the EU has been overly focused on elements related to preventing movement and returning irregular migrants, and has largely overlooked other elements that relate to the benefits of migration, including RFM. Indeed, within the bilateral migration partnerships the EU developed with individual African countries a year after the Valletta Summit, the focus is almost entirely on EU interests in controlling irregular migration, and African priorities such as RFM are completely absent (Castillejo, 2017).

This skewed implementation of the Valletta agenda is implicitly acknowledged in the report of the JVAP Senior Officials Meeting in November 2018, which notes that "Valletta partners recognise that further concerted efforts should be made in domain 2 concerning legal migration and mobility, in particular for young people and women: entrepreneurs, students and researchers, moving within Africa and between Africa and Europe" (Khartoum Process, 2018). There are plans underway to update the JVAP to reflect recent international

policy developments.<sup>1</sup> This could be an opportunity to strengthen the plan's emphasis on African priorities, including RFM, and therefore to help facilitate greater funding for RFM and related issues from the EUTF, which was established to finance the JVAP. However, there does not currently appear to be much political will within the EU for such a shift in focus.

There is a clear contradiction between how staff within EU institutions present the EU's approach to RFM and how it is perceived by external experts. A senior UN official interviewed for this research, who works closely with EU institutions, stated that the EU's current approach is focused on "fixing people where they are and stopping migration" and that the main focus of EU engagement with African countries is readmission. Likewise, a number of interviewees with an overview of EU migration policy argue that the EU currently lacks the long-term vision or regional approach required to recognise the value of, and meaningfully support, free movement within and between regions.

EU staff stress that while RFM is not a major focus of programming, the EU does express its support for regional integration and RFM within its continent-to-continent dialogue, and in bilateral engagement with African governments. Staff from the European Commission's Directorate-General for International Cooperation and Development (DG DEVCO) report that there is broad support for RFM in Africa among European governments, for some because of the developmental value of RFM and for others because they perceive it as a way to keep potential migrants in their own region. However, some European Union External Action Service (EEAS) staff reported that more hard-line EU member states act as "spoilers", preventing the EU institutions from adopting a more progressive approach to migration that could include greater support for RFM. Overall, it appears that while there is some limited discourse from the EU in support of RFM, this is minimal compared to the emphasis on limiting movement and returning people.

Looking ahead, there are important processes underway that will play a significant role in shaping how the EU engages with Africa on migration and on RFM in the future, most notably, the negotiations over the next Multiannual Financial Framework, under which significant external action funds are likely to be targeted at migration. Indeed, the recent progress report on implementation of the European Agenda on Migration (EC [European Commission], 2019) stresses that migration should be a priority in the next budget and states that "The EU institutions need to ensure that the next Multi-annual Financial Framework provides the scale and flexibility needed to deepen cooperation with third country partners on migration." Negotiations are also underway to establish a new framework with African, Caribbean and Pacific partners to replace the Cotonou Agreement. This an opportunity to strengthen frameworks for migration cooperation, but, as Knoll argues, given the substantial differences between African countries and Europe "it will be difficult to find acceptable language on migration within and between the two parties in the political agreement steering the long-term partnership" (Knoll, 2019).

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1 These developments include the Declaration of the 5th African Union–European Union Summit, the AU Protocol on Free Movement of People, the proposal for a new Africa–Europe Alliance for Sustainable Investments and Jobs, the Global Compact for Safe, Orderly and Regular Migration, and the Global Compact on Refugees.

How the EU frames priorities in relation to migration within these new structures can have significant implications for RFM in Africa. If the EU recognises RFM as an important driver of African growth, development and stability – and hence of benefit to the EU itself – this could result in greater EU support in this area. However, a continued shorter-term focus on preventing movement and returns could result in future EU engagement failing to support RFM.

## 2.2 RFM within African agendas

Over the last few years there has been momentum at continental-policy level on RFM, as part of broader ambitions for regional integration. The 2015 AU Agenda 2063 (AU, 2015), presents free movement as a key component of its vision for a politically unified Africa. In 2018, the AU adopted a Protocol on Free Movement of Persons, Right of Residence and Right of Establishment. Critically, this protocol states that the process of implementing free movement must begin with Africa's regional economic communities (RECs). In 2018 the AU also developed the Migration Policy Framework for Africa, which "recommends the harmonization and strengthened implementation of AU and REC freemovement provisions related to residence and establishment, as well as enhanced cooperation among Member States in regard to the facilitation of free movement" (AU, 2018). In addition, 2018 saw the launch of the African Continental Free Trade Agreement (AfCFTA), which has now been signed by all but three African states. A recent study by the African Union Commission (AUC) and International Organization for Migration (IOM) argues that the AfCFTA is a critical precursor of free movement because, it seeks to promote the "movement of business persons across fifty-four African countries with a combined population of more than one billion people... The pre-existence and success of the CFTA means that the concept of free movement of persons is not an alien one and that a discussion can be built on that." (AUC & IOM, 2018)

Beyond these high-level policies and agreements, some ambitious African-owned initiatives in support of RFM have been established – notably the Joint Labour Migration Programme for Africa, which was adopted in January 2015. This programme is implemented by the AUC in partnership with the International Labour Organization (ILO), International Organization for Migration (IOM) and the United Nations Economic Commission for Africa (UNECA). It aims to enhance and coordinate an exchange of labour across Africa that is protective of mobile workers and leverages the social and economic benefits such workers bring. The AU also plans to open both an Observatory and a Research Centre on Migration in 2019. These institutions will be responsible for collecting information, promoting the exchange of data and facilitating coordination between African countries on migration and development issues.

While there is no doubt that these commitments and initiatives suggest strong interest in advancing RFM at continental level, they do not tell the whole story. There are significant challenges at regional and member-state level to actually deliver on these commitments, due both to weak capacity and political resistance. In terms of capacity, the recent AUC and IOM study found that "many African States still lack sufficient 'enablers' to create and manage such free movement" (AUC & IOM, 2018). The study concludes that, as AU member states are at such different stages of socioeconomic and political development, they

will need to facilitate free movement in a phased and progressive way. Strengthening regional-level free movement would be the natural first step to this.

In terms of political resistance, a significant number of African states continue to view RFM as a security and economic risk. Indeed, according to a number of IOM experts interviewed, this resistance has hardened as a result of the EU's discourse and engagement on migration issues. These experts argue that before 2015 African migration priorities would have focused on migration as bringing development and remittances, but that African governments are now increasingly adopting a narrative that presents migration as a risk, and that stresses the need to securitise borders and limit movement. They suggest this is both because this approach matches EU priorities and is a route to access EU funds and because of "a contagion of the EU's obsession with irregular migration as a threat".<sup>2</sup> However, it must also be recognised that for some African states the EU's securitised approach to migration fits well with their own perspectives and interests.

While EU diplomats argue that there is no contradiction between African RFM ambitions and the EU's migration agenda, many observers do see a tension. For example, stressing the divergence between African and European priorities in relation to free movement, Bisong (2019) argues that "the AU's (and regional) agenda on migration and its call for free movement within the continent is likely to conflict with the EU's agenda to contain and restrict movement of Africans to the EU."

### 2.3 EU engagement at continental, regional and bilateral level

Many of the interviewees with an overview of continental migration issues raised concerns about the way in which the EU targets its migration engagement and funding towards countries of origin or transit for irregular migration to Europe. They suggest that this approach comes from a flawed starting point. Instead of beginning from the fact that the vast majority of Africans migrate within and between Africa's subregions, and responding to this context in a holistic way that supports regional movement, the EU focuses on the less than 10 per cent of African migrants that travel towards Europe and responds in a way that focuses on restricting movement. These interviewees believe this EU approach is fragmented, unbalanced and ultimately futile, as it overlooks the much bigger continental migration picture, within which irregular migration to the EU must be understood. As an AU official commented, "it makes no sense to look at parts of the continent and ignore the rest. Responses to migration need to be based on an understanding of migration dynamics across the continent, and the interrelationships between intra-regional, inter-regional, and inter-continental migration".

Moreover, while the countries the EU focuses on through its migration partnerships and EUTF projects may be the most relevant to short-term goals of stemming irregular migration, they are not the most relevant to building up African capacities and opportunities for free movement or to supporting African regions to harness the potential of migration. As Collett and Ahad (2017) point out:

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2 Quote from a Brussels-based UN official dealing with the EU on migration issues, Brussels, December, 2018.

If the European Union were to refocus its strategy on bolstering opportunities for regional movement, with the aim of supporting alternative, intraregional migration, it would need to shift... the locus of its partnerships to stronger regional hubs such as Kenya, Uganda and South Africa.

The Valletta Summit marked a clear move by the EU away from continent-to-continent engagement on migration and towards a focus on certain countries and regions. There is still great frustration within the AU and some African states at the exclusion of certain African regions from the Valletta process and from the EUTF – especially so given that this trend has continued and exacerbated with the establishment of bilateral migration partnerships (Castillejo, 2017). These actors argue that the EU’s approach undermines African coherence and a common African position. Moreover, AU officials stress that in order to achieve ambitions for continental free movement it is important that all regional economic communities try to move in sync on migration issues, and that the lack of balance in the EU’s engagement and support undermines this.

While such concerns are valid, it is also important to recognise that coherent and common positions on migration and mobility issues within Africa are often more of an aspiration than a reality. For example, the vast majority of AU protocols and agreements are never implemented, and AU member states often feel little ownership of these. What does seem clear, however, is that the EU has lost interest in continental-level engagement on migration issues. Indeed, the main vehicle for EU–AU engagement on migration, the Migration and Mobility Dialogue (MMD), was respectively described as “moribund”, “in intensive care”, and “a side-show” by stakeholders.<sup>3</sup>

Not only is there frustration that the EU is undermining continental-level coherence and ambitions, but within some regional economic communities there are concerns that the EU’s focus on certain countries is undermining regional coherence. In both the IGAD and ECOWAS regions, stakeholders reported that the EU gives little priority to RFM issues in its bilateral-level engagement with member states, focusing strongly instead on its own priorities, particularly on readmissions. Indeed, some UN officials interviewed argued that the EU is “buying” the collaboration of certain countries with EUTF funding in ways that undermine regional coherence and RFM ambitions. However, all EU stakeholders stressed that there is no contradiction between regional and bilateral engagement. As with the continental level, while recognising that the EU may well be pursuing its interests in ways that undermine regional coherence and ambitions, it is also important to be honest about the fact that certain African countries may not actually be interested in advancing RFM or regional responses to migration.

Finally, it appears that this unbalanced focus by European actors has resulted in an unbalanced knowledge and evidence base about African migration. A lot of research on migration is funded by the EU and tends to focus on West Africa and the Horn of Africa, because these are the regions of origin for irregular migration to Europe. The result is that

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3 The MMD aims to maximise the development potential of migration and mobility within Africa and between Africa and the EU within the context of the Joint Africa–EU Strategy. It has three interrelated components: Africa–EU dialogue and cooperation on migration and mobility; continental management of migration and mobility; support to the African Diaspora as development actors. It receives EUR 18.5 million from the DCI Pan-African Programme (EC, 2014).

there is far more information about migration dynamics in these two regions, and about migratory patterns northwards, than there is about other African regions and migratory patterns south or east. This may make sense if the aim of such research is just to support efforts to prevent irregular migration to Europe. However, it does not make sense if the aim is to understand and respond to the breadth of migration dynamics in Africa, to address the needs of the majority of African migrants who move within the continent, or support African-led responses to migration.

## 2.4 RFM and EU funding instruments

EU programming on migration in Africa has traditionally been funded through a number of different mechanisms and instruments, including mainstream development assistance through national indicative programmes and regional indicative programmes (RIPs) under the European Development Fund (EDF). However, since 2015 the vast majority of programming on migration has been financed through the EU Emergency Trust Fund for Africa (EUTF). The EUTF is a highly controversial instrument, and has been criticised by commentators from within and outside the EU institutions. For example, CONCORD (2018) describes the EUTF as “a political tool focusing on quick-fix projects with the aim to stem migratory flows to Europe, which is... very likely to fail since addressing the drivers of forced migration requires a long term, coherent and sustainable approach”. Meanwhile, a European Parliament (2016) report raises concerns that the EUTF uses development aid to stem flows of migrants and asylum seekers, and risks serving “as a pretext for preventing departure or tightening borders between countries while ignoring the factors that drive people from their homes”.

Both external observers and EU officials recognise that the EUTF is not a particularly appropriate instrument to support African ambitions for RFM. RFM does not fit well with the EUTF’s strategic priorities,<sup>4</sup> with the trust funds’ emergency nature and focus on short term results, or with the fact that it is driven by Brussels’ priorities and has limited African ownership. Despite this, there are some projects under EUTF that do have a focus on supporting RFM, such as support to IGAD’s RFM protocol. There are also other projects that could have potential benefits for RFM by strengthening the migration management capacity of African countries, which is an important requisite for effective free movement regimes. However, experts involved with some of these migration management projects reported that they are generally more focused on stopping people moving rather than facilitating intra-regional migration.

EU officials stress that the aim of the EUTF is to complement existing development funding in the area of migration. They argue that African countries are too focused on the EUTF because of the high profile it was given at Valletta, and that funding for African migration agendas such as RFM remains available through other instruments. However, the reality is that with the vast bulk of migration funding now channelled through the EUTF (including

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4 In April 2018 the EUTF Strategic Board established six priority areas in the Horn of Africa and the Sahel/Lake Chad: Return and reintegration; Refugees management (Comprehensive Refugee Response Framework); Completing progress on the securitisation of documents and civil registry; Anti-trafficking measures; Essential stabilization efforts in the Horn of Africa and the Sahel; and Migration dialogues.



funding being transferred from RIPs into the EUTF) there appears to be limited space to provide migration funding through traditional development instruments or to fund long-term migration agendas such as RFM that do not fit Valletta and EUTF priorities. Looking to the future, it is still unclear what will happen to EU migration funding once the EUTF finishes and once the new EU budget structure and planned single-aid instrument are in place.

### **3 EU and RFM in the IGAD region**

This section begins by providing an analysis of current progress towards RFM in the IGAD region and existing opportunities and constraints to finalising and implementing the region's draft Free Movement Protocol, including those related to IGAD's own institutional capacity. It then goes on to examine the EU's engagement within this context, including the extent to which EU and IGAD interests align on the issue of RFM, and the nature of the EU's political and programming engagement in this area. Based on this examination, it offers suggestions as to how the EU can strengthen its support for RFM in the IGAD region.

#### **3.1 Status of progress on RFM in the IGAD region**

The 1996 agreement establishing IGAD includes an ambition for regional integration, including free movement of people within the region. However, there was no real progress on this until 2012, when IGAD heads of state and government adopted the Minimum Integration Plan as a road map for regional integration.<sup>5</sup> The realisation of this plan requires the region to develop a mechanism that facilitates RFM. Also, in 2012 IGAD adopted a Regional Migration Policy Framework, which provides strategic recommendations on various aspects of migration management while building the capacity of IGAD member states to develop national migration policies that address specific migration-related challenges in a more comprehensive and holistic manner. This was followed by development of the IGAD Migration Action Plan (2015–2020), intended to operationalise the Regional Migration Policy Framework. The strategic priorities for this Action Plan include the facilitation of labour mobility, the facilitation of mobility for pastoralists, and the establishment of a free movement regime in the region. Development of the protocol for the free movement regime is led by the migration team of the IGAD secretariat.

The initial draft version of the Protocol on the Free Movement of Persons, developed as a basis for discussion, borrowed from models of the ECOWAS and the EAC free movement protocols. The draft protocol is very ambitious, given the region's limited capacities and current low levels of regional integration, containing provisions for the harmonisation of migration policy and laws, visa free entry, rights of establishment and residence for IGAD nationals, and effective border management that will support this movement. It also calls for the harmonisation of labour laws and policies, including eventual mutual recognition of

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5 IGAD's Minimum Integration Plan was part of the broader AU-led Minimum Integration Programme, which established a consensual framework between Member States, RECs and AUC and was intended to serve as a common denominator for African continental integration players. The Minimum Integration Programme consisted of different activities that each REC will undertake to speed up the process of regional and continental integration.

academic and professional qualifications. However, it is understood that the implementation of the protocol should be phased, starting with the gradual relaxation of visas for the citizens of the region and culminating in the right of residence (AUC & IOM, 2018).

A series of national consultative meetings on the draft protocol was launched in 2017, using national migration coordination mechanisms as a platform. These coordination mechanisms are governmental platforms to deliberate on migration issues, which are useful in providing a single entry point to bring together key actors relevant to migration at government level. Strengthening the capacity of these mechanisms will be critical for future implementation of the protocol, and is something that IOM is currently supporting.

National reports were produced outlining the key findings from the national consultation meetings and, based on these, the IGAD secretariat revised the draft protocol. This latest version of the protocol was due to be presented to experts for their review in Spring 2019, after which it should be sent to member states as the basis for negotiations. Three rounds of negotiations are planned for 2019. Following negotiations, the protocol needs to be adopted, and then ratified and implemented at national level. The IGAD secretariat stresses that the final protocol must take full account of the region's specific challenges, including pastoral migration, climate-related migration, high levels of conflict-related displacement and security challenges.

### 3.2 Opportunities for advancing RFM in the IGAD region

There is widespread agreement that current political dynamics in the region offer positive momentum on RFM that should be built upon: in particular, the easing of tensions between Ethiopia and Eritrea and a significant shift in approach by the Ethiopian government. As Dick and Schraven (2019) describe, "Ethiopia especially has proven to be a (powerful) opponent of regional free movement in the past, partly in an attempt to protect its own markets and partly as a result of security concerns". Indeed, it was because of this opposition that Ethiopia did not hold its national consultation on the protocol until August 2018, after the change of government. The new Ethiopian government is seeking to position the country as a leader in driving forward regional integration, with the Prime Minister talking about his ambitions for the Horn of Africa to become a single, border-free bloc. In addition to this, recent decisions by the governments of Kenya and Ethiopia to provide visa-free entry to all Africans, and steps taken by Djibouti to streamline its visa processes, appear to be important signs of political will to move towards freer movement. However, stakeholders suggest that as Ethiopia provides new regional leadership on regional integration and RFM the response of Kenya will be critical – in particular how Kenya assesses the benefits and risks to its economy of greater regional integration.

It is important to note that it is not just the more powerful and economically successful member states that see benefits in advancing RFM. In October 2018, IGAD organised a regional meeting of parliamentarians, at which ILO studies related to labour migration and RFM were presented. These studies had not initially included Somalia and South Sudan for security reasons, but representatives from these two countries requested that the research be extended to them as they saw it as relevant and useful in their own contexts.

Those involved in the national consultations on the protocol suggest that all IGAD member states are broadly happy with the draft protocol and keen to proceed. However, they warn that any resistance is likely to come when there is a more finalised version, in particular when governments see what reporting requirements might be involved.

Stakeholders agree that it is now important to seize and build on this momentum – to push ahead with the protocol while there is political backing from member states, and also to invest in putting the systems in place to implement the protocol and facilitate labour migration. They suggest that the EU can provide important support to the region to take advantage of this moment.

### 3.3 Challenges to advancing RFM in the IGAD region

Despite this recent momentum it is clear that there are still enormous challenges to meaningful progress on RFM, both in terms of political will and capacity. There is concern among many observers that because of these political and capacity challenges the protocol will be adopted but never implemented.

#### *Political will*

It was reported by multiple stakeholders that some IGAD member states have reservations about RFM because of both security and economic concerns. The region suffers from complex security challenges, and there is concern that RFM will allow criminals and terrorists to cross borders more easily. States in the north of the IGAD region are particularly concerned about security risks coming from southern countries such as Somalia. Member states also have economic concerns. Those with stronger economies are concerned that they will experience an influx of migrants from poorer countries, who will take over local jobs and burden local services. Meanwhile, weaker economies, such as South Sudan, have expressed concern that RFM will allow actors from stronger economies who have greater capacity and finance to take over local economic opportunities.

Interviewees from the EU, AU, IGAD, UNECA and IOM all stressed that these concerns are, in large part, due to limited understanding of what RFM involves and the benefits it can bring. They suggest that most member state governments think that RFM requires countries to open their borders entirely and allow citizens to pass without any screening. These governments also tend to understand RFM as a full package, including right to residence, right to work and right to establishment, without recognising that there are different levels of RFM and it is possible to begin in a limited way. A senior EU official in the region commented that “The big challenge is to change the approach and mentality of governments and societies so they see free movement as something useful. Something that limits space for criminals and encourages people to move in an organised way.”<sup>6</sup>

All international stakeholders interviewed agreed that advocacy and information is required to address these concerns and help member states understand the value of RFM – in particular, to identify the types of policy frameworks and infrastructure that can help

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6 Senior EU official leading on engagement with IGAD. Djibouti, February 2019.

mitigate both security and economic risks of RFM and make it more politically acceptable. IOM, in particular, stressed the need for data and evidence to demonstrate the value of RFM, not just to inform governments, but also so that governments can use this evidence to justify RFM to parliaments and public. Indeed, IOM and the AU recently undertook a cost–benefit analysis of RFM to help demonstrate that fears about the risks are largely unfounded (AUC & IOM, 2018).

### *Capacity challenges*

Even if the political reservations of member states about RFM can be overcome, there are significant capacity challenges to ratifying and – most critically – implementing the protocol. It is clear that most member states currently lack the capacity to implement the protocol. This will require strengthening national policy frameworks and institutional structures, and investing in human capacity and physical infrastructure. It will also require the generation of evidence, data and analysis to set priorities and inform implementation. It was widely agreed by interviewees that it is important that support for national capacity to implement begins now in order to be ready to move ahead reasonably rapidly once the protocol is agreed, rather than risk it losing momentum and being left on the shelf.

IGAD will have a critical role to play in supporting member states to ratify and implement the protocol. However, the IGAD migration team currently has limited capacity to do this – as discussed below. IGAD will need to lead national popularisation meetings at member-state level once the protocol is adopted, in order to discuss how to ratify. Likewise, it would be useful for IGAD to provide model proclamations or legislation that member states can use for adopting the protocol. Beyond this, IGAD would need to provide ongoing technical support for implementation, which will need to be differentiated for each member state. All of this would severely stretch the current IGAD migration team’s human resources.

Inevitably, implementation of the protocol will be expensive, and it is critical that there is sufficient funding for this. It is unlikely that member states will be able or willing to commit significant funds for implementation, raising the question of where the money will come from. This is particularly challenging, given that implementation of the protocol will take years and will require long-term funding commitments from member states and development partners. While it is important that development partners, in particular the EU, provide financial support for implementation, it is equally important that these partners make the case with member states that they should also provide significant funding in order to realise RFM in their own region.

## 3.4 The nature of IGAD

The nature of IGAD as an institution – its structure, influence and capacity – has significant implications for progress on RFM and for the ways in which the EU can best support this progress.

IGAD is an inter-governmental structure that lacks overarching decision-making authority on policy matters in member states and can only make non-binding recommendations. It has a Secretariat, rather than a Commission, and hence has little authority to drive any policy agenda, especially where there is reluctance on the part of some member states.

International actors in Djibouti raised serious concerns about the political influence of IGAD. They argue that member states have no collective vision for IGAD and do not respect IGAD's treaty and regulations, such as consensus-based policy and a rotating presidency, and that member states are resistant to strengthening IGAD's powers or to providing IGAD with sufficient finances. This means that the expansion of IGAD's mandate over the years has not been matched by expanded political or financial commitment to the body among member states. According to IGAD staff, this lack of political support from member states is exacerbated by the fact that IGAD has an overlapping mandate with other regional economic communities, which results in member states prioritising different RECs for different policy issues. For example, while IGAD is seen as strong on peace and security, some member states prefer to work through the Common Market for Eastern and Southern Africa (COMESA) when it comes to trade and integration.

There is a serious disconnect between IGAD and national governments and citizens. For example, it was reported that member states appoint random and often junior focal points within a given ministry for IGAD initiatives, who are not in a position to coordinate effectively. Likewise, that national governments are often not aware of what IGAD is doing in different policy areas, including on migration and free movement. This appears to be part of a self-defeating circle in which lack of member-state investment in IGAD results in IGAD being overly focused on external funding, targeting its communications towards donors rather than member states, and therefore failing to build a greater profile at national level. International development partners stressed that until member states invest political will, money and people in IGAD, IGAD's work will not be sustainable. Many stakeholders suggested that the current over-dependence on donors results in a short-term project-driven logic within IGAD, including on RFM, which further undermines its credibility and effectiveness.

In addition to these problems, the IGAD secretariat also lacks resources and capacity. The migration team in IGAD was, for a long time, severely understaffed, but has now been expanded to four people. However, these staff are overstretched and are travelling much of the time in order to engage with the different member states. All stakeholders agreed that the team will need strengthening both in numbers and technical capacity if it is to lead on implementation of the protocol, once this has been agreed.

A particular gap is the capacity of the migration team to liaise effectively with member states in order to build awareness and support for the protocol in the lead up to its adoption, and to provide ongoing guidance on ratification and implementation. Different ways were suggested to overcome this disconnection. The migration team suggested that additional staff should be financed by member states, or seconded from member states, in order to build buy-in and sustainability. However, given the lack of interest by member states this does not seem likely. An expert working with IGAD suggested that more staff could be recruited for the migration team, but that these should be placed in each member state in order to provide a closer link and to support national-level ratification and implementation. As IGAD has an office in most member states there is already infrastructure for this, and it was suggested that the cost of salaries would be largely off-set by the savings in travel costs of the core IGAD migration team.

Beyond staffing, there are also issues with the institutional and technical capacity of the IGAD migration team. The IGAD Secretariat has low absorptive capacity, which has resulted in

significant delays to activities. Another major gap that was identified is IGAD's ability to collect, collate and use regional data. This will be critical to informing and monitoring the implementation of the RFM protocol. Data on migration and mobility is currently partial and fractured across the region, and there is a need to create an overview of what data is being collected by which member states, the extent to which they may be willing to share this data, and how comparable it is across countries. Such coordination of knowledge and data should be an important role for IGAD. The EU and Germany are currently providing support to strengthen the IGAD migration team's access to and use of data. However, effective data collection is a big task that will require coordination with member states to support data gathering on the ground.

### 3.5 Alignment of EU and IGAD interests

There was general agreement among all the stakeholders that RFM in the IGAD region serves both regional and European interests. This follows the logic that RFM fosters growth, development and economic opportunities in the region, enables people to move within the region to take advantage of these opportunities, and therefore makes them less likely to migrate to Europe. Both EU and IGAD officials emphasised this narrative very strongly.

In the IGAD region no stakeholders expressed concerns that EU-level bilateral engagement is undermining regional coherence or regional agendas such as RFM. Nor was it felt that the EU agenda to curb irregular migration is in tension with ambitions on free movement. This is perhaps not surprising as the IGAD RFM protocol is still at a nascent stage and is therefore not a potential factor in facilitating travel towards Europe, as it is, for example, in West Africa. There is also very limited regional coherence in the IGAD region for the EU to undermine.

However, logic would suggest that the EU's strong focus on borders and returns within its engagement on migration in the region, while not directly undermining progress on free movement, is consuming most of the EU's political energy and resources for migration in the region. This leaves RFM side-lined in comparison to these other European priorities. Hence, while the EU is not undermining free movement, it could afford it a higher priority, given its value for long-term development and growth in the region.

### 3.6 EU support to IGAD

For many years the EU has been the biggest donor to IGAD and its support is crucial to IGAD's structures and activities. Under the RIP for Eastern and Southern Africa IGAD had an allocation of EUR 80 million, which it chose to transfer to the EUTF. According to IGAD officials, they chose to transfer these funds to the EUTF because they wanted faster disbursement and were also hoping the funds would be topped up. This is despite the fact that the move meant losing some control over the funds, as EDF funds give partner countries more ownership than do EUTF funds. The move to the EUTF did result in faster disbursement but, apart from in the area of natural resources management, there was no top up.

Of this original EUR 80 million, EUR 40 million was for peace and security, EUR 25 million for natural resource management, EUR 5 million for capacity building on resilience,

and EUR 10 million for regional integration. Interestingly, the EU delegation to IGAD suggested that the EU has spread its support to IGAD too thinly, and that a more effective way of building up IGAD would have been to focus intensively on just one or two areas where IGAD has most credibility, such as peace and security.

This EUR 10 million of EU funding for regional integration has been used to fund the project Towards Free Movement and Transhumance in the IGAD Region, which seeks to support the process of adoption of the IGAD Protocols on Free Movement of Persons and on Transhumance, along with complementary measures to implement them; and to improve opportunities for regulated labour mobility. It is this project which is the main source of finance for IGAD's work on the RFM protocol. The partners for the project are IGAD and ILO, and the project is due to run from 2016 until 2019.

EU officials suggest that this project has made progress, despite facing severe political and capacity challenges, although they doubt that the protocols will be adopted during the life of the project. They also believe that the project has contributed to building IGAD appetite and capacity on migration and RFM, albeit slowly, given the difficult context. Meanwhile, IGAD staff report that the EU support has helped to mobilise other donors to support IGAD's migration and RFM work. However, others involved with the project report that pressure from the EU for quick results has distorted activities.

### 3.7 The EUTF and RFM in the IGAD region

Beyond this specific project, the vast majority of EU programming on migration across the IGAD region is financed by the EUTF. The EUTF funds 69 projects in the Horn of Africa, to a total value of EUR 1,263,101,500. Of these, 12 are regional programmes, to the value of EUR 228,688,800. The main focus of EUTF programmes in the region is improved governance and conflict reduction, and economic opportunities. Four of these regional projects involve IGAD, although only the project Towards Free Movement and Transhumance in the IGAD Region is focused on RFM.

Of these various EUTF projects, the ones with most relevance to RFM are those that deal with migration management and borders. The main regional project dealing with border strengthening is Better Migration Management (BMM),<sup>7</sup> which aims to improve migration management in the region, and in particular to curb the trafficking of human beings and the smuggling of migrants. EU officials report that they are not doing much on border strengthening in the region beyond this programme because of reluctance to support security institutions in the region. The BMM does not engage with IGAD, nor does it do policy work. Instead, it focuses on bilateral and trilateral cooperation at institutional rather than policy level.

Over recent years there has been significant discussion about the limitations of the EUTF as a funding instrument – in particular, its failure to meet aid-effectiveness principles, particularly local ownership and sustainability (Castillejo, 2016). Stakeholders in the IGAD region largely reflected these concerns. For example, IGAD staff responsible for donor

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7 The programme has EUR 40 million from the EU and EUR 6 million from Germany.

relations are concerned that the EUTF is too Brussels driven, describing how project ideas are generated in Brussels or in the EU delegation, and then taken up by IGAD teams because they want the funding, despite the fact that projects may not be well fitted to IGAD's own priorities. However, DG DEVCO staff stress that IGAD does come to EUTF operational committee meetings and can influence decisions. Also, IGAD staff expressed frustration that the EUTF money always goes through European or international implementing agencies, in some cases without adequate consultation with IGAD. This raises questions about ownership and the extent to which African actors are included in decisions about projects that are developed in Brussels between DG DEVCO and the Brussels headquarters of implementing agencies.

In a similar vein, BMM staff in Addis described how, as an EUTF-funded project, BMM was initiated and driven by Brussels, with all changes having to be approved by Brussels, and the project being significantly less connected to government partners than a "normal" development project would be. IOM staff confirmed that Brussels leads much more firmly on EUTF projects, and that local ownership and government involvement is correspondingly diminished. While this problem of ownership of EUTF projects is well known, it is worth considering its implications specifically for work on RFM. RFM requires buy-in from multiple governments and must respond to these governments' ambitions or concerns. If designed in Brussels and implemented primarily by European agencies, it is not clear how it can do so.

This lack of ownership also contributes to concerns about how EUTF funded initiatives will be sustained once the trust fund finishes. IGAD staff are concerned about what will happen to support for RFM once the trust fund ends, although they express the hope that this will be taken over by standard development programming. IGAD staff also point out that EUTF programmes create parallel structures which will not be sustainable when funding ends. BMM staff described how, while they are hoping for second phase to the project, they are also working with local NGO partners and some government actors to try to ensure sustainability if the project is not continued. This raises the question of how likely such sustainability will be if governments had limited buy-in in the first place.

Some stakeholders closely involved with the project Towards Free Movement and Transhumance in the IGAD Region raised serious frustrations about the limitations of the EUTF as an instrument to support their work, stressing, for example, that this is not an emergency project and that therefore the EUTF is not an appropriate funding instrument, as well as claiming that the EU has pushed for quick results and not allowed sufficient time because of EUTF requirements. Indeed, it appears that some elements of the project were dropped because of this pressure to deliver fast results and because the EU had underestimated the challenges involved in the project. Without sufficient time to embed and follow up on the studies that have been undertaken as part of the project, there are questions about sustainability and the extent to which the knowledge generated will inform the final protocol and its implementation. Clearly, this is an important point as advancing RFM in such a challenging context is a slow process, not well matched to an emergency fund, which requires fast results.



### 3.8 EU capacity and coordination

Given the size and breadth of EU support to IGAD, there are serious concerns about the capacity of the EU delegation in Djibouti (which is accredited to IGAD) to manage both the political relationships and programming with IGAD. This delegation is small and covers both Djibouti and IGAD, with no staff dedicated specifically to IGAD. This is in contrast to other EU delegations with a regional mandate, which often have a dedicated regional section. The delegation requires more dedicated staff and a sub-section on IGAD if they are to effectively manage EU engagement with IGAD. This concern is borne out by various IGAD staff who described the EU delegation as “overwhelmed”, and reported that the delegation can be slow in responding to them and have limited capacity to engage and participate in meetings. There have been a number of delays in the project Towards Free Movement and Transhumance in the IGAD Region – in disbursement, recruitment and activities, including national consultations – that appear to be a result of limited human resources within the EU delegation in Djibouti. The limited human resources also makes it hard for the EU to strongly promote the RFM agenda at political level.

Moreover, it appears that EU delegation in Djibouti faces problems in coordinating the EU’s engagement with IGAD. Both Brussels and other EU delegations within IGAD member states manage projects that involve IGAD, without always keeping the Djibouti delegation fully informed. This results in fragmented messaging and engagement by the EU with IGAD, is a burden on IGAD’s limited capacity, and undermines regional-level engagement between Djibouti delegation and IGAD.

Beyond its immediate engagement with IGAD, an important question is the way in which the EU engages with member states on issues of RFM. EU officials report that within bilateral dialogue the EU consistently encourages member states to support IGAD and make it a stronger political entity. They report that High Representative and Vice-President (HRVP) Mogherini has suggested to member state ministers that they need to invest in IGAD to make it a more credible partner. However, other international stakeholders report that the EU puts little emphasis on regional issues and RFM in its bilateral migration engagement with member states, which focuses primarily on the EU’s interests in returns, reintegration and borders. Given the range of migration interests that the EU has with a country such as Ethiopia – notably returns but also others – it is perhaps inevitable that pushing on support for IGAD and RFM is unlikely to be a priority.

Those close to IGAD report that EU delegations in member states have attended the national consultations on the draft protocol, but generally do not engage in any sustained way with this process. It is important that EU delegations in member states do engage more as, once the protocol is adopted, the work of ratification and implementation will move to national level, and political and capacity support from the EU delegations on the ground will be vital. Indeed, it is illogical for the EU to invest at IGAD level but then to fail to follow this up with a significant investment at member state level. It was suggested that having an IGAD person working on RFM on the ground in each member state might encourage EU delegations to engage.

### 3.9 Recommendations for future EU engagement in the IGAD region

There are various steps that the EU could take to strengthen its engagement in order to better support IGAD and its member states to deliver on RFM. These include the following:

- The EU should take advantage of the current political momentum within the region on regional integration and RFM. It can do this by engaging more strongly with member states on the value of RFM and what is required to achieve this. This would include providing evidence and arguments to overcome security and economic concerns about RFM and to encourage member-state governments to recognise that RFM can be implemented by degrees in ways that take account of national-level interests and sensitivities. It is important that EU delegations at member-state level lead on “making the case”, making RFM much more prominent in their dialogue with and support to partner governments, while working in close coordination with the delegation in Djibouti and with higher-level political engagement led from Brussels.
- Although most international interlocutors expressed deep concern about the current capacity and role of IGAD, they all recognised the potential contribution that IGAD could make to security, growth and development in the region – including through RFM – if it were to function effectively. Given this, the EU should strengthen its dialogue with member states regarding the value of IGAD and the need to provide greater political and financial backing to IGAD. In particular, the EU should make the case that continued EU investment in IGAD over the long term requires member states themselves to provide greater investment and support. Likewise, the EU should stress the importance of member states taking over responsibility for funding IGAD activities that have previously been supported by the EU, in order to end IGAD’s donor focus and short-term project approach.
- The EU should develop a project that can follow on from the current project Towards Free Movement and Transhumance in the IGAD Region, providing support to IGAD and member states to take the Free Movement Protocol through the next stages of ratification and implementation. Given the long term and policy-oriented focus of this work, as well as the need for strong government ownership, such a project should be funded in the next RIP rather than through the EUTF.
- Such a follow-up project in support of the Free Movement Protocol would need to focus on building national capacity for ratification and implementation, as well as building IGAD’s capacity to coordinate and guide member states. It is important that support for national capacity to implement begins quickly in order to be ready to move ahead once the protocol is agreed. Some further EUTF may be required to fill any gaps before a RIP-funded project is able to come on stream.
- In all its work on migration in the region the EU should seek to foster and incentivise greater links and coordination between regional and national level, such as linking IGAD into cross-border and multi-country activities (e.g. BMM) wherever possible, while being mindful of IGAD’s limited human capacity.
- The EU should continue to support the human resources and technical capacity of the IGAD migration team. In particular, it could support efforts to link this team more

effectively to member-state governments, including through placing IGAD migration team staff in national capitals.

- The EU can support the creation of stronger data, statistics and evidence on migration patterns, labour opportunities, community attitudes to migration and other factors that are required to inform the implementation of the RFM protocol. It would be useful to have this evidence in place as soon as possible, to inform the negotiations stage of the protocol process.
- It is important to strengthen the capacity of the EU's own delegation in Djibouti by providing dedicated staff focused on engagement with IGAD, who have a combination of political and technical expertise. Likewise, it would be useful to strengthen the capacity of the Djibouti delegation to coordinate with other EU delegations in the region, and the responsiveness of these other delegations on IGAD issues. This would require both coordination mechanisms (e.g. focal point systems) and direction from Brussels that places greater priority on such coordination.

## **4 EU and RFM in the ECOWAS region**

This section begins by analysing the current status of RFM in the ECOWAS region and the challenges for fully implementing the region's Free Movement Protocol, including those related to both regional and national political will and capacity. It then goes on to examine the EU's engagement within this context. It discusses the strong priority that the EU gives to preventing irregular migration within its engagement in the region, and asks to what extent EU policy and programming may be undermining progress in realising regional free movement in ECOWAS. Based on this examination, it offers suggestions as to how the EU can strengthen its support for RFM in the ECOWAS region.

### **4.1 Status of regional free movement in ECOWAS**

ECOWAS has the most advanced RFM regime of any regional economic community. The 1979 ECOWAS Free Movement Protocol was the first RFM protocol in Africa and is by far the most far reaching and effective. It allows citizens from ECOWAS member states to enter and reside in the territory of any other member state in the ECOWAS region as long as their papers are valid. Supplementary ECOWAS protocols commit member states to provide valid travel documents to citizens and grant them the right of residence for seeking income-generating activities. The ECOWAS Free Movement Protocol was planned to be implemented in three phases. The first phase, which granted the right to freely enter the territory of any ECOWAS member states for up to 90 days, has been implemented. The second phase, which advanced the right to stay in the territory of any ECOWAS member states, has also been implemented with the provision of a residence permit. The third phase, which includes the right to settle in another ECOWAS member state and seek income-generating activities, has not yet been fully implemented and still faces some major barriers, including failure to implement free movement legislation at national level and limited uptake by the population.

There has been significant progress on developing ECOWAS travel documents, a key element of effective RFM. Fourteen of the fifteen ECOWAS member states now issue the ECOWAS-tagged national passport. There is also an alternative harmonised document, the ECOWAS Travel Certificate, which is more accessible and affordable for most ECOWAS citizens and is the most commonly used document for intra-regional travel. ECOWAS citizens also need to show a yellow travel certificate to travel within the region. Since 2013 it has been an ECOWAS ambition to provide all ECOWAS citizens with a biometric identity card (which should replace the travel certificate), but this is still far from being realised. So far, Ghana and Senegal have introduced this biometric card, but progress in introducing it in the other ECOWAS member states has been slow.

Beyond the measures to implement the 1979 Protocol, ECOWAS has also established regional structures for dialogue and coordination on migration issues. The Migration Dialogue in West Africa (MIDWA) was established in 2001 as a platform to encourage ECOWAS member states to discuss common migration issues and concerns which cannot be solved at national level and require regional solutions. This dialogue currently focuses on eight thematic priorities: migration data and statistics; border management; combatting trans-border organised crime (human trafficking and migrant smuggling); return and reintegration; free movement, professional mobility and student exchange; protection of migrants' rights; irregular migration and mixed flows; and diaspora communities. MIDWA is supported by IOM, with the EU and AU as observers.

There is common agreement among all stakeholders that, overall, RFM works reasonably well and has provided significant opportunities for ECOWAS citizens. There are many ECOWAS citizens travelling to fill gaps in trade and labour markets, although it is recognised that this number could be far higher if travel was easier in practice and if ECOWAS citizens were more aware of their rights and of opportunities. Those from larger, wealthier countries, notably Nigeria, travel around the region to trade. Meanwhile, some smaller countries depend on labour from their neighbours. For example, Côte d'Ivoire relies on significant labour supplies from Burkina Faso and Guinea, while many unskilled jobs in Niger are also filled by citizens from Burkina Faso. However, as ILO officials point out, while a lot of workers are moving around the region, these tend to be unskilled workers taking up work in harsh conditions and lacking basic rights and access to social protection.

There is widespread recognition that more needs to be done at both ECOWAS and member-state level to strengthen the RFM and mobility framework – in particular to facilitate labour migration within the region, and to address the challenge of ECOWAS citizens irregularly migrating outside the region. ECOWAS recently approved a new regional labour migration policy, and it is expected that a regional migration policy will also be approved shortly. ECOWAS officials stress that support will be required to implement both these policies. ECOWAS officials also recognise that some revisions need to be made to the Free Movement Protocol, for example to get rid of the requirement for a yellow travel certificate in order to travel within the region, as this is unnecessary and a source of harassment and extortion at the border. ECOWAS also plans to establish biannual reviews of the implementation of the Free Movement Protocol, guidelines for which have already been developed.

ECOWAS officials stress that the next steps for the region must involve a serious effort to harmonise all national migration policies, taking the lead from the regional migration policy

that is currently being developed. For those member states that already have national migration policies, these need to be streamlined and brought into line with the regional migration policy. For those member states that do not yet have a migration policy, they will need help to develop one.

## 4.2 Challenges to full implementation of RFM

Stakeholders identified a wide range of challenges to full implementation of RFM in the ECOWAS region. These ranged from high-level political challenges, to institutional barriers, to practical challenges facing those seeking to cross borders.

There is no doubt that some member states lack political will to fully implement the RFM protocol. This is in part because of power dynamics, tensions and lack of trust among member states. It is also because some countries have concerns about the potential impact on their economies of full implementation. Most of the economies in the region are not open and many are based on sectoral monopolies that are inefficient, meaning that they are concerned about more efficient competitors entering their markets. This provides an economic disincentive to deliver on RFM, particularly the right to establishment.

There are also huge economic and labour market disparities between countries. Nigeria makes up over half of the region's GDP and has an estimated 30 million extra workers. Therefore, other countries are fearful of being swamped by Nigerian labour and of Nigerians monopolising business opportunities. In some member states there are also domestic political narratives against the presence of "foreigners". For example, pressure from traders in Accra recently led to the Ghanaian government closing down Nigerian-owned businesses. In some cases there have been expulsions of ECOWAS citizens as a response to domestic political dynamics. Some international commentators stressed that in all this focus on the risks of RFM there has not been enough discussion of the value of RFM for creating an enabling environment for businesses to grow and create economic opportunities.

One specific example of how competing interests among ECOWAS member states undermines RFM can be seen in the approach to herdsmen crossing borders. While Sahelian governments are in favour of freedom of movement for herdsmen, the governments of coastal ECOWAS countries resist this. This is both because these coastal countries want the region to move towards more modern forms of ranching, and because it serves internal political agendas to create identity politics around a narrative of herdsman from neighbouring countries as "foreign invaders". Free movement for this particular group is therefore limited by these political dynamics.

At member-state level the laws and institutions required for RFM are inadequate. This is due both to lack of political will and lack of capacity. Domestic laws in some ECOWAS countries still contravene the 1979 protocol, while the institutions responsible for managing borders and immigration are often not fully aware of the protocol's provisions and may operate in ways that undermine it. The failure to implement biometric identity cards in most member states have compounded these problems, with many people lacking identity documents.

RFM is also undermined by inadequate information sharing and coordination among ECOWAS member states. There are no effective contact points established within member states for such coordination, systems for information sharing are weak, and migration data is not routinely collected or shared. Meanwhile, MIDWA contact points at national level are not empowered to translate and follow up on political and operational decisions taken at regional level. Despite its much greater capacity, it seems that ECOWAS faces similar challenges to IGAD in terms of its lack of outreach at member-state level.

Many citizens lack basic information about what is required to visit another ECOWAS country and there has been little effort by member states to educate citizens. This makes them more vulnerable to harassment and corruption at the border. UN staff report that border officials often do not let people through even if they have the right documents, both because of lack of knowledge and corruption by the border staff. Many stakeholders mentioned the border crossing between Nigeria and Benin, describing the large number of different checkpoints and officials involved, with each one asking for a bribe. The result of such harassment is that migrants often prefer to cross borders irregularly by avoiding official border crossings.

Borders in the ECOWAS region tend to be porous and poorly managed. High levels of insecurity in border regions is also a factor hindering citizens' ability to move freely. For example, IOM staff in Niger report that some border regions have been taken over by gangs, while other border areas have high levels of conflict-related insecurity. This makes regular movement very difficult. Likewise, poor-quality roads and other infrastructure at the border present a barrier to easy movement and have affected cross-border mobility and trade for local populations.

### 4.3 The nature of ECOWAS

ECOWAS is undoubtedly the strongest African regional economic community, and by far the most advanced on regional integration and RFM. However, all stakeholders stressed that tensions and weaknesses within ECOWAS institutions and among its member states are a major factor limiting its ability to fully implement RFM, as well as to deal with other mobility challenges, including irregular migration, smuggling and trafficking.

An ECOWAS Commission was created from the previous Secretariat, with the intention of providing it with more authority and closing the gap between ECOWAS's expanding agenda and lack of implementation. However, this still has a long way to go in order to work like a fully functioning commission, for example aligning member-state priorities under a regional umbrella, and providing strategic direction and coordination. Critically, the ECOWAS commission, although it has a mandate on regional integration, does not have money to distribute in support of this, which significantly limits its leverage with member states.

ECOWAS suffers from capacity constraints. The commission has a staff of around 1,000, but has recently come under pressure to streamline its organisation and reduce staff numbers because of budgetary constraints. The ECOWAS free movement directorate is particularly under resourced. Under the Free Movement of Persons & Migration (FMM) West Africa project the EU is funding three staff for the directorate, who are employed as consultants for IOM. While ECOWAS has committed to keep these positions after the end of the FMM,

they will need to find a budget, so this is not guaranteed. While stakeholders report that the quality of staff is high, and that the commission absorbs a lot of external training, they note that the capacity of the commission is hampered by lack of leadership and overreliance on hierarchy and protocol. Some suggest that the ECOWAS commission simply replicates the dysfunction of member states' civil services.

ECOWAS is one of the only regional economic communities in Africa to have a well-functioning community levy that provides a majority of funds for operational costs and programmes. However, it is also significantly dependent on donors, notably the EU, and a number of stakeholders suggested it needs to act more independently to deliver on its own agenda. For example, the ECOWAS commission has approached the German embassy seeking funds to develop the migration policy that heads of state have tasked it to develop. German diplomats believe that as a commission it should be asking those heads of state to find the money for this priority rather than turning to donors. However, it is important to note that this migration policy is to a large extent an EU priority imposed on ECOWAS, so perhaps not something that member states are very enthusiastic to finance themselves.

The attitude of member states to ECOWAS is complicated. Many resent Nigeria's dominance within the community, which is inevitable given Nigeria's size and the importance of its financial contributions. Some member states see complying with ECOWAS rules and guidelines on RFM as a burden, and view ECOWAS initiatives as interference in national affairs. It was reported that, wherever possible, member states often seek to side-line ECOWAS. For example, Gambia was receiving German funding through ECOWAS for regional integration activities, but approached the German embassy to ask if they could receive this funding directly, as they did not see the value of involving ECOWAS. This disconnect between ECOWAS and member states is exacerbated by the fact that ECOWAS has no funds it can distribute to incentivise member states to take forward regional agendas.

The heterogeneity within the community, in terms of economy, size, political and legal systems and language also creates challenges for taking forward regional integration and RFM. In particular, stakeholders reported that harmonisation between the Francophone and Anglophone legal systems can be challenging. IOM stressed that cooperation between member states on issues of RFM, migration and mobility are hampered by lack of ECOWAS operational cooperation frameworks and tools, as well as language barriers.

In order to improve ECOWAS's functioning and ability to deliver on RFM, some stakeholders suggested there needs to be a shift of attitudes among member states – in particular, to see the benefits of ECOWAS as greater than the imposition it implies and to understand that ECOWAS belongs to them. Likewise, it is important that member states focus on the benefits ECOWAS can provide for their own populations, realising the opportunities for travel and business in the region that ECOWAS offers and making it easier for populations to access these. As ECOWAS does not have leverage through money and is also not a strong implementer, stakeholders suggested that it can add most value as a platform for heads of state to develop common messaging and set high-level policy direction. Some stakeholders suggested that a priority must be fostering stronger leadership within the ECOWAS commission, including through better support to the President's office.

#### 4.4 EU irregular migration agenda vs ECOWAS RFM agenda

The ECOWAS region is a major source of irregular migration to the European Union. According to the European Border and Coast Guard Agency, in 2017 almost 143,000 migrants irregularly crossed borders via the Western Mediterranean Route and the Central Mediterranean Route to Europe, with Libya the most important transit and destination country for migrants coming from the ECOWAS region (cited in Luda di Cortemiglia et al, 2018). The largest number of irregular migrants to the EU come from Nigeria, with the vast majority having travelled overland through the ECOWAS region. These patterns of irregular migration are driven by a range of push factors in West Africa, such as economic and population pressures, poor governance and insecurity, family pressures and aspirations, as well as pull factors including social media and support from diaspora.

For this reason, the EU's priorities in ECOWAS are strongly focused on stemming irregular migration. In particular, the EU prioritises return and reintegration, strengthening migration management, awareness raising of the dangers of irregular migration, and the fight against smuggling of migrants and people trafficking. A number of European donor and diplomatic staff in Abuja reported that this agenda is set by Brussels and that RFM is not currently considered a priority by the EU. Indeed, some EU delegation officials expressed dismay that the current focus on curbing irregular migration has resulted in RFM being side-lined within EU support to the region, despite its potential for fostering long-term growth and development.

For ECOWAS, stemming irregular migration to Europe has not been a priority. It is estimated that 84 per cent of migration takes place within the ECOWAS region, with only a small fraction moving outside. Moreover, ECOWAS countries have traditionally been happy for this irregular migration to the EU to take place, as it provides remittances and helps reduce economic and population pressures. Following reports about migrants being sold into slavery in Libya in 2017, West African governments have become more concerned about the dangers of irregular migration for their citizens. However, irregular migration is fundamentally not an important issue for ECOWAS and its member states. ECOWAS's priority in relation to mobility remains RFM, which is core to its identity as a regional economic community.

Stakeholders are strongly split over whether there is an innate tension between the EU's agenda of curbing irregular migration and ECOWAS's agenda of advancing RFM. Some stakeholders insisted that EU efforts to curb irregular migration are limiting free movement by seeking to keep people where they are and making it more difficult for them to cross borders. Others insisted that strengthening rules, institutions and practices to curb irregular migration have the added benefit of helping to facilitate efficient, orderly and rules-based RFM. The reality seems to be less black and white. At the level of policy objectives, there does appear to be a tension between the objective of facilitating people to move and take up opportunities in the region, and the objective of keeping people where they are – especially so, given that for most ECOWAS citizens, irregular migration to Europe begins with regular movement through the ECOWAS space. Indeed, this concern is reflected in much of the existing research and analysis on this issue. For example, Collett and Ahad (2017) argue that EU-supported “forceful border management may... fundamentally undermine regional integration by imperilling the mobility goals of existing regional and continental associations such as the Economic Community of West African States”. On the ground,



however, patterns of irregular migration and efforts to stem it appear to interact with RFM in complex ways.

### *Reframing RFM through the lens of irregular migration*

It is widely agreed that the EU has encouraged ECOWAS both to take up the agenda of irregular migration and to view RFM through the lens of irregular migration. This new focus for ECOWAS emerged at the 2018 heads of state summit, where heads of state mandated ECOWAS to address irregular migration and to create a regional migration policy. However, not only is irregular migration a new issue for ECOWAS, it is a highly sensitive one, so progress in this area is likely to be challenging. Moreover, there is understandable resistance from some member states to reframe RFM through a lens of irregular migration to the EU, given that the vast majority of migration is intra-regional and that this is the priority for them.

Interestingly, some diplomats suggested that the decision of heads of state to task ECOWAS with developing a regional migration policy is a strategy that allows member states to demonstrate to the EU that they are doing something on (irregular) migration, while avoiding meaningfully taking up this issue at national level because of its extreme sensitivity. In essence it is way of “parking” the issue of irregular migration on the ECOWAS agenda. This point is echoed by various UN staff, who report that as some member states do not want to cooperate with the EU on putting in place measures to prevent people from travelling to Europe because of potential public backlash, they prefer to cooperate on discrete projects with limited impact, or on ECOWAS-level initiatives that are less visible to the public.

### *Tightening borders, persuading people not to move*

A number of interviewees expressed a whole set of concerns around the implications for RFM of strengthening migration management and securitising borders. AU and UNECA officials in particular stressed that EU migration partnerships with countries such as Mali and Niger have involved securitisation of borders that hinders movement for ECOWAS citizens. Likewise, some stakeholders directly involved in implementing EUTF projects in the ECOWAS region, raised concerns that some EU-supported measures on border management may reduce free movement for ECOWAS citizens. Such claims are supported by recent research. For example, Tiekstra and Schmauder (2018) argue that “the Valletta Action Plan’s pillar on “fighting irregular migration” has been implemented forcefully in Niger [and] both multilateral and bilateral engagements continue to rely on security-focused initiatives.”

ICPDM staff suggested that is it inappropriate for the EU to be supporting border infrastructure within the ECOWAS region through bilateral projects with member states, rather than in coordination with ECOWAS. ICMPD and IOM staff also reported that the EU has created a narrative that all migrants moving north within the ECOWAS region are on the way to Europe and should be stopped. This, in turn, has affected the way in which people are treated when they seek to cross borders. They point to the increased harassment faced by citizens seeking to cross from Nigeria to Niger, which, they argue, is fuelled by this narrative.

Quite a few stakeholders also raised concerns about the EU's focus on migrant smuggling: that defining smuggling within the ECOWAS space is problematic, and that anti-smuggling efforts can target and seek to criminalise people who are exercising their right to cross borders within ECOWAS. Also, civil society organisations and the IOM reported that, particularly on entering Niger, it is mainly those ECOWAS citizens who are travelling independently who get harassed or stopped at the border. Those who have paid smugglers, or indeed people being trafficked, are often waived through because of the smuggling or trafficking gangs' connections with border guards. The logical consequence of this is that ECOWAS citizens seeking to exercise their freedom of movement without resorting to smuggling are those who face the greatest barriers. It is also reported that there is a worrying conflation between trafficking and smuggling, with some agencies treating these as equivalent.

There are also concerns about what happens to ECOWAS citizens who arrive at the northern edge of the ECOWAS space. In 2015, the government of Niger, under pressure from the EU to act on irregular migration, passed a law that migrants north of Agadez are considered to be illegal and should be pushed back. This is deeply problematic, as ECOWAS citizens have the right to travel to the edge of ECOWAS space. However, it has to be acknowledged that the vast majority of ECOWAS citizens travelling north of Agadez are inevitably trying to make their way north as irregular migrants – although they have not committed any offence as long as they remain in the ECOWAS space.

Various stakeholders raised concerns about what happens to ECOWAS citizens who get stuck in Niger, and the extent to which their rights are upheld. One ECOWAS official stated that “the government of Niger is building concentration camps to hold ECOWAS citizens so they don't travel on to Europe”, and suggested these people are being denied their right to move freely within the region. Discussions with IOM and civil society in Niger suggest that this is a misrepresentation of the situation, but this statement shows the extent of concern and anger. In fact, these people end up either in transit centres or on the streets. While the government of Niger can issue laissez-passer on behalf of other ECOWAS countries in order for their citizens to undertake voluntary return, both Liberia and Guinea Conakry have revoked this agreement. This means that large numbers of citizens from Liberia and Guinea Conakry are stuck for long periods in Niger in desperate circumstances, in some cases resulting in riots. IOM Niger reports that last year around 17,000 ECOWAS citizens were voluntarily returned from Niger, so the numbers involved are quite significant.

Finally, the EU provides a lot of support for awareness campaigns warning people of the dangers of migration and seeking to persuade them of the opportunities they can find in their own countries. Civil society organisations stress that these efforts are not working and that they seek to fix people in places that offer them few opportunities, rather than encouraging them to look for opportunities elsewhere. IOM experts argue that these information campaigns undermine a positive view of migration, including migration within the region.

#### 4.5 Regional vs bilateral engagement

As discussed earlier, the EU's engagement on migration in Africa since 2015 has largely switched from regional to bilateral. This is true in the ECOWAS region, where EU engagement and financial support is focused on those countries that are sources of origin or

transit for irregular migration to Europe. Many stakeholders stressed that this has significantly undermined ECOWAS unity and coherence on these issues. For example, UNECA officials reported other ECOWAS member states are frustrated that Niger is complying with EU pressure to securitise borders because of the EUTF money on offer. Likewise, UNECA officials reported that in the Global Compact process the ECOWAS region was so polarised that it was almost impossible for them to discuss safe and orderly migration.

This view that the EU's bilateral engagement is undermining regional ECOWAS ambitions on free movement is reflected in various recent analysis. An AUC and IOM study (AUC & IOM, 2018) argues that

consideration needs to be given to an assortment of sovereignty-based challenges, including the possible constraints on governments of the obligations and commitments of standing bilateral agreements on deportation and similar protocols. Such agreements include the raft of immigration-focused deals recently concluded between the European Union and African States such as Niger, Mali and Senegal. These commitments and agreements will need to be comprehensively reviewed with third parties as part of the painstaking preparations for free movement of persons in Africa.

Likewise, Bisong (2019), argues that for Niger “the balance between cooperating with EU priorities and regional agenda for free movement in West Africa has led to conflicting interests. These competing priorities and interests will likely be solved with solutions that prioritise national agendas on migration”.

However, EU officials stressed that bilateral engagement is often the best way forward as it is more effective. They argued that such bilateral engagement allows the EU to target its assistance towards meeting its own priorities and avoiding the inefficiency and political difficulties of working with ECOWAS. One EU official commented “Isn't it better to work with a few countries from the wider ECOWAS group to support greater integration and better border management? Countries with a genuine will and interest to do so.”

A number of stakeholders expressed concerns that this bilateral engagement results in unbalanced support across the region, exacerbating differences in terms of migration capacity, and thereby undermining the context required for full implementation of RFM. For example, Sierra Leone and Liberia – which are neither significant origin nor transit countries – are not covered by the EUTF and have not received the type of EU support for migration management that other countries in the region have. The result is that while other member states are supported to develop stronger migration policies and institutions, these countries – already among the weakest – are left behind, creating further disparities among member states in the area of migration and mobility. Clearly, this is not helpful to achieving full and balanced RFM implementation.

#### 4.6 EU programming on migration and RFM

The majority of EU funding on migration and mobility issues for the region comes from the EUTF. The EUTF funds 92 projects across the region, with the total value of EURO 1,587,682,162. Of these, 18 are regional projects at a total value of EUR 354,079,096. The majority of regional-level funding goes to migration management projects, followed by projects on resilience. None of these projects involves ECOWAS or has a direct focus on

RFM. The EUTF funding in West Africa has been particularly controversial as some ECOWAS member states were very unhappy with funds being taken out of the RIP to be put into the EUTF. As not all ECOWAS members are covered by the EUTF, this was in effect a diversion of RIP programme funds for a smaller subset of countries within their region.

Various stakeholders raised concerns about the EUTF approach. A number of agencies implementing EUTF projects stressed that the demand for fast results skews their approach, given that the issues they are working on may be ones where change is slow and incremental. They suggested that there needs to be a change to this approach, which is driven more by political pressures within Europe than by the needs and context of the region.

The EU's main support for RFM in the region is through the project Free Movement of Persons & Migration. This is a EUR 26 million, five-year project that supports migration-data management, border management, labour migration and combating trafficking in persons in West Africa. It is implemented by IOM, ICDMP and ILO. The project is very complex and works at multiple levels and across a wide range of activities. It works at regional level to support the ECOWAS Commission in its role as a regional platform for migration policy development and harmonisation, to strengthen MIDWA, and to build ECOWAS capacities in migration-data management, border management, labour migration and counter-trafficking. At national level FMM West Africa supports member-state governments in developing national migration profiles and in elaborating and adopting national migration policies, as well as providing tailored technical assistance for national administrations. Meanwhile, at local level the project informs ECOWAS citizens of their mobility rights and promotes local policy implementation. Those involved report that some elements of the project have worked very well, such as support for national migration policies and profiles. However, other elements were too ambitious, such as regional mechanisms to facilitate movement for transport companies. Overall, it was felt that the project could have been less broad, but have gone deeper into a few areas where it added real value.

FMM is set to end in 2020, after which there is no further EU support for RFM planned. The EU delegation staff acknowledge that this will be major gap and that there is a risk that the progress that has been generated by FMM will stall. For example, the national migration policies that FMM has supported will need action plans for implementation, while the regional migration policy that FMM West Africa has supported still needs to be adopted, implemented and used. Without the ongoing support of FMM West Africa or a similar RFM-focused project, EU staff question whether such progress will happen.

There is a recognition among some EU officials in the region that the current focus on projects with short-term goals related to irregular migration has led to work on RFM being abandoned. They stressed that it is important to make the case in Brussels that ongoing support for RFM is of value for long-term growth and development goals. Other agencies reflect this opinion, with some suggesting that the EU's irregular migration agenda is crowding out space for any other mobility-related funding, including on RFM. IOM, in particular, expressed frustration that the EU focuses such a large proportion of its funding on return, reintegration and migration management, leaving very little to support the longer-term migration priorities of the region, such as RFM.

Finally, it is important to note that the EU delegation in Abuja has a strong dedicated section dealing with ECOWAS, reflecting the long-held priority EU has given to supporting

ECOWAS. However, coordination between EU delegations within ECOWAS member states is reportedly limited. It is reported that while all delegations discuss their programming with Brussels, they do not discuss so much with each other. This has implications for the ability of EU delegations to support member states in advancing the RFM agenda in a coordinated manner and in line with ECOWAS commitments.

#### 4.7 Recommendations for future EU engagement in the ECOWAS region

There are various areas in which the EU could strengthen its engagement in order both to mitigate the negative impacts that its policies are having on free movement in the region, and to better support ECOWAS and its member states to actively advance free movement and fully implement the Free Movement Protocol. These include:

- The EU should be honest about the tensions between its interests in curbing irregular migration and the ECOWAS region's own interests in RFM. There needs to be frank discussion on how to balance these, rather than a pretence that EU measures to curb irregular migration (migration management, strengthening borders etc.) are always helpful for RFM. A most honest approach could help to improve the EU's credibility with African partners and create more positive conditions for dialogue and cooperation.
- In its work on migration in the region the EU should engage simultaneously at regional and member-state level. It should seek to foster and incentivise greater links and coordination, and a common vision, between regional and national levels across all its migration work. It should avoid "picking off" individual countries for engagement in ways that undermine regional coherence or ambitions.
- The EU should recognise the value of RFM for long-term development and growth in the region, and thereby for the EU's own interests. It should provide substantial funding for long-term regional priorities on RFM and rights-based inter-regional labour mobility. This will help counterbalance the current over-emphasis on short-term prevention and return agendas. This funding for long-term mobility agendas should be done through traditional development programming, as the EUTF is not an appropriate instrument for this. In particular, the EU should identify which elements of the FMM West Africa project are of most value in promoting RFM, and develop a second phase or new project under the next RIP that can take forward and scale up these successful elements.
- The EU should engage with and provide support to *all* ECOWAS countries to strengthen national frameworks on migration, with a focus on facilitating rather than preventing movement. Critically, such support should not just be limited to those members that are origin and transit states for irregular migration. This can help create the consistent, region-wide capacity that is required to implement RFM. Such support can include, for example, development and implementation of national migration and national labour policies in line with regional policies, strengthening legal frameworks and relevant institutions, implementation of biometric identity cards etc.
- All EU programming on border management should seek to facilitate and streamline movement, take into account the continued reality of harassment and extortion, and avoid adding extra layers of security or bureaucracy that provide opportunities for such

harassment. There needs to be a recognition that just strengthening border infrastructure and procedures when border institutions and officials are ineffective and/or corrupt has a negative impact on free movement. ECOWAS should be consulted and involved in all work on border management, given its remit to ensure RFM.

- EU-supported awareness campaigns warning of the dangers of irregular migration should be accompanied by awareness campaigns informing ECOWAS citizens of their rights and opportunities to travel and work in the region. Analysis of where labour needs and surpluses are in the region could be helpful in providing citizens with practical and detailed information about migration options. Likewise, it is important to provide information about citizens' rights to travel, and the documentation required to help migrants resist extortion at the border.
- The EU needs to focus more on encouraging and supporting member states to deliver on ECOWAS RFM commitments. EU migration funding can be provided in ways that provide capacity and incentives for member states to implement ECOWAS commitments and to work with ECOWAS in doing so. This requires EU delegations in member states to be better coordinated with the delegation in Abuja and its support for ECOWAS.
- The EU could consider supporting a few member states to implement the Free Movement Protocol in full, documenting all the steps involved. This could then provide a model for other states to undertake full implementation. Beginning with high-capacity states such as Ghana or Senegal could be an option.
- The EU can support strengthened leadership in ECOWAS, encouraging it to provide greater strategic direction and more effective coordination. Particularly useful would be strengthening the analytical capacity, political skills and organisational management capacity of the President's office and of other senior management.
- The EU should provide ongoing support to the ECOWAS free movement directorate beyond the life of FMM West Africa. This should aim to support the directorate with core elements required to advance RFM. For example, the implementation of the regional migration policy, and the biannual reviews of the implementation of the Free Movement Protocol.

## **5 Conclusion**

It is clear that over the last few years the priorities of Europe and Africa on migration have been pulling in opposite directions, creating significant tensions in the relationship between the two, as seen, for example, in relation to the unbalanced implementation of the JVAP or at the 5th AU–EU Summit in Abidjan in 2017. As the AU advances an ambitious policy agenda for increased intracontinental economic integration and free movement, the EU is focused largely on stemming irregular migration to Europe. No matter how much the EU insists that these two agendas are not in tension, it remains the fact that one seeks to encourage movement, and the other to prevent it.

The role of the regional economic communities is critical in this dynamic. It is at regional level that African ambitions for free movement will be either realised or thwarted. It is also at regional level that the significant political and capacity challenges to advancing RFM are visible. Critically, it is at the regional level that the impact of the EU's efforts to stem irregular migration can be seen, and where these efforts interact with existing or nascent RFM regimes. While each regional economic community has its own unique political dynamics and sets of interests in relation to free movement – which are inevitably the primary factor shaping progress on RFM – it is important to understand how these dynamics are influenced by the EU's political engagement, funding and programming on migration.

This research finds that the EU's current migration agenda and priorities are impacting the realisation of RFM in both the IGAD and ECOWAS regions, although to different degrees and in different ways. In IGAD the EU is supporting progress towards RFM, although this support is limited because of the low priority given to these issues within the EU's current migration agenda. Support for RFM could be scaled up and placed more centrally within the EU's migration engagement in the region. This could be done, in particular, through enhanced support for the ratification and implementation of the IGAD Free Movement Protocol, going beyond the IGAD secretariat also to work with member states across the region, and placing it more centrally within political dialogue with these member states.

In the ECOWAS region the EU is planning to end its current support for RFM, with no plans for further programming after the FMM West Africa project finishes. Moreover, there is evidence that current EU engagement on migration is actually undermining RFM at multiple levels. At the political level the EU is undermining regional coherence through its bilateral engagement with certain member states. At the policy level it appears that the EU is skewing the ECOWAS agenda towards a focus on irregular migration that serves EU, not ECOWAS, interests, including viewing RFM through this lens. Meanwhile, at programming level, it seems that some EU-supported programmes aimed at reducing irregular migration are making it harder for people to move across borders, are sending unbalanced negative messages about the risks of migration, are fuelling a disconnect between national and regional levels, and are increasing disparities in institutional capacity on migration among countries in the region.

These differences in EU engagement and impact in the two regions are due to a number of factors. In the IGAD region free movement is not a reality, nor is there much regional coherence and collaboration across other areas. This means not only that free movement is not a factor enabling migration pathways to Europe, but that there is little regional collaboration in place for the EU to undermine through its engagement on migration with IGAD member states. Meanwhile, in the ECOWAS region free movement is an (albeit imperfect) reality, and a significant factor in facilitating irregular migration pathways to EU. There is also significant (although again imperfect) regional coherence within ECOWAS that can be put at risk by EU bilateral engagement on migration.

Migration patterns are also an important factor in shaping the differences in EU engagement in the regions. The number of migrants travelling to the EU from the ECOWAS region are significantly higher than from the IGAD region. Hence, the primary focus of the EU's migration engagement in the ECOWAS is migration management, with a strong security focus. Meanwhile, in the Horn of African the challenge of migration is seen more through

a development lens, and the numbers are less pressing, so the main focus of EU migration engagement is around governance, conflict reduction and economic opportunities.

It is particularly interesting to note that the discourse of both EU and African officials in relation to RFM in the IGAD region is that this would be a win-win situation, giving more opportunities to people in the region and therefore discouraging them from coming to Europe. Meanwhile, the discourse among European actors in ECOWAS, while not directly blaming RFM for enabling people to migrate to Europe, is very strongly focused on the weakness of ECOWAS borders and the need to strengthen them – in essence that ECOWAS open borders are a problem. There was no suggestion from any European stakeholder interviewed that RFM in ECOWAS is a win-win situation that keeps people in the region.

Another factor shaping the EU's level of enthusiasm for supporting RFM appears to be perception of the political momentum and opportunities for progress in the region. EU officials recognise that geopolitical changes in the Horn of African offer an opportunity for progress on regional integration and RFM, which can be built on. Meanwhile, many EU and European member state officials expressed frustration with political stagnation within ECOWAS, with the failure of previous investments in ECOWAS to produce the desired outcomes, and with the poor leadership of Nigeria. Some officials clearly felt that further engagement with ECOWAS would produce few results.

## 5.1 Priorities for future EU support for RFM in each region

As detailed in the sections above, there are concrete steps the EU could take in both the IGAD and ECOWAS regions in order to strengthen its support for RFM.

In the IGAD region the EU should seek to build on the current geo-political momentum. This requires engaging strongly with member states both on RFM specifically, and more broadly on the value of IGAD. It also requires fostering and incentivising greater links between regional and national levels across all the EU's migration work.

It is important that the EU develops a follow-up to its project Towards Free Movement and Transhumance in the IGAD Region, to support IGAD and member states in ratifying and implementing the protocol. Support for national implementation capacity must begin soon so that member states are ready to move ahead once the protocol is agreed. Given the long-term and policy-oriented focus of this work, as well as the need for strong government ownership, such a project should be primarily funded from mainstream development funds. Successfully supporting IGAD to deliver on RFM requires the EU to strengthen its own capacity and coordination in the region.

In the ECOWAS region, the EU must be more honest about the tensions between its irregular migration agenda and ECOWAS's RFM ambitions. It should recognise the value of RFM to long-term development goals and continue to provide substantial funding in this area through traditional development instruments. The EU must engage both at bilateral and regional levels on migration issues, and should structure such engagement to incentivise greater coordination between regional and national levels and encourage member states to deliver on RFM commitments.



Rather than cherry-picking partner countries, the EU should provide support to all ECOWAS member states to strengthen national migration frameworks, with a focus on facilitating rather than preventing movement. Finally, it is critical that the EU critically examines its current programmes to ask how these affect the free movement of ECOWAS citizens.

## 5.2 Overarching recommendations for strengthening EU support for RFM across both regions

Despite the differences in EU engagement and impact across the regions, some common themes emerge regarding how the EU could strengthen its support for RFM in both regions, both at policy and programming level.

At policy level the EU should:

- Adopt a broader and longer-term perspective on migration that could rebalance the current narrow, short-term focus on irregular migration. This would begin with a recognition that the vast majority of people migrate within Africa, that harnessing the potential of such intraregional and intracontinental movement is the priority for African actors, and that this requires long-term sustained support.
- Based on this, recognise that RFM – and the growth and development benefits it can bring – is of value to both EU and African interests, and make support for RFM central to the EU’s migration engagement in Africa at both regional and bilateral level.
- Actively support regional coherence and regional-level action on migration and RFM. This includes by seeking to strengthen links between regional and national levels in policy dialogue and programming, avoiding bilateral engagement that undermines regional coherence, working with all countries in a regional economic community, not just those that are origin or transit countries for irregular migration, and “making the case” with African governments about the value of regional structures and collective action.
- Be honest about the tensions between the EU’s own interests in curbing irregular migration and African interests in advancing free movement. This is especially important in ECOWAS, where EU migration-management programmes are presented as supporting more efficient RFM, but are perceived by many stakeholders as actually undermining free movement.

At programming level the EU should:

- Provide sustained support for RFM through traditional development programming under the next RIPS. While some further funds from EUTF may be needed to fill the gap, the EUTF is not an appropriate vehicle to support long-term, African-owned RFM agendas. This should include developing follow-up projects to existing RFM projects in both regions, which build on what has worked, and supporting national-level implementation.

- Provide tailored capacity support for both regional bodies (recognising that the challenges they face are very different), for example on political leadership, strategic direction, analytical capacity, and outreach to member states.
- Improve EU delegations' capacity and coordination to support RFM. This requires linking the EU delegations in Djibouti and Abuja more effectively to EU delegations across the region in order to support both regional- and national-level actions on RFM in a joined-up way. The EU delegation in Djibouti also requires further human resources in order to effectively engage with and support IGAD.
- Seek to build-in regional elements to programmes dealing with migration management and cross-border issues wherever possible, and avoid programmes that work on these issues with just one country without taking account of broader regional dynamics and ambitions.
- Examine existing programmes that aim to reduce irregular migration in order to assess how they affect both regional coherence and RFM. Take action to mitigate negative impacts and learn lessons to ensure that future programming does not negatively impact free movement. This is particularly critical in the ECOWAS region, but lessons from this region can be applied elsewhere.



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## **ANNEX**

## Annex 1: List of interviews conducted

### Abuja Interviews, March 2019

Organisation	Origin of interviewee
ILO	International
IOM	International
ICMPD	Domestic
FMM West Africa	Domestic
ICMPD	Domestic
EU delegation	International
UNHCR	Domestic
European member state embassy	International
ECOWAS	International
ECOWAS	International
National commission for refugees and migration	Domestic
European member state embassy	International
European member state embassy	International
Civil society	Domestic
Civil society	Domestic
Independent expert	Domestic
Independent consultant	International

### Djibouti Interviews, February 2019

Organisation	Origin of interviewee
EU Delegation	International
EU Delegation	International
IOM	International
IOM	International
IGAD	International
IGAD	International
IGAD	International
ILO	International
GIZ	International

**Addis Ababa Interviews, February 2019**

<b>Organisation</b>	<b>Origin of Interviewee</b>
Ministry of Foreign Affairs	Domestic
IOM	Domestic
EU Delegation	International
European member state embassy	International
African Union	Domestic
UNECA	International
African Union	International
BMM Project	Domestic
GIZ	International
ILO	International
Independent expert	Domestic

**Niger interviews (by phone), March 2019**

<b>Organisation</b>	<b>Origin of interviewee</b>
IOM	International
Civil society	International
European member state embassy	International

**Brussels interviews, December 2018**

<b>Organisation</b>	<b>Origin of interviewee</b>
IOM	International
Civil society	International
ECOWAS	International
DG DEVCO	International
DG DEVCO	International
DG DEVCO	International
EEAS	International
EEAS	International
EEAS	International
EEAS	International

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