

Opening Borders for Migration in the East African Community:

Progressive Yet Uneven Reform



Table of Contents

| | |
|--|----|
| List of Figures | 3 |
| List of Abbreviations | 4 |
| Executive Summary | 5 |
| 1. Introduction | 6 |
| 2. The colonial pre-history of the East African Community | 6 |
| 3. Post-independence – the first East African Community and after | 8 |
| 4. The second East Africa Community – 1999 to the present | 8 |
| 5. Institutions of the East African Community | 9 |
| 6. Regional forums for cooperation on migration | 10 |
| 7. East African migration trends | 11 |
| 8. The common market, the movement of people and the right to work | 16 |
| 9. Informal and plurilateral arrangements | 19 |
| 10. Variations of cross-border employment practices in the EAC | 19 |
| 11. Coordination and harmonisation of social systems | 20 |
| 12. The EAC, asylum seekers and refugees | 21 |
| 13. Digitalisation, Integrated Border Management and One Stop Border Posts | 22 |
| 14. East African passport | 25 |
| 15. The East African Court of Justice – sovereignty and limits to its powers | 25 |
| 16. Gaps in East African Community migration policy and practice | 28 |
| 16.1. Discursive Gap | 28 |
| 16.2. Implementation Gap | 29 |
| 16.3. Efficacy Gap | 30 |
| 17. Political economy of migration integration in East Africa | 31 |
| 18. Conclusions and recommendations | 32 |
| References | 34 |

List of Figures & Tables

| | |
|---|----|
| Figure 1 | |
| East African Community migration patterns | 12 |
| Figure 2 | |
| The regional destination of East African migrants | 13 |
| Figure 3 | |
| Country of destination for EAC migrants in Africa | 13 |
| Figure 4 | |
| Migrants into the EAC and their share of the population | 14 |
| Figure 5 | |
| Main migration routes in the EAC as of 2020 | 15 |
| Table 1 | |
| Citizens of EAC states recorded entry into other EAC states | 15 |
| Table 2 | |
| Refugees' and asylum seekers' main hosts in East and Horn of Africa | 21 |
| Table 3 | |
| Planned One Stop Border Posts in East Africa, 2012 | 23 |
| Table 4 | |
| Attitudes towards immigrants within the region: Gallup 2017 | 30 |

List of Abbreviations

| | |
|---------------|--|
| AfCFTA | African Continental Free Trade Agreement |
| AU | African Union |
| BBC | British Broadcasting Association |
| CMP | Common Market Protocol as in EAC CMP |
| COMESA | Common Market for East and Southern Africa |
| EAC | East African Community |
| EACJ | East African Court of Justice |
| EACSO | East African Common Services Organisation |
| ECOWAS | Economic Community of West African States |
| GDP | Gross Domestic Product |
| IBMs | Integrated Border Management systems |
| ID | Identity Document |
| IGAD | Intergovernmental Authority on Development |
| ILO | International Labour Organisation |
| IOM | International Organisation for Migration |
| MIGRA | Migration Governance Reform in Africa |
| NCTTA | Northern Corridor Transit and Transport Agreement |
| NIC | National Implementation Committee |
| OSBP | One Stop Border Post |
| RCP | Regional Consultative Process on Migration |
| REC | Regional Economic Community |
| RMFM | Regional Ministerial Forum on Migration |
| RMG | Regional Monitoring Group |
| TVET | Technical and Vocational Education and Training |
| UNDESA | United Nations Department of Social and Economic Affairs |
| UNHCR | United Nations Human Rights Commission |
| UK | United Kingdom |

Executive Summary

This paper, one of a series on migration governance in Africa, examines the progress made in the East African Community towards freer migration in the East African region.

It describes the East African Community, how it has evolved and its institutions. The broad finding is that the EAC has made considerable progress towards the freer movement of persons, more than most other African regional communities, but that the progress remains uneven and far from complete.

There has been a notable increase in cross-border movement of people since 2010 when the Common Market Protocol to the EAC was adopted. Another positive factor has been the commitment to the protocol by some of the leading countries of the region. Uganda, Kenya and Rwanda have moved further ahead in integration in some respects, but this paper argues that this has not undermined the regional integration process. The introduction of One Stop Border Posts which preceded the Common Market protocol has also had a significant positive impact. The density of formal and informal institutions supporting the process of integration has also been a positive factor.

Some concerns are that countries admitted to the EAC more recently have not been able to keep pace with the leaders, that the East African Court of Justice has been thwarted in its attempts to enforce the EAC Treaty in respect of freedom of movement, and that the harmonisation of educational qualifications and social systems has been too slow.

On balance, the momentum has been forward and the EAC experience offers more positive than negative lessons.

1. Introduction

This working paper is the fifth case study under the New South Institute's Migration Governance Reform in Africa (MIGRA) programme. The project aims to map viable pathways for improving the ease of movement and settlement by Africans (and potentially visitors) across African borders and improving the management of such migration. Better managed regular migration helps lessen the pressure for irregular migration and contributes to African economic, social and cultural development in many ways, as we discuss in our framework paper (Hirsch, 2023). Our 'trends' paper allowed us to review and process recent data on the movement of people within and beyond Africa, and to study patterns within such migration insofar as the data allowed (Mutava, 2024).

By 'viable' pathways, we mean practical pathways, given the capabilities of state and supra-state institutions and doable in political and economic circumstances. By 'improving ease of movement', we mean introducing better processes, reducing unnecessary obstacles faced by Africans who seek to cross African borders and improving the welcoming stance of the receiving state and other stakeholders. Ease of 'settlement' refers to the rights of the migrant to study, work, buy a home, and buy or start a business in the host state. By 'management', we mean the management systems for granting permission to cross borders, recording cross-border movement, and exchanging relevant, accurate information about individuals who cross the border between the origin and destination states. By 'pathways', we mean the incremental, sporadic or ambitious reform processes undertaken by states domestically, bilaterally with other states or multilaterally within a regional framework.

The approach we have adopted in the case studies is to set out the historical background, describe migration trends, examine policies and their implementation and come to conclusions and recommendations where

possible. To sharpen our analytical insights, we have adopted a methodology proposed in de Haas et al, 2019, which proposes a three-gap analysis of migration policy and implementation – the discursive gap, the implementation gap and the efficacy gap. In addition, we consider political economy factors within the member countries and between the member countries. These analytical tools help to sharpen the analysis and pave the way for substantive conclusions and recommendations.

The continent is divided into five geographic regions, North, Southern, East, West and Central, under the Organisation of African Unity (OAU) 1976 Council of Ministers Resolution.¹ This paper considers developments in East Africa. The African Union (AU) recognises eight regional economic communities (RECs) which do not fully coincide with the five geographic regions.² RECs are pillars for establishing the African Economic Community (AEC), and the East African Community (ECOWAS) is one of the eight RECs. The founding members of the EAC were Uganda, Tanzania and Kenya. Later they were joined by Rwanda and Burundi, and more recently South Sudan, the Democratic Republic of the Congo (DRC) and Somalia have joined the EAC. Three EAC members are also members of the Intergovernmental Authority for Development (IGAD) which is centred on the Horn of Africa, and two are also members of the Southern African Development Community (SADC).

The EAC is widely regarded as one of the most successful of the regional economic communities in achieving integration and coordination, including provisions for the movement of people. It shares this honour with ECOWAS – the official West African community – examined in a previous report of the MIGRA programme (Amadi, 2025).

2. The colonial pre-history of the East African Community

The current East African Community has

¹See the OAU CM/Res.464QCXVI.

²The other RECs include the Economic Community of Central African States (ECCAS) covering Central Africa, the East African Community (EAC), the Intergovernmental Authority on Development covering East Africa, the Arab Maghreb Union, the Community of Sahel-Saharan States (CEN-SAD) covering North Africa, the Southern African Development Community (SADC), and the Common Market for East and Southern Africa (COMESA) covering Southern Africa.

a short history, but a long pre-history. Its members were colonised largely in the last quarter of the 19th century. Tanganyika, Burundi and Rwanda were claimed by Germany, Kenya came under Britain's possession as a colony, while Uganda and Zanzibar were British 'protectorates' in name but colonies for most purposes. After the defeat of Germany in the First World War, Rwanda and Burundi were claimed by Belgium, and Tanganyika by Britain as 'mandate' colonies, mandated by the League of Nations (Mshomba, 2017, pp. 34–35). South Sudan was part of Sudan, which was also colonised by Britain in the late 19th century.

Mshomba (2017, p. 36) describes transport systems in the region as 'disarticulated'; they generally linked the colonies to the sea for foreign trade and did not link the colonies to each other. In the early years of colonialism, concessionary companies such as the British East Africa Company were given the responsibility for colonial rule, in exchange for economic monopolies.

There was not much integration even of the colonies falling under the same colonial powers at first. Britain explored the establishment of a federation of its East African colonies in the 1920s, but several commissions of enquiry, consulting local elites, turned this idea down. Uganda and Kenya formed a customs union in 1917, where they were joined by Tanganyika in 1923, though Tanganyika maintained a separate administration until 1949 (Mshomba, 2017, pp. 37–40). A common market in goods, capital, services and labour was established at this time. Another area of integration was in the currency after the establishment of the East Africa Currency Board in 1919. Tanzania, having been shifted to a British mandate, joined the currency board in 1921, and the rupee and the mark were replaced with the East African shilling. Zanzibar joined in 1936.

There were several other modalities of cooperation – a regular conference of colonial governors from the East African colonies

acquired a secretariat in 1926 (Basnett, 2013, p.136). There was also a joint East African Income Tax Board and a joint Economic Council. The Governors' Conference led further regional schemes such as the East African Airways Corporation established in 1946, and East African Railways and Harbours in 1948. Tanganyika and what are now Rwanda and Burundi were converted from mandate states to trusteeships under the United Nations but remained essentially colonies of the United Kingdom and Belgium, respectively (Mshomba, 2017, pp. 40–41).

In 1948 the Governors' Conference became the East African High Commission, headquartered like many East African institutions in Nairobi. It was still led by the governors of Kenya, Uganda and Tanganyika and was now responsible for administration, finance, posts and telegraphs, telephone and radio, railway and harbours, civil aviation, research and science, economic services, and defence. Kenya's governor was in the chair.

The colonies had a common tax system, but expenditure was decentralised to each governor. Tanganyika and Uganda were dissatisfied with the fiscal structure as they felt that they were disadvantaged. As the economically dominant colony which also dominated intraregional trade within East Africa, especially in manufactures, Kenya collected a much larger proportion of taxes. In the 1950s, Kenya contributed about 54 per cent of regional exports and 80 per cent of intraregional manufacturing exports (Mshomba, 2017, pp. 40–44).

As the region headed towards independence after sometimes bloody struggles for freedom, the colonial power sought to entrench economic cooperation in the region in a common market and established an East African Common Services Organisation (EACSO), which had responsibility for a similar set of activities to the East Africa High Commission. Julius Nyerere, leader-apparent of an independent Tanganyika, sought the establishment of a federation to

entrench regional cooperation, and withdrew from talks on east African cooperation even considering the postponement of Tanganyika's independence. A revised fiscal formula making available a small subsidy from Kenya to the other colonies was put in place in the preparations for independence. (Mshomba, 2017, pp. 46).

3. Post independence – the first EAC and after – 1961–1999

As the countries of the region attained independence, nationalism and a more inward focus emerged. Tanganyika got its independence in 1961, Uganda in 1962 and Kenya in 1963. A year later, Tanzania was formed as a single state out of Tanganyika and Zanzibar. According to Basnett, the common market remained in place (Basnett, 2013, p. 136). Some of the nationalist discontent was directed at the state of EACSO, which seemed to favour Kenya, where EACSO and most of the major companies of the region were based – the tax redistribution scheme was seen to be far from compensating sufficiently for the benefits Kenya had. The first step to resolving it was the Kampala Agreement of 1964, which included some interventionist strategies designed to rebalance development within the region, including some misguided attempts to relocate industries (Mshomba, 2017, pp. 50–53).

After a commission led by Danish consultant Kjeld Philips, the Treaty for East African Cooperation was signed by the presidents of the three countries. It managed to prolong the life of the cooperative structures by introducing more rebalancing elements including the decentralisation of the administration to the other two capitals, an intra-regional trade tax, and a development bank intended (again without impact) to support the decentralisation of industrialisation, and some harmonisation of policies, including monetary policy, in light of the ending of the currency union, but again these failed. Though the system of cooperation was called a common market, it did not allow for the free movement of capital and labour

within the regional grouping.³ The East African Community (EAC) limped on from 1967 to 1977 when, under internal strain, amplified by the rise of Idi Amin, war in the region, and differences in economic ideology and policy, it disintegrated (Mshomba, 2017, pp. 53–69).

Trade and other interactions in the region continued, though because of the non-alignment of fiscal and monetary policy, which led to arbitrage, much of the trade in the region was through smuggling. Both during and after the first EAC period, Kenya moved ahead relatively strongly so that by 1999 Kenyan exports made up 90 per cent of the region's total exports and dominated the regional market as well. The other two members of the original EAC, Uganda and Tanzania, were left behind (Mshomba, 2017, p. 56).

4. The second East African Community – 1999–present

Before the re-establishment of the East African Community, COMESA⁴ led the way in reducing economic and social barriers, including the freedom of movement of persons. The free movement of people in COMESA is governed by the 1984 Protocol on the Gradual Relaxation and Eventual Elimination of Visa Requirements and the 1998 Protocol on Free Movement of Persons, Labour, Services, the Right of Establishment and Residence. By 2022 – more than two decades after its creation – only four member states, including Kenya, had signed the 1998 Protocol and only one, Burundi, ratified it. In addition, three other member states decided to waive visa requirements for COMESA nationals – Mauritius, the Seychelles and Rwanda. To accelerate the implementation of the Protocol, member states agreed to harmonise their national laws based on the COMESA Model Law on Immigration (Interview BC).

The complex of governance regimes under which countries in East Africa manage the movement of people is very complex. For example, when developing their national labour migration policies, Kenya and Uganda

³Authorities differ on whether a full free market was provided for in the 1967 EAC. I checked the treaty itself and found no reference to free movement of labour or persons Yurendra Basnett, 'Labour Mobility in East Africa: An Analysis of the East African Community's Common Market and the Free Movement of Workers', Development Policy Review, 31(2), 2013, p. 136 has a similar view.

⁴COMESA is the Common Market for East and Southern Africa which was established in 1994 and includes 21 countries more or less on the eastern side of the African continent and in the Indian Ocean.

would need to be in alignment – at least theoretically – with the protocols established by COMESA, EAC and IGAD⁵, and Tanzania with the protocols of the EAC and SADC. Beyond this, we could include the African Union’s Free Movement of Persons protocol and the Movement of Persons regime contained in the Services protocol of the African Continental Free Trade Agreement (AfCFTA) (see Hirsch, 2024). However, only the Common Market Protocol of the EAC Treaty has been fully ratified (ILO, 2022, p. 18).

The dissolution agreement of the first post-colonial EAC finalised in 1984 contained a commitment to agree to explore areas of cooperation. At the Commonwealth Heads of Government in Harare in 1991, the heads of state of the three countries had a side meeting where they agreed to explore the revival of the EAC. Mshomba argues that the circumstances for cooperation had improved as the three countries had moved closer regarding how they approached economic development after the disappointments of African socialism, the end of one-partyism and having experienced the brutal reforms imposed in the structural adjustment programmes of the international financial institutions (Mshomba, 2017, p. 74). By 1993 a Permanent Tripartite Commission was in place, strengthened with a secretariat in 1996. The treaty to establish the new East Africa Community was signed in 1999 and came into force the following year.

The first big step was the reintroduction of a customs union in 2005. This was facilitated by Kenya’s acceptance of asynchronous implementation – Kenyan trade barriers would go down first, the other two members largely synchronising their internal tariffs by 2010. The new external tariff arrangement had the effect of the liberalisation for Kenya and Tanzania, while Uganda’s tariffs were already lower than the common level. The common external tariff was a cap rather than a fixed tariff (Mshomba, 2017, pp. 76–85). The EAC also set up a dispute mechanism procedure to try to reduce persistent non-tariff barriers. In 2007, Rwanda and Burundi joined the EAC. Between then and 2024, the five members of the EAC were joined,

in succession, by South Sudan, the Democratic Republic of the Congo (DRC) and Somalia, increasing the EAC’s overlap with IGAD, the regional economic community for the Horn of Africa, and SADC, the Southern African Development Community.

The increased diversity of the colonial origins of the members of the EAC made the task of legal alignment within the community rules more complex. An East African expert interviewed indicated that this complexity was one factor inhibiting legal alignment (LO 2024).

5. Institutions of the East African Community

The East African Community (EAC) is managed by a Secretariat. This is the executive body of the EAC and is responsible for implementing the decisions of the EAC Organs. It is headed by the Secretary General, who is appointed by the Heads of State Summit. The headquarters of the EAC are in Arusha in Tanzania.

The Summit is composed of the Heads of State of all member states. It typically meets at least twice a year but can convene more frequently if necessary. The Summit is the highest decision-making body of the EAC. It sets the overall policy direction and approves major policy decisions, such as the EAC budget, treaties and protocols.

Decisions not specifically reserved for the Summit are made by the Council of Ministers, which is composed of one minister from each member state, typically the minister responsible for EAC affairs. The Council, which meets at least four times a year, implements the decisions of the Summit and oversees the activities of the other EAC institutions.

The Sectoral Council of Ministers responsible for EAC Affairs and Planning established a Regional Monitoring Group (RMG) which, according to a senior EAC Secretariat official, tracks the performance of the common market and usually reports to the ministers every six months. The RMG works with National Implementation Committees (NICs) to obtain data on the free movement of persons and

⁵IGAD is the Intergovernmental Authority on Development consisting of eight countries in or near the Horn of Africa established in 1996

the free movement of workers, as well as the right of establishment and residence. The NICs submit quarterly reports to the RMG (Interview SN). One report to the RMG, dated early in 2024, in addition to extensive material on the trade in goods and barriers to the movement of goods, has detailed data on the movement of persons and cross-border employment over recent years. Analysis in the report notes erratic trends in the data and recommends stronger systems to record and monitor data (EAC, 2024). The establishment of an EAC Technical Working Group on the Harmonization of Migration Data has been welcomed (Oucho et al, 2023, p. 52).

The EAC also uses the Common Market Scoreboard to measure member states' compliance with provisions of the Common Market, including the free movement of persons and labour.

Unfortunately, as far as I could establish, the last Common Market Scorecard was published in 2020, with the last one measuring performance on the free movement of persons being the 2016 edition (EAC webpage (b), ND).

The East African Legislative Assembly is composed of 10 members elected by each state. It meets regularly and is responsible for enacting laws and regulations for the EAC. It can also oversee the activities of EAC institutions.

The Co-ordinating Committee composed of senior officials from each member state meets regularly to coordinate the activities of the Sectoral Committees and facilitate regional cooperation. The Sectoral Committees are composed of experts from each member state in specific areas of cooperation (e.g., trade, agriculture, health) and meet as needed to address policy and implementation issues within their areas of expertise.

The Sectoral Committee on the Movement of Persons is intended to facilitate regional integration and economic development by ensuring that EAC citizens can move freely across borders without unnecessary restrictions. It considers matters such as border control and immigration, work permits

and labour mobility, visa regimes, passport issuance and recognition.

Among the key institutions is the East African Court of Justice, composed of judges appointed by the Heads of State; it holds regular sessions to hear and decide cases. The Court has jurisdiction over disputes between member states, disputes between the EAC and its member states, and disputes between individuals and the EAC.

The level of commitment to the EAC and its institutions is uneven; some member states are way behind in their payment of dues. In June 2024, delegates to the East African Parliament complained that the DRC had not paid any of its remittances for the community institutions and was US\$14 million in arrears. Some other members had arrears approaching that number (Burundi US\$11 million and South Sudan US\$8 million) while the rest had much smaller arrears (Owini, 2024).

6. Regional forums for cooperation on migration

In addition to the institutions for coordination already mentioned, there are some active forums for cooperation on regional migration within the East African Community and now between the EAC and IGAD.

Immigration cooperation is discussed by the EAC Chiefs of Immigration. Initiatives such as the regional e-Immigration Information System, the Regional Strategic Framework for e-Immigration and the One Stop Border Posts Act (2016) were developed in conjunction with this forum. The Integrated Border Management System and the e-Immigration policy are also being developed and implemented in consultation with this forum. The Forum for EAC Ministers Responsible for Labour and Employment has been meeting regularly since 2009. It has helped to develop and improve regional strategies for cooperation and documents related to regional labour and employment issues. The EAC Secretary General's Forum coordinates a tripartite consultation process on regional labour migration (Oucho et al, 2023, pp. 50–52).

Both the EAC and IGAD established Technical Working Groups to facilitate the collection, standardisation and comparability among member states (Tadesse & Mukundi-Wachira, 2022, p. 29).

The EAC recently established a Regional Consultative Process on Migration. An expert told us: “In East Africa, they only formed a coordination forum, an RCP for labour migration recently 2022, the time when the IGAD and EAC came together through the Regional Ministerial Forum for Migration that is being coordinated by IGAD Regional Office” (Interview LO). The EAC RCP is expected to add to the coordination mechanisms by facilitating best practice and harmonisation of systems, for example qualifications, health and social benefits, facilitating seamless migration within the EAC, but also cooperating with the IGAD RCP which was established in 2008 to further harmonisation and coordination between the EAC and IGAD (Oucho et al, 223, p. 59).

A regular broader regional forum is the East and Horn of Africa Regional Ministerial Forum on Migration (RMFM) attended by labour, migration and other ministers from most of the countries in the region. The ministerial meetings are facilitated by the International Organisation for Migration and attended by other UN-linked organisations. There are also Regional and National ‘Technical Advisory Committees’ and ‘Technical Working Groups’ working on bilateral labour agreements, ethical recruitment, migrant workers’ rights, skills development and job creation. Other issues covered include youth employment, return and reintegration of migrant workers, gender and diaspora, private sector engagement, and consular services to migrants.

After the 4th meeting of the RMFM in Addis Ababa early in 2023, Muferihat Kamil Ahmed, Ethiopian Minister of Labor and Skills, noted that

“The need for gatherings of key stakeholders in labour mobility, migration governance and regional integration such as this can never be overstressed. It is

common knowledge that this area is facing new challenges which are particularly urgent to be addressed.”

I have observed before in our migration governance research that forums like this, which are not decision-making centres but places to exchange views on key issues, can play a critical role in building understanding and levels of trust that lead, ultimately, to firm commitments (Hirsch, 2023). The density of institutions and forums on migration in East Africa may seem excessive, but meetings in forums and in technical groups of senior officials, sometimes in preparation for ministerial meetings, are important in explaining successful outcomes.

7. East Africa migration trends

Current migrant flow data is difficult to obtain, so most migration data for East Africa is based on the outcome of censuses or surveys of the origin of people in the region – stock data, not flow data. We based our trends analysis on the United Nations Department of Economic and Social Affairs (UNDESA) data for 2020, also used by the recent IOM/AU ‘Africa Migration Report Second Edition Connecting the Threads’ (IOM, 2024). This data was previously presented in our project’s report ‘An Analysis of Trends and Patterns of Migration in Africa’ written by Michael Mutava (2024).

Between 1990 and 2020, the East African Community’s population increased by 131 per cent from 84 million to 195 million people. The stocks of immigrants and emigrants rose by 159 per cent and 143 per cent, respectively, over the same period. Immigration outpaced population growth, resulting in a small rise in migrant density. Migrant density was declining until 2010; since then, it has risen steadily, reaching 2.73 per cent in 2020 as shown in Figure 1. Indeed, the EAC has a higher immigrant density than other African regions, though it is still quite low by global standards. The recent growth in immigration could be in part a result of the EAC Common Market Protocol, which came into force in 2010 after ratification by all EAC states which

were members at that time. While in part a result of deeper integration among a subset of members of the Community, the higher immigrant density was also partly the result of increased refugee numbers due to conflicts in surrounding countries such as Sudan, South Sudan, Somalia, Ethiopia and the DRC. The members of the EAC for the purposes of this data analysis are as it was in 2020, therefore not including the DRC, which joined in 2022, or an even more recent new member, Somalia.

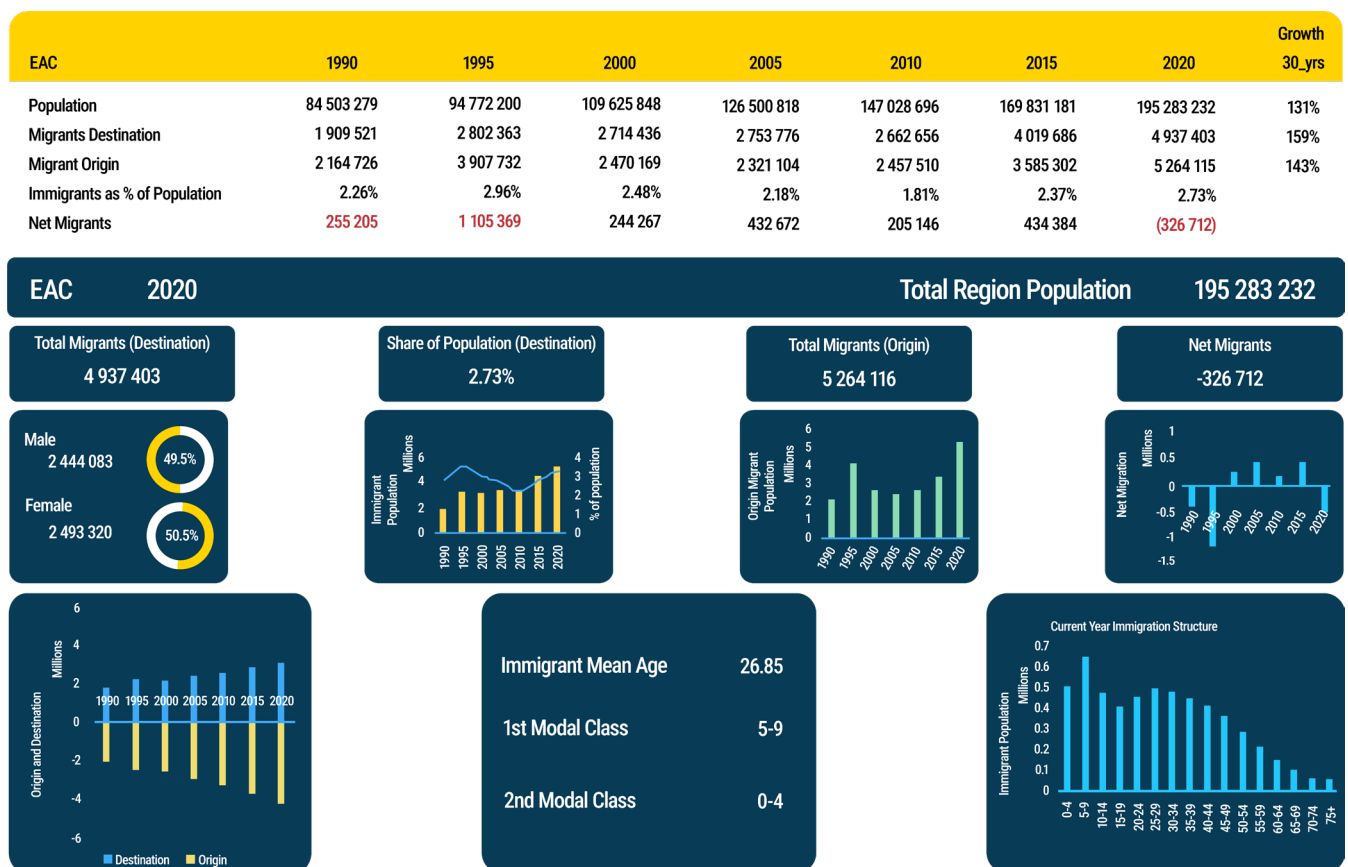
In recent times, there have been four main drivers of migration within East Africa (see ILO, 2022, pp. 11–12). Political and military conflicts in countries such as Sudan, South Sudan, Somalia and the DRC have led to very large flows of refugees, mainly housed in the region. Secondly, East Africa is a destination from countries within the region and other parts of Africa for work opportunities, in skilled and low-skilled sectors. East Africans also

look for work abroad, significantly in the Gulf states. And finally, climate events from time to time can cause significant displacement.

While the gender pattern of migration is close to parity, the age distribution of migrants in East Africa is skewed towards children and young adults, suggesting the role of refuge and job seeking in the motivation of migrants into East Africa. The data also shows that emigration from the region slightly exceeds immigration into the region.

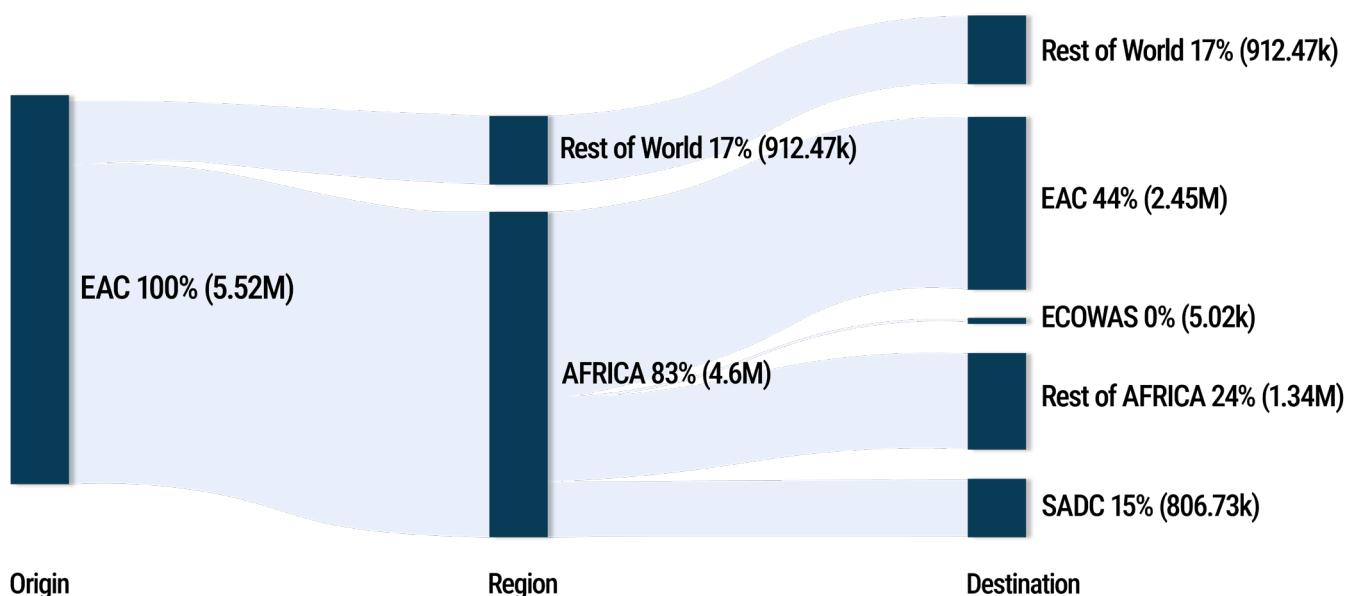
As of 2020, EAC was the source of 5.3 million emigrants, 83 per cent of whom had emigrated to other African countries (including the EAC). As Figure 2 shows, the largest group of emigrants went to other EAC countries, followed by those who moved to Southern African Development Community (SADC) countries. Nearly 17 per cent emigrated out of the African continent.

Figure 1 Summary of crucial ECOWAS statistics and trends



Source: Mutava, *An Analysis of Trends and Patterns of Migration in Africa*, New South Institute, 2023

Figure 2 The regional destination of EAC migrants

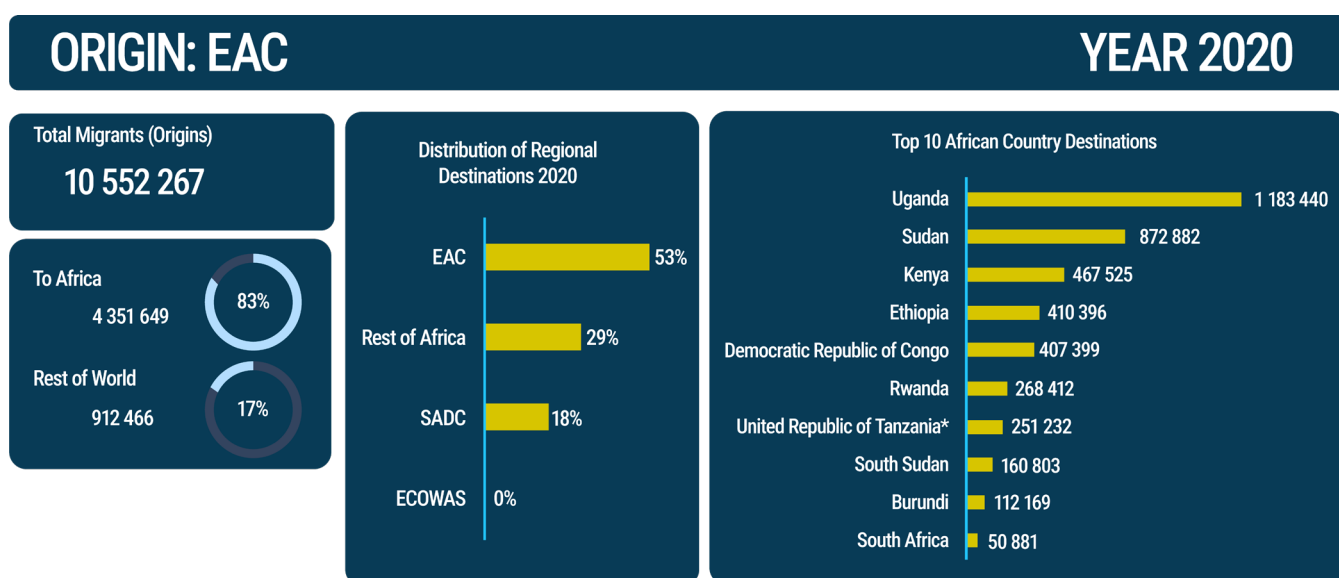


Source: Mutava, *An Analysis of Trends and Patterns of Migration in Africa*, New South Institute, 2023

Figure 3 shows the top African destination of EAC migrants. The two top countries, Sudan and Uganda, are probably in that position because of the movement of refugees from the Sudanese crisis in the early 2010s and the ongoing crisis in Eastern DRC. Some of the immigrants into Kenya are refugees, especially those who have crossed Kenya’s long eastern border with Somalia. But other data presented in a related study shows that Kenya also

attracts skilled migrants from other parts of Africa, including many from within the EAC. Nearly half of people born outside Kenya living there came from other countries in the EAC, and a similar number from the rest of Africa, excluding SADC and ECOWAS. Of foreign-born employees in Kenya in 2019, more than half were medium-skilled and 15 per cent were high-skilled (Mutava, 2024).

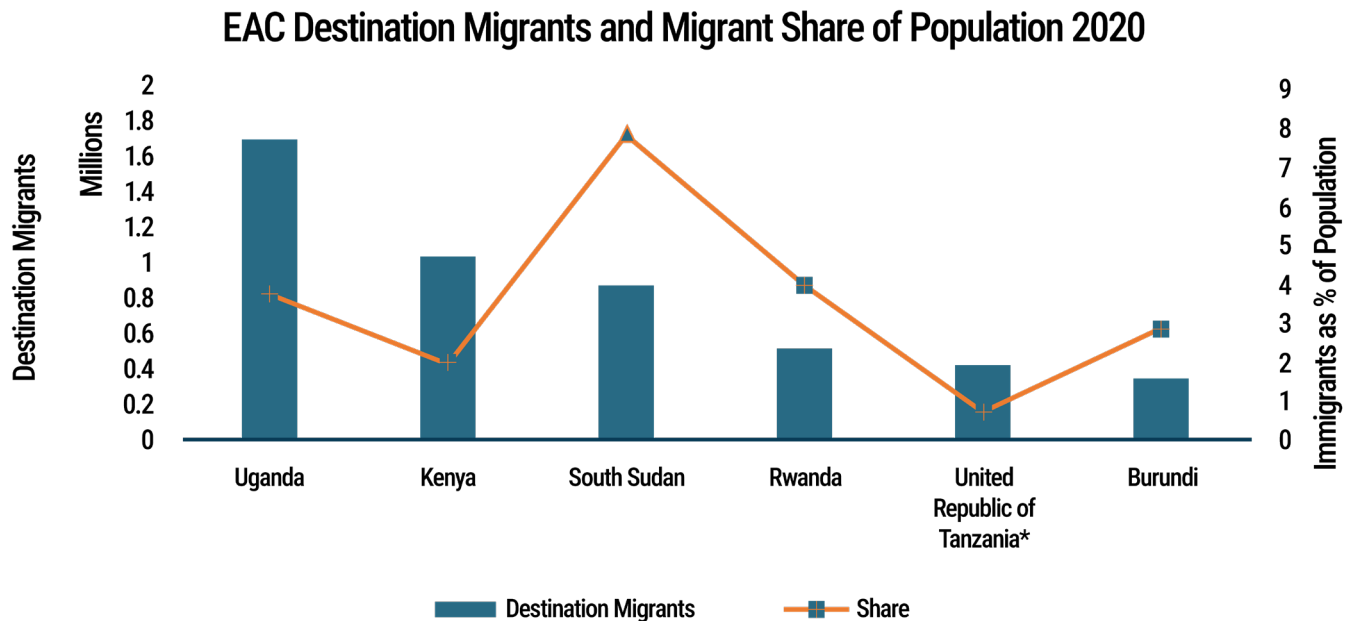
Figure 3 Country of destination for EAC migrants within Africa



Source: Mutava, *An Analysis of Trends and Patterns of Migration in Africa*, New South Institute, 2023

*Tanzania data corrected for double counting.

Figure 4 Migrants into EAC members and share of population



Source: Mutava, *An Analysis of Trends and Patterns of Migration in Africa*, New South Institute, 2023

*Tanzania data corrected for double counting.

In 2019, 7.7 million international migrants were counted in East Africa, the largest number in an African region in that year (ILO, 2022, p. 12). In 2020, possibly due to COVID, the total had fallen to around 5.3 million (Figure 3). Figure 4, unlike the other figures, includes South Sudan within the EAC. It is evident that the largest number of migrants has been absorbed by Uganda, while the country with the largest share of migrants in relation to its population is South Sudan. In both cases, refugees make a major contribution to those numbers. As of 31 March 2024, there were 1 660 524 refugees and asylum seekers in Uganda, most of whom were from South Sudan and the DRC (UNHCR, 2024a). In South Sudan, there were 651 496 arrivals by 21 April 2024, who comprised largely returnees and refugees from Sudan (UNHCR, 2024b). In Kenya, as of 31 March 2024, there were 767 294 refugees and asylum seekers, the largest numbers from Somalia and South Sudan (UNHCR, 2024c).

The biggest direction of movement within the EAC has been the flow of over a million people

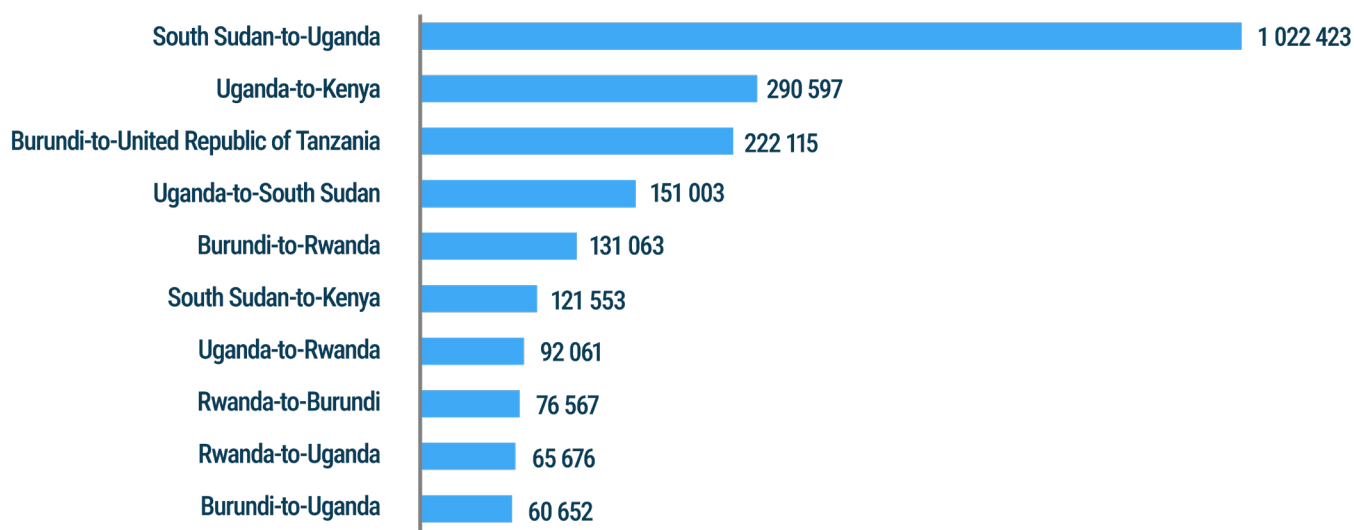
from South Sudan to Uganda. Uganda’s widely lauded inclusion strategies for refugees are likely one of the main reasons for this outcome (Hanatani, 2023). Uganda’s progressive policy for refugee inclusion integrates refugees into national development plans, granting them land, freedom of movement, and access to public services like education and healthcare. While it prioritises self-reliance and resilience, it faces significant challenges, including underfunding and environmental pressures.

Figure 5 shows that the South Sudan-Uganda route is the dominant one in the EAC, that it is largely unidirectional, and is symptomatic of a refugee-type flow.

While the EAC has been discussing a common position on the management of refugees and asylum seekers, there is no common policy on refugee management at present. While the issue of refugee policy is discussed in our case study on Kenya (Mutava 2024), the policy issues will not be examined further in this paper.

Figure 5 Migrants into EAC members and share of population

Main Migration Routes in EAC 2020



Source: Mutava, *An Analysis of Trends and Patterns of Migration in Africa*, New South Institute, 2023

*Tanzania data corrected for double counting.

Table 1 shows a recent example of the regular reporting of the flow of migrants between the partner states of the EAC. As the reports are sporadic, and the numbers vary a great deal, it is not possible yet to detect trends from this

data. This monitoring activity is still a work in process and the report from which it is derived calls for an improvement in monitoring systems on migration flows.

Table 1 Citizens of other EAC states recorded entry into other states

| Reporting Period | Nationality | Burundi | Kenya | Rwanda | South Sudan | Tanzania | Uganda |
|----------------------|-------------|---------|---------|--------|-------------|----------|---------|
| July - December 2022 | Burundi | N/A | 23 845 | 1 219 | 2 757 | 53 940 | 5 874 |
| | Kenya | 1 645 | N/A | 943 | 74 968 | 96 758 | 173 635 |
| | Rwanda | 1 852 | 51 600 | N/A | 4 014 | 22 684 | 14 531 |
| | South Sudan | 192 | 36 404 | 65 | N/A | 1 264 | 14 608 |
| | Tanzania | 816 | 133 270 | 161 | 4 016 | N/A | 9 927 |
| | Uganda | 790 | 246 231 | 832 | 49 330 | 21 370 | N/A |

| | | | | | | | |
|----------------------------|--------------------|--------------|----------------|----------------|----------------|----------------|----------------|
| | TOTAL | 5 295 | 491 350 | 3 220 | 135 085 | 196 016 | 218 575 |
| January - July 2023 | Burundi | N/A | 24 625 | 45 894 | 3 082 | 47 418 | 2 542 |
| | Kenya | 1 829 | N/A | 33 939 | 99 033 | 93 488 | 57 263 |
| | Rwanda | 921 | 48 633 | N/A | 4 736 | 26 899 | 5 191 |
| | South Sudan | 65 | 34 973 | 1 331 | N/A | 1 025 | 7 755 |
| | Tanzania | 1 583 | 131 426 | 38 722 | 4 404 | N/A | 3 417 |
| | Uganda | 1 318 | 164 793 | 95 465 | 53 985 | 20 727 | N/A |
| | TOTAL | 5 716 | 404 450 | 215 351 | 165 240 | 189 557 | 76 168 |

Source: 'Consideration of the Progress Report on the Status of Implementation of the EAC Common Market' Report to the Regional Monitoring Group of the EAC, undated (circa early 2024)

8. The common market, the movement of people and the right to work

In 2010, a Protocol to establish an EAC common market came into force; this major step forward entailed the free movement of capital and labour, in addition to the freer movement of goods in the customs union. Due to political sensitivities about employment rates and standards of living, increasing the mobility of labour posed a greater challenge than allowing and facilitating the cross-border movement of capital and goods.

The free movement of persons was enshrined in Article 7 of the protocol. Partner states are committed to guarantee the free movement of persons who are citizens of the other partner states, within their territories and to ensure non-discrimination of the citizens of the other partner states. The provisions require the entry of citizens of other partner states without a visa, free movement within the territory of

the partner state, that they may, subject to local regulations, enter, remain and then be allowed to exit. In the view of the ILO, '... the EACCMP is the most advanced free movement regime in Africa. While impediments to the free movement of persons remain, EAC Member States' citizens have access to one another's labour markets and the right to residence and establishment, according to certain criteria' (ILO, 2022, p. 17).

The guarantee of free movement of persons is not an absolute right as it is subject to limitations imposed by the host partner state on grounds of public policy, public security, or public health. Any imposition of limitations must be notified to the other partner states. But international conventions do apply.

Some member countries of the EAC have moved beyond these rights in reciprocal subarrangements, for example, not requiring passports and only requiring official identity

documents for border crossings, but this will be discussed further later.

A border management expert who has worked extensively in East Africa and the Horn believes that the EAC is the leader among the African RECs in the development of a coherent policy for integration and border management. The region shows great enthusiasm for it and has prepared excellent legal systems for it – very well documented. It has put in place a large basket of policies at a regional level (Interview EA).

Article 10 of the protocol provides for the right of citizens of partner states to be employed and not to be discriminated against in any way. They can live, work and travel in the neighbouring member country where they have an employment contract. Article 10(9) states that national labour laws should not have the effect of denying citizens “of other Partner States the employment that has been offered”. However, in terms of Article 10(3), national employment laws still apply, employment in the public service is not included, and host states may impose limitations “on the grounds of public policy, public security and public health” (Basnett, 2013, pp. 137–139).

There is very extensive labour migration within the region, reflecting imbalances between demand and supply. The total population of migrant workers in the EAC was estimated at about 2.7 million in 2019, almost doubling from 1.4 million in 2010. Most migrant workers come from other EAC countries and from IGAD countries (Oucho et al, 2023, p. 54). IGAD is the Intergovernmental Authority on Development, set up to address crises in the Horn of Africa but now also playing a regional developmental role. There is a growing overlap of membership between the EAC and IGAD; members of both RECs now include Kenya, Uganda, Somalia and South Sudan.

Annex II to the Common Market Protocol established the regulations under which the freedom of movement of labour would be managed. To meet the requirements for a work permit, workers had to be employed for

at least 90 days, were not allowed to change their employment without applying for a new work permit and had to leave the host country within 15 days of the conclusion of the employment contract unless they had obtained permission to remain. Work permits were not automatically issued; they could be denied, and if an appeal against the denial failed, they were required to leave the country within a reasonable time.

The regulations also allowed host states to specify the skills of people who would be permitted to apply for work permits, in view of their perceptions of their skills needs. In Regulation 15 of the protocol, the member states set out the relevant skills categories. In the initial formulation of 2010, Uganda, for example, included the following skills in its schedule: administrators and managers, finance managers, professionals and craft-related trade workers. Kenya had a similar but slightly longer list, and Tanzania, Burundi and Rwanda had shorter lists, denoting fewer skills required (Basnett, 2013, pp. 139–140). So, full freedom of employment across EAC borders would seem to be limited to certain skills and only if the work permit is issued. There is a provision under article 16.⁶ of the protocol for short-term service providers as well, but their rights are very limited: employment is short-term, paid in the home country, and they are not entitled to the same rights or benefits that long-term employees are (EAC Secretariat, ND).

While all the countries of the region charge work seekers for work permit applications, according to the EAC website Kenya and Rwanda agreed to abolish charges for work permits for each other’s citizens.⁶ Another authority indicates this provision is for all East African citizens and that Uganda also offers this to citizens of the region. (EAC Secretariat, ND)

In practice, things do not necessarily accord with the rules and regulations. One expert says the common market is a guiding tool, a framework. “Whenever you speak to

⁶<https://www.eac.int/working-in-east-africa>, accessed on 20-09-2023.

government officials,” she says, “they say that is what they used to ensure that their new laws and rules align with the protocol. But obviously, not everything is absorbed into their national laws” (Interview LO, 2024).

In the MIGRA project case study of one of the founder members of the EAC, Kenya, we found that while citizens of member states of the EAC should have the right to be employed in other member states, in practice there was frequently little differentiation between the way work seekers from within the EAC are treated relative to those from outside (Mutava, 2024). Applicants for jobs in Kenya from EAC member states still require work permits. It seems that the way that such work permits are administered does not differ significantly between EAC members and non-members except insofar as some EAC member countries are not required to pay fees for the work permits.

A recent research report on labour migration in East Africa noted that in Kenya, “there is no operational national labour migration policy that would harmonize national laws with the EAC CMP provisions regarding the regulation of the rights and activities of migrant workers from Partner States. In addition, there is no clear structure to handle low-skilled and unskilled migrant workers’ concerns.” It also notes: “Annex II of the EAC CMP only makes provision for free movement of skilled workers and does not cover low-skilled and unskilled workers in the informal sector” (Oucho et al, 2023, p. 61–62). The failure to fully domesticate all aspects of the Common Market Protocol is common to the states of the region, but this has not hugely inhibited the regionalisation of the labour market, at least for skilled workers.

Basnett (2013) found that there were significant differences in regulations for acquiring a work permit across the then five partner states (in 2013) regarding the application process, the fees, and the relationship between work and resident permits. The protocol does not provide a clear

guideline for harmonising these differences, which are further confounded by contradictory statements in the Regulations of Annex II. Regulation 5(1) states: “A citizen of a Partner State who seeks to enter or exit the territory of another Partner State as a worker...shall comply with the established immigration procedures” (Basnett, 2013, p. 141).

Further examining Annexure II of the EAC CMP, which elaborates on the freedom of employment, Basnett found that several provisions which privilege national rules and regulations that negate, at least in part, the broader rules in the protocol itself.

Basnett (2013) compared the standards set by the EAC on right to employment against the benchmark of the rules of the European Community (EC). In the EC, any citizen of a member country, high-skilled or low-skilled, may be employed in any other member country. Basnett noted that, unlike the EC, Annex II of the EAC CMP protocol defines workers with an accompanying list of skill categories. The ILO (2022, p. 18) notes, “Much to the dissatisfaction of employers ... the list has not been updated since 2014 and largely excludes low-skilled workers.” Even more importantly, “unlike the EC, Annex II requires all nonnational ‘workers’ to obtain a work permit in order to work” (Basnett, 2013, pp. 142–143). In the EC, only non-EC citizens are required to obtain work permits.

The ways these rules are applied are not identical across all EAC states. Some states are more accommodating than others, with Kenya, Uganda and Rwanda having more deeply integrated markets – these states are generally more inclined towards liberal economic policies. In addition, there are many working across EAC borders outside of the rules. Basnett argues that the largest percentage of regional labour migrants remain semi-skilled and unskilled, though high-skilled workers are significant in ILO migration data for the region (Mutava, 2022 and 2023). An ILO official noted that in the EAC, “Migrant workers are mostly concentrated in the

informal sector, they mainly work in informal businesses, when they engage with formally registered businesses, their engagement is mostly informal” (ILO, 2022, p. 14). While they are employed informally, it is likely that they crossed the relevant EAC internal border legally, and the systems for cross-border migration are now advanced, largely digitised and easy to use (Interview EA, expert on border management 2024). As is the case worldwide, irregular migrant workers in East Africa are vulnerable to exploitation, have few legal protections and are generally excluded from social security systems (Oucho et al, 2023; ILO, 2024).

9. **Informal and plurilateral arrangements**

Some of the arrangements for cross border movement and employment are relatively informal and localised. Kenya’s relationship with Somalia and Somalis is a case in point. In our Kenya case study, Mutava (2024) notes that especially after a deadly terrorist attack in Kenya in 2013, Somalis in Kenya were associated with security threats and the Al-Shabaab terrorist movement. The Kenyan government made a commitment to build a 700-kilometre-long wall along the Kenya-Somali border, though only a short section was built. Around 80 000 Somali refugees were repatriated to Somalia. And yet, because areas bordering Somalia are largely populated with ethnic Somalis, some of whom are Kenyan citizens, there are political pressures which enable irregular Somali migrants and encamped refugees to get employment beyond formal regulations. These bilateral arrangements relate to the specificities of circumstances between the two countries and there are similar examples elsewhere too.

But there are formal multilateral systems, too. I refer to multilateral arrangements which involve subsets of members of a regional community as plurilateral or bilateral arrangements. Kenya, Rwanda and Uganda have a set of agreements concerning travel across borders using digital IDs only, which

is partly because they are most advanced in the region in the standardised digitalisation of documentation. Digitalisation and the reliability of documentation systems, more generally, are important factors, among others, in such arrangements, which vary considerably within the EAC. Some countries have unilateral arrangements permitting mobility; for example, Rwanda has been a leader in opening to visa-free access for all other African countries and has several other similar permissive unilateral commitments regarding work permits and residence.

10. **Variations in cross-border employment practice in the EAC**

An important step towards a more liberal regional labour market is the harmonisation of labour laws and related systems. Resistance to the full harmonisation of employment laws with the EAC protocol is justified by a combination of protectionist and security concerns. An expert who advises governments in the region told me that “the harmonization process is the difficult part because you are literally asking countries to remove certain regulations and laws that may derive from the fear that they have that it could open doors for other opportunities, opportunity to take place... and sometimes it’s security elements that come up when they talk about free movement” (Interview LO, 2024). As a result, subsets of countries, especially the Kenya, Rwanda and Uganda grouping, have higher levels of labour market integration compared with the rest of the EAC region.

If the EAC CMP was observed fully, citizens of EAC member countries would “have the right of entry as migrant workers with their families, including free processing of work permits and dependant’s passes for their families.” (Kandlige et al, 2022, p. 57). They would also have the rights of non-discrimination, residence and establishment. These provisions are unevenly implemented. Rwanda, for example, has removed visa requirements for all African visitors, who may also obtain work visas after arrival. Members of the EAC are

permitted to visit visa-free for six months, not the normal three. If the visitor seeks employment outside of Rwanda's Occupations in Demand List, employers are required to test the local labour market for acceptable applicants, who would have priority. Other citizens of the EAC would be next in line for eligibility, failing which the employer could seek applicants beyond the region (Kandlige et al, 2022, p. 57).

Since 2013, in terms of the Northern Corridor Transit and Transport Agreement (NCTTA, ND), Kenya, Rwanda and Uganda allow in a reciprocal fashion the free movement of their citizens provided they have appropriate identification documents. The agreement also included a single-entry visa for third-party visitors to the three countries. However, the principle of non-discrimination is not equally applied; Section 2 of Kenya's Citizenship and Immigration Act describes a foreign national as a person who is not a citizen of Kenya, making no allowances for EAC members (Oucho and Kandlige, 2023, p. 26).

Kenya has bilateral agreements with Ethiopia and South Sudan (the latter now a full member of the EAC) to allow entry and exit without a visa. However, citizens of all IGAD countries which are not also members of the EAC need to apply for jobs in Kenya from their own country after they have obtained a job offer (Kandlige et al, 2022, p. 57).

In our Kenya study we found that regional authorities sometimes were more accommodating of workers from the region than the official stance of the national government. There were both political and economic pressures at a local level which encouraged regional authorities to be more accommodating of citizens from neighbouring countries (Mutava, 2024).

11. Coordination or harmonisation of social systems

A key test for regional systems of integration is the extent to which their governance systems are harmonised. In the case of

integration of human migration, coordination or harmonisation of social security and educational systems is very important. Unfortunately, the full extent of implementation of coordination and harmonisation is not easily determined, and this research paper relies largely on secondary research to understand the real extent of implementation. Most of the information summarised in this section derives from Oucho et al (2023).

In some respects, coordination is advanced. Several EAC partner states have managed to create a common higher education area where students in higher learning institutions are able to transfer their credits to other institutions within the EAC. This includes harmonisation at the Technical and Vocational Education and Training (TVET) level. Several of the EAC countries also have formal portability of social security benefits, but this tends to benefit skilled workers more than low-skilled workers, who are often not in the system, or informally employed workers.

Countries with a common colonial history and a history of linked systems (such as Uganda, Kenya and Tanzania) are much more likely to have effectively harmonised education and social security systems (Interview LO, 2024), though Rwanda has also integrated effectively into common systems.

The less developed countries of the region are encouraged by the EAC CMP to engage in bilateral agreements on these matters with the more developed countries. While Kenya and Uganda lack such bilateral agreements, Rwanda has standing bilateral agreements with the DRC and Burundi as they share similar systems (Oucho et al, 2023).

In all, though labour mobility is relatively advanced in the region, educational and social systems are in the early stages of cooperation and harmonisation. The implementation of commitments to harmonise and integrate systems detailed in articles 10, 11 and 12 of the EAC CMP is still at an early stage. The harsh judgement of the last available East African Common Market Scoreboard of 2018

was that the EAC partner states have a zero per cent level of achievement for the objective of establishing a common system for the recognition of qualifications (EAC, 2018).

12. **The EAC, asylum seekers and refugees**

As already noted, refugees are widely found within EAC member states. The neighbourhood is vulnerable to wars and climate disasters, and members of the EAC have had to accommodate many refugees. The UNHCR reported that the East and Horn of Africa and the Great Lakes region was expected to host 23.6 million forcibly displaced and stateless people by the end of 2024. Most were expected to be internally displaced people in the DRC, but 5 million would be refugees, and over half a million will be asylum seekers and stateless people (UNHCR 2024(d)). By its own data it turned out to be closer to 6 million by the end

of the first quarter of 2025—See Table 2. This is an extraordinary burden for a few low- and lowermiddle income countries to host well over 10 per cent of the world’s refugees and asylum seekers. Nevertheless, some of these countries, especially Uganda, are seen as global leaders in the way that they seek to accommodate refugees.

To deal with the matter of the EAC and refugees in anything like a comprehensive way would require another paper – unfortunately, this section will not be able to do the topic justice.

Article 124(d) of the EAC Treaty commits the “Partner States undertake to establish common mechanisms for the management of refugees”. Policies are not yet uniform, but there are joint engagements with international organisations such as the UNHCR around initiatives to protect the interests of refugees and asylum seekers.

Table 2. Refugees’ and asylum seekers’ hosts in East and Horn of Africa (% of total for entire East and Horn of Africa Region)

| Location Name | Source | Data Date | % of Region | Population |
|----------------------|--|------------------|--------------------|-------------------|
| Uganda | <i>Government, Office of the Prime Minister, UNHCR</i> | 31 Mar 2025 | 32.7% | 1 858 060 |
| Ethiopia | <i>Government, UNHCR</i> | 28 Feb 2025 | 18.9% | 1 075 079 |
| Sudan | <i>CDR, IPP, UNHCR</i> | 31 Dec 2024 | 14.8% | 837 996 |
| Kenya | <i>Government, UNHCR</i> | 28 Feb 2025 | 14.7% | 836 905 |
| South Sudan | <i>Government, UNHCR</i> | 28 Feb 2025 | 9.7% | 548 036 |

| | | | | |
|--------------------------------------|----------------------------------|--------------|------|---------|
| Tanzania (United Republic of) | <i>Government, UNHCR</i> | 28 Feb 2025 | 4.1% | 230 647 |
| Rwanda | <i>Government, MINEMA, UNHCR</i> | 28 Feb 2025 | 2.3% | 128 770 |
| Burundi | <i>Government, UNHCR</i> | 31 Dec 2024 | 1.6% | 89 151 |
| Somalia | <i>Government, UNHCR</i> | 30 June 2024 | 0.7% | 39 475 |
| Djibouti | <i>Government, UNHCR</i> | 31 Dec 2024 | 0.6% | 32 642 |
| Eritrea | <i>Government, UNHCR</i> | 30 June 2024 | 0.0% | 118 |

Source: UNHCR Operations Data Portal extracted April 2025

13. Digitalisation, Integrated Border Management and One Stop Border Posts

The movement towards One Stop Border Posts (OSBPs) in East Africa began in 2002 with steps towards the harmonisation of procedures at the Malaba border post between Uganda and Kenya. Malaba is the busiest post on the Northern Corridor, which runs from Mombasa to Bujumbura. This development was the outcome of a bilateral process between Uganda and Kenya in the absence of a policy framework for OSBPs in the EAC (Nugent and Soi, 2020). A formal commitment

to integrated border management was included as Article 5(2)(b) of the East African Common Market Protocol of 2010, which committed participating countries to “ease cross-border movement of persons and eventually adopt an integrated border management system”. This commitment became East African law in 2016. The law directs member states to establish and implement OSBPs at their common borders and allows them to enter into bilateral agreements necessary for the purposes of implementing the Act. By 2025 all 15 of the planned OSBPs (see Table 3) had been established and were in various stages of operationalisation. (IOM 2022, OSBP – PMT)

Table 3. Planned One Stop Border Posts in East Africa, 2012

| Country A/Country B | OSBP |
|---------------------|------------------------|
| Kenya/Tanzania | Taveta/Holili |
| Kenya/Tanzania | Isebania/Sirari |
| Kenya/Tanzania | Namanga |
| Kenya/Tanzania | Lunga Lunga/Horohoro |
| Kenya/Uganda | Malaba |
| Kenya/Uganda | Busia |
| Tanzania/Uganda | Mutukula |
| Burundi/Rwanda | Gasenyi/Nemba |
| Burundi/Rwanda | Ruhwa |
| Burundi/Rwanda | Kanyaru/Akanyaru |
| Rwanda/Uganda | Kagitumba/Mirama Hills |
| Rwanda/Uganda | Gatuna/Katuna |
| Burundi/Tanzania | Mugina/Manyovu |
| Burundi/Tanzania | Kobero/Kabanga |
| Rwanda/Tanzania | Rusumo |

Source: Schedule to 'East African Community One Stop Border Posts Bill, No. 9, 2012', 25.

Ayele et al (2021) quantified the impact of OSBPs on transport times for selected OSBPs, namely Busia (Kenya–Uganda), Taveta–Holili (Kenya–Tanzania) and Mutukula (Uganda–Tanzania). They found that OSBPs have reduced 'total dwelling time' by between 62 per cent (Busia, Kenya) and 87 per cent (Holili); the impact was larger for those borders with long crossing times. They also reduced operational costs for transporters covering routes such as Nairobi–Kampala (-14 per cent), Mombasa–Mwanza (-11.7 per cent) and Dar es Salaam–Kampala (-9.8 per cent) (Ayele et al, 2023).

But the significance may be even greater than that for the movement of people. Nugent and Soi (2020), in a paper on the East African border posts, argue that

"[i]n their handling of cargo, the OSBPs look like scaled-down versions of seaports, complete with scanners and cargo holding

areas. But there is a fundamental difference, namely that the OSBPs are embedded in border spaces that are used on a daily basis by local populations. The manner in which people and goods mingle at the OSBP would be inconceivable in the highly securitized spaces represented by airport and seaport. Although a security imperative would suggest that access ought to be strictly limited, OSBP managers are forced to acknowledge the existence of local claims to co-ownership of the spaces. Indeed, managers positively need local populations to embrace the OSBP to meet their targets."

In those OSBPs which work well, passengers conduct immigration formalities for the country they are leaving and then move sideways to the booth of the country they are entering. The entire process is not expected to take more than 20 minutes (Nugent and Soi, 2020).

Successful implementation of user-friendly OSBPs rests on the implementation of integrated border management systems, or IBMs. IBMs require interstate cooperation to ensure that the various agencies on each side of the border operate seamlessly in relation to each other and jointly with their counterparts across the border. Ideally, a single combined process is achieved. But IBMs facilitate mobility even if the border post is not fully combined. A recent report notes that the member states are at different levels of interagency integration. "In Kenya, for example, services like national identification, vehicle registration health and tax identification have been digitized and integrated." In other countries, especially for recent entrants into the EAC, South Sudan, Somalia and the DRC, the low level of penetration of technology and limited resources have slowed the investment in integrated digitised systems, though the 2016 OSBP law obliges them to do so (IOM, 2022, p. 137). To supplement financing committed by governments of the member states, TradeMark East Africa (TMEA), a non-profit organisation, channelled funding into infrastructure and information systems in 13 of the designated OSBPs. Single Window is a computerised platform for integrating the work of agencies within each of the countries and is part of a global trend. In the EAC, all countries are using it in some form (Nugent and Soi, 2020).

Using the digital systems available in some member states and the digitalisation of various forms of identification documents such as national IDs, insurance certificates and driver's licenses, citizens of one EAC state are allowed to cross the border to others without passports, using their digital identification documents only (IOM, 2022). A useful innovation for foreign visitors is that visitors to one EAC state may be allowed to cross borders to other East African states without additional visas. Instead, they are issued with Inter-State Passes.

Cross-border small traders present challenges. There are large numbers of them taking

advantage of cross-border demand and supply opportunities; for the most part, they trade in food products that are not of very high value. Generally, the OSBPs try to accommodate them and facilitate their movement across borders. The stance of the OSBPs is to be as facilitating as possible, but some smaller cross-border traders collaborate with traders of high value products or products which might need to be brought under surveillance. So, the OSBPs must find a balance between surveillance, which would clog up the border posts, and permissiveness. Nugent and Soi (2024) argue that although "there is always a security presence, OSBPs have to be outward facing if they are to win local acceptance". While there may be a desire for tougher regulation when all the OSBPs are complete "OSBP managers are acutely conscious of the fact that they rely on the patronage of the resident population and, therefore, need to maintain an open door. As things stand, OSBPs look more like coproduced spaces of engagement than sites of state surveillance."

By all accounts, integrated border managements systems and OSBPs have been very important and largely successful instruments to facilitate the movement of East Africans across borders within the region. "Where OSBPs have been realized, there is good evidence that significant strides have been taken toward minimizing the obstacles to the free movement of goods and people" (Nugent and Soi, 2020). The IOM (2022) report has a similar view. I spoke with a consultant who has worked on various cross-border management systems contracts in East Africa and Southern Africa and his view was that EAC OSBPs and IBM are working well. Unlike some other parts of Africa, the vast majority of East Africans cross their neighbours' borders using regular systems because the systems work so well (Interview EA, 2024). Introducing his One-Stop Border Post Bill to the South African parliament, Home Affairs Minister Leon Schreiber noted that, around Africa, a growing number of examples demonstrate how smooth-running border posts contribute to economic growth, with "East Africa really

leading the way” (Jan Gerber, 2024).

While OSBPs sometimes bring officials from both countries under one roof, what is more important is that they synchronise their activities, reduce costs and do joint staff training. To a certain extent, even without OSBPs, neighbouring countries can make efforts to harmonise their activities to achieve a similar degree of efficiency. Nevertheless, there is a strong case for OSBPs as it does make the synchronisation of systems and practices easier in the longer term.

14. East African Passport

The 17th Ordinary Summit of the EAC Heads of State held on 2 March 2016 launched the EA e-Passport in three categories, namely, Diplomatic, Service and Ordinary. The EAC ePassport is an international passport and replaced the former National Passports of the EAC partner states. The travel document draws on contemporary technology to streamline border crossings, strengthen security measures and promote greater mobility among member states. It has the standard international e-Passport electronic chip that holds the same information that is printed on the passport’s data page: the holder’s name, date of birth and other biographic information. It also contains a biometric identifier and has a digital photograph of the holder and security features to prevent unauthorised reading or ‘scanning’ of data stored. It is fully interoperable with international e-Passport and biometric systems (EAC Webpage (a), ND).

Kenya issued the earliest EAC e-Passport on 1 September 2017, followed by Tanzania on 31 January 2018 and Burundi on 31 May 2018. Uganda joined the initiative on 18 December 2018, and Rwanda followed suit on 1 July 2019 (EAC Webpage (a), ND). The Republic of South Sudan, Somalia and the DRC have not yet implemented their East African e-Passport systems, hampered by the lack of a suitable ICT environment and sufficient skills and resources (IOM, 2022, Chapter 10). Even in Kenya, the rollout of the EAC e-Passport encountered snags and the date for

completion of the transition from the old Kenya passport to the new one was shifted back several times (CM Advocates, 2022; Eliud Kibili, 2022)



15. The East African Court of Justice – sovereignty and limits to its powers

To test the sovereignty of the EAC in relation to its member states, we review the work of the East African Court of Justice, specifically regarding the implementation of the freedom of movement provisions of the protocol and the common market.

The East African Court of Justice was established in 2001 in terms of the EAC Treaty. It is located within the EACJ Arusha Complex in Arusha, Tanzania. This complex was specifically designed to house the Court and its related institutions. Arusha is also the location of the Secretariat of the EAC. In 2005 the EACJ heard its first case.

The EACJ has heard several cases relating to the free movement of persons. The most significant was the case of *Mohochi versus The Attorney General of the Republic of Uganda*, heard in 2013 (EACJ, 2013).⁷

The context was two bombing attacks in Kampala that killed 74 people on 11 July 2010. The terrorist group Al-Shabaab claimed responsibility. Following the attacks, Ugandan

⁷Thank you to Christine Mutimura-Wekesa, deputy registrar of the EACJ, who helped me access the relevant case law.

officials arrested some suspects from Kenya. During the trial, the suspects' counsel, Al-Amin Kimath, was detained after his visit to Uganda, where he was to appear on behalf of his clients, the suspects. It is believed that Uganda targeted Mohochi because of his support for the campaign to free Kimath (Possi, 2018, p. 29).

Samuel Mohochi, a citizen of Kenya and a human rights advocate, flew from Nairobi, Kenya to Kampala, Uganda as part of a 14-member delegation of the International Commission of Jurists-Kenya Chapter scheduled to meet the Chief Justice of Uganda, the Honourable Mr Justice Benjamin Odoki, on 14 April 2011. The whole delegation was on the same flight. On arrival at Entebbe International Airport, at 9.00am, only Mohochi was not allowed beyond the immigration checkpoint in the airport. He was sent back on the following flight. Mohochi sued the attorney general of Uganda as a representative of the government of Uganda. Mohochi's view was that his prohibition was illegal in terms of the provisions of the East African Community Treaty (article 104) and articles 6 and 7 of the Common Market Protocol of the EAC. Due process had not been followed in declaring him prohibited at the immigration gate. The government of Uganda argued that the provisions had not been infringed as Uganda has the right to exclude prohibited persons and questioned the jurisdiction of the court for this matter (EACJ, 2013).

The court found that the government of Uganda had sovereignty regarding the declaration of a prohibited citizen in terms of its own laws but that the EAC's treaty and protocol (both of which Uganda had ratified in 2002) limited the extent of that sovereignty. Due process had not been followed, and Uganda had acted outside of the rules of the treaty and the protocol. In addition, the non-discrimination provision of the treaty had been breached when Mohochi was singled out from the delegation for prohibition. The court drew on its own jurisprudence, that of Uganda, as well as decisions of the European Court of

Justice. In doing so, it upheld the principle of the supremacy of community law and its implications for partner states which have domesticated the EAC treaty.

While the EACJ found in favour of Mohochi, the applicant, it decided that as the case was a matter of public interest, each party would be responsible for its own costs.

In another case, in 2014, Mureithi wa Nyambura sued the governments of Uganda and Kenya for his arrest and deportation from Uganda back to Kenya. He had travelled to Kampala from Kenya to defend the accused in a terrorism trial. Unfortunately, the substance of the case was not tested in court as the applicant had not made his application within a specified two-month window, which had applied since a 2007 amendment to the EAC treaty to cases brought by individuals. Nevertheless, the right of the EACJ to entertain the case was affirmed as the case would have entailed the interpretation of the EAC treaty and the Common Market Protocol (EACJ, 2014).

The Regional Bar Association represented another applicant, Isidore Rufyikiri, who was the President of the Bar Association of Burundi. Rufyikiri was restrained from travelling by the order of the Public Prosecutor of Burundi.

The EACJ found that due process had not been carried out in prosecuting Rufyikiri before an anti-corruption court, disbaring him from the Table of Barristers and prohibiting him from travelling outside Burundi, which actions were in violation of the founding principles of the EAC. The EACJ issued directives for implementing the judgment by commanding Burundi to ensure the implementation of the judgment, as well as tasking the Office of the Secretary General to oversee the whole implementation process – this was an unusual additional step – the EACJ usually issues declaratory orders but does not give any compliance directives (Possi, 2018, p. 30).

In 2019, Dr Wairagala Isabirye Wakabi,

a human rights activist, was prevented from entering Tanzania to participate in a conference on the curtailment of space for civil society activism and sent back to Uganda. His case was filed on time but without supporting documentary evidence. The documentary evidence was submitted beyond the two-month window. The court found that although it had the jurisdiction to hear the case, the late submission of the documentary evidence made the case invalid (EACJ, 2019).

These cases demonstrate that the jurisdiction of the EACJ extends significantly towards supporting the implementation of the free movement of persons and related human rights issues. What it also demonstrates, however, is the limitations of the court regarding its effectiveness. It seems that Ruffyikiri was not actually allowed to leave Burundi following the court decision in his favour. As Lando (2018) noted, the EACJ, lacking an implementation framework, relies on national legal systems to implement its decisions, and in particular for those that require some form of action at the national level.

After cases are heard, the EACJ delivers a judgment. It also issues interim orders carrying a status similar to that of a judgment. Member states, as well as the Council of the EAC, are bound to implement EACJ judgments without delay. But there are no established mechanisms to ensure compliance, let alone sanctions, if a state refuses to implement a decision (Possi, 2018, pp. 18–19). Regarding Ruffyikiri's case, Lando (2018) finds that "The overall result is that there has been no observable change in law or policy in Burundi which draws its origins to the decision of the EACJ".

Possi (2018, p. 5) has argued that "the EACJ has not performed satisfactorily, as a result of the lack of a clear jurisdictional mandate and a machinery capable of enforcing its decisions". Lando (2018) has a similar view. In part, this is a result of gaps in the legal framework of the EAC – a delayed amendment to regulations –

but in part, it is also a result of amendments in 2007 to the EAC Treaty. While article 30 of the EAC treaty allows individuals to bring cases before the EACJ, the added two-month deadline in 30(2) hugely inhibits individuals bringing such cases to the EACJ. Possi (2018, p. 6) considers 30(2) as "an attempt to discourage individuals from accessing the Court". More broadly, he argues that the establishment of the appellate division of the court, the time limits, and weakening the tenure of the judges by the 2007 amendment to the EAC treaty deliberately weakened the authority of the EACJ (Possi, 2018).

Two out of four cases relating to the freedom of movement were dismissed by the court based on the two-month limit. In the Wakabi case, even though the case was filed on time, the fact that supporting documentation was late was used to exclude the case, though the court accepted that it had jurisdiction over the matter.

The fact that the tenure of judges is not guaranteed and is subject to decisions of the leaders' summit undermines the independence of the judges and weakens the court. Possi argues that member states have not been sanctioned when they have failed to comply with the EACJ's decisions and that without effective enforcement mechanisms, the EACJ will have little impact on the Community (Possi, 2018, pp. 19–20).

The court has made considerable progress since its establishment in 2001 in developing a body of jurisprudence, including regarding the movement of people within the community, which could be increasingly influential if the framework of the court is strengthened. However, though the court demonstrates the formal extent of its jurisdiction and, therefore, of the sovereignty of the East African Community, its relative ineffectiveness in enforcing decisions shows that many of the formal rules of the EAC are not fully observed in practice. These include its rules for the free movement of people and those which support the right to employment within the entire

Community of all its member states' citizens.

A comparison to the European Union made by Basnett is instructive. The East African Community remains an intergovernmental system rather than a sovereign multilateral institution. Unlike the EC, which is governed by a Commission, the EAC has a Secretariat. Compared with most other African regional systems the EAC is relatively advanced towards sovereignty, but it is not there yet. As a migration expert told me, "the harmonization process is the difficult part because you are literally asking countries to remove certain regulations and laws ... and the fear that they have that it could open doors for other opportunities and threats" (Interview LO, 2024). A legal expert noted that "when we discussed the Economic Partnership Agreement with the European Community, the negotiations were done jointly, but, while the EC commission signed on behalf of the EC, in East Africa each country had to sign individually as a country, not as a bloc" (Interview BC, 2024).

The impact of community law is somewhat limited, certainly with respect to freedom of movement and employment for individuals. The deepening of the freedom to move and, especially, the freedom of employment across East African borders is more an outcome of political leadership and economic pressure and less the consequence of the force of community law. It is not surprising, therefore, that there is a wide variety of migration governance regimes, formal and informal, between the member states of the East African Community.

16. **Gaps in EAC migration policy and practice**

Following a framework proposed by de Haas et al (2019), all the case studies in this research programme filter each case of migration policy and implementation through a framework which identifies and discusses the discursive, implementation and efficacy gaps. The discursive gap is the gap between rhetoric and policy, the implementation gap is the gap between policy and implementation, and the

efficacy gap is the gap between the outcome of policies implemented and their expressed intended outcome.

16.1 **Discursive gap**

The first gap is the discursive gap. The rhetoric of all the member states of the EAC is supportive of the establishment of the common market, including the movement of persons. The Common Market Protocol, ratified by all but the most recent members of the EAC, represents high ambitions that fully reflect the desire for integrated markets for all the factors of production. Insofar as policy is represented by the Common Market Protocol, the discursive gap is not large, though some countries in the region have gone much further than others in the implementation of domestic laws and regulations supporting the migration policy in the Common Market Protocol.

Beyond simply the mobility of people, there are significant policy gaps – in this paper we have identified the lack of alignment on employment policy and the lack of integration of education and qualifications standards and the absence of portability in social welfare systems as important obstacles in the path towards a common market for labour.

Occasionally, there is a discursive gap on the question of the accommodation and inclusion of refugees and the treatment of irregular migrants, though the region is generally considered to be carrying its very large load of refugees and asylum seekers with care. Uganda is widely seen as being unusually effective in accommodating refugees and in persuading communities of the beneficial impact of refugees on host communities, though the failure of some refugee communities in Uganda to thrive or, at least, exit poverty is a concern (d'Errico et al, 2024). In some other countries, such as Kenya, the issue of refugees became politicised after a series of terrorist attacks blamed on Islamic-oriented terror groups from Somalia, such as Al-Shabaab. This led to vacillation on the questions of encampment or not and the right to work or not for refugees and asylum

seekers. But antagonism towards refugees and irregular migrants is an occasional political issue around election time, not entrenched, as in South Africa, for example (see Mutava, 2024 and Hirsch, 2024b). The commitment of the current Kenyan government is towards a new strategy for accommodation and inclusion called 'The SHIRIKA Plan'. (UNHCR, 2023)

A significant discursive gap is evident in the circumstances of the East African Court of Justice. Although, as I have shown, its formal powers are extensive in supporting the implementation of the EAC Treaty and its protocols, several provisions and amendments to the founding law and regulations of the EAC make it less than fully effective in enforcing the right to human mobility. The time limitation on individual actions and the way it is interpreted, the power of heads of state in the appointment and tenure of justices, and the lack of enforcement mechanisms for decisions show that the common market remains, legally, a partnership of states rather than a sovereign entity.

Perhaps the loss of nerve of the East African states in empowering the East African Court of Justice is symptomatic of a deeper issue in the EAC. The EAC is still headed by a secretariat mandated by a periodic summit of leaders. While the legislative agenda of the EAC is very ambitious, as embodied in the Common Market and Monetary Union protocols to the EAC Treaty, sovereign power is still essentially retained by states. The EAC remains an intergovernmental arrangement rather than a sovereign, or even largely sovereign, multilateral institution. With the addition in recent years of Somalia, the DRC and South Sudan, alongside the habitually unstable Burundi, there are four vulnerable, periodically unstable states out of eight members. The prospects for moving beyond an intergovernmental arrangement to a sovereign union seem distant.

16.2 **Implementation gap**

A research project led by George Mukundi-Wachira and Tsion Tadesse Abebe determined that the East African Community scored 96 per cent regarding the implementation of the free movement of persons within the region (Abebe

and Mukundi-Wachira, 2022). This probably refers to the extent to which visa-free travel is allowed between the citizens of the EAC member states. Issues such as permission to work, to establish businesses, to port social security entitlements and conformity of qualifications have not yet been fully achieved.

The East African Treaty and its Common Market Protocol set very high standards. The EAC common market is modelled on the European Common Market, but it also includes full migration rights for member-state citizens, only completely implemented in the European Common Market in 1986, 27 years after the establishment of a common market for goods and some services. During those 27 years, only six countries joined the original six, doubling it in size. Since its formation in 1999, five countries have joined the original three of the EAC: Burundi, Rwanda, South Sudan, the DRC and Somalia. Moreover, the new countries were very poor, some have very large populations, and some, including the largest, were quite unstable. The resources of the original three members, Uganda, Kenya and Tanzania, were and are limited. Certainly, the founder countries of the EAC could not match the wealth to the countries that started the EU: West Germany, France, Italy, Belgium, the Netherlands and Luxembourg. The redistributive policies adopted within the EU were not possible at any scale in the EAC – the only concession to inequality between EAC countries being asymmetric inclusion in arrangements such as tariff reform. While there is external aid for the integration process, it is limited.

This means that, in practice, member states graduate to their levels of commitment when they can and have sufficient commitment. The countries with relatively high levels of commitment are the original three plus Rwanda (because of its leadership's very strong commitment to integration), followed by Burundi, with the most recently joining states, also among the most troubled in Africa, lagging. The implication for the movement of people is that the various obligations and rights associated with entry, work and establishment are unevenly observed, roughly in line with the hierarchy of commitment.

In effect, the CMP is a framework for progress rather than a uniform rule. But the multiple processes supporting the implementation of better systems for regular movement in the region – the political institutions, and the relatively informal forums and institutions often supported by multilateral institutions and aid agencies – have kept a momentum for progress that has taken the EAC beyond the achievements of other regional economic communities in Africa.

16.3 Efficacy gap

The increase in the rate of migration within the EAC since the Common Market Protocol in 2010 is striking. Figure 1, earlier in this report shows the more than doubling of the migrant population within the region between 2010 and 2020; some of this is due to an increase in the refugee population, but the data also captures the rise in labour mobility and mobility in general in the region. Outcomes in

mobility are far from perfect – domestic law still takes precedent over community treaties, as evidenced in the outcomes of the decisions of the EACJ discussed earlier, and by the residual pre-eminence of domestic labour law regarding the extension of legal permission to work. The rights of establishment and residence for community citizens are also not yet untrammelled. There is a wide variation between countries, with some sticking close to the spirit of the EAC CMP, and others being more protective.

Attitudes towards immigrants vary quite enormously among EAC countries. According to a global Gallup poll undertaken during 2017 (see Table 5), attitudes in Tanzania and Somalia were among the least welcoming to immigrants, attitudes in Kenya were warmer, while Rwanda is near the top of the global poll with a largely friendly attitude towards immigrants (Esipova et al, 2017).

Table 4. Attitudes towards immigrants within the region: Gallup 2017

| Country | Gallup Migration acceptance index |
|-------------|-----------------------------------|
| Rwanda | 8.16 |
| Kenya | 6.51 |
| South Sudan | 5.63 |
| Uganda | 5.45 |
| Burundi | Not reported |
| DRC | Not reported |
| Somalia | 4.99 |
| Tanzania | 4.82 |

Source: Esipova et al, 2017

17. Political economy of migration integration in East Africa

In all economic regions there are countries that have more economic power and hence influence than other countries. Sometimes they are called regional hegemons, though they are seldom hegemonic in the full sense of the term. The annual GDP of Kenya is more than one-fifth higher than the next largest economy in the region, Tanzania, nearly double the size of the DRC, more than double Uganda's GDP, and much higher than the other members of the EAC (World Bank Indicator Database accessed January 2025). Responsible for a third of the total EAC GDP, Kenya is more influential than other countries in the region. So, what Kenya does in regional affairs is important. Rwanda's economic power is much smaller at a little over 10 per cent of Kenya's GDP, but because its strong, centralised leadership has led the way on unilateral, bilateral and multilateral liberalising reforms in immigration policy, it has also had an influence on migration governance reform in the region.⁸ These two countries, along with Uganda, have the deepest plurilateral set of migration (and economic integration) arrangements within the region in what is in most respects a coalition of those willing to mutually engage in leading the way in deepening regional integration. Without these players setting the pace, it is not likely that the EAC would have made as much progress in deepening regional integration.

While the EAC is headquartered in Arusha, the slightly less enthusiastic engagement by Tanzania, the second economy of the region, may be rooted in years of rivalry with Kenya and the legacy of colonial and post-colonial public and private institutions having favoured Kenya in the region. In recent decades, many international companies and organisations have established regional headquarters in Nairobi despite Arusha being the capital of the EAC.

In addition to the reforms encouraged by regional leaders, institutional factors have supported the reform of migration arrangements in the region. The density of the

formal institutions of the EAC, combined with the various multilateral forums on integration and migration (as well as forums between the EAC and IGAD), have enabled the building of trust within the region. Building trust between ministers and senior officials of member-state governments is a key element in the difficult and complex matter of regional migration governance.

External parties have been influential in encouraging progress in the regional mobility agenda. International organisations like the IOM, the ILO and the UNHRC have supported migration governance reform in the regions through research, facilitating regional forums and providing financial support for the improvements of migration policy and management systems. There have been bilateral aid partnerships as well, especially with the EU and the UK, some of which are conducted through intermediary agencies. One notable example of the latter is the UK-funded TradeMark Africa, which assisted in the development of One Stop Border Posts among its various interventions.

The impact of such support is not always unambiguously positive – some donor countries serve their own interests considerably more than those of the recipient country or region. International and multilateral organisations and institutions can be influenced by the interests of their more powerful members and may act in their interests. The discomfort of some countries in the Sahel and West Africa with the form taken by international interventions in migration policy is widely known (see e.g. Fahkry, 2023). However, it appears that development assistance migration interventions in East Africa and the Horn of Africa have been relatively more benign and have contributed to improvements in migration governance and migration management (Castillejo, 2019).

A negative factor in the region's political economy is the inequality between countries. Least-developed countries tend to have poorer migration management systems and sometimes questionable documentation.

⁸ The centralised leadership in Rwanda has another face. The UK abandoned a deal to move asylum seekers to Rwanda after its courts found that Rwanda could not be considered a third safe country on account of its human rights record (Grogan, 2023)

Per capita income in the richest country (in relative nominal terms), Kenya, is nearly ten times as high as per capita income in the poorest country in the region, Burundi, and three times as high as several other countries in the region. Inequalities within countries are moderately high lying roughly at the global median level (World Bank Indicator Database accessed January 2025). In sum, there are many very poor people in the region, especially in the poorer countries where identification, passport and visa documentation may be suspect. These concerns could deter the richer countries of the region from lowering their protection against free movement uniformly within the region. Interestingly, the three countries in the region in the most advanced integration relationship, including the movement of people, are three of the four richest countries, in per capita nominal terms, in the region – Kenya, Uganda and Rwanda.

When comparing the regional economic communities in the MIGRA set of studies, inequality between countries is a little greater in East Africa than in West Africa, but inequality between countries is considerably greater than both in the Southern African Development Community (SADC).

Even the relationship among the three most integrated countries in the EAC can be disrupted. The Rwanda-Uganda border closed temporarily during 2019 causing great inconvenience to border communities and traders whose livelihoods depended on easy crossings. One reason was that Uganda believed that Rwandan agents had infiltrated the Ugandan security services. A related issue was the tension between the two countries over the war in the eastern part of the DRC. Uganda opposed what it saw as Rwanda's active partisanship in the conflict (BBC, 2019). This reminds us that the region has several serious sources of political instability, and that the linear progress of the EAC towards integration is by no means assured

18. Conclusion and recommendations

The East African Community has made considerable progress since its formal establishment in 2000. Most notable among its achievements has been the establishment of a common market in 2010 and its steady progress towards implementation. The facilitation of human mobility across its borders has been very impressive too. The history of cooperation between some of the countries in the region paved the way towards early successes. As integration went deeper, and as more states were included, momentum slowed, except in voluntary coalitions of the willing epitomised in the deeper cooperation between Rwanda, Uganda and Kenya.

Now that progress has become more challenging, the sensible approach is to find those paths forward to mobility within the region that entail fewer political and economic risks. Perhaps the region should put the issue of full openness on migration on the backburner, perhaps implicitly, without abandoning it, while focusing on more doable intermediate steps.

Some of the member states need further support and time to complete their reforms in many technical areas. Population registers, identity documents, passports and cross-border migration management systems are all relatively uncontroversial areas where improvements by lagging countries within common regional standards would build trust and pave the way for further commitments by all to lowering migration barriers. International organisations such as the IOM and the World Bank, as well as bilateral partners, especially the EU and its member states (perhaps with mixed motives) actively support the development of population registration, identification and migration management systems in some of the poorer countries in Africa.

The development of reliable, harmonised systems in the region to collect and manage data on population mobility and employment would also build confidence. The data presented above in Table 4 is clearly deficient, as the report's authors made clear.

Further progress in reducing friction in cross-border monetary transactions, including migrants' remittances, would contribute to building confidence and facilitating mobility. An agreement on common quality standards and customs procedures could assist in continuing to reduce cross-border transaction costs.

One of the most important intermediate steps towards freeing up mobility for the citizens of the region would be further cooperation on cross-border access to social services such as health and education. Cooperation on standards in health and education and on qualification frameworks would add considerably to the freedom of regional citizens to cross borders to live, work and learn. Advances already made between some of the members of the community could be deepened and broadened.

Cooperation within the EAC and between the EAC and IGAD on inclusion, return and reintegration policies for irregular migrants, asylum seekers and refugees would also help build trust and viable solutions to a huge regional challenge.

Reconsidering some of the amendments made to weaken the East African Court of Justice in 2007 would strengthen the de jure powers of the court, adding considerably to the entrenchment of cross-border rights in the region. However, without further attention to the capacity of the EACJ to enforce the implementation of decisions, such reforms might not have the desired impact.

The East African Community, along with ECOWAS, has set the pace for regional

integration in Africa. Further progress towards the freer regular movement of people within the region is very likely with sufficient regional political and military stability, and it will probably proceed in an uneven way depending on the capacity and level of economic development of the various partner states.

East Africa Community Bibliography

Business Day Africa, April 12th, 2024 'Ethiopia Set to Join EAC, Pushing Bloc Population to 420 Million': <https://businessdayafrica.org/ethiopia-to-join-eac-increasing-bloc-population-to-420-million/>.

Amadi, Victor, (2025) *An Analysis of Migration Governance Frameworks in West Africa: The Role of ECOWAS in Facilitating Free Movement and Regional Integration*, New South Institute: <https://nsi.org.za/publications/an-analysis-of-migration-governance-frameworks-in-west-africa/>.

AU-AfDB (2024) *Africa Visa Openness Report 2024*, African Union and African Development Bank: https://www.visaopenness.org/fileadmin/uploads/afdb/Documents/2024_AVOL_final_R3_20nov24.pdf.

Ayele, Yohannes, Linda Calabrese, Mohamed Gharib and Max Mendez-Parra (2023) *One-stop border posts (OSBPs): an assessment of the economic and social impact ODI report*.

BBC (2019) 'How the Rwanda-Uganda border crossing came to a halt' report by Catherine Byaruhanga, <https://www.bbc.com/news/world-africa-47495476>

Castillejo, Clare, (2019). "The influence of EU migration policy on regional free movement in the IGAD and ECOWAS regions," IDOS Discussion Papers 11/2019, German Institute of Development and Sustainability (IDOS).

CM Advocates (2022) 'Transition From The Old Generation Passports To The New Generation Epassports In Kenya': <https://cmadvocates.com/en/blog/transition-from-the-old-generationpassports-to-the-new-generation-e-passports-in-kenya> 24/02/22, accessed 01/11/24.

d'Errico, M., Winters, P., & Romano, D. (2024). Assessing Uganda's Progressive Refugee Policy in the Era of COVID-19: Introduction to the Special Issue. *The Journal of Development Studies*, 60(3), 351–359. <https://doi.org/10.1080/00220388.2023.2282364>

De Haas, H et al, (2019) 'International Migration: Trends, Determinants, and Policy Effects' *Population and Development Review* 45(4): 885–922 (December 2019), Figure 6, p. 902.

EAC (2018) *East African Common Market Scoreboard 2018* <https://www.eac.int/documents/category/eac-common-market-scorecard> accessed 12-09-24.

EAC Secretariat (no date) *A Simplified Guide for Micro and Small-Scale Women Cross Border Traders and Service Providers within the East African Community (EAC)*, Arusha. Available at: https://www.ilo.org/wcmsp5/groups/public/---ed_emp/---emp_ent/---ifp_seed/documents/instructionalmaterial/wcms_551151.pdf on 20-09-2023.

EAC Webpage (a) (ND): <https://www.eac.int/immigration/migration-management/ea-e-passport> accessed at various times.

EAC Webpage (b) (ND): <https://www.eac.int/immigration/labour-and-employment/eac-commonmarket-scorecard>.

EAC Webpage (c) (ND): <https://www.eac.int/monetary-union>.

EAC Webpage (d) (2024): <https://www.eac.int/press-releases/3169-east-african-community-centralbanks-urged-to-adapt-and-embrace-technology-to-facilitate-cross-border-financial-transactions>.

EACJ (2013) Case: In the East African Court of Justice at Arusha First Instance Division, Reference No.5 Of 2011 Samuel Mukira Mohochi Applicant and the Attorney General of The Republic of Uganda Respondent Judgement of the Court Date: 17 May 2013.

EACJ (2014) Case: In the East African Court Of Justice at Arusha First Instance Division Reference No.11 of 2011 Mbugua Mureithi Wa Nyambura Applicant versus The Attorney General of the Republic of Uganda 1st Respondent the Attorney General of the Republic of Kenya 2nd Respondent, 24 February 2014.

EACJ (2019) Case: In the East African Court of Justice at Arusha First Instance Division Reference no. 14 of 2019 Dr Wairagala Isabirye Wakabi 1st Applicant Tanzania Human Rights Defenders Coalition 2nd Applicant Versus The Attorney General of the United Republic of Tanzania Respondent.

EAC (2024) Regional Monitoring Group report: CONSIDERATION OF THE PROGRESS REPORT ON THE STATUS OF IMPLEMENTATION OF THE EAC COMMON MARKET' EAC RMG undated (circa early 2024).

Esipova, Neli, John Fleming and Julie Ray, (2017) 'New Index Shows Least-, Most-Accepting Countries for Migrants' Gallup: <https://news.gallup.com/poll/216377/new-index-shows-least-accepting-countries-migrants.aspx>.

Fakhry, Alia (2023) More than borders: effects of EU interventions on migration in the Sahel, ISS: <https://issafrica.org/research/west-africa-report/more-than-borders-effects-of-eu-interventions-on-migration-in-the-sahel>.

Ford, Neil (2023) 'East African Community inches towards financial integration' African Business: <https://african.business/2023/01/african-banker/east-african-community-inches-towards-financial-integration>.

Gerber, Jan (2024) 'Home Affairs is 'restoring rule of law' in immigration, says Schreiber about new border bill' News24: <https://www.news24.com/news24/Politics/Parliament/home-affairs-is-restoring-rule-of-law-in-immigration-says-schreiber-about-new-border-bill-20241106> accessed 07-11-24.

Grace Edward-Galabusi (2023) 'Migration Governance and Migration Diplomacy in Uganda: An Agenda For a Migrant-Centred Approach', European University Institute Migration Policy Centre.

Grogan, J. (2023) 'Unpacking the Supreme Court's Rwanda decision', UK in a Changing Europe: <https://ukandeu.ac.uk/unpacking-the-supreme-courts-rwanda-decision/>.

Hanatani, A. (2023) *A New Way Of Working to Support Refugees: Putting the Humanitarian Development Nexus Into Action In Africa*, JICA Ogata Sadako Research Institute for Peace and Development, December 2023.

Hirsch, Alan (2023) *Framing a study of African Migration governance and reform; towards freer movement*, New South Institute Working Paper: <https://nsi.org.za/publications/migration-governance-reform-first-report/>.

Hirsch, Alan (2024), 'The Hows and Whys of the mobility of Africans in Africa', Brookings Commentary: <https://www.brookings.edu/articles/the-whys-and-hows-of-the-mobility-of-africans-in-africa/>.

Hirsch, Alan (2024b) *South Africa Country Study: Migration Trends, Policy, Implementation, and Outcomes*, New South Institute: <https://nsi.org.za/publications/south-africa-migration-study-nsi-report/>.

IGAD (2024) 'Kenya Signs the IGAD Free Movement of Persons Protocol', <https://igad.int/kenya-sign-the-igad-free-movement-of-persons-protocol/> (accessed 08-06-24).

ILO (2022) *Mapping Report: Labour Migration in East Africa*, International Labour Organisation for the East African Employers Association, <https://www.ilo.org/publications/mapping-report-labour-migration-east-africa-0> (accessed 02-06-24).

ILO (2024) 'Enhancing Social Protection for Migrant Workers: Challenges and Strategies in the East and Horn of Africa': <https://www.ilo.org/resource/article/enhancing-social-protection-migrant-workers-challenges-and-strategies-east>.

IOM (+EAC/IGAD) (2022) *The State of Migration in East and Horn of Africa Report 2022*, edited by Tsion Tadesse Abebe and George Mukundi-Wachira.

IOM (2023) NEWS GLOBAL 'IOM and East and Horn of Africa governments renew commitment to labour migration governance' https://www.iom.int/news/iom-and-east-and-horn-africa-governments-renew-commitment-labour-migration-governance#.ZBK_NJFwBOo.twitter (accessed 13-09-24).

Kell, Fergus, Ally Masabo, Tilmann Feltes (2024) 'Reviving Tanzania's regional leadership and global engagement Priorities for an effective foreign policy reset' <https://www.chathamhouse.org/2024/04/reviving-tanzanias-regional-leadership-and-global-engagement/03-between-eac-and-sadc>.

Kandlige, L, Linda Adhiambo Oucho and Marina Manke, (2022) 'Chapter 4: Regional integration for labour mobility' in Tadesse, TA and Mukundi-Wachira, G, *The State of Migration in East and Horn of Africa Report 2022*, IOM.

Kibili, Eliud (2022) 'Shambolic Migration to New Kenyan E-passport', <https://www.theelephant.info/analysis/2022/01/07/shambolic-migration-to-new-kenyan-e-passport/> (accessed 01-11-24).

Lando, V. (2018) 'The domestic impact of the decisions of the East African Court of Justice' *18 African Human Rights Law Journal* 463-485, <http://dx.doi.org/10.17159/19962096/2018/v18n2a2>.

Mshomba, Richard E. (2017) *Economic Integration in East Africa: The East African Community in Comparative Perspective*, Cambridge University Press, Cambridge.

Mutava, M. (2023). *An Analysis of Trends and Patterns of Migration in Africa*, New South Institute, <https://nsi.org.za/wp-content/uploads/2023/11/An-analysis-of-trends-and-patterns-of-migration-in-Africa.pdf>.

Mutava, M. (2024) *An Analysis of Migration Governance Frameworks in Kenya*, New South Institute <https://nsi.org.za/publications/migration-governance-kenya-nsi-report/>.

NCTTA (n.d.) The Northern Corridor Transit and Transport Agreement, <https://ttcanc.org/northern-corridor-transit-and-transport-agreement> .

Nugent, Paul & Isabella Soi (2020) One-stop border posts in East Africa: state encounters of the fourth kind, *Journal of Eastern African Studies*, 14:3, 433–454, DOI:10.1080/17531055.2020.1768468.

OUA (1976) Resolution CM/Res.464QCXVI see: https://au.int/en/member_states/countryprofiles2

OSBP Infra website : [://osbpinfra.eac.int](https://osbpinfra.eac.int).

OSBP - PMT and Infrastructure Management web site, <https://osbpinfra.eac.int/index.html>

Oucho, L.A., L. Kandilige and P. Kazmierkiewicz, (2023) *Labour Mobility and Regional Integration in East and Horn of Africa*. International Organization for Migration (IOM), Geneva.

Owini, TJ (2024) 'EAC Integration runs into perfect storm', 30-06-2: <https://www.monitor.co.ug/uganda/magazines/people-power/eac-integration-dream-runs-into-perfect-storm-4674302#story>.

Possi A (2018) "An Appraisal of the Functioning and Effectiveness of the East African Court of Justice" *PER / PELJ* 2018(21): <http://dx.doi.org/10.17159/1727-3781/2018/v21i0a2311>.

Tadesse, TA and Mukundi-Wachira (eds), G, *The State of Migration in East and Horn of Africa Report 2022*, IOM.

UNHCR (2019) Informing the Refugee Policy Response in Uganda: <https://data.unhcr.org/en/documents/details/71582>.

UNHCR (2023) Government of Kenya SHIRIKA Plan, <https://data.unhcr.org/es/documents/download/104460>.

UNHCR (2024a) Uganda- Population Dashboard: <https://reporting.unhcr.org/uganda-overview-refugees-and-asylum-seekers-8095> (accessed 01-05-24).

UNHCR (2024b) External Update 58 Sudan Situation: <https://reporting.unhcr.org/sudan-situation-update-58> (accessed 01-05-24).

UNHCR (2024c) Operational Data Portal: <https://data.unhcr.org/en/country/ken> (accessed 01-05-24).

UNHCR (2024d) East and Horn of Africa and the Great Lakes: <https://reporting.unhcr.org/global-appeal-2024/regional-overviews/east-and-horn-africa-and-great-lakes> (accessed 07-11-24).

UNHCR (2024e) Operational Data Portal: <https://data.unhcr.org/en/situations/rbehagl> (accessed 07-11-24).

World Bank Indicator Database various: GDP levels etc. accessed in January 2025 <https://data.worldbank.org/indicator/NY.GDP.MKTP.CD?locations=ZG>.

Per capita income https://data.worldbank.org/indicator/NY.GDP.PCAP.CD?locations=ZG&name_desc=false&year_high_desc=true%2F1000.

Interviewees:

EA Think tank leader

IO Researcher

IO Official

EA judicial officer

EAC official

EA expert

African Legal expert

African expert on mobility management

About the author:

Alan Hirsch is a senior research fellow at the New South Institute, head of the research program Migration Governance Reform in Africa (MIGRA) and emeritus professor at UCT where he founded the Nelson Mandela School of Public Governance. He was born in Cape Town and educated at UCT, Wits and Columbia. He taught at UCT and joined the SA Department of Trade and Industry in 1995. From 2002 to 2012, he managed economic policy in the South African Presidency. Hirsch serves on President Ramaphosa's Economic Advisory Council and on the African Experts Panel of South Africa's G20 chair. He is also a research fellow at the South African Reserve Bank. He was a visiting scholar at the Harvard Business School, regular visiting professor at Maastricht University, IGC research director for Zambia, OECD Inclusive Growth Advisory Panel-member, on the International Advisory Board of the New Development Bank, and a Bradlow Fellow at the SA Institute for International Affairs. His work includes Season of Hope: Economic Reform under Mandela and Mbeki and The Oxford Companion to South African Economics. Recent publications include his Carnegie Endowment article 'Overcoming the North-South Divide in Global Migration Governance' and 'The Wider Atlantic: Building Interdependence and Solidarity in a Fragmented World', published in Atlantic Currents 2024. He is also a Research Associate at SOAS, University of London.

TECHNICAL DATA

First Edition. Johannesburg, July 2025

This document was edited by the New South Institute (NSI) staff, but opinions expressed here do not necessarily represent the views of the organization, rather those of the authors.

CONTACT INFORMATION

For questions or feedback, please contact by email: info@nsi.org.za

LAYOUT DESIGN

JustDavid

USAGE RIGHTS

Readers are encouraged to quote and reproduce this material. We request due to acknowledgement of the publication and submission of a copy of the material produced. This work is licensed under a Creative Commons - Attribution-NonCommercial 4.0 Attribution-NonCommercial 4.0 International License (CC BY-NC 4.0)

