



# **ECOWAS FREE MOVEMENT PROTOCOL: STAKEHOLDERS WORKSHOP**



21-22 June 2018

Capital View Hotel, Koforidua

An event organized by the Center for Migration Studies on Migration and Development Partnerships for rights-based migration and mobility governance in, from and to West Africa

## **Rapporteur's Report**

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## Executive Summary

The two-day stakeholders workshop was held from 21-22 June 2018 at the Capital View Hotel in Koforidua, Ghana. It attracted 16 stakeholders from Academia, Ministries, Departments and Agencies, and International Organizations with representations from the University of Ghana; Ghana Immigration Service (GIS), Ghana Statistical Service, Ministry of Interior, Ghana News Agency, Labor Department, Health Service (Port Health), Media Response, and African Center for Economic Transformation (ACET). Among other things, the aim of the workshop for stakeholders to brainstorm on a roadmap for the implementation of the ECOWAS Free Protocol, announce the Seed fund component of the MADE West Africa project and develop the themes for a call for proposals.



Four of the six sessions of the workshop were completed on Day 1, with the two other sessions completed on Day 2. Sessions for the first day included an opening session, a presentation on the history and general principles of the ECOWAS Free Movement Protocol and related frameworks, presentation of key findings of the study on the implementation of the ECOWAS Free Movement Protocol in Ghana, a breakout session that combined discussions on the challenges and good practices of the implementation of the Free

Movement Protocol, as well as a road map for addressing the identified challenges. Group reports presented after the breakout session elicited a lot of questions and very lively discussion from all participants.

A significant portion of Day two of the workshop was devoted to the development of a single roadmap for the implementation of the Free Movement Protocol based on the previous day's group discussions and reports. Additionally, detailed information on the Seed fund for the implementation of the Free Movement Protocol was presented and stakeholders were offered the opportunity to contribute ideas to the Areas of focus for the call for proposals.

All the sessions engendered very animated and insightful discussion as presenters and participants interactively engaged on all the topical issues of the workshop. Participants showed great appreciation for knowledge gained from the research on the implementation of the Free Movement Protocol and the opportunity to contribute to the road map and Areas of focus of the call for proposal for the implementation of the protocol. Strong interest and commitments were made by stakeholders to champion the implementation of the protocol in their respective organizations. The following are the summaries of the opening remarks and sessions covered in the workshop.

### Summary of the opening session remarks at the workshop

Prof. Mariama Awumbila opened the workshop with a short address to welcome participants, particularly acknowledging the efforts made by the resource person and participant from Nigeria to attend the workshop. In her address, she pointed out that in spite of the heavy focus of the media, policy

and research on international migrant flows, which is often fueled by such negative coverage as brain drain and the drowning deaths of migrants in the Mediterranean and deaths across the Sahara Desert, the



majority of migration flows in West Africa occurs within the sub-region and this has yet to receive the needed attention and policy focus. Prof. Awumbila further noted that even when the positive aspects of migration are acknowledged, remittances dominate the discussion to the neglect of other equally beneficial facets of migration, which makes the MADE project even more pertinent.

Touching on the MADE project, she indicated that it is a 3-year project aimed at identifying gaps and addressing the implementation

challenges confronting the ECOWAS Free Movement Protocol. Thus, the project was meant to strengthen capacity, improve the protection of migrant rights and promote innovative cooperation framework. She emphasized the five components around which MADE activities were organized, namely research, capacity building; inter-regional multi-stakeholder dialogues; SDG progress assessment, particularly goal 10 which seeks to reduce inequities within and among countries, and specifically sub-section 7 which seeks orderly, safe, regular and responsible migration and mobility; and a sub-grant scheme to implement advocacy programs. Activities of the MADE project in Ghana included a study on inter-regional mobility, training and high-level dialogue. According to Prof. Awumbila the objective for the stakeholders training workshop was to improve the coordination between ECOWAS and government with sub-objectives to enhance participant understanding of the ECOWAS Free Movement Protocol, identify current obstacles and develop a road map for implementation. She indicated that the MADE project is coordinated by the International Catholic Migration Commission (ICMC) and funded by the European Union. She observed that while migration can enhance socioeconomic development, it required proper governance for this to be achieved. At this point, participants were given the chance to introduce themselves and state their expectation for the workshop.

She ended her remarks by encouraging participants to feel free to raise questions and share their experiences. She noted that the high diversity of representations from various institutions, and from Ghana and Nigeria, provided a great opportunity for interaction and fruitful discussion, and encouraged everyone to feel free to engage with the issues and with fellow participants for a successful workshop.

## **Summary of principal observations during the other sessions on Day 1**

### **Session 1: ECOWAS Free Movement Protocol**

This session on the ECOWAS Free Movement Protocol was presented by Dr. Tony Elumelu, Head of Division of the ECOWAS Free Movement, and the resource person from Nigeria. He traced the history

of the protocol and highlighted the general principles underlying the protocol. Other related frameworks for governing migration, especially Transhumance, were also discussed. It was evident that intra-regional mobility was very high among member states of the ECOWAS, and even though men previously dominated migration in the region, women now constitute about 50% if not more of migrant flows in the region. Migrants are also increasingly better educated, particularly due to the high proportion of students and youth in the migration pool. It was noted that migration will continue to be a defining element as the migrant population are expected to cross the 600 million-mark by 2050, which requires careful planning because there are implications for talent mobility, urbanization, and climate change. Challenges to free movement however remain and include security (e.g. Boko Haran and Herdsman issues), economic issues and humanitarian (displaced persons, asylum, refugees) considerations.

Dr. Elumelu explained that the free movement protocol which was adopted in 1979 was a vision to drive the integration agenda of the region and this is evident from article 2 under the aims of the community, the Legos Treaty. Article 2 of the Free Movement views the free movement of goods, capital and persons as critical elements of the integration agenda. The revised treaty, also has a chapter on immigration under article 59 which reiterates that community citizens have rights of entry, residence and establishment. Member States have to adopt all adequate measures to ensure community citizens enjoy the full rights without discrimination.

On the historical dimension of the protocol, he pointed out that the protocol was expected to be implemented in three phases over 15 years, with phase 1 covering the period 1980-1985 and aimed at establishing the right of entry. The second phase, spanning 1985-1990 was aimed at establishing the right of residence and phase 3 which covers 1990-1995 was meant to launch the right to establishment. Community citizens were expected to be move freely within the region in phase 1 through the creation of a borderless ECOWAS, adoption and introduction of a single ECOWAS passport. The goal was to eventually establish a Schengen-type visa system (ECOVISA). Phase 2 was supposed to enable community citizens gain income earning employment, apply for jobs, take up jobs according to national principles as well as abolition of residence permit requirement and removal of roadblocks and security check points. The Ghana Immigration Service (GIS) participant commented that Ghana and Togo now carry out joint border patrols. He noted that phase 3 was the most challenged and selectively implemented.

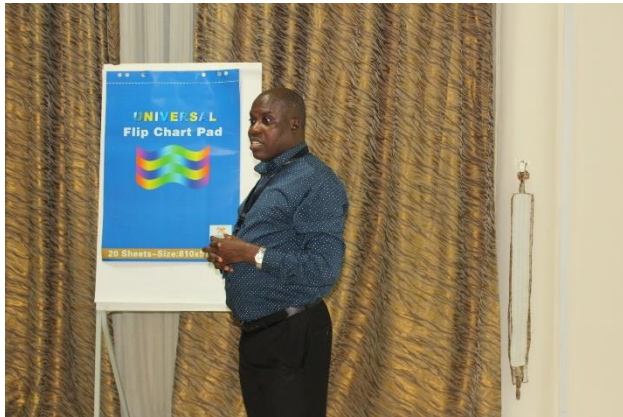
Concerning the ECOWAS common approach and specifically the migration and development plan component, Dr. Elumelu highlighted the free movement protocol, regular and irregular migration, policy harmonization, gender and asylum and observed that the document lacked vision and planning due to the excessive focus of the plan on remittances to the neglect of other aspects of migration. Significant discussion ensued on the issue of dual citizenship as some participants questioned its relevance and complained about the cumbersome nature of the process and needless delays a number of applicants had experienced. The participant from the Ministry of Interior explained the dual citizen acquisition process and indicated that expired passports could still be used for the application. Others noted recent court ruling that allows the use of dual passports for travel. Additionally, the GIS Akanu border participant commented that they currently allow entry without requiring the dual citizenship card.

A number of efforts in progress were further discussed and included a review of the protocol, harmonization of vehicular travel documents and curriculum for institutional training, monitoring and evaluation which sometimes involve officials disguising themselves to cross the border and sanctioning corrupt officials at the border. Challenges that continue to confront the implementation of the protocol were moreover discussed. These include the definition of ECOWAS citizen, lack of clarity on the meaning of ‘inadmissible migrant’ and public order. Others are poor knowledge of the protocol among citizens, poor sensitization and information on the protocol, harassment at the border and poor mechanisms for seeking redress, incoherence in the implementation of the protocol, as well as the tension between the Free Movement Protocol and national security issues (including transhumance). Dr. Elumelu remarked that it is often easier to pass through the border without a passport but with money, than to have a passport and no money. Some participants blamed the environment where border agents are poorly remunerated for the corruption at the border but others disagreed and commented that the implementation Single-Spine has not tamed corruption in the Ghana. Suggestions for improving implementation of the Free movement Protocol included making national biometric ID cards free and easily available, improving infrastructure and resources at the border, joint training and exchange of data and information, knowledge promotion on the protocol, strengthening security and cooperation among stakeholders.

A number of question and suggestions followed the presentation with the participant from ACET inquiring about the process and progress on the ECOWAS citizenship card, and the harmonization issues between Anglophone and Francophone systems. He also noted that the problem with border crossing within the ECOWAS community has moved from the border to checkpoints beyond the border and that new corruption strategies have developed in different countries. For instance, in Nigeria migrants are told to “respect yourself” as a way of extorting monies from them. The participant with Media Response also raised questions about the lack of coordination mechanism among agencies in member states, national migration platform, and ECOWAS support for cross-border activities. As part of his response, Dr. Elumelu pointed out that the ECOWAS card is a travel document which has optional and compulsory features and member states are obliged to meet certain specifications since the card can serve both as a regional travel document and a national ID card. He further noted that border officials are very territorial and hide information from related agencies. To reduce harassment at the border, he indicated that ECOWAS stickers have been deployed on buses to certify travelers and goods so that any agent that tampers with such buses would face severe sanctions because the content of the buses would have been checked at the origin by customs, immigration officers and others and would again be checked at the destination. Prof. Awumbila commented that intra-regional remittances may be more than international remittances but lack of data is a real problem. The participant from the Ministry of Interior responded that a committee was working in consultation with the International Organization for Migration (IOM), to which Prof. Awumbila responded that IOM is an implementing agency and should not be at the forefront of these issues, and that the Ministry of Interior should own the process and seek for its own funding. Moreover, the participant with Port Health indicated that vaccination card (yellow card) is for life but needs to be signed by a designated official at the designated office to make it valid. There were other comments on electronic passport in West Africa and xenophobia in among ECOWAS member states.

## **Session 2: Key findings of the study on the implementation of the ECOWAS Free Movement Protocol in Ghana and Sierra Leone**

This session was presented by Prof. Joseph Teye who noted that the study followed others by Prof.



Awumbila on intra-regional migration in 15 countries in West Africa. Study objectives included establishment of trends, assessment of implementation records, identification of existing gaps, and diagnosis for each country. He did not present much on the trends and diagnosis because as he pointed out, the workshop was focused on the implementation and the diagnosis component was meant for group discussion. The study interviewed 35 respondents in Ghana, 28 in Sierra Leone and one ECOWAS official. Pseudonyms were used in the report to anonymize respondents.

In terms of migration patterns in the ECOWAS region, he noted a general north to south movement which is consistent with the colonial heritage in West Africa and also pointed out that the higher immigration figures for Cote d'Ivoire compared to Nigeria was due to the dated statistics from Nigeria at the time of compilation of data for the report. He however stated that there were as many Ghanaian migrants in Nigeria as there were Nigerians in Ghana which calls for education for a greater appreciation of this fact among Ghanaians.

Focusing on the implementation of the ECOWAS Free Movement Protocol in Ghana, he stated that ECOWAS has done relatively better than the other regional bodies in Africa. In particular, he noted that all 15-member states have abolished visa requirement for 90 day, and Ghana has adopted the ECOWAS travel certificate. Also, member states have harmonized their immigration and emigration forms. Good practices of the implementation of the protocol observed by the study included knowledge about the intra-regional flows of migrants mostly among officials, recognition of the contribution of ECOWAS immigrants to the socioeconomic development of host countries, again among officials, the development of policies for migration governance, cooperation with other ECOWAS countries as exemplified by the intra-African talent mobility program (TMP), efforts to harmonize travel documents, mutual recognition of academic certificates and reduction of fees for ECOWAS students. On this last point, the ECOWAS representative observed that even though Ghana has reduced fees for ECOWAS students by some 50%, it was important to implement equal treatment for all citizens as Nigerian public institutions have done.

Protocol implementation challenges and gaps identified by the study included legal discrimination, a situation in which Ghana's work permit laws only recognizes foreigners, which captures all migrants without regard to whether they are ECOWAS citizens or not. Prof. Teye also noted that the quota system in Ghana is contrary to the ECOWAS protocol but pointed out that in most cases community citizens do not apply for the quota work permit and the work permit clause is not strictly enforced. There is however some discrimination in the legal code which prohibits migrants from engaging economic activities such as petty trading, taxi operation and the informal sector in general. The most vociferous group on this issue is the Ghana Union of Traders Association (GUTA) and Prof. Teye pointed out that

the association may not have been educated on the ECOWAS ruling against Ghana for discriminating against community citizens engaged in trading in the country. Dr. Elumelu commented that the temporary work permit (TWP) requirement was only supposed to discriminate between ECOWAS and non-ECOWAS citizens when it comes to looking internally for suitable job applicants and that the supra-nationality enshrined in the ECOWAS protocol has been selectively applied based on local politics.

Harassment at the border came up again and it was generally agreed that while there have been improvements, a number of challenges continue to exist including retaliatory harassment for occurrences at other borders. Dr. Elumelu stated that ECOWAS was dealing with aspects of this by naming and shaming Heads of States at their meetings which has produced some action but, in some situations, Prof. Awumbila observed that, in some cases some Heads of States prefer to endure the shame at these private meetings than to risk the backlash for implementing of some aspects of the protocol at home. Others observed that some harassment is framed as security threat, and in some cases, migrants are compelled by other migrants to acquiesce to extortion. The ACET participant commented that the migrants may have to be educated to show some respect rather than challenge already frustrated border officials but the Dr. Elumelu countered that border officials would collect bribes whether migrants are nice or not. The Ghana Immigration official also added that some migrants use aggression to cover up wrong-doing, and even though Ghana has reduced the number of check points, some migrants still use unapproved routes to avoid scrutiny. Dr Elumelu again suggested that discretion was important because the actions of the migrant could have many interpretations. Border resource constraints and management challenges were also significantly discussed.

It was further observed that some migrants lack of travel documents and permit and interpret the free movement to mean movement without any documents. Migrants from Sierra Leone were particularly mentioned by the GIS participant. Also, migrants crossing the border with vehicles registered in other countries were noted to have very low knowledge about the protocol. Likewise, some public officials were observed to have very low knowledge on the protocol. Prof. Teye moreover indicated that many migrants do not apply for the work permit after the 90 days stipulation by the protocol. Dr. Elumelu hinted that ECOWAS has abolished the 90 days requirement even though many countries are yet to implement this. Even though a lot of improvements have been made, concerns were again raised about harmonization, particularly the use of the ‘Carte d’identité’ by francophone countries, requirement of different documents and levies in different countries for migrants. For instance, in Benin migrants are required to show proof that there is no citizen to do the same job before they are granted work permit.

Additional issues that generated lively discussion included misunderstanding and fear of competition from migrants, critical need for education, cross-border crimes, Fulani issues, health concerns, especially during disease outbreak like the recent Ebola outbreak, lack of data and data sharing challenges within and between countries even though some efforts have been made, ad-hoc collaboration efforts, economic challenges and political instability in some ECOWAS member countries. Touch on xenophobia, Prof. Teye noted that one of the study findings was that xenophobia was only a perception and not supported by the data. He explained how in many instances Ghanaian traders rely on other ECOWAS citizens for a lot of their business and vice-versa when some Ghanaians front for some businesses. Prof. Awumbila observed that the African Free Trade Protocol should go



hand in hand with the free movement of persons and data is relevant. It was generally agreed that economic problems inform anti-migrant sentiments and future free movement implementation efforts will depend on political will and data sharing among stakeholders.

The ACET participant shared a perfect example of the Free Movement Protocol between Northern Nigeria and Niger. According to his account, there is an existing tradition of free movement dating many years between the residents of this area and this is underpinned by some form of a cultural bond and religious connection. Thus, the border agents do not harass migrants at the border crossing. Dr. Elumelu explained that they travel with a document interpreted to mean ‘tax clearance’ and that the chief of the Fulani may sometimes be first cousin with a Nigerian man on the other side of the border, so that mobility is truly free. The same border agents that allow this free flow of migrants and goods, when posted to other borders enforce the law to the latter but will not disrupt the security architecture at the Nigeria-Niger border. It was however unclear if this could be replicated elsewhere and Prof. Awumbila particularly noted that there are still checks at the Ghana-Burkina Faso crossing even though the border residents have substantial culture connections and engage in a significant amount of trading activities. She however called for research to understand the dynamic and determinants of the free movement between Northern Nigeria and Niger for best practice and possible scaling up. Notwithstanding, Prof. Awumbila also pointed out that such free borders are also noted for the problem of smuggling that needs to be addressed.

### **Sessions 3 and 4: Breakout session on challenges of implementation of the ECOWAS Free Movement Protocol and Road map for addressing the challenges**

The last two sessions on the challenges of implementation of the ECOWAS Free Movement Protocol and Road map for addressing the challenges were combined not only because of the synergy between them but also to save time. Two groups were formed to discuss the roadmap for the implementation of the ECOWAS Free Movement Protocol. Prof. Awumbila explained that each group should identify 3-5 major challenges to the implementation of the protocol, provide the diagnostic of the identified challenges in the order of importance, the desired goals or outcome, actionable strategy to deal with the challenge, identify the main stakeholders for achieving the goals (particularly the main organizations), and key milestones (in months and year by which time the goal would be achieved). Each group was instructed to nominate a participant as the chairperson to lead the discussions, and another person as the rapporteur to report on the findings of the group.

After about two hours of deliberations, the group reports were projected and presented by the chairpersons of the respective groups. Some of the challenges identified included legal discrimination which creates conflict between national and ECOWAS laws, harassment and intimidation at the border (particularly women), labor market and migration policy systems, weak cooperation regarding training and sharing of information and poor financial standing of member states, lack of knowledge of the protocol. Some of the goals were reduced contradiction or harmonization of national laws and the ECOWAS protocol, harmonization of definitions and concepts, improvement of infrastructure at the

border, establishment of labor market information system with uniform template across member states. Actionable strategies captured by the groups included amendment of laws such as the investment act, work permit regimes, education of lawmakers and general awareness creation among citizens, advocacy, capacity building of border agents and officials, development of a data capture mechanism with universal template, establishment of a centralized data base system that is accessible to all officials at all borders, regular payment of member state dues, sensitization of ECOWAS citizens on the protocol. The key stakeholders identified included lawmakers, CSOs, academia, Ghana Statistical Service, Ghana Immigration Service, Labor department CMS, Ministry of Interior, IOM and AU.

All participants were given the opportunity to comment on the points raised in each group while group members provided clarification on pertinent issues. Prof. Awumbila for instance emphasized that gender was critical and required significant actionable strategy in the roadmap but it was silent in the deliberations of group 2. Even though Dr. Elumelu concurred and pointed out that gender was being developed by ECOWAS as a standalone issue, Prof. Awumbila opined that gender as a standalone issue could be forgotten so that identifying and integrating gender across all the domains would be important, and Prof. Teye agreed to this point of view and indicated that the roadmap should have both a standalone part on gender, and gender should also be integrated in the other issues raised so that the importance of gender to the roadmap would be clear. Others suggested using ‘selective discrimination’ instead of ‘legal discrimination’ as a challenge to the implementation of the free movement protocol but it was generally agreed that ‘discrimination in national laws and policies’ was more appropriate. The issue of sanction was also discussed extensively and it was agreed that while it might be important for implementation, it was inappropriately placed under lack of knowledge and needed to be moved elsewhere on the roadmap. A number of points were raised by both groups and this made it necessary to harmonize the findings to present a single roadmap, but since it was already too late, this activity was pushed to Day 2 of the workshop. Day 1 ended at 6.45pm.

## **Summary of the principal observations made during the sessions of the workshop on Day 2**

### **Session 4**



The second day of the workshop began with a recap of the key points of discussion from day 1 of the workshop. This was followed by the unfinished business of harmonizing and ordering the issues raised by the two groups on the roadmap from day 1, and this was led by Prof. Teye.

### **Session 5**

This session was presented by Prof. Awumbila and gave an overview of the sub-grant component of the MADE West Africa Project. She explained that the grant which has a life-line up to December 2018 was meant for CSOs and migrant based organizations that want to undertake small actionable advocacy programs to contribute towards addressing some of the gaps identified in the roadmap for the implementation of the Free Movement Protocol in Ghana and Sierra Leone. The call for proposals was expected to go out in early July 2018 so that by October 2018 successful applicants can run their programs over six months with a potentially three months extension. She noted that the grant will award a maximum of €8000 per organization and the results from these organizations will be presented at the next Global Forum on Migration and development in 2019. Prof. Awumbila then solicited inputs from participants in terms of the broad areas of focus of the call for the grant proposal. It was indicated that sustainability of proposed activities and the ability of organizations to provide 15% matching fund would be important considerations for selection of projects. The 15% can be in-kind contribution such as staff time spent on the project. After significant deliberation, it was agreed that the call for proposal should focus on the following three areas: 1. Sensitization programs at border posts, which will target immigration officials, border community, as well as programs in member states which will target ECOWAS citizens. 2. Capacity building activities, and 3. Stakeholder networking meetings.

Prof. Awumbila indicated that the call would be announced soon and encouraged participants to apply for consideration and spread the word. Prof. Teye moved for the closure of the workshop and Prof. Awumbila gave a short remark thanking participants for their commitment, noting that intra-regional

migration trends demonstrate the importance of migration in the sub region, and that there was need to harness the huge potential resource it offers for development. Dr. Elumelu also highlighted the need for networking to take advantage of every meeting to improve the Free Movement Protocol.

### **Session Five**

This was moderated by Prof Awumbila. There was further discussion of the group work and a synchronisation of the road map from the two groups.

### **Conclusion**

The stakeholder workshop covered topical issues that included the history and general principles of the ECOWAS Free Movement Protocol and related frameworks, key findings of the study on the implementation of the ECOWAS Free Movement Protocol in Ghana, discussions on the challenges and good practices of the implementation of the Free Movement Protocol, as well as a road map for addressing the identified challenges. The need for advocacy and sensitization about the Free Movement Protocol in order to reduce harassment and protect the rights of migrants, as well as capacity building of key stakeholders came up very strongly. Important achievements of the workshop were the development of a roadmap for the implantation of the ECOWAS Free Movement Protocol and fashioning of areas of focus for the seed grant call for proposals. The sessions were lively and provoked critical thinking and discussion of the pertinent issues of the workshop.