

# 4. Country Chapters

## 4.1 Benin

### 4.1.1 Migration trends

#### 4.1.1.1 Immigration

Although the presence of foreigners in Benin remains limited, it has risen over the past decades and, as Professor John Igue puts it, “Benin, an old country of emigration, is becoming a land of immigration”.<sup>106</sup> Indeed, the country presents a number of attractive factors, such as its political stability since 1990, its maritime coast, and its location in the prosperity zone of West Africa.

Data	Year	Absolute numbers	% of the Total Population
National Population and Housing Census (RGPH) <sup>107</sup>	2002	141,595 foreigners <sup>108</sup>	2.1%
	1992	36,765 foreigners <sup>109</sup>	0.8%
	1979	41,284 foreigners <sup>110</sup>	1.2%

##### 4.1.1.1.1 Characteristics of immigrants/foreigners

Countries of origin:	The vast majority of immigrants are nationals from West African countries, primarily Niger (34.8%), Togo (22.1%), Nigeria (20.5%) and, to a lesser extent, Burkina Faso (4.6%).
Settlements:	Cotonou (36.8%), Alibori (19.1%), Borgou region (11.8%). In the case of Cotonou, foreigners are estimated to represent as much as 7.8% of the city's population. <sup>111</sup>
Socio-demographic profile:	Males represent around 60% of foreign nationals. In the case of Togolese nationals, female migrants are almost twice as numerous as males. <sup>112</sup>
Socio-economic profile and sectors of employment:	<ul style="list-style-type: none"><li>• Migrants generally have little formal education: 19.5% have primary education and 16.4% have secondary or higher education.<sup>113</sup></li><li>• Most foreigners are employed within the trade and catering sector (54.1%) and in agriculture (22.6%).<sup>114</sup></li></ul>

<sup>106</sup> Igue, J., *Les Béninois de la diaspora. Cas du Ghana, de la Côte d'Ivoire et du Gabon*, République du Bénin, UNFPA, 2008, p. 7.

<sup>107</sup> *Recensement général de la population et de l'habitation*.

<sup>108</sup> INSAE, *Recensement général de la population et de l'habitation. Analyse des résultats. Tome 3 : caractéristiques socioculturelles et économiques*, 2003, p. 73.

<sup>109</sup> *Ibid.*, p. 77.

<sup>110</sup> *Ibid.*

<sup>111</sup> *Ibid.*, pp. 76-77.

<sup>112</sup> *Ibid.*, p. 75.

<sup>113</sup> *Ibid.*, p. 78.

<sup>114</sup> *Ibid.*, p. 78.

**Vulnerable groups:**

- It appears that trafficking is primarily an internal phenomenon.
- There has been evidence with regards to human trafficking to suggest that women and girls from Nigeria, Guinea, Togo, and Niger are forced into prostitution.<sup>115</sup>

**4.1.1.2 Emigration**

Benin has long been a country of emigration, with flows which have traditionally been composed of high-skilled nationals and directed towards French-speaking West African countries. Over time, the patterns of Beninese emigration have changed significantly. From the late-1950s to the early-1980s, Beninese migrants in West Africa were subject to six waves of mass expulsions.<sup>116</sup> Arguably, no other West African state has experienced such widespread forced return of its nationals. These recurrent mass expulsions, and the evolution of the economic and political context in Benin and countries of destination, have led to a diversification of emigration flows that has taken two forms. First, migration does not concern only high-skilled individuals anymore but also includes low- and medium-skilled workers. Second, the countries of destination of Beninese migrants have widened, within and beyond West and Central Africa.

Beninese authorities have not conducted a comprehensive mapping of the country's diaspora and estimates of the number of nationals abroad vary greatly from one source to another.

Data	Year	Estimates
General estimates from research reports <sup>117</sup>	2006-2012	3 million nationals abroad
Data from diplomatic and consular posts (unpublished)	2011	4,384,686 nationals abroad <sup>118</sup>
UN Trends in International Migrant Stock <sup>119</sup>	2013	Beninese emigrant stock estimated at 480,580

<sup>115</sup> UNODC, *Measures to Combat Trafficking in Human Beings in Benin, Nigeria and Togo*, 2006; U.S. Department of State, *Trafficking in Persons Report 2013*, 2013, pp. 89-90.

<sup>116</sup> Expulsions from Côte d'Ivoire in 1958 (an estimated 17,000 nationals were expelled), Congo in 1962 (3,000 expelled), Niger (6,918 expelled), Ghana in 1969 (5,000 expelled), Gabon in 1978 (10,558 expelled) and Nigeria in 1983 (45,000 expelled). Igue, J., 2008, op.cit., p. 20.

<sup>117</sup> Ba, H., Kouton, E. F., *Etude sur le profil migratoire du Bénin. Rapport final*, Ministère du Développement, de l'Economie et des Finances, 2006, p. 20; Igue, J., 2008, op. cit., p. 21 ; BCEAO, *Enquête sur les transferts de fonds des migrants*, 2012, p. 23.

<sup>118</sup> Toudegnon, T., *Migration au Bénin. Profil national 2011*, IOM, 2011, p. 48.

<sup>119</sup> United Nations, Department of Economic and Social Affairs, Population Division, 'Trends in International Migrant Stock: Migrants by Destination and Origin', 2013.

## 4.1.1.2.1 Characteristics of emigrants/nationals abroad

Countries of destination/residence:	<p><i>Stock</i></p> <ul style="list-style-type: none"> <li>• It is generally agreed that the vast majority of migrants – around 90% – reside in African countries, primarily in West Africa, and to a lesser extent in Central Africa.</li> <li>• Nigeria, Côte d'Ivoire, Ghana, Gabon and Togo are important countries of residence for Beninese nationals.<sup>120</sup></li> <li>• Migration flows towards Libya appears to have been small: in 2012, IOM reported 109 Benin returnees fleeing from the Libyan civil war.<sup>121</sup></li> <li>• The OECD international migration database identifies France (7,923 registered Beninese nationals in 2009), Italy (2,534 in 2010) and Germany (1,678 in 2011) as the only countries where the Beninese presence is worth mentioning.<sup>122</sup> No data is available for the U.S. or Canada. The OECD database also fails to provide an estimate of migrants in an irregular situation or of those holding the nationality of the country of residence. For instance, many Beninese nationals also hold French nationality. According to Benin's consular data, 30,000 nationals reside in France.<sup>123</sup></li> </ul> <p><i>Recent emigration flows</i></p> <ul style="list-style-type: none"> <li>• According to Igue, emigration to Ghana has virtually stopped and emigration towards Gabon and Côte d'Ivoire has dropped significantly in the last few years.<sup>124</sup> The author argues that Nigeria remains the only significant attractive country of destination in Africa, for seasonal migration mainly, while most recent migration flows are directed towards OECD Member States.<sup>125</sup></li> <li>• The OECD database shows an increase of Beninese migration flows over the 2000s<sup>126</sup>, although no information can be provided on whether OECD countries have replaced West and Central African states as the main countries of destination of Beninese migrants due to the fact that the former have adopted restrictive immigration policies, while migration within the ECOWAS region is governed by a principle of freedom of circulation and generally follows a <i>laissez faire</i> approach.</li> </ul>
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<sup>120</sup> Ba, H., Kouton, E. F., 2006, op. cit., p. 20 ; Igue, J., 2008, op.cit., p. 21 ; Toudegnon, T., 2011, op.cit., p. 48.

<sup>121</sup> Aghazarm, C., Quesada, P. and Tishler, S., *Migrants Caught in Crisis: the IOM Experience in Libya*, IOM, 2012, p. 14.

<sup>122</sup> OECD, 'International Migration Database'. The OECD migration database collects information on stay/ resident permits and population registers.

<sup>123</sup> Igue, J., *Les pistes d'implication de la diaspora béninoise au financement du développement national. Premier rapport d'étape*, 2013, p. 4.

<sup>124</sup> Igue, J., 2008, op. cit., p. 41.

<sup>125</sup> Ibid., p. 42; p. 184.

<sup>126</sup> OECD, 'International Migration Database'.

Education level/ sectors of employment:	<ul style="list-style-type: none"> <li>• The sectors of employment engaged in by Beninese migrants are not known.</li> <li>• J. Igue, who has studied the situation of Beninese migrants in Côte d'Ivoire, Gabon and Ghana, identifies five main types of occupations: high-skilled "intellectual" occupations, low- and medium-skilled urban jobs, small trade, fishing, and agriculture.<sup>127</sup></li> <li>• Skilled occupations were mainly found in Gabon, in the education sector, but it has decreased over time as Beninese teachers have retired and the work conditions have deteriorated.<sup>128</sup></li> <li>• Fishing is the main occupation of Beninese migrants residing in Gabon and Côte d'Ivoire.<sup>129</sup></li> <li>• The other aforementioned types of jobs are found in all West and Central African countries of destination.<sup>130</sup></li> <li>• Data concerning the skills of Beninese migrants in the OECD is scarce, and therefore, an eventual brain drain phenomenon is difficult to assess. With regard to the health sector, however, OECD data shows a significant risk of brain drain: circa 2000, the emigration rate of nurses was estimated at 3.2% and that of medical doctors at 40.9%.<sup>131</sup></li> </ul>
Remittances:	<ul style="list-style-type: none"> <li>• Remittances were estimated by the World Bank at 157 million USD in 2013.<sup>132</sup></li> <li>• The majority of transfers are done through formal channels, although an estimated two households in five use informal transfer mechanisms.<sup>133</sup></li> <li>• The majority of remittances are sent from African countries (62.7%), primarily from Nigeria, Ghana, Côte d'Ivoire, Senegal, Gabon and the Republic of the Congo. 29.2% of remittances were estimated to have been sent from EU Member States.<sup>134</sup></li> <li>• 29.6% of remittances are used for consumption, 23% for housing investments, and 28% for other investment purposes.<sup>135</sup> Individual and collective initiatives of the diaspora in the social field compensate, to a certain extent, for the limited capacities of the state.</li> </ul>
Vulnerable groups:	International trafficking of Beninese nationals primarily concerns children, who are forced into domestic, commercial and agricultural work in Nigeria, Gabon, Côte d'Ivoire, and, to a lesser extent, in other West and Central African countries such as Ghana and Cameroon.

### 4.1.2 Migration policy

Although Benin lacks a comprehensive migration strategy, most aspects of migration management are covered by policy documents and the national legislation. However, a number of gaps can be identified. With regard to emigration management, a National Policy for Beninese Nationals Abroad<sup>136</sup> was adopted in 2000 which focuses on the protection of the rights and interests of Beninese migrants and the relationship between migration and development, but which fails to cover most labour migration related issues. Immigration policies are also incomplete. On the whole, one may argue that policy documents

<sup>127</sup> Igue, J., 2008, op. cit., p. 135.

<sup>128</sup> Ibid., p. 138.

<sup>129</sup> Ibid., p. 145.

<sup>130</sup> Ibid., pp. 141-143; pp. 154-155.

<sup>131</sup> OECD, 'Immigrant Health Workers in OECD Countries in the Broader Context of Highly Skilled Migration', *International Migration Outlook – SOPEMI 2007*, 2007, p. 214.

<sup>132</sup> World Bank, 'Remittances Data', 2013.

<sup>133</sup> BCEAO, *Enquête sur les transferts de fonds des migrants*, 2012, p. 15; p. 21.

<sup>134</sup> Ibid., p. 23.

<sup>135</sup> Ibid., p. 25.

<sup>136</sup> *Politique nationale pour les Béninois de l'étranger*.

and legislation generally exist, but their implementation remains limited. The national development plan<sup>137</sup> (SCRP 2011-2015) does not mention migration issues.

#### 4.1.2.1 Institutional framework on migration

##### Governmental stakeholders involved

Ministry	Agency, Directorate, Unit	Responsibilities
Ministry of Interior of Public Security <sup>138</sup>	Directorate of Emigration and Immigration <sup>139</sup>	<ul style="list-style-type: none"> <li>Immigration management</li> </ul>
Ministry of Labour and Public Service <sup>140</sup>		<ul style="list-style-type: none"> <li>Delivery of work permits to foreign workers</li> </ul>
Ministry of Micro-Finance, Youth Employment and Women <sup>141</sup>	National Employment Agency <sup>142</sup>	<ul style="list-style-type: none"> <li>Matching the labour demand and supply</li> <li>Assistance to returning migrants</li> <li>Information dissemination to potential migrants and nationals recruited for employment abroad</li> </ul>
Ministry of Foreign Affairs, African Integration, Francophony, and Beninese Abroad <sup>143</sup>	National Agency for Beninese Abroad <sup>144</sup>	<ul style="list-style-type: none"> <li>Relations with nationals abroad</li> <li>Information dissemination</li> <li>Assistance to returning migrants</li> </ul>
	Directorate of Relations with Beninese Abroad <sup>145</sup>	<ul style="list-style-type: none"> <li>Protection of nationals abroad</li> </ul>
Ministry of Family		<ul style="list-style-type: none"> <li>Fight against trafficking in persons</li> </ul>

Diaspora issues are also dealt with by an independent and private structure, the High Council for Beninese Abroad<sup>146</sup> which was established in 2000 (see section 4.1.2.3.2).

<sup>137</sup> *Stratégie de croissance pour la réduction de la pauvreté.*

<sup>138</sup> *Ministère de l'Intérieur et de la Sécurité publique.*

<sup>139</sup> *Direction de l'émigration et de l'immigration.*

<sup>140</sup> *Ministère du Travail et de la Fonction publique.*

<sup>141</sup> *Ministère de la de la Micro-finance, de l'Emploi des jeunes et des Femmes.*

<sup>142</sup> *Agence de nationale de l'emploi.*

<sup>143</sup> *Ministère des Affaires étrangères, de l'Intégration africaine, de la Francophonie et des Béninois de l'extérieur.*

<sup>144</sup> *Agence nationale des Béninois de l'extérieur.*

<sup>145</sup> *Direction des relations avec les Béninois de l'extérieur.*

<sup>146</sup> *Haut Conseil des Béninois de l'extérieur.*

### 4.1.2.2 Immigration: national policy framework and institutional practices

#### 4.1.2.2.1 General immigration provisions

Legislation/Policy Framework	Description
<p>Law No. 86-012 of 31 January 1986 on the regime applicable to foreigners in Benin<sup>147</sup></p> <p>Regulation No. 218 of 3 November 1992 on the stay permit and the conditions of its delivery<sup>148</sup></p>	<p><b>Law, Art. 3</b> establishes a distinction between the status of non-immigrant foreigners and that of immigrant foreigners.</p> <p><i>Non-immigrant status</i></p> <p><b>Law, Art. 4:</b> Non-immigrant foreigners include individuals staying on the national territory for a period not exceeding three months.</p> <p><b>Law, Art. 17; Art. 18:</b> Depending on the duration of their stay, non-immigrant foreigners are requested to obtain the delivery of a tourist or a stay visa.</p> <p><i>Immigrant status</i></p> <p><b>Law, Art. 20:</b> Within three months of entry, foreigners have to request the delivery of a stay permit.</p> <p><b>Law, Art. 6 to Art. 9</b> distinguish between three types of stay permits:</p> <ul style="list-style-type: none"> <li>• temporary resident stay permit, valid for a maximum period of one year and renewable two times;</li> <li>• ordinary resident stay permit, valid for a maximum period of three years and renewable; and</li> <li>• a privileged resident permit, valid for ten years and renewable off-right.</li> </ul> <p><b>Reg. Art. 6; Art. 7:</b></p> <ul style="list-style-type: none"> <li>• temporary resident stay permits are delivered to newcomers;</li> <li>• ordinary residence stay permits are delivered to foreigners who have been residing in Benin for a minimum period of three years; and</li> <li>• privileged resident permits are primarily delivered to foreigners who have resided in Benin for ten years as well as to spouses of Beninese nationals.</li> </ul> <p>In addition to this common legal regime, <b>Reg. Art. 8</b> foresees the delivery of a specific residence permit to ECOWAS Member States nationals.</p> <p><b>Reg. Art. 9; Art. 12:</b> Among conditions of delivery of stay and residence permits, the following is required:</p> <ul style="list-style-type: none"> <li>• a morality investigation is conducted by the Directorate of Home Intelligence Services and territory Surveillance<sup>149</sup> or police services;</li> <li>• proof of the activity exercised in Benin (work contract, university registration, etc.);</li> <li>• production of a criminal record;</li> <li>• a repatriation guarantee;</li> <li>• an application fee of 10.000 CFA francs; and</li> <li>• “a medical certificate from less than three months establishing that the individual is not affected by any sexual transmissible disease”.</li> </ul>

The rights attached to the specific ECOWAS residence permit are not foreseen by the legislation. It is also notable that, with the exception of spouses of Beninese nationals, the legislation does not include provisions on the status of family members.

The proof that the applicant does not have any sexual transmissible diseases, which is a requirement for granting a stay permit, is likely to constitute a breach of Benin’s international obligations. International

<sup>147</sup> Loi No. 86-012 portant régime des étrangers en République populaire du Bénin.

<sup>148</sup> Arrêté No. 218 instituant la carte de séjour au Bénin et précisant les conditions de la délivrance.

<sup>149</sup> Direction des renseignements généraux et de la surveillance du territoire.

organisations such as IOM and WHO have issued opinions that firmly condemn such restrictive practices.<sup>150</sup>

Decree No. 77-45 of 4 March 1977 issuing regulation regarding the movement of foreigners<sup>151</sup> requires the delivery of a special authorisation for foreigners to leave their place of residence. This constitutes a breach of the principle of freedom of movement within the territory of a given state, which is internationally recognised to migrants in a regular situation. Although national authorities claim that these regulations are obsolete, the principle of good administration would require that they be repealed. Over the past decades, the ILO, in its review of the implementation of Convention C 143 (1975) has constantly raised the need to adopt the necessary measures to repeal Decree No. 77-45.<sup>152</sup>

#### 4.1.2.2.2 Labour migration

##### Access to national labour market

Legislation/Policy Framework	Description
Law No. 86-012 of 31 January 1986 on the regime applicable to foreigners in Benin	<b>Law, Art. 21; Reg. Art. 9</b> request that in addition to common immigration conditions, migrant workers have their work contract authorised by the competent services of the Ministry of Labour. Specific conditions and procedural steps are not considered.
Regulation No. 218 of 3 November 1992 on the stay permit and the conditions of its delivery	
Labour Code, 1998	<p><b>Art. 28:</b> The exercise of a salaried activity by foreigners is subject to the delivery of a work permit, valid for one year, and is renewable.</p> <p><b>Art. 29</b> specifies that the request of a work permit can be rejected when the competences of the worker do not correspond to the needs of the national economy. In other words, the possibility of a labour market test is foreseen, although its modalities are not clearly stated.</p> <p><b>Art. 28</b> explicitly guarantees that loss of employment does not affect the validity of the work permit, and therefore, the legal status of the migrant worker in Benin.</p> <p><b>Art. 13; Art. 14</b> state that work contracts implying the establishment of the worker outside his/her place of usual residence are to be approved by the competent services of the Ministry of Labour. The purpose of this procedure is to ensure that the free will of the worker and his/her rights are respected, notably through a review of the work conditions stated in the contract.</p>

To some extent, Beninese legislation lacks precision. Conditions and procedural steps for the delivery of a work permit are not clearly stated. Moreover, rights and obligations of the migrant worker, including the possibility to freely change employer, sector of activity, and geographical area of employment are not specified. Access of family members to the labour market is not regulated, and the specific status of ECOWAS Member States nationals is not explicitly considered.

Art. 12 of Law No. 86-013 of 26 February 1986 concerning the General Statute of Permanent Agents of

<sup>150</sup> UNAIDS, IOM, UNAIDS/IOM Statement on HIV/AIDS-related Travel Restrictions, 2004.

<sup>151</sup> *Décret No. 77-45 du 4 mars 1977, portant réglementation de la circulation des étrangers.*

<sup>152</sup> ILO, Comments of the Committee of Experts, Benin, C 143.

the State<sup>153</sup> provides that only Benin nationals can be nominated in state employment. As repeatedly noted by the ILO, such a broad restriction of foreigners' access to public employment is likely to constitute a breach of Convention C 143, which only permits restrictions on the access of foreigners provided that the exceptions relate to "limited categories of employment" or functions, and that they are necessary "in the interest of the State".<sup>154</sup>

#### *Rights within employment*

Legislation/Policy Framework	Description
Labour Code, 1998	<p><b>Art. 2</b> provides for equal treatment with nationals. Foreigners, regardless of their legal status, benefit from all obligations and rights from the labour legislation as a principle.</p> <p><b>Art. 82</b> states that all foreigners can join a trade union and administrative and executive functions can be performed by foreigners residing legally on the national territory, provided they enjoy their civic rights.</p>

Such provisions constitute an improvement of the condition of foreign workers in Benin. Before the adoption of the current Labour Code in 1998, administrative and executive functions within trade unions were reserved for Beninese nationals and nationals of countries with which agreements with reciprocity clauses had been concluded.

#### *4.1.2.2.3 Irregular migration*

Legislation/Policy Framework	Description
Law No. 86-012 of 31 January 1986 on the regime applicable to foreigners in Benin	<p><b>Art. 29</b> Refoulement is foreseen for foreigners who are not in possession of the requested documents to enter the country.</p> <p><b>Art. 32; Art. 33:</b> The Minister of Interior is competent to cancel a stay permit, refuse the delivery or renewal of a visa, refuse stay, and expel foreigners. With the exception of foreigners who have been condemned to a prison penalty, the grounds on which such administrative sanctions can be taken are not specified.</p> <p><b>Art. 34:</b> Irregular stay exposes the considered individual to a fine.</p>

In practice, regularisation is only possible during the first week of entry or expiration of the stay documents upon payment of a fine.

Benin's national authorities appear to adopt expulsion orders more often than most West African countries. In 2012, 166 individuals were returned to their country of origin on the grounds of absence of visa, fraudulent travel documents, and irregular entry/stay. In addition, Benin judicial authorities prosecute migrant smugglers as well as those who falsify visas and travel documents. In most cases, expelled individuals hold falsified Schengen visas or passports. It is therefore likely that most expelled migrants are individuals seeking irregular entry in EU Member States through Benin. According to officials interviewed, expulsion based on the sole absence of a stay permit is rare.

<sup>153</sup> *Loi No. 86-013 du 26 février 1986 portant statut général des agents permanents de l'Etat.*

<sup>154</sup> ILO, Comments of the Committee of Experts, Benin, C143.



#### 4.1.2.2.4 Migrants at risk

Legislation/Policy Framework	Description
Law No. 2006-04 on the conditions of transportation of minors and the repression of child trafficking <sup>155</sup>	The Law criminalises all forms of child trafficking and Art. 21 foresees penalties for offenders of 10 to 20 years of imprisonment as well as fines. <b>Law, Art. 9; Art. 10</b> state that foreign children entering Benin without their legal guardians must carry an authorisation approved by the competent authorities of the country of origin which states the purpose and duration of stay in the country.
Decree No. 2009-694 of 31 December 2009 on the specific conditions of entry of foreign children on the territory of the Republic of Benin <sup>156</sup>	<b>Law, Art. 19:</b> Offenders are subject to penalties of two to five years of imprisonment as well as fines between 500,000 and 2,500,000 CFA francs. <b>Reg. Art. 7; Art. 8</b> include protection mechanisms for unaccompanied minors, which are to be implemented in cooperation with the competent authorities of the relevant countries of origin.

To date, no legislation specifically targeting adult trafficking has been adopted. A proposal for a law is currently being drafted. The Penal Code and the Labour Code include several criminal offenses that partially cover adult trafficking, such as the prohibition of facilitation of prostitution and forced labour. However, the penalties foreseen do not appear to be sufficiently stringent to face the challenges of the crime of trafficking.<sup>157</sup>

In practice, efforts of the national authorities concentrate on child trafficking. A temporary shelter is run by public authorities, which provides legal, medical and psychological services. Long-term shelters are run by NGOs. A variety of awareness-raising activities have been implemented over the years and police forces are regularly trained on child trafficking. With regard to the prosecution, protection and prevention of adult trafficking, no specific measures have been undertaken.<sup>158</sup>

In 2005, Benin concluded a bilateral agreement with Nigeria on the prevention, repression and suppression of human trafficking, in particular women and children. The agreement includes measures related to the prosecution of offenders as well as mechanisms to identify and protect victims and to ensure their repatriation and reinsertion in the country of origin. On 20 September 2011, an agreement was signed with the Republic of Congo to prevent transnational child trafficking. The agreement covers the areas of prosecution, protection and prevention of trafficking. It includes cooperation mechanisms, notably with regard to judicial procedures and repatriation of child victims.

### 4.1.2.3 Emigration

#### 4.1.2.3.1 Labour migration

Benin lacks a labour migration policy. National authorities are yet to identify competencies that can be promoted abroad or decide on those for which promotion should not actively be undertaken. However,

<sup>155</sup> *Loi No. 2006-04 portant conditions de déplacement des mineurs et répression de la traite des enfants en République du Bénin.*

<sup>156</sup> *Décret No. 2009-694 du 31 décembre 2009 portant conditions particulières d'entrée des enfants étrangers sur le territoire de la République du Bénin.*

<sup>157</sup> U.S. Department of State, *Trafficking in Persons Report 2013*, 2013, pp. 89-90.

<sup>158</sup> *Ibid.*

initial steps have been taken in this regard with the establishment of an Operational Register of Occupations (ROME)<sup>159</sup> in 2011 and the publication of a study on the Beninese diaspora, which analyses in details the patterns of emigration to Côte d'Ivoire, Gabon and Ghana.<sup>160</sup> Activities related to the identification and assessment of existing and potential new countries of destination are non-existent and promotion activities in the current countries of destination remain limited, despite the conclusion of some labour migration related bilateral agreements.

#### *Recruitment system*

The National Employment Agency is entrusted with the duty of accommodating to accompany jobseekers within both the national and the international labour market. In practice, national employment services are yet to develop capacities to place national workers abroad.

Although the legislation does not include any provisions regulating the activities of private employment agencies, several agencies operate in Benin, such as *Afrique Conseil*, *Gestion d'Entreprise en Culture Africaine*, *LC Out Placement*, etc. These agencies generally focus on the placement of high-skilled workers in African countries. Two agencies, *Accès Canada Bénin* and *Canada sans détour*, specialise in facilitating migration of Beninese salaried and self-employed workers to Canada.

#### *Bilateral labour agreements*

Benin has concluded several bilateral agreements that include provisions regarding entry and stay of migrant workers. The most notable and comprehensive is the Agreement on Concerted Management of Migratory Flows and Co-Development concluded with France in 2009 (see section 4.1.3. for more details).

#### **4.1.2.3.2 Migration and development**

The period 1999-2000 is the starting point of the development of a migration and development strategy in Benin. On 6 December 2000, a National Policy for Beninese Nationals Abroad<sup>161</sup> was adopted by the Council of Ministers. The policy goes beyond issues related to the relationship between migration and development and includes elements related to the protection of Beninese emigrants (see section 4.1.2.3.3). With regard to migration and development, the main objectives of the National Policy are the following:

- to promote cultural activities abroad and develop Beninese schools in major countries of destination;
- to facilitate the reinsertion of returning migrants;
- to reduce the brain drain phenomenon and attract competences from the diaspora;
- to mobilise the resources of nationals abroad for the economic development of the country, in particular through the institution of a diaspora bank, a solidarity fund, and fiscal incentives; and
- to increase the participation of nationals abroad in Benin's political life.

<sup>159</sup> *Répertoire opérationnel des emplois et métiers.*

<sup>160</sup> John Igue's *Les Béninois de la diaspora. Cas du Ghana, de la Côte d'Ivoire et du Gabon*, République du Bénin, UNFPA, 2008.

<sup>161</sup> *Politique nationale pour les Béninois de l'extérieur.*

*Institutional developments*

On 29 December 2000, a National Agency for Beninese Abroad was created and placed under the authority of the Ministry of Foreign Affairs, African Integration, Francophony, and Beninese Abroad.<sup>162</sup> The main function of the Agency is to organise the relationship between the State and nationals abroad as well as their associations. More specifically, it is entrusted with the following duties:

- to assist and advice nationals abroad for an improved level of participation in the economic and social development of Benin;
- to initiate development projects that include the participation of nationals abroad;
- to initiate projects to maintain the relationship between nationals abroad and their country of origin; and
- to develop and maintain a database of nationals abroad.

A High Council of Beninese Abroad was also created in 2000. The High Council is not a public institution but an independent private structure that aims to regroup nationals abroad with a view to facilitating their participation in national political life, protecting their rights and interests, and promoting investment in Benin. It also implements cultural, economic and sports exchanges between Benin and migrants' countries of residence. At local level – in countries of residence – the High Council is organised into sections (including a community assembly, a community council and a community office) in which members of diaspora associations and nationals registered at consular and diplomatic posts can participate. Members can be elected at the instance of the High Council and participate in the different activities of the structure. At central level, the High Council is composed of a general assembly that meets every two years, a coordination committee, and an executive office.

*Mobilising and channelling remittances for development*

In 2012, a survey covering 1,510 households provided a better understanding of remittances sent to Benin.<sup>163</sup> A report which looks into means of increasing the participation of migrants in the national development, and analyses the different types of diaspora associations and the projects they implement, is currently being drafted.<sup>164</sup>

Measures to support the engagement of the diaspora for development purposes do not include specific fiscal regimes, although incentives foreseen by the Investment Code apply to Beninese residing abroad. To date, the planned establishment of a Bank of Beninese Abroad for Investment<sup>165</sup> has yet to be realised. In 2011, the general assembly of the High Council of Beninese Abroad created a diaspora fund based on voluntary contributions from its members. In addition, public authorities have focused on improving the competition among private operators with a view to lowering transfer costs.

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<sup>162</sup> *Décret No. 2000-653 du 29 décembre 2000 portant attributions, organisation et fonctionnement de l'Agence nationale des Béninois de l'extérieur.*

<sup>163</sup> BCEAO, 2012, op. cit.

<sup>164</sup> Igue, J., 2013, op. cit.

<sup>165</sup> *Banque des Béninois de l'extérieur pour le développement.*

*Diaspora outreach and confidence-building measures*

Although a comprehensive database of Beninese abroad is yet to be developed, efforts have been undertaken to better understand the patterns and characteristics of Beninese emigration. A study on the Beninese diaspora, which analyses in detail the characteristics of Beninese migrants in the Côte d'Ivoire, Gabon and Ghana, was published in 2008.<sup>166</sup>

Regarding the maintenance and improvement of relationships between the state and its nationals abroad, dual/multiple citizenship is recognised, as is the right to participate in national elections. The general assembly of the High Council of Beninese Abroad meets on a regular basis. To date, 27 sections exist in countries of destination and extension to other countries is planned.

*Addressing the challenges of highly-skilled migration*

Policies related to the brain drain phenomenon and the circulation/return of high-skilled migrants are primarily implemented through the UNDP-run TOKTEN (Transfer of Knowledge through Expatriate Nationals) programme, which sees the temporary return of skilled nationals in order to contribute to development projects in their country of origin, and the IOM-led programme Migration for Development in Africa (MIDA). The MIDA programme includes the development of a database for the registration of migrants willing to participate in the programme, a repertory of the needs that may be satisfied through the use of migrants' expertise, and a pilot project seeking the temporary return of high-skilled Beninese migrants to participate in development activities, mainly in the health sector.

**4.1.2.3 Migrants' protection**

The protection of migrants' rights and interests is a central objective of the National Policy for Beninese Nationals Abroad, which specifically refers to the conclusion of bilateral agreements with countries of destination, recourse to local lawyers through by consular and diplomatic posts to protect nationals abroad, and the adoption of mechanisms to facilitate the reintegration of returning migrants.

*Institutional developments*

The mandate of the National Agency for Beninese Abroad focuses on information dissemination and assistance to returning migrants. Protection of nationals abroad is the competency of the Directorate of Relations with Beninese Abroad, which is also placed under the authority of the Ministry of Foreign Affairs, African Integration, Francophony and Beninese Abroad. The Directorate is charged with the responsibility of assisting migrant workers in case of work conflicts and of repatriating destitute migrants. The High Council of Beninese Abroad is also entrusted with responsibilities concerning protection of Beninese interests abroad and prevention of discriminatory practices. Finally, the National Employment Agency should provide information on living and working conditions abroad to potential migrants and nationals recruited for employment abroad. In practice, however, due to the fact that the agency does not have the capacity to place workers on the international labour market, such information dissemination activities are by their nature limited. Established private employment agencies focusing on the placement of high-

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<sup>166</sup> John Igue's *Les Béninois de la diaspora. Cas du Ghana, de la Côte d'Ivoire et du Gabon*, République du Bénin, UNFPA, 2008.

skilled workers also include information sharing as part of their services.

#### *Assistance to returning migrants*

Returning migrants benefit from general assistance programmes from the National Employment Agency, including the Assistance Programme for Integration and Employment Development (AIDE)<sup>167</sup> and the Programme for support of Self-Employment (PAEI).<sup>168</sup> In addition, specific programmes have been developed by the National Agency for Beninese Abroad. In principle, benefactors must be registered with consular and diplomatic posts and have resided abroad for a minimum of ten years. They must also establish the durable character of their return. Assistance to salaried workers is limited to the diffusion of information on job opportunities and the publication of their professional profile on the Agency's website. Craftsmen receive additional support, which includes loans, and assistance in the development and follow-up of business projects. Limited assistance is also given to other self-employed returnees.

#### *Social security agreements*

Benin has signed but not yet ratified the inter-African social security convention (CIPRES Multilateral Convention on Social Security).<sup>169</sup> At bilateral level, social security conventions have been concluded with France, Niger, Côte d'Ivoire, Burkina Faso, Senegal, and Togo.

#### *Protection of victims of trafficking and most vulnerable migrants*

Regarding trafficking-related policies and the protection of children, the general national framework has already been presented in section 4.1.2.2.4. Special mention can be made here of the Village Committees, which have been established throughout the national territory since 1999 with a view to "providing "social surveillance" or social control of the activities and movement of the village children".<sup>170</sup> In addition, Law No. 2006-04 on the Conditions of Transportation of Minors and the Repression of Child Trafficking, and its implementation regulations, mean that Beninese children leaving the national territory without their legal guardians are requested to carry an authorisation approved by the mayor of the place of residence stating the reason(s) for and duration of the stay abroad.<sup>171</sup> Offenders are subject to penalties of two to five years of imprisonment as well as fines of between 500,000 and 2,500,000 CFA francs.<sup>172</sup> The legislation also includes protection mechanisms for unaccompanied minors.<sup>173</sup>

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<sup>167</sup> *Programme d'aide à l'insertion et au développement de l'embauche.*

<sup>168</sup> *Programme d'appui à l'emploi indépendant.*

<sup>169</sup> *Convention multilatérale de sécurité sociale de la Conférence interafricaine de la prévoyance sociale.*

<sup>170</sup> UNODC, *Measures to Combat Trafficking in Human Beings in Benin, Nigeria and Togo*, 2006, p. 80.

<sup>171</sup> Law No. 2006-04 on the conditions of transportation of minors and the repression of child trafficking, art. 12; Decree No. 2009-696 of 31 December 2009 on the modalities of delivery of the administrative authorisation for Beninese children to exit the territory of Benin Republic (*Décret No. 2009-696 du 31 décembre 2009 portant modalités de délivrance de l'autorisation administrative de sortie des enfants béninois du territoire de la République du Bénin*), art. 3; art. 4; art. 5.

<sup>172</sup> Law No. 2006-04 on the conditions of transportation of minors and the repression of child trafficking, art. 18.

<sup>173</sup> Decree No. 2009-696 of 31 December 2009 on the modalities of delivery of the administrative authorisation for Beninese children to exit the territory of Benin Republic, art. 14.

### 4.1.3 International, regional, and bilateral cooperation

#### *International conventions*

Among the most relevant international conventions protecting human rights, Benin has ratified:

- the International Covenant on Civil and Political Rights (1966);
- the International Covenant on Economic, Social and Cultural Rights (1966);
- the Convention on the Elimination of All Forms of Discrimination against Women (1979);
- the Convention on the Rights of the Child (1989);
- 31 ILO Conventions (including the Migrant Workers (Supplementary Provisions) Convention C 143 (1975)); and
- the United Nations Convention against Transnational Organized Crime (2000) and its Protocols on trafficking in persons and smuggling of migrants.

Benin has signed, but not yet ratified, the Convention on the Protection of the Rights of All Migrant Workers and Members of their Families (1990).

In addition to these global conventions, Benin is bound by ECOWAS texts, including its Treaty (1975) and its subsequent protocols regarding free movement of persons, residence and establishment.

#### *Bilateral Agreements on Labour Migration*

- France: The 1992 Convention on Circulation and Stay of Persons<sup>174</sup> addresses the delivery of the same stay/residence permit to family members in case of family reunification (instead of temporary stay permit) and the possibility to obtain a 10-year residence permit after three years of stay in the country (instead of five years under French administrative law).
- France: The 2007 Agreement on Concerted Management of Migratory Flows and Co-Development<sup>175</sup>:
  - a) Beninese graduates wishing to gain professional experience in France are granted a temporary stay authorisation<sup>176</sup> off-right, which is valid for six months and is renewable. Graduates who eventually find a job that corresponds to their training are authorised to stay in a more permanent manner.
  - b) A list of 16 occupations is included, for which the delivery of a stay permit is not subject to the application of the labour market test. This provision primarily concerns higher-level technical jobs, although some medium-skilled occupations are also included.
  - c) A number of provisions concern assistance in the reintegration of Beninese migrants in their country of origin.
  - d) Assistance in the development of a migration observatory is addressed.
  - e) Promotion of the involvement of the diaspora in the development of Benin is considered.

<sup>174</sup> Convention relative à la circulation et au séjour des personnes entre le Bénin et la France signée le 21 décembre 1992.

<sup>175</sup> Accord relatif à la gestion concertée des flux migratoires et au codéveloppement entre le Bénin et la France signé le 28 novembre 2007.

<sup>176</sup> *Autorisation provisoire de séjour.*

- f) Cooperation in the area of border management is addressed.
- g) Procedures to facilitate readmission of nationals in an irregular situation are included.
- h) The funding of development projects is addressed.
- Kuwait: The 2009 agreement does not include provisions that guarantee a privileged access to the national labour market, but does set out the establishment of a working group to consider the implementation of cooperation mechanisms, vocational training, and capacity building in the area of employment.

*Bilateral agreements concerning trafficking in persons*

- Nigeria: The bilateral agreement on the prevention, repression and suppression of human trafficking, in particular women and children, was signed in 2009 and includes measures related to prosecution of offenders as well as mechanisms to identify and protect victims and ensure their repatriation and reinsertion in the country of origin.
- Republic of Congo: Signed in 2011, the agreement to prevent transnational child trafficking covers the areas of prosecution, protection and prevention of the crime of trafficking and includes cooperation mechanisms, notably with regard to judicial procedures and repatriation of child victims.

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### 4.1.5 List of interlocutors

Name of respondent	Position	Institution
Adam el-Hadji, A. M.	Director General	National Agency for Beninese Abroad <sup>177</sup>
Metognon, A. T.	Head of Department Partnership and Cooperation	National Employment Agency <sup>178</sup>
Gomina, D.	Assistant Director, Child Protection	Ministry of Family <sup>179</sup>
Adja, E.	Director, interim	International Observatory on remittances <sup>180</sup>
Atchou. D.	Director, Direction of Emigration and Immigration	Ministry of Interior of Public Security <sup>181</sup>
Yao, P.	Director, Direction of Relations with Beninese Abroad	Ministry of Foreign Affairs, African Integration, Francophony, and Beninese Abroad <sup>182</sup>
Koukpaki, F.	Associate Director for Human Rights	Ministry of Justice and Human Rights <sup>183</sup>
Bello, A. R.	Officer for Studies and Statistics	Central Bank of West African States (BCEAO) <sup>184</sup>

<sup>177</sup> Agence nationale des Béninois de l'extérieur.

<sup>178</sup> Agence nationale pour l'emploi.

<sup>179</sup> Ministère de la famille.

<sup>180</sup> Observatoire International des transferts de fonds des migrants.

<sup>181</sup> Ministère de l'Intérieur et de la Sécurité publique.

<sup>182</sup> Ministère des Affaires étrangères, de l'Intégration africaine, de la Francophonie et des Béninois de l'extérieur.

<sup>183</sup> Ministère de la Justice et des Droits de l'homme.

<sup>184</sup> La Banque Centrale des Etats de l'Afrique de l'Ouest (BCEAO).