

## 4.2 Burkina Faso

### 4.2.1 Migration trends

#### 4.2.1.1 Immigration

In terms of immigration flows, Burkina Faso can be characterised as a country of transit for migrants from Côte d'Ivoire, Ghana, Guinea, Mali, and Senegal travelling through Niger towards Algeria, Libya, and eventually to European countries.<sup>185</sup> It is also a country of immigration, although the presence of foreigners in the country remains limited.

| Data   | Year | Absolute numbers                 | % of the Total Population |
|--|------|----------------------------------|---------------------------|
| National Population and Housing Census (RGPH) <sup>186</sup> | 1996 | 61,650 foreigners <sup>187</sup> | 0.6%                      |
|  | 2006 | 60,074 foreigners <sup>188</sup> | 0.5%                      |

##### 4.2.1.1.1 Characteristics of immigrants/foreigners

|   |  |
|---|--|
| Countries of origin:                              | The vast majority of foreigners residing in Burkina Faso are nationals from ECOWAS Member States, primarily from Mali (8,886), Togo (3,668), Niger (3,406), Benin (3,019), and Nigeria (2,762). <sup>189</sup>   |
| Settlements:                                      | <ul style="list-style-type: none"> <li>• Malians, Nigeriens, and Beninese tend to be overrepresented in rural areas.</li> <li>• Nigerians and Togolese nationals reside mostly in urban areas.<sup>190</sup></li> </ul>  |
| Socio-demographic profile:                        | <ul style="list-style-type: none"> <li>• Statistics show a slight predominance of men (50.4%) over women.</li> <li>• In the case of Malian and Togolese migrants, however, women are more numerous than men.<sup>191</sup></li> </ul>  |
| Socio-economic profile and sectors of employment: | <ul style="list-style-type: none"> <li>• Most migrants have a low level of education. Malians and Nigeriens, in particular, do not have formal education in 83.2% and 71.7% of the cases.</li> <li>• Nationals from Gabon, Congo, Chad, and the RDC tend to have higher education.<sup>192</sup></li> <li>• Foreigners are mostly employed in the agriculture sector and, in urban areas, in the trade and craft sectors.<sup>193</sup></li> </ul> |

<sup>185</sup> Bolouvi, G-M., 'Niger – A Crossroad of African Migration Networks' in Trémolières, M. (ed.), *Regional Challenges of West African Migration. African and European Perspectives*, OECD, 2009, p. 202.

<sup>186</sup> *Recensement général de la population et de l'habitation*.

<sup>187</sup> Dabire, B., Kone, H., Lougue, S., *Recensement général de la population et de l'habitation de 2006. Analyse des résultats définitifs. Thème 8: migrations*, Ministère de l'Economie et des Finances, 2009, p. 102.

<sup>188</sup> Ibid.

<sup>189</sup> Ibid., p. 103.

<sup>190</sup> Ibid., p. 104.

<sup>191</sup> Ibid.

<sup>192</sup> Ibid., pp. 106-107.

<sup>193</sup> Ministère de l'Economie et des Finances, *Stratégie nationale de migration 2014-2025, avant-projet*, 2013a, p. 19.

**Vulnerable groups:**

- Most foreign victims of trafficking are children from countries of the region, such as Benin, Ghana, Mali, Guinea, and Nigeria. Malian children are also trafficked through Burkina Faso into Côte d'Ivoire.<sup>194</sup>
- In addition, according to the U.S. Department of State Trafficking in Persons Report 2013, "women from other West African countries, including Nigeria, Togo, Benin, and Niger, are fraudulently recruited for employment in Burkina Faso and subsequently subjected to situations of forced prostitution, forced labour in restaurants, or domestic servitude in private homes".<sup>195</sup>

**4.2.1.2 Emigration**

Although emigration has always been a major component of Burkina Faso's demography, the stock of nationals abroad is difficult to estimate. Neither the 2006 RGPH nor previous specific studies on migration<sup>196</sup> include satisfactory data in this regard.

| Data  | Year | Estimates   |
|---|------|---|
| Government Report to the UN Migrant Workers Committee (Data sources unidentified) | 1996 | Migrant stock of 30.7% of the national population, which corresponds to 3 million individuals. <sup>197</sup>   |
| Data collected by diplomatic and consular posts                                   | 2013 | Officials interviewed referred to an estimated migrant stock of 12 million, a number which, in their opinion, was an underestimation (this figure may, however, refer to the entire diaspora community rather than to just migrants living abroad). |
| UN Trends in International Migrant Stock  | 2013 | 1.6 million   |

<sup>194</sup> The Protection Project, *A Human Rights Report on Trafficking in Persons, especially Women and Children, Burkina Faso Country Report*, 2010; U.S. Department of State, *Trafficking in Persons Report 2013*, 2013, pp. 109-110.

<sup>195</sup> U.S. Department of State, 2013, op .cit., pp. 109-110.

<sup>196</sup> For instance, the UERD's *Enquête sur les migrations, l'insertion urbaine et l'environnement au Burkina Faso* from 2000.

<sup>197</sup> Burkina Faso, *Initial Report to the Committee on the Protection of the Rights of all Migrant Workers and Members of Their Families*, 2012, p. 8.

4.2.1.2.1 *Characteristics of emigrants/nationals abroad*

|   |   |
|---|---|
| Countries of destination/ residence:    | <ul style="list-style-type: none"> <li>• Predominance of one country of destination: Côte d'Ivoire.</li> <li>• Estimates of the Burkinabe population in Côte d'Ivoire vary from 1.5 million, according to the UN <i>Trends in International Migrant Stock</i>,<sup>198</sup> to 3.5 million, according to officials interviewed for the purpose of the present study.</li> <li>• Remaining Burkinabe migrants mainly reside in other ECOWAS Member States, such as Ghana, Mali, Niger, and Benin. It is generally considered that the migrant stock in such countries is incomparable to the presence of Burkinabe nationals in Côte d'Ivoire.</li> <li>• Beyond ECOWAS Member States, Burkinabe migration remains low.</li> <li>• Migration towards Libya appears to have been limited, although some evidence of it does exist: in 2012, IOM reported 1,661 Burkinabe returnees fleeing from the Libyan civil war.<sup>199</sup></li> <li>• The number of Burkinabe migrants in OECD countries is low. The OECD migration database identifies Italy (13,051 registered Burkinabe nationals in 2010), France (3,505 in 2009), Germany (1,254 in 2010) and Spain (1,267 in 2010) as the only countries where the Burkinabe presence is worth mentioning.<sup>200</sup></li> </ul> |
| Socio-demographic profile:              | <ul style="list-style-type: none"> <li>• Recent migration flows appear to be mainly composed of young men (17 to 35 years old).<sup>201</sup></li> </ul>  |
| Education level/ sectors of employment: | <ul style="list-style-type: none"> <li>• In Côte d'Ivoire, Burkinabe nationals are mostly employed in the agriculture sector.</li> <li>• Data concerning the skills of Burkinabe migrants in the OECD is scarce, and therefore, a potential eventual brain drain phenomenon is difficult to assess. With regard to the health sector, however, OECD data shows a limited risk of brain drain: the emigration rate of nurses was estimated at 0.3% and that of medical doctors at 7.6%.<sup>202</sup></li> </ul>   |
| Remittances:                            | <ul style="list-style-type: none"> <li>• In 2013, the World Bank estimated the amount of remittances sent to the country at 141 million USD.<sup>203</sup></li> <li>• According to Ratha et al., the majority of remittances are sent from non-African countries.<sup>204</sup> This may seem surprising given the limited character of Burkinabe migration flows outside of West and Central Africa. An explanation may be found in the high proportion of informal transfers (approximately 90%) from Burkinabe migrants residing in other African states.<sup>205</sup></li> <li>• Remittances appear to be mainly used for food, education, health, and the purchase of houses (this use concerns mainly remittances sent from non-African countries).<sup>206</sup></li> </ul>   |

<sup>198</sup> United Nations, Department of Economic and Social Affairs, Population Division, 'Trends in International Migrant Stock: Migrants by Destination and Origin', 2013.

<sup>199</sup> Aghazarm, C., Quesada, P. and Tishler, S., *Migrants Caught in Crisis: the IOM Experience in Libya*, IOM, 2012, p. 14.

<sup>200</sup> OECD, 'International Migration Database'. The OECD migration database collects information on stay/resident permits and population registers.

<sup>201</sup> Burkina Faso, European Commission, *Document de stratégie pays et programme indicatif national pour la période 2008-2013*, 2008.

<sup>202</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>203</sup> World Bank, 'Remittances Data', 2013.

<sup>204</sup> Ratha, D. et al., *Leveraging Migration for Africa. Remittances, Skills, and Investments*, The International Bank for Reconstruction and Development / The World Bank, 2011, p. 61.

<sup>205</sup> Ibid., p. 79.

<sup>206</sup> Ibid., p. 64.

**Vulnerable groups:**

- International trafficking of Burkinabe nationals mainly concerns children transported to Côte d'Ivoire, Mali, and Niger, where they are subsequently used in forced labour or sex work.
- According to the U.S. Department of State, "to a lesser extent, traffickers recruit women for ostensibly legitimate employment in Europe and subsequently subject them to forced prostitution".<sup>207</sup>

Although there has been a diversification of countries of destinations over time, Burkinabe emigration flows remain vastly dependent of a single country of destination: Côte d'Ivoire. Already during colonial times, Upper Volta was used as a labour reserve for agriculture exploitation in coastal regions, including Côte d'Ivoire. After the independence of the two countries, labour migration from Upper Volta towards Côte d'Ivoire remained significant.<sup>208</sup> During the 1980s and the 1990s, growing economic difficulties and social unrest in Côte d'Ivoire led to a more restrictive immigration policy following the nationalist concept of "Ivoireness" (*Ivoirité*).<sup>209</sup> Between 1996 and 2002, massive returns to Burkina Faso occurred. In particular, the attempted coup d'état of 2002 led to the officially recorded return of 360,000 Burkinabe nationals.<sup>210</sup>

The existing shortage of land in Burkina Faso led numerous returnees to establish themselves in the South-West region of the country, where the land was more unexploited.<sup>211</sup> Despite the dramatic circumstances in which many returns occurred, settlements in Burkina Faso have generally not been permanent. While statistical data shows a rise of returns during the period 1996-2002, during the years that following, returns diminished and emigration flows towards Côte d'Ivoire rose again.<sup>212</sup> Although there is variety of forms of migration towards Côte d'Ivoire, circular migration – or repeated temporary stay in both countries – is a major trend for migrants employed in the agricultural and informal trade sectors.<sup>213</sup>

## 4.2.2 Migration policy

To date, Burkina Faso has few formalised elements of a migration policy, and the legislation governing immigration lacks comprehensiveness. In practice, a tolerant approach to immigration is applied. With regard to emigration, policy developments remain limited.

Nevertheless, Burkina Faso has undertaken important efforts over the past years to fill the gaps in its migration policy. A National Migration Strategy<sup>214</sup> for the years 2014-2025 has been drafted under the supervision of the Ministry of Economy and Finances.<sup>215</sup> This general policy document is accompanied by

<sup>207</sup> U.S. Department of State, 2013, op. cit., p. 109.

<sup>208</sup> Courtin, F. et al., 'La crise ivoirienne et les migrants burkinabés. L'effet boomerang d'une migration internationale', *Afrique contemporaine*, 2010,4, p. 15.

<sup>209</sup> Ibid., pp. 15-16.

<sup>210</sup> Ibid., p. 17.

<sup>211</sup> Ibid., p. 18.

<sup>212</sup> Zanou, B. and Lougue, S., Impact de la crise ivoirienne sur les migrations de retour au Burkina Faso, 2009, pp. 5-7.

<sup>213</sup> Neya, S., 'De la migration à la circulation, le cas des migrants burkinabè "partagés" entre le Burkina Faso et la Côte d'Ivoire', 2010, Dakar, Senegal ; Zanou, B. and Lougue, S., 2009, op cit.

<sup>214</sup> *Stratégie nationale de migration*.

<sup>215</sup> *Ministère de l'Economie et des Finances*.

a detailed Plan of Action<sup>216</sup> for the years 2014-2016. Migration is also referred to in a number of national development plans, including the Strategy of Accelerated Growth and Durable Development.<sup>217</sup>

#### 4.2.2.1 Institutional framework on migration

##### Governmental stakeholders involved

| Ministry   | Agency, Directorate, Unit   | Responsibilities  |
|--|---|---|
| Ministry of Territorial Administration and Security <sup>218</sup>       | Directorate of State Security <sup>219</sup>  | <ul style="list-style-type: none"> <li>Immigration management</li> </ul>  |
| Ministry of Public Employment, Labour and Social Security <sup>220</sup> | National Employment Agency <sup>221</sup>   | <ul style="list-style-type: none"> <li>Match labour demand and supply</li> <li>Certification of foreigners' work contracts</li> </ul> |
| Ministry of Foreign Affairs and Regional Cooperation <sup>222</sup>      | Permanent Secretariat of the High Council for Burkinabes abroad <sup>223</sup>                  | <ul style="list-style-type: none"> <li>Emigration policy</li> </ul>   |
| Ministry of Social Action and National Solidarity <sup>224</sup>         |   | <ul style="list-style-type: none"> <li>Fight against trafficking in persons</li> </ul>  |
| Ministry of Economy and Finances <sup>225</sup>                          | General Directorate of Economy and Planning (Directorate of Population Policies) <sup>226</sup> | <ul style="list-style-type: none"> <li>Leading institution in the development of the National Migration Strategy</li> </ul>           |

##### Inter-institutional coordination

Migration management in Burkina Faso is undertaken by distinct ministries and public institutions, with there being little consultation or cooperation between them. The need to improve coordination among public institutions involved in migration management is recognised by the draft National Migration Strategy. This document envisions the institution of a follow-up committee to ensure the correct implementation of the national policy.<sup>227</sup> It also entrusts the General Directorate of Economy and Planning<sup>228</sup> within the Ministry of Economy and Finances with the general responsibility of organising coordination in migration policy matters.<sup>229</sup>

<sup>216</sup> Plan d'actions en matière de migration.

<sup>217</sup> Stratégie de croissance accélérée et de développement durable.

<sup>218</sup> Ministère de l'Administration territoriale et de la Sécurité.

<sup>219</sup> Direction de la Sûreté de l'Etat.

<sup>220</sup> Ministère de la Fonction publique, du Travail et de la Sécurité sociale.

<sup>221</sup> Agence Nationale pour l'Emploi.

<sup>222</sup> Ministère des Affaires étrangères et de la Coopération régionale.

<sup>223</sup> Secrétariat permanent du Conseil supérieur des Burkinabè de l'étranger.

<sup>224</sup> Ministère de l'Action sociale et de la Solidarité nationale.

<sup>225</sup> Ministère de l'Economie et des Finances.

<sup>226</sup> Direction générale de l'Economie et de la Planification (Direction des Politiques de population).

<sup>227</sup> Ministère de l'Economie et des Finances, 2013a, op. cit., p. 19; p. 44.

<sup>228</sup> Direction générale de l'Economie et de la Planification.

<sup>229</sup> Ministère de l'Economie et des Finances, 2013a, op. cit., pp. 44-45.

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

#### 4.2.2.2.1 General immigration provisions

| Legislation/Policy Framework   | Description   |
|--|---|
| Ordinance No. 84-49 of 4 August 1984 setting conditions of entry, residence, and exit for Burkina Faso citizens and foreign nationals <sup>230</sup> | It mainly stipulates that immigration to Burkina Faso is subject to the delivery of a visa and a stay permit, <sup>231</sup> with the exception of nationals from certain states that enjoy preferential treatment (Art. 3; Art. 5). The stay permit is to be requested after entry on the national territory, within the first 15 days of stay (Art. 6). |

Ordinance No. 84-49 does not include provisions on the conditions and procedural steps to be undertaken for the delivery of the stay permit, its duration and eventual renewal. There is no specific status foreseen for long-term residents, migrants' family members, and ECOWAS Member States nationals. Officials interviewed for the purpose of the present study recognised that the existing legislation is not sufficiently comprehensive and does not allow the challenges of contemporary migration management to be addressed. Although the draft National Migration Strategy does not explicitly plan to amend the law, Ordinance No. 84-49 is currently being reviewed by commissions put in place in early 2014.

As already mentioned, Burkina Faso applies a tolerant immigration policy. ECOWAS Member States nationals are not required to obtain the common stay permit. Family members (spouse and children) can join the migrant in Burkina Faso, where they also enjoy full access to the national labour market.<sup>232</sup> However, ECOWAS Member States nationals are not granted specific stay/residence permits.

Burkina Faso has concluded bilateral agreements including provisions on entry and stay/residence with the following countries: Côte d'Ivoire, Mali, Niger, and France. These agreements are based on reciprocity and generally apply equally to Burkinabes in these countries and foreigners from these countries in Burkina Faso. A review of these agreements is presented in section 4.2.3.

<sup>230</sup> Ordonnance No. 84-49 du 4 août 1984 fixant les conditions d'entrée, de séjour et de sortie du Burkina Faso des nationaux et des étrangers.

<sup>231</sup> Carnet de séjour.

<sup>232</sup> Ibid., pp. 23-24.

4.2.2.2.2 *Labour migration**Access to national labour market*

| Legislation/Policy Framework  | Description  |
|---|--|
| Regulation No. 98 of 15 February 1967 on conditions of employment and modalities of declaration of workers movements <sup>233</sup> | <p><b>Art. 5:</b> Work contracts for foreign workers are subject to the authorisation of the Director of Labour.</p> <p><b>Art. 6:</b> A Placement Commission,<sup>234</sup> which includes the Director of Labour, the Director of Education, as well as representatives of workers and employers, shall be consulted and provide advice based on the situation of the labour market before the Director of Labour decides on the delivery of the work authorisation.</p> <p><b>Art. 4:</b> In the case of high unemployment in a given profession, foreigners belonging to that profession shall not be provided with employment seeker cards.<sup>235</sup></p> |
| Labour Code, 2008   | <p><b>Art. 56:</b> Migrants' work contracts are subject to the review of labour inspection services.</p> <p><b>Art. 57:</b> The procedure is to be initiated by the employer within 30 days of the beginning of employment. In the case that the employer does not comply with this obligation, the contract is considered null. The worker is entitled to seek legal damages, and the cost of his/her eventual repatriation is to be paid by the employer, who faces additional sanctions.</p>  |

The regulation of foreigners' access to the labour market lacks precision. More specifically, there is a need to establish mechanisms to organise the relationship between the norms regulating access to the labour market and general immigration rules. In addition, art. 4 of Regulation No. 98 of 1967 is likely to constitute a breach of Burkina Faso's international commitments.

In practice, foreign workers have full access to the labour market in the sense that they can freely change employers and sectors of employment.<sup>236</sup> Family members of migrant workers are also granted full access to the national labour market.<sup>237</sup>

*Rights within employment*

| Legislation/Policy Framework | Description   |
|------------------------------|---|
| Labour Code, 2008            | <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. 281</b> includes an exception to the principle of equal treatment concerning trade unions. While all foreigners can join a trade union, only those who have stayed in Burkina Faso for a minimum of five years can perform administrative and executive functions.</p> |

<sup>233</sup> Arrêté No. 98 du 15 février 1967 fixant les conditions d'embauchage des entreprises et les modalités de déclaration de mouvement des travailleurs.

<sup>234</sup> Commission de placement.

<sup>235</sup> Cartes de demandeur d'emploi.

<sup>236</sup> Burkina Faso, 2012, op. cit., p. 25.

<sup>237</sup> Ibid., pp. 23-24.

Nationals of countries with which Burkina Faso has concluded reciprocal agreements can also perform administrative and executive functions within trade unions.

#### 4.2.2.2.3 Irregular migration

| Legislation/Policy Framework   | Description  |
|--|--|
| Regulation No. 98 of 15 February 1967 on conditions of employment and modalities of declaration of workers movements | <b>Art. 8; Art. 9:</b> Deportation is foreseen for foreigners who are not in the possession of the requested documents to enter the country, as well as removal from the national territory of those in an irregular situation.<br><b>Art. 11:</b> Irregular stay is considered a criminal offence, which exposes the individual to a fine and imprisonment for one to six months. |
| Law No. 029-2008 of 26 June 2008 on Trafficking in Persons and Assimilated Practices <sup>238</sup>                  | <b>Art. 10; Art. 11; Art. 12:</b> Smugglers, as well as those who falsify visas, travel documents, and stay permits, are subject to penalties of five to ten years' imprisonment.  |

Irregular migration is not considered a threat to Burkina Faso by the national authorities, and as a general rule, a laissez faire policy is applied. Removal of foreigners is rare, and not based on their irregular immigration status but rather on the existence of a considered threat to public order.<sup>239</sup> In addition, foreigners in an irregular situation can regularise their situation after paying a fine.

With regard to the fight against the smuggling of migrants, the capacities of the Directorate of State Security and the Border Police Directorate, the main institutions in charge of border control, are limited due to understaffing and limited equipment. According to an IOM assessment of border management in Burkina Faso conducted in 2012, border officials also lack specialised training.<sup>240</sup> Since 2013, capacity development efforts have been undertaken, mainly targeting improved standards for treatment of asylum seekers.

#### 4.2.2.2.4 Migrants at risk

| Legislation/Policy Framework  | Description   |
|---|---|
| Law No. 029-2008 on Trafficking in Persons and Assimilated Practices <sup>241</sup> | <b>Art. 1; Art. 2; Art. 7</b> follow the definition of trafficking in persons adopted by the Palermo Protocol and complement it by a specific offence regarding the exploitation of begging.<br><b>Art. 4; Art. 5; Art. 6:</b> In the case of "classical trafficking", the law foresees imprisonment comprised of between five years and life detention, but does not specifically include financial sanctions.<br><b>Art. 8:</b> In the case of exploitation of begging, the penalties are two to five years imprisonment, as well as fines of between 500,000 and 2,000,000 CFA francs.<br><b>Art. 22</b> recognises the possibility for foreign victims of trafficking to obtain temporary or permanent residence in Burkina Faso. |

On the whole, the trafficking legislation is well-grounded despite its brevity – which may impede the activities of law enforcement authorities – and the absence of a specific national body entrusted with the responsibility of implementing the national trafficking policy.

<sup>238</sup> Loi No. 029-2008 du 26 juin 2008 portant lutte contre la traite des personnes et les pratiques assimilées.

<sup>239</sup> Burkina Faso, 2012, op. cit., p. 27.

<sup>240</sup> IOM, *Burkina Faso: évaluation des structures de gestion de la migration et des frontières*, 2013, pp. 43-47.

<sup>241</sup> Loi No. 029-2008 portant lutte contre la traite des personnes et les pratiques assimilées.



In practical terms, efforts have been made regarding prosecution, protection – notably through shelters providing food, health, and psychosocial services – and prevention in the fight against trafficking in persons. In most cases, the victims identified are children involved in internal trafficking.<sup>242</sup> However, over the past few years, foreign victims have also been identified and national authorities have collaborated with the relevant diplomatic posts to organise their repatriation.<sup>243</sup> Awareness-raising activities have been implemented, including open-forum discussions, film screenings, theatre forums, radio programmes, etc.<sup>244</sup>

### 4.2.2.3 Emigration

#### 4.2.2.3.1 Labour migration

Burkina Faso lacks a labour migration policy. National authorities are yet to identify competencies that can be promoted abroad, as well as those for which promotion should not be undertaken. Activities related to the identification and assessment of existing and potential new countries of destination for labour migrants are non-existent. Promotion activities in countries of destination remain limited despite the conclusion of several labour migration related bilateral agreements (see section 4.2.3. for details).

Although the draft National Migration Strategy and its subsequent Action Plan recognise the absence of a strategy regarding the promotion of employment abroad,<sup>245</sup> the documents do not envision specific activities in this regard, with the exception of the planned enhancement of employment of nationals in international organisations.<sup>246</sup> While the draft National Migration Strategy does refer to the risk that the emigration of workers may pose to the economic and social development of the country,<sup>247</sup> it does not translate this assumption into specific policy measures.

As previously mentioned, little is known about labour emigration trends and the characteristics of Burkinabe migrant workers. It is therefore difficult for national authorities to identify priorities and adopt adequate policy measures. One of the planned measures of the draft National Migration Strategy to deal with this situation is the establishment of a Migration Observatory<sup>248</sup> in the coming years (in 2015, a pilot phase is to be implemented).<sup>249</sup>

Although the National Employment Agency is responsible for the placement of Burkinabe workers abroad, to date, it has not had the capacities to perform such activities. Regarding private employment agencies, the Labour Code of 2008 foresees a licensing system<sup>250</sup> and states that the collection of fees by private employment agencies from workers is forbidden in principle, although derogations may be

<sup>242</sup> U.S. Department of State, 2013, op. cit., p. 110.

<sup>243</sup> U.S. Department of State, *Trafficking in Persons Report 2012*, 2012, p. 102.

<sup>244</sup> U.S. Department of State, 2013, op. cit., p. 110.

<sup>245</sup> Ministère de l'Economie et des Finances, Plan d'actions en matière de migration 2014-2016, avant-projet, 2013b, p. 70.

<sup>246</sup> Ministère de l'Economie et des Finances, 2013a, op. cit., p. 31; *ibid.*, pp. 78-79.

<sup>247</sup> Ministère de l'Economie et des Finances, 2013a, pp. 29-30.

<sup>248</sup> *Observatoire sur les migrations*.

<sup>249</sup> Ministère de l'Economie et des Finances, 2013b, op. cit., p. 92.

<sup>250</sup> Labour Code, 2008, art. 24.

authorised by the Minister of Labour for certain categories of workers.<sup>251</sup> In practice, however, private employment agencies tend to operate outside the control of national authorities.

#### 4.2.2.3.2 *Migration and development*

##### *Diaspora outreach and confidence-building measures*

In the past few years, some limited initiatives have been undertaken in the area of migration and development. The most notable of these is the creation of the High Council for Burkinabe abroad.<sup>252</sup>

According to Decree No. 2007-308, the objectives of the Council are the following:

- to bring together all Burkinabes abroad without any distinction;
- to ensure full participation of Burkinabes abroad in the economic, social, and cultural development of Burkina Faso;
- to facilitate their integration into national life;
- to participate in the promotion of the influence of Burkina Faso in the world;
- to promote understanding and respect of the conventions, laws, and regulations of countries of destination;
- to promote the development of social activities in order to improve the living conditions of Burkinabes abroad;
- to assist Burkinabe associations within the limits of existing means; and
- to promote cultural and sport activities among Burkinabe communities abroad.<sup>253</sup>

The Council is composed of two institutions, a general assembly and a permanent secretariat, with the former being composed of members of the diaspora elected for a mandate of three years – renewable – in their country of residence.<sup>254</sup> The Decree foresees meetings of the general assembly every three years.<sup>255</sup> The latest General Assembly was held in March 2014.

Burkina Faso's legislation recognises the principle of dual/multiple citizenship, as well as the right of nationals abroad to participate in national elections. However, due to difficulties in organising the electoral process in diplomatic and consular posts, the decision was made to postpone participation in national elections until 2015.

##### *Mobilising and channelling remittances for development*

The main efforts of the public authorities have focused on improving transparency and competition among private operators with a view to lowering transfer costs.

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<sup>251</sup> Ibid., art. 27.

<sup>252</sup> *Conseil supérieur des Burkinabé de l'étranger*.

<sup>253</sup> Decree No. 2007-308 on the Creation, Attributions, Organisation and Functioning of the High Council for Burkinabe abroad, art. 2.

<sup>254</sup> Ibid., art. 5.

<sup>255</sup> Ibid., art. 7.

*Migration and development in the draft National Migration Strategy*

Migration and development is a central component of the draft National Migration Strategy and its Action Plan. A great number of activities are envisioned, including:

- the organisation of a forum on the skills and expertise of the diaspora;
- the development of a framework for concerted action in order to enhance the contribution of the diaspora to the development of the country;
- the organisation of information events in countries of destination on investment opportunities in Burkina Faso;
- the production of leaflets on investment opportunities in Burkina Faso;
- the development of a framework for concerted action between migrants and local authorities in order to promote investments at the local level; and
- the organisation of forums to promote foreign investments.<sup>256</sup>

*4.2.2.3.3 Migrants' protection**Information dissemination*

Some activities have been implemented in order to provide migrants with reliable and accurate information about the different aspects of the migration process.<sup>257</sup> Mention can be made of the Guide for Burkinabes abroad<sup>258</sup>, published in 2012, which includes advice on migration procedures and provides information on the services offered by national authorities. In addition, local NGOs such as the Centre for Studies and Research on International Migration and Development (CERMID)<sup>259</sup> organise information dissemination events.<sup>260</sup>

Providing the population with information on the mechanisms of legal migration and the dangers of illegal migration is one of the priorities of the draft National Migration Strategy.<sup>261</sup> Its subsequent Plan of Action lists a number of activities to be implemented in this regard, such as information sessions targeting selected groups (traditional leaders, public agents, journalists, young leaders, students, and pupils) as well as "theatre forums", film screenings movie projections, television and radio programmes, television series, and printed materials.<sup>262</sup>

*Protection in countries of destination*

Due to the small number of diplomatic and consular posts (27 embassies and seven general consulates),

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<sup>256</sup> Ministère de l'Economie et des Finances, 2013b, op. cit., pp. 73-76.

<sup>257</sup> Ibid., p. 30.

<sup>258</sup> *Guide du Burkinabé de l'étranger*.

<sup>259</sup> *Centre d'études et de recherches sur les migrations internationales et le développement*.

<sup>260</sup> CERMID, 'Rapport oral du CERMID sur l'état de la protection des droits des travailleurs migrants au Burkina Faso en 2013', Information from civil society organisations to the UN to the Committee on the Protection of the Rights of all Migrant Workers and Members of Their Families, 2013.

<sup>261</sup> Ministère de l'Economie et des Finances, 2013a, op. cit., p. 43.

<sup>262</sup> Ministère de l'Economie et des Finances, 2013b, op. cit., pp. 44-60.

protection activities abroad are limited. For instance, and despite the importance of intra-regional migration, Burkina Faso only has diplomatic and consular posts in five ECOWAS Member States. There used to be a labour attaché appointed to Côte d'Ivoire, but this position has now been vacant for a number of years. The Plan of Action of the draft National Migration Strategy envisions the opening of one new consular and/or diplomatic post in countries of destination every two years, starting in 2014. An assessment of the human resources and equipment needs of the diplomatic and consular representations is also undertaken.

#### *Assistance to returning migrants*

Despite the massive return of Burkinabe emigrants – mainly from Côte d'Ivoire – over the past decades, the national authorities have opted for ad hoc measures rather than putting into action a comprehensive policy.<sup>263</sup> The draft National Migration Strategy mainly considers the issue of returning migration from the angle of access to land and plans to disseminate information on the legislation applicable in this regard.

#### *Social security agreements*

Burkina Faso has ratified the inter-African social security convention<sup>264</sup> (CIPRES Convention). At bilateral level, social security conventions have been concluded with Mali and Côte d'Ivoire. It is worth noting that no convention has been concluded with France on these issues.

### **4.2.3 International, regional, and bilateral cooperation**

#### *International conventions*

Burkina Faso has ratified all the main international conventions protecting human rights in general and migrants' rights more specifically. This includes:

- 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);
- 39 ILO Conventions (including the two specific ILO conventions on migrant workers: C 97(1949) and C 143 (1975));
- the Convention on the Protection of the Rights of All Migrant Workers and Members of their Families (1990); and
- the United Nations Convention against Transnational Organized Crime (2000) and its Protocols on trafficking in persons and smuggling of migrants.

<sup>263</sup> Committee on the Protection of the Rights of All Migrant Workers and Members of Their Families, 'Observations finales concernant le rapport initial du Burkina Faso, adoptées par le Comité à sa dix-neuvième session', 2013, pp. 6-7.

<sup>264</sup> *Convention multilatérale de sécurité sociale de la Conférence interafricaine de la prévoyance sociale.*

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

### *Bilateral agreements*

Burkina Faso has signed several bilateral agreements on migration-related matters. Before the institution of ECOWAS, conventions were concluded with Côte d'Ivoire, Mali, and Niger.

| Convention   | Description   |
|--|---|
| Convention with Côte d'Ivoire, 1960 <sup>265</sup> | A Convention specifically dedicated to the conditions of recruitment and employment of Voltaic migrants in Côte d'Ivoire. Its application was suspended in 1974 due to absence of respect for a number of the convention's provisions.  |
| Convention with Niger, 1964 <sup>266</sup>         | This Convention states that nationals from the considered countries can enter and reside on the territory of the other state party without the need for a visa or a stay/resident permit. The only requirement is the possession of an identity document from the country of nationality. |
| Convention with Mali, 1969 <sup>267</sup>          | According to Burkina Faso authorities, this Convention, despite its favourable provisions, did not have a significant impact in practice.   |

On the whole, one should recognise that bilateral conventions on migration-related matters concluded with West African countries have fallen into obsolescence. As noted in the Plan of Action of the draft National Migration Strategy, all the labour migration agreements concluded with other African countries over the years "have either been denounced or abandoned due to the non-respect of their provisions by the considered parties".<sup>268</sup>

In this context, the policy option envisioned by the national authorities is to privilege multilateral relations over bilateral agreements.<sup>269</sup> Within West African countries, cooperation on labour migration matters is to be addressed through ECOWAS institutions. Beyond the West African region, bilateral relations with countries of destination – which may or may not take the form of bilateral agreements – remain one of the main tools for migration management, especially in regard to the recruitment, entry, and stay of migrant workers.

With regard to entry, stay, and employment, the most comprehensive bilateral framework exists with France. Two main conventions should be mentioned:

- the 1992 Convention on Circulation and Stay of Persons,<sup>270</sup> which includes a few derogations to common French immigration legislation: it foresees the delivery of the same stay/residence per-

<sup>265</sup> *Convention relative aux conditions d'engagement et d'emploi des travailleurs voltaïques en Côte d'Ivoire, signée le 9 mars 1960.*

<sup>266</sup> *Protocole d'accord (délimitation des frontières, mouvements des populations, coopération entre les autorités frontalières) entre le Niger et la Haute-Volta signée le 23 juin 1964.*

<sup>267</sup> *Convention d'établissement et de circulation entre la République du Mali et la Haute-Volta du 30 septembre 1969.*

<sup>268</sup> Ministère de l'Economie et des Finances, 2013b, op. cit., p. 30.

<sup>269</sup> Ibid.

<sup>270</sup> *Convention entre le Burkina Faso et la France relative à la circulation et au séjour des personnes signée le 14 septembre 1992.*

mit to family members in case of family reunification (instead of a temporary stay permit under French administrative law), as well as 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); and

- the 2009 Agreement on Concerted Management of Migratory Flows and Co-Development<sup>271</sup> which:
  - a) provides that Burkinabe graduates wishing to supplement their education with a first professional experience in France are granted a temporary stay authorisation<sup>272</sup> off-right, valid for six months and renewable (graduates who eventually find a job that corresponds to their education are authorised to stay in a more permanent manner in France);
  - b) includes a list of 64 occupations for which the delivery of a stay permit is not subject to the application of the labour market test. This provision concerns primarily higher-level technical jobs, although a few less-skilled occupations are also included;<sup>273</sup>
  - c) includes a number of provisions concerning assistance to the reintegration of Burkinabe migrants in their country of origin;
  - d) provides for assistance in the development of a migration observatory;
  - e) aims to promote involvement of the diaspora in the development of Burkina Faso;
  - f) targets cooperation in the area of border management;
  - g) contains procedures to facilitate readmission of nationals in an irregular situation; and
  - h) specifies the funding of development projects.

Cooperation with other OECD Member States, including the U.S., Germany, and Malta, mostly focuses on border management and the attempt to reduce irregular migration.

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271 Accord entre la France et le Burkina Faso relatif à la gestion concertée des flux migratoires et au développement solidaire signé le 10 janvier 2009.

272 Autorisation provisoire de séjour.

273 In the case of French nationals seeking employment in Burkina Faso, the agreement sets a principle according to which no labour market test is imposed, regardless of the type of occupation.

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## 4.2.5 List of interlocutors

| Name of respondent | Position  | Institution   |
|--------------------|---|---|
| Sawadogo, H.       | Head of Directorate of Population Policies                              | Ministry of Economy and Finances, Directorate of Population Policies <sup>274</sup>     |
| Bonkougou, Z.      | Head of Department, Research and Training in Population and Development |   |
| Bassole, F.        | Responsible for the Support Unit  |   |
| Sawadogo, S.       | Researcher  |   |
| Nombre, C.         | Director for Emergency Management                                       | Ministry of Social Action and National Solidarity <sup>275</sup>                        |
| Kabore, W. P.      | Adviser, Directorate of Consular Affairs                                | Ministry of Foreign Affairs and Regional Cooperation <sup>276</sup>                     |
| Ouedraogo, L.      | Director  | Permanent Secretariat of the High Council for Burkinabe abroad <sup>277</sup>           |
| Sawadogo, H.       | Labour Inspector, Directorate of Social Welfare                         | Ministry of Public Employment, Labour and Social Security <sup>278</sup>                |
| Sorgho, E. A.      | Commissioner of Police, Chief of the Migration Division                 | Ministry of Territorial Administration and Security and Civil Protection <sup>279</sup> |

<sup>274</sup> Ministère de l'Économie et des Finances, Direction des Politiques de la Population.

<sup>275</sup> Ministère de l'Action sociale et de la Solidarité nationale.

<sup>276</sup> Ministère des Affaires étrangères et de la Coopération.

<sup>277</sup> Secrétariat permanent du Conseil supérieur des Burkinabè de l'étranger.

<sup>278</sup> Ministère de la Fonction publique, du Travail et de la Sécurité sociale.

<sup>279</sup> Ministère de l'Administration territoriale et de la Sécurité.