

**#RightsMigrateToo**

EXTENDING SOCIAL PROTECTION TO MIGRANT WORKERS IN  
THE ECOWAS REGION: A capacity building toolkit on the  
ECOWAS General Convention on Social Security

GAPS IN THE ECOWAS GENERAL  
CONVENTION ON SOCIAL SECURITY

MODULE 7

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## Learning objectives

By the end of this module, participants will be able to:

- ▶ Identify the main gaps and challenges of the ECOWAS General Convention on social security and their impact on the effective coverage of migrant workers and their families and well as on its concrete implementation;
- ▶ proffer recommendations and action areas for effective implementation of the Convention and extension of social protection coverage to all in the ECOWAS region.

## Introduction

The ECOWAS region is historically an area of migration and free movement of people and goods. Therefore, taking into account this rich history of migration, West Africa became an institutionalized Regional Economic Community through the establishment of the Economic Community of West African States (ECOWAS) on May 28<sup>th</sup> 1975. ECOWAS has as its primary objective to promote cooperation and integration with the aim of creating a regional economic space.

The establishment of ECOWAS was a much-welcomed initiative towards building a truly integrated society from both an economic and social perspective, resembling the kind that once existed in the sub region.

Furthermore, the Treaty of the Economic Community of West African States (ECOWAS) guarantees freedom of movement and residence, as well as equality of treatment to citizens of all member States, regardless of their cultural, religious, economic, professional and social background.

Additionally, ECOWAS has adopted several legal instruments with regards to migration, the foremost being the Protocol on the Free Movement of Persons, the Right of Residence and Establishment, adopted on May 29<sup>th</sup> 1979, amended and supplemented by several protocols all geared to strengthening the legal framework for greater protection of citizens within the Community.

Through the right of establishment, all citizens of ECOWAS countries can enter, reside and settle in any member state. It is on such basis that the 33<sup>rd</sup> Session of Heads of States (January 18<sup>th</sup> 2008) adopted the ECOWAS Common Approach to Migration, which is a holistic framework for migration management applicable to migration policies as well as related issues (refugees, human trafficking, legal migration etc.).

However, the legal mechanism adopted to promote mobility and regulate migration does not provide provisions to ensure adequate social protection for migrant workers, social security being the exclusive realm of each country, which defines its characteristics. One of those characteristics is the principle of territoriality which denies to migrant workers the portability of their acquired rights or rights in course of acquisition during their periods of employment in the host countries.

The adoption of the Additional Act on the ECOWAS Social Security Convention in 2013 is therefore expected to address the above-mentioned challenges.

This is the objective of the General Convention on Social Security and its Administrative Arrangement, which have established a coordination mechanism for national security systems, thus achieving a milestone towards guaranteeing that all citizens working in any ECOWAS country benefit from equal treatment with national workers when it comes to social security matters.

While the overview, main features, scope (material and personal) of the Convention have already been addressed in the previous modules, this last one will focus on the challenges regarding the implementation of this Convention and provides some recommendations. Indeed, several gaps still exist in the scope and principle of the Convention - for example, the Convention only applies to migrant workers in the formal sector. These gaps may affect the effective coverage of migrant workers and their families.

# 1. Main challenges of the ECOWAS general convention on social security

Social security systems of the fifteen (15) countries of the ECOWAS region are diverse and complex. This situation gives an overview of the challenges on the implementation of the General Convention on Social Security.

Inadequate knowledge of the Convention, unequal development of social security systems, limited administrative capacity to implement the Convention, restrictive nature of the voluntary continued insurance mechanism, limited personal coverage and difficulty of coordination between pension schemes and provident funds are some of the challenges identified.

## 1.1 Inadequate knowledge of the Convention

Since its adoption by the ECOWAS Commission in 2013, the General Convention on social security has not yet been disseminated throughout the region. Any initiative to inform the social security schemes of member states as well as social partners (workers and employers' organizations) on the provisions of the Convention, modalities of its implementation, role and responsibilities of different stakeholders has been conducted by the ECOWAS Commission. In addition, it is noted that the provisions of the Convention and its administrative arrangement are technical, not too easy to be understood even by specialists on social security.

Therefore, there is urgency to promote awareness of the Convention at member state level, increase sensitization of social security institutions as well as employers and workers organizations on the provision of the Convention and its application through the administrative arrangement.

## 1.2 Unequal development of social security systems in member states

The substantive scope of some social security systems does cover all of the benefits provided by the migrant's country of employment. This may well penalize migrant workers and their family members on the basis of the principle of reciprocity.

Unfortunately, there is an unequal development of social security systems in the ECOWAS region. Many countries do not provide family benefits. Health care is another important benefit which is not provided by all social security systems.

Old age, survivor, maternity protection and work-related injury are benefits that are present in all ECOWAS member states. Family benefit is present mostly in the francophone countries. However, one of the weaknesses in the region is health care. Only some few countries have mandatory contributory health insurance schemes. Therefore, portability of health care will be difficult to ensure due to the lack of reciprocity between countries of origin and countries of employment of migrant workers.

Regarding old age, some countries have pension schemes (all the francophone countries), while some others provide a lump sum through their provident funds systems (Nigeria, Gambia, etc.).

The same applies for family members if they do not live with the migrant worker in the country of employment, or if they live in another country which does not cover healthcare.

Family allowance is paid to the worker for each of his/her dependent children. Some countries limit the number and age of children beneficiaries (four children for Niger, Cabo Verde and Togo, six for Senegal).

Under such circumstances, the principle of reciprocity is not respected, and migrant workers and their families are penalized in accessing benefits.

### 1.3 Insufficient administrative capacities of social security institutions

Lack of capacity or experience within the administrations of some of the social security systems in the ECOWAS region may be a big challenge for an effective implementation of the Convention. Most of the French-speaking countries have experience in social security coordination as they all have bilateral agreements between them or with some other African and European countries. That is not the case for the English-speaking countries which do not have social security agreements.

In addition to the need of strengthening their staff's operational understanding of the implementation mechanisms of the Convention, if the institutions do not have regularly updated files and quality information systems allowing them to retrace the career paths of migrant workers claiming their benefits, it will be difficult to prove that all requisites are met for the maintenance of acquired rights and rights in course of acquisition and to ensure an efficient transfer of retirement benefits over several years.

At ECOWAS level, there is an institutional arrangement that will facilitate the coordination and follow up of the implementation of the Convention by member states and provide information and feedback on the challenges that migrant workers and social security institutions face while implementing.

### 1.4 The restrictive nature of the voluntary continued insurance mechanism

The ECOWAS Convention allows migrants previously covered by a social security scheme to re-subscribe through a voluntary insurance scheme. They can also redeem non-insured contribution periods, limited to a number of contribution years (usually 5 years).

While this limitation does not in any way hamper the application of the Convention, the fact remains that it limits the ability of some migrant workers to improve the level of their old-age benefits.

### 1.5 Recognition of polygamous status

The polygamous status is handled differently under the national legislation of the ECOWAS member states; some family legislations prohibit polygamy and therefore it is not recognized in the area of social security.

This can negatively impact family members of a polygamous migrant worker who wants to secure social security coverage for his wives (those who come after the first wife and the children born from these unions) as the schemes in these countries do not recognize polygamy.

As a result, they will neither provide short-term benefits (e.g., maternity benefits, health care) nor long-term survivor benefits.

### 1.6 Difficulty of coordination between pension systems and provident funds<sup>1</sup>

Most of the ECOWAS member states' old age benefits are pension systems (all French-speaking countries), while in the English-speaking countries, provident funds are usual.

It is not usual to find a social security agreement involving totalization being concluded between a provident-fund country and a social-insurance country. The main reason is the difficulty of finding a way to ensure that such an arrangement meets reciprocity, an important element of coordination. However, solutions are provided through the ILO instruments (Recommendation 167). Article 36 of the Recommendation stipulates that:

<sup>1</sup> Provident funds are mandatory collective savings schemes that are publicly administered and financed from contributions by workers and/or employers and from the investment earnings of the fund. Contributions made by, or on behalf of, a member are credited to the member's account along with a part of the investment earnings of the fund proportional to the balance in the member's account. When an insured contingency occurs – for example, when a member of a provident fund reaches retirement age – the member is entitled to withdraw part or all of the balance of her/his account as a lump-sum.

- ▶ “Where a person ceases to be subject to the legislation of a Contracting Party under which he/she has been registered with a provident fund, before the occurrence of a risk entitling him to obtain the payment of the amount credited to his account, he may, upon request, either withdraw the total amount or have it transferred to the institution to which he is affiliated in the territory of the Contracting Party to whose legislation he/she is now subject.
- ▶ If this institution is itself a provident fund, the amount transferred shall be credited to the account opened by this institution in the name of the person concerned.
- ▶ If the institution referred to in paragraph 1 of this Article is competent in respect of pensions, the amount transferred shall be paid to the institution concerned in order to enable the person concerned to buy back periods for the purpose of acquiring or improving his rights to benefits under the legislation applied by this institution. The method of buying back periods shall be determined either in accordance with the provisions of that legislation or by mutual agreement between the Contracting Parties concerned.”

- Article 37 stipulates that: “Where a person ceases to be subject to the legislation of a Contracting Party under which he/she had been affiliated to a pensions scheme in order to move to the territory of another Contracting Party under whose legislation he/she is registered with a provident fund, before having acquired the right to a pension under the legislation of the first Party,



**Alternative A:** the pension rights in course of acquisition of this person for himself/herself and his/her survivors are maintained until the conditions required for the receipt of the pension are satisfied. Failing this, the amount of the contributions paid by this person or on his/her behalf shall be transferred to the provident fund under conditions fixed by mutual agreement between the Contracting Parties concerned.

**Alternative B:** the amount of the contributions paid by this person or on his/her behalf shall be transferred to the provident fund under the conditions fixed by mutual agreement between the Contracting Parties concerned.”

- Article 38 provides an alternative focusing on the aggregation of periods of coverage in both systems if necessary in order to meet the qualifying conditions.

## 1.7 Coverage of migrant workers in the informal economy

Migrant workers in the ECOWAS region are mostly in the informal economy and do not have access to social security in their country of employment as well as in their origin country. The main reason is that social security systems in the ECOWAS member states are mostly restricted to salaried workers which represent less than ten percent of the workforce in the region. Most of the workers, including migrant workers are operating in the informal economy in all ECOWAS member states. They mostly do not have access to social security in the respective countries because of restrictions of the legislations targeting salaried workers.

The lack of coverage of these workers has a direct impact on migrant workers' level of protection and needs to be addressed.

## 2. How to overreach these challenges? - Some recommendations

The adoption and entry into force of the ECOWAS General Convention on Social Security is indisputably a major step forward in the realm of social protection for migrant workers of the member states.

Nevertheless, its implementation and the achievement of its objectives require a number of accompanying measures to optimize results. It is in this light that the following recommendations have been set forth.

Possible strategies to overcome the challenges identified above are **summarized as follow**:



**Strengthen the existing Committee of Experts** (body in charge of the implementation of the Convention and ensuring proper regulation of its application)

Members of the Committee should properly understand coordination mechanisms and operational measures for a full implementation by each member state.



**Ensure wide dissemination** of the Convention its Administrative Arrangement in all Member States

In particular among social partner organizations representing employers and workers

Develop practical guides explaining key provisions and procedures under the Convention to enforce the rights of migrant workers of the ECOWAS region



**Design and implement a capacity building program**

Provide support to the social security schemes of the member states to acquire a strong command of the provisions and mechanisms of the Convention, and an understanding of the Administrative Arrangement and forms that serve to ensure coordination of national schemes.



**Establish a Regional Liaison Office** within ECOWAS Commission

It should be in charge of centralizing databases on migrant workers in social security institutions, centralizing and updating data on the number of migrant workers managed by each scheme as well as paid entitlements, disputes and litigations, etc.

The office should also be responsible for the management of a document library on member states' respective national legislations.



**Develop a standard agreement** for the coordination of different old age benefit systems

The existence of two types of old age benefit systems in ECOWAS member states (pensions funds and provident funds notably) strengthens the necessity of developing an agreement template which spells out the Convention's provisions in order to facilitate its application.



## Conclusion

The module has identified the main challenges in the implementation of the ECOWAS General Convention on social security and some of the solutions that might help minimize those challenges.

Respect of the principle of reciprocity due to unequal development of social security systems, lack of coverage of migrant workers who are in the informal economy, differences in old age benefit mechanisms and lack of polygamous status in all member states are some of these challenges.

Suggested solutions to these challenges include strengthening the existing Committee of Experts in charge of the implementation of the Convention, the design and implementation of a capacity building program, the establishment within the ECOWAS Commission of a liaison body in charge of centralizing databases on migrant workers in social security institutions and the development of a model agreement for the coordination of pension schemes and provident funds.

When implemented, these recommendations will provide effective access to social security and portability of social security rights to migrant workers and their families which will strongly contribute to labour mobility and regional integration.



## Key learning points

- ▶ West Africa became an institutionalized Regional Economic Community through the establishment of the Economic Community of West African States (ECOWAS) on May 28<sup>th</sup> 1975.
- ▶ The Treaty of the Economic Community of West African States (ECOWAS) guarantees **freedom of movement** and residence, as well as equality of treatment to citizens of all member states, regardless of their cultural, religious, economic, professional and social background.
- ▶ One of those characteristics is the **principle of territoriality** which denies to migrant workers the portability of their acquired rights or rights in course of acquisition during their periods of employment in the host countries.
- ▶ Most of the migrant workers in the ECOWAS region, working in the **informal economy**, are not covered by the legislation of the member states and therefore excluded from the Convention. They mostly do not have access to social security in the respective countries because of restrictions in the legislations targeting salaried workers.
- ▶ Inadequate knowledge of the Convention, unequal development of social security systems, limited administrative capacity to implement the Convention, restrictive nature of the voluntary continued insurance mechanism, limited personal coverage and difficulty of coordination between pension schemes and provident funds are some of the **challenges** identified.
- ▶ **An effective implementation** of the ECOWAS General Convention on social security will need strong commitment from the member states and from the social security schemes of each country.
- ▶ **Capacity building** of the technical staff in charge of the daily implementation of the convention in each scheme part of the agreement for a common understanding of the provisions of the convention and its administrative arrangement, the procedures for claiming benefits, the forms to be used by beneficiaries will be critical.
- ▶ The **development of a management information system and a monitoring** mechanism providing accurate data on the implementation of the Convention by member states, the difficulties encountered by the different schemes as well as beneficiaries will require the establishment in the medium term of a **liaison office** within the ECOWAS Commission;
- ▶ Possible strategies to overcome the General Convention's implementation challenges are: i) strengthen the existing Committee of Experts; ii) design and implement a capacity building program; iii) ensure wide dissemination of the Convention; iv) establish a Regional Liaison Office within ECOWAS; and v) develop a standard agreement for the coordination of different old age benefit systems.



## Test your knowledge

1. **West Africa became an institutionalized Regional Economic Community through the establishment of the Economic Community of West African States (ECOWAS) on:**
  - a. May 28<sup>th</sup> 1975
  - b. May 29<sup>th</sup> 1979
  - c. January 18<sup>th</sup> 2008
  
2. **The ECOWAS Common Approach to Migration is a holistic framework for migration management applicable to migration policies as well as related issues (refugees, human trafficking, legal migration etc.).**
  - a. TRUE
  - b. FALSE
  
3. **Most ECOWAS countries have mandatory contributory health insurance schemes. Therefore, the portability of health care is quite easy to ensure between countries of origin and countries of employment of migrant workers:**
  - a. TRUE
  - b. FALSE
  
4. **The polygamous status is handled differently under the national legislation of the ECOWAS member states; some family legislations prohibit polygamy, which is thus not recognized in the area of social security. Therefore .... (spot the right answers):**
  - a. ....this can negatively impact family members of a polygamous migrant worker who wants to secure social security coverage for his wives (those who come after the first wife and the children born from these unions) as the schemes in these countries do not recognize polygamy;
  - b. ....the migrant workers will have to contribute to both country of employment and country of origin;
  - c. .... social security schemes will provide neither short-term benefits (e.g. maternity benefits, health care) nor long-term survivor benefits;
  - d. ....only the last wife and children born from the last union will benefit of the social security scheme.
  
5. **The challenges related to the implementation the ECOWAS General Convention on Social Security are:**
  - a. inadequate knowledge of the Convention
  - b. unequal development of social security systems
  - c. limited administrative capacity to implement the Convention
  - d. restrictive nature of the voluntary continued insurance mechanism
  - e. limited personal coverage
  - f. difficulty of coordination between pension schemes and provident funds are some of the challenges identified
  - g. all of the above
  - h. a, b, c and d

**6. Which of the following sentences are TRUE?**

- a. There is an equal development of social security systems in the ECOWAS region.
- b. Old age, survivor, maternity protection and work-related injuries are benefits that are present in all ECOWAS member states. Family benefits are present in English-speaking countries only.
- c. One of the weaknesses in the region is health care. Only few countries have mandatory contributory health insurance schemes. Therefore, the portability of health care will be difficult to ensure because of the lack of reciprocity.
- d. Many estimates indicate that Western African countries host about 7.5 million migrants from within the region, accounting for nearly 30% of the population.

**7. Most of the French-speaking countries have experience in social security coordination as they all have bilateral agreements between them or with some other African and European countries. That is not the case for the English-speaking countries which do not have social security agreement.**

- a. TRUE
- b. FALSE

**8. Migrant workers in the ECOWAS region are mostly in the formal economy and have access to social security in their country of employment as well as in their origin country.**

- a. TRUE
- b. FALSE

**9. The adoption and entry into force of the ECOWAS General Convention on Social Security is indisputably a major step forward in the realm of social protection for Member States' migrant workers.**

- a. TRUE
- b. FALSE

**10. Some possible strategies to overcome the challenges identified in the implementation of the ECOWAS General Convention on Social Security are:**

- a. Strengthening the existing Committee of Experts
- b. Ensuring wide dissemination of the Convention and its Administrative Arrangement
- c. Designing and implementing a capacity building program
- d. Regional Liaison Office within ECOWAS
- e. Developing a standard agreement for the coordination of different old age benefit systems
- f. all of the above
- g. b; c and d.
- h. b; c; d; and e.

Correct Answers:  
1) a; 2) a and c; 3) b; 4) a and c; 5) g; 6) c; 7) a; 8) b; 9) a; 10) f.

# Training activities



## Training activity I - Case Study: Coordination between pension schemes and provident funds



### Case Study



### Instructions for the trainer



### Tips



### Materials



### Time

#### Objectives:

- ▶ The objective of this working group is to explore solutions for the coordination between pension schemes and provident funds, as old age benefits in some ECOWAS member states are delivered differently.

- ▶ Divide participants into groups of four, preferably mixing countries with pension schemes and countries with provident funds.
- ▶ Distribute a copy of the case study "Mr. Workhard" to each table (Annex 1).
- ▶ Share the questions below with participants by groups to discuss and answer.
- ▶ In the plenary session, each group will present the results of the group.

Share the following questions with the participants.

#### Questions:

- Please determine what would happen if there was no agreement between the two countries.
- Calculate the pension benefit for Mr Workhard in Manland and the amount of lump sum he is entitled to in Hopland.
- Determine when Mr Workhard will start getting his pension benefit.
- Explain the methodology you use to calculate the old age benefits in both countries.
- Make recommendations on how coordination between pension schemes and provident funds can be improved in the ECOWAS region under the ECOWAS General Convention on social security framework.

- ▶ Have copies of the case study to distribute within the groups.
- ▶ Give groups time to read the case study and make some preliminary comments.
- ▶ One participant of the group will present conclusions in the plenary session.

- ▶ Writing material.
- ▶ Set of Post-its.

- ▶ Case study reading (5-10 min).
- ▶ Answering questions and group discussions (25 min).
- ▶ Plenary session and Q&A (15 min).

## Annex 1: Case study “Mr. Workhard”

Mr Workhard is a citizen from **Manland** where he worked for 10 years before moving to **Hopland**, having an opportunity to work in a mining industry.

The two countries are part of a multilateral social security agreement involving three other countries.

Here are some of the characteristics of the social security systems in both countries, especially old age benefit.

### In Manland:






- ▶ The old age system is a pension benefit;
- ▶ Qualifying conditions are as follows: 15 years of contribution in order to be entitled to a pension benefit;
- ▶ Retirement age is 62;
- ▶ National calculation of pensions: (average monthly earnings) 30 % for first 15 years (2 % for each year) 1.5 % for each additional year.

### In Hopland:

- ▶ The old age system is a lump sum through the provident fund;
- ▶ Qualifying condition for lump sum is 20 years of contribution;
- ▶ Retirement age is 60;

Mr Workhard worked 17 years in Hopland before retiring at 60 years old.

## Training activity II - SWOT analysis

 <p><b>SWOT Analysis</b></p>	<p><b>Objectives:</b></p> <ul style="list-style-type: none"> <li>▶ Understanding the strengths, weaknesses, opportunities, and threats of the ECOWAS region and the ECOWAS General Convention on social security;</li> <li>▶ having a deeper understanding of the limits of the ECOWAS General Convention.</li> </ul>				
 <p><b>Instructions for the trainer</b></p>	<p>Participants will work in groups of four. Distribute a copy (A2) of the SWOT Matrix, on which participants will work.</p> <p>Groups will discuss about strengths, weaknesses, threats, and opportunities in the implementation of the ECOWAS General Convention on Social Security.</p> <p>Example of the SWOT matrix:</p> <table border="1" data-bbox="406 616 1053 705"> <tr> <td>Strengths</td> <td>Weaknesses</td> </tr> <tr> <td>Threats</td> <td>Opportunities</td> </tr> </table> <p>Give participants 30 min to discuss and fill the SWOT matrix.</p> <p>Once every group had time to finish the SWOT matrix, participants will share their final conclusions with the rest of the group (15 min).</p>	Strengths	Weaknesses	Threats	Opportunities
Strengths	Weaknesses				
Threats	Opportunities				
 <p><b>Tips</b></p>	<ul style="list-style-type: none"> <li>▶ Give a copy (A2) of the swot matrix to each group.</li> <li>▶ After the presentations, highlight the common conclusions of the groups.</li> <li>▶ If not mentioned during presentations, highlight the role of informal economy in the region, e.g.: How can social protection be extended to migrant workers in the informal economy?</li> </ul>				
 <p><b>Materials</b></p>	<ul style="list-style-type: none"> <li>▶ Copies (A2) of the SWOT matrix.</li> <li>▶ Writing material.</li> <li>▶ Post- Its.</li> </ul>				
 <p><b>Time</b></p>	<ul style="list-style-type: none"> <li>▶ 30 min: SWOT analysis.</li> <li>▶ 15 min: presentations and Q&amp;A.</li> </ul>				

## EXTENDING SOCIAL PROTECTION TO MIGRANT WORKERS IN THE ECOWAS REGION: A capacity building toolkit on the ECOWAS General Convention on Social Security

**Module 1:** Social protection in ECOWAS: States, issues, challenges and policy responses

**Module 2:** Social protection for migrant workers: An overview

**Module 3:** Concepts and international standards on coordination of social security

**Module 4:** Introduction to the ECOWAS General Convention on Social Security: Origin, context, principles and key provisions

**Module 5:** Implementation of the ECOWAS General Convention on Social Security: Coordination of social security in the ECOWAS region

**Module 6:** Bilateral and multilateral social security agreements involving contracting parties of the ECOWAS General Convention on Social Security

**Module 7:** Gaps in the ECOWAS General Convention on Social Security

Download all modules and related documents at the link below:

<https://www.itcilo.org/en/areas-of-expertise/labour-migration/ecowas>