

The temporary employment contract: (An in-depth study of the formalities involved in setting up such contracts, the internationalization of contracts, and the protection of workers in professional mobility under African law)

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ABSTRACT: The entry into force of the African Continental Free Trade Area (AfCFTA) marks a turning point in African economic integration. While trade liberalization is the core objective, its effectiveness depends on a unified legal framework securing cross-border operations. In Francophone Africa, the Organization for the Harmonization of Business Law in Africa (OHADA) provides a ready-made normative laboratory. This article examines the capacity of OHADA business law to serve as a legal foundation for AfCFTA through the lens of the **temporary employment contract**, considered a mechanism for the cross-border deployment of workers by Temporary Employment Agencies (TEAs). After analyzing the legal and institutional foundations of both systems, the study explores their interaction regarding **company formation procedures**, **contract internationalization**, and **protection of mobile workers**.

I. INTRODUCTION

African economic integration has gained significant momentum with the establishment of the AfCFTA, aiming to create a single continental market for goods and services. This initiative raises complex legal issues, particularly regarding business regulation and labor mobility. In this context, OHADA law, already operational in 17 Francophone African states, offers a harmonized legal framework that could support AfCFTA ambitions. This article aims to analyze how **OHADA Uniform Acts** can facilitate the implementation of AfCFTA, focusing on the **temporary employment contract** as a strategic legal instrument. The study centers on three main axes: **company formation procedures**, **contract internationalization**, and **protection of mobile workers**. The objective is to highlight the contributions, limitations, and prospects of a **hybrid continental legal framework** integrating OHADA and relevant international conventions.

Preliminary Part – Legal Foundations of OHADA Business Law Implications for AfCFTA Implementation

Chapter 1: Origins and Sources

Section A: OHADA Business Law OHADA law, established by the 1993 Treaty (revised in 2008), operates through **uniform acts directly applicable** in member states. It aims to create a secure environment for businesses and investors in 17 member states[1].

Section B: AfCFTA The AfCFTA Agreement, adopted in Kigali in 2018, seeks **gradual economic integration** through trade liberalization and regulatory cooperation rather than full legal harmonization[2].

Chapter 2: Relations Between OHADA and AfCFTA

Section A: OHADA's Contribution to AfCFTA OHADA provides **stability and predictability** to cross-border business operations, serving as a model for AfCFTA legal frameworks[3].

Section B: Challenges of Continental Integration Despite its strengths, OHADA faces challenges in fully integrating with AfCFTA: **legal gaps**, **conflicts of norms**, and **rigidity versus AfCFTA flexibility**[4].

Part I: OHADA and Company Formation Procedures under AfCFTA

Chapter 1: Legal Dynamism in Formalizing Companies

Section A: Growth in Company Registration OHADA's uniform acts and single-window systems have boosted formal sector company registration, especially in services, providing TEAs a reliable legal basis[5].

Section B: Economic Impact on Member States This formalization contributes to **investment security and economic growth**, enhancing the member states' integration into continental trade[6].

Chapter 2: OHADA's Contribution to AfCFTA Company Formation

Section A: Existence of Specialized Structures Greffes and company registration centers ensure **institutional support** for company formation[7].

Section B: Prospects for Continental Legal Framework Adoption A continental framework for **accrediting and supervising TEAs** is necessary to avoid **social dumping and informal employment**[8].

Part II: OHADA and Contract Internationalization under Af CFTA

Chapter 1: Contract Law in OHADA

Section A: OHADA Uniform Act on Contracts Provides a structured framework but lacks specificity for **tripartite temporary employment contracts**[9].

Section B: Legislative Shortcomings Gaps exist in **choice of law, international deployment, and cross-border labor protection**[10].

Chapter 2: Implications for AfCFTA Implementation

Section A: International Contract Framework OHADA acts as a **ready legal model** for AfCFTA contracts, enabling harmonization and predictability[11].

Section B: Legal Instrument for Continental Integration By integrating **model clauses and supranational arbitration**, TEAs contracts can become a **vehicle for cross-border legal integration**[12].

Part III: OHADA and Protection of Mobile Workers

Chapter 1: OHADA Labor Law Framework

Section A: Absence of a Uniform Labor Act Unlike commercial law, OHADA has no dedicated uniform labor act; only ancillary texts cover employee rights during corporate restructuring[13].

Section B: Existing Legal Provisions Certain rules address **workers' rights, insolvency, and social contributions**[14].

Chapter 2: Protection of Temporary Cross-Border Workers

Section A: Mandatory Movement of Temporary Employees Cross-border employment requires **compliance with host state regulations and international labor standards**[15].

Section B: Need for National and International Legal Institutions Coordination with **ILO conventions (n°97, 143, 181), UNCITRAL, CIRDI, and EU comparative frameworks** is essential for legal and social protection[16].

II. DISCUSSION

1. Effectiveness of OHADA in the AfCFTA Context

OHADA provides a **stable, predictable framework**, yet the AfCFTA introduces **flexibility and mobility requirements**. Temporary employment contracts highlight the **gap between regulatory security and cross-border labor mobility**.

2. Company Formation and Internationalization

While OHADA facilitates **formalization and transparency**, supervision for TEAs at the continental level remains limited. Integration of **UNIDROIT Principles and UNCITRAL arbitration rules** could complement OHADA for **cross-border contract reliability**.

3. Protection of Mobile Workers

The absence of a dedicated labor act under OHADA necessitates **reliance on international conventions and comparative jurisprudence** (*Rush Portuguesa*, CIRDI, UNCITRAL) to ensure workers' rights and social protection.

4. Challenges and Perspectives

- Legal harmonization OHADA-AfCFTA
- Protection of cross-border workers
- Standardization of TEA contracts
- Continental hybrid legal framework integrating OHADA and international standards

III. RESULTS

1. **OHADA as a foundation:** Solid but incomplete for temporary cross-border employment.
 2. **AfCFTA requires adaptation:** Integration with international labor standards is essential.
 3. **Temporary employment contracts as test cases:** Can facilitate continental legal integration.
 4. **Recommendation:** Establish a hybrid framework combining OHADA, international conventions, and comparative legal practices for secure, mobile labor markets.
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IV. CONCLUSION

The analysis confirms that OHADA provides a **strong legal foundation for business operations**, yet its application to temporary cross-border employment under the AfCFTA is limited by the **absence of a dedicated labor framework**. The temporary employment contract emerges as a **practical instrument to test and reinforce continental legal integration**, bridging OHADA principles with international standards. To fully realize the objectives of the AfCFTA, it is necessary to **develop a hybrid legal framework** that combines OHADA's uniform acts, international conventions, and comparative jurisprudence to ensure both **business security** and **protection of mobile workers**. This approach would strengthen the **legal infrastructure of African economic integration**, providing a sustainable pathway for cross-border employment and enterprise development.

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