THE SHARED HOMELAND PARADIGM

ארץ לכולם بلاد للجميع
A Land for All

Background Paper for
The Shared Homeland Paradigm Project:

Regional Free Movement in Mercosur, the EU, and ECOWAS: Comparative Insights and Reflections for the Israel–Palestine Context

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February 2026

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1. Introduction

Across the globe, regional and bilateral free movement frameworks have emerged to facilitate mobility, integration, and economic cooperation among neighbouring states (Lavenex et al., 2016). These frameworks typically grant citizens of member states rights of entry, residence, employment, and, in some cases, further ancillary rights (Nita, 2017; IOM, 2010). While their legal scopes vary, such regimes significantly increase life opportunities for regional citizens, contribute to economic integration and development, and increase exchange between populations – potentially fostering regional integration processes in post-conflict environments.

At the same time, free movement frameworks often face significant tensions between regional commitments and national sovereignty (Perko and Biaback Anong, 2025). For instance, diverging domestic political interests, different implementation practices, administrative discretion, and domestic political interests may undermine the rights promised in regional agreements. These frictions frequently result in barriers that prevent citizens from fully accessing their free movement rights. Understanding which issues arise in access to free movement rights and how these can be addressed by national or regional institutions can provide valuable insights for further geographic contexts. Thus, this paper reviews key rights for non-citizens established under three regional free movement regimes and examines how access to these rights functions in practice. It further identifies lessons that may inform future free movement arrangements between Israel and Palestine.

To do so, the paper draws on three regional cases that represent distinct historical and institutional trajectories: the Southern Common Market (Mercosur) in South America, the Economic Community of West African States (ECOWAS), and the European Union (EU). The analysis is grounded in analyses at both regional and national levels, focusing on Uruguay, Argentina, and Brazil for Mercosur; Nigeria, Ghana, and Senegal for ECOWAS; and Belgium, the Netherlands, and Germany for the EU. Alongside practical aspects such as accessibility, the selection of member states was guided by their political weight and importance in regional policymaking (for instance hosting important regional institutions) as well as their status as destination countries for intra-regional migrations. The insights are based on legal sources, secondary literature, policy documents, and empirical insights from fieldwork and expert interviews.[1]

The analysis first outlines the evolution, rights, and institutional architectures of each regime. It then explores which conflicts and barriers arise in the process of

[1] The fieldwork was conducted for the research project “Borders of the World II” (2022-2025) at Humboldt-University Berlin and the Collaborative Research Center “CRC1265 Refiguration of Spaces”, funded by the German Research Foundation (DFG).

implementation, to then go on to enforcement and protection mechanisms. The paper further includes best-practice examples of institutional protection that can mitigate these tensions. Finally, the paper situates these findings within a broader reflection on possibilities and challenges of regional free movement regimes and includes initial considerations for the Israel-Palestine context.

2. Free Movement Regimes: Rights, Access, and Protection

2.1 Mercosur

2.1.1 The Mercosur framework for the free movement of persons: rights and institutions

Mercosur was established in 1991 by the Treaty of Asunción. Its current full member states are Argentina, Bolivia, Brazil, Paraguay, and Uruguay, while Venezuela has been suspended since 2016. All other South American countries—with the exception of French Guyana and Suriname—are associated states and parties to the free movement framework. Initially, human mobility was exclusively addressed in terms of trade in services under the common trade agreement. This approach changed decisively at the turn of the millennium, when Mercosur governments adopted a decidedly human-rights-based approach to migration, in opposition to the practices of former military rulers (Bordazar, 2021: 280; Geddes and Vera Espinoza, 2018; Margheritis, 2013). In 2002, Mercosur adopted its Residency Agreement (Mercosur, 2002), the main instrument for free movement in the region. In addition to this so-called "social turn" (Brumat and Acosta, 2019: 59) described above, the agreement was motivated by the aim to regularise existing large-scale informal migration within the region (Alfonso, 2012; Brumat, 2016).[2] It grants citizens of adherent states the right to a two-year legal residency, solely on the conditions of providing proof of nationality and a clean criminal record. Beyond these conditions, the only discretion member states retain to deny residence is on the basis of severe threats to public order and safety. Residency can be renewed every two years under the same conditions. To access permanent residency, the Mercosur agreement permits states to request proof of sufficient means of subsistence. However, countries like Uruguay grant Mercosur nationals direct access to permanent residency.[3] In addition, the agreement established the rights to work,

[2] Informal practices as a driver of the Mercosur free movement framework are still strongly reflected in the present: To this day, informal cross-border practices, which extend beyond the specific provisions of regional agreements are considered important groundwork for future regulative endeavours (Perko, 2025; forthcoming). For example, cross-border mobility and labour in border areas are widely tolerated by policymakers and border officials, as such movements are seen as deeply rooted in regional traditions. One illustrative case is the irregular crossing of ambulances to transport emergency patients to the nearest hospital, regardless of national borders. Such practices are then understood as important contribution to the framework and gradually formalized.

[3] As to the process of application or the form of the residency document (e.g., if it differs from permits for non-Mercosur nationals), the residency agreement does not establish a unified procedure. However,

education, and healthcare on equal terms with national citizens, along with the right to family reunification and other civil and social rights. These rights build on another milestone of the Mercosur framework, the so-called Declaración Sociolaboral, which was adopted in 1998 and establishes common rights for workers within the regional bloc. As our research showed, this direct access to legal residency and work – unprevented by exclusionary conditions such as the proof of financial means – has led to low levels of irregular migration and informal work situations, significantly increasing the capacity of the state to both protect and control noncitizens.

In 2006, Mercosur also passed an agreement enabling citizens from the region to enter other member states without a visa for 90 days as tourists (Mercosur, 2006). However, up to date Mercosur has not established a general right of entry for citizens of member states. Border controls at internal borders remain intact. Meanwhile, the regional bloc has passed agreements on the facilitation of border-crossings, establishing joint border controls (1993), the mutual acceptance of national ID cards as travel documents (2008), and specific circulation rights for border areas (2019).

Institutionally, the Mercosur polity is headed by the Council of the Common Market (CMC) – the superior body determining the political agenda – and the Common Market Group (GMC) – the main executive body. These institutions are supported by the Mercosur Secretariat, which provides administrative and operational support, and the Mercosur parliament (ParlaSur), which mainly fulfils a consultative role in the legislative process.[4] The CMC and GMC operate through topic-related working groups.[5] In these groups, representatives of national ministries draft and negotiate policy proposals and prepare decisions of the superior organs. For free movement, the most important working group is the Specialized Migration Forum (FEM). As well as resolving informal conflicts between member states, it also serves as an important forum for sharing best practices among member states. Meanwhile, f or border management, the bloc has established a separate working group (Subgrupo de Trabajo 18) – like the FEM subordinate to the 'Reunion of Ministers of Interior' (for the institutional setup of working groups and bodies responsible for migration, see Brumat, 2016: 319-331). The Olivos protocol (2002) on dispute settlement and the Permanent Revision Tribunal it established have not been used with regard to migration-related topics (Acosta, 2018: 186-187). Mostly due to the long and complex procedure the Tribunal entails, the respective working groups (especially FEM in the context of

it does stipulate that application must be possible both from the home country (via embassies or consulates of the receiving member state) and after arrival.

[4] For an analysis of decision-making procedures in the Mercsour institutional framework and its historical evolution, see Cachiolo, 2020; Brumat, 2016: 310-31).

[5] For the full list of topic-related working groups, see the Mercosur organigram which is accessible here: https://www.mercosur.int/en/about-mercosur/organizational-chart.

migration) continue to be the preferred platform for (intergovernmental) dispute settlement.

In addition, Mercosur has established several permanent agencies to support the implementation and evaluation of regional policies. For the area of human mobility, the most important agencies are the Institute of Public Policies on Human Rights (IPPDH) and the MERCOSUR Social Institute (ISM). However, in contrast to ECOWAS and the EU (see below), the union does not count with supranational enforcement mechanisms, in particular lacking a common jurisdiction. This results in a predominantly intergovernmental nature of the Mercosur decision making process (Brumat, 2016: 201; Caichiolo, 2017: 119), highly dependent on the political agendas of member states' governments in power.

2.1.2 Main Conflicts and Institutional Challenges

Despite a strong normative framework for free movement and the regional commitment to a human-rights-approach to migration, the intergovernmental institutional structure of Mercosur has been identified as the major drawback for the development and enforcement of free movement rights (e.g., Cardesa-Salzmann, 2012: 11-12; Nicolao, 2015: 4; Lavenex, 2019: 1282, Perko and Biaback Anong, 2025). With consensus among all member states established as the general decision-making mechanism in the regional body, t his structure has allowed member states and national governments to counteract or deprioritize regional objectives on free movement. For instance, after conservative administrations in Brazil (e.g., Temer as of 2016) and Argentina (e.g., Macri as of 2015) took office, they introduced restrictive migration measures (Brumat and Acosta, 2019: 65) or blocked planned extensions of free movement rights (Perko, 2025).

These dynamics are often linked to regional economic asymmetries (Biaback Anong, forthcoming) and xenophobic tendencies, which have at times resulted in the rejection of regional citizens at borders or their deportation (Hernández Granja and Villarreal Villamar, 2017: 75; Perko, 2025). The absence of supranational oversight and effective enforcement mechanisms exacerbates these issues (Lavenex, 2019: 1282).

Additional challenges include limited administrative capacity at both national and regional levels, weaknesses in the legal drafting of migration agreements (e.g. giving member-states much leeway through ambiguous wording), and a general lack of information available to regional migrants. Together, these factors constrain the practical realization of free movement within Mercosur and contribute to a significant gap between the rights granted on paper and their implementation in practice (Acosta, 2017: 160; Cardesa-Salzmann, 2012: 11–12).

2.1.3 Main Access Barriers to Regional Free Movement Rights

These conflicts and implementation challenges create numerous de facto barriers that hinder regional citizens from accessing their free movement rights (Biaback Anong and Perko, 2025). The most prominent barrier is the excessive control or outright denial of entry based on discretionary practices by border officials. Such practices disproportionately affect Indigenous and racialised migrants from countries including Bolivia, Paraguay, and Colombia, and are further shaped by socio-economic status and gender (Biaback Anong and Perko, 2025; Perko, 2025: 497). Argentina's "false tourist" regulation is a notable example that reinforces malpractices at borders. It instructs agents to identify individuals who allegedly do not qualify as tourists and to deny entry accordingly, using subjective criteria such as physical appearance, proof of economic activity in the country of origin, or demonstrable financial means, which has been used arbitrarily (Alvites Baiadera, 2018; Perko and Biaback Anong, 2025: 59–60).

Moreover, our research indicates that residents—particularly Venezuelans[6]—often face significant difficulties obtaining official documents from consulates or home country authorities in a timely and affordable manner. This administrative obstacle impedes access to broader rights such as residence, healthcare, and social security.

Even where Mercosur residency requirements are relatively generous in comparative perspective, they are sometimes interpreted with excessive rigidity. For instance, under the Macri administration in Argentina, the requirement of a clean criminal record was applied particularly strictly. An emergency decree (DNU 70/2017) was issued to expedite the deportation of foreigners who committed minor crimes, bypassing parliamentary approval (Andolina, 2021; Perko and Biaback Anong, 2025: 64). It was later repealed by the progressive government of Fernández through Decree 138/2021.

Finally, access to social protection remains uneven across the region. In particular, social security and health services are not always equally available to regional citizens, who may face stratified access based on nationality or perceived economic contribution. A particular challenge concerns health care: In contrast to other member states, health care in Argentina is largely free of charge - instigating significant numbers of citizens from other member states, in particular economically disadvantaged rural populations from neighbouring countries, to seek cross-border health care in Argentina. In earlier years, this circumstance led to challenges for hospitals in certain border districts. Since 2024 then, free health care for migrants was abolished in Argentina, justified by the aim to curb "medical tourism". This was preceded by general accusations of "medical tourism" towards Bolivian nationals,

[6] Venezuela has never signed the residency agreement. However, several Mercosur member states apply the agreement unilaterally, making Venezuelans eligible for the rights stipulated there.

(see e.g. Vindrola-Padros, 2015). exhibiting how xenophobic narratives continue to shape the implementation of free movement in practice. However, the issue of medical care also reveals that – when designing free movement regimes – it is crucial to carefully assess asymmetries in the social systems of member states. This is necessary to avoid that generalized rights (such as equal access to health care) result in unintended localized conflicts over resources, discrimination of certain groups, or backtracking on regional standards by certain member states.

2.1.4 Protection mechanisms for free movement rights

Due to the intergovernmental nature of the Mercosur system and its lack of a common judicial authority or enforcement mechanisms, the protection of migrant rights remains mainly in the hands of national institutions. These institutions thus have significant leeway to interpret regional agreements, for example as a result of their vague language. The turn towards a human-rights approach in the 2000s has triggered new migratory legislation in member states like Argentina, Brazil, and Uruguay, resulting in comparatively high protection standards for migrants' rights in national law, including the recognition of migration as a human right. Importantly, these human rights standards apply for all migrants, including non-Mercosur nationals and irregular migrants (Biaback Anong, 2024). Thus, the origin of noncitizens rights, including Mercosur nationals, results mainly from human-rights standards rather than the Mercosur agreements. [7]

Best Practice Example from Uruguay:

Uruguay is a good example for high constitutional and legal standards for the protection of migrants' rights on the national level. In Uruguay, upon registration as a Mercosur national, individuals are granted permanent residence and issued a national ID card, providing access to work, education, social rights, and access to justice on equal footing with nationals. Institutionally, the oversight over migrants' right protection is organized in the form of a national migration council, which is constituted by civil society organizations and governmental actors.

Concerning the regional level, our research has highlighted two strategies for the promotion of migrants' rights within the intergovernmental structure of Mercosur. First, as the development of regional norms can be lengthy and contested by changing national governments, Mercosur has used its institutional platforms to promote the ratification and implementation of international human-rights instruments. Examples

[7] For more information on the Uruguayan migration regime see Coloccioni, 2024; Wang et al., 2024).

include sustained advocacy for member states to join the UN Convention on the Rights of Migrant Workers and the incorporation of its principles into Mercosur documents, such as the 1998 Mercosur Declaration on Social and Labour Rights and the 2004 Santiago Declaration on the Rights of Migrants. In addition, the Mercosur agencies IPPDH and ISM, even though not counting with executive authority, fulfil important functions by monitoring and evaluating the human rights' situation in member states and conducting capacity building with officials on the protection of migrants' rights.

2.2 ECOWAS

2.2.1 The ECOWAS framework for the free movement of persons: rights and institutions

The ECOWAS was founded in 1975. Today it counts 12 member states,[8] as Burkina Faso, Niger, and Mali have formally withdrawn from the Union in 2024. From the outset, movement of citizens was a key aim of the union, both in a pan-African quest to re-establish precolonial intraregional circulation, and to foster economic growth (Acosta, 2019: 13; Adepoju et al., 2010: 121). In 1979, the ECOWAS adopted the "Protocol on the Free Movement of Persons, Residence and Establishment" (ECOWAS, 1979). It envisaged an implementation process of 15 years in three steps: five years for the implementation of the right to enter without a visa for 90 days with valid travel documents and a health certificate (phase I), five years for the right to reside through an ECOWAS residence card or permit (phase II), and another five years for the right to work and to establish businesses under the same conditions as nationals (phase III)[9].

Similar to Mercosur, intra-regional border controls remain intact. In fact, our research has shown that in the face of intra-regional security threats like terrorist insurgencies, one central aim of regional integration in ECOWAS is to improve border security through cross-border cooperation, joint control initiatives, and the formalization of free movement. To facilitate cross-border mobility and access to services in other member states, ECOWAS has also introduced a common ECOWAS passport (2000) and biometric ID card (2014), which are issued by national institutions. Apart from administrative facilitation, the common passport also represents an important symbolic step toward unity among ECOWAS citizens (Ouedraogo, 2009: 128).

The ECOWAS polity is composed by three major institutions: the ECOWAS Commission that implements the objectives and comprises the President, Vice President and five specialized Commissioners; the ECOWAS Parliament, whose 115 members

[8] The current member states are: Benin, Côte d'Ivoire, Gambia, Ghana, Guinea, Guinea-Bissau, Liberia, Nigeria, Senegal, Sierra Leone, Togo, and Cape Verde.
[9] Before the Phase II and III are successfully implemented, the regulation of rights of residence and work are regulated mainly at the national level.

shall be elected by direct universal suffrage by the citizens of the member-states[10]; and the ECOWAS Court of Justice, which comprises five independent judges, appointed by the Authority of Heads of State of Governments. The ECOWAS Free Movement Directorate, situated within the ECOWAS Commission, is the primary regional entity responsible for the development of strategies and policies, data management, implementation, and oversight of free movement within the ECOWAS region - for instance through the project "FMM West Africa (Support to Free Movement of Persons and Migration in WEst Africa)", the Ecowas Labour Migration Strategy or the ECOWAS Travel Certificate. With its ECOWAS Court of Justice, the region also has a regional judicial and dispute-settlement body whose decisions are binding for member states (see section 2.2.4 below). The ECOWAS Parliament, meanwhile, mainly fulfils consultative functions. Institutionally, the ECOWAS system thus provides for a higher level of supranational oversight than Mercosur's intergovernmentalism. However, the ECOWAS polity lacks the economic resources and institutional mechanisms for effective enforcement and has repeatedly attracted criticism for being "toothless" (Aning and Bjarnesen, 2024).

International organizations such as the International Organization for Migration (IOM), the International Labour Organizations (ILO), ICMPD (International Centre for Migration Policy Development) or the European Union also fulfil an important role as funders and providers of operational support in the implementation and evaluation process. This involvement is problematic in so far, as the interests of international funders – for instance the containment of unauthorized migration towards Europe – at times interfere with free movement in the ECOWAS region (Jegen, 2020: 37–38; Zanker et al., 2020; see also section 2.2.2 below).

2.2.2 Main Conflicts and Institutional Challenges

Despite progress in certain areas, such as visa abolition under Phase I (entry), significant challenges remain in implementing the free movement agenda, particularly regarding Phase II (residence) and Phase III (establishment). Scholars have identified multiple obstacles, including political divergences, tensions between anglophone and francophone member states, security concerns related to the rise of intraregional terrorist groups and smuggling networks, anti-immigrant sentiments, economic disparities, and labour market competition (Okunade and Ogunnubi, 2021; Adepoju, 2015; Perko and Biaback Anong, 2025). Implementation is further constrained by a lack of resources for implementation, relatively weak regional institutions with limited enforcement capacity, and the primacy of national laws over regional agreements. Moreover, vague legal wording allows for different interpretations of

[10] The Additional Act of December 2016 hasn't been fully implemented yet. Meanwhile, the National Assemblies of the Member States (or equivalent) elect the deputies (ECOWAS n.d.).

conditions, especially through the use of safeguards that represent exceptions to regional commitments (for instance based on public security or health). For instance, our research indicates that some member states apply safeguards in the agreements in ways that restrict mobility. For example, free movement protocols allow states to deny entry to "inadmissible migrants" without clearly defining this category at the regional level (Perko and Biaback Anong, 2025: 61), which is regularly being utilized by border officials. Furthermore, Nigeria's border closure to Benin and Niger from 2019 to 2021, aimed at curbing smuggling and increasing revenue from agricultural goods, effectively undermined the regional framework by the use of safeguards (Omalea, Olorunfemi, and Aiyegbajeje, 2020: 3–5).

Moreover, the influence of the European Union has complicated ECOWAS's regional agenda. The EU's focus on limiting irregular migration towards Europe has encouraged stricter border controls within ECOWAS, in order to stop migrants already in departure and transit countries. Despite the fact that only a fraction actually pursues this goal, this interference is undermining regional mobility and the practical implementation of free movement rights (Castillejo, 2019; Zanker et al., 2020; see also Teye, 2022). These pressures contribute to insufficient national commitment to regional objectives and the adoption of restrictive practices.

2.2.3 Main Access Barriers to Regional Free Movement Rights

Regional citizens of ECOWAS continue to face significant challenges in accessing their free movement rights. A primary de facto barrier is pervasive corruption and harassment at intra-regional land borders, despite the legal entitlement to visa-free entry. Widespread misfeasance by state authorities subjects travellers to multiple checkpoints, where both people and goods may be delayed or subjected to informal payments, extortion, and, in some cases, verbal, physical, or sexual abuse (Okunade & Ogunnubi, 2021; Garba and Yeboah, 2022; Biaback Anong and Perko, 2025). These challenges are compounded by insufficient awareness among many ECOWAS citizens of their free movement rights, which limits their ability to resist or report such practices.

Another issue arising is the tension between security concerns and historical cross-border mobility (Perko, forthcoming): In general, cross-border mobility in border regions, even in informal settings, is widely accepted in the ECOWAS region. However, regional integration in the ECOWAS is considered an important level to address security issues and to manage porous borders in light of security challenges such as banditry, trafficking, and terrorism. Resulting border control measures then counter-act the historical and social ties across border communities, through increased control and scrutiny.

Another major impediment for the practical exercise of free movement rights is the restricted access to work and establishment in certain sectors by member states,

particularly small-scale trading and mining (Devillard et al., 2016: 43; Garba and Yeboah, 2022: 24). While legal restrictions persist, for instance a ban of foreigners from certain small-scale businesses in Ghana, during our research interviewees also reported repeated targeted raids of foreigners' businesses, including shop closures.

Further obstacles include inconsistent recognition of regional travel documents, such as the biometric ID cards. Not all member states have rolled-out these cards or implemented the necessary control technology. Thus, these documents are not accepted across all member states, which hinders citizens' right of entry. Additional barriers concern the financial and administrative burdens associated with residency, including high fees, frequent permit renewals, and inadequate functioning of social security portability mechanisms. Collectively, these factors lead to a substantial gap between the legal provisions of ECOWAS free movement protocols and their practical implementation.

2.2.4 Protection mechanisms for free movement rights

Legally, the ECOWAS Commission can impose sanctions on member states for the infringement of regional treaties. However, this measure has never been used regarding free movement, as the Commission has instead tended to issue warnings. Meanwhile, some cases concerning the free movement protocols have been brought before the ECOWAS Court of Justice. It was the jurisprudence on a case concerning the violation of free movement rights by Nigeria's unilateral border closure (Afolabi vs. Nigeria) that prompted the extension of the ECOWAS Court's jurisdiction to complaints by individuals (Alter et al., 2013: 748). Even though the Court dismissed the case, it nonetheless increased the Court's authority regarding the protection of free movement rights significantly. Still, to date, the number of Court rulings on the free movement of people remains limited (Helfer, 2018).[11]

Concerning implementation, ECOWAS passed a regulation in 2006 (ECOWAS, 2006*)* to establish national monitoring units at borders. The two major objectives of these units were to report and sanction breaches of free movement provision – particularly harassment and money extorsion – and to increase awareness about rights and duties among border officers and the public. Again, budgetary restrictions (amongst others) have impeded an extensive introduction of these monitoring units. Thus, even though the creation of monitoring units has improved the exercise and

[11] The case regarding the law 2015/36 in Niger is a crucial exception: The member-state had approved a law that resulted from pressure by the EU, that aimed at undermining the smuggling of migrants, but also blatantly compromised the right to free movement not only across ECOWAS borders but also in the member-state itself. In 2022, the ECOWAS Court of Justice was called to judge on the legality of the law. However, in 2023, the law was abrogated and convictions of smugglers were reversed through the Ordonnance 2023/16 of the President of Niger's National Council for the Safeguard of the Homeland (Mixed Migration Center, 2023).

awareness of free movement rights, for instance in Nigeria, this effect has remained limited to specific borders (Adepoju, 2015; Ekezie-Joseph, 2021: 120).

Breaches of the right to work, and establishment as well as insufficient access to social security provisions for mobile workers continue to be addressed insufficiently by ECOWAS and national institutions, mainly due to the pressure of national labour markets and the priority given to national workers, creating the need for civil society organizations and labour unions to step in. [12]

EU

2.3.1 The EU framework for the free movement of persons: rights and institutions

What is today the European Union (EU) [13] emerged from the European Economic Communities (EEC) which were founded in 1957. Free movement in the EEC was initially limited to workers and consecutively expanded to other groups, until being established as a fundamental right of all EU citizens with the Maastricht treaty in 1992. In 2004, the EU passed its so-called Citizenship Directive (EU, 2004), which unified and consolidated existing provisions on free movement (Recchi and Favell, 2009: 8). It establishes an unconditional right to free movement for three months. After the three months have passed, the citizen seeking residence must register with local authorities in the respective member-state and get a registration certificate, while proving economic activity or sufficient means in order to access residence for five years. After these five years,

Importantly, the EU framework also foresees equal treatment concerning the access to contributory social security benefits (e.g., unemployment benefits, public healthcare), while excluding EU free movers from social assistance if posing an "unreasonable burden on the social system" (Directive 2004/38/EC, Art. 14) in member states. Thus, in comparison, e.g., to the Mercosur system, which allows for residence without proof of means of subsistence, the EU framework is more economically selective, restricting the "mobility of the poor" (Lafleur and Mescoli, 2018: 481). Concerning the labour market, as the EU framework ever since the Maastricht Treaty includes equal treatment on the labour market as a fundamental right of EU citizens, member states lack the legal means to redirect the intra-EUmobile labour force to certain sectors or areas according to specific overflows or shortages (e.g. through labour market checks, incentives, or else). As several sending countries of EU

[12] For more information on this informal sector pension scheme, see here: https://www.wiego.org/wp-content/uploads/2022/11/resource-document-29-tuc-uniwa-ghana.pdf.

[13] After the exit of the UK, the current 27 member states of the EU are: Austria, Belgium, Bulgaria, Croatia, Cyprus, Czechia, Denmark, Estonia, Finland, France, Germany, Greece, Hungary, Ireland, Italy, Latvia, Lithuania, Luxembourg, Malta, the Netherlands, Poland, Portugal, Romania, Slovakia, Slovenia, Spain, Sweden.

labour mobility increasingly struggle with labour shortages themselves, this circumstance represents a significant policy challenge (Roos, 2023).

In parallel to the EU free movement framework, in 1985 the Schengen Agreement established an area without internal border controls between six Western European countries. Even though many EU member states have joined the Schengen Area since and it was formally integrated into the EU legal framework, EU membership and the Schengen Area are still incongruent.

Institutionally, the European Union is widely regarded in the literature as the most advanced regional free movement framework, largely due to its supranational character (e.g., Recchi, 2015: 11; Bauböck, 2024). This status is primarily supported by the principles of supremacy and direct effect, which allow individuals to invoke EU rights directly before national courts and ensure that EU law prevails over conflicting provisions. Enforcement and oversight are further strengthened by the European Commission (EC) and the Court of Justice of the European Union (CJEU), which provide authoritative legal interpretation and monitor compliance across member states (Acosta, 2017). The CJEU also issues preliminary rulings to guide national courts in interpreting EU law, thereby promoting uniform application and consistent enforcement of free movement rights throughout the Union.

2.3.2 Main Conflicts and Institutional Challenges

Despite its advanced legal framework, the EU also faces conflicts and implementation challenges. A major issue identified in our empirical material is the complexity of EU regulations, which often overwhelms officials at the local level, such as municipal authorities, and is compounded by limited knowledge of relevant rules and case law. This can result in variation in implementation and, at times, restrictive practices. The problem is further reinforced by vague provisions in regional agreements and discretionary safeguards (such as exceptions in case of internal security concerns), which grant member states considerable leeway in application processes. An example for this can be found in Austria: On the 16th of September 2015, Austria reintroduced temporary border controls at some Schengen borders and prolonged them several times, which was then contested by an Austrian citizen, arguing that his free movement rights were being violated (Migration Law Clinic, 2022). In 2022, the CJEU indeed ruled that the reintroduction of internal border controls were illegal, because when the exceptional controls exceed a period of 6 months a new potentially serious threat to public policy or internal security must be demonst- which was not successfully done by Austria (ibid.).

In the past, concerns of labour market competition and wage dumping in Western receiving countries after the EU's Eastern enlargements in 2004 have led to restricted labour market access for citizens from the new Eastern member states. Today,

concerns have shifted toward labour and skill shortages, as well as brain drain in many member states (Perko and Biaback Anong, 2025). However, an important cleavage between Eastern and Western member states persists – particularly concerning access to and responsibility for social security benefits (see 2.3.3 below).

2.3.3 Main Access Barriers to Regional Free Movement Rights

These challenges have created significant de facto barriers for EU citizens.[14] Our empirical work highlights restrictive access to welfare as a primary obstacle. This is particularly evident for economically disadvantaged residents, Romanian and Bulgarian nationals, and Romani people, who often encounter scepticism and obstacles when seeking welfare services, especially non-contributory benefits (Perko and Biaback Anong, 2025; Kramer, 2023). In addition, our research showed that the complexity of EU regulations and lengthiness of bureaucratic procedures often circumvents the effective enjoyment of free movement rights. This is the case of lengthy registration processes and access to residence documents (such as registration confirmation), for instance in Belgium or Germany. Similarly, the portability of social security contributions to other member states remains circumvented by limited knowledge of administration officials and contested responsibility between member states.

The discretion granted to member states by vague provisions (such as the definition of "workers", "sufficient means" or a "durable relationship" in regional agreements on Schengen or free movement further contributes to restrictive interpretations of those key concepts. Because these terms are not clearly defined, member states have substantial latitude to exclude certain citizens from accessing their rights, by, for instance, not accepting a low percentage of employment or sufficient means being lower than the threshold to social assistance.

2.3.4 Protection mechanisms for free movement rights

When citizens are uncertain about their rights and obligations, the EU provides several notable services to facilitate access and enforcement. For instance, when a citizen or business experiences a rights violation by public authorities in another member state, they can turn to SOLVIT, a free service operated by national administrations, to address issues such as pension entitlements, diploma recognition, or unemployment benefits.

[14] Some European citizens, as well as third-country nationals, also encounter barriers in relation to their Schengen rights. While this issue is not the primary focus of this contribution, it is important to note that several member states have, at times, reintroduced excessive internal border controls in ways that are disproportionate and occasionally unlawful. Although these measures are often justified as responses to secondary movements of third-country nationals, they also impact EU citizens and residents who are perceived as "extra-regional," particularly racialized migrants, who are physically othered as non-European (Biaback Anong and Perko, 2025).

Best Practice Example:

The EU commission funds the citizen service "Your Europe Advice". EU citizens or their family members can reach out to this service with personal requests regarding their rights and YEA offers free, personalized legal guidance, typically within one week.

In more complex cases, citizens may seek recourse through national courts, a process that can, however, be lengthy and costly. National courts can, in turn, request a preliminary ruling from the Court of Justice of the European Union, ensuring uniform interpretation and application of EU law across member states while strengthening judicial cooperation between national and supranational courts. However, the CJEU has recently adopted a more restrictive approach to interpretation, being less in favor of granting free movers more extensive rights (Blauberger et al., 2020).

The European Commission also plays a key role in ensuring compliance with EU law, acting as the guardian of the treaties. It monitors the implementation and application of EU law by member states and may initiate infringement proceedings under Article 258 of the Treaty on the Functioning of the European Union when non-compliance is detected. Such proceedings can ultimately lead to cases before the CJEU and potential sanctions. Nonetheless, our research shows that the Commission often prioritizes dialogue over immediate legal action, reserving formal infringement procedures as a rare and last-resort measure. This demonstrates that judicialization and strong supranational mechanisms, while important, do not automatically guarantee effective enforcement of free movement rights (Perko, 2026).

3. Discussion and Conclusion

The cases of Mercosur, ECOWAS, and the EU show, that free movement does not only significantly contribute to regional economic development, but also helps to address cross-border challenges like cross-border crime and – last but not least – increases the contact, exchange and interdependence between societies on rule-based grounds, potentially contributing to post conflict reconciliation in the Israel – Palestine context.

However, as this paper has shown, free movement frameworks and their implementation can come with important conflicts of interests and institutional challenges circumventing the effective access to rights for noncitizens. When developing free movement scenarios for other contexts, it is important to bear these challenges in mind in order to design effective protection mechanisms.

Our research has revealed the two dimensions economy and security as most salient concerning the development of free movement rights (Perko & Biaback Anong, 2025), both concerning conflicts and challenges as well as advantages and potentials of free movement arrangements. In both dimensions we think that important lessons can be learnt from the three cases for potential future mobility frameworks between Israel and Palestine under a two-state solution:

Under conditions of stark economic disparity between two states—in Israel and Palestine further intensified by the consequences of the recent war—the absence of codified and enforceable mobility rights (including entry, residence, labour, and social rights) risks producing brain drain in sending regions, as well as wage dumping and exploitative labour relations in destination countries. This is already evident in the widespread exploitation of Palestinian workers under the current Israeli work-permit regime, as documented by the ILO: an estimated 50% of workers are paid below the minimum wage, and many are unable to claim their social-security entitlements (ITUC, 2021; ILO 2019; 2025: 39). At the same time, the Israeli economy depends heavily on Palestinian labour, and past unilateral suspensions of work permits by Israel have harmed not only Palestinian livelihoods but also the Israeli economy. In this context, establishing legal access to residency and the labour market—without lengthy procedures or permits that can be revoked at short notice—would reduce uncertainty for both economies (Agbahey et al., 2021) and enable a predictable circulation of workers. This would help address labour shortages in Israel while mitigating brain drain in the Palestinian territories, particularly in light of the reconstruction process (ITUC, 2021; ILO, 2025).

The codification of mobility rights can also help address security concerns. As the Mercosur case illustrates, low thresholds for legal residency and labour market access can substantially reduce irregular migration, informal employment, and illicit cross-border activity. This lesson is highly relevant for the Israeli–Palestinian context: according to ILO estimates, only about 94,000 of the roughly 133,000 Palestinian workers employed in Israel and the settlements held valid work permits in 2019 (ITUC, 2021: 8; ILO, 2020). Periods of suspended permits further fuel illegal brokerage practices (ILO, 2025: 38). A policy enabling broad, predictable access to the labour markets of both states would not only strengthen the protection of workers' rights, but also shrink the shadow labour market, reduce irregular border crossings, and curb illegal intermediaries — thereby enhancing state capacity to monitor and regulate mobility. For this purpose, permits must be affordable, swiftly processed, and supported by adequate training for officials. Moreover, the ECOWAS experience shows that formalized free movement arrangements combined with cross-border cooperation in border management can improve security and the monitoring of cross-border movements, particularly under conditions of banditry or terrorist insurgencies.

For free movement rights to be effective, future agreements should be legally binding for the parties and specific enforcement and sanction mechanisms should be foreseen for infringement. Even though such agreements typically include safeguards concerning public order and security, it is crucial to ensure that such safeguards are broad enough to maintain national security sovereignty but also narrow enough not to be misused in ways that systematically undermine individual rights and the objectives of the agreements itself.

As the Mercosur example showed, the specific civil, social, and economic rights included in such agreements can build on rights already established in international conventions, such as the UN Convention on Migrant Workers' Rights – potentially facilitating the negotiation process and embedding the binational arrangement into the broader emerging framework of global migration governance.

At the same time, the analysis highlights that for free movement frameworks to effectively contribute to the welfare of populations, economies, and states, strong and independent oversight bodies and enforcement mechanisms are essential. They ensure continuity beyond the shifting agendas of national governments. A future polity could therefore include a common jurisdiction, for instance in the form of a Court. However, establishing such an institution can be a challenge due to the substantial transfer of state authority it requires — as the Mercosur case illustrates. Moreover, the experience of the ECOWAS Court of Justice shows that the mere existence of a regional court does not guarantee effective protection of rights, particularly under conditions of scarce financial resources.

Below the level of newly created supranational institutions, the establishment of monitoring units can represent an important step forward. ECOWAS provides a useful example here, particularly regarding the problem of excessive or arbitrary roadblocks. For Israel and Palestine, monitoring units similar to those in ECOWAS (see above) would ideally include representatives from both states, the media, civil society organizations, and independent international observers. These observer roles or potential independent mediation functions could be fulfilled by international organizations such as the ILO, which has longstanding monitoring experience in the region, or the IOM — while remaining mindful of the potential risks associated with conflicting institutional interests (as illustrated by debates around IOM and ICMPD in ECOWAS).

Moreover, for citizens to effectively exercise their rights, it is essential to ensure adequate administrative capacity, to deliver services such as issuing travel documents or work permits in a timely manner. Bureaucratic hurdles should be kept to a minimum, while the supranational framework must be easily translatable into operational practices across the entire implementing apparatus, as well as using clear language that

doesn't pave the way for misinterpretation. In the EU, for example, implementation remains extremely complex; many officials struggle with the intricacies of regional regulations and frequently misapply EU law.

At the same time, it is crucial that citizens are well informed about their rights and obligations — for instance through low-threshold platforms such as Your Europe Advice or through targeted awareness-raising campaigns — so that they can recognize when their rights are being infringed. Finally, ensuring accessible legal representation is vital, as limited access to legal assistance remains a significant barrier across all three regions examined in this study.

All three free movement frameworks examined here reflect the specific motivations, historical trajectories, and contextual conditions of their respective regions. Mercosur's "regularization-first" approach emerged in response to large-scale irregular migration. ECOWAS introduced visa-free entry early on in order to restore mobility across colonial borders, though economic constraints continue to limit labour market access. The EU, by contrast, institutionalized the free movement of workers as an instrument of economic integration, reinforced by strong incentives for supranational cooperation in the aftermath of World War II. Importantly, all three regimes were able to draw on longstanding mobility patterns and cultural ties. For developing future mobility frameworks between Israel and Palestine, this suggests that identifying key drivers that are resilient to political shifts and internal shocks—as well as building on shared histories of circulation and community—will be essential to ensure that any prospective free-movement framework is closely adapted to local realities and capable of enduring over time.

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