

An Analysis of Migration Governance Frameworks in West Africa

Focus on the Economic Community of West African States
- ECOWAS



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Democracy and Public Institutions

Author:
Dr Victor Amadi
Research Fellow, NSI

Contact:
NSI Office. The Link. 172 Oxford Road Rosebank,
1F 2196 Johannesburg, Gauteng

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Note from author:

The withdrawal of Burkina Faso, Mali, and Niger from ECOWAS became effective from 29th of January 2025, and this occurred after the drafting of the paper.

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List of abbreviations

AEC	African Economic Community
AES	Alliance of Sahel States
AfCHPR	African Charter on Human and Peoples Rights
AU	African Union
CFA	Communaute Financiere Africaine
EAC	East African Community
ECCJ	ECOWAS Community Court of Justice
ECOMOG	ECOWAS Ceasefire Monitoring Group
ECOVISA	ECOWAS Visa
ECOWAS	Economic Community of West African States
ENBIC	ECOWAS National Biometric Identity Card
FMP	Free Movement Protocol
ILO	International Labour Organisation
LEP	Labour and Employment Policy
LMWG	Labour Migration Working Group
MIDWA	Migration Dialogue for West Africa
MIGRA	Migration Governance Reform in Africa
OAU	Organisation of African Unity
RECs	Regional Economic Communities
SADC	Southern African Development Community
SDF	Social Dialogue Forum
UEMOA	Union Economique et Monetaire Quest Africaine
UNDESA	United Nations Department of Economic and Social Affairs
UNHCR	United Nations High Commission for Refugees
WAEMU	West African Economic and Monetary Union
WAMZ	West African Monetary Zone
WEBA	West African Bar Association

The free movement of people, a cornerstone of African integration, is crucial to the continent's developmental aspirations. This was underscored in 2018 when African leaders adopted the Protocol to the Treaty Establishing the African Economic Community Relating to the Free Movement of Persons, Right of Residence and Right of Establishment (Free Movement Protocol). The preamble of the Free Movement Protocol articulates the numerous tangible and intangible benefits of facilitating the movement of Africans within the continent. It states that 'the free movement of persons, capital goods and services will promote integration, and Pan-Africanism, enhance science, technology, education, research and foster tourism, facilitate inter-African trade and investment, increase remittances within Africa, promote mobility of labour, create employment, improve the standards of living of the people of Africa and facilitate the mobilisation and utilisation of the human and material resources of Africa to achieve self-reliance and development.' Despite this, the Protocol has not garnered significant support, with only four ratifications and 33 signatories. The Protocol requires 15 country ratifications for it to be enforced. In light of the above, the New South Institute's Migration Governance Reform in Africa (MIGRA) programme launched a study to map out viable pathways for improving the ease of movement and settlement and the quality of migration management by Africans across African borders. This study discusses the regional migration governance framework in the Economic Community of West African States (ECOWAS) as part of eight planned case studies. It aims to describe and analyse how and where progress has been made and highlight what strategies have supported reform and what factors inhibit progress within the ECOWAS context.

1. Introduction and background

This working paper is the fourth of eight planned case studies under the New South Institute's Migration Governance Reform in Africa (MIGRA) programme. The project aims to map viable pathways for improving the ease of movement and settlement by Africans (and potentially visitors) across African borders and improving the quality of managing such migration. Regular migration helps lessen the pressure for irregular migration and contributes to African economic, social, and cultural development in many ways.¹

By 'viable' pathways, we mean practical pathways given the capabilities of state and supra-state institutions and doable in political and economic circumstances. By 'improving ease of movement', we mean introducing better processes, reducing the obstacles faced by Africans who seek to cross African borders (for example, passport and visa requirements), and improving the welcoming stance of the receiving state and other stakeholders. Ease of 'settlement' refers to the rights of the migrant to study, work, buy a home, and buy or start a business in the host state. By 'quality of management of migration', we mean the management systems for granting permission to cross borders, recording cross-border movement, and exchanging relevant, accurate information about individuals who cross the border between the origin and destination states. By 'pathways', we mean the incremental, sporadic, or ambitious reform processes undertaken by states domestically, bilaterally with other states, or multilaterally within a regional framework.

From an African standpoint, the continent is divided into five geographic regions, North, Southern, East, West and Central, under the Organisation of African Unity (OAU) 1976 Council of Ministers Resolution.² This paper considers

developments in West Africa, which has 16 sovereign states geographically located in this sub-region. They include Nigeria, Senegal, Cape Verde, Niger, Togo, Mali, Sierra Leone, Guinea, Gambia, Benin, Burkina Faso, Liberia, Mauritania, Guinea Bissau, Niger, and Ghana.

The African Union (AU) recognises eight regional economic communities (RECs).³ These RECs are pillars for establishing the African Economic Community (AEC), and the Economic Community of West African States (ECOWAS) is one of the eight RECs in the West African sub-region. ECOWAS spans an area of 5.2 million square kilometres and comprises the countries listed above, except for Mauritania.⁴ As of 2023, its population was estimated at 439 million, making it one of the most populous RECs on the continent.

Nigeria's population is more than half the total, followed by Ghana and Côte d'Ivoire. Cabo Verde, Guinea-Bissau, and The Gambia are the least populous member countries.⁶

The West African region is characterised by insecurity challenges of different natures, including armed conflict, inter-communal tensions, coups, civil and political unrest, and banditry. These security threats have triggered considerable and protracted displacement and associated humanitarian crises, with more than 3 million people displaced, based on the United Nations High Commission for Refugees (UNHCR) data.⁷ Also, unemployment and underemployment are high across the ECOWAS bloc, particularly for young migrants and informal labour is common, particularly for migrants who work as traders.⁸

Notably, another economic cluster exists within the West African sub-region. It is the West African Economic and Monetary Union (WAEMU), also known by its

French acronym UEMOA, whose creation dates back to 1994. Its membership consists primarily of seven francophone countries Benin, Burkina Faso, Ivory Coast, Mali, Niger, Senegal, Togo and one lusophone country, Guinea-Bissau. Article 4(c) of the UEMOA Revised Treaty sets out as one of its objectives to create a common market underpinned by the free movement of persons, goods, services, capital, and the right to establish persons undertaking salaried activities.⁹ To attain this objective, the Treaty underscores the implementation of the principles of freedom of movement of persons, establishment and the provision of services, and the freedom of capital movements.¹⁰ ECOWAS and WAEMU are the principal regional organisations in the subregion, and they have regional frameworks governing migration. However, as ECOWAS is considered one of the pillars of the AEC, this paper will focus mainly on ECOWAS with little or no reference to WAEMU.

This paper, the ECOWAS case study, first sets out in some detail the history of the sub-regional bloc. After that, it discusses the migration trends and patterns in West Africa, as well as the key policies on migration. It is a detailed report following a similar structure set out in the introductory paper to this series by Alan Hirsch titled 'Framing a study of African migration governance reform—Towards freer movement'.¹¹ This paper provides an in-depth analysis of the migration governance framework in ECOWAS, draws tentative conclusions, and makes initial suggestions for reforming policy and practice. Once the four country case studies and the four regional cases are complete, the lessons learned from African experiences of migration governance reform will be reflected on, and some general and specific proposals will be made on moving the process forward.

2. **Research methodology**

This study uses a mixed-methods approach to gather extensive data on the research topic. The research design primarily involves desktop research, using existing literature, reports, and datasets from reputable sources. Furthermore, a qualitative component is integrated into the research through semi-structured interviews with selected individuals. These interviews provide valuable firsthand perspectives and insights from key stakeholders with direct experience relevant to the research questions. By combining desktop research with targeted interviews, this research design aims to comprehensively understand the topic, drawing on both existing knowledge and firsthand accounts to inform the analysis and conclusions.

The following section of the paper gives a brief history of ECOWAS and examines the trends and patterns of migration in the West African sub-region.

3. **Brief history of migration in the sub-region and ECOWAS**

The phenomenon of migration can be better understood within the context of the historical evolution in the sub-region. The effects of colonisation and decolonisation on migration are visible in the pre-colonial, colonial and post-colonial eras.

In the pre-colonial era, migration was predominantly driven by the expansion and contraction of empires, such as Ghana, Mali, and Songhai, which thrived on trade, especially in gold and salt, necessitating movement. Ethnic groups migrated to exploit trade opportunities or in response to environmental pressures, such as drought or desertification, which pushed them towards more fertile lands.¹² This period was characterised by a largely fluid movement across the

region, with no rigid borders obstructing the migration flows. The slave trade led to the forced migration of millions of West Africans to North America, Europe, and the Caribbean, and with legal emancipation, there was migration within European territories.¹³ The arrival of colonialism in the late 19th century dramatically altered the migration landscape. The imposition of artificial boundaries restricted the free movement of indigenous populations, and forced labour became prevalent, with many West Africans compelled to work in mines and plantations within the sub-region.¹⁴

Following the wave of independence in the 1950s and 1960s, West Africa entered a new migration phase, influenced heavily by the lingering effects of colonisation. The newly independent nations grappled with political instability, often leading to civil unrest and conflicts, such as the Nigerian Civil War and the later crises in Sierra Leone, Liberia, and Côte d'Ivoire.¹⁵ These conflicts resulted in significant displacement and cross-border migration as people fled to safer areas within and outside their home countries.

Further, economic factors played a crucial role in shaping migration patterns. In the early 1960s, with high demand for labour for the booming agricultural and mining sectors in coastal countries like Ghana, Côte d'Ivoire, Nigeria, Liberia, Senegal, and The Gambia, labour migrants essentially moved from landlocked, Sahelian countries like Burkina Faso, Mali, and Niger.¹⁶ Nigeria also attracted labour migrants from Ghana with the discovery of oil in the 1970s.¹⁷

The ECOWAS has been pivotal in addressing migration issues at the regional level. The ECOWAS sub-regional bloc was established on the 28th of May 1975 through the signing of the Treaty of the Economic Community of West African States (1975 Treaty)¹⁸, in Lagos,

Nigeria.¹⁹ The original signatories of this Treaty were Dahomey,²⁰ The Gambia, Ghana, Guinea, Guinea-Bissau, Côte d'Ivoire, Liberia, Mali, Mauritania, Nigeria, Senegal, Sierra Leone, Togo and Upper Volta.²¹ Post-1975, Cape Verde joined the regional bloc in 1976, bringing the membership to 16. After Mauritania's withdrawal from the subregional bloc in 2000,²² ECOWAS currently has 15 member countries. The dynamics of ECOWAS are such that it consists of three distinct linguistic blocs emanating from the region's colonial past. The Anglophone bloc of countries comprises The Gambia, Ghana, Liberia, Nigeria and Sierra Leone; the Francophone bloc of countries is made up of Benin, Burkina Faso, Côte d'Ivoire, Guinea, Mali, Niger, Senegal and Togo, while the smaller Lusophone bloc of countries consists of Cabo Verde and Guinea Bissau. Arguably, these linguistic divisions undermine the actualisation of ECOWAS integration objectives. The linguistic divide is reflected in two economic sub-groups within the sub-region. All Francophone countries except Guinea are members of the WAEMU, a customs and currency union that uses the West African CFA (Communaute Financiere Africaine) Franc, which is pegged to the Euro. While Guinea and the five Anglophone countries (Ghana, Nigeria, Gambia, Sierra Leone and Liberia) make up the West African Monetary Zone (WAMZ), which plans to introduce a separate common currency, the ECO, which is aligned to the broader ECOWAS vision.

In January 2024, after a series of coups d'etat, Niger, Mali, and Burkina Faso expressed their intention to leave the Community.²³ However, their announcement fell afoul of the withdrawal provision in the 1993 ECOWAS Treaty, which requires giving a one-year written notice to the Executive Secretary of ECOWAS. At the expiration of this one year, if such notice is not

withdrawn, such a state shall cease to be a member of the Community.²⁴ Further, during the one year, such a member state shall continue to comply with the provisions of the ECOWAS Treaty and remain bound to discharge its obligations.²⁵ In effect, by law, Niger, Mali and Burkina Faso are still member States of ECOWAS despite the announcement to withdraw. However, on July 6, 2024, these three countries attempted to cement their split from ECOWAS by holding a Summit in Niamey, a day before the ECOWAS Summit in Nigeria.²⁶ This Summit comes after the three countries signed the Lipako-Gouma Charter, establishing the Alliance of Sahel States (AES) in September 2023.

The move to form the ECOWAS bloc came primarily from Nigeria and Togo, which had close political and economic ties dating back to the early 1960s, from the relationship between Sir Abubakar Tafawa Balewa of Nigeria and Sylvanus Olympio of Togo after the Nigerian Civil War.²⁷ In 1972, this relationship was capitalised on by the then Nigerian Minister for Economic Development and Reconstruction, Adebayo Adedeji, who firmly pushed for the formation of ECOWAS to the then Head of State of Nigeria, General Yakubu Gowon, and his Togolese counterpart, General Gnassingbe Eyadema.²⁸ Both heads of State further persuaded and sought the interest of other regional leaders. After several meetings and consultations from 1972 to 1975, in May 1975, in Lagos, 15 countries appended their signatures to the first ECOWAS Treaty, creating the institution. Many of the 15 heads of state (or their representatives) who signed the 1975 Treaty were military personnel.²⁹

Establishing ECOWAS through the 1975 Treaty of Lagos represented a significant landmark in African integration. It ensured a cohesive relationship between French- and English-speaking African countries, among which trade and

commercial dealings had been virtually non-existent.³⁰ The 1975 Treaty was initially touted as an economic initiative to establish an economic union anchored on a common market and custom union principles to raise the living standards of the citizens in the sub-region. It was to do so by promoting economic cooperation and development for its members in all fields of economic activity. Further to this, the Community shall 'ensure the elimination of trade and non-trade barriers, including disparate customs duties and charges; the erection of a common and harmonised customs regime; the removal of quantitative, administrative and border restrictions; and the creation of a conducive environment for the free movement of goods, services, capital, and people'.³¹

Though the motivation behind creating ECOWAS was seemingly economic, the institution was birthed when the sequence of conflicts, coups, and countercoups had more or less characterised the entire West African sub-region. Nigeria, after its independence in 1960, faced a three-year civil war from 1967 to 1970. Post-independence Nigeria had eight military coups between 1966, led by Major General Johnson Aguiyi-Ironsi, and 1993, when Gen Sani Abacha took over. Similarly, Ghana had its share of military coups, first occurring in 1966. Lt General Joseph Arthur Ankrah led a coup to oust then-President Nkrumah.³² Further, in the second and third decades of ECOWAS, the sub-region inopportunistly witnessed more coups and protracted civil wars, first in Liberia from 1989 to 2003 and later spread to Sierra Leone from 1991 to 2002.³³ The earlier conflict in Liberia compelled the leaders to set up the ECOWAS Ceasefire Monitoring Group (ECOMOG) in 1990, which was quite potent in dealing with the conflicts in Liberia.³⁴ Later, countries like Côte d'Ivoire and Guinea-Bissau also

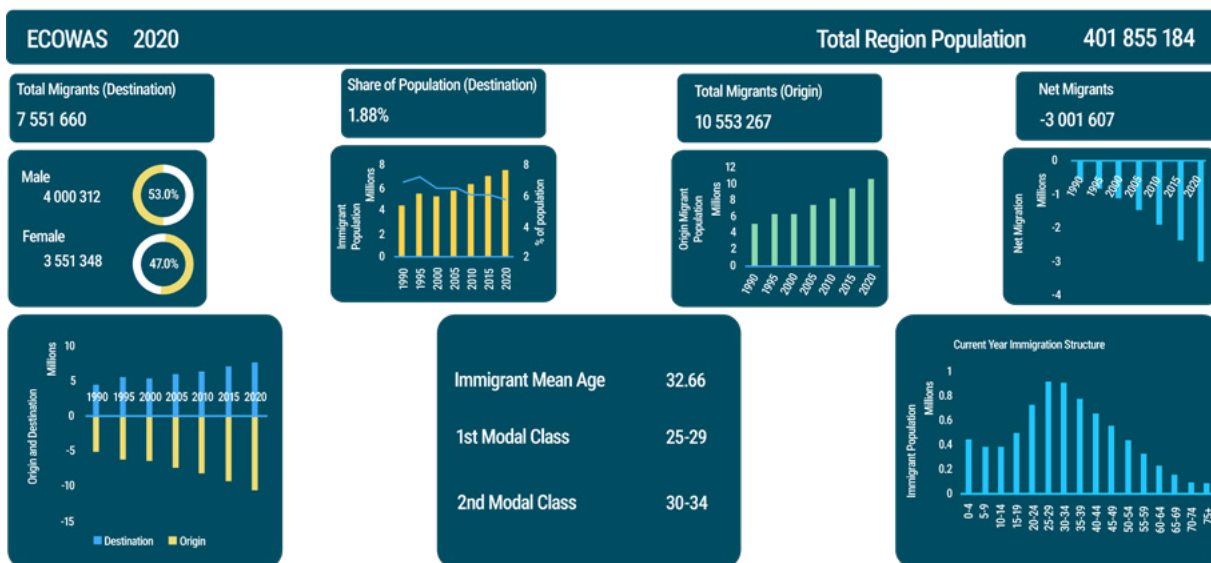
degenerated into more conflicts that required the intervention of ECOMOG. This trend of conflict and coups³⁵ has re-emerged in recent times after military coups in Niger in July 2023, which ousted President Mohamed Bazoum, a coup in Burkina Faso, in January 2022 led by Lt Col. Paul-Henri Sandaogo Damiba, who Captain Ibrahim Traore subsequently dismissed in September 2022. President Ibrahim Keita was overthrown in a coup in Mali in 2020, and in 2021, Col. Assimi Goita was inaugurated as the transitional President. This trend has sparked tension between the Community and these Member States.³⁶

In its early years, the political and security context in the subregion necessitated members to revise the scope of the Community objectives and principles to reflect the security imperative required to positively promote intra-regional trade and the mobility of production factors. This revision resulted in a Revised Treaty of ECOWAS (Revised Treaty) in 1993.³⁷ While maintaining its key economic objective of actualising

an economic union,³⁸ the Revised Treaty expressly commits to specific fundamental principles to underline its integration effort. The Treaty, among other principles, commits members to maintain regional peace, stability, and security by promoting and strengthening good neighbourliness and promoting and consolidating democratic governance systems, recognition, promotion and protection of human and peoples' rights per the provisions of the African Charter on Human and Peoples' Rights (AfCHPR).³⁹ The principles enshrined in the Revised Treaty are deeply relevant to the current political climate in the sub-region, particularly given the recent coups and conflicts. The commitment to regional peace, stability, and security, as well as the promotion of democratic governance, is being directly challenged, putting into question the legitimacy of ECOWAS as an institution to uphold these principles. ECOWAS, in this circumstance, has to be definitive and assertive in its stance against these coups.

Figure 1 Summary of crucial ECOWAS statistics and trends

ECOWAS	1990	1995	2000	2005	2010	2015	2020	Growth 30_yrs
Population	180 528 368	205 685 571	234 742 566	267 889 318	307 035 227	351 711 775	401 855 184	123%
Migrants Destination	4 470 560	5 433 478	5 261 023	5 956 885	6 321 389	7 066 761	7 551 660	69%
Migrant Origin	5 050 185	6 289 934	6 382 635	7 447 800	8 207 569	9 421 695	10 553 267	109%
Immigrants as % of Population	2.48%	2.64%	2.24%	2.22%	2.06%	2.01%	1.88%	
Net Migrants	(579 625)	(856 456)	(1 121 612)	(1 490 915)	(1 886 180)	(2 354 934)	(3 001 607)	



Source: Mutava M calculations were based on UNDESA tables 2020.⁴¹

The following section discusses the trends and patterns of migration in the West African sub-region.

4. **Migration trends and patterns in the West African sub-region**

ECOWAS is the most populous REC in Africa, with over 400 million people. Between 1990 and 2020, its population increased by 123%, from 180.5 million to 401.9 million people, outpacing the continent's average population growth of 113%.⁴⁰ Over the same period, ECOWAS's stocks of immigrants and emigrants rose by 69% and 109%, respectively – also faster than the average for an African region. The trends of migrants arriving in the region (a 69% increase) and those originating from it (a 109% increase) highlight a dynamic migratory pattern, with the latter figure explaining a substantial diaspora of over 10 million people.

As seen in Figure 1, the percentage of immigrants relative to the total population has demonstrated a slight but consistent decline from 2.48% to 1.88%. This suggests that despite the absolute growth in migrant numbers, their proportion in the context of the overall population is becoming smaller, which could indicate a faster rate of population growth relative to immigration. This deficit raises essential questions about the push and pull factors influencing migration within and beyond ECOWAS borders, such as economic opportunities, political stability, and social factors.

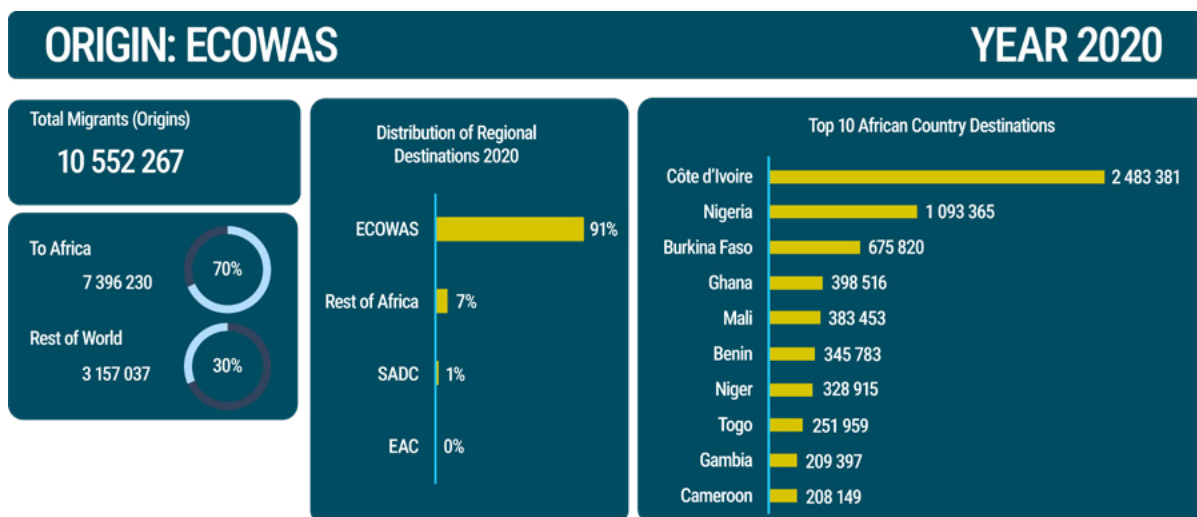
Further, Figure 1 highlights the demographics of the migrant population, illustrating a slight male predominance among migrants, 53% compared to 47% for females. This gender distribution may reflect gender-specific migratory motivations and barriers, potentially influenced by labour market demands. Further, the age distribution is notably skewed towards a younger demographic, with the mean immigrant age being around 32.66 years and the most

common age groups ranging from 25 to 34 years. Such an age structure indicates a youthful migrant populace, which could be a key asset in the labour force but also necessitates adequate planning regarding education, job creation, and integration policies to harness their potential effectively.

Figure 2 below, which summarises the ECOWAS destination analysis, shows that a total of 10.6 million migrants originated from ECOWAS, with the majority, approximately 70% (or 7 396 230 individuals), relocating within Africa, signifying a solid intra-continental mobility trend. The remaining 30% (or 3 157 037 individuals) migrated to various destinations outside of Africa. Further, the distribution of regional destinations within Africa highlights that ECOWAS countries are predominantly the preferred destinations for these migrants, accounting for 91% of the total. This suggests a high level of migration between member states, which could be attributed to economic opportunities, cultural similarities, or political factors within the region. The Southern African Development Community (SADC) and the East African Community (EAC) attracted 1% and less than 1% of migrants, respectively, indicating a comparatively low level of inter-regional African migration. Arguably, movement within the ECOWAS subregion is the continent's highest. This can be attributed to historic ties and the long-standing free movement arrangement in ECOWAS, which will be examined in more detail later.

The top 10 African country destinations for ECOWAS migrants are led by Côte d'Ivoire, which received the highest number of migrants at 2 483 381, demonstrating its role as a central hub for West African migrants. Nigeria follows with 1 093 365 migrants, which underscores its importance in the region, potentially due to its economic size. Other countries listed are Burkina Faso, Ghana, Mali, Benin, Niger, Togo, Gambia, and Cameroon (a neighbour but not in

Figure 2 ECOWAS as an Origin



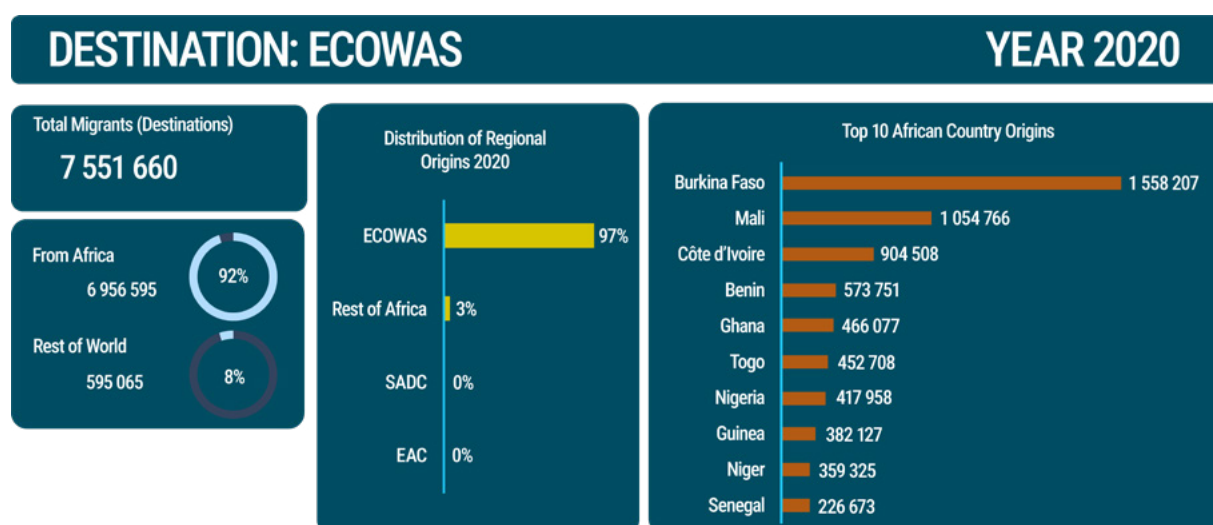
Source: Mutava M Calculations were based on UNDESA tables 2020.⁴²

ECOWAS), with numbers ranging from 675 820 to 208 149 migrants. These figures provide insights into specific national dynamics and the factors influencing migration trends, such as political stability, economic growth, and social networks.

As shown in Figure 3, ECOWAS reportedly hosted 7 551 660 migrants in 2020. Notably, the vast majority of these migrants, about 92% (or 6 956 595 individuals), originated from African countries, indicating a substantial flow of intra-continental migration. Conversely, a smaller fraction, 8% (or 595 065 individuals), had migrated from the

rest of the world to ECOWAS countries. Examining the origin of migrants within the subregion shows that 97% of the migrants to ECOWAS come from within the same regional bloc. This reflects the necessity of ECOWAS's free movement policies and points to the historical, economic, social, and cultural affinities within West Africa. The outstanding 3% originated from the rest of Africa, while the SADC and the EAC had no significant representation in these statistics. Burkina Faso leads the top 10 African countries of origin for migrants into ECOWAS with 1 558 207 individuals, followed by Mali with 1 054 766. Côte d'Ivoire, despite being a top destination in the previously

Figure 3 ECOWAS as a Destination



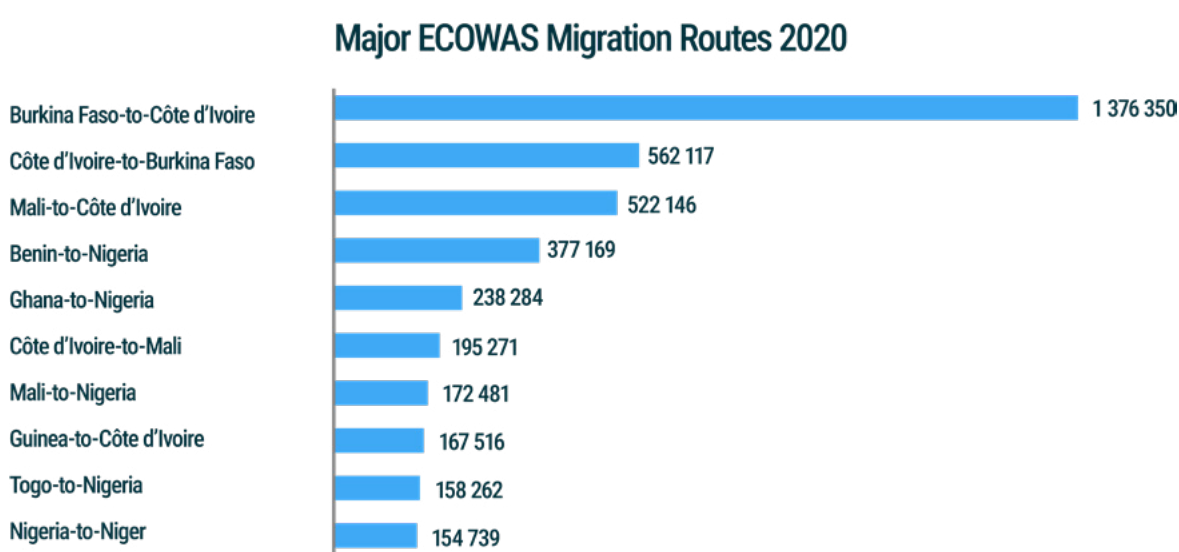
Source: Mutava M calculations were based on UNDESA tables 2020.⁴³

analysed data, also features prominently as a country of origin with 904 508 migrants. This dual role highlights the country's centrality in regional migration dynamics and suggests the possibility of circular migration within the region. Other notable countries of origin include Benin, Ghana, Togo, Nigeria, Guinea, Niger, and Senegal, with numbers ranging from 573 751 to 226 673 migrants.

Within ECOWAS, salient migratory routes highlight the region's distinctive

migration patterns. Burkina Faso–Côte d'Ivoire is this region's most popular migration route, as shown in Figure 4. This migratory route far exceeds others in terms of the number of migrants, suggesting significant economic or social pull factors in Côte d'Ivoire and push factors in Burkina Faso, and further underscores the status of both countries as the top origin and destination countries in the sub-region. The second and third most significant migration flows were between Côte d'Ivoire and

Figure 4 Major ECOWAS migration routes 2020



Source: Mutava M calculations were based on UNDESA tables 2020.⁴⁴

Burkina Faso (562 117) and Mali to Côte d'Ivoire (522 146), respectively. The bidirectional flow between Burkina Faso and Côte d'Ivoire confirms a strong migratory relationship between the two countries. Other notable routes include Benin to Nigeria (377 169), Ghana to Nigeria (238 284), and Côte d'Ivoire to Mali (195 271), among others. These routes suggest regional dynamics where geographical proximity, ethnic ties, colonial legacy, and common language also influence the choice of destination for many migrants.

The figures above shed light on complex migration dynamics integral to understanding the socio-economic fabric of the ECOWAS region. They

accentuate the prominence of ECOWAS as a nexus for regional migration in West Africa, where historical, economic, and social factors are closely woven into human mobility patterns. It also underlines the role of ECOWAS policies in fostering a high level of migration within its member states, which can have implications for regional integration and development. The trends and patterns discerned from the figures necessitate a nuanced approach to migration policy that addresses demographic realities and anticipates future regional development and trends. In practice, while not necessarily being undertaken through regular channels, the reality of migration patterns in ECOWAS is that people nevertheless move around within

the region, contributing in some measure to its development. As observed by Castillejo, implementing measures like the 90-day visa-free window, which will be discussed in detail, positively impacted trading and labour activities and yielded massive economic dividends.⁴⁵ Garba and Yeboah note that the trade volume in the West African sub-region averages around US\$208.1 billion. Nigeria is the dominant actor, followed by Côte d'Ivoire and Ghana.⁴⁶

The subsequent section of this paper examines the migration governance frameworks in ECOWAS.

5. **Migration governance frameworks in ECOWAS**

As conceptualised in this project's framing paper, governance would be broadly construed to include policies, laws, treaties, procedures and norms that form the legal and administrative environment in which cross-border migration occurs and the management and knowledge systems that enable and control the movement of people across borders.⁴⁷ Thus, in discussing the migration governance framework within the ECOWAS bloc, various sources of ECOWAS law will be referenced, including the Revised Treaty, protocols, conventions, supplementary acts, directives, policies, and the institutional framework pertinent to migration.

5.1 **ECOWAS Revised Treaty and Protocols on the Free Movement of Persons**

As highlighted earlier, ECOWAS was set up to establish an economic union with the Revised Treaty, anchoring its objectives and principles. To further its broad aims, the Community was to develop a common market through 'the removal, between Member States, of obstacles to the free movement of people, goods, services and capital

and to the right of residence and establishment'.⁴⁸ While provisions in the Revised Treaty are the applicable framework in current migration governance architecture, the 1975 Treaty, based on Article 27, set the foundation for regulating the institution's free movement of persons initiative.⁴⁹ First, citizens of member States shall be regarded as 'Community citizens'; accordingly, Member States were to undertake to abolish all obstacles to their freedom of movement and residence within the community. Further, ECOWAS Member States were encouraged to mutually agree to exempt Community citizens from visitors' visa and residence permit requirements and allow Community citizens to engage in employment or commercial activities in host countries.⁵⁰

As observed by Onwuka, this provision envisioned the region as less restrictive towards mobility and considered individuals from Member States to be ECOWAS Community citizens.⁵¹ This provision is reaffirmed under Article 59 of the Revised Treaty, which summarily prescribes that:

*Citizens of the Community shall have the right of entry, residence, and establishment. Member States undertake to recognise these rights of Community citizens in their territories under the provisions of the Protocols relating to them. Member States are to adopt appropriate measures to ensure these rights and the implementation of this article.*⁵²

Several secondary legislative and policy texts have been entrenched in ECOWAS to encourage further and ensure the implementation of the free movement of people based on the primary Treaty. First, in 1979, ECOWAS Member States adopted Protocol A/P.1/5/79 relating to the Free Movement of People, Residence and Establishment (1979 Protocol).⁵³ It is trite to note that a Protocol is an

instrument for implementing the Treaty, has the same legal force as the Treaty and is binding on all Member States.⁵⁴

First, the 1979 Protocol defines a 'community citizen' as a citizen of any member State of ECOWAS.⁵⁵ Further to this, the 1982 Protocol Relating to the Definition of Community Citizens gives a detailed outline of who a citizen of the Community is. It stipulates that a Community citizen is:

- a. Any person who is a national by descent of a Member State and not a national of any non-Member State of the Community.
- b. Any person who is a national by birth of any Member States, either of whose parents is a national by sub-paragraph (1) above, provided that such a person, on attaining the age of 21, decides to take up the nationality of the Member State.⁵⁶
- c. Any adopted child who at birth is not a citizen of the Community or whose nationality is unknown but who, on attaining the age of 21, expressly takes up the nationality of his adoptive parent who is a Community citizen.⁵⁷
- d. A naturalised person of a Member State who has beforehand made a formal application and satisfies that first, they had renounced the nationality of any State outside the Community, and such a renunciation is explicitly supported by an act of renunciation duly authenticated by the appropriate authorities of the country or countries whose nationality or nationalities they formerly enjoyed. Secondly, they had effectively resided permanently in a Member State for fifteen years before their Community citizenship application. Such residence shall mean a permanent establishment of abode on the territory of a Member State without any subsequent transfer to any State outside the Community.⁵⁸

The objectives of the 1979 Protocol

were to be progressively actualised in phases over a 15 year timeframe from the Protocol's entry into force.⁵⁹ Phase I addresses the right of entry and the abolition of visas, Phase II addresses the right of residence, and Phase III deals with the right of establishment.⁶⁰ The right of residence means 'the right of a citizen who is a national of one member state to reside in a member state other than their state of origin and which issues them with a residence card or permit that may or may not allow them to hold employment'.⁶¹ The right of establishment suggests a right that is granted to a citizen who is a national of a member state to settle to establish in another member state other than their state of origin, and to have access to economic activities and set up and manage enterprises, under the same conditions as defined by the legislation of the host member state for its own national.'⁶² Subsequent paragraphs will extensively discuss specific vital provisions in each phase.

Phase I proposes abolishing visa and entry permit requirements. Community citizens who wish to enter another member state can do so with valid travel documents⁶³ and international health certificates.⁶⁴ Community citizens can do so for up to ninety days. However, if they have cause to stay for more than ninety days after such entry, they must get permission to extend their stay from an appropriate authority.⁶⁵ Further, Member States can refuse admission into their territories of individuals categorised as inadmissible immigrants under the member state's national law,⁶⁶ and can expel illegal immigrants.⁶⁷ With no specific definition of inadmissible immigrants, relying on respective national laws to determine these categories of immigrants subjects this provision to potential abuse by member states. Bolarinwa notes, 'the ambiguity surrounding the definition of persons

labelled as inadmissible immigrants has given member states the leeway to cut back on the number of immigrants it receives from within the community'.⁶⁸ Regarding this phase, it is worth noting that all 15 ECOWAS countries have abolished visa and entry requirements for 90 days. This means that ECOWAS citizens with valid travel documents and international health certificates can enter and stay in any ECOWAS country for 90 days without going through a prior visa application process.⁶⁹ The subsequent paragraphs discuss the second and third phases, but before that, the following section discusses the code of conduct for implementing the Free Movement Protocol.

Additional Protocols were adopted over the years to actualise the phased approach provided in the 1979 Protocol. The first of such Supplementary Protocols is the 1985 Supplementary Protocol A/SP.1/7/85, which spelt out the code of conduct for implementing the Free Movement Protocol. It prescribes that states within the subregion give valid travel documents to their nationals and establish or strengthen the administrative services to furnish migrants with all the necessary information required to permit legal entry into their territory.⁷⁰

The Protocol also encourages convening regular meetings of appropriate national officials to exchange information and experiences to ensure close cooperation between national administrations of member states.⁷¹ Further, it also emphasises critical human rights considerations for handling deportees and others who have unlawfully entered a member state. Article 3 suggests that 'in the event of clandestine or illegal immigration, both at the national as well as Community level, measures shall be taken to guarantee that illegal immigrants enjoy and exercise their fundamental human rights.'⁷² Additionally,

the fundamental human rights of expelled immigrants or the immigrant subject to such a measure by the laws and regulations of the host member state and the benefits accruing from their employment shall be respected.⁷³ Pertinently, any expulsion orders shall be enforced humanely without injury to the immigrant's person, rights, or properties, and any person under an expulsion order shall be given a reasonable period to return to their country of origin. Given the fundamental human rights enjoyed by clandestine immigrants, host member states shall ensure that repatriation occurs under legal and properly controlled procedures.⁷⁴

After 1985, the second Supplementary Protocol, the 1986 Supplementary Protocol A/SP, 1/7/86, focused on the right of residence, was adopted. This Supplementary Protocol proposes that Member States grant all ECOWAS citizens the right of residence to seek and carry out income-earning employment.⁷⁵ As mentioned earlier, the right of residence based on Article 1 of this Supplementary Protocol is underscored to mean 'the right of a citizen who is a national of one member state to reside in a member state other than his state of origin and which issues him with a residence card or permit that may or may not allow him to hold employment'.⁷⁶ Although the right of residence is subject to limitations, this right of residence includes the rights to apply for jobs effectively offered, to travel for this purpose freely in the territory of member states, and to reside in one of the member states based on the legislative and administrative provisions governing the employment of national workers and to live in the territory of a member state according to the conditions defined by the legislative and administrative provisions of the host member state.⁷⁷ However, it is clearly stated that the right to employment does not include employment in the

civil service of member states unless national laws permit it and restrictions to these rights are justified on the grounds of public order, public security, and public health.⁷⁸ Community citizens are required to obtain an ECOWAS card or residence permit, and members are required to harmonise the rules around the conditions of a residence card or residence permit to establish an ECOWAS residence card.⁷⁹

Further, the citizens of Member States are expected to enjoy the same rights as nationals of the host state. The Protocol prescribes that member states treat migrant workers who uphold the rules and regulations that govern their residence in the same manner as citizens of a host country, including security of employment, partaking in cultural and social events, re-employment in job loss, and advanced professional training.⁸⁰ However, as observed by Teye et al., there are indications that the process for granting work and residence permits in some member states does not conform to the Right of Residence Protocol.⁸¹ For instance, they observe that there is no difference in the standards of granting work permits to Community citizens and other foreign nationals. Thus, work permits are given to foreigners, including community nationals, because the foreigners' skills cannot be found locally. Still, this requirement is not always complied with, as some state officials note the difficulty in determining whether such skills exist locally.⁸² This Protocol also prohibits mass expulsion⁸³ and limits grounds for individual expulsion to national security, public order or morality, public health, and non-fulfilment of the essential conditions of residence.⁸⁴ It is worth noting that the implementation of the second phase has been very slow, which will be discussed in the subsequent section on the implementation gap.

Lastly, following the 1986 Protocol was the 1990 Supplementary Protocol A/SP.2/5/90, which marked the legal framework to enable the third phase of implementing the free movement initiative underpinned in the Revised Treaty and the 1979 Protocol. The 1990 Supplementary Protocol focuses on facilitating business through the right of establishment. This phase directs ECOWAS member states to grant community citizens the right to settle and partake in economic ventures and establish and manage businesses in other member states devoid of discriminatory treatment unless justified by security, public order, or health requirements.⁸⁵ As with the right of residence, the provisions of the right of establishment ensure equal treatment of nationals and Community citizens. Member States shall accord non-discriminatory treatment to nationals and companies of other Member States and are forbidden to order discriminatory expropriation or confiscation of the assets or capital of community nationals. They are also required to provide reasonable compensation in situations where capital or assets are confiscated.⁸⁶ As with the second phase, this right has not been meaningfully implemented in the subregion.⁸⁷

As a prerequisite to implementing phase two of the Free Movement Protocol, the Authority of ECOWAS Heads of State and Government, during the 45th ECOWAS Ordinary Summit in 2014, adopted Supplementary Act A/SA.1/07/14 (Act 1) and Supplementary Act A/SA.2/07/14 (Act 2) amending some provisions in the 1979 and 1985 Protocols, respectively, referred to earlier. It should be noted that these Acts come into force upon signature, and the respective Acts have 14 signatures, with Cabo Verde being the outstanding signatory. However, notable amendments under these Acts are the revision of a definition of a travel document, which

Act 1 currently defines as 'a passport, other official biometric national identity card or a laissezpasser issued by a member State or any other ECOWAS Institution.'⁸⁸ Further, Act 1 repealed the provision of Act 3(2) and amended Act 3(1) of the 1979 Protocol. The current amendment provides that 'any citizen of the Community who wishes to enter the territory of any member State shall be required to hold a travel document under the provisions of new Article 1 paragraph 8 of this Supplementary Act'.⁸⁹ Further, Act 2 redefines the right of residence under the 1985/1986 Protocols as 'the right granted to a citizen who is a national of one Member State to reside in a Member State other than his state of origin.'⁹⁰ The Act also emphasised repealing the provision under Article 3(2) of the 1979 Protocol prescribing the 90-day stay and extension of stay requirement for community citizens entering other Member States.⁹¹ Further, the Act prescribes forming a monitoring and evaluating committee to evaluate the implementation of the Act, particularly towards security issues.⁹²

5.2 Framework on labour migration

Promoting employment, improving the labour market, and improving skills mobility are integral to implementing the Protocol on Free Movement of Persons within the ECOWAS region. As discussed earlier, the right of residence grants ECOWAS citizens the right to take up and pursue an employed activity in their territory.⁹³ Through this right of residence, citizens of ECOWAS countries also have the right to apply for and exercise under the legislative and administrative provisions governing national workers.⁹⁴ These priorities are further reinforced through the 2009 Supplementary Act⁹⁵ on Labour and Employment Policy (LEP) adopted by the ECOWAS Council of Ministers.⁹⁶ This policy aims to develop, harmonise,

coordinate and implement common policies to promote growth and development through decent work.⁹⁷ As noted in the International Labour Organisation (ILO) paper on labour migration in ECOWAS, implementing the LEP has been undermined by several challenges, such as 'inadequate resources, lack of monitoring mechanisms, policy coherence and coordination challenges, absence of labour market and migration information systems, limited implementation of international labour standards in ECOWAS Member state, limited national and sub-regional dialogue and limited protection of the rights of migrant workers'.⁹⁸

In 2011, the Supplementary Act A/ SQ.1/7/07/10 was adopted, establishing the ECOWAS Tripartite Social Dialogue Forum (SDF) to support the implementation of the LEP and its Strategic Action Plan.⁹⁹ The SDF is a forum for government leaders, workers, and employers' organisations to engage in conversations, negotiations, and information sharing regarding fair employment and decent work in the subregion. In 2015, the SDF decided to move forward in the institutionalisation process and recommended the establishment of a regional secretariat and two thematic working groups, including a Labour Migration Working Group (LMWG).¹⁰⁰ Institutionally, the platforms that guide social dialogue regarding labour migration are broadly coordinated at three levels. At the top level is the Labour and Employment Ministers Forum, which comprises labour ministers from respective member states. Secondly, there is the SDF, which includes all regional social partners and is held once a year. Lastly, the LMWG was established in 2017 and meets twice yearly.¹⁰¹ Moreover, ECOWAS is reviewing the LEP to address these issues, and a revised policy has not been adopted and

published as of this paper's publication.

Another instrument critical to labour migration within the ECOWAS Community is the General Convention on Social Security, adopted as a Supplementary Act in 2013. Therefore, it is a binding instrument and does not require ratification.¹⁰² The General Convention on Social Security was drafted in 1993 and adopted in 2004. The Convention was drafted to give effect to Treaty provisions under Articles 60 and 61 of the ECOWAS Treaty to cooperate in social, cultural and development issues and harmonise policies in these areas.¹⁰³ After several meetings to revise and update the Convention, an updated Convention was adopted by the Ministers in charge of Social Security in 2012 and further adopted in 2013 by the Authority of the Heads of State and Government of ECOWAS. The revised Convention covers all the migrant workers with regular migration status and employed in the formal sector of ECOWAS Member States, members of their families and their survivors during their stay in a Member State.¹⁰⁴ The Convention is based on the principle of equality of treatment between migrant workers and citizens of the host country.¹⁰⁵ It guarantees the portability of migrant workers' benefits, the accumulation of insurance periods through the totalling up of the period of employment or contribution where necessary, and the exportation of services abroad.¹⁰⁶ Though the Supplementary Act addresses the portability of social benefits in several key provisions, it does not explicitly refer to skills portability or provide for qualifications frameworks or labour rights.

5.3 **ECOWAS Common Approach on Migration**

The ECOWAS Common Approach on Migration (Common Approach) recognises the free movement of persons as a fundamental priority and is an overarching policy framework for regional migration initiatives. Although not legally binding on ECOWAS member states, the Common Approach provides strategic guidance for them in formulating their migration policies and programmes.¹⁰⁷ It highlights the effect of migration on development in six priority areas: the promotion of free movement in the ECOWAS zone; the promotion of the management of regular migration; policy harmonisation; the control of irregular migration and human trafficking; the protection of the rights of migrants, asylum seekers, and refugees; and the gender dimension of migration.¹⁰⁸ It also sets out Migration and Development Action Plans to remedy the abovementioned problems. To protect the rights of migrants, the Common Approach underscores that Member States should formulate an active integration policy for migrants from ECOWAS Member States and combat exclusion and xenophobia, ratify the UN Convention on the Rights of Migrants and put in place regional mechanisms to monitor the UN Convention on the Rights of Migrants.¹⁰⁹ Regarding refugees and asylum seekers, the Common Approach prescribes that Member States establish mechanisms for granting rights of residence and establishment to refugees from ECOWAS countries.¹¹⁰ Further, the Common Approach links the fight against human trafficking to the ratification of the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children (Palermo Protocol), which supplements the United Nations Convention on Transnational Organised Crime.¹¹¹

While comprehensive on paper, a significant critique of the Common Approach is that it does not address cooperation on the return and readmission of migrants. Further, it does not set deadlines for implementing the recommended actions and is not accompanied by a monitoring framework with defined objectives, outputs, and activities.¹¹² A Revision of the Common Approach is envisioned, and it will be interesting to see what changes are proposed and to what extent it aligns with the continental frameworks on migration, like the Migration Policy Framework for Africa (2018–2030), which offers an updated strategic framework for managing migration. According to an ECOWAS official, ECOWAS adopted a Regional Migration Policy in 2020.¹¹³ This new policy aims to replace the non-binding Common Approach.¹¹⁴ According to Bisong, the recently adopted ECOWAS migration policy emphasises the importance of economic integration as a mobility driver.¹¹⁵ It provides a coherent policy framework for migration to enhance 'the regional integration and development process in West Africa as well as the achievement of the ECOWAS Vision 2020.'¹¹⁶ The policy comprises nine pillars. One of the pillars underscores the relevance of free movement and regional economic integration and acknowledges the need to respect the human rights of migrants within the framework of ECOWAS policies. Further, it brings together ECOWAS policies on displacement, trafficking, and free movement to have a more coherent and comprehensive approach to governing migration and mobility.¹¹⁷

5.4 Institutional Arrangements

Various institutions play a critical role in ECOWAS's migration governance. Regarding policy development and implementation on migration, the ECOWAS Commission, through the

Department of Economic Affairs and Agriculture, is at the core. Under this department, the Directorate of Free Movement of Persons and Migration plays a critical role. According to Garba and Yeboah, the regional body's institutional capacity is hampered by a lack of leadership and overdependence on hierarchy and protocol. This culminates in the belief that the ECOWAS Commission typifies the dysfunctional civil services in member states.¹¹⁸ Equally, member states' lack of commitment stems from their inability to align their national priorities with the ECOWAS body's set goals and targets to provide a clear-cut pathway for effectively coordinating their activities.¹¹⁹

Aligning policies in a formal or informal regional setting can address the challenge of policy coherence. According to an official at the ECOWAS Commission, the Commission continuously engages member states, stakeholders, and partners to identify gaps and challenges in the implementation of the free movement protocol in the region and provide recommendations to address these challenges.¹²⁰ The Migration Dialogue for West Africa (MIDWA), established in 2001, engages regional technical experts in dialogue through thematic working groups, such as border management, climate change, migration and security, etc.¹²¹ In 2017, MIDWA's regional secretariat was created within the ECOWAS Commission to strengthen the coordination and cooperation among Member States.¹²² Though not binding, regional consultative processes can be essential for discussing and shaping a common understanding of migration issues and building consensus. The institutionalisation of MIDWA within the ECOWAS architecture and the coordinated participation of relevant actors in migration discourse, particularly Heads of Immigration, the National

Boundary Commission, and the technical experts on border management, provides a platform for the harmonised position towards all relevant texts and implementation of the free movement initiative.¹²³

The ECOWAS Community Court of Justice (ECCJ) is another critical institution that has shaped its laws and dealt with complaints concerning the free movement of people, among other issues. The ECCJ, in its present form, was constituted in 1991 by the Authority of Heads of State and Heads of Government through the 1991 Community Protocol (as amended in 2005) with the mandate to resolve disputes between Community members and ECOWAS institutions, interpret Community rules and issue advisory opinions.¹²⁴ The Court's initial formation only afforded access to member states.¹²⁵ However, upon the recommendation of a Committee of Eminent Persons, access to court was granted to private litigants.¹²⁶

The outcome and rationale for the decision in cases on the free movement of persons give a distinctive view of the interpretation of the ECOWAS Free Movement of Persons Protocol. For instance, in *Falana vs. The Republic of Benin*, the ECCJ dealt with the issue of abrupt border closures by a member state.¹²⁷ In this case, Falana, the president of the West African Bar Association (WABA), alongside Moustapha, the vice president, attempted to travel by road from Nigeria to Togo. At the Nigerian border, police and immigration officials stopped both parties and blocked the road, eventually allowing them to enter Benin. Both parties were also allegedly harassed by the officials who attempted to extort money from them. Both parties were also refused entry at the Togolese border because Togo was holding its

presidential election, and the order was to close the border. Officials detained both men until after the election when their primary assignment in Togo could no longer be carried out.¹²⁸ Both parties argued that their rights to free movement, as entrenched in the ECOWAS Free Movement Protocol and the African Charter on Human and People's Rights, had been violated, and they prayed to the court to affirm these rights.¹²⁹ The ECCJ, in dealing with the issue of whether the plaintiffs have a claim before it, reasoned that 'freedom of movement is not absolute but qualified, that is to say, the right, though guaranteed, is subject to limitations such as national security, public health and morality of the state or country in question.'¹³⁰ The court recognised the detention at the Togolese border was a restraint. Still, it concluded that the evidence was abundantly sufficient to show that the border was closed due to the presidential election and within the confines of the Protocol on Free Movement. Inferably, the plaintiffs' right to freedom of movement was not violated.¹³¹

While the ECCJ clarified Member State obligations as signatories to regional frameworks, particularly on the free movement of people, it has been authoritative in interpreting Treaty provisions in a case predicated on apparent issues stifling mobility, such as abrupt border closures as evidenced in *Falana v. The Republic of Benin*. In *Sunday Charles Ugwuaba v State of Senegal*,¹³² the applicant, Sunday Ugwuaba, was refused entry into the Republic of Senegal at the Gambia-Senegal border while en route to Nigeria from The Gambia with his lorries loaded with perishable goods. Based on this refusal, he incurred substantial losses outlined in his particulars of claim. He prayed before the ECCJ, seeking damages and a declaration that the defendant's conduct violated Articles 2 and 12 of the African

Charter on Human and Peoples' Rights, as well as Articles 4(g), Articles 3 and 27 of the ECOWAS Revised Treaty which guarantee the right to free movement of persons and goods.¹³³ Therefore, the court had to decide whether the defendant breached the fundamental human rights claimed by the applicant and whether the defendant should be ordered to pay the damages¹³⁴ sought by the applicant.¹³⁵

Focusing on the first issue because of its relevance to this paper, the Court noted that the conduct of the defendant's agents in preventing the applicant from entering its national territory not being subject to the exceptions provided for in Article 12(2),¹³⁶ constitutes a violation of the applicant's right to the free movement of persons, goods, and services.¹³⁷ Though the ECCJ found that the applicant's right was violated, no compensation was awarded to the applicant based on the failure to prove a causal link between the loss and the defendant's conduct.¹³⁸ This position of the Court highlights that although the free movement of people is subject to specific qualifications, as seen in its reasoning and the Falana case referred to above,¹³⁹ ECOWAS Member States cannot arbitrarily impose restrictions on the free flow of people.

Another case concerning the free movement of persons is *Balde v. the Republic of Senegal*; albeit focused on a traditional human rights issue, the applicant was banned from travelling internationally by the prosecutor pending a criminal trial. The applicant complained to the ECCJ that the investigation violated multiple human rights, including the freedom of movement. Although the Court rejected most of the officials' allegations, it agreed that the travel ban infringed Article 12 of the African Charter. Senegal sought to justify the travel ban under Article 12(2), explicitly arguing that

the suspects threatened public order and public safety and that the prosecutor was authorised to issue a travel ban under Article 33 of the Senegalese Code of Criminal Procedure.¹⁴⁰ The ECCJ rejected Senegal's argument, first underscoring that '[t]he right to free movement is sanctioned by various international and regional instruments, including the African Charter'.¹⁴¹ Regarding Article 12, the Court emphasised that the government failed to prove that the suspects were 'disrupting public order or national security. Even assuming for purposes of argument that a travel ban was necessary to achieve these goals, the government could only adopt such a ban within the dictates of the law or in compliance with a court decision, and only if the ban was not disproportionate in terms of the objective pursued.' The restriction failed both of these requirements. No provision of Senegalese law authorised the prosecutor to issue a travel ban without a court order. The Court thus declared that Senegal had violated the applicant's right to freedom of movement and ordered the government to remove the legally unfounded ban imposed on the applicants, restraining them from going outside the national territory. This finding further reaffirms that ECOWAS Member States cannot arbitrarily impose restrictions on the free flow of people.

The ECOWAS Treaty and Supplementary Protocol of 2005 provide that the Court's judgments with financial implications for member states are binding and that the Court's decisions are to be executed through a writ of execution submitted to member states for execution by their domestic civil procedure rules.¹⁴² To facilitate this process, member states are expected to have designated authority within the state to receive, process and notify the Court of the execution of its writs.¹⁴³ Further, the ECOWAS Revised Treaty prescribes penalties and sanctions

that may be imposed on member states that fail to honour their obligations and commitments under the Community's legal texts. The Authority of the Heads of State and Government of member states is vested with the power to impose various sanctions.¹⁴⁴ Despite being among the few countries with a designated national authority, Nigeria has not always complied with the ECCJ in enforcing its decisions. Arguably, the direct application of ECOWAS law in national systems is easily apparent in the Francophone and Lusophone member states that theoretically adopt a monist approach to the issue of the relationship between international law and national law. Conversely, in Anglophone states, such as Nigeria, which lean towards a dualist approach, assertions of direct applicability of regional law are based more on further action by its legislature.

Even with these judgements, there are perceptions of ineffectiveness around African regional courts due to member states' non-compliance with their judgments and inadequate enforcement mechanisms.¹⁴⁵ Some have characterised these regional courts as a 'paper tiger that needs to be equipped with teeth' or as a 'tiger without teeth' on the basis that it cannot compel the member states to comply with its rulings since it relies on the member states and in the case of the SADC, the Summit for enforcement of and compliance with its judgments.¹⁴⁶ That notwithstanding, the relevance of these courts should be broadly evaluated and noted, taking cognisance of their design and the goals of settling disputes between member states and individuals and clarifying treaty interpretation.¹⁴⁷ As discussed above, the ECCJ has delivered compelling judgments demonstrating its relevance in promoting and protecting the free movement of persons as a fundamental human right. The court's reasoning underscores the perspective that ECOWAS citizens have the right to

move freely within the subregion. This affirms and recognises this right and further limits states' attempts to curtail it abruptly.

6. Reflection on the laws and implementation

6.1 Discursive gap

The discourse around the free movement of people varies in the West African subregion, and Teye succinctly captures the various discourses or narratives around migration in the region. Teye observes that 'one narrative portrays migration as a threat to socio-economic development, while the second presents migration as an effective strategy for promoting socio-economic development. The third narrative suggests that migration is largely caused by poverty, while the fourth narrative views migration as a humanitarian issue.'¹⁴⁸

One of the earliest narratives on free movement in West Africa portrays migration as a threat to socio-economic development. Strong anti-migrant narratives suggesting that immigrants were a threat to economic development emerged in the late 1950s and early 1960s after the independence of several West African countries. This was exemplified in the cases of mass expulsions of migrants from within the sub-region in Ivory Coast, Ghana, and Nigeria.¹⁴⁹ Despite adopting the ECOWAS free movement protocol, ECOWAS citizens still face many challenges associated with working in host countries. For instance, the Ghana Investment Promotion Centre Act precludes all migrants, including ECOWAS nationals, from engaging in low-capital businesses, such as petty trading, operating taxis, barber shops, beauty salons, and selling sachet water.¹⁵⁰ Conversely, aspects eligible for foreign participation carry a minimum investment threshold. For instance,

participating in a joint enterprise with a Ghanaian requires US\$200 000 in cash or capital goods; a sole enterprise requires US\$500 000 in cash.¹⁵¹ Non-citizens can engage in a trading enterprise, which is the purchasing and selling of imported goods and services, if that person invests not less than US\$1 000 000 in cash or goods and services relevant to the investments. The Nigeria Immigration Act of 2015 restricts immigrants from engaging in certain economic activities reserved for people with low investment capital.¹⁵²

Anti-immigrant sentiments are also widespread in public or political discussions in some West African countries.¹⁵³ For example, using Côte d'Ivoire as an example, Whitaker and Gierch observe the use of xenophobic rhetoric by leaders of opposition parties to generate support by criticising the long-time ruling party for its hospitality towards immigrants.¹⁵⁴ Whitaker also notes that during the early 1990s and 2000s, anti-migrant sentiment was particularly strong against migrants from neighbouring countries, especially Burkina Faso, based on political manipulation that framed these migrants as a threat to the national identity and stability, contributing to the country's civil unrest.¹⁵⁵ As Teye observed, immigrants are still sometimes portrayed as others, criminals, or threats to economic development.¹⁵⁶ That notwithstanding, within the context of elections and using Ghana as an example, Whitacker also notes a positive outlook on foreigners in various elections from 1996 in a bid to secure the votes of immigrants.¹⁵⁷

In recent developments, ECOWAS has reinvigorated its promise of a unified visa regime that grants visitors from outside ECOWAS access to the territory of all ECOWAS member states through an ECOWAS Visa (ECOVISA). The ECOVISA initiative began in 2011 with

no implementation. However, during the Seventh ECOWAS Heads of Immigration meeting in May 2023, a recommendation was made for a comparative analysis of visa regimes to ensure that the ECOVISA follows best practices. Once fully implemented, the ECOVISA will significantly ease travel in the region for non-ECOWAS citizens.¹⁵⁸ Though the initiative towards the ECOVISA needs an accompanying legal framework or guideline to strengthen its application and implementation, the push to adopt this visa underscores the perception of the free movement of people as a strategy for promoting socio-economic development within the sub-region. This affirms that ECOWAS is undoubtedly committed to promoting free movement and easing migration by implementing enabling and binding legislation. The laws are both forward-looking and proactive.

6.2 Implementation gap

ECOWAS has had a longstanding legal framework on migration, adopting the protocols relating to the Free Movement of Persons and the Right of Residence and Establishment in 1979. The general acceptability of all member states to the 90-day visa-free entry is positive, as Community citizens with valid travel documents and international health certificates could access and stay in other member states without applying for a visa. Several measures have subsequently been adopted to ensure the implementation of the free movement initiative to ease cross-border movement. Notably, there was the adoption of a harmonised travel document in the ECOWAS passport in 2000 and an ECOWAS national biometric identity card in 2014, which has been fully implemented by seven¹⁵⁹ out of the fifteen members of the ECOWAS. The ECOWAS passport, introduced to facilitate the free movement of people across member states, serves as a

tangible symbol of progress within the ECOWAS Community. The passport allows for more accessible travel within the region, potentially strengthening the member states' economic ties and social cohesion. Similarly, the ECOWAS National Biometric Identity Card (ENBIC), complementing the passport as a recognised travel document from 2014,¹⁶⁰ provides ECOWAS citizens with a secure and standardised form of identification. A standardised legal identity document can help streamline border controls and assuage some security concerns around free movement. Implementation issues, varying commitment levels among member states, socio-economic disparities and infrastructural deficiencies challenge the effectiveness of these instruments in enhancing free movement. While the right of entry and the abolition of visa requirements have been implemented, significantly less progress has been recorded concerning the right of residence, the right of establishment, and access to employment. One of the primary obstacles is the lack of political will and mutual distrust among member states. This manifests in inconsistent and selective enforcement of the ECOWAS protocols, where individual countries prioritise their national interests over regional commitments, particularly in security and economic protectionism. As noted by Garba, alongside the lack of political will, 'it is believed that the slow pace of implementation of the second and third phases of the protocol could largely be attributed to the economic downturn in the sub-region during the 1980s and displacement resulting from conflicts in certain parts of the region in the 1990s and early 2000s'.¹⁶¹ Further, in their study, Yeboah and others argue that issues of awareness, social standing, nationality, and gender shape migrants' experience of the provisions in the protocol. The authors note that migrants

who travelled by air into Ghana had a relatively smoother passage of entry and were less susceptible to harassment and extortion from state officials than those who made the journey by land.¹⁶²

Further, the abuse of the free movement protocol by criminal elements, such as smugglers and traffickers, complicates the implementation of free movement arrangements in the subregion. These illicit activities strain the resources of member states, particularly those who face significant security challenges. Poor border infrastructures, intimidation, harassment, extortion, illegal roadblocks and checkpoints, and the inability of some ECOWAS members to effectively monitor and manage borders arguably lead to increased insecurity.¹⁶³ This stifles the implementation of the protocol entirely by member states. This status quo is compounded by cultural and colonial legacies that continue to create barriers to full integration and the lack of adequate infrastructure, such as transport networks, which limits the mobility of people and goods across the region.

Further, several factors still impede the implementation of the Protocols, and these barriers, as Garba and Yeboah opined, can be broadly categorised into two categories: first, incoherence in the requirements for border crossing by member states, and second, structural factors that are common across the subregion.¹⁶⁴ According to Garba and Yeboah, policy incoherence relates to differences in the documents required to cross a border. They highlight that:

The Francophone countries in the region issue national identity cards with bio-data equivalent to those in passports. These cards allow holders to cross borders upon presenting them. The Anglophone countries in the region are only beginning to roll out similar cards. In Anglophone member states,

passports are the acceptable documents for crossing borders. Consequently, immigration officials in Anglophone countries reject the identity cards of border crossers from Francophone member states where identity cards allow a person to cross borders.¹⁶⁵

Further, the procedure for issuing work permits underlines a significant implementation gap towards the right of residence. Evaluating various work permit regimes in several West African countries, Teye highlights that similar requirements and procedures for issuing work permits are the same for both ECOWAS citizens and other nationals.¹⁶⁶ In principle, work permits are expected to be issued to all foreigners, including ECOWAS citizens, only in situations where there is proof that the skills possessed by the migrant do not exist locally.¹⁶⁷

6.3 Efficacy gap

The relationship between migration outcomes and implemented laws is complex and varied. The development of a dynamic and open economy, where migration spurs entrepreneurship, innovation, and cross-cultural exchange, is noteworthy among these results. For instance, using The Gambia as an example, Awosusi and Aja underscore that through the ECOWAS Protocol on Free Movement, The Gambia has irrefutably enjoyed the human capital flow of professionals and experts in medicine, education, and law from the neighbouring states of West Africa to cushion the country's workforce deficit due to brain drain.¹⁶⁸ This example underscores the efficacy of implemented ECOWAS laws on free movement in fostering an environment where migration is viewed through a lens of enabling socio-economic opportunity. At an ECOWAS level, the developmental perspective of migration is further strengthened by the recent shift towards

a Schengen-type visa (ECOVISA) regime for nonECOWAS citizens. The ECOVISA will be a significant milestone in the region's migration history if implemented. This highlights the move to capitalise on the effectiveness of enacted legislation in promoting a setting where migration is perceived from a perspective of inclusiveness and socio-economic potential rather than only as a political matter.

Despite the presence of migration laws and regulations, many migrants are driven by a combination of push and pull factors that transcend legal boundaries and compel them to seek better opportunities elsewhere. Economic hardships, political instability, environmental degradation, and social inequalities often force individuals to leave their homes for safety, livelihoods, and a better future for themselves and their families. These push factors exert immense pressure on migrants, propelling them to overcome legal barriers and navigate complex migration routes to pursue their aspirations. An all-encompassing legal and institutional framework that gives migrants agency, monitors and evaluates the implementation of migration frameworks, tackles migration's underlying causes and promotes inclusive practices that value migrants' contributions to society is necessary to improve the efficacy of migration in the sub-region.

7. Political economy on migration in ECOWAS

The political economy of migration within ECOWAS is a multifaceted subject that intertwines economic, social, and political dimensions. Migration, both voluntary and forced, has played a significant role in shaping the demographic and economic landscapes of West Africa. Economic disparities among ECOWAS member states have predominantly

driven migration within West Africa. Historically, countries with relatively stronger economies, such as Nigeria, Ghana, and Côte d'Ivoire, act as magnets for migrants from less affluent countries like Burkina Faso, Mali, and Niger.¹⁶⁹ Similarly, migration from poorer inland regions towards the coast is common in West African countries. These migrations are often characterised by the search for employment opportunities, better wages, and improved living conditions. See, for instance, Adepoju's reference to Nigeria's economic pull, with its vast oil wealth and larger economy, which historically attracted many migrants from its neighbours.¹⁷⁰ This labour migration trend contributes positively to the economies of host countries by filling labour shortages. The economic contributions of migrants are not limited to the host countries; remittances sent back home play a crucial role in the sending countries' economies. Studies highlight that migrant remittances form a substantial part of the GDP in countries like Nigeria, Ghana, and Senegal, providing critical financial support to households.¹⁷¹ This financial inflow helps alleviate poverty, improve living standards, and foster development through investments in education and small businesses. However, while remittances positively impact poverty reduction, they are often insufficient to address the structural economic issues that drive migration in the first place.

Despite the economic benefits, migration within the ECOWAS region is fraught with political challenges. This paper highlights the inconsistent implementation of the ECOWAS Protocol on Free Movement of Persons, Residence, and Establishment. While the protocol, established in 1979, theoretically allows for visa-free travel and the right of residence, migrants often face bureaucratic hurdles, corruption, and harassment at border crossings, as seen in the cases referred to the ECCJ.¹⁷²

These barriers not only impede the free movement of people but also undermine the spirit of regional integration envisioned by ECOWAS and create a de facto system of exclusion where the rights of migrants are not fully realised.

Political and diplomatic relations between member states can also be strained by migration. For example, the mass expulsion of foreign nationals, often driven by domestic political pressures or economic downturns, can lead to diplomatic tensions. The expulsion of Nigerians from Ghana and Ghanaian nationals from Nigeria in 1983 and 1985, during periods of economic crisis, are notable examples.¹⁷³ These actions were often framed within nationalistic rhetoric, undermining regional solidarity and creating cycles of retaliation among member states. The expulsion events illustrate how migration can be manipulated for political gain, exacerbating regional instability and eroding the foundations of cooperative regional governance. However, such action of mass expulsion due to alleged mistreatment of non-nationals has not been prevalent in recent years.

The perception of migrants within the ECOWAS region is another critical aspect shaping the political economy of migration. Migrants are often perceived through a lens of suspicion and xenophobia, particularly during times of socio-economic hardship. According to Marc et al., tensions over migration usually arise from discrimination, marginalisation of certain ethnic groups, and competition for resources like land, employment opportunities and social service infrastructure.¹⁷⁴ These negative perceptions affect migrants' social integration and influence policy decisions and public attitudes towards migration, often leading to discriminatory practices and human rights abuses against migrants.

Despite these challenges, migration can have a transformative impact on regional development when effectively managed. Migrants contribute to host countries' economic growth, cultural diversity, and social dynamics. The diverse skill sets migrants bring can lead to knowledge transfer, boosting productivity and innovation. For instance, as noted by Garba and Yeboah, implementing the 90-day visa-free window has positively impacted trading activities, mainly through informal trading activities, ensuring the dissemination of goods and services across borders and fostering economic interdependence and integration.¹⁷⁵ This economic interdependence is crucial for the broader goal of regional development and stability.

ECOWAS plays a pivotal role in shaping the migration landscape in West Africa. The organisation's efforts to promote free movement and regional integration are commendable but require more effective implementation and enforcement. Strengthening border management, combating human trafficking, and enhancing the portability of social security benefits for migrants are critical areas where ECOWAS can significantly impact. As emphasised, cooperation and coordinated policy responses are essential to address the complex dynamics of migration and harness its potential for development.¹⁷⁶ Furthermore, ECOWAS needs to foster greater political will among member states to fully adhere to the principles of free movement. This includes strengthening platforms for dialogue on migration issues and utilising the dispute resolution mechanism to keep member states accountable for their obligations. For instance, the MIDWA forum can be significantly strengthened by introducing a performance scorecard that measures and tracks member states' progress on crucial migration issues, such as

policy implementation, human rights protections, and border management. Such measures can be complemented by robust evaluation mechanisms that include regular independent assessments or peer-to-peer reviews; transparent public reporting and incentives for compliance, such as financial support, could further support this. Therefore, the role of civil society organisations and international partners in this context will be crucial in supporting these efforts.

In summary, the political economy of migration within the ECOWAS region is a complex interplay of economic motivations, political challenges, and developmental impacts. Migration offers significant economic benefits and opportunities for regional development, but it also presents challenges that require coordinated policy responses and regional cooperation. ECOWAS, as a regional body, has a crucial role in ensuring that migration contributes positively to the socio-economic development of West Africa, fostering a region where people can move freely, safely, and with dignity. Economic opportunities, disparities, political dynamics, and social factors drive migration within the ECOWAS region. While the economic benefits of migration are evident in the contributions of migrants to both sending and receiving countries, the political challenges and negative perceptions of migrants pose significant obstacles. Addressing these challenges requires a multifaceted approach that includes effective policy implementation, regional cooperation, and efforts to change public attitudes towards migrants.

8. Conclusion

In conclusion, with the multifaceted elements of ECOWAS's approach to migration governance, it becomes evident that while the region has laid a significant

foundation through the Protocol on the Free Movement of Persons, the Common Approach and the more recent Regional Migration Policy, there are still substantial challenges that need addressing. These policies underscore the importance of harmonising migration governance, protecting migrant rights, and addressing issues such as border management and human trafficking within the ECOWAS bloc. However, the lack of enforcement mechanisms, defined objectives, and comprehensive monitoring frameworks signify areas where further refinement and development are necessary.

Practically, there is a need to standardise and adopt a standard border management system and procedure within the region. Further, the introduction and adoption of the ENBIC and ECOWAS Passports represent an essential tool in support of regional migration governance and the implementation of the free movement of people. However, harmonising travel documents for effective regional migration governance is critical to adopting these measures. The training of border personnel on standards and protocol, especially regarding migrant rights, is essential to reducing abuses of migrants and eliminating the culture of criminalisation of the migration process.

The vision outlined by ECOWAS, aspiring towards free movement, economic integration, and safeguarding migrants' rights within the region, points to a future where migration can be a force for good, propelling development and integration. Nevertheless, achieving this vision requires not just well-designed policies but also the commitment of member states to implement these policies effectively, coupled with strong institutional arrangements that foster collaboration, leadership, and accountability. The dialogue initiated

by platforms like the MIDWA and the institutional role of the ECOWAS Commission in coordinating these efforts are steps in the right direction. The emphasis on migrants' rights within the subregion is pertinent. While the ECOWAS regional protocols on the free movement of people acknowledge the rights of ECOWAS citizens and migrants by strengthening migrant protections and prioritising ECOWAS migrants' residency rights, the ECCJ has reinforced the protection of ECOWAS citizens' rights to free movement, which is encouraging. This reinforced perspective underscores the value and relevance of the ECCJ despite the challenge of non-compliance and enforcing regional court rulings at the domestic level. These institutions offer a blueprint for a regional body's engagement with complex migration governance issues. Yet, for ECOWAS to fully realise its objectives, a concerted effort must be made to overcome bureaucratic inertia, enhance member states' commitment, and strengthen institutional capacities. Additionally, incorporating deadlines and monitoring frameworks into future revisions of the Common Approach would significantly bolster the effectiveness of ECOWAS's migration governance strategies.

As ECOWAS continues to evolve in its response to migration dynamics, it stands at a critical juncture. The pathway ahead will test the resilience and adaptability of its established frameworks and offer the opportunity to solidify its role as a pioneering force in regional migration governance. The planned revision of the Common Approach and the continued development of migration policies present an auspicious moment to align with continental and global standards, furthering the cause for a more integrated, prosperous, and cohesive West Africa.

Notes

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2. See the OAU CM/Res.464QCXVI.
3. The other RECs include the Economic Community of Central African States (ECCAS) covering Central Africa, the East African Community (EAC), the Intergovernmental Authority on Development covering East Africa, the Arab Maghreb Union, the Community of Sahel-Saharan States (CEN-SAD) covering North Africa, the Southern African Development Community (SADC), and the Common Market for East and Southern Africa (COMESA) covering Southern Africa.
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10. Article 76(d) of the UEMOA Revised Treaty, 2003.
11. Article 76(d).
12. Teye JK, 'Migration in West Africa: An Introduction,' pp. 3–18 in Teye JK (ed), *Migration in West Africa* (2022 Springer).
13. Benedetta Rossi 'Migration and Emancipation in West Africa's Labour History: The Missing Links' (2014) 35 *Slavery and Abolition* 1 23–24.
14. Teye JK, 'Migration in West Africa: An Introduction,' pp. 3 to 18 in Teye JK (ed), *Migration in West Africa* (2022 Springer).
15. Adejumbi Said, 'Region-Building in West Africa', p. 215.
16. David A Cleveland, 'Migration in West Africa: A Savana Village Perspective' (1991) 61 *Africa* 2 222. See also, Teye JK, 'Migration in West Africa: An Introduction,' pp. 3–18 in Teye JK (ed), *Migration in West Africa* (2022 Springer).
17. Teye JK, 'Migration in West Africa: An Introduction,' pp. 4–5 in Teye JK (ed), *Migration in West Africa* (2022 Springer)

18. Treaty of the Economic Community of West African States 1975.
19. 'ECOWAS History'. Available at <http://www.ecowas.int/about-ecowas/history/> (accessed 11 March 2024).
20. Dahomey was the name of the now-known Peoples Republic of Benin; this change happened in 1975.
21. Currently known as Burkina Faso, this change officially happened in 1984.
22. However, Mauritania has held an associate membership since 2017.
23. Wong V, 'ECOWAS: Niger, Mali and Burkina Faso quit West African bloc'. Available at <https://shorturl.at/qHLZ5> (accessed 11 March 2024).
24. See Article 91(1) of the Revised ECOWAS Treaty, 1993.
25. See Article 91(2) of the Revised ECOWAS Treaty, 1993.
26. Coup-hit nations of Niger, Mali and Burkina Faso form Sahel Alliance. Available at <https://www.africanews.com/2024/07/07/coup-hit-nations-of-niger-mali-and-burkina-faso-form-sahel-alliance/> (accessed 16 July 2024).
27. Adejumbi S, 'Region-Building in West Africa', p. 215.
28. Ibid. See Ukaigwe J 'ECOWAS Law' p. 3 (2016, Springer).
29. Treaty of the Economic Community of West African States 1975.
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31. Article 2 of the Treaty of the Economic Community of West African States 1975.
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35. Aside from the above mentioned, there were several other coups in the sub-region like the 1963 coup in Togo where President Sylvanus Olympio was assassinated; the 1980 coup in Liberia by Sergeant Samuel Doe; the 1983 coup in Burkina Faso by Captain Thomas Sankara; the 1992 coup in Sierra Leone by Captain Valentine Strasser; the 2003 coup in Guinea-Bissau by General Verissimo Correia Seabra; the 2008 coup in Mauritania by General Mohamed Ould Abdel Aziz; the failed coup attempts in Guinea Bissau, The Gambia and Sao Tome and Principe.

36. Africa: the 7 Military coups over the last three years. Available at <https://www.africanews.com/2023/08/30/africa-the-7-military-coups-over-the-last-three-years/> (accessed 16 July 2024).
37. It is important to note that under Article 92(2) of the Revised Treaty of 1993, the ECOWAS Treaty of 1975 shall be deemed terminated when the Executive Secretariat receives instruments of ratification from all Member States. The Executive Secretary shall notify the Member States in writing.
38. Article 3(1) of the Revised Treaty of the Economic Community of West African States 1993.
39. Article 4 of the Revised Treaty of the Economic Community of West African States 1993.
40. See Mutava M, 'An Analysis of Trends and Patterns of Migration in Africa' (2023) p.15. Available at <https://nsi.org.za/publications/analysis-trends-patterns-migration-africa/> (accessed 16 July 2024).
41. See Mutava M, 'An Analysis of Trends and Patterns of Migration in Africa' (2023) p.15. Available at <https://nsi.org.za/publications/analysis-trends-patterns-migration-africa/> (accessed 16 July 2024).
42. Ibid, p. 16.
43. Ibid, p. 18.
44. Ibid.
45. Castillejo C, The Influence of EU Migration Policy on Regional Free Movement in IGAD and ECOWAS Regions Discussion Paper no 11/2019 DIE 21.
46. Garba Faisal and Thomas Yeboah, 'Free Movement and Regional Integration in the ECOWAS Sub-Region,' p. 25 in Teye JK (ed), Migration in West Africa (2022 Springer).
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48. Article 3(2)(d) (i)–(iii) of the Revised Treaty Establishing the Economic Community of West African States (ECOWAS) 1993.
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50. Article 27(2) of the Treaty of the Economic Community of Western African States 1975.
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52. Article 59(1)–(3) of the Revised Treaty Establishing the Economic Community of West African States (ECOWAS) 1993.

53. Protocol Relating to Free Movement of Persons, Residence and Establishment 1979 A/P. 1/5/79.
54. Article 1 of the Revised Treaty Establishing the Economic Community of West African States (ECOWAS) 1993.
55. Article 1 of the ECOWAS Protocol A/P.1/5/79 relating to the Free Movement of People, Residence and Establishment.
56. It is important to note that a person who had already attained age 21 before coming into force of this Protocol and who is of dual nationality shall renounce the nationality of that parent who is not a national of an ECOWAS member state.
57. This provision further notes that an adopted person who has already attained maturity before the coming into force of this Protocol and who is of dual nationality shall expressly renounce the nationality of any State outside the Community. Also, this provision covers any child adopted by a citizen of the Community, provided that the child has not attained his majority to decide on the nationality of their choice.
58. Article 1 of the ECOWAS Protocol Relating to the Definition of Community Citizens, 1982.
59. Article 2(2) ECOWAS Protocol A/P.1/5/79 relating to the Free Movement of People, Residence and Establishment.
60. Ibid, Article 2(3).
61. Article 1(1) of the ECOWAS Supplementary Protocol A/SP. 1/7/85.
62. Article 1 of the ECOWAS Supplementary Protocol A/SP.2/5/90.
63. A valid travel document is a passport or any other valid travel document establishing the identity of the holder with his photograph, issued by or on behalf of the Member State of which he is a citizen and on which endorsement by immigration and emigration authorities may be made. It shall include a laissez-passer issued by the Community to its officials, establishing the identity of the holder. See Art 1 of the ECOWAS Protocol A/P.1/5/79 relating to the Free Movement of People, Residence and Establishment.
64. Article 3(1) of the ECOWAS Protocol A/P.1/5/79 relating to the Free Movement of People, Residence and Establishment.
65. Ibid, Article 3(2).
66. Ibid, Article 4.
67. Ibid, Article 11
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74. Ibid, Article 3(3)-(5).
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77. Ibid, Article 3.
78. Ibid, Article 4.
79. Ibid, Articles 5 to 9
80. Article 23 of the ECOWAS Supplementary Protocol A/SP, 1/7/86.
81. Teye, J., Awumbila, M., & Nikoi, E. 'Assessment of the implementation of the ECOWAS free movement protocol in Ghana and Sierra Leone.' (2019) 5 African Mobility Review 3 1562.
82. Ibid.
83. Article 13 of the ECOWAS Supplementary Protocol A/SP, 1/7/86.
84. Ibid, Article 14.
85. Articles 2-4 of the ECOWAS Supplementary Protocol A/SP.2/5/90.
86. Article 7 of the ECOWAS Supplementary Protocol A/SP.2/5/90.
87. Bolarinwa JO, 'The ECOWAS free Movement Protocol: Obstacle or driver of regional integration?' (2015) 7 Insight on Africa 2, 154–168.
88. Art 1 of the Supplementary Act A/SA.1/07/14 amending paragraph 8 of Article 1, paragraphs 1 and 2 of Article 3 and paragraphs 1 and 2 of Article 5 of Protocol A/P1/5/79 on the Free Movement of Persons, Right of Residence and Establishment relating to travel documents.
89. Ibid, Articles 2 and 3.
90. Article 1 of the Supplementary Act A/SA.2/07/14 amending paragraph 9 of Article 1 of Protocol A/SP.1/7/85 on the Code of Conduct for the Implementation of the Protocol on the Free Movement of Persons, Right of Residence and Establishment.
91. Ibid, Article 3.
92. Ibid, Article 2.
93. Article 2 of the ECOWAS Supplementary Protocol A/SP, 1/7/86.

94. Ibid.
95. Supplementary Acts do not require ratification by member states and institutions of the ECOWAS Community and are binding on member states once adopted by the Authority of Heads of State.
96. Supplementary Act A/SA.2/05/09 adopting a Labour and Employment policy for ECOWAS.
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106. Ibid, See Article 7 and Article 16.
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121. Interview with ECOWAS official, May 2024. See also MIDWA. Available at <https://www.iom.int/migration-dialogue-west-africa-midwa> (accessed 16 May 2024).
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123. Inaugural meeting of Heads of National Boundary Commissions Held in Accra. Available at <https://www.cnbcafrica.com/wire/645131/> (accessed 21 August 2024). See also Migration Dialogue for West Africa Forum. Available at <https://www.ecowas.int/migration-dialogue-for-west-africa-forum/> (accessed 21 August 2024).
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125. Ibid, Article 9(3).
126. Committee of Eminent Persons for the Review of the ECOWAS Treaty, Final Report 16 June 1992. See the Supplementary Protocol A/SP.1/01/05 Amending the Preamble and Articles 1, 2, 9, 22 and 30 of Protocol A/P.1/7/91 Relating to the Community Court of Justice.
127. *Falana v The Republic of Benin* (2012) ECW/CCJ/APP/10/07.
128. Ibid, para 2-3.
129. Ibid, para 4.
130. Ibid, para 33.
131. Ibid, para 33.
132. *Sunday Charles Ugwuaba v State of Senegal* No ECW/CCJ/JUD/25/19.
133. Ibid, para 1-4.

134. The applicant sought several orders for damages. First, he sought damages for the sale price of his goods in Nigeria after deducting the value obtained by the sale of the perished goods, which amounted to thirty-eight million, four hundred and fifty-four thousand, seventy-two Naira (#38, 454, 072). He also claimed \$19,030 for the additional cost of feeding and renting the trucks. Alternatively, he sought an order for the defendant to pay the sum of D2,558,400 (two million, five hundred and fifty-eight thousand, four hundred Dalasis) for the cost of acquiring the goods, an order of five million Naira for legal fees and \$100, 000 as compensation for psychological trauma. See para 4 (A) – (C).
135. Ibid, para 7.
136. This provision notes that the right to freedom of movement of persons, can only be subject to restrictions laid down by law which are necessary to protect national security, public order, public health or morality.
137. *Sunday Charles Ugwuaba v State of Senegal*, para 7(c).
138. Ibid, para 7(c), pp. 23–25.
139. See *Falana v the Republic of Benin* 2012, ECW/CCJ/APP/10/07.
140. Article 33 provides that the Public Prosecutor shall carry out or have carried out all the necessary measures required for investigating and trying all violations of the criminal law.
141. *Balde v The Republic of Senegal*.
142. See Article 15 and 22 of the ECOWAS Revised Treaty, 1993. See also Article 6 of the Supplementary Protocol A/SP.1/01/05.
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About the author:

Victor Amadi is currently a Post-Doctoral Research Fellow at the Centre for Comparative Law in Africa (CCLA), University of Cape Town (UCT). He holds a Bachelor of Law (LLB), an LLM, LLD degree in Mercantile and Labour Law from the University of the Western Cape (UWC). His research focuses on trade and comparative regional integration and development in Africa. His doctoral thesis examined the facilitation of intra-regional trade through the free movement of people in the Southern African Development Community (SADC). He is involved in teaching courses on Law and Regional Integration in Africa and Comparative Business Law in Africa to undergraduate and postgraduate students at UCT while providing extensive research advice in these areas to undergraduate and postgraduate students. He serves as the managing editor of the Journal of Comparative Law in Africa and is the author of the book "Trade, Migration and Law: Free Movement of People in the Southern African Development Community" (Routledge 2022).

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CONTACT INFORMATION

For questions or feedback, please contact by email: info@nsi.org.za

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