



AACC-CETA

# DESK STUDY

THE CHALLENGES ENCOUNTERED BY AFRICAN UNION MEMBER STATES IN RATIFYING AND IMPLEMENTING THE PROTOCOL ON FREE MOVEMENT, RIGHT OF RESIDENCE, AND RIGHT OF ESTABLISHMENT

THE AU PROTOCOL  
ON FREE MOVEMENT

## TABLE OF CONTENTS

<b>LIST OF TABLES</b>	<b>4</b>
<b>LIST OF FIGURES</b>	<b>4</b>
<b>LIST OF ABBREVIATIONS AND ACRONYMS</b>	<b>5</b>
<b>ACKNOWLEDGEMENT</b>	<b>6</b>
<b>OBJECTIVES AND RATIONALE OF THE RESEARCH</b>	<b>7</b>
<b>EXECUTIVE SUMMARY</b>	<b>8</b>
<b>BACKGROUND AND CONTEXT</b>	<b>10</b>
<b>THE CHARTER OF THE ORGANISATION OF AFRICAN UNITY</b>	<b>10</b>
<b>THE ABUJA TREATY</b>	<b>12</b>
<b>THE LINKAGES OF FREE MOVEMENT OF PERSONS TO CONTINENTAL INTEGRATION</b>	<b>13</b>
<b>THE LINKAGES OF FREE MOVEMENT OF PERSONS AND THE PROTECTION OF THE RIGHTS OF VULNERABLE POPULATIONS</b>	<b>14</b>
<b>PROTOCOL TO THE TREATY ESTABLISHING THE AFRICAN ECONOMIC COMMUNITY RELATING TO FREE MOVEMENT OF PERSONS, RIGHT OF RESIDENCE AND RIGHT TO ESTABLISHMENT (FREE MOVEMENT PROTOCOL)</b>	<b>16</b>
<b>PROGRESSIVE IMPLEMENTATION OF FREE MOVEMENT</b>	<b>17</b>
<b>RIGHTS GUARANTEED UNDER THE FREE MOVEMENT PROTOCOL</b>	<b>18</b>
<b>STATUS OF THE PROTOCOL AS AT OCTOBER 2024</b>	<b>19</b>
<b>ANALYSIS OF SIGNATURES AND RATIFICATIONS BY COUNTRIES</b>	<b>20</b>

---

<b>IMPLEMENTATION OF FREE MOVEMENT OF PERSONS IN AFRICA</b>	<b>24</b>
<b>FREE MOVEMENT OF PERSONS AT THE REGIONAL LEVEL</b>	<b>27</b>
I. Arab Maghreb Union (AMU)	27
II. Community of Sahel-Saharan States (CEN-SAD)	28
III. Common Market for Eastern And Southern Africa (COMESA)	28
IV. East African Community (EAC)	29
V. Economic Community of Central African States (ECCAS)	30
VI. Economic Community of West African States (ECOWAS)	30
VII. Intergovernmental Authority on Development (IGAD)	31
VIII. Southern African Development Community (SADC)	32
IX. Conclusion	33
<b>CHALLENGES TO RATIFICATION OF THE FREE MOVEMENT PROTOCOL BY MEMBER STATES</b>	<b>34</b>
<b>SECURITY CONSIDERATIONS</b>	<b>34</b>
<b>COORDINATION CHALLENGES</b>	<b>35</b>
<b>LACK OF RESOURCES</b>	<b>36</b>
<b>NO APPOINTMENT OF AU CHAMPION FOR FREE MOVEMENT OF PERSONS</b>	<b>36</b>
<b>LACK OF PARTICIPATION OF NON-STATE ACTORS</b>	<b>37</b>
<b>RECENT POLITICAL DEVELOPMENT</b>	<b>37</b>
<b>DESKTOP REVIEW FINDINGS</b>	<b>38</b>
<b>CONCLUSION AND RECOMMENDATIONS</b>	<b>40</b>
<b>CONCLUSION</b>	<b>40</b>
<b>RECOMMENDATIONS FOR THE WAY FORWARD</b>	<b>41</b>
<b>REFERENCES</b>	<b>46</b>

---

## LIST OF TABLES

<b>Table 1: Phases of Implementation of AU Free Movement of Persons Protocol</b>	<b>17</b>
<b>Table 2: Current Status of Ratifications by Regions</b>	<b>19</b>
<b>Table 3: Countries that Have Ratified the AU Protocol</b>	<b>19</b>
<b>Table 4: Status of non-Ratification – Central Region</b>	<b>20</b>
<b>Table 5: Status of non-Ratification – Eastern Region</b>	<b>20</b>
<b>Table 6: Status of non-Ratification – Northern Region</b>	<b>21</b>
<b>Table 7: Status of non-Ratification – Southern Region</b>	<b>21</b>
<b>Table 8: Status of non-Ratification – Western Region</b>	<b>22</b>
<b>Table 9: Role of Member States, RECs, and AU Commission</b>	<b>35</b>

## LIST OF FIGURES

<b>Figure 1: The Ease of Intra-African Travel in 2023</b>	<b>25</b>
<b>Figure 2: List of Visa Regimes by Countries in Africa in 2023</b>	<b>26</b>

## LIST OF ABBREVIATIONS AND ACRONYMS

<b>AACC</b>	All Africa Conference of Churches
<b>Abuja Treaty</b>	The Treaty Establishing the African Economic Community
<b>ACHPR</b>	African Commission on Human and Peoples Rights
<b>AEC</b>	Africa Economic Community
<b>AfCFTA</b>	Africa Continental Free Trade Area
<b>AfDB</b>	African Development Bank
<b>AfCHPRt</b>	African Court on Human and Peoples Rights
<b>African Charter</b>	African Charter on Human and Peoples Rights
<b>Agenda 2063</b>	Agenda 2063 of the African Union
<b>AU</b>	African Union
<b>AUC</b>	African Union Commission
<b>AVOI</b>	Africa Visa Openness Index
<b>Constitutive Act</b>	Constitutive Act of the African Union
<b>EAC</b>	East African Community
<b>ECOWAS</b>	Economic Community of West African States
<b>FMP</b>	Free Movement of Persons Protocol
<b>IDP</b>	Internally Displaced Persons
<b>MS</b>	Member States
<b>OAU</b>	Organisation of African Unity
<b>RAP</b>	Regional Action Plan
<b>RECs</b>	Regional Economic Communities
<b>The Charter</b>	The Charter of the Organisation of African Unity
<b>SDGs</b>	Sustainable Development Goals
<b>UNECA</b>	United Nations Economic Commission for Africa
<b>UN</b>	United Nations

## ACKNOWLEDGEMENT

The All Africa Conference of Churches (AACC) would like to express its sincere gratitude to everyone who supported this research project.

Our appreciation goes to the Consultants and the leadership of AACC for their invaluable guidance, insightful feedback, and unwavering encouragement.

Further, the AACC would like to thank the African Union Commission (AUC), Senior Officials of the Embassies of the AU Member States, and the Trade and Economic Division of the United Nations Economic Commission for Africa (UNECA) for their valuable inputs to this research.

AACC looks forward to continued partnership with the African Union Commission and Member States for the dissemination of this study to expedite the ratification of the AU Free Movement of Persons Protocol and its implementation by all AU Member States.

---

## OBJECTIVES AND RATIONALE OF THE RESEARCH

The task of this desk research was to review materials on the Implementation of the Protocol to the Treaty establishing the African Economic Community relating to the Free Movement of Persons, Right of Residence and Right of Establishment. The objective of the research was to identify the factors hindering the ratification by African Union Member States.

The research provides an analysis of policy implications of the implementation of the Free Movement of Persons in Africa Protocol enhancing the right of entry, right of residence, and the right of establishment for African citizens, and offers recommendations on how to engage civil society actors to advocate for the ratification of the Protocol in their countries.

This study was part of the AACC's *"Enhancing Capacities Of The AACC To Heighten Its Advocacy Role For Human Dignity And Justice In The Continent."*

---

## EXECUTIVE SUMMARY

The concept of the free movement of persons in Africa must be seen through the prism of the vision of the founding fathers of the OAU (Organisation of African Unity) for the complete decolonisation of Africa, based on the spirit of Pan-Africanism and the struggle for the economic emancipation of the continent through social and economic integration<sup>1</sup>. In this context, integration meant the gradual eradication of the artificial borders of Africa, and the rights of the free movement of goods, labour, services and capital. The leaders of the OAU understood, as it was with the integration of other regional blocs, such as the European Union, there cannot be successful political integration without economic integration.<sup>2</sup>

The Treaty Establishing the African Economic Community (Abuja Treaty) was adopted in 1991 with the objective of establishing the African Economic Community (AEC). The purpose of the AEC was to promote economic, social and cultural development, and the integration of African economies in order to increase economic self-reliance, and promote an endogenous and self-sustained development. In addition, the AEC was to promote cooperation in all fields of human endeavour in order to raise the standard of living of African peoples, maintain and enhance economic stability, foster close and peaceful relations among Member States and contribute to the progress, development and the economic integration of the continent, and remain in adherence to the principles of recognition, promotion and protection of human and peoples' rights in accordance with the provisions of the African Charter on Human and Peoples Rights.<sup>3</sup>

The free movement of persons, which is composed of three distinct rights, i.e. right of entry, right of residence, and right of establishment for nationals of Member States, *inter alia*, was envisaged as a key element of economic integration of the continent. The aim of free movement of persons is to enhance mobility of persons regionally and continentally, including the mobility for work and residence for African citizens within African countries. Moreover, the free movement of persons was not only regarded as an important step towards promoting seamless borders in Africa to spur economic prosperity,<sup>4</sup> the notion of the free movement of persons is further enshrined in Article 12 of the African Charter on Human and Peoples Rights (The African Charter) as a human right in accordance with international principles and norms. The African Commission on Human and Peoples Rights (ACHPR), also known as the Banjul Commission, has emphasised the significance of this right as integral to the furtherance of other human rights. In the case *Sudan Human Rights Organisation & Centre on Housing Rights and Evictions (COHRE) v. Sudan*, the ACHPR ruled that "Freedom of movement and residence are two sides of the same coin. States therefore have a duty to ensure that the exercise of these rights is not subjected to arbitrary restrictions."<sup>5</sup> In this regard, the notion of free movement of persons can be understood to be both an economic right for the benefit of enhancing the mobility of labour and services within Africa, and a human right for the protection of vulnerable populations by Member States of the African Union. In fact, the ACHPR included in this case that "the right to protection from displacement is derived from the right to freedom of movement and choice of residence contemplated in the African Charter and other international instruments" (section 189).<sup>6</sup>

The Protocol to the Treaty Establishing the African Economic Community Relating to Free Movement of Persons, Right of Residence and Right to Establishment (AU Free Movement of Persons Protocol) was adopted on 29th January 2018 to operationalise the provisions of the Abuja Treaty regarding the fifth phase of implementation, including the free movement of persons. The current status of the Protocol is 32 signatures out of 55 and 4 ratifications as of January 2025.<sup>7</sup> In contrast, the Agreement for the Establishment of the African Continental Free Trade Area (AfCFTA) was adopted in the same year as the AU

<sup>1</sup> Preamble to the Constitutive Act of the African Union adopted on the 11 July 2000 in Lome, Togo- [https://au.int/sites/default/files/pages/24873/file-constitutiveact\\_en.pdf](https://au.int/sites/default/files/pages/24873/file-constitutiveact_en.pdf)

<sup>2</sup> Article 4 of the Treaty Establishing the African Economic Community adopted on the 3 June 1991 in Abuja, Nigeria- [https://au.int/sites/default/files/treaties/37636/treaty-TREATY\\_ESTABLISHING\\_THE\\_AEC-compressed.pdf](https://au.int/sites/default/files/treaties/37636/treaty-TREATY_ESTABLISHING_THE_AEC-compressed.pdf)

<sup>3</sup> *Ibid*

<sup>4</sup> Report on the Implementation of Free Movement of Persons in Africa 2020- 2021 Specialised Technical Committee (STC) on Migration, Refugees and Displaced Persons- [https://au.int/sites/default/files/newsevents/reports/40515-tp-HHS62469\\_F\\_Original\\_REPORT\\_ON\\_THE\\_IMPLEMENTATION\\_OF\\_FREE\\_MOVEMENT\\_OF\\_PERSONS\\_IN\\_AFRICA.pdf](https://au.int/sites/default/files/newsevents/reports/40515-tp-HHS62469_F_Original_REPORT_ON_THE_IMPLEMENTATION_OF_FREE_MOVEMENT_OF_PERSONS_IN_AFRICA.pdf)

<sup>5</sup> *Sudan Human Rights Organisation & Centre on Housing Rights and Evictions (COHRE) v. Sudan*, 279(03-296/05, African Commission on Human and Peoples' Rights, May 2009, <https://www.refworld.org/docid/4c9a2e9e.html#p=189> (Section 189)

<sup>6</sup> *Ibid*

<sup>7</sup> List of countries which have signed, ratified/acceded to the PROTOCOL TO THE TREATY ESTABLISHING THE AFRICAN ECONOMIC COMMUNITY RELATING TO FREE MOVEMENT OF PERSONS, RIGHT OF RESIDENCE AND RIGHT OF ESTABLISHMENT, January 2018- [https://au.int/sites/default/files/treaties/36403/af-PROTOCOL\\_TO\\_THE\\_TREATY\\_ESTABLISHING\\_THE\\_AFRICAN\\_ECONOMIC\\_COMMUNITY\\_RELATING\\_TO\\_FREE\\_MOVEMENT\\_OF\\_PERSONS-1.pdf](https://au.int/sites/default/files/treaties/36403/af-PROTOCOL_TO_THE_TREATY_ESTABLISHING_THE_AFRICAN_ECONOMIC_COMMUNITY_RELATING_TO_FREE_MOVEMENT_OF_PERSONS-1.pdf)



Free Movement of Persons Protocol but was overwhelmingly ratified by the Member States and entered into force just a year later in 2019. As with all AU legal instruments, the AU Free Movement of Persons Protocol still requires 11 more ratifications to come into effect.

Despite the evidence demonstrating the benefits of free movement of persons on the continent, a majority of AU Member States across all the five regions of the Union have been reluctant to ratify the AU Free Movement of Persons Protocol for various reasons. Yet, a study commissioned by the AU Commission and the International Organisation for Migration (IOM) show that the socio-economic benefits of the free movement of persons in Africa outweigh the perceived challenges.<sup>8</sup> The AUC-IOM study on the benefits of the implementation of the Protocol are summarised as follows:

Firstly, the acceleration of economic integration through the facilitation of cross-border trade and investment; the enhancement of labour market efficiency through improved skills matching; the promotion of knowledge and technology transfer across countries; and the harmonisation of travel procedures that will open up intra-Africa travel and tourism and the increase in remittance flows. Secondly, the increase of cultural exchange through the advancement of greater understanding and cooperation among diverse African cultures, and consolidation of the Pan-African identity and solidarity. Thirdly, the human capital development of the continent through greater access to educational and training opportunities across borders; the enhancement of cross-sectoral skills acquisition and professional development; the mitigation of brain-drain outside Africa, and the increases brain circulation through knowledge sharing and innovation. Fourthly, the free movement of persons will boost the economic competitiveness of Africa through the creation of job opportunities for youth and the expansion of economic activities across the AfCFTA. Last but not least, the increase in the protection of the rights and assistance provided to forcibly displaced populations, including refugees and Internally Displaced Persons (IDPs), as well as improve the integration of such vulnerable groups.<sup>10</sup>

The findings of this research confirm that AU Member States are abreast with the benefits of free movement of persons as a tool for the socio-economic integration of Africa. However, the ratification of the AU Free Movement of Persons Protocol is not a priority for most of them. The research data indicates that for many African countries, the free movement of persons poses a significant security threat to national sovereignty, including exposure to terrorism and violent extremism, the potential disruption to social cohesion as a result of increased competition for resources or cultural differences, increased criminal activity, and strain on national resources and service provision to its citizens. In addition, the main concern of some countries is the prevalence of economic disparities among AU States. The countries that are relatively wealthier and growing are concerned about the influx of people from poorer states where this may cause increased pressure on public service and the creation of a larger informal economy. Moreover, there is tension between national sovereignty versus regional integration. Some Member States have pointed to the fact that there is already free movement of persons at the regional level, as in the cases of ECOWAS (Economic Community of West African States) and EAC (East African Community) subregions. As a result, there has been the suggestion to work on the free movements at the RECs (Regional Economic Communities) level, which will eventually be integrated continentally. The reasoning is that once the regions or RECs are fully integrated, then it will be easier to have the free movement of persons at the continental level.<sup>11</sup>

<sup>8</sup>The Study of the Benefits and Challenges on Free Movement of Persons in Africa: A Study Commissioned by the AUC and IOM, 2018- [https://ethiopia.iom.int/sites/g/files/tmrbdl996/files/documents/OM%20free%20movement%20of%20africa%20WEB\\_FINAL\\_0.pdf](https://ethiopia.iom.int/sites/g/files/tmrbdl996/files/documents/OM%20free%20movement%20of%20africa%20WEB_FINAL_0.pdf)

<sup>9</sup> United Nations Economic Commission for Africa (UNECA), "Free Movement of People, a Catalyst for Trade", May 2023- <https://www.unece.org/stories/free-movement-of-people%20Ca-catalyst-for-trade>

<sup>10</sup>Tamara Wood, "The Role Free Movement of Persons Agreements in Addressing Disaster Displacements: A Study on Africa," May 2019- [https://disasterdisplacement.org/wp-content/uploads/2019/06/52846\\_PDD\\_FreeMovement\\_web-single\\_compressed.pdf](https://disasterdisplacement.org/wp-content/uploads/2019/06/52846_PDD_FreeMovement_web-single_compressed.pdf)

<sup>11</sup> Report on the Implementation of Free Movement of Persons in Africa 2020- 2021 Specialised Technical Committee (STC) on Migration, Refugees and Displaced Persons- [https://au.int/sites/default/files/documents/36205-doc-50th\\_anniversary\\_solemn\\_declaration\\_en.pdf](https://au.int/sites/default/files/documents/36205-doc-50th_anniversary_solemn_declaration_en.pdf)  
[https://au.int/sites/default/files/news-events/reports/49519-rp-HHS62469\\_E\\_Original\\_REPORT\\_ON\\_THE\\_IMPLEMENTATION\\_OF\\_FREE\\_MOVEMENT\\_OF\\_PERSONS\\_IN\\_AFRICA.pdf](https://au.int/sites/default/files/news-events/reports/49519-rp-HHS62469_E_Original_REPORT_ON_THE_IMPLEMENTATION_OF_FREE_MOVEMENT_OF_PERSONS_IN_AFRICA.pdf)

## BACKGROUND AND CONTEXT

### THE CHARTER OF THE ORGANISATION OF AFRICAN UNITY

The history of Africa is shaped by human mobility and migration – from its culture, languages, arts, and trade, etc. – predating the 1884-1885 Berlin Conference that divided Africa into nation-states amongst the European powers, and as a result, created artificial and arbitrary borders that divided African peoples and communities. The decolonisation of Africa and the struggle for independence of African States and the freedom of its people was a common theme during the First Organisation of African Unity (OAU) Summit convened in Addis Ababa, Ethiopia in May 1963. In his welcome address, His Imperial Majesty Haile Selassie I, Emperor of Ethiopia, remarked:

The events of the past hundred and fifty years require no extended recitation from us. The period of colonialism into which we were plunged culminated with our continent fettered and bound; with our once proud and free peoples reduced to humiliation and slavery; with **Africa's terrain cross-hatched and checker-boarded by artificial and arbitrary boundaries...** Africa was a physical resource to be exploited and Africans were chattels to be purchased bodily or, at best, peoples to be reduced to vassalage and lackey hood. Africa was the market for the produce of other nations and the source of the raw materials with which their factories were fed.

Today, we look to the future calmly, confidently and courageously. **We look to the vision of an Africa not merely free but united.** In facing this new challenge, we can take comfort and encouragement from the lessons of the past. We know that there are differences among us. Africans enjoy different cultures, distinctive values, special attributes. But we also know that unity can be and has been attained among men of the most disparate origins, that differences of race, of religion, of culture, of tradition, are no insuperable obstacle to the coming together of peoples.<sup>12</sup>

The Founding Fathers of the OAU believed that unity of Africa depended on the socio-economic emancipation of the continent from colonialism and neo-colonialism. For them, "African Unity means all the forces of the continent united for the total liberation of the continent; African Unity means the pooling of all our economic resources for our material well-being; African Unity is also the restitution of all moral and cultural values" (H.E. Francois Tombalbaye, President of the Republic of Chad).<sup>13</sup> Thus, African liberation called for both a political and economic union.

<sup>12</sup> Speeches & Statements Made at the First Organisation of African Unity (OAU) Summit, May 1963- [https://au.int/sites/default/files/speeches/98623-sp-oau\\_summit\\_may\\_1963\\_speeches.pdf](https://au.int/sites/default/files/speeches/98623-sp-oau_summit_may_1963_speeches.pdf)  
<sup>13</sup> Ibid.

The beneficiary of African unity was the African Citizen, a notion that was introduced but yet to be defined. In this regard, H.E. Dr. Kwame Nkrumah, President of Ghana, reminded the delegates at the First OAU Summit that:

When the first Congress of the United States met many years ago at Philadelphia one of the delegates sounded the first chore of unity by declaring that they had met in “**a state of nature.**” In other words, they were not in Philadelphia as Virginians, or Pennsylvanians, but simply as Americans. This reference to themselves as Americans was in those days a new and strange experience. May I dare to assert equally on this occasion, Your Excellencies that we meet here today not as Ghanaians, Guineans, Egyptians, Algerians, Moroccans, Malians, Liberians, Congolese or Nigerians but as Africans.<sup>14</sup>

Therefore, the objectives of the OAU as stated in Article II of the Charter were, *inter alia*, “to promote the unity and solidarity of the African States,” “to eradicate all forms of colonialism from Africa,” “to promote international cooperation, having due regard to the Charter of the United Nations and the Universal Declaration of Human Rights,” and “to coordinate and intensify their cooperation and efforts to achieve a better life for the peoples of Africa.”<sup>15</sup> These aspirations were rooted in the spirit of Pan-Africanism that looked beyond the political integration of Africa, but further to its socio-economic integration, so as to consolidate the independence of its member states and uplift the living standards of the citizens of Africa.

As an integral part of the continental integration agenda, the free movement of persons has been a fundamental objective of African continental and regional integration agendas, central to the development of Africa. To demonstrate the imperative of free movement of persons for continental integration, and especially for the effective achievement of economic integration the OAU adopted the Treaty Establishing the African Economic Community (Abuja Treaty) in June 1991 as a blueprint for the establishment of the building blocks for the progressive integration of the continent.

Although the word “integration” was not mentioned in the objectives of the OAU Charter, the language of the text and the debates preceding the adoption of the Charter indicate that the OAU desired unity, cooperation, and integration in the continent, and the utilisation of these as a means to improve the lives and livelihood of Africans. Consequently, the intended purpose of the OAU was a broad and holistic form of integration, viz. economic integration, as opposed to mere international cooperation.<sup>16</sup>

<sup>14</sup> Ibid

<sup>15</sup> Charter of the Organisation of African Unity, May 1963- <https://treaties.un.org/doc/Publication/UNTS/Volume%20479/volume-479-I-6947-English.pdf>

<sup>16</sup> Shumba W “Towards the African Economic Community: Legal and Historical Perspectives” PER / PELJ 2023(26)- DOI <http://dx.doi.org/10.17159/1727-3781/2023v26/a15603>, page 4

## THE ABUJA TREATY

The Treaty Establishing the African Economic Community (Abuja Treaty) was adopted in Abuja, Nigeria, on 3rd June 1991 and came into effect on 12th May 1994. The Abuja Treaty is one of the most fully ratified of the African Union (AU) treaties with 54 Member States having signed it, while 50 had ratified it as of to date<sup>17</sup>

The establishment of an African Economic Community (AEC), forming an integral part of the OAU, *inter alia*, was “to promote economic, social and cultural development and the integration of African economies in order to increase economic self-reliance and promote an endogenous and self-sustained development,”<sup>18</sup> and “to promote cooperation in all fields of human endeavour in order to raise the standard of living of African peoples, and maintain and enhance economic stability, foster close and peaceful relations among Member States and contribute to the progress, development and the economic integration of the Continent,”<sup>19</sup> in adherence to the principles of recognition, promotion and protection of human and peoples’ rights in accordance with the provisions of the African Charter on Human and Peoples’ Rights.

Pursuant to Article 4 (2) of the Abuja Treaty, in order to promote the attainment of the objectives of the AEC, the Community shall, by stages, ensure:

- (a) The strengthening of existing regional economic communities and the establishment of other communities where they do not exist;
- (e) The harmonisation of national policies in order to promote Community activities, particularly in the fields of agriculture, industry, transport and communications, energy, natural resources, trade, money and finance, human resources, education, culture, science and technology; and
- (i) The gradual removal, among Member States, of obstacles to the free movement of persons, goods, services and capital and the right of residence and establishment.

As noted above, Article 4 of the Abuja Treaty institutionalised the concept of the free movement of persons in Africa, although it predates the establishment of the OAU in 1963, having been a key factor in earlier nationalist movements across the continent, and is closely linked to the regional integration process as implied in subsection (a).<sup>20</sup> Furthermore, the notion of the African citizen as a beneficiary of political and economic integration implies enhanced mobility of Africans across the continent with the dismantling of border restrictions and the free movement of goods and services and labour.

Article 6 of the Treaty outlines the modalities of the establishment of the AEC, envisaged as a gradual process in six (6) stages of variable duration over a transitional period not exceeding thirty-four (34) years. Continental economic integration had two components: on the one hand, the establishment of the Africa Continental Free Trade Area (African Common Market); and on the other, the Free Movement of Persons.

<sup>17</sup> List of Countries which have signed, ratified/acceded to the TREATY ESTABLISHING THE AFRICAN ECONOMIC COMMUNITY, May 1994 - [https://au.int/sites/default/files/treaties/37636-sl-TREATY\\_ESTABLISHING\\_THE\\_AFRICAN\\_ECONOMIC\\_COMMUNITY.pdf](https://au.int/sites/default/files/treaties/37636-sl-TREATY_ESTABLISHING_THE_AFRICAN_ECONOMIC_COMMUNITY.pdf)

<sup>18</sup> Article 4(1)(a) of the Abuja Treaty

<sup>19</sup> Article 4(1)(c) of the Abuja Treaty

<sup>20</sup> African Union Continental Free Movement of Persons Protocol: Implications for Migration Governance in Africa, April 2017 [https://www.iom.int/sites/gd/files/rmrzbd468/files/2019-01/6-20-10%20-%20African%20Union%20Continental%20free%20movement%20of%20persons\\_0.pdf\\_page\\_1](https://www.iom.int/sites/gd/files/rmrzbd468/files/2019-01/6-20-10%20-%20African%20Union%20Continental%20free%20movement%20of%20persons_0.pdf_page_1)

Free movement of persons was to be operationalised in the fifth stage during the establishment of an African Common Market through, *inter alia*, “the application of the principle of free movement of persons as well as the provisions herein regarding the rights of residence and establishment.”<sup>21</sup> The operationalisation of the free movement of persons is not an end in itself, but rather a means to achieve the wider aim of continental integration. The free mobility of capital, goods, services, and labour is critical for the reduction in socio-economic inequalities and the protection of human rights of Africans, especially those migrating to other countries. The right to migrate is enshrined in international human rights law, as well as the African Charter on Human and Peoples Rights.<sup>22</sup>

In this regard, Chapter VI of the Abuja Treaty provided for “Member States agree to adopt, individually, at bilateral or regional levels, the necessary measures, in order to achieve progressively the free movement of persons, and to ensure the enjoyment of the right of residence and the right of establishment by their nationals within the Community, and for this purpose, Member States agree to conclude a Protocol on the Free Movement of Persons, Right of Residence and Right of Establishment.”<sup>23</sup>

## THE LINKAGES OF FREE MOVEMENT OF PERSONS TO CONTINENTAL INTEGRATION

African economies and people have traditionally been dependent on migration and cross-border mobility, which continue to be a means of economic survival and a source of livelihood for many African people. As a result, the free movement of persons has been a key objective of African continental and regional integration agendas, central to the development of Africa.<sup>24</sup> The implementation of free movement of persons is an enabler of Africa’s economic integration through the promotion of labour mobility, fostering of regional and continental trade, and facilitating human capital development, as well as increasing the competitiveness of Africa in the global arena. When intra-African mobility is improved, this will promote business connections and collaborations. Consequently, entrepreneurs can establish businesses in other African countries, leading to increased cross-border trade and investment, leading to better access to larger markets and boosting economies of scale.

As aforementioned, the free movement of persons will lead to human capital development, a particularly important endeavour for the continent. Similarly to other regions, such as the EU, when students and professionals are able to study, train, and work in different countries, it strengthens the overall labour force. In order to make Africa’s economies more competitive, regional institutions can collaborate to address educational and skills gaps by setting common standards, allowing skilled individuals to find opportunities across the continent. Free movement allows people to move across the continent for better economic opportunities, reducing the pressure on struggling economies and providing a steady supply of labour to growing industries, reducing unemployment and poverty, contributing to broader economic stability and growth.

<sup>21</sup> Article 6(2)(e)(iii) of the Abuja Treaty

<sup>22</sup> Article 12 of the African Charter of Human and Peoples Rights

<sup>23</sup> Article 43 (1) and (2) of the Abuja Treaty

<sup>24</sup> Free movement of persons for trade: towards an accelerated ratification of the African Union Protocol to the Treaty Establishing the African Economic Community Relating to Free Movement of Persons, Right of Residence and Right of Establishment, in support of the implementation of the African Continental Free Trade Area’ (2023) Policy Research Paper, October 2023 - <https://repository.uneca.org/handle/10865/50018>

## THE LINKAGES OF FREE MOVEMENT OF PERSONS AND THE PROTECTION OF THE RIGHTS OF VULNERABLE POPULATIONS

Article 12 of the African Charter on Human and Peoples Rights (African Charter)<sup>25</sup> enshrines the right to free movement of persons as a fundamental human right. Article 12(1) reads as follows:

**“ Every individual shall have the right to freedom of movement and residence within the borders of a State provided he abides by the law.**

The right to the freedom of movement is also enshrined in the Constitutions of all AU Member States.<sup>28</sup> Furthermore, the following AU legal instruments protect the right to freedom of movement and residence, i.e. the 2006 African Youth Charter; the 2009 African Union Convention for the Protection and Assistance of Internally Displaced Persons; the 2018 Protocol to the African Charter on Human and Peoples' Rights on the Rights of Persons with Disabilities.<sup>27</sup>

The African Commission on Human and Peoples Rights (ACHPR), also known as the Banjul Commission, in its decision in *Sudan Human Rights Organisation and Another v Sudan* has said that freedom of movement and residence is “two sides of the same coin,” indicating that it is imperative for states to ensure that the exercise of these rights is not subjected to restrictions.<sup>28</sup> Furthermore, in 2019, the ACHPR in its General Comment No. 5 on the African Charter on Human and Peoples Rights: The Right to Freedom of Movement and Residence (Article 12(1)) observed that “this right is imperative to advance other human rights, including the rights to freedom of association, family, education and work.”<sup>29</sup> It further provides guidance on the protection of the right to freedom of movement and its content in relation to different categories of persons including refugees and internally displaced persons (IDPs). According to the ACHPR, the right to freedom of movement and residence intersects with other civil, political, socio-economic and cultural rights, and is an indispensable condition for the exercise of human development.

The Banjul Commission has clearly stated that “States have the primary duty to protect and ensure the protection of the right to freedom of movement and residence provided for under Article 12(1) of the African Charter. States must take measures to respect, protect, promote and fulfil that right. States are responsible for the violation of the right by their public organs including the police, armed forces, state security officials, national agencies and authorities at various tiers of government. Overall, the right to freedom of movement and residence, also recognised in national constitutions, require states to eliminate impediments to the exercise of freedom of movement. It is imperative that states recognise the importance of the duty to ensure this right and provide protection for various categories of persons within the state.”<sup>30</sup>

<sup>28</sup> *Ibid.*, para. 5

<sup>29</sup> *Ibid.*, para 1

<sup>30</sup> *Ibid.*, para 24 and 25



# PROTOCOL TO THE TREATY ESTABLISHING THE AFRICA ECONOMIC COMMUNITY RELATING TO FREE MOVEMENT OF PERSONS, RIGHT OF RESIDENCE AND RIGHT TO ESTABLISHMENT

## (Free Movement Protocol)

The Protocol to the Treaty Establishing the African Economic Community Relating to Free Movement of Persons, Right of Residence and Right to Establishment (AU Free Movement of Persons Protocol)<sup>31</sup> was adopted by the Heads of State and Government of the African Union at the 30th Ordinary Session of the Assembly of the Union held in Addis Ababa, Ethiopia, on 29th January 2018, after 27 years of the adoption of the Abuja Treaty, and is yet to have the required ratification to enter into force. The current status of the Free Movement Protocol is 32 signatures out of 55 and 4 ratifications as of January 2025.<sup>32</sup>

The significance of this legal instrument as a milestone towards the aspirations of the African Continental integration agenda as envisaged by the Founding Fathers of the OAU (now the AU) cannot be overstated. The purpose of the Free Movement Protocol is to put into effect the commitment of Member States “to conclude a Protocol on the Free Movement of Persons, Right of Residence and Right of Establishment.” The Protocol is, *inter alia*, based on the AU’s shared values which promote the protection of human and people’s rights as provided in the Universal Declaration of Human Rights of 1948 and the African Charter on Human and Peoples Rights. This guarantees the right of an individual to freedom of movement and residence, and by its common vision for “an integrated, people-centered and politically united continent and our commitment to free movement of people, goods and services amongst the Member States as an enduring dedication to Pan-Africanism and African integration as reflected in Aspiration 2 of the African Union Agenda 2063.”<sup>33</sup>

The AU Free Movement of Persons Protocol envisages that the free movement of persons, capital, goods and services will promote integration and Pan-Africanism. It aims to enhance science, technology, education and research while promoting tourism and facilitating intra-Africa trade and investment. Additionally, it seeks to increase remittances within Africa, promote labour mobility, create employment, and improve the standards of living of the people of Africa. The Protocol supports the mobilisation and utilisation of the human and material resources of Africa in order to achieve self-reliance and development. Furthermore, it reaffirms the African identity and the institution of the African citizenship as expressed in the Solemn

<sup>31</sup> List of countries which have signed, ratified/acceded to the PROTOCOL TO THE TREATY ESTABLISHING THE AFRICAN ECONOMIC COMMUNITY RELATING TO FREE MOVEMENT OF PERSONS, RIGHT OF RESIDENCE AND RIGHT OF ESTABLISHMENT, January 2018-  
[https://au.int/sites/default/files/treaties/36403-treaty-protocol-on-free\\_movement\\_of\\_persons\\_in\\_africa\\_e.pdf](https://au.int/sites/default/files/treaties/36403-treaty-protocol-on-free_movement_of_persons_in_africa_e.pdf)

<sup>32</sup> *Ibid.*

<sup>33</sup> Preamble to the Protocol on Free Movement of Persons in Africa



Declaration of the 50th Anniversary adopted by the 21st Ordinary Session of the Assembly of Heads of State and Government held in Addis Ababa on 23rd May 2013<sup>34</sup> being “mindful of the decision of the Assembly adopted in July, 2016 in Kigali, Rwanda (Assembly/AU/Dec.607(XXVII)) welcoming the launch of the African Passport and urging Member States to adopt the African Passport and to work closely with the African Union Commission to facilitate the processes towards its issuance at the citizen level based on international, continental and citizen policy provisions and continental design and specifications.”<sup>35</sup>

## PROGRESSIVE IMPLEMENTATION OF FREE MOVEMENT

Article 2 of the Free Movement of Persons Protocol (FMP) declares that the objective of this Protocol is to facilitate the implementation of the Treaty Establishing the African Economic Community by providing for the progressive implementation of free movement of persons, right of residence and right of establishment in Africa<sup>36</sup> Article 5 outlines that progressive realisation of the Protocol in three (3) phases as follows:

*Table 1: Phases of Implementation of AU Free Movement of Persons Protocol*

PHASES	IMPLEMENTATION
Phase 1	States Parties shall implement the right of entry and abolition of visa requirements
Phase 2	States Parties shall implement the right of residence
Phase 3	States Parties shall implement the right of establishment
* A Roadmap was annexed to the Protocol as a guideline	

**“Free movement of persons” is defined in Article 1 as “the right of nationals of a Member State to move freely and, reside in another Member State in accordance with the laws of the host Member State and to exit the host Member State in accordance with the laws and procedures for exiting that Member State.”**

<sup>34</sup> Africa Union 50th Anniversary Solemn Declaration, June, 2020- [https://au.int/sites/default/files/documents/66205-doc-50th\\_anniversary\\_solemn\\_declaration\\_en.pdf](https://au.int/sites/default/files/documents/66205-doc-50th_anniversary_solemn_declaration_en.pdf)

<sup>35</sup> Preamble to the Protocol on Free Movement of Persons in Africa

<sup>36</sup> Article 2 of the Protocol on Free Movement of Persons in Africa

## RIGHTS GUARANTEED UNDER THE FREE MOVEMENT PROTOCOL

The Free Movement of Persons Protocol affords three rights to nationals of Member States, i.e. (a) the Right of Entry; (b) the Right of Residence; and (c) the Right of Establishment. Each of these rights are further defined as follows:

**(I) “Right of entry”** means the right of a national of a Member State to enter and move freely in another Member State in accordance with the laws of the host Member State;

**(II) “Right of establishment”** means the right of a national of a Member State to take up and pursue the economic activities specified in Article 17(2), in the territory of another Member State; and

**(III) “Right of residence”** means the right of a national of one Member State to reside and seek employment in another Member State other than their Member State of origin; in accordance with the national law of the host Member State.

The enjoyment of these rights must align with the principles outlined in Article 4 of the Constitutive Act, Article 12 of the African Charter. These principles include non-discrimination, respect for laws and policies on the protection of national security, public order, public health, the environment, and any other factors that would be detrimental to the host State. Additionally, transparency must be upheld, and these rights are subjected to the national laws of the Member State.

The Free Movement of Persons in Africa and the African Passport is a flagship programme of the African Union’s Agenda 2063. Under Aspiration 2, Free Movement of Persons in Africa is a tool for harnessing regional connectedness, integration, broader trade, labour migration, and sustainable development. The vision is that by 2063, Africa shall be a continent with seamless borders, where cross-border resources are managed through dialogue, and free movement of people, capital, goods and services among African countries will result in significant increases in trade and investments, further strengthening Africa’s place in global trade.<sup>37</sup>

<sup>37</sup> Report on the Implementation of Free Movement of Persons in Africa 2020-2021 Specialised Technical Committee (STC) on Migration, Refugees and Displaced Persons - [https://au.int/sites/default/files/news\\_events/reports/40615-en-HHS62489\\_E\\_Original\\_BE-PORT\\_ON\\_THE\\_IMPLEMENTATION\\_OF\\_FREE\\_MOVEMENT\\_OF\\_PERSONS\\_IN\\_AFRICA.pdf](https://au.int/sites/default/files/news_events/reports/40615-en-HHS62489_E_Original_BE-PORT_ON_THE_IMPLEMENTATION_OF_FREE_MOVEMENT_OF_PERSONS_IN_AFRICA.pdf)

## STATUS OF THE PROTOCOL AS OF OCTOBER 2024

The status of the Free Movement of Persons Protocol as of October 2024 is 32 signatures and 4 ratifications (See Annex I). The table below is a breakdown of ratifications by regions:

*Table 2: Current Status of Ratifications by Regions*

REGION	SIGNED	NOT SIGNED	RATIFIED	NOT RATIFIED	TOTAL
CENTRAL	8	2	1	9	10
EASTERN	9	5	1	13	14
NORTHERN	0	7	0	7	7
SOUTHERN	4	5	0	9	9
WESTERN	11	4	2	13	15
	<b>32</b>	<b>23</b>	<b>4</b>	<b>51</b>	<b>55</b>
	<b>58%</b>	<b>42%</b>	<b>7%</b>	<b>93%</b>	

From the data above, 23 countries (42%) are yet to sign the Protocol as compared with 54 signatories for the AfCFTA. During the interview with the Permanent Representative of Member States in Addis Ababa, most representatives were not aware that their countries had not yet signed the Protocol. Proportionally, the Northern and Southern Region countries have the least signatures and ratifications. The Northern region scores 100 percent in non-signatories and non-ratifications.

For the Protocol to enter into effect, it needs to be ratified by 15 countries. Therefore, as it currently stand, the Protocol requires 11 more ratifications to come into force.

*Table 3: Countries that Have Ratified the AU Protocol*

COUNTRY	DATE OF SIGNATURE	DATE OF RATIFICATION	DATE DEPOSITED	REGION
MALI	21/03/2018	03/05/2019	29/05/2019	West
NIGER	21/03/2018	05/07/2019	08/07/2019	West
RWANDA	21/03/2018	25/05/2018	26/05/2018	East
SAO TOME & PRINCIPE	21/03/2018	28/05/2019	27/06/2019	Central

The four (4) countries that have ratified the Protocol are Mali, Niger, Rwanda, and Sao Tome & Principe.

## ANALYSIS OF SIGNATURES AND RATIFICATIONS BY COUNTRIES

Here are the analysis of the signatures and ratifications by regions. These are countries that have not yet signed or ratified the Protocol.

*Table 4: Status of non-Ratification – Central Region*

COUNTRY	DATE OF SIGNATURE	DATE OF RATIFICATION	DATE DEPOSITED
ANGOLA	21/03/2018	-	-
BURUNDI	-	-	-
CAMEROON	-	-	-
CENTRAL AFRICAN REP.	21/03/2018	-	-
CHAD	21/03/2018	-	-
CONGO	21/03/2018	-	-
DEMOCRATIC REP. OF CONGO	21/03/2018	-	-
EQUATORIAL GUINEA	21/03/2018	-	-
GABON	21/03/2018	-	-

*Table 5: Status of non-Ratification – Eastern Region*

COUNTRY	DATE OF SIGNATURE	DATE OF RATIFICATION	DATE DEPOSITED
COMOROS	21/03/2018	-	-
DJIBOUTI	21/03/2018	-	-
ERITREA	-	-	-
ETHIOPIA	-	-	-
KENYA	21/03/2018	-	-
MADAGASCAR	-	-	-
MAURITIUS	-	-	-
SEYCHELLES	-	-	-
SOMALIA	21/03/2018	-	-
SOUTH SUDAN	21/03/2018	-	-
SUDAN	21/03/2018	-	-
TANZANIA	21/03/2018	-	-
UGANDA	21/03/2018	-	-

*Table 6: Status of non-Ratification – Northern Region*

COUNTRY	DATE OF SIGNATURE	DATE OF RATIFICATION	DATE DEPOSITED
ALGERIA	-	-	-
EGYPT	-	-	-
LIBYA	-	-	-
MOROCCO	-	-	-
MAURITANIA	-	-	-
SAHRAWI ARAB DEMOCRATIC REPUBLIC	-	-	-
TUNISIA	-	-	-

*Table 7: Status of non-Ratification – Southern Region*

COUNTRY	DATE OF SIGNATURE	DATE OF RATIFICATION	DATE DEPOSITED
BOTSWANA	-	-	-
LESOTHO	21/03/2018	-	-
MALAWI	21/03/2018	-	-
MOZAMBIQUE	21/03/2018	-	-
NAMIBIA	-	-	-
SOUTH AFRICA	-	-	-
ESWATINI	-	-	-
ZAMBIA	-	-	-
ZIMBABWE	21/03/2018	-	-

*Table 8: Status of non-Ratification – Western Region*

COUNTRY	DATE OF SIGNATURE	DATE OF RATIFICATION	DATE DEPOSITED
BENIN	-	-	-
BURKINA FASO	21/03/2018	-	-
CAPEVERDE	-	-	-
CÔTE D'IVOIRE	18/04/2018	-	-
GAMBIA	21/03/2018	-	-
GHANA	21/03/2018	-	-
GUINEA-BISSAU	-	-	-
GUINEA	21/03/2018	-	-
LIBERIA	21/03/2018	-	-
NIGERIA	-	-	-
SENEGAL	21/03/2018	-	-
SIERRA LEONE	01/07/2018	-	-
TOGO	21/03/2018	-	-

As indicated previously, only 32 out of 55 AU Member States have signed the Free Movement of Persons Protocol, with only 4 ratifications. This means that 6 years after the adoption of the Protocol, nearly 93% of Member States are yet to ratify it, and 11 more ratifications are required for it to come into effect. On the contrary, the Agreement Establishing the African Continental Free Trade Area (AfCFTA), which was adopted on 21st March 2018 and entered into force on 30th May 2019 has received 54 signatories and 47 ratifications. Furthermore, any discussions on the Free Movement of Persons Protocol have met resistance from certain Member States. This notwithstanding, certain Regional Economic Communities (RECs) have progressed successfully in implementing the free movement of persons in their respective regions, especially in the ECOWAS and EAC.

Nonetheless, the analysis of the above data does not represent the whole picture or tell an accurate story in regards to the implementation of free movement of persons across the continent. Countries in ECOWAS and EAC enjoy much more freedom of movement within their respective regions, despite the fact that most of the countries in these RECs have not yet ratified the Free Movement of Persons Protocol. ECOWAS and EAC have adopted Protocols on Free Movement of Persons in their respective RECs. A detailed analysis of the implementation of Free Movement of Persons in Africa will be considered in the following section.



## IMPLEMENTATION OF FREE MOVEMENT OF PERSONS IN AFRICA

The status of the implementation of the free movement of persons in Africa varies across the five different regions and RECs. While there has been significant progress in some RECs, others face challenges that have delayed the full implementation of free movement.

On the one hand, to date, continental free movement of persons is still a long distant dream. On the other hand, according to the recent Africa Visa Openness Index (AVOI) data published in December 2023, visa openness index achieved its highest score in 2023, surpassing levels last seen prior to the Covid-19 pandemic.<sup>39</sup> Despite the reluctance and the slow process of the ratification of the Free Movement of Persons Protocol, data from the 2023 Africa Visa Openness Report indicated that African countries recorded their highest average AVOI score measured since 2016, which suggests that the visa policy restrictions imposed by the continent during the pandemic years have been fully reversed, and Africa is poised to open its borders further to the movement of persons.<sup>40</sup>

The analysis of the data on visa openness in Africa in 2023 is as follows.

**48 out of 54**

(i.e. 89% of all African countries) provided visa-free entry privileges to the citizens of at least one other country, and of the remaining 6 countries, four rank in the top 20 of this year's AVOI because they offer a visa on arrival to the citizens of all other African countries



**30**

countries offer a visa on arrival to the citizens of at least one other African state

**33 out of 54**

countries offer visa-free travel to at least 10 other

**12**

countries offer a visa on arrival to the citizens of at least 35 other African countries. The same 12 only require a visa ahead of travel from the citizens of nine African countries. 30 countries still require the citizens of more than half the states on the continent to obtain a visa ahead of travel

**24**

countries ease travel by offering visitors an e-visa

**4**

countries offer visa-free entry to the citizens of the rest of the continent, up from three in the previous year. These are Rwanda, Benin, the Gambia, and Seychelles. In 2024, Kenya removed all visa restrictions for African citizens traveling into the state

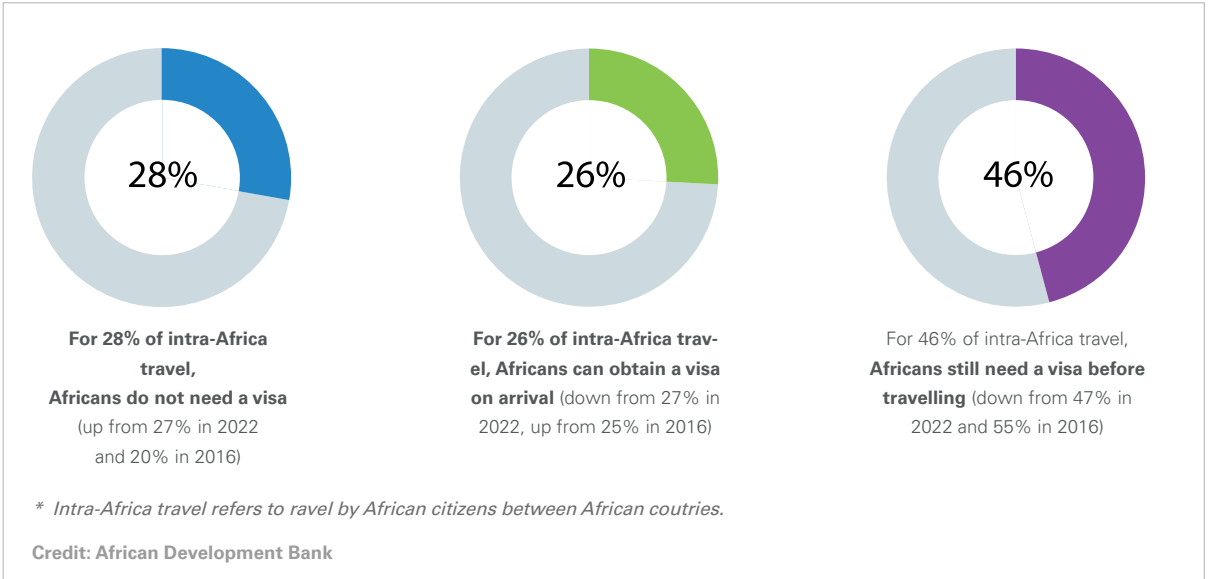


**44**

countries require the citizens from at least one other country on the continent to obtain a visa ahead of travel

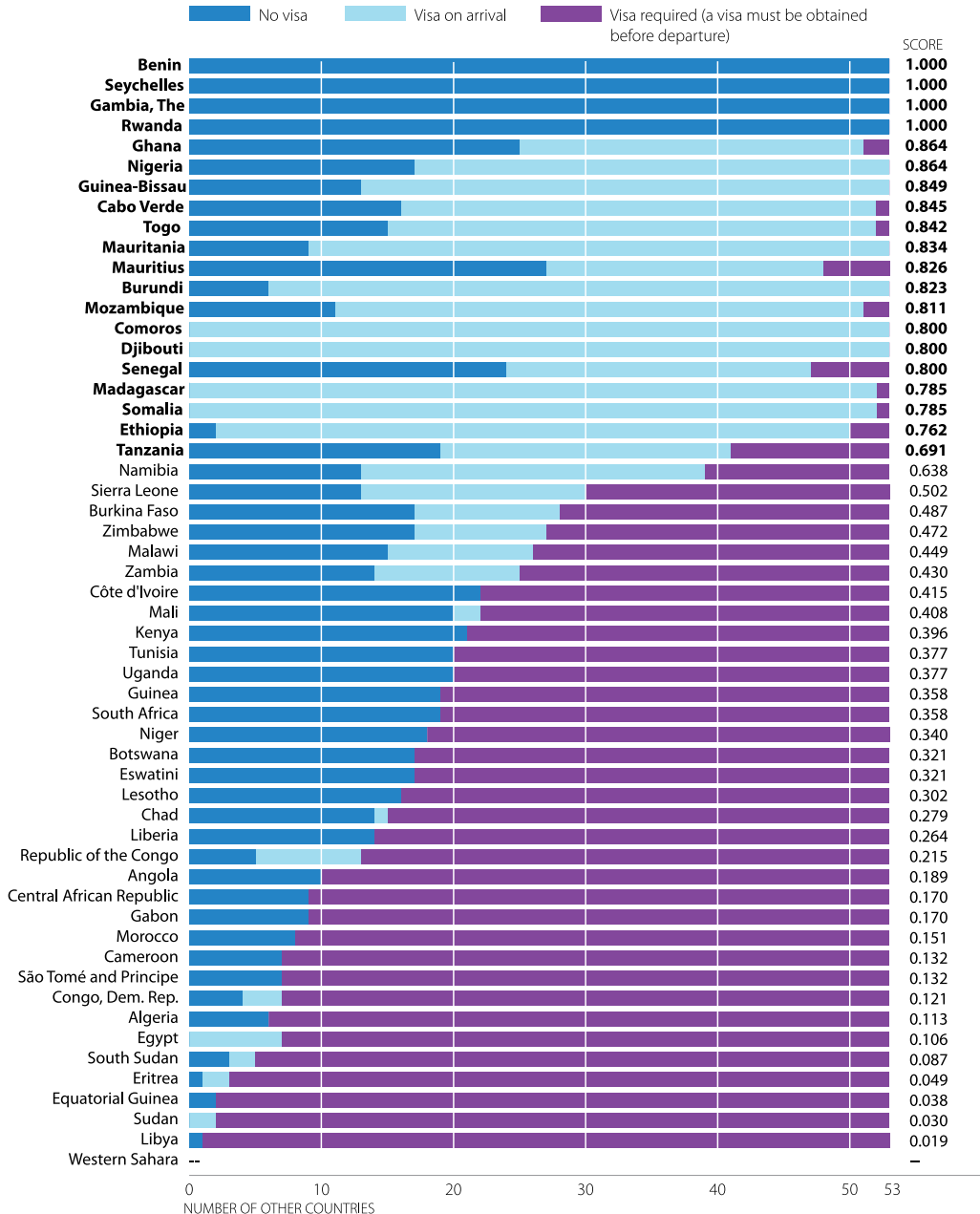


Figure 1: The ease of Intra-African travel in 2023



The table below shows the full list of African countries, and the types of visa regimes offered by AU Member States:

Figure 2: List of Visa Regimes by Countries in Africa in 2023



Scores range from 0–1 (highest)

Source: African Development Bank calculations based on IATA data, July–August 2023

Therefore, despite the fact that the ratification of the Free Movement of Persons Protocol has stagnated, the realisation of continental free movement of persons is taking place at the subregional levels and bilaterally among African countries.

## FREE MOVEMENT OF PERSONS AT THE REGIONAL LEVEL

The eight RECs play a critical role in the progressive attainment of free movement of persons through the adoption and implementation of several initiatives at the regional level. The free movement of persons is a fundamental principle present in all the founding treaties of the RECs. Some RECs have made significant progress in implementing border opening agreements, while others are still facing implementation challenges. It is generally agreed that the RECs that have made considerable progress in implementing the free movement of persons are ECOWAS and EAC.

To fully grasp the continental free movement agenda, it is essential to examine the RECs, which serve as the foundational pillars of integration as envisaged in the Abuja Treaty. Outlined below is the status of implementation of free movement of persons at the level of the RECS:

### I. ARAB MAGHREB UNION (AMU)

The AMU is comprised of five North Africa countries<sup>41</sup> and was founded in 1989 with the objective of fostering regional integration, alongside reinforcing the bonds of fraternity and progressively achieving free movement of persons. AMU has not adopted a specific protocol relating to the free movement of persons, although free movement is included in its founding treaty.<sup>42</sup> This subregion is the least integrated in terms of freedom of movement of persons as a consequence of recurrent political divisions and conflicts among Member States. However, Tunisia stands out as the only country in the region that allows free entry to citizens of AMU Member States.

Generally, North African countries have complex visa arrangements due to their proximity to Europe and the historical ties with countries in the Mediterranean. Most North African countries impose stricter visa policies, particularly with countries south of the Sahara, but offer more flexible arrangements with other North African and Arab nations. According to the Africa Visa Openness Index (AVOI) Progress Report 2023, countries in the AMU subregion have the lowest visa openness score compared to other African countries. However, with a visa-free reciprocity score of 60%, AMU ranks in the upper half of RECs in terms of member countries allowing each other's citizens visa-free entry. Libya remains the least accessible to free movement of persons for citizens of AMU Member States and other Africans.<sup>43</sup>

<sup>41</sup> AMU Member States: Algeria, Libya, Mauritania, Morocco, and Tunisia

<sup>42</sup> Article 2 of the Treaty Establishing the Arab Maghreb Union

<sup>43</sup> The Africa Visa Openness Index 2023, 35

## II. COMMUNITY OF SAHEL-SAHARAN STATES (CEN-SAD)

The CEN-SAD<sup>44</sup> was founded in 1998, and it is the largest regional community as well as most diverse in terms of AU regional representation, with 24 Member States across Northern, Western and Eastern Africa. CEN-SAD does not have a standalone protocol relating to the free movement of persons, however, this is provided for in Article 3(f) of the revised treaty of the REC, which establishes that free movement of people is a core objective of the Community, and that the same rights, advantages and obligations granted to a Member State's own citizens should be applied to nationals of other Member States. Although progress in the implementation of free movement in the region has been slow, due in part to the regional diversity of CEN-SAD countries, a majority of Member States (two-thirds or 67%) also have membership in AMU and ECOWAS (11 countries out of 24). This overlapping membership presents both opportunities for harmonisation and challenges in aligning differing regional policies and commitments on free movement. Additionally, security challenges in the region have been a major obstacle to the implementation of free movement. Many countries in the CEN-SAD sub-region face serious threats, such as terrorism, armed conflict, religious extremism, and cross-border crimes. As a result, most countries maintain strict border controls, which significantly restricts the free movement of people.

Regarding visa openness and visa-free reciprocity, only 32% of all possible travel arrangements among CEN-SAD Member States allow citizens of two member countries to enter each other's territory without a visa. Moreover, in almost half of the travel arrangements within the REC, the citizens of Member States need to obtain a visa before travelling to each other's territory<sup>45</sup>

## III. COMMON MARKET FOR EASTERN AND SOUTHERN AFRICA (COMESA)

The COMESA<sup>46</sup> was established in 1993 and comprises of 21 countries from Eastern and Southern regions of Africa. The treaty establishing COMESA provides for free movement in Article 4 and Article 164, which removes obstacles to the free movement of persons, labour and services, right of establishment for investors and right of residence within the Common Market. It further calls upon Member States to progressively remove restrictions on the free movement of persons, labour, services, the right of establishment, and the right of residence among themselves. However, there are two specific protocols relating to the free movement of persons: (a) Protocol relating to the Gradual Relaxation and Eventual Elimination of Visa Requirements within COMESA (the Visa Protocol) adopted in 1984, which aimed at facilitating the movement of business persons within COMESA and allowed for a 90-day visa free regime and access to visa on arrival. This Protocol is being implemented by Kenya, Madagascar, Malawi, Mauritius, Rwanda, Eswatini, Seychelles, Uganda, Zambia, and Zimbabwe, providing 90-day visa access and visa on arrival to at least half of the COMESA Member States. Mauritius, Rwanda, Seychelles, and Zambia have totally waived visa requirements to all COMESA citizens; and (b) Protocol on Free Movement of Persons, Labour, Services, the Right of Establishment and Residence, adopted in 2001 but has not yet entered into force. The Free Movement Protocol's objective is to remove all restrictions to the free move-

44 CEN-SAD Member States: Benin, Burkina Faso, Central African Republic, Chad, Comoros, Côte D'Ivoire, Djibouti, Egypt, Eritrea, Gambia, Ghana, Guinea-Bissau, Libya, Mali, Mauritania, Morocco, Niger, Nigeria, Senegal, Sierra Leone, Somalia, Sudan, Togo, and Tunisia.

45 Africa Visa Openness Index 2023, 36

46 COMESA Member States Burundi, Comoros, Democratic Republic of the Congo (DRC), Djibouti, Egypt, Eritrea, Eswatini, Ethiopia, Kenya, Libya, Madagascar, Malawi, Mauritius, Rwanda, Seychelles, Somalia, Sudan, Tunisia, Uganda, Zambia, and Zimbabwe.

ment of persons, labour, and services and provide for the right of establishment and right of residence, fully implementing Article 164 of the COMESA Treaty. The Protocol provides for a progressive 3-phase implementation of the right of entry, right of residence, and right of establishment.

With regards to visa openness, three countries in COMESA (Kenya, Rwanda, Seychelles) offer visa-free entry to citizens of all African countries, while Burundi, DRC, Kenya, Rwanda and Uganda are all part of the EAC and enjoy a greater free movement of persons among their countries. In COMESA, only 20% of Member States offer visa-free reciprocity to other countries within the bloc. For instance, countries like Comoros, Djibouti, Egypt, Madagascar, Somalia, and Sudan do not offer visa-free entry to other COMESA members. However, Comoros, Djibouti, Madagascar, and Somalia do allow citizens from COMESA countries to obtain a visa on arrival.<sup>47</sup>

#### **IV. EAST AFRICAN COMMUNITY (EAC)**

The current EAC<sup>48</sup> was established in 1999 consisting mainly of the Eastern Region of Africa. The aim of EAC is to gradually establish among themselves a Customs Union, a Common Market, a Monetary Union, and ultimately a Political Federation of the East African States. EAC has not developed a separate legal framework exclusively governing free movement of persons, however the right to free movement of labour is captured under articles 76 and 104 of its founding treaty. Article 104 of the Treaty calls upon Member States to “adopt measures to achieve the free movement of persons, labour and services and to ensure the enjoyment of the right of establishment and residence of their citizens within the Community.” In addition, Article 7 of the Protocol Establishing the Common Market of the East African Community commits the Member States to provide for the free movement of persons and labour, the right of establishment and the right of residence, and for equal treatment and non-discrimination of nationals of partner States on grounds of nationality.

The implementation of the EAC Common Market Protocol has led to the adoption of the EAC passport, which is issued by Burundi, Kenya, Rwanda, Uganda and Tanzania. Furthermore, EAC countries have adopted temporary travel permits recognised across the subregion, to facilitate the movement of citizens across the borders Member States. EAC countries are yet to fully implement the provision of the Protocol on the rights of residency and establishment.

With regards to visa openness and visa-free reciprocity, EAC’s score of 71 % is second only to ECOWAS. The EAC’s score means that in almost three-quarters of possible travel permutations, EAC Member States exempt each other’s citizens from requiring a visa to enter their territory. The remaining permutations are evenly split between offering a visa on arrival and requiring a visa ahead of travel.<sup>49</sup>

#### **V. ECONOMIC COMMUNITY OF CENTRAL AFRICAN STATES (ECCAS)**

<sup>47</sup> Africa Visa Openness Index 2023, 38

<sup>48</sup> EAC Member States: Burundi, Democratic Republic of Congo, Kenya, Rwanda, Tanzania, South Sudan, and Uganda

<sup>49</sup> Africa Visa Openness Index, 39

The ECCAS<sup>50</sup> was established in 1983 with the aim of the Community to promote and strengthen harmonious cooperation and balanced, self-sustained development across all fields of economic and social activity, including the movement of persons. Article 40 of the founding treaty provided for the implementation of the Protocol on Free Movement and Right of Establishment (Annexed to the Treaty). The implementation of this Protocol, however, has not yet taken effect due to several socio-political challenges in the subregion.

Within the ECCAS subregion, free movement of persons happens between Cameroon, Chad, Congo Republic and the Democratic Republic of Congo. Citizens of all the ECCAS Member States require visa to enter other ECCAS countries. Some member States underline security concerns as the primary reason for delaying implementation. In 2023, Equatorial Guinea extended visa-free travel privileges to citizens from neighbouring Cameroon.

In terms of visa openness index, ECCAS scores among lowest of the RECs due to the fact that a majority of its Member State feature among the continent's least visa-open countries.<sup>51</sup>

## VI. ECONOMIC COMMUNITY OF WEST AFRICAN STATES (ECOWAS)

The ECOWAS<sup>52</sup> was established by 15 West African countries with the aim of creating a single regional economic space, where the free movement of persons was recognised as integral for encouraging trade, labour mobility, and regional integration. ECOWAS is at the forefront among RECs in the development and implementation of the legal and policy frameworks on free movement of persons, right of residence, and right of establishments. The ECOWAS treaty enshrines the right of free movement of persons which serves as a key mechanism by which regional integration is realised.<sup>53</sup> According to Article 59 of the Treaty, "citizens of the Community shall have the right of entry, residence and establishment and Member States undertake to recognise these rights of Community citizens in their territories in accordance with the provisions of the Protocols relating thereto." In addition, ECOWAS adopted Protocol A/P.1/5/79 Relating to Free Movement of Persons, Residence and Establishment in 1979, which entered into force in 1980. It granted citizens of the subregion the rights of entry, residence, employment and establishment of businesses, while outlining a 3-phase implementation roadmap, each spanning five years, to achieve freedom of movement of persons after fifteen years. Phase 1 relates to the right of visa-free entry; Phase 2 focuses on the the right of residency; and Phase 3 responds to the right of establishment.

The right of visa-free entry and the right of residency has been fully implemented. However, citizens of

<sup>50</sup> ECCAS Member States: Angola, Burundi, Cameroon, Central African Republic, Chad, Democratic Republic of Congo, Republic of Congo, Equatorial Guinea, Gabon, Rwanda, and São Tomé & Príncipe

<sup>51</sup> Africa Visa Openness Index, 40

<sup>52</sup> ECOWAS Member States: Benin, Burkina Faso, Cabo Verde, Côte d'Ivoire, Gambia, Ghana, Guinea, Guinea-Bissau, Liberia, Mali, Niger, Nigeria, Senegal, Sierra Leone, and Togo (Note: Burkina Faso, Mali, and Niger have left ECOWAS and formed their own Confederation of Sahel States)

<sup>53</sup> Article 3 of the ECOWAS Treaty

the REC are required to apply for residence permits if they intend to stay in another Member State for more than 90 days. The third phase, the right of establishment, is still under implementation in most Member States. The ECOWAS passport came into operation in December 2000 which exempt holders from intra-regional visa requirements and functions as an international travel document. ECOWAS is currently in the process of implementing a joint visa for non-ECOWAS citizens that cover the whole subregion, known as the Eco-Visa. Furthermore, ECOWAS has also implemented measures to ease the movement of persons transported in private and commercial vehicles by harmonising policies that enable vehicles to enter and temporary reside in a Member State for up to 90 and 15 days respectively.

With regards to visa openness, seven of 2023's top 10 performers are part of ECOWAS, including two of the four top performers Benin and The Gambia, both of which have fully liberalised their visa regime. Moreover, ECOWAS enjoys the highest visa-free reciprocity rate in Africa with 97% of the citizens of ECOWAS Member States having visa-free access to other countries within ECOWAS.<sup>54</sup>

## VII. INTERGOVERNMENTAL AUTHORITY ON DEVELOPMENT (IGAD)

The IGAD<sup>55</sup> was established in 1996 and has as one of its objectives the management of migration within the subregion.<sup>56</sup> However, it was not until 2012 when IGAD Heads of State adopted the Minimum Integration Plan and a Regional Migration Policy Framework, that IGAD began to show progress in the governance of migration and free movement in the subregion. IGAD's Protocol on Free Movement of Persons was adopted on 24<sup>th</sup> June 2021 and Article 4 (1) of the Protocol stipulates that IGAD Member States shall realise the free movement of persons, rights of establishment and residence progressively. Accordingly, the Roadmap for the Implementation of the Protocol provides for a phased approach in the implementation of the provisions of the Protocol in accordance with Article 4 (3) of the Protocol. Phase 1 of the implementation Plan relating to the right of entry and abolishment of visa is due to start by 2028; Phase 2 relating to the right of movement of workers is due to start by 2031; Phase 3 relating to the right of residence is due to start by 2034; and Phase 4 relating to the right of establishment is due to start in 2037. It is important to note that some IGAD Member States are also part of the EAC have ratified the free movement agreements adopted by EAC.

With regards to visa openness and reciprocity in IGAD, the visa regimes of the Member States vary significantly. Djibouti, Ethiopia, and Somalia are among the continent's top 20 performers on the AVOI in 2023, while Eritrea, South Sudan, and Sudan are among the bottom five.<sup>57</sup>

<sup>54</sup> Africa Visa Openness Index 2023, 41

<sup>55</sup> IGAD Member States: Djibouti, Eritrea, Ethiopia, Kenya, Somalia, South Sudan, Sudan, and Uganda

<sup>56</sup> "United Nations. Economic Commission for Africa; African Union Commission; United Nations. Economic Commission for Africa; African Union Commission (2023-10). Free movement of persons for trade: towards an accelerated ratification of the African Union Protocol to the Treaty Establishing the African Economic Community Relating to Free Movement of Persons, Right of Residence and Right of Establishment, in support of the implementation of the African Continental Free Trade Area: Policy research paper", Addis Ababa, UN. ECA – Available at: <https://hdl.handle.net/10855/60019>.

<sup>57</sup> Africa Visa Openness Index 2023, 42

## VIII. SOUTHERN AFRICAN DEVELOPMENT COMMUNITY (SADC)

The SADC<sup>58</sup> was established in 1992 and comprises of 16 countries mostly in Southern Africa. In order to achieve its objectives, Article 2 (5) of the Treaty establishing SADC states that SADC shall, *inter alia*, “develop policies aimed at the progressive elimination of obstacles to the free movement of capital and labour, goods and services, and of the people of the Region generally, among Member States.”<sup>59</sup> In 2005 the Member States of SADC adopted the Protocol on Facilitating the Movement of Persons, replacing the Draft Protocol on Free Movement of Persons, which previously outlined the progressive elimination of barriers to free movement of persons, goods, capital and services within the subregion. Moreover, pursuant to Article 4, the timeframe for the implementation of the Protocol would be determined by the Implementation Framework to be agreed upon by State Parties six months from the date of signature of the Protocol, by at least nine Member States. Unlike, the legal frameworks of other RECs, the SADC Free Movement Facilitation Protocol does not provide a time-frame for implementation, but it rather defers this decision to an implementation framework to be determined by each SADC Member State.<sup>60</sup> As a result, the implementation of the Protocol has stalled as SADC Member States prioritise sovereignty and security imperatives. Resultantly, the free movement of persons in SADC is largely governed to an extent by bilateral agreements among member countries, focusing mainly on visa exemptions.

With regards to visa openness and visa reciprocity in SADC, in 60% of country-to-country travel configurations, countries in the subregion reciprocate visa-free policies. In another 11%, they reciprocate visa-on-arrival policies. Mauritius, Seychelles, and Zimbabwe allow the citizens of most SADC countries to enter their territory visa-free, and in the case of Zimbabwe, 13 countries in the region reciprocate. Four other countries, Botswana, Mauritius, South Africa, and Zambia, enjoy visa-free reciprocity with 12 other SADC countries. The data from visa openness indicate that travel in the SADC region for citizens of SADC Member States is easier than for Africans from other regions.<sup>61</sup>

<sup>58</sup> SADC Member States: Angola, Botswana, Democratic Republic of Congo, Eswatini, Lesotho, Madagascar, Malawi, Mozambique, Namibia, Seychelles, South Africa, Tanzania, Zambia, and Zimbabwe

<sup>59</sup> Article 5(2)(d) of the Treaty of the Southern African Development Community- [https://www.sadc.int/sites/default/files/2021-11/Declaration\\_Treaty\\_of\\_SADC.pdf](https://www.sadc.int/sites/default/files/2021-11/Declaration_Treaty_of_SADC.pdf)

<sup>60</sup> Article 4 of the Treaty of the Southern African Development Community

<sup>61</sup> Africa Visa Openness 2023, 43



---

## IX. CONCLUSION

The RECs are the building blocks of the continental agenda, thus they play a crucial role in the implementation of free movement of persons. The primary challenge to free movement is a significant number of countries are members of different regional blocs that adopt different legal instruments and policies on free movement of persons. For example, in the CEN-SAD subregion, 11 countries out of the 24 countries in the REC are part of AMU and ECOWAS. Whilst the laws in ECOWAS promote free movement of persons within the regions and certain countries like Benin and The Gambia implement visa-free for all African passport holders, countries in AMU have restrictive visa regimes for citizens from West and Central African countries.

Apart from the lack of harmony in the legal instruments and policies, the principal actors in regional economic integration are the governments of the Member States. Governments initiate the establishment of the Communities and are by and large, responsible for the implementation of integrative measures and development programmes. There is a noticeable absence of non-state actors in the dialogue and decision-making processes on regional integration, particularly regarding the free movement of persons. In addition, most non-state actors are institutionally and operationally weak, further limiting their influence in shaping regional integration policies

Although the free movement of persons is an objective of all the RECs, the experience in most Member States is that these protocols are not effectively implemented. This lack of implementation could be partly due to economic disparities among countries resulting in the lack of infrastructure and capacity to implement different legislations in different subregional blocs. Therefore, it is not the absence of legal or policy frameworks, but rather the lack of political will or capacity, or both, to implement free movement of persons across the regions.

Nonetheless, an encouraging takeaway from the regional analysis is that the free movement of persons, in particular the right of entry, is gaining momentum within the regional economic communities, driven largely by bilateral agreements among an increasing number of countries.

---

## CHALLENGES EXPERIENCED IN THE RATIFICATION OF THE FREE MOVEMENT PROTOCOL BY MEMBER STATES

Various studies undertaken by the AU Commission, UNECA, and the African Development Bank on free movement of persons in Africa thus far paint a bleak picture of a continent that largely remains closed to its own citizens, but wide open to nationals of other continents.

A draft report by the AU Commission on the State of the Implementation of the Free Movement of Persons in Africa (2020 – 2021), prepared for the Specialised Technical Committee on Migration, Refugees and Internally Displaced Persons (STC-MRIDPs)<sup>62</sup> highlights the key challenges related to the ratification process. Despite Member States' commitment towards the aspirations of Agenda 2063 and the goal of achieving a continental Free Movement of Persons, many remain hesitant to ratify the Free Movement Protocol. The following challenges have been identified by the Commission in its 2021 Interim report:

### SECURITY CONSIDERATIONS

Member States have consistently raised concerns about the security implications of the free movement of persons. Security was a recurring theme during the expert consultation meetings when the Protocol was being drafted. At its 661st meeting held on 23rd February 2017, in Addis Ababa, Ethiopia, the Peace and Security Council acknowledged that the benefits of free movement of people, goods and services far outweigh the real and potential security and economic challenges that may be perceived or generated. The Council, therefore, underlined the need to ensure a phased approach in implementing AU policy decisions on free movement of people and goods, mindful of the variances in the legitimate security concerns of Member States.<sup>63</sup>

The following were identified by Member States as security concerns:

- **Cross-Border Management:** National security and threats to public order, including violent extremism and terrorism, cross-border crime, human trafficking, the proliferation of small arms, and drug smuggling may seriously affect cross-border management and cooperation;
- **Social Cohesion:** High perceptions of xenophobia, irregular migration, cross border conflicts are key challenges;
- **Inadequate Infrastructure:** The need to share requisite information between all security apparatus in countries appears to be less alluring to many Member States due to the lack of a continental structure/framework to facilitate the same;
- **Public Health:** Health security concerns, such as epidemics or pandemics as illustrated by the Ebola outbreak in 2014-15, COVID-19, or Mpox. These pose a serious challenge to the facilitation of travel across borders;
- **Travel Documents:** Security concerns around the standard and integrity of international travel documents.

<sup>62</sup> Report on the Implementation of Free Movement of Persons in Africa 2020-2021 Specialised Technical Committee (STC) on Migration, Refugees and Displaced Persons - [https://au.int/sites/default/files/news\\_events/reports/40615-en-HHS62469\\_E\\_Original\\_REPORT\\_ON\\_THE\\_IMPLEMENTATION\\_OF\\_FREE\\_MOVEMENT\\_OF\\_PERSONS\\_IN\\_AFRICA.pdf](https://au.int/sites/default/files/news_events/reports/40615-en-HHS62469_E_Original_REPORT_ON_THE_IMPLEMENTATION_OF_FREE_MOVEMENT_OF_PERSONS_IN_AFRICA.pdf)

<sup>63</sup> PSC/PR/COMM.1 (DCLXII) - <https://www.peaceaau.org/uploads/661-psc-comm-23-02-2017/free-movement-of-people.pdf>

## COORDINATION CHALLENGES

Part VI of the Free Movement of Persons Protocol outlines the role of the Member States, AU Commission, and the RECs in the implementation of the Protocol as illustrated below:

*Table 9: Role of Member States, RECs, and AU Commission*

<b>ARTICLE 27 ROLE OF MEMBER STATES</b>	<b>ARTICLE 28 ROLE OF RECS</b>	<b>ARTICLE 29 ROLE OF THE AU COMMISSION</b>
Implementation of the Protocol	Focal Point for promoting follow up and evaluating implementation of the Protocol and reporting the progress towards free movement of persons in their respective regions	The Commission shall follow-up and evaluate the implementation of this Protocol by Member States and through respective Sub Committees, submit periodic reports to Executive Council on status of implementation
Adopt necessary Legislative and Administrative measures to implement and give effect to the Protocol	Each REC shall submit periodic reports to the Commission on the progress of implementation of the Protocol within their respective region	Together with M/S develop and apply a continental follow-up and coordination mechanism for assessing the status of implementation of the Protocol
Harmonise all laws, policies, agreements, and immigration procedures to ensure compliance with the Protocol	RECs shall harmonise their Protocols, policies and procedures of free movement of persons with the Protocol	The follow-up and coordination mechanism shall include collection and analysis of data nationally and regionally in order to assess the state of free movement of persons

Unlike the Agreement Establishing the Africa Continental Free Trade Area (AfCFTA) where the treaty itself provides the structures and mechanism for coordination and implementation, including the establishment of a Secretariat, the Free Movement Protocol does not provide such structures and mechanisms. The burden of implementation, as indicated by the first column of the above table, is left to the Member States, who might already be burdened with the implementation of regional free movement instruments.

Moreover, the absence of a Secretariat for the implementation of the FMP has created a vacuum between the relevant stakeholders, and a lack of ownership since Member States have their own domestic politics on migration and social issues to consider as of priority.

## **LACK OF RESOURCES**

Currently, the AU Commission acts as a secretariat for the administrative and logistical coordination on the implementation of the Protocol. The Commission lacks the financial and human resources to provide the expert and technical support to Member States and the RECs. There is insufficient resources to undertake the wider consultation at the national, regional, and continental levels for the promotion of free movement of persons in Africa and the popularisation of the Protocol.

The lack of a Secretariat means that there are no dedicated financial and human resources to develop strategic frameworks for implementation and to engage with strategic partners, such as civil society organisations, national parliaments and government institutions, regional institutions, international organisations and the private sector. Limited resources also means the inability to develop a communication strategy for information sharing and countering of misinformation and disinformation.

## **NO APPOINTMENT OF AU CHAMPION FOR FREE MOVEMENT OF PERSONS**

From the onset after the adoption of the Agreement on the AfCFTA, H.E. Issoufou Mahamadou, the former President of Niger, served as Champion for AfCFTA. However, there was no appointment of a Champion for Free Movement of Persons. The role of AU Champions is critical because they garner political support and advocate for AU activities at the highest level possible, promoting political buy-in as well as full ownership by Member States, thereby facilitating the implementation of key programmes of the Union. During AU Summits, the Champions submit progress reports on their respective areas of focus to update on their achievements and share their challenges for further consideration and recommendations by the Assembly.

The AU Commission has acknowledged and attributed the successful launch of the AfCFTA in 2019 as a prime example of what can be achieved through the Heads of State Champion Initiative. The AfCFTA received the attention of Member States due to the lobbying at the highest level by H.E. Mr. Mahamadou Issoufou, President of the Republic of Niger, and Leader of the Continental Free Trade Area Issues. The President undertook various advocacy missions to AU Member States to collect the required number of ratifications for the entry into force of the AfCFTA.

---

## LACK OF PARTICIPATION OF NON-STATE ACTORS

The subject of the free movement of persons, although it has been acknowledged by the AU, RECs, and Member States to be beneficial for continental integration, is a very sensitive issue in domestic politics. As noted above, security is cited by Member States as the number one issue when it comes to the implementation of free movement protocol. Many African countries have struggling economies and youth unemployment in most cases are above 70%. Armed conflicts, including intercommunal violence and cross-border violent extremism and terrorism, are increasing on the continent. Furthermore, economic disparities between Member States have led to xenophobic attacks against migrant workers, etc.

Taking this into consideration, politicians are reluctant to discuss with their constituencies about the relaxing of border regimes, fearing it may be perceived as allowing “foreigners” to enter their countries and compete with the locals for the limited resources and jobs. Therefore, free movement of people in Member States is not viewed as a tool for continental integration and wealth creation, but as an “invasion” by foreigners. Whilst consultative meetings on free movement have been conducted at the highest institutional levels involving senior government officials, such conversations are not taking place at the national level with civil society actors and the private sector. As a result, the crucial voice of civil society, the primary beneficiaries of free movement, remains weak, limiting their ability to advocate for its implementation or pressure their governments to take action. This is particularly significant given that, contrary to the popular narrative on irregular migration of Africans to destinations outside the continent, recent studies show that nearly 80% of migration in Africa occurs within the continent and primarily to neighbouring countries.<sup>64</sup>

## RECENT POLITICAL DEVELOPMENT

The recent exit of Burkina Faso, Mali, and Niger from ECOWAS have raised questions on the implementation of free movement of persons at both the regional and continental level. The creation of the new Alliance of Sahel States (ASS) has ramifications for the free movement of persons on the citizens of these countries to neighbouring countries, regions and the continent at large. However, the Ghanaian Government has decreed that as from the 1<sup>st</sup> January 2025, all Africans will travel to Ghana visa free, following in the footsteps of Rwanda, Benin, the Gambia, Kenya, and Seychelles.<sup>65</sup>

<sup>64</sup> African Migration Trends to Watch in 2024 <https://africacenter.org/spotlight/african-migration-trends-to-watch-in-2024/>

<sup>65</sup> Leveraging Potentials of the Youth for Inclusive, Green and Sustainable Development in Africa <https://www.bbc.com/news/articles/c80v4p1n81ng>

## DESKTOP REVIEW FINDINGS

The purpose of the study was to collect information relating to the reasons behind the slow ratification of the Free Movement of Persons Protocol, which has struggled to gain the necessary approvals since its adoption in 2018. Furthermore, the desktop review sought to assess the efforts, or the lack thereof, undertaken by the Commission, RECs, and Member States, to promote the ratification of the Protocol.

The following are the summary of the findings of the desktop review:

- 1. All AU Member States agree that the free movement of persons when implemented the right way and at the right time will benefit all countries and enhance the regional and continental integration of Africa.**
- 2. The discussion on the implementation of the Free Movement of Persons Protocol is being heard in the context of the implementation of the AfCFTA. Even at the RECs level, free movement is mostly seen in the light of labour mobility.**
- 3. There is lack of understanding or misinformation as to the implementation of the AU Free Movement Protocol. Most Member States are of the opinion that on the attainment of the required ratifications and the entry into force of the Protocol, that migrants and refugees from poorer countries will flood into the more richer and stable economies causing chaos and instability.**
- 4. Most Member States, and to some extent, the opinion of the general public is that free movement of persons in Africa means the elimination borders ("African Schengen").**
- 5. Most Member States lack the institutional capacity to engage their citizenry on the implementation of the Free Movement Protocol, thus fearing the backlash of social unrestful, including xenophobia.**
- 6. The AU Commission lacks the necessary capacity and resources to lead the issue on free movement of persons and to coordinate the harmonisation process at the regional and national levels.**



## CONCLUSION AND RECOMMENDATIONS

### CONCLUSION

Africa is a continent on the move, and a majority of those on the move are the youth. According to a report by the AU Commission's Labour, Employment and Migration Division,<sup>66</sup> in recent years Africa has witnessed changing patterns of migration, a phenomenon that has become both dynamic and extremely complex. These movements are caused by a multiplicity of factors that include poor socio-economic conditions, political instability, conflict and civil strife. For some communities, migration has become a survival strategy. This is reflected in the feminisation of migration, an increase in the number of youths on the move, and an upsurge in irregular migratory flows, which include human trafficking and migrant smuggling. The media is filled with reports of desperate African youth risking it all to cross the Sahara Desert and the Mediterranean Sea for a better life in Europe.

Africa's greatest asset is its youth. The continent's population of 1.4 billion is projected to more than double by 2050, where Africa will be home to one-fourth of the world's population. According to the African Development Bank (AfDB), the working-age population in Africa, currently around 56 percent of the total, is projected to increase to 63 percent by the same time, contributing to the rapid decline in its dependency ratio. Africa will remain the world's youngest region, with a median age of 25 years. If properly harnessed, this young, growing working-age population could drive Africa's economic transformation and inclusive, green, and sustainable economic growth. However, this asset remains untapped, and the potential benefits are not realised, as most of the youth do not have secure jobs or better economic opportunities. Of the 420 million youth aged between 15 and 35 years in Africa today, the majority are unemployed, have vulnerable jobs or are in casual employment. There are not only benefits to harnessing the potential of the youth but there are also consequences if the challenges they confront are not addressed. The solutions to the African youth challenges have important implications for innovation and entrepreneurship in green growth transitions.<sup>67</sup>

The implementation of the Free Movement Protocol will not only enhance the fulfillment of the AfCFTA, but will advance the goals of Agenda 2063 of a common African identity and spur the achievement of the UN Sustainable Development Goals. Furthermore, the successful realisation of free movement will protect the human rights of migrants and reduce human trafficking and smuggling of persons, as well as save lives.

The Visa Openness Index in Africa is encouraging, with many countries moving towards and adopting visas on arrivals. Countries like Rwanda and Benin are an example of best practices for the development benefits of free movement of persons as exemplified by the increase in tourism, real estate development, and foreign direct investment.

<sup>66</sup> Somewhere to call home; the migration dynamics in Africa <https://au.int/en/articles/somewhere-call-home-migration-dynamics-africa>

<sup>67</sup> Leveraging Potentials of the Youth for Inclusive, Green and Sustainable Development in Africa [https://www.afdb.org/sites/default/files/2023/09/01/leveraging\\_potentials\\_of\\_the\\_youth\\_for\\_inclusive\\_green\\_and\\_sustainable\\_development\\_in\\_africa\\_concept\\_note\\_en.pdf](https://www.afdb.org/sites/default/files/2023/09/01/leveraging_potentials_of_the_youth_for_inclusive_green_and_sustainable_development_in_africa_concept_note_en.pdf)



---

## RECOMMENDATIONS FOR THE WAY FORWARD

Free movement of persons in Africa is people driven, yet the African citizenry is neither knowledgeable of the existence of the Free Movement Protocol nor adequately informed of its benefits. For Member States to see the need to ratify and implement the Protocol, there must be a conversation at the national level engaging civil society, including faith-based organizations, and the private sector. The following recommendations derive from this research:

### African Union Commission

The successful ratification and implementation of the Free Movement of Persons Protocol will greatly depend on the leadership of the AUC. This is critical in the absence of an independent Secretariat, but also as a custodian and key implementor of Agenda 2063. Among other things, key roles of the Commission may include the following:

- **Provide Coordination and Technical Support:** The AUC to set up a coordination and technical support team to provide support to Member States in the ratification process, including the convening of consultative meetings and provide guidance to countries on aligning national policies with the protocol's provisions, as well as supporting with technical assistance in drafting legislation or amendments needed for compliance;
  - **Enhance Capacity Building and Knowledge Sharing:** The AUC organises training and develop knowledge products to build the capacity of Member States on the Protocol, as well as encourage knowledge sharing between the Member States and the RECs using the best practices and lessons learnt that already exist. In addition, there should be training on the AU Border Management Programme;
  - **Support the Harmonisation of RECs Policies:** The AUC collaborates with the RECs to harmonise policies and frameworks on free movement, and ensure these are aligned with the AU Free Movement of Persons Protocol;
  - **Advocacy:** The AUC undertakes an AU-wide popularisation through the development of an Advocacy Strategy. Furthermore, the AUC to appoint a Champion on Free Movement to lobby national governments, RECs, CSOs, and the private sector on the benefits of free movement for economic development, regional integration, and the welfare of African citizens;
  - **Monitoring and Reporting:** The AUC monitors the progress of ratifications, including the challenges and solutions, as well as evaluates Member States and RECs implementation of the Protocol and reports to the AU Assembly and other stakeholders.
-

## Member States

The Member States of the AU are pivotal to the success of the Free Movement of Persons Protocol. The key roles of Member States include the following:

- **Signature and Ratification:** The AU achieves its objectives through the ratification and implementation of its legal instruments. For this reason, Member States must sign and ratify the Protocol for it to become effective. For starters, it is recommended for the African countries that have signed the Protocol to follow through with the ratification process. This will enable the conversation that will lead to addressing the issues that are hindering free movement of persons;
  - **Information Sharing:** A number of Member States are advanced in implementing policies on free movement within the RECs, especially those in ECOWAS and EAC, and they could play a very important role in sharing information with countries in other regional mechanisms on how to align their national laws with the Protocol, including revising immigration laws, labour regulations, and security measures;
  - **Enhance Cross-Border Security Cooperation:** Member States should establish mechanisms for sharing intelligence and security data to address cross-border crime, terrorism, human trafficking, and the smuggling of arms and drugs in order to build trust between countries and ensure that security risks are addressed collaboratively.
  - **Advocacy:** The Member States have a role in creating awareness on the benefits of the Free Movement of Persons Protocol to their nationals and regional partners, as well as promoting dialogue between politicians and business communities, civil society, and other relevant actors to ensure buy-in and ownership;
  - **Monitoring and Reporting:** Member States should cooperate on monitoring mechanisms, ensure proper data collection, and engage in peer-review processes to assess how well the Protocol is being implemented. Collaborative efforts are essential for the harmonisation of policies across countries and the creation of standardised systems for visas, permits, and ID recognition.
-

---

## Regional Economic Communities

As the building blocks of the AU, RECs can leverage on their existing experiences in promoting regional integration and managing mobility within their respective regions. Given their active role t as facilitators of dialogue, coordinators of policy, and providers of technical assistance to Member States, they are strategically situated to advance this agenda. The role of RECs may be as follows:

- **Promote Regional Cooperation:** RECs are well-positioned to act as intermediaries between Member States, fostering dialogue and cooperation on issues such as border security, immigration policies, and economic integration, as well as serve as platforms for Member States to address common challenges and ensure coordinated implementation of the Free Movement Protocol. In addition, RECs have developed Regional Action Plans (RAP) that are tailored to the specificities of their regions with regards to the implementation of the Free Movement of Persons Protocol;
  - **Strengthen Regional Security Frameworks:** RECs can collaborate with Member States to address security concerns through intelligence sharing, harmonisation of border systems, developing joint security strategies against terrorism, violent extremism, and cross-border crime. Furthermore, RECs can facilitate cross-border data collection and sharing data;
  - **Enhance Capacity Building and Technical Support:** RECs can play an important role in training border officials, immigration authorities, and law enforcement officials, as well as provide technical assistance to Member States in border management and intelligence;
  - **Collaborate on Cross-Border Infrastructure Development:** RECs can help Member States develop critical infrastructure (e.g., transportation, communication, and customs facilities) that supports the free movement of people;
  - **Monitoring and Reporting:** RECs can monitor the progress of ratification in their respective regions through the collection of data, evaluate challenges and/or best practices, and report to the relevant stakeholders during the mid-year coordination meetings. In addition, RECs can update on progress through their liaison office at the AU Headquarters.
-

---

## Civil Society Organisations

Civil Society Organisations (CSOs) have a crucial role in driving the ratification, implementation, and monitoring of the Free Movement Protocol. The role of CSOs include the following:

- Coalition Building and Advocacy
    - » CSOs should form coalitions or networks that bring together various groups, such as human rights organisations, faith-based organisations, trade unions, etc., to strengthen their collective voice in advocating for free movement of persons;
    - » Faith-based communities have significant influence in African societies, therefore CSOs can work with these organisations to promote the ethical and humanitarian benefits of the Free Movement of Persons Protocol;
    - » CSOs should collaborate with businesses to increase their advocacy. The private sector can provide financial support and raise awareness on the economic benefits of the Protocol.
  
  - Engage with National Governments, RECs and the AU
    - » CSOs should engage with national governments to advocate for the ratification of the Free Movement of Persons Protocol through public campaigns and events, media programmes, lobbying meetings with politicians/policymakers, and providing research to highlight the benefits of ratification of the Protocol;
    - » CSOs should engage with the RECs to ensure that their policies align with the Free Movement Protocol and for RECs to motivate Member States to ratify and implement the Protocol;
    - » CSOs can partner with the AU to create advocacy strategies, participate in high-level meetings, and ensure that the protocol remains a priority on the AU's agenda;
    - » CSOs should provide research and policy recommendations to national governments, RECs, and the AU to ensure that the Protocol is implemented effectively and inclusively.
  
  - Public Awareness and Education Campaigns:
    - » CSOs should lead public awareness campaigns to educate people about the benefits, rights and opportunities of free movement of persons, as well as countering disinformation and misinformation;
    - » CSOs can work with the media to promote discussions on the Free Movement of Persons Protocol and its benefits for their lives and continental integration, including current affairs programmes on TV, print media, and social media;
-

- 
- » CSOs should develop strategic communication plans that target different stakeholders, including governments, citizens, and migrants. Tailored messaging can ensure that each group understands the benefits of the Free Movement Protocol and is motivated to support its implementation;
  - » CSOs should lead campaigns to combat xenophobia and anti-migrant sentiments, emphasising the shared benefits of integration and celebrating diversity;
  - » CSOs can promote social cohesion between migrants and local communities through the joint-organisation of cultural exchanges, community dialogues and activities to foster mutual understanding and reduce tensions.
- Capacity Building and Training:
    - » CSOs need to build their own capacity to advocate effectively for free movement, including training on migration policy, human rights, cross-border management, and international crimes, etc;
    - » CSOs should organise training sessions, focus groups, and information sessions for the general public, migrants, refugees, and IDPs to educate them on the rights and protections guaranteed under the Protocol, the legal pathways for migration, and how to access services in host countries;
    - » CSOs can offer legal assistance, shelter, and social services to migrants who may face challenges in exercising their rights under the protocol, including advocating for the rights of vulnerable populations.
  - Engage International Partners:
    - » CSOs should collaborate with international organisations such as the United Nations, and other development agencies to access funding, technical assistance, and resources for promoting the free movement of persons;
    - » CSOs should look at successful models of free movement and regional integration from other parts of the world and adapt relevant strategies to the African context.
  - Holding National Government Accountability:
    - » CSOs should act as watchdogs to ensure that national governments follow through on their commitments the ratification and implementation of the Protocol.
    - » CSOs should collect data and publish reports on the progress of Member States in the ratification process and use the information to create public pressure and ensure transparency.
-

## REFERENCES

### Articles

*African Union Commission and International Organisation on Migration, "The Study of the Benefits and Challenges on Free Movement of Persons in Africa: A Study Commissioned by the AUC and IOM," 2018*

*R Adeola, "The African Union Protocol on Free Movement of Persons in Africa: development, provisions and implementation challenges," (2019) 3 African Human Rights Yearbook 260-275*

*Shumba W, "Towards the African Economic Community: Legal and Historical Perspectives," PER/PELJ 2023(26)*

*Tamara Wood, "The Role Free Movement of Persons Agreements in Addressing Disaster Displacements: A Study on Africa," May 2019*

*United Nations Economic Commission for Africa (UNECA), "Free Movement of People, a Catalyst for Trade," May 2023*

### Decisions

*Sudan Human Rights Organisation & Centre on Housing Rights and Evictions (COHRE) v. Sudan, 279/03-296/05, African Commission on Human and Peoples' Rights, May 2009.*

### Treaties

*African Charter on Human and Peoples Rights*

*African Union Convention for the Protection and Assistance of Internally Displaced Persons in Africa (Kampala Convention)*

*Constitutive Act of the African Union*

*Protocol to the Treaty Establishing the African Economic Community*

*Treaty Establishing the African Economic Treaty*

*Treaty Establishing the Arab Maghreb Union*

*Treaty Establishing the Economic Community of West African States*

*Treaty of the Southern African Development Community*

## Websites

African Charter on Human and Peoples Rights- <https://au.int/en/treaties/african-charter-human-and-peoples-rights>

Africa Development Bank, Leveraging Potentials of the Youth for Inclusive, Green and Sustainable Development in Africa”- [https://www.afdb.org/sites/default/files/2023/08/01/leveraging\\_potentials\\_of\\_the\\_youth\\_for\\_inclusive\\_green\\_and\\_sustainable\\_development\\_in\\_africa\\_concept\\_note\\_en.pdf](https://www.afdb.org/sites/default/files/2023/08/01/leveraging_potentials_of_the_youth_for_inclusive_green_and_sustainable_development_in_africa_concept_note_en.pdf)

African Migration Trends to Watch in 2024- <https://africacenter.org/spotlight/african-migration-trends-to-watch-in-2024/>

African Union Convention for the Protection and Assistance of Internally Displaced Persons in Africa (Kampala Convention)- <https://au.int/en/treaties/african-union-convention-protection-and-assistance-internally-displaced-persons-africa>

African Union 50th Annivesary Solemn Declaration- [https://au.int/sites/default/files/documents/36205-doc-50th\\_anniversary\\_solemn\\_declaration\\_en.pdf](https://au.int/sites/default/files/documents/36205-doc-50th_anniversary_solemn_declaration_en.pdf)

Africa Visa Openness Report 2023 – available at [https://www.visaopenness.org/fileadmin/uploads/afdb/Documents/AVO%E2%80%93Final\\_R18\\_7dec23.pdf](https://www.visaopenness.org/fileadmin/uploads/afdb/Documents/AVO%E2%80%93Final_R18_7dec23.pdf)

Communique: Peace And Security Council 661st Meeting Addis Ababa, Ethiopia 23 February 2017 (PSC/PR/COMM.1 (DCLXI))- <https://www.peaceau.org/uploads/661-psc-comm-23-02-2017free-movement-of-people.pdf>

Sudan Human Rights Organisation & Centre on Housing Rights and Evictions (COHRE) v. Sudan, 279/03-296/05, African Commission on Human and Peoples’ Rights, May 2009, - <https://www.refworld.org/jurisprudence/caselaw/achpr/2009/en/97622>

Free movement of persons for trade: towards an accelerated ratification of the African Union Protocol to the Treaty Establishing the African Economic Community Relating to Free Movement of Persons, Right of Residence and Right of Establishment, in support of the implementation of the African Continental Free Trade Area :Policy research paper- <https://repository.uneca.org/handle/10855/50018>

General Comment No. 5 on the African Charter on Human and Peoples Rights: The Right to Freedom of Movement and Residence (Article 12(1))- <https://achpr.au.int/sites/default/files/files/2021-10/generalobservation-no5ontherightoffreedomonmovementandresidence.pdf>

Ghana Opens Up Visa-free Travel to all Africans- <https://www.bbc.com/news/articles/c80v4p1n81no>

IOM, African Union Continental Free Movement of Persons Protocol: Implications for Migration Governance In Africa- [https://www.iom.int/sites/g/files/tmzbd1486/files/2019-01/S-20-10%20-%20African%20Union%20Continental%20free%20movement%20of%20persons\\_0.pdf](https://www.iom.int/sites/g/files/tmzbd1486/files/2019-01/S-20-10%20-%20African%20Union%20Continental%20free%20movement%20of%20persons_0.pdf)

---

Protocol to the Treaty Establishing the African Economic Community- [https://au.int/sites/default/files/treaties/36403-sl-PROTOCOL\\_TO\\_THE\\_TREATY\\_ESTABLISHING\\_THE\\_AFRICAN\\_ECONOMIC\\_COMMUNITY\\_RELATING\\_TO\\_FREE\\_MOVEMENT\\_OF\\_PERSONS-1.pdf](https://au.int/sites/default/files/treaties/36403-sl-PROTOCOL_TO_THE_TREATY_ESTABLISHING_THE_AFRICAN_ECONOMIC_COMMUNITY_RELATING_TO_FREE_MOVEMENT_OF_PERSONS-1.pdf)

R. Adeola, "The African Union Protocol on Free Movement of Persons in Africa: development, provisions and implementation challenges," (2019) 3 African Human Rights Yearbook 260-275- <http://doi.org/10.29053/2523-1367/2019/v3a13>

Report on the Implementation of Free Movement of Persons in Africa 2020- 2021 Specialised Technical Committee (STC) on Migration, Refugees and Displaced Persons- [https://au.int/sites/default/files/documents/36205-doc-50th\\_anniversary\\_solemn\\_declaration\\_en.pdf](https://au.int/sites/default/files/documents/36205-doc-50th_anniversary_solemn_declaration_en.pdf) [https://au.int/sites/default/files/newsevents/reports/40515-rp-HHS62469\\_E\\_Original\\_REPORT\\_ON\\_THE\\_IMPLEMENTATION\\_OF\\_FREE\\_MOVEMENT\\_OF\\_PERSONS\\_IN\\_AFRICA.pdf](https://au.int/sites/default/files/newsevents/reports/40515-rp-HHS62469_E_Original_REPORT_ON_THE_IMPLEMENTATION_OF_FREE_MOVEMENT_OF_PERSONS_IN_AFRICA.pdf)

Shumba W., "Towards the African Economic Community: Legal and Historical Perspectives" PER / PELJ 2023(26) – DOI: <http://dx.doi.org/10.17159/1727-3781/2023/v26i0a15609>

Speeches and Statements Made at the First OAU Summit in Addis Ababa, Ethiopia, May 1963- [https://au.int/sites/default/files/speeches/38523-sp-oau\\_summit\\_may\\_1963\\_speeches.pdf](https://au.int/sites/default/files/speeches/38523-sp-oau_summit_may_1963_speeches.pdf)

Somewhere to call home; the migration dynamics in Africa- <https://au.int/en/articles/somewhere-call-home-migration-dynamics-africa>

Tamara Wood, "The Role Free Movement of Persons Agreements in Addressing Disaster Displacements: A Study on Africa," May 2019- [https://disasterdisplacement.org/wp-content/uploads/2019/06/52846\\_PDD\\_FreeMovement\\_web-single\\_compressed.pdf](https://disasterdisplacement.org/wp-content/uploads/2019/06/52846_PDD_FreeMovement_web-single_compressed.pdf)

The Study of the Benefits and Challenges on Free Movement of Persons in Africa: A Study Commissioned by the AUC and IOM, 2018- [https://ethiopia.iom.int/sites/g/files/tmzbd1996/files/documents/IOM%20free%20movement%20africa%20WEB\\_FINAL\\_0.pdf](https://ethiopia.iom.int/sites/g/files/tmzbd1996/files/documents/IOM%20free%20movement%20africa%20WEB_FINAL_0.pdf)

United Nations Economic Commission for Africa (UNECA), "Free Movement of People, a Catalyst for Trade," May 2023- <https://www.uneca.org/stories/free-movement-of-people%2C-a-catalyst-for-trade>

"United Nations. Economic Commission for Africa; African Union Commission; United Nations. Economic Commission for Africa; African Union Commission (2023-10). Free movement of persons for trade: towards an accelerated ratification of the African Union Protocol to the Treaty Establishing the African Economic Community Relating to Free Movement of Persons, Right of Residence and Right of Establishment, in support of the implementation of the African Continental Free Trade Area: Policy research paper," Addis Ababa, UN. ECA – Available at: <https://hdl.handle.net/10855/50018>

African Union Convention for the Protection and Assistance of Internally Displaced Persons in Africa (Kampala Convention), <https://au.int/en/treaties/african-union-convention-protection-and-assistance-internally-displaced-persons-africa>

---





**Address**

*All Africa Conference of Churches (AACC-CETA)  
General Secretariat.  
Waiyaki Way- Nairobi, Kenya.  
P.O. Box 14205-00800 Westlands,  
Nairobi, Kenya.*

**Phone**

+254 20 4441483  
+254 20 4441338  
+254 20 4441339

**Email**

*secretariat@aacc-ceta.org*

