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# Implementing Regional Policies in the Global South: The Agency and Strategies of Street-Level Bureaucrats in Argentina and Brazil\*

Giovanni Agostinis, Leiza Brumat

What is the role of street-level bureaucrats (SLBs) in regional governance initiatives? The article addresses this question by analyzing the agency of SLBs in the implementation of two prominent policies of MERCOSUR's regional migration regime in Argentina and Brazil. We show that SLBs exercised significant levels of discretion through a set of strategies that allowed them to pursue contrasting goals in relation to policy implementation, namely fostering implementation in the case of residence while hampering it in the case of border crossings. The article expands our understanding of SLBs agency in regional institutional settings marked by the absence of enforcement mechanisms. In so doing, we shed light on the role of local actors in the delivery of regional public goods in the Global South.

*Keywords:* Street-level bureaucrats; South America; Regionalism; Migration governance; Policy implementation.

## 1. Introduction

We know a great deal about the drivers and determinants of interstate negotiations that result in the approval of regional policies in and across different world regions<sup>1</sup>. We know less about what happens

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<sup>1</sup>For a comprehensive cross-regional review of regional governance making, see Acharya and Johnston (2007); Börzel and Risse (2016); Söderbaum (2015).

when regional policies «hit the ground». The issue of implementation of regional policies is particularly relevant in institutional settings characterized by the absence of supranational enforcement mechanisms. In these contexts, domestic actors can determine the fate of regional policies and shape their effects. This is particularly the case with street-level bureaucrats (SLBs), who are located at the very end of the implementation chain and can influence the way in which regional agreements are turned into changes in member states' public policy (Meyers and Nielsen 2012; Davidovitz and Cohen 2023; Tummers and Bekkers 2014). This article sheds light on the agency of SLBs by addressing the following research questions: What is the role of SLBs in the implementation of regional agreements in the absence of enforcement mechanisms? How do SLBs affect the functioning of regional policies on the ground?

To address these questions, we focus on the regional migration policies adopted in the framework of the Common Market of the South (*Mercado Común del Sur* or MERCOSUR<sup>2</sup>). The case of MERCOSUR's migration policies provides an excellent opportunity to investigate the role of SLBs in the implementation of regional agreements that lack effective enforcement mechanisms. MERCOSUR is characterized by an intergovernmental logic whereby member governments are the main authoritative actors in the decision-making process (Malamud 2005). Additionally, MERCOSUR's formal rules for incorporation leave the responsibility to implement regional agreements in the hands of member states (Bouzas *et al.* 2008). This, coupled with weak enforcement mechanisms (Bouzas and Soltz 2001; Pena and Rozemberg 2005), results in that MERCOSUR states' decision to implement regional policies is predominantly determined by domestic calculations of the costs and benefits related to implementation (Arnold 2017). The literature has focused on the role of national executives (Malamud 2005; Gomez-Mera 2013) and congresses (Araujo 2023), disregarding the role of another type of state actor that plays a key role in the implementation process, namely SLBs. Therefore, we know little about what happens when MERCOSUR's policies hit the ground.

To better understand whether and how SLBs influence regional policy implementation, we analyze the implementation of MERCOSUR's

<sup>2</sup> MERCOSUR is a regional organization established in 1991 by four states: Argentina, Brazil, Paraguay, and Uruguay (Venezuela became a full member in 2012 but its membership was suspended in 2017). Despite starting out as regional trade agreement, MERCOSUR has gradually widened its policy scope to include a variety of political and socio-economic issues, such as health, education, democracy, and migration.

policies for residence and mobility in Argentina and Brazil, two large migrant-receiving countries. Drawing from semi-structured interviews with policy implementers at the national and sub-national levels (i.e., states and provinces), we investigate the agency and strategies of SLBs, shedding light on how implementing actors execute regional policies on the ground. Our findings show that SLBs exercise significant levels of discretion through a set of strategies that allow them to affect policy implementation. In particular, SLBs pursue autonomous, bottom-up initiatives through improvisation, informal arrangements, and case-by-case (ad hoc) solutions, which enable them to pursue contrasting goals related to implementation. Depending on their individual preferences and corporate interests vis-à-vis the policy to be implemented, SLBs can exercise discretion to facilitate or resist implementation. Therefore, SLBs' agency can have opposite effects on the domestic implementation of regional policies negotiated by national governments.

This article contributes to the literature on SLBs and policy implementation and the scholarship on the implementation of regional agreements. By focusing on Argentina and Brazil, two states characterized by multilevel federal systems, we identify how (i.e., through which strategies) SLBs interact with the other levels of government domestically and with their peers across the border to steer the implementation process in their preferred direction. This, in turn, allows us to expand our understanding of the agency of SLBs in implementing international policies. Additionally, the article sheds light on SLBs' impact on implementation in regional institutional settings characterized by the absence of enforcement mechanisms. In so doing, we illuminate the role of local actors in delivering regional public goods and services in the Global South.

The article is structured as follows. The first section bridges the gap between the literature on regionalism and the scholarship on SLBs, introducing the role of SLBs in the implementation of regional policies and exploring the strategies through which they affect policy implementation. The second section discusses the research design, methodology, and data. The third section presents the empirical findings, looking at SLBs' agency in the process of implementation of MERCOSUR's policies for residence and border crossings. We conclude with an interpretation of the findings and an examination of the article's empirical and theoretical contributions.

## 2. The Role of SLBs in the Implementation of Regional Migration Agreements

Situated between the domestic and the global, world regions have emerged as a strategic policy platform for states to govern interdependence and provide collective goods and services (Acharya 2018; Börzel and Risse 2016; Söderbaum 2015). This is particularly the case with respect to transnational mobility challenges, which can produce both positive and negative policy externalities among neighboring states (Geddes *et al.* 2019; Lavenex *et al.* 2016). Given the limitations of global migration governance<sup>3</sup>, states – from both the West and the Global South – have resorted to regionalism<sup>4</sup> to define cooperative solutions to the issue of international human mobility (Lavenex and Piper 2019; Geddes *et al.* 2019). Consequently, regional migration agreements aimed at enhancing intra-regional mobility have emerged across the globe, often anchored to formal institutional frameworks such as those of regional organizations (ROs) (Lavenex 2018; Lavenex *et al.* 2016; Geddes *et al.* 2019).

The literature has focused on the analysis of the drivers, institutional characteristics, and effects of migration governance initiatives, with an emphasis on their impact on the regional-global governance nexus (Lavenex 2018). Less attention has been devoted to the implementation of regional migration policies (Infantino 2019). Exploring the logic of domestic implementation of regional agreements is particularly relevant in regions characterized by limited state capacities to provide collective goods and services (Draude, Börzel and Risse 2018) and populated by ROs with weak (or no) enforcement capacity (Börzel and Risse 2016; Closa 2016). In these contexts, implementation rests upon domestic actors (both state and non-state actors), whose engagement is required to execute international agreements on the ground (Infantino 2019).

<sup>3</sup> While states were able to establish a plurality of global institutions to liberalize flows of goods and finance, they have struggled to create similar international obligations related to the international mobility of persons (Chetail 2019). This resulted in a highly fragmented international migration regime (Kainz and Betts 2021).

<sup>4</sup> Regionalism can be defined as a state-led project aimed at pursuing cooperation through the creation of formal regional institutions composed of three or more states (Börzel and Risse 2016).

### Implementation of Regional Governance Agreements

Implementation is the process of putting international commitments into practice: the passage of legislation, the creation of institutions, and the enforcement of rules that translate those commitments into policies (Raustiala and Slaughter 2002; Falkner and Treib 2008; Dallarà *et al.* 2024). EU scholars extensively investigated the logic of the implementation of regional EU policies across different policy areas (Börzel and Risse 2003; Sedelmeier 2012; Tallberg 2002). There are few systematic studies on implementation within ROs other than the EU. Scholars of MERCOSUR identified deficits in the implementation of regional norms (Arnold 2017; Malamud 2005; Ventura *et al.* 2012). Explanations for failure in implementing MERCOSUR norms point to bureaucratic inefficiencies (Bouzas *et al.* 2008), the existence of weak enforcement mechanisms (Bouzas and Soltz 2002; Pena and Rozemberg 2005; Hoffmann 2020), and governments' strategic behavior in ripping the benefits of «easy» agreements while refraining from implementing «costly» ones (Arnold 2017). The literature on the implementation of MERCOSUR's legislation, and, more broadly, the scholarship on policy implementation within ROs other than the EU, suffer from a limitation: they do not analyze in depth how regional agreements are translated into action on the ground.

Scholars of the EU showed that implementation depends heavily on the preferences and capacities of those state and non-state actors that have to execute a given regional policy (Sedelmeier 2012; Falkner and Treib 2008). As regards the type of actors that have an impact on policy implementation in ROs other than the EU, the literature explored the role of presidents (Malamud 2005; Gómez 2005), national congresses (Araujo 2023; Malamud and Stravidis 2011), and transgovernmental networks (Agostinis 2019; Alcañiz 2016; Bianculli and Ribeiro Hoffmann 2016; Botto 2010; Brumat and Freier 2021). We know less about the role of public service actors on the ground, namely SLBs. These actors occupy a crucial position in the implementation chain as they are in charge of turning regional agreements into practices that affect people's access to rights and services. Investigating the agency of SLBs in the implementation of regional agreements is crucial for expanding our understanding of how SLBs affect policy implementation when policy inputs are downloaded from the regional intergovernmental level.

### SLBs as Implementers of Regional Governance Agreements

SLBs can be defined as those public service workers who grant access to public services to citizens, connecting the State with its citizens (Lipsky 1980). These bureaucrats act not only as implementers of policies coming from above but as *de facto* bottom-up policy-makers. Throughout the implementation process, SLBs make choices, interpret laws, and *translate* policies into changes in the practices that govern a given phenomenon. In so doing, they have a direct impact on citizens' access to rights (Lipsky 1980; Tummers and Bekkers 2014). The literature on SLBs has traditionally focused on frontline practitioners (Vedung 2015). However, as pointed out by Infantino and Sredanovic (2022), mid-level bureaucrats – such as managers and administrators – also take part in the implementation process by interacting with citizens to provide them with access to public goods and services. To do so, mid-level bureaucrats interact with frontline practitioners as well. This is particularly the case in South America, where bureaucrats in mid-level positions rotate much less than lower-level officials and thus have more legitimacy for making decisions and shaping policies (Feddersen 2020). As such, we need to go beyond the analysis of SLBs in the traditional sense and include all those state officials who get involved in the implementation of public policies on the ground.

Scholars showed how SLBs exercise discretion over policy implementation (Lipsky 1980; Meyers and Vorsanger 2003). The level of discretion of SLBs varies between policy sectors (Vedung 2015). More specifically, SLBs' capacity to exercise discretion depends on issue-specific constraints related to access to resources and the presence of contrasting demands from citizens and superiors (Hassan *et al.* 2021; Perna 2021; Meyers and Vorsanger 2003). The impact of these constraints can be more pronounced in the Global South due to the informality of working procedures and state bureaucracies' limited capacity to provide public services and enforce laws (Peeters and Campos 2023). In response to such structural constraints, SLBs develop «coping mechanisms» (Lipsky 1980), which are discretionary strategies that they employ in the implementation process and affect policies on the ground (Perna 2021). The exercise of discretionary strategies determines variation in policy implementation and can lead to implementation gaps within and between countries.

Discretion is closely linked to SLBs' individual preferences and corporate interests regarding the implementation of a given policy (Tummers and Bekkers 2014; Meyers and Vorsanger 2003; Peeters and Campos 2023). Studies have shown that when SLBs perceive that their

activity has value for citizens and that the policy to be implemented is «fair», they tend to be more willing to exercise discretion in support of implementation (Tummers and Bekkers 2014; Meyers and Vorsanger 2003; Peeters and Campos 2023). Conversely, when SLBs' preferences clash with the policy to be implemented, they tend to use discretion to hamper implementation, contravening national governments' instructions (Perna 2021). The discretionary agency of SLBs increases in times of crisis, as shown by recent literature on SLBs' coping mechanisms in responding to financial, refugee, and public health crises (Brodkin 2021; Dallara *et al.* 2023).

Most studies on the role of SLBs in the implementation of regional policies look at the case of the EU (Infantino 2019), a regional integration process based on strong – legally binding – compliance mechanisms supervised and enforced by supranational actors (Tallberg 2004; Börzel 2018). However, the EU is an exception. Most ROs have weak or no enforcement mechanisms (Closa 2016; Acharya and Johnston 2007). In these regional contexts, implementation depends on domestic dynamics of politicization<sup>5</sup> that play out at the national and/or local levels (Araujo 2023). SLBs play a central role in these domestic dynamics as they can exercise significant discretion to facilitate or hamper the implementation of regional policies.

In the absence of enforcement mechanisms, SLBs can exercise discretion in various ways and pursue different goals. A key strategy is *cherry-picking*, which refers to SLBs' decision to address only those cases that fit their individual preferences, following cost/benefit calculations (Vedung 2015). A second discretion strategy employed by SLBs is *improvisation*, which refers to those informal practices aimed at overcoming uncertainty, resource scarcity, and incomplete legislation to deliver «some form of policy» (Campos and Peeters 2022, 23). A third discretion strategy is *case-by-case arrangements*, whereby SLBs arbitrarily determine whether to apply a policy in a given context (Natter 2021). SLBs can use these discretion strategies to both facilitate and hamper policy implementation.

In sum, SLBs are particularly relevant as *implementers* of regional policies in contexts marked by limited state capacities and the lack of strong – i.e., legally binding – enforcement mechanisms. However, scholars have yet to systematically analyze the actions and strategies through which SLBs affect the implementation of regional policies in South America and other regions of the Global South (Peeters and

<sup>5</sup> *Politicization* indicates the extent to which compliance costs give rise to domestic political conflict related to the implementation of regional policies (Börzel 2021).



Campos 2023). This gap in the literature limits our understanding of the fragmentary and asymmetrical implementation of regional policies and, more broadly, of the functioning of regionalism on the ground. By investigating the agency of SLBs within MERCOSUR, we contribute to the literature on SLBs and policy implementation, expanding its geographical scope and bridging the gap between the public policy literature and IR scholarship.

### 3. Research Design, Methodology, and Data

This article conducts a comparative analysis of the agency of SLBs in the implementation of MERCOSUR's regional policies related to human mobility in Argentina and Brazil. We focus on the two main components of MERCOSUR's intra-regional mobility regime, namely *residence* and *border crossings* (Brumat 2020). As regards the residence component, we analyze the implementation of the MERCOSUR Residence Agreement (MRA), which provides citizens of member countries with a two-year residence permit that can become a permanent one. As regards the border crossings dimension, we analyze the implementation of the Recife Agreement, which established joint migratory controls between MERCOSUR countries, and of «Neighboring Transit Credentials» (TVFs, for their initials in Spanish and Portuguese), which are special documents issued by member states to residents of border areas.

We investigate the implementation of this set of policies for two main reasons. First, residence and border crossings are the two core dimensions of regional migration regimes – including MERCOSUR's – aimed at achieving the free movement of persons in a region (Acosta 2018). Second, the two policies register different levels of implementation. While the RAM has been implemented in a relatively consistent way by the MERCOSUR states (IOM 2018), the implementation of the Recife Agreement and the TVFs has been fragmentary and asymmetrical (SACM 2016, Fundación Nuevas Generaciones 2024). This variation enables us to explore the impact of SLBs' agency on the level of implementation of regional migration policies.

We focus on Argentina and Brazil because they are the two largest migrant-receiving countries within MERCOSUR (Instituto Social del Mercosur 2019) and because they both have multi-level federal political systems. In the last decade, the two countries experienced increasing immigration from other South American countries, mainly due to the large-scale displacement of Venezuelan citizens (R4V 2024).

Argentina is one of the main receiving countries in South America, with 3 million foreign-born residents who represent around 5% of Argentina's total population (Comisión de Investigaciones Científicas 2023). Most of these immigrants are nationals of other South American countries (Comisión de Investigaciones Científicas 2023). Brazil registers only 1 million foreign-born residents, yet its foreign-born population increased by 24% in ten years, mostly driven by intra-regional migration (Agência Brasil 2021).

The federal structure of the two countries allows us to investigate the interactions between SLBs and higher-ranking bureaucrats at the subnational and federal levels. Argentina and Brazil have long-term experience in managing migration inflows as they have been major receiving countries since the late XIX century. As a consequence, both countries have a well-developed state bureaucracy in the migration sector that extends over all the key levels of decision-making (Acosta 2018). The main state actor in Argentina's migration governance is the National Migration Directorate, located within the Ministry of Interior. In Brazil, the Ministry of Justice is in charge of migratory issues. The two state agencies have similar competencies: they provide regularization permits and manage border crossings of persons on the basis of the MERCOSUR legislation (Brumat and Espinoza 2023). To pursue their mandate, the two bodies heavily rely on SLBs at the local level. This allows us to explore the discretionary strategies that Argentine and Brazilian SLBs put into practice when they receive policy inputs from higher levels of government (i.e., the federal level).

We look at the implementation of the MRA in the two biggest migrant-receiving cities of Argentina and Brazil, namely Buenos Aires and São Paulo. To investigate the role of SLBs in the area of border crossings, we focus on the Foz do Iguazu/Puerto Iguazu binational border, which is one of the most relevant borders in South America in terms of flows of people and goods<sup>6</sup>. To generate empirical evidence, we relied on 35 semi-structured interviews with key implementers of MERCOSUR's residence and border crossing policies in Argentina and Brazil<sup>7</sup>. Positional criteria was applied to sample interviewees: including only actors who participated in the implementation

<sup>6</sup> Commonly known as the 'Triple Border,' the area comprising Foz do Iguazu (Brazil), Puerto Iguazú (Argentina), and Ciudad del Este (Paraguay) has received significant scholarly and media attention due to the presence of transnational organized crime, significant international trade flows, and large-scale tourism associated with the presence of the worldwide known Iguazu/Iguazu waterfalls (Agulló 2017).

<sup>7</sup> Interviews were conducted by Leiza Brumat as part of the project POLIM.

of the policies under investigation. Interviewees included officials from Argentina's National Migration Directorate, Brazil's Federal Police, the consulates of both countries, the municipalities of the four cities under analysis, and the Ombudsman of São Paulo and Buenos Aires. Officials from NGOs involved in the implementation of MERCOSUR's regularization policies were also interviewed. In some cases, such as in the city of São Paulo, NGOs perform functions that are usually state functions, such as guiding migrants in the regularization process (Baraldi and Meunier 2019).

Fieldwork activities took place between November 2022 and January 2023 in the Argentine cities of Buenos Aires and Puerto Iguazu and in the Brazilian cities of São Paulo and Foz do Iguazu in the framework of the Policy Implementation in Global South Regionalism. Multilevel Migration Governance in South America (POLIM) project. The whole set of interviews was transcribed and coded through the software ATLAS.ti. Coding is a way of organizing data to identify categories and patterns related to a project's conceptual frame and research questions (Cope and Kurtz 2016). One of the authors created deductive codes on SLBs' discretionary strategies, which were derived from the literature<sup>8</sup>. Whenever we identified specific actions related to the discretionary strategies identified by the literature, inductive codes were created to capture the empirical evidence provided by the interviews. We cross-checked all the codes to ensure their consistency.

Voluntary and informed consent was obtained from all the interviewees, who gave their permission to use interview material in scholarly publications. Interviews were conducted in the framework of the POLIM research project, which requires the protection of the interviewees' identities. For this reason, we quote interviews in a pseudonymized fashion. We triangulated the evidence gathered from interviews with secondary literature and official documents issued by regional and national institutions, such as minutes of meetings, lower-level legislation, and reports issued by international organizations (mainly IOM), with the aim of increasing the credibility of findings (Tansey 2007).

#### 4. Findings: Analysis and Results

In this section, we analyze the agency of SLBs in the implementation of MERCOSUR's regional policies for residence and border crossings in

<sup>8</sup> Codes were created by Leiza Brumat as part of the project POLIM.

Argentina and Brazil. The section presents the empirical evidence organized around the two policy issues. We present extracts from interviews with SLBs directly involved in the implementation process. In so doing, we uncover the discretion strategies that SLBs employed to either facilitate or hamper the implementation of the two regional policies, which ultimately shaped the way in which border-crossing and residence policies work on the ground.

#### The Role of SLBs in the Implementation of the MERCOSUR Residence Agreement (MRA)

The MRA is the cornerstone of South America's regional migration regime. It was signed in 2002 by MERCOSUR's founding member states (Argentina, Brazil, Uruguay, and Paraguay), plus Bolivia and Chile. It was later adopted also by Ecuador, Colombia, and Peru. The MRA entered into force in 2009. The agreement establishes a facilitated regularization procedure for obtaining a two-year residence permit that can be converted into a permanent one. The MRA substantially modified the national migration laws of the signatory states by linking residence rights to nationality rather than to migrants' economic activity. This has had a strong impact on bureaucratic procedures. In particular, by reducing migrant categories to one nationality, the MRA simplified administrative processes on many levels (IOM 2018). First, individuals can apply for a residence permit regardless of their migratory status. In so doing, the MRA limits member states' capacity to sanction migrants based on their legal status. Second, the documents required<sup>9</sup> for the two-year residence permit are not related to the economic situation of the migrant. An official of the Argentine National Migration Directorate illustrates how the regional norm modified migration policies at the domestic level and facilitated access to residence for MERCOSUR nationals:

Article 23 is about temporary residences, and section L [of the Argentine migration law] is a residence for two years for all MERCOSUR citizens. Imagine that you just can come and say, «I have this nationality», and that gives you the right of residence immediately... [it was not like that] before, you had to have either a job or come to study and prove your student status or, obviously,

<sup>9</sup> Applicants must provide a national document (ID, passport, nationality certificate), birth and civil status certificate, certificate of criminal record, and, if required by national law, a medical certificate. All member countries have progressively eliminated this last requirement (IOM 2018).

have a child, husband, or wife who was already a resident. These criteria still exist, but they were added to the new national law, which incorporates the nationality principle established by MERCOSUR, giving you two years of temporary residence in Argentina. After two years, they give you permanent residence. Clearly, MERCOSUR gives special treatment to its citizens – *Official of the Argentine National Migration Directorate, 26 December 2022*.

The MRA is considered one of the most successful policies in the history of MERCOSUR (Mondelli 2017). The MERCOSUR residence permit guarantees a wide set of rights, including equal access to civil rights, family reunification, the right to send remittances, and special rights (including access to education) for children born in one of the member states (arts. 7 and 9 of the MRA). By 2018, more than 3 million South Americans had benefited from the Agreement (IOM 2018).

Despite being a success story, the MRA displays some relevant limitations and contradictions. The agreement does not establish a right of entry to the host state, creating tension between the right to circulate and the right to reside (Acosta 2018). When migrants enter the country where they wish to reside, they have to declare that they are tourists, something that, in the jargon of border guards, is known as «false tourist» (Alvites Baiadera 2018). This implies that prospective migrants can be denied access to the host state if border guards deem them to be «false» tourists (Acosta 2018, 119). An additional tension within the MRA concerns the incomplete character of the agreement's text, which leaves room for interpretation that results in a lack of homogeneity in the implementation across countries (Acosta and Freier 2015), particularly concerning bureaucratic procedures and document requirements (IOM 2018).

The MRA's incomplete character has provided SLBs from member countries with significant room for maneuver in the implementation process. Our empirical evidence shows that SLBs have implemented the MRA eagerly and evenly in Argentina and Brazil. An interviewee fully confirms this by pointing out that «among all the [multilateral] agreements that we have, the MERCOSUR agreement is the one that the Brazilian police implements in a more uniform manner» (*Civil Society Organization official, 26 November 2022*).

Bureaucrats from both countries highlight that the Agreement significantly facilitated bureaucratic procedures, making their jobs easier in many crucial ways. An official from the Argentine National Migration Directorate confirms this point:

The implementation of the MRA served as an incentive for adopting bureaucratic innovations that facilitated policy implementation. One of these innovations was the digitalization of regularization procedures, which reduced the backlog of residence requests and facilitated the problem that we had with the previous system, with which each procedure could take more than a year. Another one was the issuing of residence permits together with the national identification document [...] We couldn't make it easier than that... we consider this as part of Argentina's migration policy spirit, which aims at facilitating procedures and being an open-door country. And, of course, we do this by prioritizing nationals of MERCOSUR and associated countries – *Official of Argentina's National Migration Directorate, 22 December 2022.*

The MRA facilitated bureaucratic procedures related to the issuing of residence permits, reducing SLBs' workload. As pointed out by a Brazilian officer from the office of the Ombudsman of the state of São Paulo, the MRA has proved so functional in streamlining everyday procedures that some of its operative aspects have been extended to other migrant groups not proceeding from the MERCOSUR countries. This policy change was done by mid-level bureaucrats who decided to apply the MERCOSUR criteria to other nationalities following a case-by-case strategy aimed at easing the workload of all the relevant state actors involved in the process:

The idea of MERCOSUR was so practical for the police that Brazil copied the model and applied it to the vast majority of the other forms of immigration regularization. I give you an example: in the case of Venezuelans, we copied the document checklist system of MERCOSUR, [the] two-year [permit] that can be converted into a permanent permit. We copied the system of MERCOSUR's MRA, it is an identical copy. This model also applies to Haitians, Afghans, Ukrainians and Syrians. It has also benefited Senegalese asylum seekers, Dominicans, and Cuban doctors who participated in the Federal Program More Doctors – *Official of the State of Sao Paulo, 23 November 2022.*

The simplification of the bureaucratic procedures for residence application pushed implementing actors on the ground to actively advise migrants to apply for the MERCOSUR residence, which facilitated the implementation of regional norms and streamlined the work of state agencies responsible for regularization. As pointed out by an official from an NGO operating on the Iguazu bi-national border:

We tell them, «Look, [apply for the] MERCOSUR [residence permit]. It's easier». You are going to live in Brazil, so you are going to work. Then it will become permanent [...] Since they live here, we advise them to take advantage of the MERCOSUR mechanism. They have the right. We do that to

facilitate the procedure – *NGO Official working with the Municipality of Foz do Iguaçu, 5 December 2022.*

In Argentina, SLBs have also actively provided intra-regional migrants with guidelines and technical support on how to apply for the MERCOSUR residence permit:

Of course, [since the adoption of the MRA] the regularization process has changed a lot. It modified the foreigner's chances of accessing the system [...]. Here, we do a lot of teaching. We tell [them] how to enter [the Argentine territory], how to apply for regularization – *Official of the Argentine National Migration Directorate, 12 December 2022.*

This «teaching» role exceeds the competencies of the National Migration Directorate, something that hints at improvisation strategies aimed at smoothing the implementation of the regional policy. The simplification of bureaucratic procedures for residence application under the MRA was a gradual process, one in which SLBs from both Argentina and Brazil played a crucial role. Higher-level bureaucrats, such as those working for the Ombudsman office, also played an active role in promoting solutions that simplified administrative procedures and made the application process accessible to all migrants, particularly the most vulnerable ones. In 2011, the Ombudsman office put pressure on the Ministry of Justice to simplify the permanent residence procedure by replacing the certificate of «means of subsistence» with a «self-declaration». The «means of subsistence» certificate is proof of a legal work contract, a rental contract, or bank information that certifies that the migrant has a certain amount of funds. As this document is extremely difficult to obtain for vulnerable migrants, particularly those in the informal labor market, the elimination of the requirement made the application process more accessible to them:

In 2011, we started doing the conversions [from temporary to permanent permits], and we had many problems because the vast majority of the people who come to the Ombudsman's Office are in a vulnerable situation due to their status as informal workers. This means that they cannot prove that they have subsistence conditions. One of the requirements is to have a formal work contract, bank account information, or rental contract. At some point, the Ombudsman Office presented a recommendation to the Ministry of Justice to find a way to simplify the process. Following this recommendation, in 2011, a norm was created that allowed the conversion to be made by presenting only a self-declaration of means of subsistence. That was a great success because the conversion procedure was simplified, and many people could

convert their temporary permits to permanent ones – *Official of the Federal Ombudsman in Sao Paulo, 23 November 2022.*

In so doing, the Office of the Ombudsman exercised agency to overcome the obstacles created by the MRA requirements. By replacing formal documents with a «self-declaration», SLBs provided people in informal labor and economic situations with an opportunity to formalize their migratory position. Empirical evidence also shows that the MRA reshaped the preferences of Argentine and Brazilian SLBs, making them more prone to the regularization of MERCOSUR nationals. Changes in SLBs' preferences resulted in changes in their everyday activities and discretionary strategies. SLBs arbitrarily chose to let MERCOSUR nationals stay in their country, adopting a case-by-case strategy that eased the implementation process and facilitated intra-regional migrants' access to rights.

It seems that the police no longer consider the entry of Bolivians or Paraguayans as a security issue. They say, «No, these are from MERCOSUR, and there is no problem there», so they can come in and get regularized. This changed the mentality of the police – *Official of the Federal Ombudsman in Sao Paulo, 23 November 2022.*

An official from the Brazilian Federal Police – an institution known for its restrictive, security-driven approach – confirms the change towards more liberal preferences concerning migrant deportations and the increasing resort to case-by-case strategies that, in practice, facilitate the presence of MERCOSUR nationals in Brazilian territory. This has an impact on the implementation of MERCOSUR's policies:

Every month, we meet in a technical control room that gathers all the police forces. At that meeting, we say, «If they are not committing a crime, don't bother them», and «Let them work with their little businesses out there». Deporting people... can be very costly due to the number of migrants in Foz. And there is almost no violence among migrants – *Federal Police Official, November 2022.*

Throughout the implementation process, SLBs often combine improvisation with case-by-case informal arrangements to cope with the MRA's main legal loophole (e.g., the lack of right of entry) and facilitate the issuing of regularization permits. More specifically, SLBs advise migrants who entered a member country irregularly to leave the country and re-enter through a legal border crossing. In so doing, SLBs



exceed their mandate and pursue an informal activity aimed at delivering policy outcomes in the form of regularization:

At the National Migration Directorate, our objective is to search for people who are in an irregular situation. We support those people who would like to start their application process. Sometimes, we encounter people who entered through an unauthorized passage. In those cases, we send them out illegally so that they can re-enter legally – *Official of the Argentine National Migration Directorate, 12 December 2022.*

To circumvent the legal problem of the absence of a right of entry, SLBs have also issued authorizations to re-enter legally and accepted residence applications of overstayers, that is, people whose 90-day tourist permits expired. This is a form of improvisation that seeks to facilitate regularization in support of the implementation of the MRA:

Sometimes, we give them authorization to enter, a kind of waiver. Because if we do not give them that permit, all those residence requests will probably be rejected. We need the legal entry; even if it is expired, at least we have it. It is no longer an impediment to have an expired entry permit – *Official of the Argentine National Migration Directorate, 12 December 2022.*

#### The Role of SLBs in the Implementation of the MERCOSUR Border Crossing Policies

The member states of MERCOSUR adopted various agreements to facilitate circulation across borders. The two most important ones are the Recife Agreement and the Neighboring Transit Credential (TVF, for its initials in Spanish). The Recife Agreement comprises a series of norms regulating integrated border controls (CMC 2000a; 2012; 2014). The agreement was originally intended to facilitate border crossings for goods and services (CMC 1993), but it was expanded in the 2000s to include migration. It establishes that all persons who enter and/or exit the territory of a member state will have their documents controlled simultaneously by border guards from both the country of origin and the country of destination, following the same administrative procedures. To achieve this, the Agreement defines a set of common regulations and encourages countries to adopt joint coordinated practices and systems to make more efficient use of checkpoints. In fact, in the framework of the agreement, integrated controls take place in the territory of one of the two bordering countries, which implies that state officials from a member country have to

conduct their activities in the territory of a neighboring state. The main objective of this practice is to increase the efficiency of border controls to facilitate the free movement of people in the region (MERCOSUR 2015, 87-88).

The TVF created a special document for fast-track border-crossing procedures for residents in border areas (CMC 2000b; 2000c). This document allows residents from a specific list of border areas (agreed upon bilaterally by neighboring countries) to undergo controls through fast lanes and circulate in the border area freely for 72 hours. TVF documents are valid for three years and are issued by receiving states. Studies show that the implementation of the TVF has been inconsistent and has worked better in some border areas than others (SACM 2016). Argentina and Brazil implemented the TVF asymmetrically, as Brazil issued more documents than Argentina<sup>10</sup>. Implementation has mainly happened through informal practices and 'selective' controls based on personal knowledge between border residents and border guards (SACM 2016, 57). Regarding the Recife Agreement, the official website of Argentina's Ministry of Interior states that Argentina and Brazil conduct integrated border controls in five out of six border crossings (Argentina.gov.ar 2018). However, integrated controls work unevenly in each border, and control procedures are not fully integrated, being often conducted in different physical spaces and following different administrative steps (Fundación Nuevas Generaciones 2024).

The main explanations for the limited and asymmetric implementation of both the Recife Agreement and the TVF are related to the vague definition of the border, the lack of special rights for border residents, and deficiencies in border control infrastructures (Benedetti 2017; SACM 2016). However, our findings show that SLBs have also played a role in enabling or preventing the implementation of the Recife Agreement and the TVF in and between Argentina and Brazil. More specifically, empirical evidence indicates that SLBs' individual choices have determined the asymmetrical implementation of facilitated border crossings between the two countries.

Officers from Brazil's Federal Police, which is in charge of border controls, have resisted the practice of conducting joint border controls on non-Brazilian territory because they cannot carry arms with them. Following their preferences, Brazilian police officers have cherry-picked the most desirable option for them, that is, staying on the

<sup>10</sup> XXXVII Reunião do Comitê de Integração Fronteira Puerto Iguazú-Foz do Iguaçu, Ata da Comissão de Infraestrutura Facilitação Fronteira, 17 September 2019.

Brazilian side and conducting their border operations from there. This resulted in an unequal implementation of the Recife Agreement, which works better for trade and customs operations than for human mobility. Talking about the agreement, a Brazilian police officer points out:

Brazil resists conducting integrated controls in other countries because we cannot protect our police officers and our public and administrative agents. As an example, let's suppose that our federal police is operating in a joint border control cabin in Uruguay, and let's suppose that a person with an arrest warrant crosses the border. The police officer there will ask himself, «Do I arrest this person here, in this country, or do I take him to our country so I can arrest him there?» Then the officer will think, «If I take him there, it will be an illegal extradition, so I can be accused of illegal activities». That is why in Brazil there are not as many joint border control activities as in other MERCOSUR countries – *Federal Police Agent, 6 December 2022*.

This resistance to the Recife Agreement has been acknowledged by MERCOSUR's institutions, which labelled the behavior of Brazil's Federal Police officers as an 'obstacle' to the implementation of the agreement (MERCOSUR 2015, 104). The Brazilian government stated its willingness to implement the agreement and made proposals for addressing this issue by delegating control responsibilities to the officers of neighboring countries (MERCOSUR 2015, 112-113). However, none of these proposals has been adopted. Our evidence suggests that Brazilian SLBs' cherry-picking strategy has played a role in the uneven implementation of the Recife Agreement.

As far as Argentina is concerned, we identified variation in the approaches to implementation of MERCOSUR's border crossing policies between local (municipal) and federal bureaucrats. While federal authorities strongly favor tighter border controls, local-level officers prefer a more flexible approach to border crossings. This resulted in an uneven implementation of both the Recife Agreement and the TVF, which heavily depends on the ability of Argentine SLBs to circumvent the rigidity of border controls imposed by the federal government. A federal government official who works on the Argentina-Brazil Foz do Iguacu/Puerto Iguazú border makes clear how he opposes delegating border control competencies to officials from other MERCOSUR states. In particular, the official admits to resisting implementation by adopting a cherry-picking strategy that allows him to avoid implementing the joint controls component of MERCOSUR's border-crossing policy:

I do not agree with integrated border controls, because problems can arise, and whose fault is that? I want my header [border control checkpoint], and

I want my control. If it's our mistake, well, the mistake is here. We deal with it, and we solve it. But when they call me for a system error caused by a person on the other side [of the border], I want to kill myself. My experience with joint border controls is not good. There isn't one border passing that works well – *Argentine National Migration Directorate Official, 26 December 2022.*

An Argentine official who worked in both the border control and the regularization agencies of the National Migration Directorate highlights that the two bodies have substantially different working schedules, which explains SLBs' resistance to implementing regional policies that may complicate their work routines. In the absence of enforcement mechanisms, SLBs can cherry-pick and, following their individual preferences, decide not to apply a regional policy:

Officers dealing with regularization services start at 7 am and end at 7 pm. Migration officers are busy between 8 am and 4 pm [...] Yet, at the border crossing, I got calls at 6 am on the 25<sup>th</sup> of December. Forget about long weekends. Everybody loves long weekends, but I hate them. Moreover, there is an issue of size. It is not the same to have 500 people coming to you in a regularization office or 20,000 coming to me at a border checkpoint – *Argentine National Migration Directorate Official, 26 December 2022.*

The existence of different workload arrangements within the National Migration Directorate is not the only stumbling block to the implementation of MERCOSUR's border policies. As pointed out by an Argentine bureaucrat working on the binational Foz do Iguazú/Puerto Iguazú border, the lack of dialogue between the different national agencies operating on the border prevents the implementation of the TVF and integrated border controls:

There are many agencies working in integrated border control activities. There are people from customs, migration services, and SENASA [Argentina's National Service for Sanitary and Food Quality]; they are all there. Customs people say that TVFs in Posadas are quite well integrated with their neighboring country, Paraguay. Yet here in the migration service, we don't have the information that customs people have. This is why we said, «We are going to leave [the Puerto Iguazú checkpoint] because we don't have enough people; we don't have the communication systems». If they want to integrate and make TVFs and border controls work, we need to reach an agreement. This is an issue that governments should decide upon, at the Foreign Ministry level or higher, but it is not up to us – *Argentina's National Migration Directorate official, 9 December 2022.*

This quotation shows that when SLBs do not have the resources and/or competencies to implement regional policies due to the structural constraints imposed by higher levels of government, they decide not to apply regional border-crossing policies.

As regards the implementation of the TVF, Brazilian officials working on the Foz do Iguacu/Puerto Iguazu border reveal that their Argentine counterparts rarely issue the document. This represents an improvised form of resistance to the TVF that leads to a de facto non-implementation of the regional policy, creating a perception among Brazilian SLBs that Argentina is blocking regional integration:

While our Federal Police regularly issues the MERCOSUR border transit card, Argentina has struggled to understand the nature of this agreement. In fact, it may take you more than 2 hours to enter Argentina today via the land border here in Foz do Iguacu. Yet the TVF agreement is meant to facilitate the lives of people who want to live, study, or work across the border by providing them with fast-track lanes. Because of this, very few people use this document; the majority are not even aware of its existence. We [Brazil's federal police] provided 9 or 10 Argentines with the TVF document. Argentina has not done the same with those Brazilians who want to live and work across the border. [...] I had several meetings with Argentine authorities but they say they cannot implement it. A lot of people don't go to Argentina for this reason. In my opinion, the Argentine economy would benefit from a higher influx of money and people – *Federal police agent, 6 December 2022*.

A higher-level Argentine bureaucrat working for the federal government makes clear that he resists issuing TVFs because security standards are inadequate, and they do not have enough resources to implement the agreement properly, again avoiding implementation by cherry-picking:

TVFs don't work. Suppose there are 20,000 inhabitants in La Quiaca who, with a certain frequency, get the TVF. Of those 20,000, how many could lose it? That is replicated in other borders, such as Paso de los Libres, Uruguayana, and Foz de Iguazú, where many more people live. We would become an organization that issues cards, and we do not have the resources to do it on such a large scale. How could we respond to such high demand? – *Argentine National Migration Directorate official, 26 December 2022*.

To bypass legal loopholes, limited capacities, and bottlenecks caused by the non-implementation of facilitated border crossings by federal-level bureaucrats, local-level SLBs engage in direct, informal contact with their counterparts in neighboring countries. Through improvisation and case-by-case arrangements, local-level SLBs are able to

find enabling solutions to everyday implementation hurdles, which often arise from structural constraints imposed by inflexible federal-level policies. As an Argentine local-level official puts it:

What we can do is find informal internal arrangements between municipalities on the ground. As regards policies at the national or the provincial level, we cannot do anything – *Official of the Municipality of Puerto Iguazú, 8 December 2022.*

A concrete example of this informal coordination among SLBs is the use of WhatsApp by local authorities from all sides of the border to circumvent administrative rigidities and long waiting periods caused by the lack of implementation of MERCOSUR's border policies. A Brazilian officer from the Municipality of Foz do Iguaçu makes this point very clearly:

We deal with organized crime on the border. Imagine I need to find a car stolen in Foz, which I know is already on the other side of the border. I have to act fast. If I have to notify Brasilia, then Brasilia notifies Asunción, then Asunción notifies Ciudad del Este. The car is already gone. So, we have this WhatsApp group, which we use to find solutions that make our lives easier because the reality on the border is different from what it looks on paper. The federal government does not understand the reality of the border, where we have to deal not only with the 265 thousand inhabitants of Foz do Iguaçu but also with the 800 thousand people who live on the other side of the border who are crossing the border and using our health system. The federal government may know the situation, but it does not help us find solutions – *Official of the Municipality of Foz do Iguaçu, 5 December 2022.*

This section dug into the coping mechanisms and discretionary strategies that SLBs employ in the process of implementation of MERCOSUR's regional policies for residence and border crossing in Argentina and Brazil. We showed that SLBs play a crucial role in the uneven and fragmentary implementation of these policies. Depending on their preferences vis-à-vis the policy to be implemented, SLBs can improvise informal case-by-case solutions to implementation hurdles or cherry-pick to implement only those components of the policy that fit their individual preferences and/or corporate interests.

## 5. Conclusions: Interpretation of Findings and Contributions

This article sheds light on the agency of SLBs in the implementation of regional agreements by looking at the case of MERCOSUR's migration policies. Through the analysis of the implementation of MERCOSUR's residence and border crossing policies in Argentina and Brazil, we showed that SLBs can facilitate or restrict the functioning of regional agreements on the ground by exercising discretionary power through a set of strategies. These include improvisation, informal arrangements, cherry-picking, and case-by-case solutions.

SLBs adopted diverging approaches to the implementation of different components of MERCOSUR's migration regime. On the one hand, SLBs engaged proactively with the MRA, exercising discretion to facilitate the implementation of the regional policy. On the other hand, SLBs resisted the Recife Agreement and the TVFs, exercising discretion to restrict the implementation of those policies. We showed that SLBs mostly use *improvisation* and *case-by-case* strategies, often combining both, when they are interested in pushing forward policy implementation. Through these strategies, SLBs from both Argentina and Brazil not only facilitated the implementation of MERCOSUR's residence policy but also expanded its scope unilaterally. MRA's criteria and procedures proved so efficient for everyday activities on the ground that Brazilian SLBs decided to apply MERCOSUR's facilitated residence requirements to nationals of other non-MERCOSUR countries. Similarly, Argentine and Brazilian SLBs unilaterally simplified the criteria for applying for permanent residence in the framework of the MERCOSUR agreement, making access to regularization for MERCOSUR nationals easier. Additionally, Argentine and Brazilian local SLBs improvised informal coordination mechanisms to facilitate the implementation of fast-track border-crossing procedures in those border areas where they had a joint interest in smoothing the movement of persons across the border.

Our analysis indicates that SLBs mostly resorted to the *cherry-picking* strategy to hamper the implementation of regional policies. SLBs from both Argentina and Brazil decided to apply only some aspects of MERCOSUR's border-crossing policies and not others. Argentine SLBs did not comply with joint border controls and fast-track border-crossing procedures in those binational borders where inter-agency domestic conflicts hampered their work routine. Brazilian SLBs resisted the implementation of joint border controls because those required them

not to carry arms with them. The result was a limited and asymmetrical implementation of MERCOSUR's border-crossing policies.

The empirical evidence that we collected provides preliminary insights into the reasons that may explain why SLBs adopt different coping mechanisms and discretionary strategies in different policy areas. SLBs exercise discretion to pursue individual preferences and corporate interests regarding the policy to be implemented. In the absence of supranational enforcement mechanisms, SLBs' preferences seem to be determined by individual cost-benefit calculations related to the viability of policy implementation and its impact on work routines. In particular, SLBs exercise discretion in support of implementation when they perceive that the changes in the bureaucratic and administrative procedures brought about by regional agreements can facilitate their work on the ground in terms of workload.

Furthermore, we identified variation in the preferences of local and federal-level bureaucrats. Federal-level bureaucrats opposed facilitated border-crossing policies because those curtailed their national autonomy and required them to coordinate and share authority with their counterparts on the other side of the border. Local-level bureaucrats share a preference for faster and easier border-crossing procedures that can facilitate their everyday activities. Federal bureaucrats' restrictive approach creates costs for local-level bureaucrats in terms of administrative overloading due to long waiting hours on the border. To cope with this, local-level bureaucrats adopt creative case-by-case solutions based on informal direct coordination with their local counterparts on the other side of the border. Finally, empirical evidence hints at a feedback effect of regional policies on the preferences of SLBs. The liberal characteristics of MERCOSUR's regional migration policies reshaped SLBs' preferences – particularly those working on the implementation of the ARM – in favor of policy solutions that expand regional migrants' access to regularization and socio-economic rights. This, in turn, pushed SLBs to actively look for solutions to overcome administrative and bureaucratic stumbling blocks to the implementation of regional migration policies.

Our analysis provides a set of empirical and theoretical contributions. First, we bridge the gap between the literature on SLBs and the scholarship on regionalism in the Global South by showing how street-level interactions among bureaucrats affect the implementation of regional policies negotiated by national governments within ROs. SLBs' agency is particularly relevant in those regional institutional settings, marked by the absence of enforcement mechanisms (such as MERCOSUR's), which leaves significant room for maneuver to actors at



the street level. Second, we show how SLBs' discretion strategies can have opposite effects on policy implementation, expanding or restricting citizens' access to regional rights. Third, we contribute to the literature on South American migration governance. Scholars highlighted the existence of a gap between liberal policies on paper and more restrictive implementation on the ground (Acosta 2018; Acosta and Freier 2015; Ramírez 2018). We suggest that such a gap is far from homogenous by shedding light on the local-level determinants of contrasting (expansionary vs. restrictive) approaches to regional migration governance within MERCOSUR. Significant variation exists in how MERCOSUR member states implement regional migration policies, and SLBs play a key role in it.

This study focused on the agency and strategies of SLBs in the implementation of a specific set of MECOSUR's migration policies in two countries. To increase the scope for generalization of our findings, additional empirical case studies are needed. Future research should look at the implementation of regional policies in smaller countries with limited state capacities. Additionally, future research should analyse and compare other policy areas. This is crucial for confirming and, possibly, expanding the taxonomy of coping mechanisms and discretionary strategies adopted by SLBs throughout the implementation of regional policies, as well as for deepening our understanding of SLBs' impact on regional policy implementation.

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