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STUDY ON EXPERIENCES IN THE IMPLEMENTATION OF THE RESIDENCY AGREEMENT OF MERCOSUR AND ASSOCIATES

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1. Introduction¹

The XIII South American Conference on Migration (SCM), held in Cartagena de Indias, Republic of Colombia between 3rd and 5th December 2013, was convened under the slogan 'Migration regularization as a mechanism to achieve full exercise of the rights of South American migrants and the strengthening of regional integration'.

The Conference specifically pronounced itself on the issue of migration regularization, emphasizing that in the South American area there must be no citizen of the region in an irregular situation, as stated in the SCM Declaration of Migration Principles and Overall Guidelines.

Under the IV thematic axis, 'International projection of the South American region', several topics were analysed, including migration regularization, and the Conference underlined 'the importance of regularization as part of the regional constitutive processes, among others, the Agreement on Residency of Nationals of the State Parties to MERCOSUR and Associated States, a paramount step toward the construction of South American citizenship'.

In this line, the SCM 'requested the Technical Secretariat to produce a study on the experiences in the implementation of the Agreement on Residency of Nationals of the State Parties to MERCOSUR and Associated States, in particular regarding the requirement of criminal, court or police records and medical certificates, in the spirit of facilitating the rights of free mobility and South American citizenship'.

Within such framework, the present study intends to evaluate the implementation of the above Agreement by examining its extents and internalization, validity and effective enforcement in signatory countries. The study was prepared at the request of the SCM Technical Secretariat by the Institute of International Migration Policies and Asylum (IPMA, under its Spanish acronym), an organization with a wide expertise created by the National University of Tres de Febrero and the National Direction of Migration of the Argentinian Republic, which particularly aims at establishing a space for the treatment of migration policy from the analysis and cooperation perspectives.

¹ The paper was prepared by the Institute of International Migration Policies and Asylum (IPMA).

2. Extents of the Agreement on Residency of MERCOSUR nationals

As a process of sub-regional integration, the Southern Common Market, hereinafter referred to as MERCOSUR, was established by the Treaty of Asuncion, signed in that city on 26th March 1991 by four Southern Cone States: Argentina, Brazil, Paraguay and Uruguay. All South American countries have adhered to the instrument, some as State Parties (Bolivarian Republic of Venezuela), others with full membership under process (Plurinational State of Bolivia) and the rest as Associated States to the regional bloc.

Under article 1, the Treaty of Asuncion set out the objectives of the new process, which aims to accelerate the integration mechanisms implemented with different degrees of success by the Latin American Agreements in the pursuit of greater unity among its States (ALALC, ALADI, etc.) as follows:

'The State Parties hereby decide to establish a Common Market, which shall be in place by 31st December 1994, and shall be called the 'Common Market of the Southern Cone' (MERCOSUR).

This Common Market shall involve:

-The free movement of goods, services and factors of production between countries through, inter alia, the elimination of customs duties and non-tariff restrictions on the movement of goods, and any other equivalent measures;

-The establishment of a common external tariff and the adoption of a common trade policy in relation to third States or groups of States, and the co-ordination of positions in regional and international economic and commercial forums;

-The co-ordination of macroeconomic and sectorial policies between the States Parties in the areas of foreign trade, agriculture, industry, fiscal and monetary matters, foreign exchange and capital, services, customs, transport and communications and any other areas that may be agreed upon, in order to ensure proper competition between the States Parties;

-The commitment by States Parties to harmonize their legislation in the relevant areas in order to strengthen the integration process.

The first article, which defined the bloc purposes and major instruments, highlighted some issues –beside the first efforts channelled to the economic integration-trade liberalization model, the coordination of macro-economic policies, the common external tariffs, the sectorial agreements, etc.- which helped to open paths for public policy convergence and a greater and more comprehensive integration.

The process experienced by MERCOSUR demonstrated the need to extend its scope to the coordination of 'other' policies apart from the economic, commercial, social, education, cultural, labour, etc., which started to be identified as Mercosur Citizen and Social Mercosur.

Thus, the focus on the free movement of 'production factors', which include labour and hence its implementing actors, the workers, and policy coordination and law harmonization, drifted to new developments until the technical bodies working in the Mercosur institutional structure identified other pathways to free mobility and settlement of Mercosur nationals within the bloc as a substantive supporting point for the integration process.

In this sense, the different Declarations of the Presidents of the MERCOSUR States gathered in the framework of the Council of the Common Market showed how the expressions of the will to advance toward the free movement of persons had been reiterated since the year 2000.²

Basically, free movement is usually interpreted in two senses, either as the mechanism that authorizes beneficiaries to enter, circulate and leave without physical controls the territory of the countries that enforce it, or a modality which not only permits entry and exit without the need for a visa or previous authorization, but also implies the right to stay or settle in any place of the territories included in such system.

The latter is possibly closer to the future germ of extended citizenship, by which all persons will enjoy the possibility to enter, leave and remain within the regional space, established by the Treaty of Asuncion with equal rights and access to the social services.

In this framework the Residency Agreement was approved as one of the most significant steps in the migration field, contributing to the projection of a citizenship statute built on the migration dimension and free movement and access to residence for the mere fact of being a national³.

² See para. 18 from the Joint Communiqué by the Presidents of MERCOSUR Member Countries, Bolivia and Chile, Florianopolis, 14th and 15th September, 2000

See para. 15, Joint Communiqué, Asuncion, 22nd June, 2001

See para. 14, Joint Communiqué, Brasilia, 6th December, 2002

³ In accordance with article 3 of the Treaty Constituting the South American Union of Nations, its specific goals are: '*...the consolidation of a South American identity through the progressive recognition of the rights of all the nationals of one Member State residing in any of the other Member States, in order to achieve a South American citizenship ...*'.

2.1 Negotiations on the Residency Agreement

Undoubtedly, the Agreement on Residency of Nationals of the State Parties to MERCOSUR, Bolivia and Chile, then extended as a result of the adhesion of the majority of Associated States, is one of the major norms in the so-called Mercosur Citizenship.

Concluded in 2002 by the Presidents of the signatory countries, it was considered the cornerstone of the integration scheme, with glaring benefits for its citizens and reshaping the logics which had until then dominated migration policy in the region.

The agreement was approved by the Decision of the Common Market Council N° 28/02, and negotiated at the Meeting of Interior Ministers –MIR– in the second half of 2002 by the technical bodies that discussed and negotiated thematic agendas to be submitted to that Meeting.

It is interesting to note that at that time, the issues of security and mobility of persons were both addressed by organs within the competence of the Ministry involved, in contrast with the present, separate treatment of the two issues through different Commissions with the same hierarchy.

In previous technical discussions of the Group Specialized in Migration Matters, under the Follow-up and Control Sub-commission from the MIR Technical Commission, the delegation of Brazil had presented a draft agreement on a migration ‘amnesty’ for MERCOSUR nationals, viewing simultaneous implementation in all the countries of the regional bloc as an exceptional and temporary measure.⁴

At the same time, there had been negotiations on a draft agreement which sought regularization of all nationals irregularly staying in one of the Mercosur member countries, eliminating the need to leave such country to apply for a visa or a resident permit.

Both devices embodied the traditional approach to the migration issue –an extraordinary regularization measure or the consensus to regularize migrants with irregular status without requiring them to leave the country where they had settled– which did not provide a definitive solution to regional mobility or South American migrants’ difficulties to meet the criteria and requirements of the migration laws of the State Parties and Associates, two obstacles which continued to generate high numbers of migrants in an irregular situation.

At the meeting after Porto Alegre’s, carried out in Curitiba, Brazil, a project was submitted with a new approach which went beyond the exceptionality the amnesty

⁴ MIR Technical Commission, Act 03/02, Porto Alegre, Brazil, 30th August 2002

had attempted to resolve and facilitated regularization in the territory where migrants had settled. It created an entity common to all signatory countries and introduced a 'new migration criterion' with the same requirements either in the country of destination or origin, through consular processing and without a limited validity.

This breakthrough proposal seemed almost revolutionary. The political context was favourable, since the States pursued acceleration of the regional process and had 're-launched Mercosur' only two years before; several countries were emerging from the crisis they had gone through early in the century, and in Brazil, which was facing elections, candidates were in favour of advancing toward integration.

Finally, the draft Agreement was approved in November 2002 by the Meeting of Interior Ministers, who presented it to the Council of the Common Market as a Draft Decision. In approving it the Ministers highlighted that *'it has been one of the most transcendent steps since the outset of the integration process, and once fully implemented, the measure will notably contribute to bringing our countries closer'*.⁵

The Presidential Summit of December 2002 was the frame for the approval of the Agreement on Residency of Nationals of MERCOSUR, Bolivia and Chile, and the presidents expressed *'...their great satisfaction of the historic process which has led to the adoption of the 'Agreement on Residency of Nationals of MERCOSUR, Bolivia and Chile', the coming into force of which will be a significant step toward the common goal to establish the free movement of persons in the bloc ...'*

2.2 Analysis of the Agreement contents.

Firstly, it is necessary to note that for the first time the Agreement sets up **common rules** on residence procedures for the nationals of the signatory States, implementing adequate mechanisms and simplifying and harmonizing documentary requirements.

Contrary to the migration law traditional criteria on residence permits or visa application, usually connected with the accreditation of experience or the register to develop a determined activity, such as worker or self-employed; the family relationship with a national or resident; the university or post-graduate studies; the investment in productive, trade or service supply projects, etc., the Agreement created a new migration criterion which focused on the **accreditation of nationality** of one of the MERCOSUR State Parties or Associated States, seeking to benefit the citizens of such nationality for the mere fact of being citizens of the countries in the region. This

⁵ Act RMI N° 02/02, XII Meeting of Mercosur Interior Ministers, Salvador de Bahia, Brazil, 8th November 2002

innovative migration criterion or reason was called the 'MERCOSUR nationality' criterion.

The individual scope of application, that is, the individuals who are eligible to benefit from the Agreement conditions, are the **nationals** of the State Parties or Associated States –which have been signatories or adhered to it later on- who want to reside in the territory of other State Party or Associate, and they are required to provide evidence of nationality, lack of criminal and court records and some personal documentation. A further condition was added afterwards in defining the term 'nationals', including migrants who have the nationality by birth of one of the State Parties or Associates, or have been granted nationality or naturalization if, in the latter case, they have obtained such status at least five (5) years before application.

With regard to the territorial scope of application, the Agreement made an interesting contribution as it introduced two modalities. One permits the beneficiary to submit the residence application in his/her own country to the consular representation of the country of destination. The other authorizes nationals of one Party who have entered and remain in the territory of other Party with the intention of settling, to directly apply in the migration office in the country of destination. In both cases applicants must submit the documents set out in the Agreement.

This second modality permits regularization of the individuals who already stay in the territory of the State where they intend to settle, regardless of their migration category or sub-category at the time of entry, and prevents the imposition of fines or other monetary penalties for such irregularities as having remained for a period longer than authorized. In practical terms, within the framework of the Agreement on Residency, pursuant to this clause if a migrant enters the territory of other Party as a tourist may, even with an expired visa, apply for his/her residence under the 'MERCOSUR nationality' criterion in the migration offices, without the need to leave the country to request the consular visa and pay the consequent fine. That is, the Agreement not only seeks to harmonize and reduce documentary requirements, but also exempts applicants from the payment of fines or monetary penalties established by the ordinary law of each country.

In regard with the migration **category**, Article 4 of the Agreement states it is a 'temporary' residence, and the **period of stay** established in the same Article for such category is 'a maximum of two years' after meeting a number of requirements which will be developed under point 4 of this report. During the initially granted period – before expiration- beneficiaries may apply for the residence permit under the 'permanent' category. The necessary procedures must be started within the ninety day-period before expiration of the temporary residence.

Concerning the **rights** set forth in the international instrument under analysis, in the first place it is worth noting the rights of persons who have obtained their residence to freely **enter, leave, move and stay** in the territory of the receiving country and have access to any activity, either as worker or self-employed, **in the same conditions as nationals.**

In accordance with the provisions of Article 9, the beneficiaries of the Agreement have the same civil, social, cultural and economic rights and freedoms enjoyed by the nationals of the receiving country, especially extending protection in the labour area, as they shall receive a treatment no less favourable than that accorded to nationals, in particular regarding salary, labour conditions and social services. This shows the spirit of the Agreement, since it equalizes the rights of all the nationals of the region as a fundamental mechanism for full integration in the receiving country.

Furthermore, other important rights of emigrants are highlighted, such as the right of family reunification of nationals of one of the Parties with the members of his/her family or the right to freely transfer remittances, that is, his/her income and personal savings.

On the other hand, from the standpoint of the combat against migrant smuggling with labour exploitation purposes and the illegal employment of immigrants, which are usually linked with the abuse of the vulnerable conditions often suffered by irregular migrants, the Agreement provides for cooperation devices to detect and penalize illegal employment, with a view to punishing physical or juridical persons who profit from such vulnerability without affecting the immigrant worker rights as a consequence of the work they have developed under the above conditions.

As it can be observed, the Agreement on Residency provides for migrant access to rights in the same conditions as nationals, except the political rights, and notably facilitates the access to residence by means of an innovative migration criterion which not only reduces and harmonizes the documentary requirements, but also builds them on belonging to one of the countries of the region, contributing to the consolidation of a migrant-based integration process and therefore becoming one of the cornerstones of the intra-regional migration policy.

3. Agreement internalization and validity

As all regional integration schemes, the Mercosur legal system comprises original and derivative norms. The first are subscribed by the State Parties, have a constitutive character and form part of the organization process and the normative and institutional norms of the organization –Treaties, Agreements, Protocols – while the second are those approved by the bodies that, as a result of the foundation treaty, have normative faculties.

The validity of the original norms, regardless of their name, is regulated by the specifications of each instrument or the Treaty Law and the constitutional system of each State Party.

In MERCOSUR, the process by which derivative norms approved by the decision-making bodies, Common Market Council (CMC), Common Market Group (GMC) and the Trade Commission (CCM) come into force, is set forth in the Protocol of Ouro Preto signed in 1994 and other complementary norms established afterwards⁶.

Given the inter-governmental and not supranational character of MERCOSUR institutions, in general its norms have not direct effect. This means that the regional norms that modify the State Party internal laws will commonly require the approval of legislative bodies –or the executive branch, according to the case- of the signatory State, and such approval should be ratified by the executive branch and the ratification instrument deposited with the depositary.⁷

As established in the Protocol of Ouro Preto –hereinafter POP- the decisions of the MERCOSUR organs are taken by consensus and in the presence of all the State Parties (POP, art. 37). The Protocol also establishes that the norms emanated from these organs are binding (POP, art. 42) and the State Parties commit to adopt all measures needed to ensure compliance (POP, art. 38). Actually, it sets up that ‘when necessary, they shall be incorporated into the domestic legal systems in accordance with the process provided for by the legislation of each country’ (POP, art. 42)⁸.

⁶ Res. GMC Nº 23/98 -- Dec. CMC Nº 23/00 -- Dec. CMC Nº 20/02 -- Dec. CMC Nº 22/04

⁷ It has been understood that, insofar that the norm adopted by the Mercosur organs is related to matters within the competence of the executive branch, the issuance of a competent authority act (decree, resolution, etc.) acknowledging the Mercosur norm is a sufficient legal procedure to implement incorporation into the domestic legal system.

⁸ Chapters IV and V of the Protocol of Ouro Preto (POP) address the national application of MERCOSUR Organs and MERCOSUR Legal Sources, respectively. Such sources are the Treaty of Asuncion itself, along with Additional Protocols and Instruments; the Agreements concluded

The system adopted by MERCOSUR is the simultaneous entry into effect of norms in State Parties. In order to ensure simultaneousness, art. 40 of the POP sets out the following procedure:

- a) once the decision has been adopted, the States Parties shall take the necessary measures to incorporate it in their domestic legal system and inform the MERCOSUR Administrative Secretariat;
- b) when all the States Parties have reported incorporation in their respective domestic legal systems, the MERCOSUR Administrative Secretariat shall inform each State Party accordingly;
- c) the decisions shall enter into force simultaneously in the States Parties 30 days after the date of the communication made by the MERCOSUR Administrative Secretariat. To this end, the States Parties shall, within the time-limit mentioned, publish the entry into force of the decisions in question in their respective official journals.

In accordance with the system established under art. 40 of POP, the commencement of the normative will be determined by the longest period of time required by any of the member States to incorporate it into its domestic law.

Thus, the incorporation into domestic law is a pre-requisite for the validity of these norms in MERCOSUR.

In line with the above, **the entry into force of the Agreement on Residency of nationals of MERCOSUR, Bolivia and Chile** concluded in December 2002 **required the approval and deposit by the original four State Parties.**

The following table shows the different dates on which signatory countries internalized and deposited the ratification instrument, the Republic of Paraguay being the last country to ratify it.

Deposit of ratification		Entry into force
Argentina	19th July 2004	28th July 2009
Bolivia	11th April 2005	
Brazil	18th October 2005	
Chile	18th November 2005	

within its framework; and the Decisions of the Common Market Council, the Resolutions of the Common Market Group and the Directives of the Trade Commission (art.41). Those referring to the issue are: Res. GMC Nº 23/98 -- Dec. CMC Nº 23/00 -- Dec. CMC Nº 20/02 -- Dec. CMC Nº 22/04.

Uruguay	8th March 2006	
Paraguay	28th July 2009	

Source: Page on Treaties, Protocols and Agreements deposited in Paraguay

The same as many of the Agreements concluded in the Mercosur realm, the Residency Agreement authorizes the adherence of the State Parties which did not sign it initially. It should be noted that at the date of signature (December 2002), only Bolivia⁹ and Chile were associated to Mercosur.

The Republic of Peru (2003), the Republic of Colombia (2004), the Bolivarian Republic of Venezuela (2004¹⁰) and Ecuador (2004) entered the bloc as Associated States¹¹ at a later stage, after the signature of an Economic Complementary Agreement (ACE) in the realm of ALADI, their adherence to the Protocol of Ushuaia, a Presidential Declaration on Democratic Commitment and the necessary approval through Decisions of the MERCOSUR Common Market Council (CMC).

The Republic of Peru formalized its association to MERCOSUR on 15th December 2003 by CMC Decision N° 39/03; and Ecuador, Colombia and Venezuela on 16th December 2004 by CMC Decisions CMC N° 43/04, N° 44/04, and N° 42/04 respectively.

On the other hand, the Common Market Council (CMC) approved the Association Framework Agreements between MERCOSUR and the Cooperative Republic of Guyana and the Republic of Suriname through the Decisions CMC 09/13 and 10/13 of 11th July 2013 and Decisions CMC 12/13 and 13/13 on the Attribution of the Condition of MERCOSUR Associated States, respectively.

After the inclusion of the above two States – whose internalization process is underway- all South American countries became Mercosur State Parties or Associated States.

On 28th June 2011, both the Republic of Peru and the Republic of Ecuador adhered to the Residency Agreement by CMC Decisions N° 04/11 and N° 21/11, respectively. The following year the Republic of Colombia adhered to the Agreement, as stated in CMC Decision N° 20/12, and the number of signatory States increased to nine.

⁹ At present, Bolivia is a State Party with the adherence process underway.

¹⁰ Today it is a Mercosur State Party.

¹¹ Between parentheses, the date on which the above countries acquired the status of Mercosur Associated States.

Country	Adhesion Norms
Peru	MERCOSUR/CMC/DEC. N° 04/11: Adhesion of the Republic of Peru to the Agreement on Residency of nationals of the MERCOSUR State Parties, Bolivia and Chile (28 th June 2011).
Ecuador	MERCOSUR/CMC/DEC. N° 21/ 11: Adhesion of the Republic of Ecuador to the Agreement on Residency of nationals of the MERCOSUR State Parties, Bolivia and Chile (28 th June 2011).
Colombia	MERCOSUR/CMC/DEC. N° 20/12: Adhesion of the Republic of Colombia to the Agreement on Residency of nationals of the MERCOSUR State Parties, Bolivia and Chile (29 th June 2012).

Validity status

Although the Residency Agreement has been considered valid region-wide since the date of ratification and deposit by the Republic of Paraguay, 28th July 2009, the truth is that in practice not all the countries are applying its terms and that the internalization and normative hierarchy of enforcement at national level differ from one country to another.

In the case of the Argentinian Republic, the Agreement on Residency of Nationals of Mercosur and the mirror agreement including the Republics of Bolivia and Chile were approved in good and due form by the Congress laws N° 25.903 and N° 25.902 respectively and ratified afterwards¹².

Without detriment to the above, in early 2004, some months before the parliamentary approval of the Agreement, the new Argentinian migration law¹³ had already incorporated into migrant resident categories the 'Nationality' criterion introduced by the Residency Agreement in 2002. This meant the unilateral application of the terms of the Agreement, well before the coming into force at regional level and independently of the application in other signatory States. In this sense it is noteworthy that as a result of the above law, Argentina has been applying this criterion since its outset along with the Bolivarian Republic of Venezuela, though the latter has not signed the Regional Agreement. The same has happened with the Republics of Suriname and Guyana, recently associated to MERCOSUR, since the time when they joined the regional bloc.

¹² In accordance with the information registered by the Republic of Paraguay as depository of the Agreements concluded in the Mercosur realm, the Argentinian Republic notified the ratification instrument on 19th July 2004.

¹³ Law N° 25.871 – Migration Law, Argentina

On the other hand, Argentina has a very active participation in bilateral negotiations undertaken by the foreign relations and migration officials, and permanently pursues the inclusion of the migration issue in the positive agenda with States of the region. Such negotiations led to the conclusion of Bilateral Agreements with many of the signatory States, which enabled application of the nationality criterion without awaiting the simultaneous entry into effect established in the Mercosur norms and minimized the difficulties caused by the internalization of a regional Agreement over a bilateral instrument. Thus, we can mention the migration Agreement concluded by Argentina and Bolivia in 2004 – which came into force only in 2006¹⁴ –, that signed with the Republic of Peru in 2007¹⁵, the Agreement with the Federative Republic of Brazil in 2005, on occasion of the commemoration of the Argentinian-Brazilian friendship and the Agreement concluded with the Oriental Republic of Uruguay in 2006.

Beside the above Agreements, since 2004 through a Ministerial circular Chile has granted a reciprocity-based treatment to Argentinian nationals¹⁶; the Republic of Paraguay adopted a similar measure by a Presidential Decree establishing the nationality criterion for Argentinians applying for residence in Paraguay¹⁷ and finally, by a Ministerial Resolution the Bolivarian Republic of Venezuela¹⁸ authorized it for Argentinian citizens, without detriment to a very irregular application.

In the case of Brazil, by Legislative Decrees N° 210/2004 and 925/2005 the National Congress approved the MERCOSUR Residency Agreements and in 2005 deposited the respective instruments in the Republic of Paraguay recalling, however, that the entry into force responded to the simultaneousness established by regional norms. After the above approvals in 2004 and 2005 and considering the region-wide entry into effect in July 2009, some months later Brazil promulgated by two Presidential Decrees the Agreement on Residency of nationals of MERCOSUR and the mirror Agreement with Associate States.¹⁹

In conformity with the above, and without detriment to other aforementioned bilateral Agreements on the nationals of signatory States and States which adhered

¹⁴ Approved by Law N° 26.126

¹⁵ Approved by Law N° 26.535

¹⁶ By Circular Official Communication N° 31 of August 2004, the Chilean Interior Ministry instructed regional majors and provincial governors on migration measures regarding Argentinian citizens.

¹⁷ Presidential Decree N° 9032 of 20th February 2007 of the Republic of Paraguay.

¹⁸ Resolution of the Ministry of Popular Power for Internal Relations and Justice N° 90 of 28th March 2011.

¹⁹ Decree N° 6964/2009, 29th September 2009 and Decree N° 6975/2009, 7th October 2009, promulgating the Agreement on Residency between the MERCOSUR State Parties and the Agreement between State Parties and Associates, respectively.

after the Residency Agreement, the government of Brazil has been implementing the nationality criterion on the basis of the reciprocity principle in international relations, that is, when new States adhere to the Agreement and inform about effective application to Brazilian citizens, Brazil starts application to the nationals of such country. According to the information published in the Ministry of Justice website, foreigners section, at present Brazil implements the terms of the Agreement with the nationals of Argentina, Paraguay, Uruguay, Chile and Peru, whereas the adhesion of Ecuador is under the process of internalization²⁰.

The Oriental Republic of Uruguay passed the Law N° 17.927 on 8th December 2005²¹, including the Agreements on Residency in Mercosur and was one of the first countries that internalized them. Despite a complex process of approval of international Agreements, Uruguay's national migration law 18.250, enforced in 2008, included the citizens of Mercosur Member States and Associates under the temporary residency criteria (art. 34).

It is worth noting the recent progress made by Uruguay through the National Congress law N° 19.254 of August 2014, which grants definitive residency without the requirement of previous temporary residency to the citizens of the extended MERCOSUR, either in the Uruguayan territory or through the consular representations abroad, thus introducing a modification to arts. 27 and 33 of the law 18.250.

The Republic of Paraguay was the last of the State Parties that ratified both the Agreement with the State Parties and the similar one with Associated States through the laws N° 3.565 and 3.578 respectively, depositing on 28th July 2009 the ratification instrument on the basis of which the Mercosur Secretariat notifies the signatory countries on the simultaneous entry into effect of such Agreements.

While the Agreement has been in force in this country over the last five (5) years, effective implementation has been partially hampered by the lack of information to beneficiaries and the reluctance of migration offices to adequate administrative steps, in addition to the time consuming procedures and the limited places to carry them out, which discourage potential applicants.

Moreover, the temporary resolution provided for by the Agreement does not grant the right to obtain Paraguay's identity document and therefore migrants who may benefit from the instrument under analysis find difficulties to fully exercise their rights of access to public services or other aspects of daily life, such as the opening of a bank account or real estate transactions.

²⁰<http://portal.mj.gov.br/estrangeiros/data/Pages/MJA1BC41DEITEMID7E11F03716514349930FBAC2F3BEBA50PTBRIE.htm>

²¹ Uruguay deposited the ratification instrument on 8th March 2006.

At present a greater activity can be noted in the migration service field in order to streamline administrative procedures. Owing to the aforementioned limitations, in some cases migrants turn to the ordinary migration normative, even if it sets more requirements to get the permanent residence and the identity document.

In accordance with the registers published by the depository of the Residency Agreements, the Republic of Chile notified on the compliance with internal enforcement requirements on 18th November 2005²². According to the norm that instruments the implementation of such Agreements, by the Official Circular Communication 26465 of 4th December 2009 the Interior Under Secretariat, Interior Ministry, which is charged with migration policy application, instructs the implementing organs –Department of Foreigners and Migration, provincial Governments and Chilean Consulates abroad- to apply the Residency Agreements to the nationals of Argentina, Brazil, Paraguay, Uruguay and Bolivia, specifying the requirements and periods of stay that shall be granted.

Up to present date, in Chile the benefits of the Agreement have not been extended to the nationals of Colombia, Peru and Ecuador, although the normative framework of application does not derive from a parliamentary passage but a lower hierarchy issued by the Interior Ministry, and an assessment on application to the nationals of the States which adhered after the original signature depends on a decision of such Ministry.

The Act of adhesion published in the Official Registry of Ecuador N° 209 of 21st March 2014 was signed in due course by the representatives of all signatories to the Residency Agreement in 2002 –including Bolivia and Chile- expressing their willingness to commit to the Agreement conditions. This procedure has been established in the CMC Decision N° 28/04 on Agreements signed with MERCOSUR Associated States which, in Article 8, second paragraph, states: *'When an Associated State submits a request for adhesion to an Agreement signed between MERCOSUR and other Associated State or States, as long as it has been agreed upon by all parties involved, the adhesion shall be instrumented through the conclusion of an 'Act of Adhesion', which shall be signed by all the previous signatories of the Agreement concerned and by the adhering country or countries, on the occasion of the Meetings of the Common Market Council.'* In this sense, the implementation should be only subject to the compliance with the enforcement norms and the new adhering State should deposit the instrument with the depository in order that the Agreement come into force for all the Parties.

²² <http://www.mre.gov.py/v1/Attachments/mercosur/mercosurprincipal.htm>

In the case of the Plurinational State of Bolivia, while it incorporated the Residency Agreement into its domestic law in 2004²³ and deposited the ratification instrument only half a year after,²⁴ at the beginning there were numerous difficulties in effective application, such as the collection of daily fines or monetary penalties for stays longer than authorized, despite the expressed exemption set forth in the Agreement; requests for certificates of medical studies which, though included in the Agreement, could be considered excessive; rental contracts or real estate deeds; letter from the consulate of the country of former nationality stating the conformity with the Agreement, among other requirements, which generated longer wait times and monetary disbursements due to the procedure costs.

As time went by, such requirements gradually disappeared as a result of numerous actions taken by the foreign relations and migration organs from the other signatory countries in defence of their nationals.

In 2011, the General Direction of Migration informed by a Communiqué that, considering the compliance with the Ministerial Resolution N° 026/2011, the effective application of the Residency Agreement would start as from 11th April 2011, exactly six years after the date of Bolivia's deposit of the ratification instrument and two years after the coming into force at regional level.

In spite of the above difficulties and delays, it is worth noting that the current Bolivian migration organ has harmonized the documentary requirements for MERCOSUR nationals with the text of the Agreement and presently applies its conditions to the nationals of all the signatories and adhering countries.

On 28th June 2011, both the Republic of Peru and the Republic of Ecuador signed the Acts of adhesion to the Residence Agreement, which were approved by CMC Decisions N° 4/11 and N° 21/11 respectively. However, effective implementation took a considerable time. In the case of Ecuador, it was published in the official register only in March 2014 and the internal regulation was approved on 2nd April 2014, benefitting the nationals of the rest of the eight countries which are party to the Agreement today. In the case of Peru, the beneficiaries are also the nationals of the eight countries that have hitherto signed or adhered to the Agreement.

The Republic of Colombia adhered to the Agreement on 29th June 2012 according to the CMC Decision 20/2012. The Resolution 4.130 of 11th July 2013, under Title III, Chapter One, provides details of the MERCOSUR temporary resident visa and application requirements, which are considered in the next section of the present report. In this line, the website of the Ministry of Foreign Affairs of Colombia points

²³ Law 2831, 3rd September 2004

²⁴ Deposit of the ratification instrument: 11th April 2005.

out that currently the nationals of Argentina, Brazil, Bolivia, Peru, Chile Ecuador, Uruguay, Paraguay and Venezuela may benefit from this category.

On the other hand, art. 10 establishes that the visa introduced by the Agreement will be granted as long as there is a reciprocal treatment for Colombian nationals.

It is noteworthy that the Republic of Colombia has put in place an electronic system for visa issuance with important facilities, providing an online procedure which can be accessed from any part of the world.

An extended practice in several countries is that, without detriment to the time required for internalization of the international Agreements such as the Residency Agreement, after completing the traditional steps of negotiation, adoption, approval, ratification and deposit, they continue establishing regulations or instructions of less hierarchy for effective implementation, which in many cases take years and generate new delays and uncertainty on the Agreement application to beneficiaries and the other Parties.

4. Implementation

As mentioned, one of the major purposes of the Agreement was the access to residence through the establishment of equal requirements –harmonization- which can be easily met –facilitation- for all MERCOSUR nationals without the need to accredit other reasons, motives or migration criteria set up by the legislations of State Parties or Associates than nationality in order to be granted a temporary residency category which can later on become definitive or permanent.

An analysis of the requirements within the framework of the Residency Agreement shows that the States borne in mind the reality of migration flows and patterns existing in the region and the necessity to adequate the normative framework to overcome the difficulties found by MERCOSUR nationals to meet documentary requirements, and therefore limited them to the documents proving nationality of one of the State Parties.

Nationality became the cornerstone of this new migration criterion and, at the same time, a pathway to facilitate mobility and settlement of nationals of the countries of the regional bloc in the framework of the integration and inclusion process, granting palpable and evident benefits to their citizens.

On the other hand, for security and public order reasons the criminal, police or court records checks were maintained.

The international instrument under analysis expressly establishes the following documentary requirements for applicants who come under the provisions of paragraphs 1 and 2 of article 3. The respective consular representations or migration services may grant a **temporary residence** of a maximum of two years (which may later on become permanent residence):

- **Evidence of Identity and Nationality:** Valid and current Passport or identity card or certificate of nationality issued by the consular agent of the beneficiary's country of origin accredited in the receiving country.
- **Birth certificate and Evidence of Marital Status:** Birth certificate and evidence of the marital status, marriage certificate and nationalization or naturalization certificate, as required.
- **Lack of Criminal and Court Records in the Country of Origin:** Certificate proving the absence of criminal, court and/or police records in the country of origin or in the countries where the applicant has resided the five years before the date of

his/her arrival in the receiving country, or his/her application to the Consulate, according to each case.

- **Lack of Criminal Records in the Country of Destination:** Certificate proving the absence of criminal, court and/or police records in the country of destination, in the case of nationals coming under paragraph 2 of Article 3 of the present Agreement;
- **Lack of International Criminal Records:** Sworn statement on the absence of international criminal, court or police records;
- **Medical Certificate:** If required by the domestic law of the State Party of destination, a medical certificate issued by a migration medical authority or other official sanitary authority of the country of origin or destination, as required, certifying the psychophysical health of the applicant, in accordance with the domestic norms of the receiving country;
- **Payment of a service fee:** as required by the respective domestic laws.

The matrix attached to the present study also includes the legalization procedure, which is not a documentary requirement but is necessary to validate the documentation established by the Agreement. This is important to show effective application of the simplified legalizations regulated in the Agreement, which says:

- **Legalizations:** *'In order to legalize the documents, when the application is processed by a consular representation a certification of authenticity will be sufficient, in accordance with the procedures established by the country where the document has been issued. When the application is processed by the migration services, such documents should only be certified by the consular agent of the applicant's country of origin accredited in the receiving country; with no further requirement'.*

Overview of the requirements in each country

The following table details all requirements and other information of interest, such as periods of stay or Consulate processing.

On the basis of such information, the table enables identification and a comparative analysis of the requirements set forth in the Agreement and actual enforcement in each country.

Comparative table of requirements by country.

	Temporary Residence Period – 2 years	Evidence of Identity and nationality	Birth certificate and proof of marital status	Criminal -court records in country of origin	Criminal-court records in country of destination	Sworn statm. on interntl crim records	Medical certificate	Service fee	Consular Processing
Argentina	YES	YES	-	YES	YES	YES	-	YES	YES
Brasil	YES	YES	-	YES	YES	YES	-	YES	YES
Paraguay	YES	YES	YES	YES	YES	YES	YES	YES	NO
Uruguay	YES	YES	YES	YES	YES	YES	YES	YES	YES
Venezuela	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A
Bolivia	YES	YES	YES	YES	YES	YES	-	YES	NO
Chile	YES*	YES	YES	YES	YES	-	YES	YES	NO
Colombia	YES	YES	YES	YES	YES	YES	YES	YES	YES
Ecuador	YES	YES	-	YES	YES	YES	-	YES	YES
Peru	YES	YES	YES	YES	YES	YES	-	YES	NO
Guyana	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A
Suriname	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A

*in the case of Chile, the temporary residence granted within the framework of the Agreement has a one (1)-year duration.

YES It complies

NO It does not comply

- It does not request

N/A Not applicable because it is not a party to the Agreement

The above table shows that some countries unilaterally decided to disregard some of the requirements set up in the Agreement and simplified procedures even more.

In particular, it can be observed as a pattern that several countries have exempted applicants from two (2) requirements: on one side, the medical certificate and on the other, the birth certificate and evidence of the marital status, understanding this simplification as a good practice since in the benefit of migrants it reduces the number of documents required and difficulties and delays involved.

In the first case, the State migration laws usually require proof of the migrants' health condition to protect the local population and avoid the possible burden of medical treatments.

In their new laws, some countries of the region have eliminated the requirement of medical certificates as they do not conceive migration as a mere utilitarian instrument of labour markets but a fundamental right of persons, and in this framework, the need for medical attention can be overcome by the available public or private health devices

according to the case and access possibilities; likewise, the impact of migrants' possible diseases on the local population can be addressed with action protocols in case of a risk of epidemics, and from this viewpoint there is no difference between the person who applies for residence and that who enters as a tourist, who is not requested to meet this requirement.

As regards the birth certificate and evidence of marital status or marriage certificate, several countries in the region understand that the identity data included in travel documents issued by the signatory States, valid to enter and apply for residence, are sufficient to prove identity and nationality. Therefore, the submission of other documents to that effect is not necessary except when the purpose is to prove the relationship with dependent minors or marital links with nationals of extra-regional countries, as long as the identity data, including the country of birth and nationality, can be obtained from the above valid travel documents.

In connection with the length of stay established by the Agreement, as set forth in article 4, point 1, the consular representations or migration services, according to the place where the application is processed, may grant temporary residence for 'a maximum of two years'. As shown in the above table, all countries except Chile grant the maximum length established by such provision and give the possibility of applying for permanent residence after such period if the immigrant intends to remain indefinitely.

As regards the implementation of the Agreement in consular representations, which enables migrants to apply for visas before entering the territory of the country of destination, as expressly set out in article 3, point 1, only Argentina, Brazil, Uruguay, Colombia and Ecuador have put it into practice, whereas implementation in the other four countries is still pending. This mechanism permits entry under the temporary category and reduces the workload of migration offices.

5. Conclusions

One of the observable conclusions has been the impact of the Agreement upon the migration laws of several countries of the region, as well as the impulse to region-wide discussions and the dynamics conveyed to bilateral agendas.

In fact, although the entry into force of the Agreement took longer than expected – seven years- and even today some implementation difficulties continue to arise, the positive side is that many countries have incorporated the instrument major contributions into their national legislations. Thus, the Argentinian Republic has adopted the 'MERCOSUR nationality' criterion some years before the coming into

effect of the Agreement, applying it unilaterally and before the simultaneous validity period set up by the MERCOSUR normative. Likewise, it established the equality with economic, social and cultural rights of nationals and permitted the regularization of immigrants with no need to leave the Argentinian territory.

Without delving into the particular aspects of such legislation, it seems that the inclusion of a regional approach and the fact of being the first legislation updated in the 2000s have encouraged a greater activity and debate on the migration issue in the region, which are visible in the influence on bilateral migration Agreements, the enforcement of new national migration laws and the Declarations of the highest authorities of Mercosur countries in favour of adopting the measures needed to make progress in the effective application of the Agreement²⁵.

Importantly, the Oriental Republic of Uruguay also incorporated the nationality criterion with a similar approach, and recently took a further step forward with the approval of Law N° 19.254 of 19th August 2014, which grants to nationals of the State Parties to MERCOSUR and Associates the category of permanent residents without the need to apply for the previous temporary residence set forth in the Agreement. Brazil and Argentina have an Agreement in force and effect which also grants direct access to permanent residency to their nationals in the territory of the other Party.

The Plurinational State of Bolivia, which has not incorporated such criterion into the new migration law, is taking however significant steps to modify the tough immigration restrictions of the former law and has established, among others, the equality of rights and access to services between nationals and migrants.

Presently, in different realms there are intense debates on the migration laws of the Federative Republic of Brazil and the Republic of Chile, where the importance of the regional approach has been highlighted both at different levels of dialogue and activities developed under processes underway.

On the other hand, it is necessary to note that several countries signed and implemented an important number of Agreements and national norms which enabled the application of the nationality criterion before enforcement and generated greater pressure on the States which until then had not adhered, as well as the conviction that it is the adequate mechanism to manage regional migration flows within the framework of the current integration process.

²⁵ Declaration on Migration Principles (Declaration of Santiago), Santiago de Chile, 17th May 2004; Declaration on the Programme Patria Grande (RMI, PPTU, 18th November 2005), *inter alia*.

In this sense, these law modifications and agreements, besides emphasizing the increasingly accepted human rights approach to migration and regularity as an essential element of migrant full integration, paved the way for parallel regularization programmes which mitigated the effects of delays in the Agreement enforcement or accompanied its implementation.

Thus, the Argentinian Republic implemented the Programme Patria Grande between 2006 and 2010; Brazil enforced a migration regularization programme in 2009 and in like manner Chile, between 2007 and early 2008; in 2011 Ecuador put in place special plans for nationals of Venezuela and Peru, and likewise Bolivia, for nationals of the region; whereas Colombia implemented migration regularizations between 2008-2009 and in 2013.

Table: Total of temporary and permanent residencies of nationals of MERCOSUR countries.

		2004	2005	2006	2007	2008	2009	2010	2011	2012	2013	Total	%
Argentina	T	2359	19919	22940	77626	136624	111698	76129	121854	157218	128560	726367	55,4%
	P	13914	16309	20969	43293	75815	83510	89132	121870	119323	132144	584135	44,6%
	To	16273	36228	43909	120919	212439	195208	165261	243724	276541	260704	1310502	100,0%
Chile	T	26161	31462	41296	77968	58231	46318	50653	61009	83211		476309	76,9%
	P	9716	9166	9063	11808	12990	39303	13617	15039	22496		143198	23,1%
	To	35877	40628	50359	89776	71221	85621	64270	76048	105707		619507	100%
Brasil	T	2807	3298	8714	6597	6208	34857	14108	74888	158626		310103	45%
	P	3941	5363	11064	6573	4587	5130	3813	141238	203784		385493	55%
	To	6748	8661	19778	13170	10795	39987	17921	216126	362410		695596	100%
Ecuador	T/No l		7723	7983	17421	20435	28484	31921	26984	6332		147283	66%
	P/Inm		16065	11019	18907	15039	5802	4663	3857	218		75570	34%
	To		23788	19002	36328	35474	34286	36584	30841	6550		222853	100%
Bolivia	T			1623	2012	2078	9701	10419	8646	18571		53050	91%
	P			652	606	639	906	749	569	813		4934	9%
	To			2275	2618	2717	10607	11168	9215	19384		57984	100%
Colombia	T	3185	3426	3529	4174	4844	5365	6691	7732	10722		49668	89%
	P	190	267	313	330	452	648	959	1424	1463		6046	11%
	To	3375	3693	3842	4504	5296	6013	7650	9156	12185		55714	100%
Perú	T	515	646	409	419	1129	1726	1908	2715	4367		20740	94%
	P	233	391	49	18	26	81	81	152	191	150	1372	6%
	To	748	1037	458	437	1155	1807	1989	2867	4558	7056	22112	100%
Paraguay	T	219	133	196	301	378	312	175	168			1882	9%
	P	2091	299	949	2273	3904	2536	3609	2678			18339	91%
	To	2310	432	1145	2574	4282	2848	3784	2846			20221	100%
Uruguay	P/T	1017	697	653	632	2748	2653	1462	772	1236		11870	100%

Table N° 1²⁶ shows the temporary and permanent residencies granted to nationals of the bloc by country, on the basis of records provided by migration offices.

Some data can be useful to analyse the impact of the Agreement and the national or bilateral norms that were approved after signature in 2002. Considering the three countries with the highest volume of immigrants in the period 2004-2012, Argentina, Brazil and Chile, an extraordinary growth can be noted in the number of residencies granted between the beginning and the end of the period. Thus, the amount of residencies processed by Argentina in 2002, 6,273, climbed to more than 276,000 in 2012; the number processed by Brazil went up from 6,748 to 362,410, whilst in Chile they grew from 35,877 to 105,707 in the same period.

If we just consider the year 2012 and add the number of residencies issued by all the countries included in the Table, the total granted to nationals of South American countries comes to over 780,000²⁷.

²⁶ The data was provided by the Specialized Forum on Migration of Mercosur and Associates, on the basis of information furnished by the respective migration offices as at September 2014.

Without detriment to a more comprehensive analysis and valuation of such data, it seems that the factors that have largely driven migration flows in the region have been the improvement of macro-economic indicators in South America, the amelioration of social inequality and the IGP increase in the international context of a strong economic crisis and reduction of employment in core countries, with a special impact upon those receiving South American nationals, such as Spain, and the consequent tougher restrictions on international migration.

In addition, the adoption of new normative frameworks facilitated the intra-regional migration experience sustained by networks of traditional migrants and already established migration systems, along with new routes and migration streams which increased in the last decade. However, it is necessary to consider that the increase in the numbers shown by the Table do not only result from the re-orientation and exponential growth of intra-regional flows, but also from regional migration norms – especially the Residency Agreement- which have decidedly contributed to facilitate the access to regularity and the documentation of migrant groups which in past remained in an irregular situation²⁸.

The process of the Residency Agreement effective application has not been limited to the approval and internalization in the domestic law, since in the majority of countries it has required the implementation of complementary norms or norms to make it operative at the migration offices level.

To date, the countries which have instrumented the issuance of visas by consular representations abroad are few, despite the obligation set up in a norm in full force. Even in the countries which have implemented this option, it is suggested that migrants submit their resident applications once they have entered the territory of the receiving country, due to the scarcity of diplomatic staff or the delays in the obtainment of appointments to start consular procedures.

However, it is possible to observe some good practices or recommendations that can be taken into account to facilitate migrant regularization through the Agreement conditions.

In the first place, some countries have made significant advances in the residence procedures, not only through the possibility of applying for residence at migration offices, but also increasing the points of contact –decentralization-, developing territory-wide programmes which enable access in the areas where immigrants live,

²⁷ The Bolivarian Republic of Venezuela has not been included due to the lack of the source.

²⁸ Just as an example, Argentina's programme Patria Grande facilitated the regularization of more than 420,000 immigrants whose access to residence had been hampered by the migration law previous to the nationality criterion.

informing on the few requirements set up by the Agreement and articulating the work with consular representations to facilitate the obtainment of documents in the countries of origin. Argentina is a good example of this case.

One important point in the reduction of the number of documents required by some countries, particularly the elimination of the medical certificate or birth or marriage certificates –except the need to attest affiliation or links with extra-Mercosur nationals- has been a further step toward facilitation, limiting documentary requirements to the evidences of identity and lack of criminal and court records.

Insofar that countries continue advancing toward regional cooperation and information exchange, it is possible to envisage enquiry facilities, such as online enquiries on the evidence of lack of criminal and court records, and then the question will be limited to the submission of the proof of identity. On this assumption, residence will become a simple process facilitated by non face to face procedures or others reducing paperwork and the wait times.

A good example of simplification is the web consular procedure put in place by Colombia for Mercosur nationals.

It is also important to develop a complementary training work directed at migration and consular officials tasked with the Agreement implementation, considering that sometimes this means a reshaping of the institutional culture and it is necessary to emphasize the importance of the instrument in the regional integration process.

In the same line, it is necessary to draw on the capacities acquired in implementation and the most suitable mechanisms to achieve regularization of Mercosur nationals through South-South cooperation among the competent organs.

Given that the Bolivarian Republic of Venezuela is currently analysing the Mercosur collection of norms to internalize them into the domestic law, the prompt adoption of the Agreement in this country would have an extraordinary impact upon harmonization of the normative that governs access to residence and the equality of rights between nationals and migrants in Mercosur countries²⁹.

One situation that should be particularly considered is the lack of a criterion on nationals of the region who were granted the tourist category and intend to obtain residence in the immigration country, a clearly inadequate situation in this framework which often generates restrictions or conflicts with the normative regulating the entry of persons for tourism or leisure, since they cannot or should not prove such reasons.

²⁹ Suriname and Guyana have hitherto not pronounced themselves on the Residency Agreement.

A combination of the uniform application of the Agreement in all South American countries and the facilitation of migrant movements within the regional bloc, which can be bolstered with full adoption of the right to move freely –even with border registration- is the necessary, albeit insufficient basis to lay the foundations of the South American citizenship from the migration perspective, enforcing the rights to move and stay and the equality of rights and access to public services between migrants and nationals.

The different arenas where the varying aspects of migration management are discussed, negotiated and articulated should continue fostering the full implementation of the Agreement by all South American countries, to ensure the common normative grounds that will increase the identification of South American citizens with the region through identity and nationality-based facilities and consolidate the actual right to migrate within the regional space.

6. References

- Acts of the Mercosur Specialized Forum on Migration.
- Acts of the Specialized Work Group on Migration from the RMI Sub-commission for Control and Follow-up.
- Acts of the Meetings of Mercosur Interior Ministers.
- Declarations of the South American Conference on Migration.
- Decisions of the Common Market Council.
- Treaty for the Constitution of a Common Market between the Argentinian Republic, the Federative Republic of Brazil, the Republic of Paraguay and the Oriental Republic of Uruguay.
- Protocol of Ouro Preto.
- Migration laws of the MERCOSUR States Parties and Associates.
- Information posted on the web sites of migration offices of the countries signatories to the Agreement on Residency of Mercosur nationals.
- Bilateral migration agreements between countries signatories to the Agreement on Residency of Mercosur nationals.

Annex - Matrix of the Agreement requirements by country

The following matrix by country shows to what extent the requirements established by the States coincide with those set forth in the Agreement³⁰.

ARGENTINA	
Period of Stay	Two (2) years.
Evidence of Identity and Nationality	Identity Card or Passport or Certificate of Nationality. Valid and in good condition.
Birth Certificate and Evidence of Marital Status	Evidence of the marital status is not required, only a statement on same. The only document required is the Birth Certificate to prove the relationship of minors under eighteen (18) years of age with their parents.
Lack of Criminal and Court Records in the Country of Origin	Certificate/s from the places where the applicant has resided for a period of more than one (1) year, during the last three (3) years prior to the entry in the country and only for persons over the age of sixteen (16). It must be legalized by the respective Argentinian Consular representation abroad, or must bear the apostille, or be legalized by the representation of the sending country in Argentina.
Lack of Criminal and Court Records in the Country of Destination	The document required is the Argentinian Certificate of Criminal Records, issued by the National Registry of Recurrence or the Federal Police. It is only required for persons over the age of sixteen (16).
Lack of International Criminal Records	The National Direction for Migration provides a form to be completed making a sworn statement at the time of submitting application.
Medical Certificate	Argentina exempts applicants from this requirement.
Payment of Service Fee	AR\$ 300. If the procedure is started at the same time by the family group, the children under sixteen (16) years of age do not pay it. If the applicant submits an affidavit of poverty or indigency issued to such end, he/she is exempted from the above payment.
Other	<ul style="list-style-type: none"> ▪ Proof of residence: The applicant must submit a certificate or a public service bill in his/her name. ▪ Proof of financial means: The applicant must sign a sworn statement on sufficient means of subsistence in Argentina. ▪ Parental consent: Expressed authorization in the case of unaccompanied minors under eighteen (18) years of age. In the case of minors who start the residency procedures in the territory with one of their parents, the authorization may be signed in presence of the acting official; this procedure is cost-exempted. ▪ Evidence of legal entry: Entry stamp, entry card, evidence of entry or registration in the informatic system.
Legalizations	It complies with the simplification of legalizations established by the Agreement.
Observations	To grant residency, the Argentinian Republic has a single-window procedure which provides facilities to apply at the same time for residency and the Identity Document for Foreigners. Previously, these documents had to be applied for separately. The cost of ID procedures is AR\$ 35 and the applicant receives it, already including residency, at his/her address.
Consular Processing	Yes. Argentinian consular representations process residence applications.

³⁰ The information has been compiled on the basis of data of the websites of migration or consular services of countries signatories to the Agreement and information furnished by the States in technical work realms as Mercosur Specialized Forum on Migration.

National Norms	Laws N° 25.871, 25.902 and 25.903; Decree 616/2010
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BRAZIL	
Period of Stay	Two (2) years
Evidence of Identity and Nationality	Valid passport or identity document in force.
Birth Certificate and Evidence of Marital Status	Evidence of the marital status is not required. The Birth Certificate is required to prove the relationship of minors with their parents, unless it has been recorded in the submitted identity document.
Lack of Criminal and Court Records in the Country of Origin	Certificates issued by the country where the applicant has resided in the last five (5) years.
Lack of Criminal and Court Records in the Country of Destination	Certificate of Criminal and Court Records issued by Brazil's Federal Police Department and the Federal and State Justice from the place of residency in Brazil.
Lack of International Criminal Records	A statement on the absence of criminal records is required.
Medical Certificate	Brazil exempts applicants from this requirement.
Payment of Service Fee	R\$ 188.91.
Other	<ul style="list-style-type: none"> ▪ Proof of residency: it is required when the procedure is carried out in Brazilian territory. ▪ Legalized parental consent: Only for unaccompanied minors. ▪ Evidence of legal entry: Yes, it is required.
Legalizations	The Agreement is applied.
Observations	
Consular Processing	Yes, Brazilian consular representations may process residence applications.
National Norm	Decrees Nº 6.964/2009 and Nº 6.975/2009

PARAGUAY	
Period of Stay	Two (2) years.
Evidence of Identity and Nationality	Identity document valid in the country of origin.
Birth Certificate and Evidence of Marital Status	Birth and Marriage Certificates issued by the country of origin or the diplomatic representation of the country of origin in Paraguay.
Lack of Criminal and Court Records in the Country of Origin	Clearance certificate at national level issued by the country of origin or the diplomatic representation in Paraguay.
Lack of Criminal and Court Records in the Country of Destination	Clearance Certificate for Foreigners issued by the Informatics Department of the National Police.
Lack of International Criminal Records	Sworn Statement Form provided by the General Direction of Migration at the time of reception.
Medical Certificate	Yes. It must be issued by a Clinical Practitioner authorized by the Ministry of Health and Welfare, stating that the applicant is in good physical and mental condition and has no infectious contagious diseases, visaed by Paraguay's Ministry of Health.
Payment of Service Fee	GS 1.155.238.
Other	<ul style="list-style-type: none"> ▪ Legalized parental consent: Minors under the 18 years of age must submit the parents' identity documents with a photocopy of both authenticated by public notary, beside the respective authorization in case of absence of both or one parent. ▪ Evidence of legal entry: yes, it is required. It may be proof of entry in the country, stamp on the passport, sworn statement or any other document proving the applicant's presence in the country.
Legalizations	It complies with the simplification of legalizations established by the Agreement.
Observations	As regards penal or police records, the minors under 14 years of age are not required to submit Clearance Certificates. Temporary residents are not eligible to apply for the Paraguayan identity document, which generates serious inconveniencies in the access to public services and other daily common procedures.
Consular Processing	It has not been implemented yet.
National Norm	Laws Nº 3565/08 and 3578/08

URUGUAY	
Period of Stay	Two (2) years
Evidence of Identity and Nationality	Identity card, passport, national identity document (DNI) or certificate of nationality.
Birth Certificate and Evidence of Marital Status	Birth Certificate, regardless of the applicant's age and/or Certificate of Nationalization or Naturalization. The marriage certificate is required if the couple jointly starts application procedures.
Lack of Criminal and Court Records in the Country of Origin	National Clearance Certificate from the country of origin and from the country where the applicant has resided in the last five (5) years only if he/she is over the age of eighteen (18).
Lack of Criminal and Court Records in the Country of Destination	Clearance Certificates issued by an Uruguayan authority are only required to applicants over the age of eighteen (18).
Lack of International Criminal Records	Sworn statement form provided by the migration service.
Medical Certificate	Yes, applicants must submit an Occupational Health Card issued by public or private health services authorized by the Ministry of Public Health.
Payment of Service Fee	USD 65
Other	<ul style="list-style-type: none"> ▪ Proof of residence: It is required. ▪ Legalized parental consent: minors under the 18 years of age, beside meeting the above requirements, must submit an expressed parental consent to reside in Uruguay (if issued abroad, it should be protocolized by an Uruguayan public notary). If the minor will not live with any of his/her parents, they must appoint an adult responsible for him/her in the country; this adult shall provide the respective consent. ▪ Evidence of legal entry: Entry card (T.E.S.) or photocopy of the passport with the entry stamp.
Legalizations	Every foreign document to be added to the application file must necessarily bear apostille or be legalized by the corresponding Uruguayan Consulate and the Ministry of Foreign Affairs of Uruguay, or the Consulate accredited in Uruguay and the Ministry of Foreign Affairs in Montevideo.
Observations	
Consular Processing	Yes, Uruguayan consular representations may process residence applications.
National norm	Law Nº 18.250 of 17th January 2008; law 17.927

BOLIVIA	
Period of Stay	Two (2) years.
Evidence of Identity and Nationality	Passport with a validity of minimum six (6) months, or Identity Card or Certificate of nationality issued by the consular authority in the country of origin.
Birth Certificate and Evidence of Marital Status	Birth certificate. Marriage certificate if required.
Lack of Criminal and Court Records in the Country of Origin	Clearance certificate from the country of origin or the country where the applicant has resided the last five (5) years.
Lack of Criminal Records in the Country of Destination	Clearance certificate issued by the Judicial Organ in Bolivia – Judicial Registry of Penal Records (REJAP) with national competence.
Lack of International Criminal Records	Sworn Statement on the absence of penal, and police records included in a Form issued by the DIGEMIG.
Medical Certificate	Bolivia exempts applicants from this requirement.
Payment of Service Fee	Bs. 912
Other	<ul style="list-style-type: none"> ▪ Registration as worker: it requires the registration as MERCOSUR Worker in the relevant office under Bolivia’s Labour Ministry once the work contract has been signed. ▪ Foreign identity card: it must be requested within 25 working days after the obtainment of residency.
Legalizations	
Observations	
Consular Processing	It has NOT been implemented.
National Norm	Law N° 2831 of 3rd September 2004 Ministerial Resolution N° 026/2011 of 11th April 2011 Law 370 of 8th May 2013 and DS N° 1923 of 13th March 2014

CHILE	
Period of Stay	One (1) year, may be extended for the same period.
Evidence of Identity and Nationality	Valid passport in force.
Birth Certificate and Evidence of Marital Stats	Spouse: original marriage certificate or notarized copy. Children: original birth certificate including the names of parents or notarized copy. Applicant's parents: applicant's birth certificate including the name of parents, or notarized copy.
Lack of Criminal and Court Records in the Country of Origin	Directly requested by the PDI in the case of applicants over the age of eighteen (18).
Lack of Criminal and Court Records in the Country of Destination	Directly requested by the PDI in the case of applicants over the age of eighteen (18).
Lack of International Criminal Records	Evidence is not required.
Medical Certificate	Chile exempts applicants from this requirement.
Payment of Service Fee	The amount is established in conformity with the principle of reciprocity and therefore it varies by country.
Other	<ul style="list-style-type: none"> ▪ Legalized parental consent: Only for minors under eighteen (18) years of age. ▪ Evidence of legal entry: The applicant must submit a photocopy of the LAST Tourism Card. If he/she has lost it, a duplicate must be requested in the International Police offices.
Legalizations	
Observations	<p>The relatives who start the procedure as dependants (e.g. spouse, children or parents of the applicant) under this residency status are not eligible to work.</p> <p>The Agreement is not applied yet to nationals of Colombia, Ecuador and Peru.</p>
Consular Processing	It has NOT been implemented.
National Norm	Circular Communication N° 26.465 of 04.12.09 from the Interior Undersecretary.

COLOMBIA	
Period of Stay	Two (2) years.
Evidence of Identity and Nationality	Valid passport and photocopy including the personal data of the holder. Validity of minimum one hundred and eighty (180) days. The passport must have 2 blank pages.
Birth Certificate and Evidence of Marital Status	If the applicant is a minor, he/she must submit birth certificate bearing apostille, or legalized and translated, as required.
Lack of Criminal and Court Records in the Country of Origin	Clearance certificate issued by the competent authority of the country of origin or the last place of residency where the applicant has stayed the last three (3) years minimum, legalized and translated or bearing apostille.
Lack of Criminal and Court Records in the Country of Destination	Evidence is required.
Lack of International Criminal Records	A sworn statement must be submitted.
Medical Certificate	It is not required.
Payment of Service Fee	USD 210 (VISA + study) MFA Ministerial Resolution 2055/2014
Other	<ul style="list-style-type: none"> ▪ Evidence of legal entry: If the application is processed in Colombia, applicants who were previously granted visas without the OCR or speed reading code must submit a photocopy of the page of the passport including the last entry or exit stamp. ▪ Migration Movements: Certificate of Migration Movement issued by the Special Administrative Unit 'Migración Colombia' within the three (3) months prior to the date of the visa application. ▪ Legalized parental consent: Authorization to stay in Colombia, signed by both parents, bearing apostille or legalized and translated, as required. Otherwise the applicant shall be required an authorization issued by the competent family authority of the country of origin bearing apostille or legalized and translated, as required.
Legalizations	For the purposes of authenticity, when the visa application is submitted to a Consular Office of the Republic, applicants shall only be required a certification pursuant to the procedures established by the country that issued the document. When the application is submitted to the Internal Work Group of Visas and Immigration, the authenticity may be certified by the accredited consular agent of the applicant's country of origin.
Observations	Recently, Colombia has implemented an electronic visa, facilitating procedures and entry in the Colombian territory.
Consular Processing	Yes, applications may be processed by Colombian consular representations abroad.
National Norm	Resolution 4130 of 2013. Articles 8,9, 10, 11, 12 y 15. MERCOSUR/CMC/DEC. N° 20/12: Adhesion of the Republic of Colombia to the Agreement on Residency of nationals of the State Parties to MERCOSUR, Bolivia and Chile. (Date: 29th June 2012). Decree 106 of 2001

ECUADOR	
Period of Stay	Two (2) years.
Evidence of Identity and Nationality	Passport in force, with a validity of at least six (6) months.
Birth Certificate and Evidence of Marital Status	Not required, except to proof parental relationship.
Lack of Criminal and Court Records in the Country of Origin	Clearance certificate from the country of origin or the countries where the applicant has resided the last five (5) years.
Lack of Criminal and Court Records in the Country of Destination	Clearance certificate issued by an Ecuadoran public official through the web portal: ministeriodelinterior.gob.ec
Lack of International Criminal Records	Not required.
Medical Certificate	Not required.
Payment of Service Fee	USD 230. The nationals of Colombia and Paraguay are exempted from payment of the MERCOSUR (12-XI) visa on the basis of agreements concluded with both countries.
Other	<ul style="list-style-type: none"> ▪ Registration: the resident must be registered in the Migration Register (USD 4).
Legalizations	Ecuador applies the simplifications set forth in the Agreement.
Observations	When the holders of TEMPORARY RESIDENT VISAS registered in the Foreigners' Register under the Ministry of Foreign Affairs and Human Mobility are granted the residency visa (or when they are registered, if they have been visaed in a Consulate), they shall request registration in the Migration Register.
Consular Processing	Yes, it is possible to apply for the visa at Ecuador's consular representations.
National Norm	Ratification in Official Register No 209, of 21st March 2014 and internal regulations set up by the Ministerial Agreement Nro. 000031, of 2 nd April 2014.

PERU	
Period of Stay	Two (2) years.
Evidence of Identity and Nationality	Simple photocopy of valid Passport, or identity card or certificate of nationality issued by the consular agent of the applicant's country of origin accredited to Peru.
Birth Certificate and Evidence of Marital Status	Not required.
Lack of Criminal and Court Records in the Country of Origin	Clearance certificate on penal or police records from the country of origin or the countries where the applicant has resided the last five (5) years prior to his/her arrival in Peru.
Lack of Criminal and Court Records in the Country of Destination	Clearance certificate on penal or police records in Peru for applicants who already stay in this country.
Lack of International Criminal Records	It is required through a Sworn Statement.
Medical Certificate	Peru exempts applicants from this requirement.
Payment of Service Fee	Nuevos Soles 117.60.
Other	<ul style="list-style-type: none"> ▪ Evidence of legal entry: As required, applicants must submit the Andean Migration Card (TAM) if they have been registered in migration controls. ▪ Family reunification: for the family members who are not nationals of any of the State Parties to MERCOSUR, Birth Certificate in the case of children, marriage certificate or other proof of marital status in the case of spouses and certificate of nationalization or naturalization in the case of naturalized applicants, as required.
Legalizations	It complies with the simplified mechanism, as established by the Agreement
Observations	
Consular Processing	Yes, applications are processed by Peru's consular representations.
National Norm	

VENEZUELA	
Observations	At the time of preparation of the present report, the Bolivarian Republic of Venezuela has not yet signed the Residency Agreement. However, its adhesion to MERCOSUR normative is underway.

GUYANA	
Observations	At the time of preparation of the present report, the Cooperative Republic of Guyana has neither signed nor adhered to the Residency Agreement.

SURINAME	
Observations	At the time of preparation of the present report, the Republic of Suriname has neither signed nor adhered to the Residency Agreement.

