



Implementing the Global Compact on Refugees and the Global Compact on Safe, Regular and Orderly Migration – What Role for the EU?

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Summary Report

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1. Getting the Priorities Right: the Role of the EU in Implementing the GCR and GCM

Now that the [Global Compact on Refugees \(GCR\)](#) and the [Global Compact on Safe, Regular and Orderly Migration \(GCM\)](#) have been adopted, it is important to move the global discussion of these instruments to an EU context. The compacts will continue with or without the involvement of Europe as there is a lot of support for them outside the continent. However, in order for the compacts to be implemented successfully there is a need for international cooperation, including in Europe. Engagement with and implementation of the compacts would also ensure that the EU is a relevant player on international cooperation on migration to provide them with leverage on a global scale.

This joint ECRE and PICUM event aimed to facilitate discussion on EU implementation of the GCR and GCM. Over 60 participants attended from a wide range of sectors including civil society, international organisations, EU institutions and national governments.

Accountability

How can the governments who have signed the compacts, the state parties, be held to account? The question is complicated by the fact that the compacts are not legally binding and that the level of support for their implementation differs in the EU. The vast majority of UN states were in favour of the GCM, but of the five nations that voted against it (the Czech

Republic, Hungary, Israel, Poland and the United States), three are EU Member States. Among the twelve abstaining countries, five are EU Member States: Austria, Bulgaria, Italy, Latvia and Romania. This has the potential to complicate or undermine EU cooperation. For instance, it was noted that the European Commission (EC) could, theoretically, refer to the GCR. However, this may be more difficult for the GCM as anything that refers to migration positively tends to be quickly blocked. It is also difficult to ascertain exactly where each Member State stands on the compacts and the included commitments.

This becomes clear when EU policy is considered. Civil society organisations have expressed concern about the recast of the Returns Directive as its standards are at times below the commitment of the compacts. What happens when EU law or policy does not live up to the commitment of the compacts? This could add to the long-standing issue of clashes between international law and EU migration policy.

Non-Binding Nature

Both compacts are non-binding and have thus been criticised as being soft law. However, they are rooted in international human rights law. The compacts aim at ensuring the universality of human rights by also applying them to people on the move; this is partly why they are so controversial for some states.

Calls were made to not dismiss the compacts because of their non-binding nature. The Sustainable Development Goals (SDGs), for example, are non-binding but have led to a wider debate. This could also happen with the compacts. However, there are worries that not much will come out of this, as EU Member States' positions on migration often differ. Even within individual countries, there is likely to be an opposition to any push for positive change. Europe is struggling with its own narrow-minded internal debate and fails to realise migration is a global issue.

Trust

As these compacts were agreed on at a global level, the question of trust will be hugely important. Countries need to work together, to implement the agreed upon standards, when some countries are making it difficult to foster trust this can make it very difficult. The Member States of the EU must apply the standards of the GCM and GCR internally if they hope to see them being implemented internationally. There needs to be a European discussion on solidarity in a global context. Again, properly implementing the compacts would give the EU leverage in discussions on a global scale.

2. GCR Specific Session

Multi-stakeholder Response

In practice different stakeholders often work separately without much interaction. It is clear that the EU and NGOs both need to change in order to effectively implement the GCR. The GCR allows many opportunities for refugee inclusion and self-reliance through a multi-stakeholder approach. The key challenge is to empower refugees and to begin what has been

referred to as a participation revolution. NGOs and institutions have a lot to work to do in this area.

There is often a disconnect between the goals and plans in the capitals and the reality at local level. Therefore, for a real change to occur and to move toward a holistic development related response, investments need to be at a sub-national level. Here it is civil society (and the EU's) role to help local authorities coordinate responses. There should be an area-based approach, instead of segregating refugees and pitting them against host communities. The needs of the host communities as a whole should be assessed. It was recommended that the EU should also prioritise this local approach.

Another key challenge in the multi-stakeholder approach is the potential loss of rights when the focus is placed on development, especially when development focused institutions like the World Bank are involved. It is important to ensure that development addresses the needs of the most vulnerable. When working with the EU, civil society should always be conscious to ensure accountability for rights in a development orientated approach.

Participation

Participation of people in concern, in [Comprehensive Refugee Response Framework \(CRRF\)](#) implementation at national and local level and in GCR development at global level has so far been minimal and not systematic. Participation should also mean influence and power, not just consultation. This is primarily important at a local level, where power dynamics play out and can have transformative role. The GCR could be used as a lever for a participation revolution, but there is a long way to go. To ensure this is done effectively, the following four factors should be taken into account:

First, trust must be built; this is dependent on better communication, information sharing and management of expectations. Safety issues are always an issue for participation, everyone must feel safe in order to be prepared to participate.

Second, regarding time and practicalities, time must be given to allow people to be trained in the skills needed to allow participation. Time must also be given to the development of skills of frontline staff. Practical obstacles, such as simultaneous food distribution when participation related activities take place need to be overcome.

Third, in terms of representation, those chosen as representatives should be provided with proper training and it should be clear what their responsibilities are. Representatives should be clear on the principle of accountability and what this means for their role.

Fourth, data should be used to supplement voices that, given the practicalities of the life of refugees, cannot be heard. Data can be used to unearth hidden voices and create a more broad based approach.

Refugees can be the agent of peace in their communities, but they have to be a part of decision making and discussions at a high level. Participation needs investment; this should be a priority of the EU going forward. There should be investment in participatory processes as part of EU-funded programmes via e.g. capacity-building of local authorities to lead and run participatory and democratic processes at local level covering inception periods and process-

costs for consultations. The EU should also support and fund processes where refugee-led organisations are informed about the Global Refugee Forum, to ensure they understand the opportunities and are able to define how they want to engage. Refugees should also play a central role in the structuring and implementation of the GCR. It is the time to promote refugees from being just representatives to being key actors. Participation is a frame and a vision that needs to be filled with substance. Modalities need to be worked on in order to properly represent refugees. If refugees are to have a voice, then they need to mobilise and receive support to do so.

The GCR cannot be properly implemented without NGOs providing advocacy around the Global Refugee Forum pledges, and in pushing states to make substantial commitments. There should also be complementary advocacy between NGOs and other actors. Here the voices of refugees should be central but it should be more than them just giving their view or opinion. The Forum could give the different stakeholders an opportunity to share practise, experience and responsibilities. There is also an opportunity here to involve refugee-led organisations such as [Refugees Ideas and Solutions for Europe \(RISE\)](#), a network representing the authentic voices of refugees, where refugees campaign for themselves.

Responsibility Sharing

The GCR was welcomed as an opportunity to involve many different levels and stakeholders. It also opens a possibility to promote self-reliance of refugees and is a constructive and encouraging way to move forward. Responsibility sharing is at its core the principle of non-refoulement and therefore has a strong legal basis.

The legal and policy framework in Europe has many acute issues that have undermined the concept of responsibility sharing. The EU-Turkey deal, the deal with Libya, ceilings on family reunification, the reduction of safeguards and fast track procedures are all examples of this. In these respects, the EU system is failing, when something as well established as law of sea is violated it is clear that there are serious issues.

The European Parliament elections, and a potential move towards right-wing populism, also creates new challenges. There is a responsibility on civil society to mobilise. As the GCR is not legally binding civil society must be vocal when we see incompatible actions and policies being developed. If Member States obviously take decisions against the compact it will have a negative impact on the compact globally. Civil society must denounce these actions and push back against them whilst at the same time as practically trying to do something. Through the Global Refugee Forum, NGOs can take a practical step by showcasing good practices as part of encouraging pledges, and indeed develop pledges themselves- for example highlighting the use of partnerships and empowerment of refugees.

3. GCM Specific Session

Regular Migration Channels

At the EU level, the legal framework for regular migration is laid down in several 'sectorial' Directives that cover the conditions of entry, stay and residence and a set of rights for different

categories of non- EU citizens, which are long term- residents, highly qualified workers, intra-corporate transferees, seasonal workers, students and researchers, etc. There are also measures for family reunification.

The results of the European Commission's fitness check on regular migration channels are expected within the coming weeks and will evaluate the relevant European legislation on regular migration. Concerning regular migration channels, it is important to acknowledge that the EU has competences to adopt legal rules on the conditions of entry and stay of third-country nationals; common procedures to acquire residence permits; and to harmonise rules regarding the rights and rules on free movement.

Two pilot projects that aim to promote labour migration to the EU through the recruitment of IT employees from selected African countries, have recently been launched. While these two projects are aimed at high-skilled workers, the general call for pilot projects is not limited to only this group of workers. Therefore, future projects could also be targeted at low and/or medium-skilled workers. Results of the fitness check show that there are currently problems with the recognition of foreign qualifications and in ways of finding a job in the EU from outside its territory.

The European Commission (EC) has indicated that it pursues the objectives of the GCM when working on issues relating to regular migration channels. The results of the fitness check are expected to open up high level discussions, whereby the GCM objectives can be used as frame of reference. In addition, the EC also noted that some stakeholders during the consultation have raised the need to have a scheme for regular migration of low and medium-skilled workers at EU level.

From a city-level perspective, Barcelona can be used as an example to give an insight on the consequences of the European acquis on regular migration channels on city-level reality. Approximately 50% of migrants in Barcelona have an irregular status upon arrival, and most of them will occupy low-skilled jobs in the informal market. Unlike the national governments, cities are unable to control who arrives and are thereby faced with a different reality than what is addressed by national and European policies. The availability of flexible residence permits would potentially better accommodate the current migration dynamics, avoiding irregularity and ensuring access to basic rights and services.

Detention and Alternatives to Detention

The GCM reiterates that migration detention should only be used as a measure of last resort and supports the use of alternatives to detention. The Council of Europe will soon publish guidelines for states on the use and implementation of alternatives to detention as well as an assessment of its effectiveness. This publication can be used to create momentum, and thereby opportunities, for the GCM to be considered in state-level implementation on this issue.

The GCM also provides a strong tool to advocate for a multi-stakeholder approach, involving city-level actors. An example of relevant city-level practice can be found in Barcelona, where the mayor has taken the state to court to demand the closing of the local detention centre. Security concerns and the violation of detention regulations led to this action, while practice has also shown that the detention centre is ineffective as a tool to impose national laws. In 2017, 8,800 people in the area were detained and interned in the State detention centre of

Barcelona but only 35% were returned to the country of origin. The rest of the detainees were released after being detained for the maximum duration of 60 days.

The city of Barcelona has also started to provide so-called “neighbourhood documents” which can be used to prove local ties during legal proceedings. The document can be obtained by any irregular migrant who is over 18 and has resided in Barcelona for a minimum of 6 months or elsewhere in Spain for a minimum of 12 months. The document can be used to avoid a detention order during a return procedure, since it can be proven that one has an official address where one resides. As the document was recently introduced, its effectiveness remains to be seen.

A recent state-level example on the use of alternatives to detention can be found in the UK, where the government is cooperating with civil society organisations to execute pilot projects on alternatives to detention. Creating feedback loops, in which such local and national practices are implemented and evaluated, would ensure effective implementation of the GCM objectives.

4. Roadmap for 2019: Next Steps Towards the Implementation of the GCR and GCM Including Accountability Mechanisms

GCR Implementation

The first Global Refugee Forum will take place in December 2019, where UN Member States and relevant stakeholders will be invited to announce pledges. The first preparatory meeting, leading up to the Global Refugee Forum, will be held in Geneva at the end of March 2019.

As part of the Global Refugee Form, NGOs will also have the possibility to make pledges. This can be used to showcase good practices - for example highlighting the use of partnerships and empowerment of refugees.

NGOs can also provide valuable input in the development of indicators and other aspects of both compacts that still need further definition. NGOs should take the opportunity during the UNHCR standing committee meetings in March, June and September as well as during the UNHCR annual consultation with NGOs in July 2019, to provide their input. In July 2019, the Annual Tripartite Consultations on Resettlement (ATCR) will take place, and at this year's event governments, NGOs and UNHCR will discuss the three year Resettlement Strategy foreseen in the GCR. Additionally, at the national level, NGOs can use the compact as an opportunity to provide governments with their best practices, to advocate for pledges and to identify potential gaps in the implementation of the compacts at the national level.

GCM Implementation

At the end of February 2019, some events will be held at the UN in New York, focusing on the implementation of the GCM, including: an international expert symposium; a one-day meeting on international migration and development; as well as a conference on youth and migration organized by IOM. Additionally, the new UN Network on Migration has scheduled

consultations with NGOs on April 4th in Geneva. The network consists of eight entities, including UNHCR and IOM.

Another priority will be the development of follow-up mechanisms with UN Member States as well as capacity building mechanisms. Both at the regional level and the international level, review of national implementation will take place every 4 years. The development of capacity building mechanisms could include knowledge platforms, mechanisms to facilitate interconnectedness between stakeholders for further assistance and national trust funds.

Council Working Groups

The High Level Working Group on Asylum and Migration and the Working Group on UN matters (CONUN) will meet a further two times during the Romanian Presidency. The agendas for these meetings are not yet finalised but it could be anticipated that the implementation of both compacts within the EU context will be discussed. It could be possible to develop the implementation of the compacts further, for example through common projects, but this will require a lot of ongoing discussion.

There is ongoing discussion at the international level on how to implement the GCM and the GCR. Therefore, it is essential that civil society continues to push for discussions with their national governments and the EU. Civil society will play an important role in the implementation of these two compacts. Indeed, national authorities often cannot get by without the support of NGOs in this area. Therefore, it would be productive for them to supply the High Level Working Group on Asylum and Migration with its ideas on how the EU should be implementing these compacts and indeed if the compacts are proving to be useful at all.

National Governments

In order to pursue effective implementation of both compacts, initiative from Member States will be required, rather than a Geneva-centred approach. At the national level, an assessment of priority objectives could be helpful to develop an implementation plan. It was noted that the UK government is currently conducting an internal assessment to analyse the extent to which national laws and policies are in line with the GCM. Such an assessment can be an effective start towards developing a realistic implementation plan in each Member State.

As part of the state-level approach, awareness raising among the host population as well as migrant communities should not be overlooked. Since migrants and refugees are at the centre of the compacts, their involvement as well as targeted awareness raising among these groups should be a priority.

Levels of Implementation

In terms of at what level civil society advocacy on implementation should be focused, there is a need to move away from the Geneva centred approach. As mentioned previously, successful implementation of the compacts in Europe call for an EU Member State level approach. Therefore, there is also a need for civil society to target advocacy at national government level.

At the EU level, the compacts should become thematic reference points, referred to as often as possible in documents related to policy or funding decisions. This can then be used for standard setting in the future. The challenge for civil society here is trying to push for a development of international framework in the area of migration, which is at the heart of national identity.

Related EU Policy Processes

There were some interesting ideas on how to use the compacts to open up different discussions in new areas. The GCM makes reference to fair recruitment procedures for migrants, DG Justice are currently trying to provide guidance to business owners in the area of cooperate social responsibility. Therefore, the GCM could be used and referred to here.

Likewise, the GCM and GCR could be used as key instruments for advocacy on EU funding. The Multiannual Financial Framework (MFF) was highlighted as a parallel process that can be used to facilitate responsibility sharing and ensure the implementation of the compacts. Civil society could work on advocating that the GCM and GCR are continuously used as reference points in this area and that their standards are adhered to in the area of funding. For example, rewarding countries with aid where underlying abuses and issues are still taking place must be avoided as this does not address root causes and is contradictory to the objectives of the GCR.

Civil society must also work on knowledge and awareness building around the compacts. For example, it was highlighted that during the recent situation of people dying and being stranded on boats in the Mediterranean, the GCR was not even brought into the discussion. Again, there is need to ensure that these principles are applied in Europe as well as internationally.

An important question will remain whether and how the two compacts should be interconnected. The two compacts differ in their content, with the GCR containing more concrete and less controversial objectives in comparison to the GCM. Whether its interlinkage should be pursued in practice and how this can be facilitated will remain for further discussion.

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