



RESEARCH SOCIAL
PLATFORM ON MIGRATION
AND ASYLUM



ASK THE EXPERT
POLICY BRIEF

July 2019

Magdalena Lesińska

Implementation of the Global Compact on Migration (GCM)





This project has received funding from the European Union's Horizon 2020 research and innovation program under the grant agreement 770730



The **Ask the Expert Policy Briefs** are **highly informative tools** proposed in the framework of the ReSOMA project. They tap into the **most recent academic research** on the 9 topics covered by ReSOMA and map it out in a way that is **accessible to a non-academic audience**. By doing so, the briefs introduce the **policy-relevant research** conducted by researchers with different approaches and perspectives on the same topic.

LINGUISTIC VERSION

Original: EN

Manuscript completed in July 2019

Unless otherwise indicated, the opinions expressed in this document are attributable only to the author and not to any institution with which he is associated, nor do they necessarily represent the official position of the European Commission.

Reproduction and translation for non-commercial purposes are authorised, provided the source is acknowledged and the publisher is given prior notice and sent a copy.

Contact: resoma@resoma.eu



This project has received funding from the European Union's Horizon 2020 research and innovation program under the grant agreement 770730



This project has received funding from the European Union's Horizon 2020 research and innovation program under the grant agreement 770730

Ask the Expert Policy Brief

Implementation of the Global Compact on Migration (GCM)

By Magdalena Lesińska

The Global Compact for Safe, Orderly and Regular Migration (GCM) prepared in an inter-governmental process endorsed by the United Nations aims at addressing aspects of migration from the subnational to the global level in a holistic and comprehensive manner. It is a framework containing a broad set of consensual guidelines and standards for international cooperation between different partners on migration and is a notable achievement, being the first and relevant attempt to create a coherent framework on migration at the global level. As a Compact, however, it is a soft law instrument (it is not legally binding), and as such it does not create any legal obligations for the governments signing.

The main arguments raised by governments that refused to sign the Global Compact stress that it undermines the sovereign right of the states to enforce immigration laws and secure their borders, and that it contains a number of goals that are inconsistent with national law and policy, especially in areas such as detention standards and procedures, migrants' access to social services ([The Global Compacts...2019](#)). It also includes issues such as opening wider regular channels for migrants, which are difficult to accept by some governments.

The brief is a summary of interviews and written exchange with two key experts specialized in migration law and policy, and international relations: [Prof. François Crépeau](#) - Director of the Centre for Human Rights and Legal Pluralism at the Faculty of Law of McGill University, former UN Special Rapporteur on the Human Rights of Migrants, and [Patrick Taran](#) - President Global Migration Policy Associates, former Senior Migration Specialist at the International Labour Office (ILO).



Considering the non-binding nature of the Compact, what are the most important challenges in process of the implementation of the GCM and what would be the role of the European Union and its Member States?

The circumstances of human population movements and the patterns of mobility in different countries (of origin and destination) and challenges related to them are so varied that governments recognized it would be extremely difficult to develop a binding, normative international framework on such a complex issue as migration. The non-binding nature of the Compact seems to be one the most important obstacle to its further implementation in practice.

François Crépeau referring to this issue notes that the GCM is very much like the Universal Human Rights Declaration which was adopted in 1948 as a resolution of non-binding nature, as "a wish for the future". It was the first step in the process of formulating the International Bill of Human Rights, which was finally completed in 1966; it took 18 years to transform a conceptual framework into a binding instrument. It seems also in the case of the GCM, that its implementation requires a reasonable amount of time in order for successive governments and public opinion to be accustomed to the concept. It allows governments and other stakeholders to gather experts' opinions and discuss different interpretations, and to slowly move from a non-obligatory normative tool more binding commitments. He estimates that the governments will start limited cooperation around the GCM in the coming years, but

hawse may have to wait for 10-20 years before one sees a real movement towards effective cooperation to facilitate mobility. In the meantime, he suggests that a long-term strategy of development of mobility policies with precise timelines and accountability benchmarks should be developed by national governments, as it is done in case of other state's policies like energy, transportation or the environment.

Patric Taran is much more skeptical about the content and impact of the Compact, he pays attention to its long-term implications related to the system of protection of human (and migrants) rights. According to his opinion, the GCM does not enhance the existing rule of law rights-based governance system for migration and does not advance application and realization of human rights. It rather establishes a non-binding substitute set of general policy recommendations, many of which represent lower and lesser expectations than the standards set in already existing law (Human Rights Conventions, International Labour Standards as well as those established by customary international law). He argues that the implementation of the GCM will generate a "regime change", in meaning that its implementation will be used to substitute national adoption and application of the principles and instruments of binding, universal human rights obligations applying to all persons and all workers including migrant workers and their families, with non-binding, non-constraining guidance for executive migration management.



In which way different actors involved in implementation of the GCM could provide support in achieving its objectives given the non-binding nature of the Compact?

The GCM includes 23 objectives, such as the cooperation between states, tackling irregular migration, protecting the human rights of migrants and promoting measures to strengthen regular migration pathways. Among them, according to François Crépeau, to facilitate legal channels of mobility is the main message of the Compact. He notes that terms derived from the verb "to facilitate" were used 62 times in the text of the Compact. In the long term, the facilitation of mobility is the obvious choice for all states – from the North and the South –, because not to regulate the mobility means negative economic and human consequences for all actors: countries of destination, of origin and migrants. The lack of facilitation of mobility increases irregular migration and underground labour markets, as well as the exploitation of migrant workers. Reducing the visa obligation, especially for labour migration, is important to facilitate such mobility. He claims that facilitation of mobility would provide legal and secure migration channels, but that it must be implemented collectively, by most countries. European visa facilitation and liberalization programs are excellent examples of concrete tools to fill this objective. These programs should be enhanced and negotiated with many more countries of origin, especially populous countries.

Crépeau mentions that all institutions, including parliaments, executives, admin-

istration, courts, human rights institutions, schools, employers' associations, labour unions, professional associations, academia and media, have to be engaged and do their part to create positive and reliable public debate on migration policies and the role of migrants in societies. Migrants do not have a political voice in the host country and they cannot challenge the stereotypes and myths that are used constantly in the public and media debates. The politicians need to change the language and tone of political debates on migration, and refrain from presenting migration as a threat to public security, society and economy.

Patric Taran notes that in contrast to the Global Compact on Refugees, which refers explicitly to the core binding international instruments on refugees (the 1951 Convention and the 1967 Protocol relating to the status of refugees), the Global Compact of Migration makes no similar reference to adherence and accountable application of binding instruments on human and labour rights of migrants. This in effect omits committing to the role and responsibility of parliament to establish proper legislation and the judiciary to monitor both the executive and legislative branches of government the legislative branch of government to ensure and strengthen the rule of law-based national governance addressing migration and migrants.



What are the major issues on this topic that need further research to contribute to the policy field?

- Exploration of human rights institutions, courts and NGOs networks. They should be strong enough and independent to be supportive power to uphold the existing standards on migrant rights.
- A comparative and critical analysis of the various legal and political instruments facilitating legal channels of migration (such as visa facilitation and liberalization programs, mobility partnerships with third countries, bilateral agreements on labour migration, etc.), as well addressing challenges of irregular migration, human trafficking, foreign workers exploitation and migrant smuggling.
- The wide scope of various stakeholders engaged in the GCM implementation requires a proper and effective platform of communication and coordination of the undertaken transnational and multi-dimensional activities. An analysis of applicable platforms and tools to strengthen multilateral collaboration at national level is required.
- Promotion of adoption of the key human rights Convention and international labour standards which migrants need to rely on (such as rights to social protection, decent work conditions, family life, and protection against arbitrary expulsion) that are vaguely referred to in the GMC.
- The relationship of human rights and migration and good practices addressing the risks and vulnerabilities that migrants face at different stages

of migration require a dedicated research agenda involving academics and policy-makers as well as relevant civil society organizations and migrants themselves.

- In sum, the Compact may be an important step, not the end, for the international community to come together to address one of the great challenges of the day. Although it is not a legally binding document, it contains political and moral commitments for the governments to pursue their aims as well as improve international cooperation on managing migration. It needs time, political will, and further effective cooperation of involved stakeholders to ensure that its important commitments are put into effect.



RESEARCH SOCIAL
PLATFORM ON MIGRATION
AND ASYLUM

ReSOMA - Research Social Platform on Migration and Asylum

is a project funded under the Horizon 2020 Programme that aims at creating a platform for regular collaboration and exchange between Europe's well-developed networks of migration researchers, stakeholders and practitioners to foster evidence-based policymaking. Being a Coordination and Support Action (CSA), ReSOMA is meant to communicate directly with policy makers by providing ready-to-use evidence on policy, policy perceptions and policy options on migration, asylum and integration gathered among researchers, stakeholders and practitioners.

- 🌐 www.resoma.eu
- 🐦 [@ReSOMA_EU](https://twitter.com/ReSOMA_EU)
- ✉ resoma@resoma.eu

