



ASK THE EXPERT
POLICY BRIEF

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Global Compact on Refugees (GCR)

ASYLUM





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Ask the Expert Policy Brief

Global Compact on Refugees (GCR)

By Marina D'Odorico & Erika Colombo

After two years of consultations with Member States, international organizations, refugees, civil society, the private sector, and experts, on 17 December 2018 the United Nations General Assembly adopted the Global Compact on Refugees. This agreement represents a framework for more predictable and equitable responsibility sharing, which aims providing host communities with the support they need, considering that a sustainable solution to refugee situations cannot be achieved without international cooperation.

In this perspective, scholars and stakeholders are focusing on its non-legally binding nature, debating whether its character could be considered as a weakness or as an expression of cooperation and goodwill of the UN Members states.

In addition, scholars are concentrating their analysis on the need for durable solutions that could implement the GCR and lead to relevant outcomes both at the international and national level. The literature is discussing about the engagement of a wide variety of actors, including the private sector and local communities, which could play a direct role in receiving and integrating refugees.

In this context, the European Union is called to assume a fundamental responsibility, becoming a source of inspiration in the perspective of a successfully implementation of the Compact.

The following brief is a summary of our interview and written exchange with three key experts: Dr. Jean-François Durieux, Professor in International Human Rights and refugee law at the Refugee Studies Centre, University of Oxford (2007-2012) and senior adviser to the international team that has set out to develop and publish a worldwide Refugee Response Index by the end of 2018; Prof. Geoff Gilbert, Professor of Law in the School of Law and Human Rights Centre at the University of Essex, Member of Solutions Alliance UNHCR/ UNDP and Principal Fellow of the Higher Education Academy; and Dr. Volker Türk, who was research assistant at the University's Institute of International Law as well as the University of Linz's Institute of Criminal Law and, currently, is Assistant High Commissioner (Protection) for UNHCR.

In the light of recent developments in this field, underlined in the first brief, and in the light of their own research, we asked the experts to comment specifically on the implementation perspectives of the Global Compact on Refugees within the European context, especially focusing on the existing admission instruments, and to suggest which actors could be involved in this process of implementation.



Considering the non-binding nature of the compact, which would be the role of the European Union and its Member States towards the implementation of the GCR? Related to that, which would be the impact of the GCR on the existing resettlement and complementary admission instruments for refugees and would-be refugees implemented at the EU and Member State levels?

As underlined by Türk, the European Union [EU] and its Member States were very active in, and supportive of the process by which the international community worked together to develop the Global Compact on Refugees [GCR]. The hope and expectation are that this active engagement will continue in the implementation of the GCR. It is noted that the GCR provides the EU with various entry points to implement its commitment to humanitarian-development cooperation as part of its overall approach to forced displacement, and which includes opportunities to advance the implementation of the GCR, also within Europe. For example, a predictable disembarkation mechanism for persons rescued in the Mediterranean Sea and their access to asylum; solidarity measures, including relocation within Europe; resettlement and complementary pathways; addressing barriers to family reunification; and integration. Moreover, through the forthcoming three-year strategy on resettlement and complementary pathways, it is hoped that EU Member States that already have resettlement programmes would consider expanding them, and that those without them would be willing to consider their establishment. Given the important role that comple-

mentary pathways for the admission of refugees have had in facilitating refugees' access to protection in Europe, it is hoped that these opportunities will also continue to expand.

Durieux considers that EU law has the power to turn non-binding GCR commitments into legal obligations, imposing refugee resettlement criteria and/or quotas on Member States. According to his view, this is the "*missing link*" within the CEAS, and a "*potential bridge*" between the internal and external dimensions of EU refugee policy. In this perspective, EU institutions and Member States have a responsibility and they cannot afford to emphasize (and hide themselves behind) the non-binding nature of the compact. Indeed, the European Union is called to implement its commitment to humanitarian-development cooperation as part of its overall approach to forced displacement, not only supporting third countries hosting large numbers of refugees, but also improving its own legislative framework.

Gilbert specified that EU obligations towards refugees and asylum-seekers require ensuring their access to education, employment, health care, and justice systems, both as a part of the 1951 Convention, international human rights law and the SDGs. The advancing of the implementation of the Compact within Europe could lead to positive results, such as the introduction of a predictable disembarkation mechanism for persons rescued in the Mediterranean Sea, facilitated access to asylum, and solidarity measures including relocation within Europe and resettlement.



In which way could the involved actors provide support in achieving the objectives fixed by the agreement given the non-binding nature of the compact?

Türk considers that the achievement of the objectives of the GCR will be determined by the degree of political will in support of it. Although non-binding, it includes a series of built-in measures to monitor progress made, to maintain political momentum, and to rally support for comprehensive responses to refugee situations. These measures include a Global Refugee Forum every four years at the ministerial level for governments and other stakeholders to take stock of progress made, to share good practice, and to make pledges and contributions in a range of areas such as funding, resettlement places and refugee inclusion initiatives, amongst others. Furthermore, the GCR envisages the establishment and development of various mechanisms to enhance responsibility-sharing. These include, for example, the aforementioned three-year strategy on resettlement and complementary pathways as well as the Asylum Capacity Support Group. The latter will support States in developing and strengthening fair, efficient and adaptable national asylum systems that have integrity as part of their comprehensive refugee response. The ACSG is envisaged as a vehicle to ensure that States have measures in place for the timely identification of persons with international protection needs.

Therefore, as explained by Durieux, the most obvious way EU Member States may contribute to making the GCR a reality is by *setting an example*. Indeed, non-binding does not necessarily mean “empty”: if

the European Union would take the lead in the design and implementation of one or more Comprehensive Refugee Response Framework(s), this would surely build confidence in the “GCR toolbox” among other potential donors as well as recipient States. According to Durieux, this is an area in which a major humanitarian actor such as the European Union must be seen to play an active role, notably by supporting such civil society initiatives as the Refugee Response Index.

In sum as explained by Gilbert, the European Union should contribute to aid and trade programmes with refugee hosting states, resettling refugees from low- and middle-income states that provide asylum, and to providing complementary pathways to sustainable and durable solutions for refugees through education or employment visas.

What are the major issues on this topic that need further research to contribute to the policy field? Related to that, on which issues are further feedback needed from national stakeholders active in this field, namely policy actors at the local and national level as well as related NGOs, experts and practitioners?

According to Durieux and Gilbert:

- Creative research on the issue of “performance measurement” – in relation to GCR but also, within the international refugee regime – is absolutely needed, because further analysis could make an important contribution to the field of legal research, clarifying



the meaning of “soft law” in international refugee law (as well as in EU law).

- Creative thinking on responsibility sharing for refugees is as much required after the adoption of the GCR as it was before. Indeed, the GCR does not impose standards to govern this area and to measure fairness in the distribution of refugee “burdens” and responsibilities. Such standards and indicators remain to be invented, which seems to require a dedicated research agenda involving both thinkers and policy-makers.
- A comparative analysis of the various networks and platforms that seek to engage cities and municipalities in refugee responses, and to produce guidelines or toolkits to facilitate this process, could support better coordination and more coherence.
- Further analyses aimed at deepening the nature of commitments in an international document that is explicitly “not legally binding” and at developing indicators that respect human rights, rule of law, good governance and the SDGs in all States;
- Information is finally needed on the securitisation policies in developing countries, protection of civilians, and refugee protection and solutions.

In addition, Türk provided the following suggestions for further research and engagement:

- Enhancing cooperation with the private sector, which has the capacity to act as an accelerator in refugee response situations, both within the EU and in other refugee contexts. Better

information is needed on how to leverage the private sector in support of resettlement, complementary pathways for admission and access to jobs and livelihoods; all of which can support more effective burden-sharing, protection and solutions for refugees.

- The role of cities and municipalities in reception and integration is fully recognized. In recent years, there has been a proliferation of platforms that seek to engage cities and municipalities in refugee responses, and to produce guidelines or toolkits to facilitate this process. A comparative analysis of these various networks and platforms could support better coordination and more coherence.
- Additional research on root causes and creating conditions conducive to return, with a focus on top countries of origin generating refugee flows to Europe, could help to better inform EU policy and support to relevant stakeholders. This could be further supplemented by targeted research on the impact of premature returns on countries of origin, e.g. Afghanistan.
- For resettlement, research and the development of an evidence base to demonstrate the [positive] impact and contribution that refugees admitted through resettlement have on receiving societies is an area that could benefit from further research.

In sum, the experts underlined the responsibility that both Member States and EU institutions are called to assume in complying their obligations within the GCR framework, despite its non-binding nature. They should specifically expand existing resettlement programmes, establish new ones, and advance complementary pathways



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for admission, involving a wide range of actors, including the private sector, local authorities and municipalities.

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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.

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