

GLOBAL MEANS GLOBAL: EUROPE AND THE GLOBAL COMPACT ON REFUGEES

ECRE'S RECOMMENDATIONS FOR IMPLEMENTATION OF THE GCR IN AND BY EUROPE

I. INTRODUCTION

As part of the New York Declaration on Refugees and Migrants in 2016, UN Member States agreed to negotiate two global compacts to be adopted by the UN General Assembly, one on refugees, the other on safe, orderly and regular migration. With the planned adoption of the Global Compact on Refugees (GCR) by end of 2018 the focus should be on implementation and how the GCR can best contribute to the realisation of refugee rights.

The limitations of the GCR are obvious: It is a compromise text, the result of consultations among Member States, many of which did not wish to expand their share of responsibility for welcoming, protecting and supporting refugees, which was one of the core issues the GCR aimed to address. The consultations did not introduce new standards, the challenge was rather to uphold existing standards in a climate where undermining the rights of displaced people has become commonplace. The GCR is also not legally binding, meaning that individual Member States will be able to decide whether and how they will implement commitments.

The GCR is likely to become the reference framework for planning and monitoring governmental policy and practice on refugees and asylum at the international level. The EU Delegation in Geneva has repeatedly expressed its commitment to the GCR and has participated actively in the consultations. The EU and its Member States (EUMS) are therefore expected to be involved in its implementation. However, the EU's commitment to the GCR is being undermined by the different measures currently used or proposed to shirk rather than share responsibility for refugees. The GCR applies to EUMS both in the way they act domestically and in their approach to third countries on asylum, displacement and migration. Therefore, the application of the Comprehensive Refugee Response Framework (CRRF) to Europe as a region should not be dismissed but viewed as an opportunity. This policy note sets out how the EU should take forward the implementation of the GCR within and outside Europe and identifies sections of the GCR that are particularly pertinent in this respect.

II. ANALYSIS

USE EU FUNDING TO SUPPORT ASYLUM AND INCLUSIVE SOCIETIES WITHIN AND OUTSIDE THE EU

The EU and its Member States are collectively the world's biggest development donor. The EU's funding power in the field of asylum and migration is not, however restricted to external action. It also provides considerable support for asylum seekers and refugees within Europe. During the negotiations of the next Multiannual Financial Framework (MFF), which will govern the EU's budget from 2021-2027, the EU can decide on funding priorities and programmes that support the objectives of the GCR, which are stated in paragraph 7: (i) ease pressures on host countries; (ii) enhance refugee self reliance; (iii) expand access to third country solutions; and (iv) support conditions in countries of origin for return in safety and dignity.

Inside the EU, increased resources for inclusive societies and allocation and spending requirements for EU funding would require all EUMS to invest adequately in asylum and integration. Outside Europe, the EU can support the improvement of asylum systems that uphold and promote human rights including by funding independent civil society to monitor and hold institutions to account. This should be a specific area to be supported by the proposed Neighbourhood, Development and International Cooperation Instrument, which refers to the implementation of international and EU commitments as follow-up to the GCR. In addition, the EU should contribute to the Asylum Capacity Support Group set out in paragraph 62 of the GCR and include this in upcoming pledges for financial and technical assistance in the run up to the first Global Refugee Forum.

Apart from supporting positive action by EUMS, it also needs to be ensured that EU funding is not supporting programmes, policies and approaches that block people's access to asylum in Europe. The suggested five-fold increase of funding for EU border management in the next MFF requires additional oversight, as well as clarification of what activities may be supported and how compliance with the EU's human rights commitments will be ensured.

SUPPORT EMPOWERMENT OF REFUGEES AND HOST COMMUNITIES

The GCR contains few concrete proposals on the active participation of refugees and host communities in its implementation even though this was a recurring theme during the consultations. Instead, in section 3.2 the GCR leaves it up to governments and relevant stakeholders to further explore this issue. Engagement with civil society is an area where the EU should share its good practice to change the way in which refugee policy is discussed, developed and implemented.

Among the measures to be adopted at Brussels level and in EU Delegations in third countries is the systematic involvement of representatives of refugee-led organisations and communities in discussions on policies and programmes that affect them. Introducing opportunities to collect their analysis and experience and ensuring representation of women's organisations will eventually lead to better policies, thereby contributing to the overall effectiveness of EU action.

Apart from strengthening its own practice, the EU should also ensure that the preparation of the Global Refugee Forum and ongoing monitoring of pledges includes civil society representation, including refugee-led organisations, as set out in paragraph 19 of the GCR. As part of this, civil society should be considered a pledging actor at the Global Refugee Forums.

DELIVER ON EU SUPPORT FOR LIVES IN DIGNITY AND SELF-RELIANCE

The need to improve links between humanitarian and development policies and programmes in specific contexts, and to increase cooperation between the relevant actors, features prominently in the GCR. Paragraph 35 sets out the differences between the mandates of humanitarian and development actors but encourages cooperation and complementarity. Many commentators see this as one of the main opportunities presented by the CRRF and the GCR more broadly. The EU has a strong commitment to humanitarian-development cooperation as part of its overall approach to forced displacement which is set out in its 2016 Communication, Lives in Dignity: from Aid-dependence to Self-reliance. This Communication contains all necessary elements and champions a rights-based approach. The upcoming adoption of the GCR should provide the EU with a renewed impetus to implement this policy, addressing challenges identified in evaluations.

To advance the rights of displaced people and opportunities for self-reliance, the EU needs to develop approaches to third countries that bring together all relevant policies and tools, including diplomacy, development, trade and security, to push for positive change. This has been undermined by the objective of controlling or even preventing migration to Europe, pushed by Ministries of Interior and DG Migration and Home Affairs, which

increasingly not only informs but dominates EU external action. This approach jeopardizes a comprehensive and balanced approach to relations with third countries, in which cooperation on migration is one issue among others, to be discussed in light of improving rights of displaced people. A “cash for containment approach” is equally counterproductive. Any suggestion or attempt to use development aid as an instrument to stop migration undermines development assistance, skews funding away from needs, and undermines protection standards. In addition, the reluctance of the EU and EUMS to assume their role in global responsibility sharing is making it increasingly difficult for the EU to defend and advance refugee rights outside Europe.

The EU has supported the implementation of the CRRF in many contexts in which it is being rolled out and is one of the main donors for CRRF implementation. It should go further and ensure that links between humanitarian and development policies and programmes are made at the strategic level by adapting the multiannual development planning cycle. Other measures that should be prioritized are the inclusion of development needs of displaced communities in country and regional strategy papers, expansion of investment in third countries’ public service infrastructure (such as education, health, social safety systems) and the creation of incentives for public and private investment to promote economic growth inclusive of refugees and host communities.

ENSURE ACCESS TO ASYLUM IN EUROPE AND EXPAND SAFE AND LEGAL ROUTES

The EU’s strategy of “externalising” responsibility for people seeking asylum (i.e. containing, returning or transferring people to non-EU countries) is resisted continuously by other governments. Questioning how the concepts of first country of asylum and safe third country can be reconciled with the idea of responsibility sharing, countries such as Lebanon, Ethiopia, Turkey and Iran made clear during the consultations on the GCR that they are unwilling to provide and expand rights for the refugees they already host without other countries, including EUMS, playing their part. The myriad of policies proposed or already implemented in Europe which aim to reduce or entirely stop people claiming asylum in Europe will directly undermine the success of the GCR. Some plans also risk increasing displacement as they frequently include cooperation with governments which violate rights or include support to and strengthening of unaccountable parts of these governments, including the security sector.

Significantly expanding safe and legal routes to the EU and safeguarding the right to claim asylum in Europe are some of the most important contributions the EU can make to the implementation of the GCR. To support the measures outlined in 3.2 of the GCR on resettlement, the EU should continuously expand its resettlement from the current 50,000 places pledged over a two-year period, a commitment that runs out in October 2019. This should serve as a concrete pledge for the 2019 Global Refugee Forum and contribute to the three-year resettlement strategy outlined in paragraph 91 of the GCR to be devised by UNHCR in cooperation with States and relevant stakeholders. Any policy framework related to resettlement discussed and agreed on by the EU must safeguard the humanitarian nature of resettlement. Proposals that would instrumentalise resettlement to support migration control or introduce exclusion grounds based on an individual’s “integration prospects” undermine the essence of resettlement. In addition to an increased resettlement commitment, EUMS should expand other safe and legal routes for refugees captured in GCR 3.3 under complementary pathways for admission to third countries and include this in their pledges. Withdrawing restrictions for family reunification, such as for beneficiaries of subsidiary protection, and broadening the rules that govern family reunification to make it a less restrictive safe and legal pathway to and within Europe would be an important step in the right direction.

CONTRIBUTE TO ACCOUNTABILITY AND MEASUREMENT OF PROGRESS

The preparation of the EU’s collective commitments ahead of the 2019 Global Refugee Forum needs to start now. The objective of the Forum is to collect additional pledges, i.e. it should not be possible for governments and other actors to recommit what they are already doing. It is important for commitments to cover how the EU supports the objectives of the GCR within and outside Europe. The suggested pledging template for the Global Refugee Forum should reflect this and ensure that contributions from civil society, including refugee-led organisations, are reflected. All relevant European Commission services (DG Migration and Home Affairs, DG DEVCO, ECHO, DG NEAR), the EEAS and Council groupings (e.g. Justice and Home Affairs, Foreign Affairs Council) should start preparing for the Forum by proposing pledges now.

Whether the GCR will lead to an increased realisation of the rights of refugees, better support for communities hosting them and improved responsibility sharing will depend in part on how pledges announced at the Global Refugee Forum are to be tracked and implemented. The GCR in paragraph 19 suggests that after the 2019 Forum subsequent high-level officials’ meetings and Forums will assess progress towards achievement of the objectives of the GCR. A dedicated accountability mechanism which records and tracks commitments is essential given the non-binding nature of the GCR. To ensure that pledges are implemented and that monitoring of the achievements of the GCR is taking place, the European Commission should take an active role in the development of indicators to reach the four objectives of the GCR in line with paragraph 102. After

2019, the European Commission should report regularly on progress towards achieving the indicators and the European Parliament should be given a role in monitoring the fulfilment of the pledges and the specific amount of funding from the EU budget that supports implementation of the GCR.

III. RECOMMENDATIONS

As co-legislators of the next MFF (2021-2027), the European Parliament and EU Member States should:

- » Insist on minimum allocation and spending requirements in national programmes of the Asylum and Migration Fund to ensure that Member States spend 30% on the integration priority and 50% on the asylum priority and increase the amount available for supporting an inclusive Europe to 30% of the European Social Fund+.
- » Ensure that the proposed Neighbourhood, Development and International Cooperation includes the improvement of asylum systems outside the EU that uphold and promote human rights as an objective and funds independent civil society to monitor and hold institutions to account.
- » Introduce transparency obligations for contracts awarded under the Integrated Border Management Fund, improve monitoring of human rights compliance and support (through provisions in the Instrument) the involvement of civil society in border monitoring.

To increase participation and involvement of refugees and host communities, the European Commission, the European External Action Service and Member States should:

- » Systematically involve refugee-led organisations in discussions about development, monitoring and implementation of asylum, displacement and migration policy. Sustained commitment and dedicated funding to build accountable representation processes should be prioritised.
- » Discuss the advancement of the rights of refugees and displaced people in political dialogues with all refugee-hosting countries.
- » Encourage the participation of civil society organisations as pledging actors at Global Refugee Forums.

To deliver on the EU's commitment to support lives in dignity and self-reliance:

- » Services in the European Commission in charge of external action and the EEAS should be responsible for developing EU relations with third countries, grounded in the principles and vision set out in the EU's Global Strategy, the Lives in Dignity Communication (and the Lisbon Treaty itself).
- » Ensure that development funding addresses poverty alleviation and fragility in line with the EU's Lisbon Treaty obligation and use the OECD DAC migration management code to guide what is acceptable use of development assistance on migration.
- » Support refugees and displaced communities as beneficiaries of development assistance in country strategy papers or joint programming documents prepared by the EEAS and the European Commission.

To ensure access to asylum in Europe and expand safe and regular routes to the EU, the European Commission and EU Member States should:

- » Agree on an ambitious expansion of the EU's resettlement commitments to be presented as a pledge at the 2019 Global Refugee Forum and contribute to the UNHCR-led resettlement strategy.
- » Significantly increase other safe and legal pathways, withdraw restrictions for family reunification, such as for beneficiaries of subsidiary protection, and broaden and simplify rules.
- » Refrain from proposing, discussing or coming to any agreements with third countries which aim to shift the responsibility for assessing asylum applications, granting protection or returning third country nationals from Europe to other countries.

To support the preparation of the 2019 Global Refugee Forum and contribute to accountability and measurement of progress, the European Commission, EU Member States and Members of the European Parliament should:

- » Develop pledges for the Global Refugee Forum, covering all objectives in the GCR and encompassing financial, material and technical assistance to third countries, safe and legal pathways, and the advancement of refugee rights in Europe.
- » Push for involvement of civil society, particularly refugee-led organisations in the preparation of the Global Refugee Forum and any related monitoring and accountability structure.
- » Establish a reporting process in which the EU and Member States provide updates on the progress towards their implementation of commitments. The European Parliament should be involved, in particular relating to EU funding spent on GCR implementation.