

TIME TO COMMIT: USING THE GLOBAL REFUGEE FORUM

ECRE'S RECOMMENDATIONS FOR IMPLEMENTATION OF THE GCR IN AND
BY EUROPE, FOCUSSED ON USING THE GLOBAL REFUGEE FORUM

I. INTRODUCTION

The Global Compact on Refugees (GCR) was adopted by a majority of UN Member States, including EU Member States (MS), in December 2018. The Compact is not legally binding and its implementation depends on the political choices of states. However, by signing up to the Compact, EU MS have committed to implement its four objectives laid down 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. In December 2019, UNHCR organises the first ever Global Refugee Forum bringing together UN Member States at ministerial level, international and regional financial institutions, regional organisations, local authorities, civil society, including faith-based organisations, academics, and the private sector to announce concrete pledges and contributions towards the realisation of the objectives of the Compact.

The Global Refugee Forum will be an important opportunity for the EU to demonstrate that it is committed to implementing the GCR and to sharing responsibility for welcoming and supporting refugees, including by enhancing protection for refugees both within and outside Europe.

This Policy Note focus on the aspects of the GCR which, based on ECRE's analysis, require specific action by either EU institutions or Member States to fulfil the objectives of the Compact. It also sets out concrete recommendations regarding related pledges that could be made at the Global Refugee Forum.

II. ANALYSIS

SUPPORT ACCESS TO ASYLUM AND ENSURE ADEQUATE AND DIGNIFIED RECEPTION IN EUROPE

Paragraph 58 of the Compact on Registration and Identification calls on states to facilitate registration of people in need of protection and to provide access to basic assistance and protection, including for those with specific needs. Paragraph 61 of the Compact demands states to provide those in their territories with access to a fair and efficient asylum procedure in order to prevent protection gaps (such as those arising from divergent recognition rates and types of protection) and to provide protection for those in need.

Since 2016, the EU and its Member States' main strategy has been to "externalise" responsibility for protection and to prevent people from claiming asylum in Europe. The introduction of restrictive measures, such as increased detention, "push-back" policies at borders, and linking development assistance to cooperation on migration controls, jeopardises the life and wellbeing of people in need of protection and significantly undermines the role of the EU as a promoter of human rights throughout the world. It also contradicts the GCR's primary objective to "ease pressure on host countries". Asylum seekers are faced with increasing obstacles in lodging an application and accessing protection in many EU MS (e.g. France, Italy, Greece, Cyprus, Spain and Belgium). These include long waiting times to register or practical obstacles to contacting authorities. Contrary to their obligations under EU law, several EU MS have not established mechanism to identify vulnerability and to exempt asylum seekers requiring special guarantees and unaccompanied children from accelerated and border procedures.

Paragraph 54 of the Compact calls upon states to provide asylum seekers with adequate reception centres and accommodation, taking into consideration the specific needs they may have. The lack of or difficulty to access accommodation as well as the chronic shortage and poor conditions of reception centres, often lead to homelessness. Despite international and EU legal standards, EU MS have made little effort to invest in creating adequate reception conditions and providing accommodation. Indeed, as recent Asylum Information Database (AIDA) research found, many EU MS are closing down existing reception centres, which leads to reception shortages, while others face chronic gaps in accommodation capacity.

Expand resettlement and complementary pathways

Increased resettlement schemes and expansion of access to third country solutions is one among the four objectives of the GCR. Paragraph 90 of the Compact encourages Member States to demonstrate solidarity with host countries faced with large numbers of refugees by sharing responsibility through hosting.

UNHCR estimates that there are about 1.44 million people in need of resettlement in 2020. At a time where a record number of people are forcibly displaced worldwide and where their right to asylum is being limited in a number of countries, expanding resettlement and other safe and legal channels to the EU are key contributions that Europe can make to the implementation of the GCR. EU Member States should therefore make an ambitious and collective pledge at the Global Refugee Forum and ensure its implementation in 2020. The European Commission should allocate adequate funds for resettlement programmes and help MS deliver on their commitments.

In addition to resettlement schemes, Paragraph 94 of the Compact calls on states to open or expand more systematic, organised, sustainable and more gender-responsive complementary pathways, by encouraging states to develop *inter alia*, humanitarian visas, humanitarian corridors and other humanitarian admission programmes. EU MS should therefore introduce and expand complementary pathways to Europe which currently are very limited, resulting in people in need of protection having to make risky journeys to reach Europe.

Facilitate family reunification

The right to family life is codified in international and European law and plays a significant role in the integration of newcomers into the host society. Paragraph 95 of the Compact calls on states to facilitate effective procedures and clear referral pathways for family reunification through the three-year strategy on resettlement.

Following the larger number of refugees arriving in 2015, many EU MS have changed their policies related to family reunification by introducing restrictive measures such as excluding people with subsidiary protection status from the right to family reunification. Across the EU, access to family reunification is limited by use of narrow definitions of family members, complicated procedures, demands for disproportionate documentation, and a lack of access to and information on family reunification in countries where family members find themselves. EU MS need to make a concerted effort to remove restrictions, expand the eligibility for family reunification and ensure their embassies and consulates are adequately equipped to facilitate family reunification.

Support inclusion

Paragraph 97 of the Compact refers to integration as a competence of states which they should act on in accordance to their national law and policies. It also clarifies that integration is a two-way process and needs endeavour and investment from both parties. Paragraph 99 of the Compact calls on states to invest resources and expertise in strengthening the relevant state institutions, local communities and civil society organisations, including those run by refugees, to assist local integration.

The creation of inclusive European societies is one of the pre-requisites for ensuring that people seeking protection are welcome and their rights are upheld. It requires that the EU and its MS invest adequate funding in integration and asylum and shape their policies so that refugees feel welcomed. Integration is a MS competence but the European Commission can play a role via its funding instruments and sharing of good practices across MS. The EU can have a positive impact on the integration policies through the next Multi Annual Financial Framework 2021-2027 (MFF) by ensuring that adequate funding is allocated and easily accessible for the integration of refugees and other third-country nationals.

In 2016, the European Commission adopted an Action Plan on the Integration of Third Country Nationals including refugees. As the power for integration lies with MS, the Action Plan seeks to support MS through guidance and recommendations. The expired Action Plan lacked indicators to monitor the progress and its impact on refugees. In its announced review of the Action Plan, the European Commission should ensure that indicators are introduced to measure its impact. In addition, the European Commission should commit to ensure that any future reform of EU asylum legislation - and other related legislation - is assessed to ascertain its impact on inclusion.

In line with objectives of the GCR, the involvement of refugees should be at the centre of policies that affect their life. Refugee-led organisations and advocates should be consulted and their views should be included in policies at EU and MS level, as well as in third countries through EU Delegations. Furthermore, as argued previously by ECRE, beneficiaries of international protection should be granted freedom of movement across the EU, including for education and employment purposes, in compliance with the Treaty on the Functioning of the EU objective of a “uniform asylum status, valid throughout the Union”.

Ensure EU external action advances refugee rights and supports self-reliance

Paragraph 32 of the Compact refers to funding as an important factor for the implementation of the GCR and calls upon States to support countries faced with large numbers of refugees through unearmarked, flexible and predictable funding in line with the humanitarian principles.

The EU is an important contributor to the implementation of the GCR and the Comprehensive Refugee Response Framework in most of the countries in which it is implemented. Its policy framework on responses to situations of forced displacement laid down in the 2016 Lives in Dignity Communication encapsulates a rights-based approach. However, the EU’s credibility as a principled humanitarian and development donor is undermined by attempts to make financial assistance conditional on third country governments agreeing to support the EU’s migration control objectives. The proposed earmarked spending on migration for the EU’s development assistance, which is currently being negotiated as part of the proposed Neighbourhood, Development and International Cooperation Instrument (NDICI), should therefore focus on addressing the root causes of forced displacement in full respect of the EU’s own commitments. Increased flexibility of funding should lead to swifter allocation based on needs and the ability of EU funding to contribute to realising rights of asylum seekers and refugees. Migration-related conditionality, such as linking the allocation of EU funding to the implementation of readmission agreements which is now proposed, contradicts the objectives of the GCR.

III. RECOMMENDATIONS

ECRE RECOMMENDS THAT EU INSTITUTIONS AND EU MEMBER STATES MAKE THE FOLLOWING PLEDGES AT THE GLOBAL REFUGEE FORUM

To support access to asylum and ensure adequate and dignified reception:

- EU MS should prioritise right-based implementation of the recast Asylum Procedures Directive (2013/32/EU) particularly in relation to access to the procedure and special protection guarantees and adequate reception conditions.
- EU MS should provide asylum seekers with decent reception centres and accommodation sensitive to gender,

age, disability and other specific needs in line with GCR and the recast Reception Conditions Directive.

- The European Commission should monitor and evaluate the implementation of the recast Asylum Procedures Directive and the implementation of the Reception Conditions Directive.

To expand resettlement and complementary pathways to Europe:

- The EU should collectively pledge at least 30,000 resettlement places which should be realised in 2020.
- The European Commission should make the necessary funding available to support resettlement by MS, including for inclusion once refugees have arrived in Europe.
- EU MS should expand complementary pathways (e.g. humanitarian visas, community/private based sponsorship, scholarships for refugees) which should be additional to the MS pledges on resettlement, rather than substituting them.

To facilitate family reunification:

- EU MS should remove restrictions on access to family reunification for beneficiaries of subsidiary protection.
- The European Commission should monitor and stimulate the expansion of family reunification by e.g. developing specific programmes and working with EU MS to change their policy and practice.
- EU MS should ensure that their embassies or consulates have the necessary capacity to facilitate access to family reunification, including by providing information in appropriate languages.
- Any expansion of family reunification should be treated independently of resettlement quotas to respect the right to family life stipulated in EU law.

To support the inclusion of refugees:

- EU institutions and MS should champion inclusive approaches to policy making in the field of asylum and migration by committing to the systematic consultation and ongoing involvement of representatives of refugee communities in all policy debates that have an impact on them.
- The European Commission should assess the European Migration Forum with a view of increasing the involvement of refugee and migrant (self-defined) advocates and their organisations.
- The European Commission should include a set of indicators to assess EU institutions' and MS' performance in its implementation in the renewed Action Plan for Integration of Third Country Nationals.
- The European Commission should commit to conducting impact assessments of future legislative proposals on asylum on the inclusion of third country nationals.
- EU MS and the European Parliament should agree on dedicated resources for inclusion in the negotiations for the next Multi-annual Financial Framework, more specifically within the proposed Asylum and Migration Fund and the proposed European Social Fund.
- The European Commission should clarify the links between the Qualification Regulation, the Dublin Regulation and the Long-Term Residence Directive through the provision of guidance to advance freedom of movement of international protection beneficiaries across the EU, including for education and employment purposes.

To ensure EU external action advances refugee rights and supports self-reliance:

- EU MS should agree that the proposed 10% of NDICI funding to be spent on migration will be an indicative maximum earmark.
- EU MS should agree that migration-related spending will be allocated to addressing root causes of forced displacement and agree that "Lives in Dignity: from Aid-dependence to Self-reliance" is the conceptual framework that guides migration-related spending outside the EU.
- Any attempts to make support to third countries conditional on their cooperation with the EU's migration control objectives should be rejected by the European Commission, the External Action Service, MS and the European Parliament.
- Increased flexibility of EU development assistance should lead to funding allocations based on a set of indicators including an assessment of how EU funding can contribute to realising the rights of asylum seekers and refugees.