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4 January 2019

The Global Compact for Safe, Orderly and Regular Migration

What is the Global Compact for Safe, Orderly and Regular Migration (“The Compact”)?

The [Compact](#) is the first inter-governmentally negotiated agreement, prepared under the auspices of the United Nations, to cover international migration in a holistic and comprehensive way. On 10 December 2018 the text of the Compact was approved at a UN conference in Marrakech, and it was endorsed by vote at the General Assembly of the UN in New York on 19 December 2018. The UK is a State party to the Compact.

Does the Compact have legal binding force in the UK? If not, what impact does it have?

Debates regarding the legal status of a ‘Compact’ have been extensive. However, the final document explicitly states that the Compact is non-binding and legal scholars have affirmed this position. On the other hand, the document is the product of a State-led negotiation process and will be adopted by States. The Compact is made up of ‘commitments’ and ‘actionable objectives’ that States will pledge to fulfil, giving the Compact a normative role. Such documents have normative force because they declare the policy goals of States and, as a result, have the potential for norm development. As such, the Compact can fairly be described as being politically binding although not legally binding.

The Compact does not create new rights for migrants. It brings together the existing human rights to which states have committed themselves, in a migration framework. The Compact aims to implement these pre-existing rights in a coherent and responsible manner.

Further, there is no conflict between existing human rights and the Compact: the Compact states, “the Global Compact is based on international human rights law and upholds the principles of non-regression and non-discrimination.”

What does the Compact provide?

The Compact does not prescribe a list of duties which the contracting parties must abide by, but rather objectives which must be aimed at, with a choice of actions which contracting parties may engage in to achieve these objectives.

There are 23 objectives in the Compact, which range from protections against trafficking, to access to basic services, to safeguards relating to immigration detention.

The choices of actions which states will “draw from” are varied and full. For example, under Objective 3, “Provide accurate and timely information at all stages of migration” includes a guarantee of access to justice, which may be used to put political pressure on the cuts to legal aid, an essential component of access to justice:

“d) Provide newly arrived migrants with targeted, gender-responsive, child-sensitive, accessible and comprehensive information and legal guidance on their rights and obligations, including on compliance with national and local laws, obtaining of work and resident permits, status adjustments, registration with authorities, access to justice to file complaints about rights violations, as well as on access to basic services.”

After the section on objectives, there is a specific section on implementation. This section is unique in international law because it names a range of actors, both public and private, on global, regional, national and local levels, who are responsible for its implementation. Paragraph 44 of the Compact lists the partners in the implementation of the Compact. This section is not duty-bearing on the named bodies nor does it create individual rights. Rather, it provides an expectation that implementation is the responsibility of civil society and specific named groups rather than simply a central Government issue:

“We will implement the Global Compact in cooperation and partnership with migrants, civil society, migrant and diaspora organizations, faith-based organizations, local authorities and communities, the private sector, trade unions, parliamentarians, National Human Rights Institutions, the International Red Cross and Red Crescent Movement, academia, the media and other relevant stakeholders.”

The work ILPA is doing on the Global Compact on Migration

ILPA is producing a handbook for lawyers and judges on implementing the Global Compact on Migration, on course for publication in the first half of 2019. This will enable lawyers and judges to comprehensively understand the content and legal status of the Compact, the responsibility to implement the Compact, as well as how it can be used in legal cases to further the objectives set out in the Compact.

The handbook will focus thematically on the key issues the Compact touches on:

1. Proper policymaking;
2. Communication of rights and obligations;
3. Access to legal aid;
4. Detention;
5. Human trafficking and smuggling;
6. Children;
7. Hostile Environment;
8. Regularisation;
9. Employment and labour migration;
10. Family reunification;
11. Border controls and port procedures;
12. Removal; and
13. Access to services.