

Report of German Civil Society Organisations for the
International Migration Review Forum (IMRF)
taking place on 17 – 20 May 2022

Implementation of the Global Compact on Migration

Priority Recommendations



SECTION I

A. Introduction

This report represents the “voice” of German Civil Society concerning the implementation of the Global Compact for Safe, Orderly and Regular Migration (GCM), which the Federal Republic of Germany adopted in 2018 alongside the majority of UN Member States and thus committed to its implementation.

Although Germany adopted the GCM, the pact’s influence on political processes or impact on German policy making on migration has so far been limited. In its implementation efforts, the German Government has chosen an external rather than a domestic focus: Germany is the biggest donor to the Multi-Partner Trust Fund for Safe, Orderly and Regular Migration, and it supports civil society activities at the global level. This stands in stark contrast to the fact that domestically there is no regular dialogue between the government and German civil society on the GCM. Moreover, relevant objectives of the GCM have not been implemented, while official statements suggest that all objectives have already been met at national level.¹

The report is an initiative and collective effort by a group of German civil society organisations, including a mix of secular and faith-based organizations as well as advocacy organizations and think tanks covering a range of thematic areas (such as social welfare, human rights, humanitarian aid and development). Additionally, several individuals participated in the process in their personal capacities. All of them devoted time to the process and value the GCM as an important reference document for migration policies, even if non-binding. Unfortunately, only very few migrant organisations responded to the invitation to write this report, probably for reasons mentioned under Objective 19. Among these actors, the Association to promote Church engagement for vulnerable migrants² provided limited funding for a short project phase (October 2021 – December 2021) to coordinate this report. After the completion of the draft report, it underwent a consultation and signing process.

While financial resources and time were limited, the participating authors decided to follow a step-by-step approach and prioritised the preparation of a report for the IMRF as an expression of the views of German civil society, highlighting the main implementation gaps. Ideally, it is hoped that the report will lead to a dialogue process involving many more civil society actors and the government in line with the “Whole-of-society approach” of the GCM. Moreover, the report can also be the basis for a regular review of the implementation of the GCM at national level, in form of a regular dialogue between civil society and the Federal Government.

The report consists of two sections and three main chapters: Following the introduction the report presents a list of the most urgent recommendations, one per objective (chapter 1). This is the main document, which was signed by 21 organisations. The second section is a discussion paper where 16 out of the GCM’s 23 objectives were discussed. For each, it analyses current gaps and makes up to 3 recommendations (chapter 2). Two cross-cutting issues were identified: the tensions between the new

¹ <https://www.auswaertiges-amt.de/blob/2411248/d20b5e24ccc3bfa2fd17fb6efaef6bd6/201030-downloaddatei-gcmbericht-data.pdf>

² The Association to promote Church engagement for vulnerable migrants is a Catholic organisation supporting the “Catholic Forum “Living in Illegality”” (www.forum-illegalitaet.de) and the Working Group against Human Trafficking of the German Bishops’ Conference

Pact on Asylum and Migration Pact presented by the European Commission in September 2020 and the GCM is treated separately (chapter 3) as well as child rights. Specific issues concerning migrant children were mentioned in relevant objectives, while at the same time there is unanimous agreement that the best interests of the child must always be considered and anchored as a primary consideration. In concrete terms, this means that investments must be made in national education, child protection and social systems and services both in countries of origin (e.g., for children of migrants left behind) as well as countries of immigration (e.g., to improve their participation).

It is important to note, that while the report was being written, Germany elected a new government. The coalition agreement, which was signed on 24 November 2021 by the Social Democratic Party, the Green Party and the Liberal Party contains statements of intent that, if implemented, would contribute towards the objectives of the GCM, and improve the situation for migrants and refugees. The agreement states that “We want to shape a new beginning in migration and integration policy that does justice to a modern immigration country. For this, we need a paradigm shift: with an active and regulative policy, we want to shape migration in a forward-looking and realistic manner. We will reduce irregular migration and enable regular migration.”³ The coalition agreement will be referenced in the text, whenever it is pertinent.

It is acknowledged that Germany has put substantial efforts into the development of adequate migration policies. Among those, integration policies and measures are probably among the successes. However, admission and welcoming need to be reinforced. Concerning the facilitation of legal pathways for labour migration, the Skilled Immigration Act⁴ constitutes the legal basis for the immigration of people with formal professional qualifications. However, legal pathways for those who have no formal qualification are needed, as there is a demand on the labour market, e.g., in live-in care or seasonal work. Moreover, there are conflicting goals between development cooperation and labour migration policies in Germany. While not formally part of the GCM and thus outside the scope of the report, it is also important to acknowledge that Germany’s migration policy has been shaped by its recent experience as a major country of asylum as well as the political and public reactions to this trend. Despite existing efforts, the effective involvement of migrant and diaspora organisations remains a challenge. Many would like to contribute to shaping the policy process, but often lack the necessary financial and human resources. Well-established and bigger civil society organisations play an instrumental role providing counselling services for migrants and engaging in integration projects for which they also receive state funding.

The authors and signatories of the report hope that they can contribute, first and foremost, to improve the situation of migrants in our country, facilitate their access to rights where there are barriers, and help shape human rights-based and inclusive migration policies which take the realities of our mobile world into account. Moreover, the report can also be the basis for a regular review of the implementation of the GCM at national level, in form of a regular dialogue between civil society and the Federal Government.

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³ Mehr Fortschritt wagen, Bündnis für Freiheit, Gerechtigkeit und Nachhaltigkeit, Koalitionsvertrag zwischen SPD, Bündnis 90/Die Grünen und FDP, Z 4646

⁴ https://www.make-it-in-germany.com/en/visa-residence/skilled-immigration-act?mtm_campaign=search-inland-fkeq&cHash=73482875a6b1dd99a72aaec3b0527482

B. Overview of priority recommendations to improve the situation of migrants and implement the GCM

(GCM objective 1) German authorities are urged to set up, analyse and maintain a comprehensive and coherent statistical system for a comprehensive migration and integration reporting as an evidence base for future rights-based policy measures.

(GCM objective 2) German policies on structural drivers and their implementation should focus on a broader partnership approach and not one-sidedly on bilateral agreements with a special emphasis on return and readmission. This does not do justice to addressing structural drivers and development. Moreover, it is too state-centred while migration can only be addressed adequately when involving all parts of society.

(GCM objective 3) The Federal Government should use its Official Development Aid (ODA) to also support informed, self-determined, safe, and regular ways of migration by fostering and financing independent (from state and economic interests), high quality and tailored pre-departure counselling for potential migrants and returnees, which are also coordinated with the country of destination to allow for a well-informed decision to migrate or return.

(GCM objective 4) The Federal Government should create regulations in the civil status system, in residence and immigration law, in social law and in the naturalisation procedure on how to obtain identity documents and when to deem a prima facie case of identity sufficient, for cases in which clarifying identity or obtaining a passport cannot reasonably be expected for legal or practical reasons. It must be ensured that every child born in Germany is immediately included in the birth register and issued a birth certificate and receives proof of identity (if necessary, with an indication of the issues that still need to be clarified) and that this proof is sufficient for exercising residence, social, and other rights.

(GCM objective 5) The legal improvements for family reunification promised in the coalition agreement must be implemented as soon as possible. In addition, capacities of the visa sections of German embassies, must be expanded considerably. Alternatives to personal appointments, e.g., via digital tools, should be implemented to avoid risky border crossings in regions of war or crisis.

(GCM objective 6) The Federal Government should encourage all public and private recruitment agencies to follow the ILO "General principles and operational guidelines for fair recruitment and definition of recruitment fees and related costs". It should ratify and implement the ILO Convention No. 181 (Private Employment Agencies Convention, 1997) and ensure licensing and monitoring of recruitment agencies by the authorities. In case of governmental recruitment initiatives (e.g., in the care sector), recruitment must follow the fair recruitment standards and take place only through certified agencies. The Government should put in place effective complaints mechanisms which include the possibility of individual claims against fraudulent recruiters as well as international reporting on fraudulent recruitment.

(GCM objective 8) In cooperation with other EU member states, the Federal Government should deploy an adequate number of vessels, including some with Search and Rescue (SAR) as their primary purpose, along the routes taken by boats carrying migrants as foreseen in the coalition agreement.

(GCM objective 10) The Federal Government should fund and strengthen a nationwide sustainable support system for combatting human trafficking that guarantees the special rights of victims, such as the recovery and reflection period to decide if they want to cooperate with prosecuting authorities. It

should ensure that victims of trafficking, regardless of the form of exploitation, can fully benefit in practice from the entitlement to residency and create accessible procedures for claiming compensation and back-wages.

(GCM objective 13) Children and other vulnerable persons must not be detained. A general ban on the detention of children and adolescents should be implemented as a matter of urgency. The use of detention pending deportation in the case of persons in particular need of protection should be avoided.

(GCM objective 15) The Federal Government should suspend the statutory exclusion of job-seeking EU citizens and their family members from basic social benefits, lift the benefit reductions for asylum seekers and suspend the reporting obligation under § 87 (2) Residence Act (AufenthG) that can prevent undocumented migrants from seeking health care.

(GCM objective 16) To enable full and equal participation, avenues to obtain citizenship must be improved. Considerations in the coalitions agreement to reduce the periods of prior residence and to generally allow multiple citizenships point in the right direction. Naturalisation should also be accessible to migrant students and to holders of a humanitarian residence permit if they fulfil the criteria for it.

(GCM objective 17) In order to promote inclusion and a sense of belonging in a society characterised by diversity, as well as to advance diversity-oriented organisational development in public institutions and services of general interest, a participation act at federal level could be a suitable instrument. It should promote stronger representation of interests through the participation of migrant organisations.

(GCM objective 18) The Federal Government should commission the development of a database of best practices in informal skills recognition that employers and companies can draw upon.

(GCM objective 19) The Parliament should strengthen the ability of transnational networks of diaspora organisations to execute projects by allocating more funds to them and by encouraging the cooperation between various stakeholders.

(GCM objective 21) Counselling on voluntary return programmes must be open-ended and carried out by independent and well-trained professionals, also from civil society including diaspora organisations. The training for skills should continue after the repatriation, with individual monitoring about the reintegration.

(GCM objective 23) A critical stocktaking and evaluation of existing international and bilateral partnership programmes and a broad discussion should take place involving the Parliament, research institutions and civil society. The concepts, approaches and methods used to date should be reassessed with a view to creating larger-scale and more effective programmes.

(Cross-cutting: Tensions between the EU Asylum and Migration Pact and the GCM)

In the negotiations on the EU Asylum and Migration Pact, the Federal Government should only support those elements that are in line with the GCM - in particular the improvement of standards for protection seekers in asylum procedures as agreed in the Coalition Agreement as well as the fair sharing of responsibility for reception between EU member states. Regarding those elements which, in their current form, are fundamentally at odds with the objectives of the GCM, it should press at the EU level for a corresponding change.

Signatory Organisations

Afrikanisch-Deutsche Arbeitsgemeinschaft (A.D.A.G.E.)

Arbeit und Leben Berlin-Brandenburg DGB/VHS

AWO International

Bischöfliches Hilfswerk MISEREOR (the German Catholic Bishops' Organisation for Development Cooperation)

Brot für die Welt, Protestant Agency for Diakonie and Development

Catholic Forum "Living in Illegality"

DaMigra, Dachverband der Migrantinnenorganisationen

Deutscher Paritätischer Wohlfahrtsverband - Gesamtverband (The Paritätische)

Diakonie Deutschland, Protestant Agency for Diakonie and Development

German Caritas Association

INGEFF (Indo-German Friendship Forum, Berlin)

Institut für angewandte Kulturforschung ifak

KOK – German NGO Network against Trafficking in Human Beings

MEPa Migration-Entwicklung-Partizipation

Nuremberg Human Rights Center

Oxfam Germany

PLAN INTERNATIONAL

SOLWODI Germany

Sprungbrett Zukunft Berlin

terre des hommes Germany

Transnational Corridors