

Draft resolution submitted by the President of the General Assembly on a Global Compact for Safe, Orderly and Regular Migration

19 December 2018

Statement by Denmark

Madam/Mr. President,

I have the honor to deliver the following statement on behalf of Iceland, Lithuania, Malta, the Netherlands and my own country Denmark. Norway also supports this intervention. We all voted in favor of the resolution today. We would like to thank the co-facilitators Ambassador Gómez Camacho and Ambassador Lauber as well as SRSG Louise Arbour and their teams for their tireless work throughout this process. We also wish to thank member states for their constructive engagement.

Migration is a global phenomenon, presenting both challenges and opportunities to the international community. The Global Compact for Safe, Orderly and Regular Migration presents a common approach at global level to addressing the increasing challenges of irregular migration and seize the opportunities of legal migration. It comes at a time where multilateralism is under pressure.

In the United Nations, our international cooperation is built on national sovereignty.

The Global Compact on Migration will confirm the fundamental premise that it is the sovereign right of nation states to determine their national migration policy in conformity with international law.

The Compact will provide us with a useful and timely framework for improving international cooperation on migration, including with the

aim to effectively prevent irregular migration and fight trafficking in human beings and smuggling of migrants, which currently entails immense human tragedies for so many irregular migrants on the move.

Iceland, Lithuania, Malta, the Netherlands, Norway and Denmark welcome the following significant characteristics of the GCM:

- The Global Compact on Migration provides the first global cooperative framework on migration. It is a result of an inclusive exercise of all UN member states.
- The Global Compact on Migration prompts States to increase and strengthen their cooperation to better manage migration.
- The Global Compact on Migration recognizes the necessity to address root causes of irregular migration, which is closely related to the full implementation of the 2030 Agenda for Sustainable Development.
- The Global Compact on Migration is a non-legally binding framework. It does not in any way create legal obligations for States nor does it seek to establish international customary law or further interpret existing treaties of national obligations.
- The Global Compact on Migration respects the sovereignty of States and reaffirms the sovereign right of States to determine their national immigration policy and laws.
- The Global Compact on Migration recognizes the universality of human rights and fundamental freedoms and emphasizes that all migrants are entitled to the same universal human rights as any individual born to this world. The Compact does not create any new

legal categories of migrants or associated benefits. Nor does it establish a human right to migrate.

- The Global Compact on Migration considers it essential that borders are managed for the security of States, communities and migrants, and that smuggling and trafficking in human beings is effectively combatted.
- The Global Compact on Migration clearly recognizes the existing obligation of all States to duly receive and readmit all their own nationals, who no longer have the right to remain elsewhere, whether they are returning voluntarily or otherwise, which is an essential element of a well-functioning global migration system.
- Recognising that mass flows may comprise a combination of refugees and migrants, the Global Compact on Migration and Global Compact for Refugees together reaffirm the legal and practical distinction between refugees and migrants, and the different legal protections available to refugees, as enshrined in international law.
- The list of actions under each commitment constitute examples which may contribute to the implementation of the Compact. It is, up to each State to decide how and whether to draw from these examples.

Further, we would like to clarify our position on a number of points:

- First: We welcome the clear principle in the Compact that within their sovereign jurisdiction, States can and have sole authority to distinguish between regular and irregular migratory status. This distinction between regular and irregular migrants could have been more clearly mainstreamed throughout the Compact. We emphasize that a clear distinction between regular and irregular migrants will be applied in our reading of the Global Compact on Migration. An example is Ob-

jective 16 on inclusion of migrants, where the concept of integration only relates to regular migrants. In addition, receiving social security and other welfare rights remains an issue of national competence. This includes the portability of social security entitlements and earned benefits.

- Second: The Global Compact on Migration is primarily targeting the way migration takes place to promote safe, orderly and regular migration and prevent irregular migration. In line with the fundamental principle of state sovereignty, States are not committing to take national steps to increase legal pathways, nor change their approach to categorising and creating legal pathways, through their support for the Compact. Decisions regarding which legal pathways are provided at any given time are at the sole discretion of the State concerned.
- Third: Regarding detention of migrants, we refer to the elements contained in the EU Explanation of Position made at the adoption of the New York Declaration for Refugees and Migrants in September 2016, incl. with regard to migrant children..
- Fourth: States may maintain the right to apply criminal law for those that have been smuggled into their country. While there is a need to address vulnerability and have a proportionate legal response, knowledge and intent of illegal entry and border crossing may still be dealt with as a criminal offence rather than an administrative offence, in line with national legislation and international law.
- Fifth: the Compact – being a non-legally binding framework – in no way restricts or curtails already well-established human rights, including the right to freedom of expression. We underline the importance we attach to the fact that the media in our countries enjoy

extensive freedoms to debate all issues of importance to society, including the issue of migration in all its aspects.

- Sixth: Issuance of documents to migrants will not in any way imply residency entitlements in the country issuing the documents, unless such rights are specifically indicated.
- Seventh: The Global Compact on Migration is based on international human rights law and upholds the principle of non-regression within that context. National policies and legislation may, within the boundaries set by international law, be adjusted and are not affected by the Compact's reference to the principle of non-regression.
- Eighth: The Global Compact on Migration recognizes that managing migration is a shared responsibility, including addressing the adverse consequences of unsafe, uncontrolled and irregular migration. We therefore expect all partners, countries of origin, transit and destination, to take responsibility and demonstrate a serious commitment, based on this Compact, to strengthen management of both regular and irregular migration.