

## **Global Compact for Safe, Orderly and Regular Migration<sup>1</sup>**

**Smuggling of migrants, trafficking in persons and contemporary forms of slavery, including appropriate identification, protection and assistance to migrants and trafficking victims**

The fifth of six informal thematic sessions will cover “Smuggling of migrants, trafficking in persons and contemporary forms of slavery, including appropriate identification, protection and assistance to migrants and trafficking victims”. It is scheduled for 04 – 05 September 2017 in Vienna. The sessions were set out in the resolution on the Modalities for the intergovernmental negotiations of the Global Compact for safe, orderly and regular migration adopted on 6 April 2017 in New York City.

Germany holds the following positions regarding this session of the Global Compact for safe, orderly and regular migration:

1. The global compact should expressly state the fact that unlawful border crossings are an unacceptable form of migration. This is even more so the case when border crossings are organised by traffickers and smugglers. The global compact should refer to the fact that good migration governance can help to prevent human trafficking.
2. The global compact should reaffirm and call for the ratification and effective implementation of the United Nations Convention against Transnational Organized Crime (UNTOC) and its Protocol to Prevent, Suppress and Punish Trafficking in Persons. It should encourage states to accede to regional agreements to fight human trafficking. Moreover, it should, through cooperation in a spirit of partnership, encourage the creation of suitable legislative and institutional frameworks that are in line with and help to implement the UN Protocol against the Smuggling of Migrants by Land, Sea and Air.
3. It should take into consideration and implement the United Nations Global Plan of Action to Combat Trafficking in Persons taking into account the results of its appraisal on 27-28 September 2017; the Convention on the Elimination of all Forms of Discrimination Against Women; the Convention on the Rights of the Child and its Optional Protocol on the Sale of Children, Child Prostitution and Child Pornography; the Beijing Declaration and Platform for Action

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<sup>1</sup> Referred to as „global compact“ in this document.

and its follow-up documents; the targets of the 2030 Agenda for Sustainable Development relevant to preventing and combating trafficking in human beings; the International Labour Organization Conventions on Forced Labour and the additional Protocol thereto and other international instruments, thus contributing to ensuring strong foundations for the rule of law.

4. State action and state cooperation with regard to irregular migration, human trafficking and smuggling of migrants must be based on international law, including human rights and refugee conventions, and must not undermine the right to asylum. The global compact should not, however, constitute or promote a “human right to (unrestricted) mobility”.
5. It should **address trafficking in human beings** as a violation of human rights and a form of transnational organised crime, including in the context of migration; recognise that migrants in large movements are at a high risk of being trafficked and subjected to violence and violations of human rights. In this regard the global compact should:
  - a. Promote efforts of all relevant actors for early identification of trafficking in human beings networks and of victims of trafficking and their specific vulnerabilities, protection and assistance needs, including among those affected by displacement and those in migration flows and taking into account the protection needs of migrants in a particularly vulnerable situation such as migrant domestic workers;
  - b. Reaffirm the commitment to continue efforts to criminalize trafficking in persons in all its forms and strengthen cooperation and coordination among Member States in countries of origin, transit and destination, including capacity building and technical assistance;
  - c. Encourage prosecution against perpetrators through enhanced use of all available investigative tools and techniques to identify, indict and bring them to justice in line with national and international laws;
  - d. Encourage action towards curtailing demand for all forms of exploitation, including forced and compulsory labour, in both the formal and informal economies;
  - e. Address the challenge of the availability of relevant evidence-based data on trafficking in human beings and data-sharing.

6. The global compact should comprise a clear commitment by states to prevent and tackle human trafficking and to protect and support its victims, including greater efforts to identify victims or potential victims of human trafficking. States should, in this regard, affirm their commitment to taking gender-specific aspects of human trafficking into account as well as the specific vulnerabilities and needs of women and children. States should advocate good cooperation in this area. In this regard the global compact should:

  - a. Stress that measures taken to combat trafficking in human beings are implemented with due regard to victims' potential needs for international protection and in compliance with the principle of *non-refoulement* in the case of refugees.
  - b. Reaffirm our commitment to provide support for the victims of human trafficking and call for the use of the registration process to identify specific assistance needs and protection arrangements, where possible, of victims of trafficking.
  - c. Urge all States to fully and effectively include the contribution of the civil society, the private sector, academia, media and all relevant stakeholders in the development, implementation and monitoring of policies to prevent trafficking in human beings and to protect its victims,
  - d. Call to ensure access for victims to free and confidential support and all relevant safeguards, including promoting measures facilitating the realisation of the rights of victims to assistance, protection, effective access to justice, due process and compensation.
  - e. Address the particular vulnerabilities of trafficked children, especially unaccompanied children and those separated from their families, and promote non-discriminatory access to child protection in order to protect migrant children from all forms of child trafficking.
  - f. Address the special situation and vulnerability of migrant women and girls by, inter alia, calling for integrating a gender perspective into migration policies and strengthening national laws, institutions and programmes to combat gender-based violence, including trafficking in human beings and discrimination against women and girls.
7. Ensuring coherence with the commitments that apply to both refugees and migrants under the New York Declaration as well as the Global Compact on Refugees, the global compact should address the root causes that make people vulnerable to becoming a victim of trafficking, some of the common factors being inter alia poverty, oppression, lack of human rights, discrimination, lack of

social or economic opportunities, dangers from conflict or instability, internal armed conflict or natural disasters.

8. With reference to the Global Compact on Refugees that will call for ensuring, to the extent possible, that measures are in place to identify persons in need of international protection as refugees, provide for adequate, safe and dignified reception conditions, with a particular emphasis on, among others, victims of human trafficking , the global compact should advocate, with the same forcefulness, that worldwide irregular migration, accompanied by human trafficking and smuggling at the hands of trafficking and smuggling organisations should be combated.
9. Intergovernmental cooperation with this objective in mind helps to curb irregular migration and to tackle and prevent related activities of organised crime as well as migrant smuggling and trafficking. The states should affirm their commitment to creating or implementing the necessary conditions – legally and materially and in terms of personnel – to tackle migrant smuggling and human trafficking and to intensify international police and judicial cooperation in the efforts to combat these criminal offences.
10. The global compact should in this respect, identify important fields of intergovernmental cooperation to achieve the stated objectives, in particular
  - a. Exchange of best practices in the structural, organizational and material improvement of border policing activities,
  - b. Capacity building and financial support for systems of integrated border management,
  - c. Building and developing capacities to control the land, sea and air borders, as well as maritime surveillance capabilities for the prevention of irregular migration, cross-border crime and the improvement of search and rescue (SAR) capabilities,
  - d. Mutual assistance in strengthening police information systems of border management,
  - e. Mutual assistance in the training and provision of equipment of the states' units entrusted with border management and the fight against smuggling and trafficking,
  - f. Cooperation in awareness raising campaigns on the conditions of regular migration as well as the requirements of asylum and international protection in order to help exterminate smuggling activities and related false information.