

Angenendt, Steffen; Koch, Anne

Research Report

How Germany can benefit from the Global Compact for Migration: Opportunities for national reforms and international cooperation

SWP Comment, No. 37/2019

Provided in Cooperation with:

Stiftung Wissenschaft und Politik (SWP), German Institute for International and Security Affairs, Berlin

Suggested Citation: Angenendt, Steffen; Koch, Anne (2019) : How Germany can benefit from the Global Compact for Migration: Opportunities for national reforms and international cooperation, SWP Comment, No. 37/2019, Stiftung Wissenschaft und Politik (SWP), Berlin, <https://doi.org/10.18449/2019C37>

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SWP Comment

NO. 37 SEPTEMBER 2019

How Germany Can Benefit from the Global Compact for Migration

Opportunities for National Reforms and International Cooperation

Steffen Angenendt and Anne Koch

In December 2018, 152 United Nations (UN) member states adopted the Global Compact for Safe, Orderly and Regular Migration. The document sets out 23 objectives that guide countries of origin, transit and destination in how to deal with the challenges arising in the context of international migration and forced displacement. If practical progress is to be made in the management and organisation of global migration flows, this requires a twofold commitment – internal and external – on the part of the states involved. The German government – just like other governments interested in effective, sustainable and coherent migration policies – should use the Compact to identify further needs for internal reform and to win international partners for strategically selected key issues. The Compact's review process, the core of which is the International Migration Review Forum (IMRF), provides an opportunity for both.

The Migration Compact constitutes the first common framework for states to reduce unregulated and involuntary migration, to improve the management of cross-border migration and to make more effective use of its positive potential for development. The German government has played an active role in this process: the fact that Chancellor Angela Merkel was present at the intergovernmental conference in Marrakech where the Compact was adopted, and spoke in favour of more intensive cooperation on migration policy has been acknowledged worldwide.

The Compact is a political declaration, not a legally binding document. The gov-

ernments deliberately conceived the Compact as a *soft law* instrument whose normative effect on international law ultimately depends on whether states are willing to implement it. The Compact's objectives cover all phases of migration, taking into account legal, developmental and security aspects. Given the wide range of migration-related challenges that differ from country to country, governments now face the task of setting priorities, both internally with regard to the reforms of national migration policy, and externally with regard to the areas of international cooperation that are important to them.



Controversy over Implementation

Since its adoption, there has been little news concerning the Compact. In last year's domestic political debates, the governments involved repeatedly stressed that the Compact is legally non-binding and does not oblige them to admit migrants. Now they fear that, when the issue of implementation appears on the political agenda, populist forces will once again mobilise against the Compact. Their opposition essentially consists of insinuating that governments lose sovereignty through multilateral action. The high levels of immigration to Europe in 2015 and 2016 exemplify why this accusation is wrong: the inability of EU states to control immigration was due to the fact that they failed to agree on close cooperation. The reason behind this lack of action was not an excess but an insufficiency of international coordination and cross-border cooperation. Implementation of the Compact, which continues to be voluntary, therefore promises to strengthen states' control.

To support implementation, the Compact provides for a follow-up and review procedure. In the Modalities Resolution of the UN General Assembly of July 2019, the states specified how the core of this process, the International Migration Review Forum (IMRF), should be structured.

The Review Procedure

The IMRF is to become the key intergovernmental forum for discussing progress made in implementing the Global Migration Compact. The four-day forum will take place every four years from 2022 onwards within the framework of the UN General Assembly. The Forum will be preceded by a one-day meeting with representatives of civil society. The IMRF will consist of four roundtable discussions, one policy debate and a two-day plenary session. The roundtables are to examine the 23 objectives from different angles. The policy debate is meant to focus on the obstacles that need to be overcome when implementing the Compact,

and to develop proposals for improving the effectiveness and coherence of the UN system. The two-day plenary session will provide governments with an opportunity to present their progress in pursuing the objectives, and to identify key challenges.

Lessons Learned from Other Processes

International agreements that are not legally binding, such as the Global Compact on Migration, are generally suspected of being futile. However, the experience from other policy areas shows that well-designed review processes can certainly help to create a political and practical impact. For example, the review mechanism for the 2030 Agenda for Sustainable Development adopted in September 2015 is proof that, overall, the agreement is a success, despite criticism of individual elements. Within the framework of the High-Level Political Forum on Sustainable Development, states are invited to report voluntarily on the implementation of the 2030 Agenda. 143 states have so far complied with this request. Although individual reports have been criticised for a lack of substance, the vast majority do offer substantial insights into implementation at national and sub-national levels. Even more important are the countries' upstream coordination processes, which offer civil society and the private sector, as well as ministries and parliament, the opportunity to comment on the implementation of the 2030 Agenda.

Other examples — such as the OECD Peer Reviews or the African Peer Review Mechanism — also show that review processes can accelerate the implementation of international agreements and provide governments with advice for reform. To achieve policy success, these review procedures do not primarily focus on control, but on learning and exchanging experience. The modalities resolution of the Migration Compact is based on the same principles.

A conscientious follow-up and review process, carried out by as many states as

possible, can contribute to the effectiveness of the Migration Compact. Since the success of the Compact is in Germany's interest, the German government — just like other governments interested in effective, sustainable and coherent migration policies — should strengthen the review process, inter alia by producing substantive national progress reports on its implementation.

The Compact's Domestic Impact

In Germany, national procedures and discussion forums will need to be established to prepare its contribution to the Review Forum. These can be used to put German migration policy to the test with regard to the objectives agreed in the Compact, and to determine the further need for domestic action in terms of both legislation and implementation.

Objective 16, aimed at ensuring full inclusion and social cohesion, is of direct relevance in the German context. Even though the recent reform of the law on promoting the employment of foreigners has formally facilitated access to vocational training and integration courses, in practice there are long waiting times — and thus obstacles to social inclusion. Action is also needed on Objective 18 of the Migration Compact: recognising foreign qualifications and verifying their equivalence. Although the law on the immigration of skilled workers adopted in June 2019 facilitates access to the German labour market, there is still room for improvement in the structures and procedures for recognising knowledge and skills acquired abroad. Objective 21 on dignified return and sustainable reintegration also requires work. New legislation aiming to improve the way the obligation to leave the country is enforced raises questions regarding both detention practices, and the judicial examination of individual cases prior to deportation. There is also room for improving both coordination with countries of origin, which is crucial for the sustainability of a return, and the monitoring of reintegration.

The targeted reform areas should be addressed by all government departments from the outset so as to identify and defuse conflicting objectives at an early stage. In addition to such a whole-of-government approach, the Migration Compact also promotes a whole-of-society approach. To meet this goal, it will need the participation of non-governmental organisations, research institutions, companies and trade unions. It would therefore be desirable for a process to be set up in Germany by civil society, such as foundations, which would facilitate a regular and critical exchange with political decision-makers on how to achieve the Compact's objectives.

The Compact's External Impact

Externally, the German government can strengthen the implementation of the Compact by providing financial and administrative support for its Capacity-building Mechanism. Here, a useful component is the "Connection Hub", which is intended to advise countries on the development of migration policy solutions. It will serve to identify implementing partners, promote the exchange of content and indicate financing possibilities. However, the also planned Global Knowledge Platform threatens to duplicate existing formats such as the Platform for Partnerships established within the framework of the Global Forum on Migration and Development (GFMD).

Beyond this primarily technical commitment, the German government should use the implementation process to set its own migration policy priorities at the international level, and to pursue these emphatically and strategically together with a supra-regional group of like-minded states. There are areas in which Germany can already claim a pioneering role, for example the expansion of regular migration pathways (Objective 5). With its law on the immigration of skilled workers, Germany has already opened up to labour market-related immigration. However, it still needs to improve access for the low-skilled. Germany could

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SWP
Stiftung Wissenschaft und
Politik
German Institute for
International and
Security Affairs

Ludwigkirchplatz 3 – 4
10719 Berlin
Telephone +49 30 880 07-0
Fax +49 30 880 07-100
www.swp-berlin.org
swp@swp-berlin.org

ISSN 1861-1761
doi: 10.18449/2019C37

Translation by Tom Genrich

(English version of
SWP-Aktuell 44/2019)

benefit from a more intensive exchange of experience with other host countries and countries of origin and, simultaneously, promote fair, ethical and developmentally meaningful recruitment and decent work (Objective 6). Third, Germany has model programmes to strengthen the contribution of migrants and diaspora members to development (Objective 19). These include in particular the services offered by the Centre for International Development and Migration (CIM), which support skilled workers living in Germany in getting involved in development policy in their home countries or returning there. Furthermore, the humanitarian catastrophe in the Mediterranean makes saving human lives (Objective 8) such a priority that this objective should be at the very heart of Germany's implementation process.

As well as the IMRF, the Migration Compact signatories have agreed to organise regional review forums. These are to take place at two-year intervals from the IMRF. So far, however, there have been no efforts to prepare the regional forum scheduled for 2020. The German government could strengthen the Migration Compact by offering to host the Forum or – given the criticism of German policy by some EU states – by supporting another EU country that is open to cooperation on migration policy, such as Finland, Ireland or Portugal, in this task.

Conclusion

In Germany – as in other countries – several government departments are involved in implementing the Migration Compact. This raises the question of coordination. In Germany, the Federal Foreign Office, which is already responsible for preparing the review process, could shoulder this task. Considering the interplay between domestic and foreign policy issues, the Chancellery

would be even more suitable – but within the current coalition government this would require agreement between the coalition partners and the establishment of a Task Force responsible for the process.

Finally, participation in the Review Forums is also open to states that have not yet supported the Migration Compact. If the ensuing exchanges create practical advantages for participating countries, this could encourage more governments to support the Compact and thereby increase its normative impact.

Dr Steffen Angenendt is Head and Dr Anne Koch is Associate of the Global Issues Research Division. This paper was written as part of the project "Migration, forced displacement and development cooperation – challenges and opportunities for German and European politics", funded by the German Federal Ministry for Economic Cooperation and Development.