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Prospects for the Global Compact for Migration

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The Global Compact for Migration being negotiated at the UN will be the first such document to comprehensively regulate international flows of people. Although it will not be legally binding, its significance lies in strengthening universal principles and standards on migration and to facilitate cooperation between states in this area. After the withdrawal of the U.S. from the negotiations, the shape and impact of the document to be signed in December this year depends to a large extent on the involvement of the European Union. Poland can use the last stage of the talks to call for better security guarantees for host countries and improved border controls.

On 19 September 2016, 193 countries in the UN General Assembly accepted the New York Declaration for Refugees and Migrants, calling for a comprehensive settlement of international flows of people. Soon after, two separate negotiation processes started, one on the Global Compact on Refugees and the second on the *Global Compact for Safe, Orderly and Regular Migration* (GCM). Negotiations of the refugee document are proceeding well, and its adoption is planned for the General Assembly session in September. In turn, GCM has raised some doubts and faces a tougher path.

The GCM consultation process, supported by the International Organisation for Migration (IOM), lasted from April to November 2017, and led to the publication of the preliminary text proposal (zero draft) in February 2018. The next stage—formal intergovernmental negotiations coordinated by Switzerland and Mexico, which includes six rounds ending in July this year—should enable the signing of the agreement at a special UN conference in December in Morocco.

The Challenges. In recent decades, with the advancement of technology, the progress of globalisation and demographic pressure in many countries, the scale of migration is growing. The UN estimates there were 258 million migrants in the world in 2016, an increase of 49% compared to the 173 million in 2000. During this period, the percentage of migrants to the global population also increased slightly, from 2.8% to 3.4%. Of this group, people forced to leave their countries (refugees and asylum-seekers) account for only 10.1% (25.9 million). According to International Labour Organisation estimates, 65% of migrants (about 150 million) do so for work. The clear majority of migrants are regular and legal, although determining the exact number is not possible because of a lack of comprehensive data. About two-thirds of migrants live in developed countries. At the same time, more and more people from Europe or the U.S. have taken up employment in the rising Global South. Greater mobility also means that in practice many states play three functions at the same time—country of origin, transit country, and destination country.

While the status of refugees is regulated by international law, mainly the Geneva Convention of 1951, the rights and obligations of migrants have not been codified in the form of a universal international agreement. One exception in this area—the 1990 International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families—has been ratified by only 51 countries, exclusively from the Global South. This situation means that the rules for the treatment of migrants are regulated differently by state, and countries are usually reluctant to cooperate on migration, especially on return and

readmission. People who use irregular means to try to enter other countries often risk their lives (according to the IOM, 6,163 people died in 2017), become victims of slave labour and human trafficking, and face other human-rights violations. The fear of mass and uncontrolled immigration fuels political and social tensions in destination countries and leads to an increase in xenophobia and offers an opportunity for some to create a divisive narrative.

Meanwhile, migration, provided it can be properly regulated, can assist development both in countries of origin and in host countries. Money transfers sent by migrants to developing countries in 2016 amounted to \$450 billion, three times more than all international official development and humanitarian aid. In addition to foreign investment, migration is key to the implementation of the UN's Sustainable Development Goals, which include the complete eradication of poverty by 2030. Most studies by the UN, Organisation for Economic Cooperation and Development, and the World Bank show that migration also has a positive impact on host economies. Migrants often take jobs that are not performed by locals, are more active professionally, increase the innovation of the economy, etc.

The Importance and Progress of the Negotiations. GCM will be the first agreement to comprehensively regulate migration issues. The current version of the draft document lists three guiding principles of cooperation, 22 objectives, and several dozen specific actionable commitments. It calls on the parties to enhance the availability and flexibility of pathways for regular migration, provide all migrants with proof of legal identity, facilitate family reunification, save the lives of migrants, prefer voluntary returns to deportation, use migration detention only as a measure of last resort and end detention of children, and prevent intolerance and xenophobia. It also indicates a need for the better collection of statistical data on migration, solving root causes by supporting economic development in countries of origin, and better cooperation in combating human trafficking and smuggling of migrants.

Furthermore, it reaffirms the “obligation of States to readmit their own nationals” and calls on destination countries to improve integration of migrants, including access to basic services. It also reassures states of their sovereign right to “distinguish between regular and irregular migration status” and manage national borders in accordance with international laws.

As a political declaration, GCM will not be a legally binding document. Its importance is mainly in the dissemination of principles, standards, and values regarding the treatment of migrants. Even though non-binding, it has raised controversy about its political effect. In critics' view, the UN proposal is excessively focused on the benefits of migration, accepts the perspective of sending countries at the expense of host countries, and concentrates on the rights of migrants rather than on the interests and security of host countries. In December 2017, the U.S. withdrew from the work on GCM, arguing that the approach to the problem is wrong and the country will decide its migration policy alone. In February this year, Hungary threatened to withdraw from the negotiations and, at the same time, criticised the EU for presenting a “common position” without the unanimity of the 28 countries of the Union. The Hungarian authorities rejected the GCM and presented in March this year the country's own proposal, which underlines only the threats and risks of migration. Hungary's position on the issue prevented the adoption of the EU negotiating mandate and limited its role to the coordination of the positions of other Member States. The European Commission supports GCM, but at the same time seeks a better distinction in the text between migrants who have entered a country legally from those who entered by other means, and also from refugees. The request for clarification is supported by many Member States, including Poland.

Perspectives and Conclusions. Before GCM's final negotiation stage, many specific and controversial issues still need to be addressed, especially between developed and developing countries. However, the non-binding nature of the agreement should facilitate the support of most UN members and make signing possible within the prescribed time. Once endorsed, it will contribute to strengthening the system of human-rights protection, in part by setting common standards, and lay the foundations for closer cooperation between states in relation to readmission, data collection, border services, etc.

With the U.S. not participating in the negotiations, the importance of GCM will depend on EU support. The lack of a signature by key developed countries would make many provisions useless and negatively affect the credibility of the Union. Therefore, the Member States should agree a position that can be supported by at least the other 27 states, provided Hungary will not change its position after Prime Minister Viktor Orbán's recent re-election. It is in the EU's interest to use this process to reduce irregular migration and regain control of it in exchange for increasing legal mobility.

Poland, which is transforming from a sending country into a destination state, has a special interest in developing a compromise that balances the protection of migrants' rights with state security and border control. It may emphasise the benefits of legal migration and propose a solution to facilitate stricter control if it, such as by preserving the detention of migrants who have entered through non-legal means or to continue forced returns.