

## **ETUC-ITUC Joint Statement on the Global Compact for Safe Orderly and Regular Migration Intergovernmental Negotiations, 9 - 13 July, 2018**

### **TOWARDS A GLOBAL COMPACT WITH FULL LABOUR PROTECTIONS FOR ALL MIGRANT WORKERS, REGARDELESS OF THEIR STATUS, WITH ACCESS TO SERVICES AND JUSTICE**

The intergovernmental negotiations for a Global Compact for Safe, Orderly and Regular Migration (Global Compact) offer a historic opportunity to agree on a multilateral framework of cooperation on international migration policy and to contribute to the fair and effective governance of migration, including labour migration. To achieve this ambition, the Global Compact must be robust, comprehensive, and rooted in international human and labour rights law. It must ensure full protections for all migrants, regardless of status.

The European Trade Union Confederation (ETUC) and the International Trade Union Confederation (ITUC) are strongly concerned that the positions taken by the EU, driven by certain member States, falls short of this ambition. The current draft of the Global Compact (Draft Rev 2 – May 2018) reinforces these concerns.

The EU approach should be based on solidarity, shared responsibility, multilateralism and engagement. The ETUC and the ITUC call for these principles to be reflected in an ambitious Global Compact on migration. With the withdrawal of the United States from the negotiations of the Compact, we need more than ever a strong and united Europe that speaks with one voice and promotes a common vision on migration grounded on human rights.

In particular, the ETUC and ITUC urge the EU member States to take into account the following principles in the next round of negotiations:

#### **1. Distinction between regular and irregular migrants.**

ETUC and ITUC firmly reject the development of a “Global Compact for regular migrants”. All migrants are human beings and enjoy human rights, regardless of their status. The Global Compact must respect the basic rights of migrants, whatever their migrant status, in accordance with international human rights and labour law, including relevant European Union legislative framework. This includes access to basic health and social services and access to justice, as well as entitlement to labour rights and protections. All migrant workers should enjoy the right to freedom of association and collective bargaining, as well as the right to take action against abusive employers, regardless of their status. The Global Compact should recognise States’ obligations in this regard. Nothing in the Global Compact should enable States to derogate from, replace or undercut existing binding legal standards in soft, hard

and customary law. Arguments as to the sovereign rights of States must not be allowed to trump the legal and moral obligations of States.

The ETUC and ITUC specifically reject calls to see the distinction between regular and irregular migrants strengthened in the key objectives related to labour migration, in particular Objectives 6, 15, 18, and 22 of the current draft. We maintain that, rather than excluding so-called irregular migrants, the Global Compact should aspire to enhance opportunities for regular migration whilst closing gaps that allow for, or indeed facilitate, migrants falling into irregular situations.

It is unacceptable that some European member States, within the context of the Global Compact negotiations, should refuse any mention of the principle of non-refoulement – a fundamental principle of international human rights law.

## **2. Decent work for all**

The ETUC and ITUC welcome the stronger references to decent work in Draft Rev 2 of the Global Compact. We are, however, concerned to see the rights to equal treatment and labour law protection in Objective 6, paragraph 21 j) restricted to migrant workers “*engaged in remunerated and contractual labour*”. This gives a license to unscrupulous employers to abuse the rights of undocumented or irregular migrant workers, including through the use of forced labour. It would likely also contribute to the undercutting of established wages and working conditions by such employers. The ETUC and ITUC urge EU member States to work to further strengthen the Global Compact provisions on decent work, including by working with the group of like-minded States that are putting forward proposals to this effect.

## **3. Implementation, follow-up and review**

Key to successful outcomes for the Global Compact for Migration are adequate mechanisms for implementation, follow-up and review, which keep governments and stakeholders effectively engaged at national, regional, and global levels. In this regard, the establishment of a UN network on migration is goes in this direction, as does the decision to “*draw from the technical expertise and experience of relevant entities within the United Nations system*”.

The Global Compact should go a step further and explicitly recognise and utilise the core specialised agencies with competencies related to migration. The ILO's core competencies and expertise in this field should be fully utilised, both at the normative and operational levels, in relation to labour migration and related aspects. The Global Compact should embed the roles of the social partners in contributing to the sound governance of labour migration through social dialogue and tripartite consultations, including for regional consultative processes at the level of the EU. There is clear evidence that tripartism and bipartite social dialogue lead to sound labour migration governance, with the protection of migrants' human and labour rights at the core.

In keeping with the Whole-of-Society approach, multi-stakeholder partnerships should be envisaged for implementation, follow-up and review, with clear roles for trade unions and other civil society organisations at global, regional and national levels, including within the EU.

Furthermore, as we enter the final stage of negotiations of the Global Compact, the ETUC and ITUC urge EU member States to consider the following proposals as **crucial amendments** to the Draft Rev 2, in order to fulfill the ambitions of a Global Compact that will make migration work for all (Language proposals in bold).

## Joint ETUC – ITUC concrete Proposals for Language

- **Paragraph 14, Guiding Principles**

*"National sovereignty:* The Global Compact reaffirms the sovereign right of States to determine their national migration policy and their prerogative to govern migration within their jurisdiction, in conformity with international law. Within their sovereign jurisdiction **and with regard to their obligation to respect, protect and fulfill the human rights of all individuals within their jurisdiction**, States may distinguish between regular and irregular migration status as they determine their legislative and policy measures for the implementation of the Global Compact, taking into account different national realities, policies, priorities and requirements for entry, residence and work".

**Paragraph 14, Guiding Principles.** After the Human Rights Principle, add a new Principle on Decent Work and Labour Rights:

***"Decent Work and Labour Rights. The Global Compact promotes decent work for all migrants and upholds the fundamental principles and rights at work. We recognise that migrant workers must be empowered as agents of change to improve their conditions of work, and exercise freedom of association and the right to bargain collectively".***

- **OBJECTIVE 6, paragraph 21 j).**

Provide **all** migrant workers with the same labour rights and protections extended to all workers in the respective sector, particularly by ensuring that migrants can exercise their rights to just and favourable conditions of work, to equal pay for work of equal value, to freedom of peaceful assembly and association, **to membership in trade unions**, and to the highest attainable standard of physical and mental health, including through wage protection mechanisms **and strengthened protections for migrants who engage with labour inspectorates or other labour law enforcement to remedy cases of exploitation.**

- **OBJECTIVE 6, paragraph 21 k).**

"Ensure **that all** migrant workers have safe access to effective reporting, complaint, and redress mechanisms in cases of exploitation, abuse or violations of their rights in the workplace, in a manner that does not exacerbate vulnerabilities of migrants that denounce such incidents".

- **OBJECTIVE 15, paragraph 30 c).**

"Ensure that cooperation between service providers and immigration authorities does not exacerbate vulnerabilities of **migrants, especially those in irregular status**, by compromising their safe access to these services or **infringing on their privacy rights**, and that they **have safe and secure access to** places of service delivery, including hospitals, schools, **labour dispute institutions** and courts".

- **IMPLEMENTATION, paragraph 44 b)**

"...the network will fully draw from the technical expertise and experience of relevant entities within the United Nations system, **in particular the core specialized agencies: the ILO, UNHCR, OHCHR, UNICEF, and UN Women.**"

- **IMPLEMENTATION, paragraph 46-bis) [new]**

**Recognising the importance of the Whole-of-Society approach for the implementation of the Global Compact, foster multi-stakeholder partnerships, ensuring a strong role for trade unions and other civil society organizations in consultations on migration policy formulation and implementation at global, regional, and national levels.**

- **FOLLOW-UP AND REVIEW paragraph 50**

We invite the Global Forum on Migration and Development to provide a space for exchange among States, **and enhanced consultations with trade unions and other civil society organisations** on the implementation of some or the entirety of the objectives and commitments included in the Global Compact, and report the findings, best practices and innovative approaches to the International Migration Review Forum.