



# Questions and answers on the UN Global Compact for Migration

At its meeting on 3 February 2021, the Federal Council adopted the dispatch on the UN Global Compact for Migration ('Global Compact'). The dispatch reiterates the view, adopted by the Federal Council in autumn 2018, that Parliament's assent to the Global Compact is in Switzerland's interests. The objectives set out in the Global Compact are consistent with the priorities set out in Switzerland's migration policy. The most important questions relating to the UN Global Compact for Migration are answered below.

## Why does Switzerland wish to assent to the Global Compact?

In its dispatch of 3 February 2021 for the attention of Parliament, the Federal Council reiterates its view, adopted on 10 October 2018, that Parliament's assent to the Global Compact is in Switzerland's interests. From Switzerland's standpoint, the main benefit of the Global Compact is that it is implemented by countries with less robust migration systems. Many of the challenges we face in relation to current migration policy, e.g. the repatriation of migrants, stem from inadequate migration systems and a lack of capacities in the countries of origin. It is in Switzerland's interests to support these countries in developing an effective migration policy. The Global Compact is a common instrument that provides a good foundation for such cooperation. Furthermore, the principles of the Global Compact – fostering partnerships and international cooperation whilst upholding sovereign national control over migration – are in line with Switzerland's policy on migration. Safe, orderly, regular migration also contributes to the attainment of the Sustainable Development Goals (SDGs).

## What would happen if Switzerland did not sign the Global Compact?

Switzerland traditionally supports the approach of addressing global problems globally, and indeed the Global Compact does this. Not signing up to the Global Compact would undermine Switzerland's position in the context of its bilateral and multilateral foreign policy on migration and would run counter to its migration and foreign policy interests. International comparison shows that the Global Compact is already being used by numerous countries to shape their bilateral and multilateral migration cooperation. Rejecting

the Global Compact would also deprive Switzerland of the opportunity to develop such issues further within the UN framework and hinder it in its efforts to further strengthen the role of International Geneva, where much of the UN's migration policy expertise is based. Switzerland can, for example, actively address these aspects within the framework of the regular review forum on the implementation of the Global Compact and thus boost awareness of their relevance and of (possible) solutions. Negative repercussions on support for Switzerland's candidacy for the UN Security Council can also not be ruled out.

## Is the Global Compact legally binding?

The Global Compact is a soft-law instrument and, as such, is not legally binding. It serves as a set of guidelines for conduct and expresses the willingness of the international community to find a common approach to managing migration across borders and to organise cooperation on this basis.

## Does the Global Compact mean the UN is deciding on Switzerland's migration policy?

The Global Compact underlines the sovereign right of each state to control immigration independently and in accordance with national labour market needs. The Global Compact explicitly reaffirms the sovereign right of states to determine their national migration policy. Each state continues to determine its own level of immigration. To quote directly from the Global Compact: "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, States may distinguish between regular and irregular migration status, including 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, in accordance with international law." (Global Compact for Safe, Orderly and Regular Migration, 15c)

## **What changes will the Global Compact bring for Switzerland?**

Assenting to the UN Global Compact for Migration does not require any action in terms of domestic policy, nor does it have any financial impact. The Global Compact does, in various places, provide for technical and financial support from the partner states; however, Switzerland reserves the right to freely determine the scope, format, focus and partners in accordance with its priorities and, in assenting, does not automatically commit itself to any new obligations. The measures listed to implement each of the 23 objectives may be used by states on a voluntary basis, according to their own priorities, in order to attain the objectives. Therefore, there is no political expectation to apply the measures in their entirety.

## **Will the Global Compact mean more migrants coming to Switzerland?**

The aim of the Global Compact is not to facilitate migration in general, but rather to promote efficient and transparent procedures. It is in Switzerland's interest that as many countries as possible create structures and procedures for efficient, fair processing of asylum applications, to name just one example. This will also enable vulnerable persons to be provided locally with assistance and care as quickly as possible. The newly established accelerated asylum procedure in Switzerland is an expression of this goal, in that decisions on whether to grant or refuse asylum can be processed more quickly and efficiently, at the same time also facilitating enforcement.

## **Do children born in Switzerland receive Swiss citizenship as a result of the Global Compact?**

The Global Compact does take up the issue of citizenship of children born abroad, but not in the sense of introducing birthright citizenship (*jus soli*, according to which a state would confer its citizenship on all children born on its territory). This would not be compatible with Swiss practice. Objective 4e of the Global Compact recommends that states ensure that there are no administrative or legal barriers that could prevent the transfer of nationality from the mother or father to a child born abroad, especially if the child would otherwise be stateless. This corresponds to practice in Switzerland and is also relevant for Swiss citizens living abroad. The absence of a birth certificate for a child born abroad to a Swiss couple would complicate the naturalisation procedure, for example. In a nutshell: if a couple with nationality X gives birth to a child in Switzerland, state X must ensure that the child, who is in Switzerland, is granted the nationality of state X.

## **Does the Global Compact also apply to refugees?**

The Global Compact covers all types of migration. In the wording, a single definition of migration was dispensed with in favour of a distinction between regular and irregular migration. This is a reflection of the will of the negotiating states to determine individually who may enter their territory legally. According to the UN, there are currently over 250 million international migrants worldwide. The UN defines a migrant as a person who settles in a third country for an extended period – usually more than one year – for example for work, study or family reunification. The document does not address the specific challenges concerning refugees. The international legal framework in this respect is provided by the 1951 Geneva Refugee Convention and its 1967 Protocol.

## **Which countries have signed the Global Compact?**

On 10 December 2018, the UN Global Compact for Safe, Orderly and Regular Migration was adopted at an intergovernmental conference in Marrakech. The UN General Assembly confirmed this decision on 19 December 2018 with 152 votes in favour, including by Denmark, France, Germany, Greece, the Netherlands, Norway, Spain, Sweden and the United Kingdom. In addition, several states that are of central importance to Switzerland's migration policy assented to the Global Compact, for example Eritrea, Ethiopia, Morocco, Nigeria, Sri Lanka, Tunisia and Turkey. Also among the countries to endorse the Global Compact were Brazil, China, India, the Russian Federation and South Africa. Assent to the Global Compact is not formalised with a signature or ratification, however, because it is not an international treaty. UN member states are free to adapt their position towards the Global Compact for Migration at any time.

## **Why did it take Switzerland so long to decide on the Global Compact?**

Switzerland did not question the content of the Global Compact, but rather based its decision on the country's political system. The Federal Council was concerned that Parliament should have the opportunity to assess the issue and thus ensure that the Global Compact was in step with domestic policy. The Global Compact is a special case that led to a fundamental discussion on the relationship between the Federal Council and Parliament in approving soft law. In the meantime, the Federal Council has drawn up a report on parliamentary involvement in soft law, and discussions on this are currently under way in Parliament within the framework of a sub-committee set up specifically for this purpose. The outcome of this process will determine the future handling of soft law. It is now up to Parliament to decide at what point in time it wishes to conduct the debate on the Global Compact on the basis of the present dispatch and whether it wishes to suspend the discussion of the matter in view of the ongoing work in the sub-commission on soft law.

## **Where do we go from here with the Global Compact?**

In its dispatch of 3 February 2021, the Federal Council reiterates its view, expressed in October 2018, that Parliament's assent to the Global Compact is in Switzerland's interests. This now gives Parliament a basis enabling it to look more closely at the framework for action. It is up to Parliament to determine when it wishes to hold the debate on the Global Compact on the basis of the present dispatch. Once Parliament has completed its deliberations, the Federal Council will make a final decision on giving Switzerland's assent to the Global Compact in line with the rules laid down in the Federal Constitution. Assent to the Global Compact is not formalised with a signature or ratification, however, because it is not an international treaty. UN member states are free to adapt their position towards the Global Compact for Migration at any time.

## **What happens if Parliament rejects the Global Compact?**

The legal basis under Article 28 paragraph 3 of the Parliament Act allows Parliament to express its view regarding Switzerland's position on the Global Compact. Parliament may amend the draft simple federal decree and express reservations. From a political point of view, such amendments to the federal decree would be preferable to a rejection of the Global Compact. However, it is up to the Federal Council, within the framework of its powers under Article 184 of the Federal Constitution, to decide whether to approve the Global Compact. Should Parliament not give its consent to the Global Compact, the Federal Council will naturally take this position into account in reaching its decision.