



# International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families

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## Committee on the Protection of the Rights of All Migrant Workers and Members of Their Families

### General comment No. 6 (2024) on the convergent protection of the rights of migrant workers and members of their families through the Convention and the Global Compact for Safe, Orderly and Regular Migration

#### I. Foreword

1. The International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families, which was adopted by the General Assembly in its resolution [45/158](#) of 18 December 1990 and entered into force in 2003, contains legally binding obligations that relate both in general and specific terms to the protection of the human rights of all migrant workers and members of their families. It recognizes rights as minimum guarantees in the specific context of migration and the vulnerabilities faced by the persons concerned.
2. The Global Compact for Safe, Orderly and Regular Migration<sup>1</sup> (Global Compact), adopted in December 2018, is a global multilateral cooperation initiative on human mobility. Although it is not a legally binding instrument, it represents a commitment by States to tackle a structural phenomenon through cooperation, with a comprehensive, multisectoral and participatory approach, seeking solutions to existing challenges, including the protection of migrants and members of their families.
3. These two international instruments were designed to promote international cooperation in the governance of international migration and the defence of the rights of migrants and members of their families.
4. The purpose of the present general comment is to provide clarifications, explanations and some guidelines to throw light on the link between the relevant standards and the basis of these two United Nations instruments on the human rights of migrants.

#### II. Introduction

5. In the present general comment, the Committee emphasizes the need to better guide States in the development and implementation of strategies aimed at placing the human rights of migrant workers and members of their families at the centre of policies and actions relating to international migration and reaffirms the importance of taking better account of the positive impact of migration on the development of countries and of placing migration issues in the context of the Sustainable Development Goals. The Committee submits this general comment in order to reaffirm that, without prejudice to the legal nature of regional and global

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<sup>1</sup> General Assembly resolution [73/195](#), annex.



agreements on migration governance, full compliance with applicable international human rights instruments must always be ensured.

6. The guidelines provided are based on the Committee's practices and deliberations on the nature and scope of the two instruments, taking into account the convergence that occurs between certain common aspects, bearing in mind that States' efforts to harmonize and implement the Global Compact must be consistent with the obligations contained in the Convention.

7. The Committee notes that, despite the will of the international community to strengthen migration governance through these two fundamental instruments, the global migration context continues to be marked by an increasing number of serious and repeated violations of the human rights of migrant workers and members of their families because of problems in migration governance, policies of discrimination and exclusion, and repressive measures currently in place in several countries. With this in mind, the Committee established a working group on the Convention and the Global Compact in April 2019. At its intersessional meeting on 12 November 2020, it decided to prepare a draft of general comment No. 6 on the points of convergence of the Convention and the Global Compact;<sup>2</sup> the working group produced a number of documents, including a first draft comparative analysis of the Convention and the Global Compact, a Committee position paper for the Global Forum on Migration and Development and a paper analysing the four-dimensional vision<sup>3</sup> of human rights in the Global Compact.

8. The Committee also called for written submissions from various stakeholders to expand on the concept note and draft outline of general comment No. 6. The second draft was announced at the Committee's thirty-sixth session, from 27 March to 6 April 2023, and presented at its thirty-seventh session, from 27 November to 8 December 2023, following prior regional consultations with the various stakeholders, before being reviewed at the working group meeting on 26 and 27 April 2024.<sup>4</sup> The present general comment was adopted at the Committee's thirty-eighth session, held in Geneva from 3 to 14 June 2024.

### **III. Scope and principles of the general comment**

9. The Committee recalls the binding nature of human rights treaties and the mandate given to the committees established to monitor the implementation of these treaties, to interpret their articles on the basis of the principles of the Universal Declaration of Human Rights and to provide authoritative guidance to States through general comments. Consequently, an essential aspect of the convergence of the Convention, the Global Compact and other human rights treaties would be that references to human rights in the Global Compact must be applied on the basis of the specific provisions for each right in the respective treaties, including criteria for interpretation and international standards established by the treaty bodies in the exercise of their respective mandates.

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<sup>2</sup> An extraordinary meeting of the working group was held in Agadir, Morocco, on 10 and 11 May 2022, followed by a half-day of general discussion in hybrid format at the thirty-fifth session of the Committee on 27 September 2022 in Geneva.

<sup>3</sup> The first dimension emerges when human rights are identified as one of the guiding principles for the interpretation of the Global Compact. The second relates to specific express or implicit references to human rights in the Global Compact and elements that identify them. The third dimension emerges when the phrase "human rights" is used generically in the Global Compact. The last dimension, the fourth, concerns the express reference in the text of the Global Compact to documents drawn up by the United Nations in which the vision of human rights is already present.

<sup>4</sup> On 7 and 8 November 2023, the Committee organized, in Dakar, in-person regional consultations for States members of the Economic Community of West African States and other stakeholders. In addition, in collaboration with the Regional Office for South America of the Office of the United Nations High Commissioner for Human Rights (OHCHR), located in Santiago, and the OHCHR Regional Office for Central America and the Dominican Republic, located in Panama, the Committee held online regional consultations on 14 and 15 November 2023, with the participation of representatives of States, civil society organizations and national human rights institutions.

10. The Committee emphasizes that, in developing policies and practices – at local, national, bilateral or multilateral levels – aimed at implementing the Global Compact, which have a direct or indirect impact on the protection and safeguarding of human rights, it is essential for every State to have recourse to the provisions of international human rights standards, including their interpretation by the competent bodies.

11. The present general comment clarifies the scope of the Convention and the Global Compact, highlighting similar or corollary themes and convergent approaches to project an overall vision of migration based on international human rights law.

12. The Committee offers a cross-analysis of the two instruments to formulate a number of authoritative guidelines aimed at strengthening human rights-based migration policies. In the present general comment, the Committee expresses its views in particular on the vision and principles of both instruments, non-discrimination, legal personality and identity, irregular migration, decent work, the rights of women and children, access to justice, due process and alternatives to detention, smuggling of migrants and trafficking in migrants, remittances, income and savings, return and reintegration.

#### **IV. Vision and principles of both instruments**

13. The Convention and the Global Compact are the main international instruments on migration. They are unique, complementary and mutually reinforcing in advancing migration governance and promoting and protecting the rights of all migrants and members of their families, regardless of their migration status.

14. The Convention aims to protect all migrant workers and members of their families against human rights abuses. It is dedicated to the recognition of the rights of all migrant workers and members of their families.<sup>5</sup> The Convention constitutes the best means of preventing vulnerability and protecting migrants and members of their families from abuse and trafficking in persons, promoting family reunification and reducing unauthorized transit and employment under unfavourable working conditions, while seeking to ensure compliance with the laws and procedures established in the States concerned.

15. The Global Compact, which focuses primarily on governance, aims to regulate migration while promoting an optimal framework for international cooperation. It recalls that all migrants' human rights must be ensured regardless of migration status. It urges States and other stakeholders to take concrete steps to ensure that migrants have access to and can enjoy their rights in practice. The Global Compact also pays particular attention to ensuring the human rights of migrants in vulnerable situations. It ensures that there is a common understanding of mechanisms for regular migration, which, when it is organized, is considered beneficial for all. It thus places great importance on migration governance, as reflected in its vision, guiding principles and 23 objectives. In this guidance document, human rights are seen as one of the guiding principles governing the pursuit of organized migration by Governments and other actors under international human rights instruments.

16. The two instruments share common dimensions in terms of the promotion of human rights, but at the same time have aspects that set them apart because of the interval between their dates of adoption. As the Global Compact was adopted in 2018 and the Convention in 1990, the latter contains human rights that are not regulated by the Global Compact and vice versa. The human rights most explicitly mentioned in the text of the Global Compact are the rights to privacy and the protection of personal data in relation to data generation or collection or to situations of vulnerability caused by natural disasters, the adverse effects of climate change and environmental degradation.

17. Nevertheless, the Committee emphasizes that a growing number of themes, issues and challenges related to the protection of the rights of migrants and members of their families have been progressively included, not least as a result of a dynamic interpretation of the Convention as a living instrument.

<sup>5</sup> Convention, arts. 7–63.

18. Both instruments are important and mutually reinforcing in guiding migration policies based on a human rights approach to migrants and members of their families. The Committee specifies the principles that should govern this aspect of international human rights law.

## V. Non-discrimination

19. The Convention and the Global Compact reaffirm the principle of non-discrimination, guided by an intersectional approach, and the principle of non-regression. The Convention establishes that States are to respect and to ensure to all migrant workers and members of their families within their territory or subject to their jurisdiction the rights provided for thereunder without distinction of any kind. The Global Compact reaffirms the commitment to eliminate all forms of discrimination, including racism, xenophobia and intolerance, against migrants and members of their families.<sup>6</sup>

20. The Committee, for its part, emphasizes that the principle of non-discrimination is fundamental to international human rights instruments and is considered a *jus cogens* norm. States are under an obligation to ensure that their laws and practices are non-discriminatory. They must also take positive measures to prevent, reduce and eliminate conditions and attitudes that cause or perpetuate de facto discrimination against migrant workers and members of their families.

### A. Rights and freedoms

#### 1. Freedom of expression

21. Both the Convention and the Global Compact focus on the need to promote a public discourse free of discrimination, racism<sup>7</sup> and xenophobia. The Convention recognizes the right of migrant workers and members of their families to freedom of expression, which may be subject to certain restrictions, but these must only be such as are provided by law and are necessary, including for the purpose of preventing any advocacy of national, racial or religious hatred that constitutes incitement to discrimination, hostility or violence.<sup>8</sup>

22. States are also under an obligation to take effective measures to fight all manifestations of racism, xenophobia or related intolerance against migrant workers and members of their families, especially those in an irregular situation, such as hate crimes, incitement to hatred and hate speech, including by political figures and in the media, and to raise public awareness about the criminal nature of such acts with a view to promoting respect for migrant workers' human rights.

23. States should develop concrete measures to foster intercultural dialogue between migrant and host communities and to prevent and address xenophobia or any form of discrimination or related intolerance against migrant children. In addition, integrating human rights education into school curricula would help prevent xenophobic attitudes or other forms of discrimination that could affect the integration of migrant children, migrants and members of their families into society in the long term.

24. The Global Compact defines the elimination of all forms of discrimination and the promotion of evidence-based public discourse<sup>9</sup> to shape perceptions of migration as one of the objectives of safe, orderly and regular migration.<sup>10</sup> It states that independent, objective and quality journalism should be promoted and that the allocation of public funding or material support to media outlets that systematically promote all forms of discrimination against migrants should be stopped.<sup>11</sup>

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<sup>6</sup> Global Compact, para. 15 (f).

<sup>7</sup> General Assembly resolution 76/266, annex, para. 54.

<sup>8</sup> Convention, art. 13, para. 3 (d).

<sup>9</sup> General Assembly resolution 76/266, annex, para. 54.

<sup>10</sup> Global Compact, objective 17.

<sup>11</sup> *Ibid.*, para. 33 (c).

25. The Global Compact also states that mechanisms should be established to prevent, detect and respond to racial, ethnic and religious profiling of migrants by public authorities, and to systematic instances of intolerance, xenophobia, racism and all other multiple and intersecting forms of discrimination, in partnership with national human rights institutions, including by conducting and publishing trend analyses and ensuring access to effective complaint and redress mechanisms.<sup>12</sup>

26. The Global Compact further states that migrants, political, religious and community leaders, and educators and service providers, should be encouraged to detect and prevent incidences of intolerance, racism, xenophobia and other forms of discrimination against migrants and diasporas, and support activities in local communities to promote mutual respect, including in the context of electoral campaigns.<sup>13</sup>

## **2. Freedom of association**

27. The Convention emphasizes that migrant workers and members of their families – including women, children and persons with disabilities – must have the right to form and, subject only to the rules of the organization concerned, to join associations and trade unions for the protection of their economic, social, cultural and other interests.<sup>14</sup> However, although the Global Compact does not explicitly mention freedom of association, it creates a framework that, converging with the Convention, protects and supports this right indirectly by promoting social inclusion through the full participation of migrants and their family members in the social and civic life in host countries.

## **3. Access to education**

28. Both the Convention and the Global Compact provide protection against discrimination for the children of migrants and other members of their families, and non-discriminatory access to education for migrant children.

29. The application of a gender-sensitive approach to combat discrimination, the implementation of non-discriminatory checking and management of migration, respect for human rights and non-discrimination standards, social inclusion in the practice of detention and migrants' access to social services must be ensured without distinction of any kind.

## **B. Access to basic social services: social security and housing**

30. The Convention recognizes the right of migrant workers and members of their families in a regular situation to equality of treatment with nationals of the State of employment in relation to access to various economic and social services.<sup>15</sup> It ensures the equitable right of all migrant workers and members of their families to social security, subject to applicable legislation and treaties,<sup>16</sup> including respect for the principle of non-discrimination.<sup>17</sup> It provides for the right to receive emergency medical care without discrimination of any kind, including discrimination based on any irregularity with regard to stay or employment.<sup>18</sup> In the Global Compact, States undertook to ensure that migrants, regardless of their migration status, exercise their fundamental rights through safe access to basic services. However, by encouraging States to strengthening migrant-inclusive service delivery systems, it ensures that both nationals and regular migrants are entitled to more comprehensive service provision, while specifying that any differential treatment must be based on law, be proportionate and pursue a legitimate aim, in accordance with international human rights law. The Committee reminds States that, in pursuing the objectives of the Global Compact concerning access to social services, they must be guided by applicable international standards, in particular those

<sup>12</sup> Ibid., para. 33 (d).

<sup>13</sup> Ibid., para. 33 (g).

<sup>14</sup> See the International Labour Organization Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87).

<sup>15</sup> Convention, arts. 43 and 45.

<sup>16</sup> Ibid., art. 27.

<sup>17</sup> Ibid., art. 7.

<sup>18</sup> Ibid., art. 28.

established by the Committee itself, the Committee on Economic, Social and Cultural Rights and, from an intersectional perspective, the Committee on the Elimination of Discrimination against Women, the Committee on the Rights of the Child and the Committee on the Rights of Persons with Disabilities.

31. The Committee considers that States must facilitate migrant workers' access to an adequate standard of living, including through access to decent housing, water and sanitation, food, social protection and health, all of which are linked to the right to life. The Committee reiterates that States may not use social services for immigration control purposes, as this could not only hinder access to these rights and worsen the vulnerable situation of the persons concerned, but also undermine the achievement of social policy objectives. States must establish firewalls, in law and in practice, to ensure that social services do not report immigration status to the authorities responsible for controlling the residence of migrants. The rights set out in the Convention apply to all migrant workers and members of their families, including those in an irregular situation.

## VI. Legal personality and identity

32. Both the Convention and the Global Compact refer to the right to recognition as a person before the law and identity. The Convention refers to the recognition of all migrant workers and members of their families everywhere as persons before the law.<sup>19</sup> The Global Compact recognizes legal identity as a human right.<sup>20</sup>

33. The Convention affirms the need to provide identity documents to all migrant workers and members of their families. The Global Compact encourages States to provide migrants with proof of legal identity and adequate documentation,<sup>21</sup> to enable national and local authorities to ascertain a migrant's legal identity upon arrival, during their stay and upon their return, and to ensure effective migration procedures, efficient service provision and improved public safety.<sup>22</sup>

34. Article 29 of the Convention recognizes the right of every child of a migrant worker to a name, to registration of birth and to nationality, regardless of the migration status of the parents. The Committee affirms that legal identity is often a prerequisite for access to various fundamental rights, so that depriving children, particularly those in an irregular situation, of it is likely to increase their vulnerability throughout their lives, especially as it may lead to violations of other rights, such as access to education and health services. Without expressly specifying this right, the Global Compact implies it when it provides that States should make a commitment to ensure that migrants are issued with documentation such as birth certificates.

35. The Committee has already recommended that States take appropriate measures to protect the children of migrant workers from statelessness. Furthermore, States should adopt effective measures, including legislative reform, to ensure that all births of children of migrant workers on their territory are registered in the civil registry, without discrimination of any kind, including that based on migration status.<sup>23</sup> Consequently, the Committee has condemned and considered as a violation of article 29 of the Convention the fact that civil registry offices do not issue birth certificates to the children of migrant workers, whether or not they are in a regular situation.<sup>24</sup> For the Committee, States should ensure that women migrant workers and women who are members of the family of a migrant worker are legally able to acquire, transfer, retain and change their nationality on an equal basis with men.<sup>25</sup> The Global Compact also encourages States to ensure that women and men can equally confer

<sup>19</sup> *Ibid.*, art. 24.

<sup>20</sup> Global Compact, para. 20.

<sup>21</sup> *Ibid.*, objective 4.

<sup>22</sup> *Ibid.*, para. 20.

<sup>23</sup> [CMW/C/MEX/CO/2](#), para. 40; and [CMW/C/MAR/CO/1](#), paras. 37 and 38.

<sup>24</sup> [CMW/C/EGY/CO/1](#), para. 34.

<sup>25</sup> and [CMW/C/SYR/CO/2-3](#), para. 50 (b).

their nationality on their children and provide nationality to children born in another State's territory, especially in situations where a child would otherwise be stateless.<sup>26</sup>

36. According to the Committee, States should provide their nationals living abroad with identity documents or register their births;<sup>27</sup> in this regard, it recommended that States provide training to judicial and law enforcement officials in the systematic registration of the births of all children of migrant workers and raise awareness among migrant workers and members of their families about the importance of birth registration,<sup>28</sup> particularly for vulnerable populations and in rural areas.<sup>29</sup>

37. The Global Compact also refers to the need for States to issue adequate, timely, reliable and accessible consular documentation to their nationals residing in other countries, including identity and travel documents, making use of information and communications technology and community outreach, particularly in remote areas.<sup>30</sup> In the Committee's view, consular services should respond effectively to the need for protection of migrant workers and members of their families and, in particular, provide the necessary assistance to persons in detention and promptly issue travel documents to all migrant workers and members of their families who wish or must return to their countries.<sup>31</sup>

## VII. Irregular migration

38. The Convention addresses irregular migration as a matter of concern for the rights of migrant workers and members of their families. The Global Compact addresses it as a migration governance issue.

39. The Convention, while recognizing the notion of irregular migration, affirms that all migrant workers enjoy the same rights,<sup>32</sup> regardless of their migration status. The Global Compact, for its part, recognizes the possibility for States to distinguish between regular and irregular migration status, within their sovereign jurisdiction, taking into account different national realities, policies, priorities and requirements for entry, residence and work.<sup>33</sup> In the Global Compact, the term "irregular migrants" is used to refer to workers in an irregular situation. The Committee considers the use of this term, like the terms "undocumented" and "illegal", to describe migrant workers to be inappropriate and tending to stigmatize them by associating them with criminality and recommends that States should avoid using these terms.<sup>34</sup>

40. The Committee calls on the States signatories to the Global Compact to draw on the Convention and other human rights instruments to clearly define options and procedures for ensuring and diversifying pathways to regular migration, facilitating mobility – particularly for people in vulnerable situations – and decent work, and optimizing access to basic social services and protection for migrants' families.<sup>35</sup>

### A. Regular migration pathways

41. Many migrants do not have regular migration options available to them, but are forced to leave their countries of origin because of factors such as a lack of access to rights, family separation, gender-based violence and inequalities, disasters, and the adverse effects of

<sup>26</sup> Global Compact, para. 20 (e).

<sup>27</sup> [CMW/C/ECU/CO/2](#), paras. 35 and 36; and [CMW/C/PHL/CO/2](#), paras. 34 and 35.

<sup>28</sup> [CMW/C/BIH/CO/2](#), para. 36; [CMW/C/AZE/CO/3](#), para. 46; and [CMW/C/CPV/CO/1-3](#), para. 54; and [CMW/C/VEN/CO/1](#), para. 39.

<sup>29</sup> [CMW/C/BLZ/CO/1](#), para. 33.

<sup>30</sup> Global Compact, para. 20 (c).

<sup>31</sup> [CMW/C/EGY/CO/1](#), para. 47; [CMW/C/BOL/CO/1](#), para. 28; and [CMW/C/PRY/CO/1](#), para. 41.

<sup>32</sup> Convention, arts. 8–35.

<sup>33</sup> Global Compact, para. 15 (c).

<sup>34</sup> Committee on the Protection of the Rights of All Migrant Workers and Members of Their Families, general comment No. 2 (2013), para. 4; and [CMW/C/AZE/CO/3](#), paras. 10 and 11.

<sup>35</sup> Global Compact, para. 21.

migration, climate change and environmental degradation. The Convention establishes freedom of movement as a standard under articles 8 and 39, which guarantee, respectively, the right of all migrant workers and members of their families to leave their country of origin for a destination or host country, to settle there or to return, and of those in a regular situation to move freely in the territory of the host State. The Convention calls on States parties to promote sound, equitable, humane and lawful conditions in connection with international migration of workers and members of their families through consultation and cooperation, taking into account not only labour needs and resources, but also the social, economic, cultural and other needs of migrant workers and members of their families, and the consequences of such migration for the communities concerned.

42. The Committee emphasized that the lack of protection of the rights of persons in their countries and communities of origin creates conditions of vulnerability which, in turn, constitute increasingly significant obstacles to the safe, orderly and regular migration of these persons. The more vulnerable people are, the less likely they are to be able to exercise, in a regular and safe manner, the fundamental right to leave the country.<sup>36</sup> This leads to irregular and dangerous migration processes, including transit through one or more countries and entry to and residence in third countries. At the same time, various factors, also related to conditions of vulnerability, cause people who have entered the country of residence legally to find themselves in an irregular migration situation, thereby increasing their vulnerability.

43. Similarly, the Committee has emphasized the importance of domestic workers having access to regular migration pathways<sup>37</sup> and, together with the Committee on the Rights of the Child, has warned that the lack of options for regular and safe migration contributes to children undertaking extremely dangerous and life-threatening migration journeys.<sup>38</sup>

44. The Committee recommends that States significantly expand and improve channels for regular migration, through legislative and operational measures for their effective implementation, in particular with a view to facilitating the regular migration of persons in the most vulnerable situations and with a need to migrate, while ensuring that the focus is on human rights and humanitarian protection, including gender mainstreaming, disability inclusion and the protection of children and all other social groups facing structural discrimination.

45. The Global Compact has drawn timely attention to how pathways for regular migration, including new and expanded regular pathways for admission and stay, can be an effective tool to ensure the protection of migrants and their rights, including for migrants in vulnerable situations.

## **B. Regularization**

46. Access to regularization is a major challenge for the prevention of irregular migration. According to the Global Compact, establishing accessible and timely procedures for regularization remains the most effective way of preventing irregular migration. The Convention, for its part, states that States should ensure that the irregular situation of migrant workers and members of their families does not persist and that, when there are possibilities for regularizing their situation, the circumstances of their entry, the duration of their stay and other relevant considerations, in particular those relating to their family situation, are taken into account.<sup>39</sup>

47. As formulated in general comment No. 2 (2013), the Committee recalls that regularization is the most effective measure to address the extreme vulnerability of migrant workers and members of their families in an irregular situation. For this reason, States parties should consider policies, including regularization programmes, for avoiding or resolving

<sup>36</sup> Universal Declaration of Human Rights, art. 13.

<sup>37</sup> See Committee on the Protection of the Rights of All Migrant Workers and Members of Their Families, general comment No. 1 (2011).

<sup>38</sup> Committee on the Protection of the Rights of All Migrant Workers and Members of Their Families and Committee on the Rights of the Child, joint general comment No. 3/No. 22 (2017), para. 41.

<sup>39</sup> Convention, art. 69.



situations whereby migrant workers and members of their families are in, or are at risk of falling into, an irregular situation.<sup>40</sup>

48. The Convention and the Global Compact thus play an important role in preventing irregular migration by combating the smuggling and exploitation of migrants and members of their families in an irregular situation. Information is critical to preventing irregular migration. The Convention deals with the right to information with regard to the State of origin or the State of employment before departure or, at the latest, on admission to the State. The Global Compact encourages States to ensure that migrants and potential migrants are informed and aware of the risks of irregular migration.

### **C. Non-criminalization**

49. For the Committee, States increasingly resort to repressive measures against migrant workers, leading them to live in fear of being reported, limiting protection of their human rights and their access to justice, and making them more vulnerable to labour and other types of exploitation and abuse.<sup>41</sup> According to the Global Compact, sanctions should be proportionate, equitable, non-discriminatory and consistent with international obligations.<sup>42</sup>

50. The Committee believes that irregular migration should not be subject to criminal penalties.

### **D. Human rights at borders**

51. According to the Convention, a balance must be struck between the sovereign power of States parties to control their borders and to regulate the entry and stay of migrants workers and members of their families and the protection of the recognized human rights for all migrant workers and members of their families. According to the Global Compact, coordinated management of national borders can help prevent irregular migration.<sup>43</sup>

52. The human rights of migrants must be respected in all circumstances, including at borders. The Committee recommends that all States parties to the Convention and signatories to the Global Compact, when developing and implementing border policies, adopt all appropriate measures to ensure that all international standards relating to the protection of human rights at borders are duly taken into account. In particular, the Committee encourages States to take into account, under these policies, the authoritative guidance developed in its general comment No. 2 (2013) on the rights of migrant workers in an irregular situation and members of their families, joint general comment No. 3 of the Committee on the Protection of the Rights of All Migrant Workers and Members of Their Families/No. 22 of the Committee on the Rights of the Child (2017) on the general principles regarding the human rights of children in the context of international migration, joint general comment No. 4 of the Committee on the Protection of the Rights of All Migrant Workers and Members of Their Families/No. 23 of the Committee on the Rights of the Child (2017) on State obligations regarding the human rights of children in the context of international migration in countries of origin, transit, destination and return and general comment No. 5 (2021) on migrants' rights to liberty and freedom from arbitrary detention and their connection with other human rights.

### **E. Access to rights regardless of migration status**

53. Irregular status does not impede the enjoyment of migrants' human rights. For the Committee, this means ensuring that cooperation between service providers and immigration authorities does not increase the vulnerability of migrant workers in an irregular situation by

<sup>40</sup> Committee on the Protection of the Rights of All Migrant Workers and Members of Their Families, general comment No. 2 (2013), para. 16.

<sup>41</sup> *Ibid.*, para. 2.

<sup>42</sup> Global Compact, para. 27 (f).

<sup>43</sup> *Ibid.*, para. 27.

undermining safe access to basic services or unlawfully violating their rights in centres where basic services are provided.<sup>44</sup> Under the Global Compact, States undertook to ensure that migrants, regardless of their migration status, exercise their fundamental rights through safe access to basic services.<sup>45</sup>

## VIII. Decent work

54. Decent work is defined as employment that respects the basic rights of the human person, safety regulations and adequate remuneration. The Convention provides that the principles of decent work should apply to all workers, everywhere, regardless of their legal status. Considering working conditions from a broad and ethical perspective, it states that it is essential that all migrant workers enjoy an equal right to work. The Convention also recognizes equality of treatment in private law contracts, which should prevent any irregularity arising from the residence and employment status of migrant workers. This is recognized in Sustainable Development Goal 8, which aims to promote sustained, inclusive and sustainable economic growth, full and productive employment and decent work for all.

55. The Convention is more specific about respect for rights, finding it unacceptable for a migrant worker or member of his or her family to be imprisoned for failure to comply with contractual obligations and immigration law.<sup>46</sup> Similarly, the Global Compact explicitly addresses the need to respect the equal treatment of migrant workers, thereby safeguarding their human rights. The Global Compact is limited to promoting decent work and equity in recruitment.<sup>47</sup>

56. Both instruments call for equal treatment in all aspects of employment for all migrant workers and members of their families, regardless of their legal status, taking into account at the same time national legislation and practices.

57. With the emergence of a demand-driven economy around the world, labour markets depend primarily on the cheap labour of migrant workers. As a result, they are increasingly employed in service sectors such as food delivery and temporary work. The platformization or outsourcing of migrant workers in host countries leads to increased irregularity, which means more exploitation and less employment and social security. For this group of workers, decent working conditions are a distant goal. Insofar as the two instruments, the Convention and the Global Compact, represent the position of equity at work, this new form of outsourcing and exploitation of migrant workers should be avoided.

58. The Global Compact aims to prevent exploitation and abuse by maximizing the socioeconomic contributions of migrants<sup>48</sup> through cooperation with public, social and private actors. It promotes transparency in the supply chain and the definition of roles in recruitment and employment.<sup>49</sup> The Convention, for its part, deals with forced labour, slavery and servitude, based on the principles of the International Labour Organization (ILO) and the conventions related to slavery. It affirms that no migrant worker or member of his or her family should be held in slavery or servitude.<sup>50</sup>

59. According to the Global Compact, the prevention of exploitation and forced labour involves strengthening the capacity of labour inspectors to effectively monitor recruiters and employers in all sectors.<sup>51</sup> Similarly, the Convention considers that labour inspectorates play a crucial role in safeguarding working conditions and preventing exploitation. To this end, it has established a number of standards, in particular to eliminate hazardous work by migrant children, to improve working conditions for migrant domestic workers<sup>52</sup> and to penalize

<sup>44</sup> [CMW/C/MAR/CO/1](#), paras. 29 and 30.

<sup>45</sup> Global Compact, para. 31 (b).

<sup>46</sup> Convention, art. 20.

<sup>47</sup> Global Compact, para. 22.

<sup>48</sup> *Ibid.*

<sup>49</sup> *Ibid.*, para. 22 (e).

<sup>50</sup> Convention, art. 11 (1).

<sup>51</sup> Global Compact, para. 22 (f).

<sup>52</sup> [CMW/C/CHL/CO/1](#), para. 37; and [CMW/C/BOL/CO/3](#), para. 38 (b).

employers in cases of exploitation, forced labour or abuse.<sup>53</sup> Workers' rights are safeguarded through regular inspections,<sup>54</sup> in accordance with the Sustainable Development Goals.

60. While supporting the social protection of migrant workers, in particular through the mechanisms of portability of entitlements and earned benefits and social dialogue as regulatory strategies, the States parties to the Convention and the States signatories to the Global Compact, taking into account various general comments issued by the Committee and the relevant mechanisms of ILO, will find in the Convention the necessary measures and procedures for employment protection and decent working conditions for all migrant workers and members of their families.

## IX. Rights of women and children

61. The Convention and the Global Compact have affirmed that all migrants, regardless of their migration status, are entitled to the full respect, protection and fulfilment of their human rights. Particular attention is paid to ensuring the human rights of migrants in vulnerable situations, including women, children, persons with disabilities and older persons.

62. Access to and enjoyment of children's rights should be ensured on the basis of the principles of non-discrimination, the best interests of the child, the right of the child to life, survival and development, and the right of the child to express his or her views freely and to participate in public life. Particular attention should be paid to the vulnerable situation of unaccompanied and separated children, who face human rights violations and increased risks of sexual exploitation and abuse, military recruitment, child labour (including for their host families), family separation as a result of migration control policies and migration-related detention. Unaccompanied and separated girls are particularly at risk of gender-based violence, including domestic violence, and arbitrary restrictions on access to social services, including in relation to sexual and reproductive rights.

63. The Committee notes that the Global Compact includes a child-sensitive approach among its guiding principles, promotes legal obligations relating to children's rights and upholds the best interests of the child as a primary consideration in all matters concerning children in the context of migration. Recalling the scope and general principles of joint general comments No. 3 and No. 4 of the Committee on the Protection of the Rights of All Migrant Workers and Members of Their Families/No. 22 and No. 23 of the Committee on the Rights of the Child (2017), the Committee emphasizes that the inclusion of a child-sensitive approach in the Global Compact should lead to provisions on the rights of the child in the context of migration in international human rights law, in particular the Convention on the Rights of the Child, and, in addition, in the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families and other human rights treaties.

64. The Committee emphasizes that, in accordance with the standards set out in joint general comment No. 3/No. 22 (2017), States have reaffirmed that the rights of the child enjoyed primacy in all matters related to migration policies, that children are to be treated first and foremost as children and that their best interests are a primary consideration. The Committee also notes that many provisions of the Global Compact refer to the obligation to protect children's rights in the context of migration.

65. In the light of these provisions, the Committee recommends that States, when implementing the Global Compact, take into consideration the following standards developed by the Committee and other treaty bodies in the above-mentioned joint general comments:

- (a) Ensure that child protection authorities play a critical, decision-making role in all policies affecting children's rights;
- (b) Prohibit by law and eradicate in practice all migration-related detention of children and families;

<sup>53</sup> [CMW/C/ARG/CO/1](#), para. 22; and [CMW/C/MOZ/CO/1](#), para. 32 (b).

<sup>54</sup> [CMW/C/ECU/CO/1](#), para. 31.

- (c) Respect children's right to birth registration and nationality, regardless of their migration status or that of their parents;
- (d) Ensure that migrant children have access to all social services without discrimination based on their nationality and migration status or that of their parents;
- (e) Implement child-sensitive policies to protect the rights of unaccompanied and separated children at borders;
- (f) Carry out assessments of the best interests of the child in all migration and asylum procedures and decisions, and respect child-sensitive due process safeguards;
- (g) Allow the return of a child only after an assessment of the child's best interests and as a measure to protect the child's rights;
- (h) Refrain from separating children from their parents for migration-related administrative offences;
- (i) Implement child-sensitive, effective, timely and non-discriminatory family reunification procedures.

66. The situation of migrant women differs from that of migrant men in terms of the migration routes used, the sectors of the labour market in which they are employed, the forms of abuse to which they are subjected and the consequences and effects of such abuse. As persons facing double or multiple discrimination on the grounds of nationality, migration status, gender – and, in many cases, other intersecting grounds – and their status as women and migrants, migrant women face complex situations, the most significant of which are trafficking and sexual exploitation, the victims of which face barriers to equal treatment in terms of visa regimes for regular migration and residence permits for regularization and to safe and secure employment with equal working conditions.

67. All gender-sensitive policies and practices in the implementation of the Global Compact should be guided by international human rights standards and principles, including international standards developed by treaty bodies. Among the key references for States to follow, the Committee highlights the importance of its recommendations to States parties on the rights of migrant workers and members of their families with regard to a gender-sensitive approach, sexual orientation and gender identity, and its general comment No. 1 (2011). In addition, it refers to general recommendations No. 26 (2008) and No. 38 (2020) of the Committee on the Elimination of Discrimination against Women. In the context of countries in conflict, Security Council resolution [1325 \(2000\)](#) on women and peace and security must also be taken into account.

68. The Committee states that the implementation of all migration-related measures should take gender issues into account. This refers to the importance of laws, policies and programmes recognizing and addressing the diverse experiences, needs and vulnerabilities faced by women, men, girls, boys and gender non-conforming persons at all stages of migration, while respecting their human rights and promoting their empowerment, in order to advance gender equality. The full inclusion of women in the formulation and implementation of the Global Compact must be ensured. It is also an obligation under the 2030 Agenda for Sustainable Development, which is based on international human rights law and recognizes the systematic mainstreaming of a gender perspective in its implementation. Target 5.c of the Sustainable Development Goals includes a commitment to adopt and strengthen sound policies and enforceable legislation for the promotion of gender equality and the empowerment of all women and girls at all levels.

69. The Committee recalls that women's rights must be safeguarded at all stages of migration. This includes migrant women, women migrant workers and members of their families, in all countries of origin, transit and destination, women who remain in or return to their countries of origin and women affected by migration. Such a broad application is adopted to ensure that women's rights are considered, promoted and protected at all stages of migration in the context of global structural factors of migration and inequality. Comprehensive measures should be taken to eliminate misconceptions about and negative attitudes towards women's migration, and to ensure that all migrant women are treated equally and without discrimination based on their migration status, intentions or migration

route. Women must have effective access to migration pathways that promote their empowerment and the protection of their rights.

## X. Access to justice, due process and alternatives to detention

70. The Convention recognizes the right of access to justice and due process for migrant workers and members of their families.

71. The Global Compact ensures the equality of migrants and nationals before the courts. It specifies that individuals are accountable to laws that are public, equally enforced and independently adjudicated, in accordance with international law.<sup>55</sup> It demands respect for the rule of law, due process and access to justice for migrants.

72. The Committee recalls that migrants have the right to be heard by the competent courts, to lodge complaints and to have access to consular assistance. States have an obligation to investigate abuses and ensure access to justice for all migrants, including those in an irregular situation, women and children.

73. For the Committee, States must ensure due process and a fair trial for migrants, including on charges unrelated to their status,<sup>56</sup> and access to effective remedies in cases of violence and abuse.<sup>57</sup>

74. The detention of migrants as a response to irregular migration is a major concern. The Convention does not mention detention as a last resort, but the Committee emphasizes that any restriction of liberty must be an exceptional measure of last resort, based on an individual assessment in proceedings that respect all procedural safeguards.<sup>58</sup> States should cease detaining<sup>59</sup> children, families and other migrants in vulnerable situations,<sup>60</sup> as well as victims of trafficking, asylum-seekers, refugees and stateless persons. The Global Compact underlines the principle of the exceptionality of detention of migrants<sup>61</sup> and promotes alternatives to detention, which must be provided for by law.<sup>62</sup>

75. In implementing the provisions of the Global Compact relating to the right of migrants to liberty and those relating to detention in the context of migration, States should be guided by these standards and other international principles.

76. According to the Committee, conditions of detention must respect the rights recognized in the Convention and other human rights instruments.<sup>63</sup> Migrants must be treated with humanity, dignity and respect for their cultural identity.<sup>64</sup> They must be subject to separate treatment appropriate to their status as unconvicted persons. Children must be separated from adults, be brought as speedily as possible for adjudication<sup>65</sup> and be held in separate facilities from convicted persons.<sup>66</sup> In line with the Committee's general comment No. 5 (2021), security personnel in detention facilities should be from the public sector and trained in human rights standards.<sup>67</sup> In cases where these personnel are employed by the private sector through subcontracting by States, the State remains responsible for the

<sup>55</sup> Global Compact, para. 15 (d).

<sup>56</sup> [CMW/C/SYR/CO/2-3](#), para. 42 (f).

<sup>57</sup> [CMW/C/TUR/CO/1](#), para. 42 (b).

<sup>58</sup> Committee on the Protection of the Rights of All Migrant Workers and Members of Their Families, general comment No. 2 (2013), para. 26.

<sup>59</sup> [CMW/C/CPV/CO/1-3](#), para. 40 (a).

<sup>60</sup> Committee on the Protection of the Rights of All Migrant Workers and Members of Their Families, general comment No. 5 (2021), paras. 43, 49 and 52.

<sup>61</sup> General Assembly resolution [76/266](#), annex, paras. 31 and 36.

<sup>62</sup> Committee on the Protection of the Rights of All Migrant Workers and Members of Their Families, general comment No. 5 (2021), para. 50.

<sup>63</sup> *Ibid.*, para. 31.

<sup>64</sup> Convention, art. 17 (1).

<sup>65</sup> *Ibid.*, art. 17 (3).

<sup>66</sup> *Ibid.*, art. 17 (2).

<sup>67</sup> Committee on the Protection of the Rights of All Migrant Workers and Members of Their Families, general comment No. 5 (2021), para. 30.

effective protection of the rights of detained migrants. All migrants have the right to visits,<sup>68</sup> and special attention is paid to members of their families.<sup>69</sup> The Committee calls upon States to follow the principles set out in its general comment No. 5 (2021).

## XI. Smuggling of migrants and trafficking in persons

77. Both the Convention and the Global Compact address concerns about trafficking in persons. The Convention prohibits the subjection of migrant workers and members of their families to servitude,<sup>70</sup> drawing on various international instruments,<sup>71</sup> while the Global Compact focuses on forced labour and slavery.<sup>72</sup> Among these instruments, the United Nations Convention against Transnational Organized Crime and the Protocols thereto, in particular the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children,<sup>73</sup> are of particular interest to the Committee, which has consistently called for their alignment with the Convention<sup>74</sup> and encouraged States to ratify them, as are the ILO Minimum Age (Agriculture) Convention, 1921 (No. 10), and the ILO Forced Labour Convention, 1930 (No. 29). The Committee also draws on other international instruments, such as the United Nations Global Plan of Action to Combat Trafficking in Persons,<sup>75</sup> the OHCHR Recommended Principles and Guidelines on Human Rights and Human Trafficking<sup>76</sup> and, occasionally, target 5.2 of the Sustainable Development Goals<sup>77</sup> or the Council of Europe Convention on Action against Trafficking in Human Beings.<sup>78</sup>

78. In view of the problems associated with trafficking in persons, the Committee reiterates the importance for States to:

(a) Investigate, prosecute and punish those responsible for the exploitation of migrant workers, regardless of their migration status, especially in the informal economy, in accordance with targets 8.7 and 16.2 of the Sustainable Development Goals;

(b) Build capacity and develop cross-border cooperation to end impunity for exploitation;

(c) Adopt protective measures, taking into account the vulnerability of victims, through moral and administrative support, and capacity-building measures in the areas of human rights, gender and children's rights;

(d) Offer medical, psychosocial, legal and financial assistance to victims and survivors of trafficking, paying particular attention to the best interests of minors;

(e) Build the capacity of all stakeholders, including civil servants, and raise awareness among migrants of the risks and dangers of trafficking in persons;

(f) Establish, with adequate funding, alert mechanisms against trafficking in persons and collect information on women and children, and on flows of trafficking in persons and the number of victims.

79. Smuggling of migrants was a particular concern.<sup>79</sup> To address smuggling of migrants, the Global Compact draws on the Protocol against the Smuggling of Migrants by Land, Sea and Air, supplementing the United Nations Convention against Transnational Organized

<sup>68</sup> Convention, art. 17 (5).

<sup>69</sup> *Ibid.*, art. 17 (6).

<sup>70</sup> *Ibid.*, art. 11.

<sup>71</sup> Global Compact, paras. 26 (i) and 2, respectively.

<sup>72</sup> ILO Forced Labour Convention, 1930 (No. 29), and ILO Abolition of Forced Labour Convention, 1957 (No. 105), which both refer to the conventions on slavery.

<sup>73</sup> *Ibid.*, para. 26 (a).

<sup>74</sup> [CMW/C/DZA/CO/1](#), para. 41.

<sup>75</sup> [CMW/C/CPV/CO/1-3](#), para. 70.

<sup>76</sup> [CMW/C/NIC/CO/1](#), para. 64 (a); and [CMW/C/NGA/CO/1](#), para. 56 (b).

<sup>77</sup> [CMW/C/BIH/CO/3](#), para. 62 (b).

<sup>78</sup> [CMW/C/ARG/CO/2](#), para. 51; and [CMW/C/RWA/CO/2](#), para. 54.

<sup>79</sup> Global Compact, para. 25 (f).



Crime.<sup>80</sup> The Global Compact urges States to put an end to the impunity of smuggling networks,<sup>81</sup> in particular by dismantling them and strengthening joint responses through the sharing of information and intelligence on smuggling routes.<sup>82</sup>

80. According to the Committee, to prevent smuggling of migrants, it is necessary to distinguish between this type of crime and trafficking in persons in the laws and public policies relating to migration<sup>83</sup> and to strengthen international, regional and bilateral cooperation.<sup>84</sup>

81. The Committee calls upon the State party to:

(a) Adopt legislative and other measures, while strengthening cross-border cooperation, to monitor irregular migration routes;

(b) Ensure that measures taken to combat irregular migration or smuggling of migrants do not undermine the human rights of migrant workers and members of their families;

(c) Intensify measures to detect irregular, illegal or clandestine movements of migrant workers and members of their families;

(d) Adopt comprehensive measures to assist migrant workers and members of their families who are victims of serious crimes, including victims of rape and gender-based violence, in order to ensure their protection and rehabilitation;

(e) Ensure adequate reparation for victims of trafficking, develop projects to help them rebuild their lives or repatriate and encourage civil society organizations to assist them.

82. Regarding the criminal justice response to smuggling of migrants, the Global Compact calls for the establishment of smuggling of migrants as a criminal offence when committed intentionally and in order to obtain a financial or other material benefit for the smuggler.<sup>85</sup> The Committee recommends that States ensure protection against violations of the rights of migrant workers,<sup>86</sup> in particular by prohibiting their criminal prosecution for having been smuggled, even though they may be prosecuted for other violations of national law.<sup>87</sup> It recommends revising laws to protect migrant workers against accusations, while taking their status into account rather than focusing on criminalization.<sup>88</sup>

## **XII. Remittances, income and savings**

83. Both the Convention and the Global Compact refer to the transfer of economic resources from the country of settlement to the country of origin or another State and attach great importance to their impact on the sustainable development of the countries of origin. Migrant workers and members of their families have the right to transfer their earnings and savings,<sup>89</sup> and their personal belongings and other property,<sup>90</sup> and it is the responsibility of States to adopt appropriate measures to channel and facilitate transfers in order to make them faster, safer and less costly. States are encouraged to develop favourable policies and regulatory environments that allow competition, regulation and innovation in the remittance market, and to provide gender-responsive programmes and instruments that strengthen the financial inclusion of migrants and members of their families. In addition, the Global Compact emphasizes the need to promote the International Day of Family Remittances, to

<sup>80</sup> *Ibid.*, para. 25 (a).

<sup>81</sup> *Ibid.*, para. 25.

<sup>82</sup> *Ibid.*, para. 25 (b).

<sup>83</sup> [CMW/C/BIH/CO/2](#), para. 4 (a).

<sup>84</sup> [CMW/C/BFA/CO/1](#), para. 39 (e); [CMW/C/SEN/CO/2-3](#), paras. 57 (h) and 59; and [CMW/C/MRT/CO/1](#), para. 61 (f).

<sup>85</sup> Global Compact, para. 25 (d).

<sup>86</sup> [CMW/C/TUR/CO/1](#), para. 84; and [CMW/C/IDN/CO/1](#), para. 57 (e).

<sup>87</sup> Global Compact, para. 25.

<sup>88</sup> [CMW/C/AZE/CO/3](#), para. 60 (a).

<sup>89</sup> Convention, art. 47.

<sup>90</sup> *Ibid.*, art. 32.

harmonize remittance market regulations, to set no limits on the amount of individual transfers, to study informal remittance flows, to invest in the use of technology for sending remittances, to create banking and financial instruments for migrants, and to promote financial literacy, education and training for migrants and members of their families. Both instruments encourage States to ensure that migrant workers and members of their families have access to affordable financial services, to facilitate the transfer of remittances, to channel them and reduce transaction costs, to create the conditions for investments and to direct them towards productive sectors likely to improve the economic situation in the country of origin.

84. Migrant remittances are an important source of private capital and cannot be equated with other international financial flows, such as foreign direct investment, official development assistance or other public sources of development finance. The Convention and the Global Compact recognize their transformative potential. They help to reduce poverty (Sustainable Development Goal 1), cover the cost of food (Goal 2), housing, health and education (Goals 3 and 4), empower female heads of household (Goal 5), create decent jobs and economic growth (Goal 8), reduce inequality (Goal 10) and build resilience to climate change (Goal 13). They are a vital source of income for migrant families. Lastly, they contribute to the balance of payments and can be used as a catalyst for sustainable development in the country of origin.

85. Migrants not only transfer money, but also act as a bridge between their country of settlement and their country of origin. Their transformative contribution cannot be focused solely on remittances; it is also synonymous with the transfer of knowledge, skills, experience and cultures, which must be guided, supported and encouraged in the process of sustainable development through the implementation of specific policies. At the same time, in order for the multiplier effect of remittances to be fully effective, it is necessary to develop financial training programmes and enhance the financial education of migrants.

### **XIII. Return and reintegration**

86. While the Convention focuses on the protection of migrant workers and members of their families along migration routes and up to their reintegration in the country of destination, the Global Compact encourages States to provide assistance to migrants in distress. In this sense, the two instruments tend to complement each other. The instruments tend to converge in terms of the return and resettlement of migrants in their countries of origin, particularly with regard to the repatriation of their earnings on favourable terms and of their possessions without customs duties. The Global Compact emphasizes cooperation in facilitating safe and dignified return and readmission and sustainable reintegration.

87. The Convention and the Global Compact express similar concerns about the safe return of migrant workers to their countries of origin in compliance with due process. Both instruments prohibit collective expulsion or the return of migrants when there is a risk of death, torture and other cruel, inhuman and degrading treatment. Article 22 of the Convention states that each case of expulsion must be examined and decided individually. The Committee considers that migrant workers and members of their families should be protected in cases where expulsion would constitute arbitrary interference with the right to family and private life, or where international protection is necessary. It called for an examination of the application of the principle of non-refoulement, which prohibits the forcible transfer of persons in any manner whatsoever to countries or territories where they would be at risk of persecution or serious human rights abuses or violations.

88. The Global Compact encourages States to uphold the prohibition of collective expulsion and of returning migrants when there is a real and foreseeable risk of death, torture and other cruel, inhuman and degrading treatment or punishment, or other irreparable harm, in accordance with our obligations under international human rights law.

89. The Convention and the Global Compact encourage States to conclude bilateral agreements and other arrangements for migrants' safe return to and reintegration in their countries of origin. In this context, the Convention recommends that the measures taken comply with its provisions. In particular, these agreements and arrangements must include



procedural safeguards prohibiting return, expulsion or deportation to their country of origin or a third country. The Global Compact emphasizes the orderly return of migrants and members of their families when they return voluntarily, when their residence or work permit expires or when they are in an irregular situation in the State of employment. It emphasizes the voluntary, free and informed nature of the return of migrants, and access to justice, due process and individual assessment. The Global Compact focuses on the development of comprehensive strategies and programmes for sustainable return and social and cultural reintegration. The impact of return programmes must be documented and monitored and evaluated by independent mechanisms. The return of children must take into account their best interests and the principles identified by the Committee in joint general comments No. 3 and No. 4/No. 22 and No. 23 (2017).

90. The Committee encourages all States to continue their efforts to implement the Global Compact in compliance with the international obligations contained in the Convention and the other core international human rights treaties.

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