



Public Services International
Internationale des Services Publics
Internacional de Servicios Públicos
Internationale der Öffentlichen Dienste
Internationell Facklig Organisation för Offentliga Tjänster
国際公務労連

About PSI

Public Services International is the global trade union federation representing more than 20 million workers, represented by over 700 unions in 154 countries and territories. Our members, two-thirds of whom are women, work in social services, health care, municipal and community services, central government, and public utilities such as water and electricity.

PSI champions human rights, advocates for social justice and promotes universal access to quality public services. PSI works with the United Nations system and in partnership with labour, civil society and other organisations.

For more information on PSI's Migration and Refugee work:

<http://www.world-psi.org/en/issue/migration-and-refugees>

Ten Key Points vis-à-vis the Draft Rev.3 (29 June 2018) of the UN Global Compact on Safe, Orderly and Regular Migration

N.B. These *Ten Key Points* must be considered along with the *Trade Union Position Statement and Substantive Proposals for the Global Compact on Safe and Orderly Migration*, based on Draft 3, 29 June 2018.

1. Migration and Development: Addressing Root Causes

Migration is not a tool for development. This is a clear position of PSI.

It is important to view migration holistically, addressing the opportunities and challenges in the whole migration cycle, with priority placed on the protection and promotion of the human rights of all migrants, while equally addressing sustainable development, root causes and drivers of migration.

Coherent, rights-based and sustainable migration policies can enable a positive migration experience and benefits for migrants, origin, transit and destination countries but must ultimately – in the medium to long term – *work towards reducing dependency on migration*. Efforts towards creating decent work, promoting peace and sustainable development in the place where people live, must be the priority, if we are to make migration a choice and not a necessity. Therefore, as we talk about the whole of government and whole of society, we must talk about the whole of SDGs in the Global Compact.

Points appearing in the Rev.3: Preamble, Vision, Guiding Principles, and Objective 2.

We fully welcome Objective 2, dedicated towards minimizing the drivers and structural factors that compel people to leave their country of origin, the commitment towards the timely and full implementation of the 2030 Agenda for Sustainable Development.

In particular, we support Objective 2, para 18 (b) which commits to investing in programmes that address the drivers and structural factors that compel people to migrate. These programmes include: poverty eradication, health, education, inclusive economic growth, infrastructure, urban and rural development, decent work, climate change mitigation and adaptation, disaster risk reduction, protection of human rights, etc. These programmes are essentially what are contained in the 2030 SDGs, which can only be *fully and effectively delivered through public services*. As the global federation representing workers delivering these public services, we see the Global Compact and its alignment with the 2030 SDGs as a powerful argument *to invest in quality public services in both countries of origin and destination*. By ensuring access to quality public services, we are working to (1) address the drivers and structural factors in countries of origin and (2) promote inclusion, social cohesion and protection of human rights and access to basic services in the countries of destination.

The claim that “migration is a source of sustainable development” and “fostering and facilitating the positive effects of migration for the realization of all SDGs” (Objective 19) appears to be an exaggeration of the benefits of migration, and ignores the root causes. Migration cannot realize the achievement of the SDGs. But achievement of the SDGs can realise *migration by choice*, in contrast to *migration out of necessity*, which unfortunately, is the majority of migration that is happening today.

Towards this, Objective 23, para 39 (b) is a welcome commitment, i.e. to increase international and regional cooperation to accelerate the implementation of the 2030 SDGs in geographic areas where irregular migration systematically originates, driven by these drivers and structural factors.

2. Rights-Based Normative Framework in Migration Governance

The rights-based normative framework, grounded on international human rights norms and labour standards, takes primacy in migration governance. The UN Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families and the ILO Conventions on Migrant Workers (ILO C97 and C143) provide the comprehensive and practicable framework in developing migration policies. Likewise, in the context of mixed migration, Rev. 1 Draft 3 reaffirms the commitment in the *New York Declaration for Refugees and Migrants*, stating that “*refugees and migrants are entitled to the same universal human rights and fundamental freedoms, which must be respected, protected and fulfilled at all times.*” However, the document goes further in reiterating that only refugees are entitled to specific international protection as defined by international refugee law. Nevertheless, this differentiation, must not be taken to discriminate between refugees and migrants, but a reiteration of the full entitlement to human rights, whether one is a migrant, asylum seeker or a refugee.

Points appearing in Draft Rev.3: Preamble, para 2.

We welcome the specific mention of all the UN and ILO Conventions and soft law instruments addressing the multidimensional aspects of migration. We particularly welcome the return to the terminology of “labour migration” referring to the ILO Conventions, instead of the use of the term “labour mobility” in the previous drafts.

Note of concern:

National Sovereignty- Like in the previous drafts, Draft Rev. 3, continues to emphasize on the primacy of national sovereignty (Guiding Principles, para 15) in the differentiation of

treatment between regular and irregular migrants, management of and security of borders (Objective 11) and immigration detention (Objective 13).

The sovereign right of States equally includes the obligation to protect, promote and fulfil the human rights of all persons within their territory. Thus, in para 15, on the guiding principle of national sovereignty, the last line of the paragraph which states, “in accordance with international law,” it should be inserted the phrase or a footnote, “including international human rights law.”

3. Promoting Access to Quality Public Services: Towards Inclusion, Social Protection and Fighting Racism and Xenophobia

Public service workers, along with local authorities, are at the frontlines in providing vital services such as emergency response, reception and registration, health care, shelter, food, social services, education, job placement and integration. Ensuring adequate funding and building the capacity for public service workers in delivering quality public services for migrants, refugees and the local population will not only address inequality but will contribute to inclusion, social cohesion, sustainable integration of migrants and combatting racism and xenophobia.

All migrants, regardless of status, must be able to access quality public services without fear and on the basis of equal treatment and non-discrimination. It is important to establish a firewall between immigration control and access to public services and access to justice for migrants, particularly undocumented migrants, who are in the most vulnerable situation.

Quality public services support the delivery of and access to social protection. It is imperative to keep public services in public hands to preserve the public good, while promoting good governance, regulation, transparency and accountability in their management and delivery.

Access to and portability of social security for migrant workers must be guaranteed and governed by multilateral or bilateral agreements, in line with international human rights norms and labour standards.

Points appearing in Draft Rev. 3: Objective 15 (Access to basic services).

This section has been weakened compared to earlier drafts. The chapeau now includes differentiation in access to basic services between irregular migrants to those of regular migrants and nationals.

Previous wording from Rev. 1 on “developing, reinforcing and maintaining necessary capacities and resources to deliver the services to all migrants and protecting them from being reported to immigration enforces or apprehension at places of service delivery” has disappeared.

The concept of “firewall”, i.e. separation between public services and immigration control has been diluted and weakened. It now appears as Objective 15, para 31 (b) “Ensure that cooperation between service providers and immigration authorities *does not exacerbate vulnerabilities* of irregular migrants *by compromising* their safe access to basic services....” Despite reiteration in Objective 15 that all migrants, regardless of status, can exercise their human rights through safe access to basic services, the section is nevertheless clear on the differentiation of access to these services between regular and irregular migrants, and there is no clear separation between service delivery and immigration control. On the contrary, the phrase “cooperation between service providers and immigration authorities” is mentioned.

On a positive note, Objective 15, para 31 (e) “incorporates the health needs of migrants in national and local health care policies, such as strengthening capacities for service provision, facilitating affordable and non-discriminatory access, reducing communication barriers and training health care providers on culturally-sensitive service delivery....including by taking into consideration the WHO Framework of Priorities and Guiding Principles to Promote the Health of Refugees and Migrants.”

We support this paragraph.

4. Promoting Fair and Ethical Recruitment and No to Recruitment Fees

PSI promotes fair and ethical recruitment and advancing the 2016 ILO Guidelines and Principles on Fair Recruitment. PSI strongly maintains its position in prohibiting the charging of recruitment fees and related costs on migrant workers. See PSI Campaign #NoRecruitmentFees, www.world-psi.or/nrf.

We emphasise that States have the *ultimate responsibility* to govern and regulate international recruitment in line with international human rights norms and labour standards. On this, we support government-to-government recruitment, particularly on health worker migration. The Germany-Philippines bilateral labour agreement (BLA) on Nurses is a best practice example. We also emphasise the role of public employment agencies in implementing fair recruitment, ensuring transparency, anti-corruption and protection of whistle-blowers.

Points appearing in Draft Rev.3: Objective 6: Facilitate fair and ethical recruitment and safeguard conditions that ensure decent work.

Proposals:

Objective 6 para 22 (a) on the second line after the word “labour,” delete “mobility” and replace with “migration.” The line should read as “relevant international instruments related to international *labour migration*, labour rights, decent work and forced labour.” This will make it consistent with Preambular para 2 of the same Draft Rev. 3, citing ILO Conventions on decent work and labour migration.

Objective 6, para 22 (c) on the fourth line, after the word “migrant workers,” delete the phrase “and refrain from charging migrants disproportionate or hidden administrative fees.”

We welcome the return to the original wording from Draft Rev.1, thus the above phrase is redundant. Administrative fees is part of “related costs.” The intent of this para is to prevent debt bondage, exploitation and forced labour resulting from exorbitant fees that migrants workers are forced to pay. These fees include those administrative fees. Prohibition of charging migrant workers with recruitment fees and related costs is consistent with the 2016 ILO Guidelines and Principles on Fair Recruitment.

5. No to Temporary and Circular Migration

Temporary and circular migration pose a lot of problems in creating an underclass of workers with no access to their full human and labour rights. Temporary and circular migration must not be used to replace permanent and sustainable jobs nor should they be used to undermine workers’ rights, for both migrant and local workers. **Temporary and circular migration cannot apply to public services.** Public services are not temporary nor seasonal jobs.

In order to protect the common good, putting people over profits, public services must be protected with permanent, sustainable jobs and decent work.

Points appearing in Draft Rev3: Objective 5: elaborates on “various pathways for regular migration.” These various schemes should by no means be limited only to temporary labour migration.

Currently, Draft Rev. 3 offers a more balanced wording by mentioning both “permanent and temporary work” (Objective 5, para 21, d) and facilitating access to family reunification to promote realization of right to family life and the best interests of the child (Objective 5, para 21, i).

Proposals:

Objective 5, para c, on the last line after the phrase “private sector,” insert “trade union.” The phrase should read as “...in consultation with the private sector, trade unions and other relevant stakeholders.”

Trade unions are key stakeholders and are actually engaged in this area of skills matching and labour market analysis through social dialogue.

Objective 5, para (e), on the last line, after the word “responsive,” delete “contractual”. The phrase should read as “...to ensure market-responsive labour mobility through regular pathways.”

Measures mentioned in this para, such as effective skills matching, labour market analysis, skills profiling and evaluation of labour migration policies should not be limited only to ensuring “contractual labour mobility” but to labour mobility, in general, i.e. in both temporary and permanent work.

6. Multilateral and Bilateral Labour Agreements

Multilateral and bilateral labour agreements are necessary in facilitating rights-based labour migration and social protection. However, these agreements must be transparent and are fully in line with international human rights norms and labour standards, with the direct involvement of social partners. In view of this, PSI unions bring the experience from their involvement in the **Germany-Philippines Bilateral Labour Agreement (BLA) on the Deployment of Filipino Health Professionals to Germany** that was signed in 2013. The agreement includes all the elements of worker protections, fair recruitment, non-discrimination, trade union rights, social security and human resources development. It includes the trade unions, PSLINK in the Philippines and Ver.di in Germany – unions affiliated to PSI – as part of the Joint Monitoring Committee within the BLA. The unions are involved in monitoring the implementation of the agreement, including through visits and dialogue in the Philippines and in Germany. This good practice example shows that social dialogue and joint engagement in promoting workers’ rights, decent work and fair and ethical recruitment, is possible within a bilateral labour agreement.

Points appearing in Draft Rev.3: The Global Compact recognizes trade unions as stakeholders in the implementation of the Compact. This should be maintained and upheld.

Proposals:

In furthering the contributions of trade unions on labour migration, which is an important component of the Compact, the Compact should specifically mention ***the ILO to take the lead***

role in the implementation of all the labour migration-related objectives and actionable commitments of the Global Compact. Therefore, in the section on Implementation, para 45 (c), after the word “system,” insert “in particular the core specialized agencies: ILO, UNHCR, OHCHR, UNICEF and UN Women.”

In Objective 2, para 18 (f), we particularly welcome the insertion of the word “and trade unions” after “private sector,” in reference to investing in skills development programmes and partnerships.

In Objective 18, para 34 (e), on the second line, replace the word “including” with “involving” so that the phrase would read as “Build global skills partnerships amongst countries that strengthen training capacities of national authorities and relevant stakeholders, *involving* the private sector and trade unions, and foster skills development of workers in countries of origin and migrants in countries of destination....”

Trade unions and the private sector should not only be included as stakeholders in strengthening training capacities, but they should be involved in the whole concept of the global skills partnerships. The Germany-Philippines BLA on Nurses illustrates the strengths and benefits of involving trade unions within the partnership.

7. Mutual Recognition of Skills and Qualifications

The mutual recognition of skills and qualifications is an important aspect of work for PSI, particularly in the health and care sectors. PSI unions represent around about 7 million workers in the medical, health, nursing and social services sectors worldwide.

Mutual recognition of skills and qualifications must take into account fairness, non-discrimination, equality of opportunity and treatment and protection of human and labour rights. With mutual recognition, must come mutual responsibility by States to ensure the sustainable development of the health workforce in both origin and destination countries.

Points appearing in the Rev.1: Objective 18 is on Skills Development and Recognition of Skills, Qualifications and Competence.

We welcome the inclusion of trade unions, along with the private sector, in Objective 18, para (e) relating to global skills partnerships. However, on the second line of the para, we propose replacing the word “including” with “involving” (see above proposal).

Proposal:

In Objective 18, para 34 (f), on the last line after the word “Development” insert “and associating trade unions in the operational activities of this mechanism.” Thus the phrase should read as “...including by building on the best practices of the Business Mechanism developed in the context of the Global Forum on Migration and Development, and *associating trade unions in the operational activities of this mechanism.*”

8. Gender Perspective

The gender perspective must be fully incorporated in the Global Compact on Migration. Discussion and outcomes must take into account addressing the vulnerabilities faced by women migrant workers, but likewise emphasize on women’s empowerment through access

to quality public services, access to justice, decent work, trade union rights and gender responsive policies and interventions.

Points appearing in the Draft Rev.3: Mention of the phrase “gender-responsive” in the Guiding Principles and incorporated throughout a number of Objectives.

Proposal: Maintain the language.

9. Child Rights in the Global Compacts

PSI supports mainstreaming child rights in the Global Compact on Migration and the Global Compact on Refugees, building on key areas, namely, promoting non-discrimination and integration, the best interests of the child, children’s access to services, ending child immigration detention, promoting durable solutions, and child protection. We are part of global Initiative on Child Rights in the Global Compacts (<http://www.childrenonthemove.org/>).

Points appearing in the Draft Rev.3: Mention of the phrase “child sensitive” and “best interest of the child” in the Guiding Principles and incorporated throughout a number of Objectives, particularly on access to basic services and working to end the practice of child detention, which, consistent with the *New York Declaration*.

Proposal: Maintain, and as possible, strengthen the language.

10. Recognition of Trade Unions as Stakeholders in the Global Compact and the lead role for ILO on Labour Migration and Mobility

We strongly welcome the recognition of the role of trade unions, along with civil society, in the Global Compact, as specifically mentioned in Guiding principles para 15 Whole-of-society approach and in the section on Implementation para 44.

In furthering the contributions of trade unions on *labour migration*, which is a critical dimension of international migration, we would like to see the clear recognition of the role the International Labour Organization (ILO) as in all aspects of the Global Compact relating to labour migration and labour mobility.

Proposals:

In paragraph 44 (b), mention the core specialised agencies, to include ILO, in the United Nations Network on Migration that will be established in the Global Compact (see above proposal).

In paragraph 49 (d), second line after phrase “allow for” insert “social dialogue.” The phrase should read as “The International Migration Review Forum shall discuss the implementation of the Global Compact at the local, regional and global levels, as well as allow for *social dialogue* and interaction with other relevant stakeholders with a view to building upon accomplishments and identifying opportunities for further cooperation.”

Finally, the UN Global Compact on Migration can only be successful if it can ensure the inclusion and full participation of all stakeholders. Similarly, the Global Compact can only be delivered and implemented within the multilateral structure of the United Nations, supported by its Secretariat and its specialised agencies. The ILO, with its competence on labour migration, supervisory mechanism, tripartism and social dialogue structures, is the most

appropriate multilateral structure that can fully implement the labour migration and labour mobility aspects of the Global Compact.

Trade unions, as the most representative organisations of workers, including migrant workers, can play a critical role in bringing the Global Compact from the global to the grassroots level. Public service trade unions, representing the workers delivering basic services that are crucial for migrants, are ready to play this role. We are committed to continue our work in promoting the human rights of all migrants, regardless of status, organising campaign actions, advocacy, social dialogue, and organising. Through our actions, we remain committed to building good practices and evidence base to support the rights-based normative framework of the Global Compact on Safe, Orderly and Regular Migration.

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