Die allgemeine Erklärung der Menschenrechte 1948 und der Schutz der Minderheiten (Peter Hilpold) ........................................... 94–100

Presentation (Giuseppe Cataldi) ........................................... 101

Introduction to the Universal Declaration of Human Rights (Giuseppe Cataldi) ........................................... 102–108

Some Reflections on the UN Global Compact for Safe, Orderly and Regular Migration and Human Rights (Anna Liguori) ........................................... 109–114

The protection of sexual orientation in international law: between the principles of non-discrimination and human dignity (Maria Chiara Vitucci) ........................................... 115–119

The limitation of human rights and fundamental freedoms of the communities involved in land grabbing regimes: an analysis in the light of the 1948 Universal Declaration of Human Rights (Michele Nino) ........................................... 120–127

The Universal Right to a healthy Environment: “an idea whose time has come?” (Valentina Rossi) ........................................... 128–137

Solidarity and Social Justice in the European Union Seventy Years after the Universal Declaration of Human Rights: the Role of European Judges (Francesco Zammartino) ........................................... 138–148

The Right to Life at Sea Seventy Years after the Proclamation of the Universal Declaration of Human Rights (Giorgia Bevilacqua) ........................................... 149–154

Search and Rescue at Sea in Light of International Regulations and National Policy. The Case of Sea Watch 3 (Michele Corletto) ........................................... 155–161

The Human Right to Water from the Universal Declaration of Human Rights to the New Agenda for Sustainable Development (Marianna Pace) ........................................... 162–170

Participation and Representation of the Municipalities in the Organization of Integrated Water Service in Italy. Some Thoughts (Bruno Mercurio) ........................................... 171–179

Tourism as a Tool for the Fulfilment of the Rights to Rest and Recreation Enshrined in Article No. 24 of the Universal Declaration of Human Rights (Bianca Nica Romano) ........................................... 180–188

Literatur ........................................... 189–197
Some Reflections on the Un Global Compact for Safe, Orderly and Regular Migration and Human Rights

Anna Liguori*


1. Introduction

The Global Compact for Safe, Orderly and Regular Migration is one of two documents arising from the negotiation process initiated with the New York Declaration for Refugees and Migrants, unanimously adopted on 19 September 2016 by the United Nations General Assembly. On the one hand, Annex I to this Declaration gave the UNHCR (United Nations High Commissioner for Refugees) the task of drafting a “Global Compact on Refugees” to be presented to the UN General Assembly in the annual report for 2018: this document was effectively approved on 17 December 2018 with 181 votes in favour). On the other hand, Annex II established an intergovernmental negotiation coordinated by the IOM (International Organization for Migration), in order to draw up a “Global Compact for Safe, Orderly and Regular Migration”, intended to create a “framework for comprehensive international cooperation on migrants and human mobility”, covering all aspects of international migration, including “human rights-related aspects”). This compact had a more complex gestation process and after being adopted on 10 December 2018 at the Intergovernmental Conference held in Marrakech, was endorsed by the UN General Assembly on 19 December 2018, with 152 votes in favour, 5 votes against (the Czech Republic, Hungary, Israel, Poland, United States) and 12 abstentions).

The Preamble to the New York Declaration contains a very important statement, also taken up in the Global Compact on Migration, namely that “refugees and migrants have the same universal human rights and fundamental freedoms” (while acknowledging however that “their treatment is governed by separate legal frameworks”). Although this seemed to pave the way for overcoming the distinction between migrants and refugees), in practice the decision to produce two distinct pacts accentuates this dichotomy, even if in reality the differences are not so clear-cut. Although this distinction does preserve the peculiarity of the specific protection offered by international law to those who fall within the definition of refugee, pursuant to Art. 1 of the Geneva Convention on the status of refugees, it nevertheless presents certain risks. As noted, “it may fail to engage with the way in which migration control practices bear down particularly heavily on refugees and would-be refugees, who have to cross borders (often many) in search of protection” (while noting that “for people in need of international protection, but not covered by the definition of refugee – the demand for border control prevails over protection obligations. As pointed out”) , although both the New York Declaration and the Compact on Migration contain references (implicit or explicit) to the principle of non-refoulement, “yet they do little to address one of the most pressing problems for many non-removable people – their lack of formal legal status and security of residence”:

4) See https://www.iom.int/global-compact-migration.
5) UNGA, Intergovernmental Conference to Adopt the Global Compact for Safe, Orderly and Regular Migration, Draft outcome document of the Conference, A/CONF.231/3.
6) Global Compact for Safe, Orderly and Regular Migration, UN Doc. A/RES/73/195.
7) Algeria, Australia, Austria, Bulgaria, Chile, Italy, Latvia, Libya, Liechtenstein, Romania, Singapore, and Switzerland. In addition, 24 UN Member States were not present to take part in the vote (Afghanistan, Antigua and Barbuda, Belize, Benin, Botswana, Brunei Darussalam, Democratic People’s Republic of Korea, Dominican Republic, Guinea, Kiribati, Kyrgyzstan, Micronesia, Panama, Paraguay, Sao Tome and Principe, Seychelles, Slovakia, Somalia, Timor-Leste, Tonga, Trinidad and Tobago, Turkmenistan, Ukraine, and Vanuatu). To sum up, 41 of the 193 UN Member States did not endorse the Compact.
8) Para. 4 GMC. “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, migrants and refugees are distinct groups governed by separate legal frameworks. Only refugees are entitled to the specific international protection defined by international refugee law.”
9) Para. 6 New York Declaration.
12) Cathryn Costello, “Refugees and (Other) Migrants”, cit., p. 646.
2. Genesis and Content of Global Compact on Migration

The process of drafting the Migration Compact involved various phases and was guided by Mexico and Switzerland as co-facilitators. Initial informal consultations, held with numerous stakeholders in order to gather information, were followed by formal intergovernmental negotiations. In December 2017, in a note 13) addressed to the General Secretariat of the United Nations, the United States announced that they would abandon the negotiations on the Global Compact on Migration, because the global approach in the New York Declaration would not be compatible with its own sovereignty. Following this abandonment, the European Union took a leading role in the process of drawing up the Global Compact, although there were further defections, even among the member countries of the European Union. Indeed, in July 2018, after the withdrawal of Australia, it was the turn of Hungary, which justified its choice because “For the UN migration should be encouraged, while according to Hungary it has to be stopped”. Hungary was followed by the other countries of the Visegrad group (Poland, the Czech Republic and Slovakia) and Austria, Bulgaria and Italy. The evolution of the Italian attitude is emblematic of the use of a refusal to sign the Global Compact for the sake of propaganda. Indeed, although Italy had taken part in all the negotiation phases and, until 21 November 2018 14), had publicly declared its support for the agreement through the Minister for Foreign Affairs in office at that time, in the end it withdrew. In fact, after the stance taken on 27 November 2018 by the then Interior Minister, Matteo Salvini, who declared that he was against the Global compact because it would put so-called economic migrants and political refugees 15) on the same level, Prime Minister Giuseppe Conte stated that the Government would not take part in the Marrakech summit, and that Parliament would examine the question of Italy’s signing the Compact 16). In February 2019 the Italian Parliament decided not to sign the Migration Compact 17).

The Migration Compact establishes “a non-legally binding 18), cooperative framework” 19) that intends to tackle migration “in all its dimensions” 20). It seems particularly important to highlight the Preamble, which states not only that migrations have always been present in the course of history, but explicitly states that they constitute “a source of prosperity, innovation and sustainable development in our globalized world, and that these positive impacts can be optimized by improving migration governance”, adding that “No country can address the challenges and opportunities of this global phenomenon on its own”. As the Special Representative of the Secretary-General for International Migration, Louise Arbour, affirmed, the Migration Compact represents a great achievement for multilateralism 21), which is particularly important in the current historical period. Indeed, as pointed out 22), “the Compact paves the way for a counter-narrative to the populist rhetoric through a balanced, consensual, and inclusive approach”. The Global Compact on Migration consists of a Preamble, 10 Guiding Principles (some aspects of which are difficult to balance, National sovereignty - lett. C. – and Human rights - lett. F. to name but two), plus 23 Objectives and, finally, 2 sections dedicated to implementation and follow-up, to be carried out within the International Migration Review Forum, where, every four years from 2022 onwards, the member states of the United Nations, will be able to discuss the results achieved. The International Organization for Migration (IOM) will act as coordinator and secretariat for all monitoring activities.

The 23 Objectives 23) include: 1. Collect and utilize accurate and disaggregated data as a basis for evidence-based policies, 2. Minimize the adverse drivers and structural factors that compel people to leave their country of origin 3. Provide accurate and timely information at all stages of migration; 4. Ensure that all migrants have proof of legal identity and adequate documentation. 5. Enhance availability and flexibility of pathways for regular migration. 6. Facilitate fair and ethical recruitment and safeguard conditions that ensure decent work. 7. Address and reduce vulnerabilities in migration. 8. Save lives and establish coordinated international efforts on missing migrants. 9. Strengthen the transnational response to smuggling of migrants. 10. Prevent, combat and eradicate trafficking in persons in the context of international migration. 11. Manage borders in an integrated, secure and coordinated manner.

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The 23 Objectives 23) include: 1. Collect and utilize accurate and disaggregated data as a basis for evidence-based policies, 2. Minimize the adverse drivers and structural factors that compel people to leave their country of origin 3. Provide accurate and timely information at all stages of migration; 4. Ensure that all migrants have proof of legal identity and adequate documentation. 5. Enhance availability and flexibility of pathways for regular migration. 6. Facilitate fair and ethical recruitment and safeguard conditions that ensure decent work. 7. Address and reduce vulnerabilities in migration. 8. Save lives and establish coordinated international efforts on missing migrants. 9. Strengthen the transnational response to smuggling of migrants. 10. Prevent, combat and eradicate trafficking in persons in the context of international migration. 11. Manage borders in an integrated, secure and coordinated manner. 12. Provide a safe and dignified return of migrants and political refugees. 13. Work towards a balanced, secure and effective return and reintegration. 14. Cooperate in dealing with the root causes of migration, including poverty and economic insecurity. 15. Strengthen the transnational response to trafficking in persons in the context of international migration. 16. Ensure that all migrants have proof of legal identity, adequate documentation and access to health care. 17. Strengthen the transnational response to smuggling of migrants. 18. Ensure that all migrants have proof of legal identity and adequate documentation. 19. Enhance availability and flexibility of pathways for regular migration. 20. Facilitate fair and ethical recruitment and safeguard conditions that ensure decent work. 21. Address and reduce vulnerabilities in migration. 22. Save lives and establish coordinated international efforts on missing migrants. 23. Strengthen the transnational response to smuggling of migrants.
manner. 12. Strengthen certainty and predictability in migra-
tion procedures for appropriate screening, assessment and 
referral. 13. Use migration detention only as a measure of last 
resort and work towards alternatives. 14. Enhance consular 
protection, assistance and cooperation throughout the migra-
tion cycle. 15. Provide access to basic services for migrants. 
16. Empower migrants and societies to realize full inclusion 
and social cohesion. 17. Eliminate all forms of discrimination 
and promote evidence-based public discourse to shape per-
ceptions of migration. 18. Invest in skills development and 
facilitate mutual recognition of skills, qualifications and com-
petences. 19. Create conditions for migrants and diasporas 
to fully contribute to sustainable development in all countries. 
20. Promote faster, safer and cheaper transfer of remittances 
and foster financial inclusion of migrants. 21. Cooperate in 
facilitating safe and dignified return and readmission, as well 
as sustainable reintegration. 22. Establish mechanisms for the 
portability of social security entitlements and earned benefits. 
23. Strengthen international cooperation and global partner-
ships for safe, orderly and regular migration.

As mentioned before, when the USA declared that they would 
no longer participate in the negotiation, the European Union, 
which had been invited to take part on the basis of its observer 
status at the General Assembly of the United Nations, actually 
acquired a leading role and exercised influence, both in form 
and substance, in the drafting of the final document(24).

Indeed, the form of the Global Compact on Migration shows 
similarities with the documents adopted by the Euro-
pean Union in order to implement the European Agenda on Migration(25). Although the term Global Compact is not entirely 
new within the United Nations(26), its use in relation to the final 
product of an intergovernmental negotiation process is quite 
innovative(27). The most significant precedents are to be found 
rather in the European regional framework: one example is the 
Italian proposal of Migration Compact, of 15 April 2016(28), 
another the Communication of the Commission establishing a 
new Partnership Framework with third countries of 7 June 
2016 – COM (2016) 385 final(29). In particular, the partnership 
established by the Commission’s 2016 Communication calls 
for the use of compacts and follows the trend of adopting 
tools softer than treaties, in order to obtain effective and 
rapid results(30).

As for substance, the European Union has aimed to emphasize 
the distinction between regular and irregular migrants, and in 
general shown itself much more interested in border control 
and in affirming the obligations of readmission of States of 
origin than in recognizing migrants’ rights(31).

In the end the position of EU Member States was split: although 
the majority voted in favour, three States (the Czech Republic, 
Hungary, Poland) voted against, one (Slovakia) did not vote, 
five (Austria, Bulgaria, Italy, Latvia, Romania) abstained(32).

3. Global Compact on Migration and human rights

The Global Compact on Migration places great emphasis on 
human rights. First of all, the statement “Refugees and 
migrants are entitled to the same universal human rights and 
fundamental freedoms, which must be respected, protected 
and fulfilled at all times”, already contained in the New York 
Declaration(33), is reiterated at para. 4 of the Global Compact, 
further strengthened by the call for an “overarching obligation 
to respect, protect and fulfill the human rights of migrants, 
regardless of their migration status” (at para. 11); furthermore, 
the Universal Declaration of Human Rights, the International 
Covenant on Civil and Political Rights, the International Cov-

enant on Economic, Social and Cultural Rights and “the other 
core international human rights treaties”(34) are expressly 
referred to (at para. 2) and human rights are among the “guid-

24) On the role of the European Union see Elisabeth Guild, Katharine T. 
Weatherhead, “Tensions as the EU Negotiates the Global Compact for 
Safe, Orderly and Regular Migration”, in EU Immigration and Asylum 
Law and Policy, 6 July 2018, eumigrationlawblog.eu/tensions-as-the-
eu-negotiates-the-global-compact-for-safe-orderly-and-regular-migration/; 
Daniela Vitiello, “Il contributo dell’Unione europea alla governance 
internazionale”, cit.; Giuseppe Calatali, Adele Del Guercio, “I Global 
Compact su migranti e rifugiati, il Soft Law delle Nazioni Unite tra spirite 
.it/saggi/400/global-compact-migranti-e-rifugiati-il-soft-law-delle-nazion-

25) See Daniela Vitiello, “Il contributo dell’Unione europea alla governan-
te internazionale dei flussi di massa di rifugiati e migranti: spunti per 
una rilettura critica dei Global Compacts”, in Diritto, Immigrazione e 
it/saggi/304-saggio-vitiello/file.

26) See, for example, the Secretary General’s proposal at the Davos 
Forum in 1999: Secretary-General Proposes Global Compact on Hu-
mans Rights, Labour, Environment, in Address to World Economic Forum 

27) Daniela Vitiello, “Il contributo dell’Unione europea alla governance 
internazionale”, cit., p. 21.

28) Italian Non-Paper – Migration Compact. Contribution to an EU 
governo.it/files/immigrazione_0.pdf.

29) This approach is however problematic because by resorting to 
arrangements which do not fall within the scope of Article 218 of 
the Treaty on the Functioning of the European Union, Member States 
and EU institutions circumvent political and judicial mechanisms of 
control (those of the European Parliament and the Court of Justice, 
respectively): on this point see Anna Ligouri, Migration Law and the 
Externalization of Border Controls. European State Responsibility, 
London and New York, 2019, p. 66, and literature quoted therein.

30) In the same direction see EU report to the UN Secretary-General’s 
Report on the Global Compact for Safe, Orderly and Regular Miga-
ration, Making Migration Work for All, UN Doc. A/72/643,12.12.2017, 
p. 1; see also EU-Priorities at the United Nations and the 73rd United 
Nations General Assembly (September 2018 – September 2019, Doc. 
10056/18, 25.6.2018, p. 3.

31) On the different position of Latin America States see Camila 
Barretto Maza, Diego Morales, Raisa Ortiz Cetra, “Global Compact for 
et/en/global-compact-for-migration-stop-hypocrisy-ar/.

32) On EU Member States positions vis-à-vis GCM see Sergio Carrera/
Karel Lannooy/Marco Stefan/Lina Vosyliūtė, “Some EU governments 
leaving the UN Global Compact on Migration: A contradiction in terms?”, 
/system/files/PI2018_15_SCKLMVSL_UN%20Global%20Compact_0.
pdf; Mauro Gatti, “EU States’ Exit from the Global Compact on Migra-
tion: A Breach of Loyalty”, in EU Immigration and Asylum Law and 
Policy, 14 December 2018, http://eumigrationlawblog.eu/eu-states-
exit-from-the-global-compact-on-migration-abreac-of-loyalty/; Evelen 
Wauters, Jan Wouters, The UN Global Compact for Safe, Orderly and 
Regular Migration: Some Reflections, Leuven Centre for Global Gov-
ghm.kuleuven.be/ggs/publications/working_papers/2018/wp210-
wouterswauters.pdf.

33) At para. 6.

34) The footnote indicates: International Convention on the Elimination 
of All Forms of Racial Discrimination, Convention on the Elimination 
of All Forms of Discrimination against Women, Convention against 
Torture and Other Cruel, Inhuman or Degrading Treatment or Punish-
ment, Convention on the Rights of the Child, International Convention 
on the Protection of the Rights of All Migrant Workers and Members of 
Their Families, International Convention for the Protection of All 
Persons from Enforced Disappearance, and Convention on the Rights 
of Persons with Disabilities.
ing principles” on which the Global Compact on Migration is based. Finally, para. 41 reiterates: “the Global Compact is to be implemented in a manner that is consistent with our rights and obligations under international law” (and therefore also in conformity with international human rights law).

Numerous references\footnote{35} both to human rights in general and to specific rights\footnote{36}, are also contained in many points of the pact. Here it seems appropriate to focus on two objectives in particular: objective No. 8 and objective No. 13. Objective B\footnote{37}, entitled “Save lives and establish coordinated international efforts on missing migrants”, says:

24. We commit to cooperate internationally to save lives and prevent migrant deaths and injuries through individual or joint search and rescue operations, standardized collection and exchange of relevant information, assuming collective responsibility to preserve the lives of all migrants, in accordance with international law. We further commit to identify those who have died or gone missing, and to facilitate communication with affected families.

It seems particularly significant that an explicit objective has been dedicated to this topic, in the light of the practices of recent months of some European states, with the culpable silence, if not the explicit support, of the European Union itself. An example is the evolution, or rather revolusion, of Italian practice, which has gone from the laudable Mare Nostrum\footnote{38} operation to alignment with the much more restricted operation Triton within the European Union. Furthermore, in February 2017, Italy concluded a Memorandum with Libya\footnote{39}, which was mainly devoted to intercepting migrants at sea and pulling them back, despite the risk of torture and all sorts of abuses in Libyan detention centers – already known before the stipulation of the aforementioned agreement\footnote{40} – and despite the fact that Libyan Coast Guard rescue procedures are often in open violation of the obligation to rescue and of the right to life\footnote{41}. At the same time, hostility has been growing towards NGOs (crucial protagonists of thousands of rescue operations at sea), from the adoption of a questionable code of conduct\footnote{42}, and certain controversial legal actions\footnote{43}, up to the closure of ports\footnote{44} and the latest changes to the so called security decree\footnote{45}, openly aimed at hindering NGO rescue operations\footnote{46}.

In light of this, the measures indicated in the Migration Compact seem particularly important: in order to achieve its goal of saving lives at sea, the Compact identifies, among necessary actions: developing procedures and agreements “with the primary objective of protecting migrants’ right to life, that uphold the prohibition of collective expulsion, guarantee due process and individual assessments” and also ensuring that assistance to migrants for exclusively humanitarian reasons is not considered illegal.


36) For instance the rights of the child: see objectives Nos. 8, 11 and 21.


39) The Italy-Libya MoU is not an isolated case, but a small piece of a larger scenario. Indeed, over the past decades, the European Union has been implementing various strategies of externalized border controls: see Anna Liguori, Migration Law and the Externalization of Border Controls, cit.


43) The Open Arms case was emblematic: on this point see Francesca De Vittor, “Soccorso in mare e favoreggiamento dell’immigrazione irregolare: sequestro e disinsequestro della nave Open Arms”, in Diritti umani e diritto internazionale, 2018, pp. 443 ff.


Certainly, an explicit reference to the prohibition of refoulement46) – like that of the previous draft47) – would have been maintained in the final text a reference to this principle has been maintained only within objective No. 21, which deals with returns. As pointed out48), the elimination in the final text of article 8 seems to have been due to the position of certain States: indeed, the position of the Chinese representation is emblematic – according to them “since migrants and refugees fall under different legal categories, the non-refoulement principle should not be applied to migration issues”49). However, the refoulement prohibition, which was introduced by Art. 33 of the Geneva Convention on the status of refugees50), was subsequently not only explicitly envisaged in human rights treaties, such as the United Nations Convention on the Prohibition of Torture, in Art. 3(1), but also inferred from the prohibition of torture both by the European Court of Human Rights and by the Human Rights Committee51); moreover, according to prevailing doctrine this principle has acquired the status of customary law52).

It is worth noting also lett. b) of Objective 8, which says: “Review the impacts of migration-related policies and laws to ensure that these do not raise or create the risk of migrants going missing, including by identifying dangerous transit routes used by migrants …” A human-rights oriented interpretation of this paragraph could only lead to the recognition of illegitimacy not only of criminalizing NGOs, but also of the most recent practices of externalization53), the so-called “pullbacks”, provided for by the aforementioned Italy-Libya agreement of 2 February 2017. In this regard the words of Nils Melzer, the UN Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, in his report of 26 February 201854), are enlightening: “… while both retaining States and supportive destination States often portray ‘pullbacks’ as humanitarian operations aiming to ‘rescue’ migrants in distress from overcrowded and unseaworthy vessels at sea, or to prevent them from embarking on such ‘unsafe journeys’, or to ‘defeat the business model of smugglers and traffickers’, the well-documented reality is that intercepted migrants are generally returned to their port of departure, where they are routinely detained or further deported to unsafe third States and, in both cases, exposed to a substantial risk of torture and ill-treatment, or even death, without access to an assessment of their protection needs or any other legal remedy”55).

Objective No. 13 (“Use of immigration detention only as a measure of last resort and work towards alternatives”) concerns one of the most prejudicial practices, namely detention, and reads verbatim:

29. We commit to ensure that any detention in the context of international migration follows due process, is non arbitrary, is based on law, necessity, proportionality and individual assessments, is carried out by authorized officials and is for the shortest possible period of time, irrespective of whether detention occurs at the moment of entry, in transit or in proceedings of return, and regardless of the legal type of place where the detention occurs. We further commit to prioritize non-custodial alternatives to detention that are in line with international law, and to take a human rights-based approach to any detention of migrants, using detention as a measure of last resort only.

This clear statement is followed by a detailed list of actions, all to be pursued in line with the principles of due process and human rights. Overall, objective No. 13 “is quite a strong and positive statement of standards that should apply to immigration detention”56). Furthermore, if we compare the rule provided in the Zero Draft and that contained in the final text, there are some improvements57). Among these noteworthy revisions are point a), which requires independent monitoring of immigration detention; d), which establishes the right to a regular review of detention orders; f), providing for the right of all migrants to be informed about the reasons for their detention, in a language they understand.

Sadly, however, one amendment concerning the detention of minors has moved in the opposite direction: while the Zero Draft included58), among its recommended actions: “Uphold the protection and the rights of the child at all times, with respect to their migration status, by ending59) the practice of child detention in the context of international migration, and providing alternatives to detention ...”; the final text opts for

46) See Andrea Spagnolo, “We are tidying up”, cit.; Alessandro Bufalini, “The Global Compact for Safe, Orderly and Regular Migration”, cit.
50) “No Contracting State shall expel or return (“refouler”) a refugee in any manner whatsoever to the frontiers of territories where his life or freedom would be threatened on account of his race, religion, nationality, membership of a particular social group or political opinion”.
54) With regard to externalization and GCM see also Marion Parizzi, Daniela Vitello, “Governance and the UN Global Compact on Migration: Just another Soft Law Cooperation Framework or a New Legal Regime governing International Migration?”, in European Journal of International Law: Talk! 4 March 2019. www.ejiltalk.org/governance-and-the-und-global-compact-omigrationjust-another-soft-law-cooperation-framework-or-a-new-legal-regime. The authors highlight the risk that the GCM, in providing multiple interconnections between different actors, does not offer adequate guarantees against abuses: “If refashioned as a tool of conditionality by State practice, this ‘interconnectedness’ may cast non-migration specific policies such as trade, development aid, security policy – as kickbacks to reward countries of the Global South that are willing to sign up onto the externalization of migration policies by border shifting, pull-backs and other non-arrival cooperative strategies”. For the authors the risk is therefore that these interconnections may become “a catalyst for externalization”.
56) See also Anna Liguori, Migration Law and the Externalization of Border Controls, cit., pp. 3ff.
58) Ibidem.
59) Para. 27 lett. g) of Zero Draft.
60) Italics added.
a much softer “working to end”) the practice of child detention in the context of international migration.” Although the existence of a customary rule prohibiting detention of minors cannot be stated at the present time, the Global compact could have been an important opportunity to favor the progressive development of international law in such a delicate matter.

4. Concluding remarks

Overall, the Migration Compact is essentially limited to recognizing existing rights and the opposition it has met is justified more by reasons of political propaganda than purely legal ones. Indeed, a comparison between the final document and the initial draft shows that, with some exceptions, some important points have been either eliminated (e.g., the prohibition of the detention of minors and the reference to regularization procedures) or cut back (e.g., family reunification), while other rights, absent in the initial draft, continue to be ignored in the final draft too, including the right to leave any country, which is certainly particularly at risk due to the current practices of externalization. In addition, as pointed out, in some cases respect for human rights is subject to the States’ political will and conditions of vulnerability are tolerated. A blatant example is the situation of people who have no legal status but cannot be expelled. Certainly, the importance attached to the distinction between regular and irregular migrants provided for in the GCM confirms the limbo reserved for all those who live in a gray area between these two categories and – if we focus on European law in particular – are not adequately protected either under the EU Return Directive or under the European Convention on Human Rights.

However, despite these problems, in my opinion the importance of the Global Compact on Migration is indisputable. First of all, it is significant that States explicitly declare in this document: “we aim to facilitate safe, orderly and regular migration.” And this is not an isolated statement: the verb “to facilitate”, or words deriving from the verb, appear all of 62 times in the text of the Migration Compact. Thus, as pointed out, States recognize “that facilitating mobility over time will be the best way to govern it: to take maximum advantage of its economic, social, and cultural benefits, while also meeting its challenges”.

Finally, it seems to me to be extremely important to highlight once again the words of para. 4 of the Migration Compact, namely “Refugees and migrants are entitled to the same universal human rights and fundamental freedoms, which must be respected, protected and fulfilled at all times”, since this pays the best tribute to the Universal Declaration of Human Rights, and is particularly valuable in the delicate historical moment we are experiencing. Indeed the rights of migrants and refugees are being trampled on more than ever in every part of the globe (on the one hand, Trump’s migration policy, the so-called Australian Pacific Solution, the Rohingya crisis in Asia spring to mind; on the other, with specific reference to Europe, the measures adopted by Orbán in Hungary, the Italian policy of closed ports, as well as the evolution of externalization). In such a context, this straightforward commitment in favour of human rights “could not be taken for granted”, as rightly pointed out.

However, the real success of this compact will depend on the concrete will of the States to move from words to action: indeed, in the words of the pact, “the Global Compact for Safe, Orderly and Regular Migration is a milestone, but not the end to our efforts.”

61) Italics added.
62) Para. 29 lett. h) of final text.
66) Indeed, as pointed out (see Elspeth Guild, Katharine T. Weatherhead, “Tensions”, cit.), “Article 9 of the Directive might indeed require for a postponement of removal of migrants with irregular status, when for the listed reasons they cannot be removed from a Member State, but it does not provide them with a regular status in the (potentially indefinite) meantime”.
67) The case Ahmed v. Austria (judgment of the European Court of Human Rights of 17 December 1999) is emblematic: although the applicant was successful before the European Court of Human Rights (the Court found that the applicant’s deportation to Somalia would breach Article 3 of the ECHR), he was left without status in Austria and committed suicide 15 months after the ECHR decision.
68) Italics added.
69) Para. 11 GCM.
72) GCM, para. 14.