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Global Compacts and the EU Pact on Asylum and Migration: A Clash Between the Talk and the Walk

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Abstract: The current global mobility paradigm suffers from a great paradox. The illegality of human mobility is manufactured through restrictive migration and asylum policies, which claim to address the supposed challenges of human mobility, such as erosion of border security, burden on the labour market, and social disharmony. On the contrary, they reinforce them, resulting in strengthened anti-migrant sentiments at the domestic level. The contradiction is that the more restrictive migration policies are and the more they are directed at containment of human mobility, the more counterproductive they become. The fact that the policies of the destination states are shaped through the votes of their citizens, and migrants are never part of the conversation which would bring the reality check of their lived lives, is a defining factor that enables state policies preventing and deterring access to territory and containing asylum seekers elsewhere. We demonstrate that this is the dynamic behind the new EU Pact on Migration and Asylum, as it thickens the European borders even further through harsher border procedures and expanded externalisation of migration control. Whereas the Global Compacts represent the paradigm of facilitated mobility and are a significant step in the right direction for moving beyond the defined paradox, the EU Pact represents the containment paradigm and showcases that the tension between the commitments and the actions of states is far from being resolved. Through an assessment of the EU Pact on Migration and Asylum's alignment with the Global Compacts, this article scrutinizes the trajectory of the global mobility paradigm since the adoption of the Global Compacts.

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1. Introduction

As the world is now, there is a stark contradiction between how the states “talk” and how they “walk” on human mobility issues. The talk builds on the principles that international refugee law and international human rights law rest on, including freedom of movement, the right to seek and enjoy asylum, and the shared responsibility of states for refugees. Most states seem to agree with these tenets, which represent a world vision of facilitated human mobility. The Global Compact on Refugees ([UN General Assembly 2018c](#)) (“GCR”) and the Global Compact for Safe, Orderly and Regular Migration ([UN General Assembly 2018b](#)) (“GCM”) (together the “Global Compacts”) come across as the embodiment of this vision.

The walk, on the other hand, is shaped by how states behave rather than what they say, and it tells a whole different story. Restrictive migration and asylum policies are the defining features of the walk, and they obstruct human mobility, create environments in

transit and destination countries that are conducive to human rights violations for people on the move, and, overall, manufacture illegality of human mobility. The walk contributes to a world of contained human mobility. The EU Pact on Migration and Asylum ([Pact on Migration and Asylum—European Commission 2024](#)) is an important representation of how this vision manifests itself.

Thus, the talk and the walk serve two inherently conflicting policy paradigms of facilitated mobility versus containment. Although the facilitation of all types of human mobility contributes to the kind of world that the authors of this article aspire to live in, judging by their actions, this is not a shared sentiment among the states that are in a position to define today's mobility paradigm. Still, the fact that they subscribe to our vision on paper through the Global Compacts does matter, and this article should be read as an effort to hold these states accountable to their own words by identifying the contradictions between the "talk" and the "walk".

Against this background, the second section of this article starts by laying out the dominant global policy paradigm on mobility, which we define as the "containment paradigm", with reference to the underlying policy goal shared by states: avoiding and illegalizing asylum flows and undocumented movements. We trace the manifestation of the containment paradigm in mobility policies and measures that are at play in transit countries and that are in place in destination countries, keeping in mind that many countries carry characteristics of both. We conclude the analysis of the containment paradigm by outlining the policy aims it serves beyond avoiding access to territory. We then explain how the Global Compacts oppose the containment perspective and create a paradigm shift. In the third section, we argue that the EU Pact on Asylum and Migration (the "EU Pact") is a step back toward the containment paradigm in the face of the EU's commitment to the Global Compacts. This brings us to the analysis of how specific aspects of the EU Pact deviate from the Global Compacts.

2. The Global Policy Paradigm on Mobility in the Age of Global Compacts

2.1. Dominance of the Containment Paradigm

2.1.1. Defining the Containment Paradigm

Gammeltoft-Hansen and Tan's convincing analysis (Thomas [Gammeltoft-Hansen and Tan 2017](#), p. 31; See further; [Gammeltoft-Hansen 2014](#); [Gammeltoft-Hansen and Hathaway 2015](#)) defines the dominant policy paradigm on asylum issues, which shapes the understanding and response of policymakers mainly in the Global North, as the deterrence paradigm. This rests on the underlying belief that developed states can successfully insulate themselves from the responsibility of refugee protection through migration control. Combining this analysis with the recent literature on containment policies ([Tinni et al. 2023](#); [Spijkerboer 2025](#); [Ovacik et al. 2024](#)), we define today's global mobility paradigm as the containment paradigm. Containment is the end result and deterrence and repression are how states try to achieve it. Of the world's refugees, 69 percent are hosted by countries neighbouring their countries of origin, and 71 percent are hosted by low- and middle-income countries ([UNHCR Refugee Data Finder Key Indicators 2024](#)). This tells us that deterrence efforts of the Global North have partly worked, and we have moved beyond deterrence. In this more advanced stage, the policy architecture is well in place and has partly achieved its goal of insulating the Global North from undesired arrivals. It is currently difficult, costly, and often dangerous to come to the Global North undocumented.

Yet, the number of undocumented border crossings remains relatively important (with ups and downs), since migration pressure has not eased off. Considering that the push and pull factors for undocumented migration have not been significantly reduced, and that

smuggling activities quickly adapt to new forms of deterrence and repression, the budgets for preventing undocumented border crossings are constantly and often exponentially increasing, despite only incremental results. It is difficult to discuss success without defining the goals. If the goal is to reduce migration pressure, it is a flop. If the goal is to reduce the number of migrants arriving, it is neither a success nor a failure, more a series of short-term stabilisations. If the goal is to make migration an important topic in electoral cycles and to win elections on it, it is a relative success. Deterrence efforts—mostly through externalisation of border controls—are thus constantly reproduced and perfected in policy tools. The deterrence paradigm presupposes a movement that is deterred and signifies an ongoing process toward a world where mobility is obstructed or repressed. This has become a reality; it is not a direction anymore. As the term “containment” hints, to a static condition, the twist in the conceptualisation of the containment paradigm serves to capture this changed dynamic.

Containment measures include a wide range of policy tools aimed at limiting access to territory, such as extra-territorial border controls, cooperation with transit and source countries to limit mobility, restrictive visa policies, sanctions imposed on carriers for passengers lacking adequate travel documentation, and enhanced border surveillance. These are complemented by in-territory measures serving deterrence goals such as non-admission of asylum claims through safe country concepts, restraining access to refugee protection by keeping national refugee status determination processes insufficiently functional, and limiting resettlement quotas. These measures go in tandem with the illegalisation of mobility by denying meaningful alternative legal pathways and limiting access to legal statuses and services in destination countries through restrictions on freedom of movement, on access to the labour market, and on access to services, such as education, health and legal services. Illegalisation, securitisation, and criminalisation trends around human mobility feed informal exploitative labour conditions and migrant smuggling. Through all of these factors combined, this containment climate based on deterrence and repression keeps people on the move in a precarious and/or undocumented status, leaving them prone to exploitation and decreasing their chances of reaching protection and dignified living conditions (Atak and Crépeau 2022, pp. 358, 366; Clark-Kazak 2023).

2.1.2. What Does the Containment Paradigm Serve?

Making trans-border human mobility more difficult is not the only consequence of restrictive migration policies. People who try crossing borders do not stop trying just because of containment measures; they simply undertake greater costs and risk more to cross them. The constructed illegality of mobility translates into the absence of a legal status or relatively limited legal security compared to nationals, which pushes people on the move to go underground and leaves them prone to abuse by employers, smugglers, and other exploiters. Intersectional factors such as race, gender, and class magnify these detrimental outcomes further (Crépeau and Atak 2024). All in all, it is more difficult for non-nationals to resist abuse and exploitation of their rights. Policymakers are aware of this, of course; this dynamic is intentionally created through restrictive migration policies. Disempowerment of migrants and asylum seekers is a design feature of these socio-economic deterrents, which serves to make their lives more difficult and discourage others from coming (Atak and Crépeau 2022, p. 362).

The increased precarity of migrants and asylum seekers is not an unintended consequence of restrictive migration policies; it is a direct construct of the containment architecture. This allows employers to exploit temporary migrant workers as well as undocumented migrants and asylum seekers employed in the informal labour market in order to extract the maximum work from them for minimum costs in terms of wages and labour conditions

(Crépeau and Atak 2024). This trend started when the closure of borders at the end of the 1970s, following the oil shocks of the decade, led to a general increase in undocumented migration and asylum movements. This soon proved advantageous for reducing labour costs in low-profit-margin industries such as agriculture, care, construction, extraction, fisheries, and hospitality.

Restrictive migration policies have not achieved their official aims of reducing the number of undocumented migrants and limiting the number of temporary migrant workers. They are, however, very productive in creating lower labour costs for employers and lower-priced consumer goods and services. They are also very useful in creating an atmosphere of insecurity, which instils a feeling of hostility in the electorate toward migrants, thus feeding a narrative loop about the necessity of ever more securitized migration policies.

Changing this situation would involve structural changes and measures that would empower migrants to claim their rights and protest against exploitation, which they mostly do not dare to do for fear of losing their livelihood, being arrested, and being deported. Such measures would considerably increase labour costs and could lead to employer and consumer discontent. Politicians are not interested in such a result when the beneficiaries—i.e., the migrants—would not bring any electoral benefit to counterbalance the electoral impact of disgruntled employers and consumers. The problem is that the opinions of migrants do not matter in the system of electoral democracy because they do not vote. Their rights can structurally be disregarded. Their political non-existence also allows the false populist narratives against migrants and asylum seekers—claiming they are socio-economic burdens and a security risk—to go largely unchallenged (Crépeau 2022, p. viii). Such narratives are reinforced through media discourse demonizing and scapegoating migrants and misrepresenting their impacts on host societies, which contributes to shaping public opinion (Mahmoud and Al Atrash 2021, pp. 18–23; Danilova 2014; McCann et al. 2023, pp. 7–9).

2.2. Global Compacts: A Paradigm Shift?

As much as today's dominant containment paradigm is based on avoiding access to territory and keeping people on the move in precarious conditions, the Global Compacts deeply challenge this paradigm. They represent a return to the promises of the global commitment to refugee protection and the shared responsibility of states for it, founded on international refugee and human rights law regimes, as well as a conception of human freedom that includes the freedom to move across borders unless there is a specific reason to prohibit it, as was mostly the case during the 1945–1975 period (Bell 2023). The Global Compacts bring a vision in favour of collective facilitation of mobility and access to asylum. The GCR repeatedly identifies equitable responsibility-sharing as one of its guiding principles for operationalizing refugee protection. Similarly, the GCM refers to the shared responsibility of states as a guiding principle and international cooperation as one of its objectives to ensure safe, orderly, and regular mobility. In this sense, the Global Compacts are an extension of the New York Declaration for Refugees and Migrants of 2016 (UN General Assembly 2016), and all three documents refer to the international legal framework on asylum and human rights as a point of departure.

Significantly, the Global Compacts and their precursor New York Declaration for Refugees and Migrants, as well as the EU Pact on Migration and Asylum, were triggered by the so-called refugee crisis in Europe caused by the 2015 Syrian refugee influx (Atak and Crépeau 2022, pp. 366–67). They claim to draw inspiration from the recognition of refugee protection gaps, and they frame migration as a positive phenomenon. Yet, they represent conflicting approaches to human mobility. The EU Pact exacerbates the containment paradigm through enhancement of border securitisation (Moreno-Lax 2022,

p. 184), deflection of access to territory, and increasing returns, as analysed in detail below. In contrast, the Global Compacts expand ways of gaining safe and legal access to territory and to national asylum systems. Thus, there is an inherent tension between the Global Compacts and the EU Pact ([Easton-Calabria 2021](#)).

Making sense of this tension is critical in terms of understanding the evolution that the global mobility regime is undergoing. It is possible to read the conflict between the Global Compacts and the EU Pact in a way that emphasizes the self-serving nature of promoting global commitments to facilitated mobility and refugee protection by the Global North. In this vein, it is in the interest of the Global North states that the states in the Global South which host most of world's refugees remain committed to the refugee protection regime founded on the 1951 Refugee Convention and enhanced by the Global Compact on Refugees. Global South states agreeing to continue to host refugee populations keeps the containment paradigm operational ([Gammeltoft-Hansen and Tan 2017](#), p. 32). The Global Compacts then would appear as a step towards keeping the containment paradigm afloat while sparing the Global North from undertaking legally binding commitments for facilitated mobility and improved refugee protection. At the same time, they provide a basis to enforce sufficient protection standards in the Global South so that the policies aimed at containing people on the move away from the Global North do not become legally problematic.

On the other hand, it is also possible to view the Global Compacts as a milestone within the progress of the global mobility regime. They set forth a conceptual framework to play out in the long run rather than aiming to create imminent dramatic changes in the way that states act within the current mobility paradigm. Thus, their non-binding nature or deviation from the containment paradigm does not render the Global Compacts obsolete. Some authors caution that the shift to non-binding instruments dilutes migrants' rights that are already enshrined in binding international treaties, such as the International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families ("ICRMW") ([Grange and Majcher 2020](#), p. 288; [Desmond 2023](#), p. 320). However, the co-existence of legally binding and non-binding instruments can also be viewed as complementary. The Global Compacts build on the 2015 Sustainable Development Agenda and consolidate a global push in favour of a better protection of refugees' and migrants' rights, especially in view of the poor record of ratification of the 1990 ICRMW (only 60 ratifications 35 years after its adoption, none by States of the Global North). The value-based agenda-setting function of the Global Compacts is capable of pushing state practices that crystallize in policies, such as the EU Pact, in a different direction. In this sense, the Global Compacts are expected to be, to the global mobility regime, what the 1948 Universal Declaration of Human Rights was to the international human rights regime: a text that shapes the future ([Crépeau and Atak 2024](#)).

Time will tell which of these two narratives will prevail. The Global Compacts and the EU Pact represent two conflicting paradigms, and they have been adopted nearly simultaneously. This tells us that we are at a crossroads between the paradigm of facilitated human mobility and the containment paradigm. If we end up in the future of facilitated human mobility, it will mean that the former narrative will have prevailed. Whereas, if we end up in a future of reinforced containment paradigm, that will indicate that the latter narrative will have prevailed. The defining characteristic of today's mobility zeitgeist is the tension between the two paradigms. Before this tension between two mutually exclusive narratives is resolved, it seems that neither can be abandoned.

Laying out this hermeneutic paradox is beyond the objective of this article. As the issue is rife with contradictions and policy developments could take us either way, the actions of states will shape tomorrow's world. In that sense, it is a defining moment. Therefore, we

view the EU Pact as a step in the wrong direction, not only because of its immediate impact on those affected by European migration and asylum policies but also because of how it distracts from the development of the global facilitated mobility paradigm.

3. A Step in the Wrong Direction: The EU Pact on Asylum and Migration

EU policies and practices beyond EU territories for the externalisation of migration control and within EU territories applicable to asylum seekers and undocumented migrants have long been at the fore of the containment paradigm. The EU Pact on Asylum and Migration should be viewed as an extension of this trajectory of EU policies within the global mobility paradigm.

The Syrian refugee situation has been one of the two biggest refugee crises in the region in recent decades, and it extensively influenced regional and global policy developments in the asylum field, including the Global Compacts and the EU Pact. Reviewing the situation reveals how the EU responds and impacts regional and global asylum dynamics. The influx of around 1 million refugees into EU territories in 2015, the majority of whom were Syrian refugees arriving through Turkey ([Over One Million Sea Arrivals Reach Europe in 2015 2015](#)), strengthened the already advanced security orientation of European migration policies and the anti-migrant populist discourse viewing asylum seekers as threats for socio-economic and security reasons ([Atak and Crépeau 2022](#), p. 360). Against this socio-political background, the primary external policy tool that the EU put forward to respond to this influx was the EU–Turkey Statement of 2016 ([European Council 2016](#)).

The Statement envisaged that Turkey would take necessary measures to prevent irregular crossings to the EU and would accept the return of undocumented migrants who crossed to Greek islands so that the refugee population would be contained in Turkey and Syria. In the face of high numbers of deaths at sea caused by irregular crossings by Syrian refugees through the Mediterranean with unseaworthy inflatable boats, the EU's reaction was not to create meaningful alternatives to such risky journeys, despite the official discourse to the contrary. The EU fulfilled its promise of financial support to Turkey essentially to increase its capacity for hosting Syrian refugees, whereas the resettlement numbers remained low and the Voluntary Humanitarian Admission Scheme envisaged in the EU–Turkey Statement was never established ([Ovacik et al. 2024](#), p. 162).

The current distribution of Syrian refugees confirms the analysis that the EU opted to deal with the situation through containment and partially succeeded, too. Out of 6.2 million Syrian refugees ([Syria Situation | Global Focus 2025](#)), 4.7 million are hosted in neighbouring countries ([Situation Syria Regional Refugee Response 2025](#)), and Turkey hosts close to 3 million of them ([Statistics on Temporary Protection in Turkey 2025](#)), whereas the number of Syrian refugees granted international protection in the EU since 2015 is around 1.3 million ([Europe Gave 1M Syrians Fleeing War International Protection. Some Countries Want to Deport Them.—POLITICO 2024](#)).

Whereas the EU–Turkey Statement represents the external dimension, the policy measures within the EU complement its containment approach. The European Agenda on Migration launched in 2015 ([Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions: A European Agenda on Migration 2015](#)) formalized the “hotspots” on Greek islands where the applications of newly arriving asylum seekers are processed without allowing them further access to the European territory. Prolonged detention, overcrowding, insufficient facilities and services, as well as inadequate administrative processes for assessing asylum applications are among the problems observed in the hotspots ([Atak and Crépeau 2022](#), pp. 361–62). Containment measures at play in the EU's external partnership with Turkey find internal symmetry with hotspots. The way that

the Syrian refugee situation unfolded in Europe is a striking representation of how the EU's containment perspective toward human mobility crystallizes. It is possible to observe similar traits in EU policies concerning other refugee populations and in its cooperation with other third countries such as Tunisia, Serbia, Niger, Morocco, and Egypt (Ovacik and Spijkerboer 2024).

The EU Pact on Migration and Asylum strengthens this dynamic of thickening the European borders from the inside and the outside even further and showcases that the tension between the pro-migration political commitments of states in the global arena and their anti-migration actions inside and outside their territory is far from resolved. In addition to reinforcing the institutionalisation of the containment paradigm in asylum and undocumented migration matters through externalisation and securitisation, the EU Pact maintains a similar restrictive approach in its construction of a selective regular migration/labour migration aspect. Whereas skilled migrants are prioritized for labour migration, the facilitation of mobility through visa policies is linked to cooperation in preventing undocumented migration (Atak and Crépeau 2022, pp. 363–64). Overall, the EU Pact on Migration and Asylum is a policy instrument legitimizing the containment paradigm at the supranational level (Carrera 2020, p. 3).

The EU Pact on Migration and Asylum was long in the making. It was first proposed by the European Commission in 2020, and after several stages involving the relevant EU institutions and governments of the member states, it finally entered into force in June 2024 (The Council Adopts the EU's Pact on Migration and Asylum—Consilium 2024). Its promoted aims are to provide a durable European framework for addressing the challenges of border control and to build a system for better management of migration in line with European values and international law (Pact on Migration and Asylum—European Commission 2024). The EU Pact envisages a comprehensive reform in EU rules and policies touching upon almost all aspects of migration and asylum, resting on the four pillars of securing external borders, ensuring the efficiency of asylum procedures, developing a system of asylum responsibility-sharing among the EU member states, and embedding migration in international partnerships. Our analysis here will focus on the most prominent features that relate to the key objectives of the Global Compacts.

Scholars and migrant rights advocacy groups have extensively criticized the EU Pact (Cornelisse and Reneman 2022; Wessels 2023; Mouzourakis and Costello 2023; Jakulevičienė 2023; Cornelisse 2022; European Council on Refugees and Exiles 2021; Mouzourakis 2021; Moreno-Lax 2022; Carrera 2020; Carrera and Geddes 2021). It has been defined as a missed opportunity because it prioritizes protecting internal EU interests rather than engaging with global problems of mobility and displacement (Gilbert 2021). It is striking that there are no explicit references to the Global Compacts in the EU Pact on Migration and Asylum. Overall, it fails to engage with the objectives of the Global Compacts (Cornelisse and Reneman 2022, p. 2). This avoidance of recognition of the Global Compacts carries a symbolic significance. The Global Compacts represent the global political agenda and policy direction for mobility issues and their absence from the EU Pact evokes deviation from this paradigm and renders the commitment of EU member states to the Global Compacts questionable. In fact, the “questionable” commitment of the EU member states was already foreshadowed at the UN General Assembly meeting where the GCM was adopted: out of the five states that voted against the GCM, three (Czechia, Hungary, and Poland) were EU members, and similarly, amongst the twelve countries that abstained from voting, five were EU member states (Austria, Bulgaria, Italy, Latvia, and Romania) (UN General Assembly 2018a).

A critical assessment of the alignment of certain aspects of the EU Pact on Migration and Asylum with the principles and objectives of the Global Compacts attests to this understanding. The aspects that will be the focus of analysis here are the border procedures

foreseen under the EU Pact for securing external borders and the external dimension of the EU Pact for embedding migration in international partnerships.

4. Alignment of the EU Pact on Migration and Asylum with the Global Compacts

4.1. Border Procedures Under the EU Pact

One of the main components of the EU Pact is securing the external borders of the EU. This includes strengthened border screening and the installation of border procedures that entail an expanded use of detention and enforcement of returns for asylum applicants deemed unlikely to need international protection. The border procedures under the EU Pact go against the spirit of the Global Compacts, especially the key tenets of international protection identified in the program of action of the GCR, as well as the guidelines on immigration detention outlined in the GCR and the GCM.

As outlined in the Screening Regulation ([Regulation \(EU\) 2024/1356 of the European Parliament and of the Council of 14 May 2024 Introducing the Screening of Third-Country Nationals at the External Borders and Amending Regulations \(EC\) No 767/2008, \(EU\) 2017/2226, \(EU\) 2018/1240 and \(EU\) 2019/817 2024b](#)) and the Asylum Procedures Regulation ([Regulation \(EU\) 2024/1348 of the European Parliament and of the Council of 14 May 2024 Establishing a Common Procedure for International Protection in the Union and Repealing Directive 2013/32/EU 2024a](#)), the new rules within the EU Pact envisage a pre-entry phase at the border for people arriving at the external borders of the EU without admission documents, comprising a screening procedure, asylum border procedure, and return border procedure. At this phase, individuals are not considered authorized to enter the territory, which creates a legal fiction of non-entry ([Cornelisse 2022](#), p. 64). Upon screening, the asylum applicants who are assumed to have misled the authorities by withholding or presenting false evidence, those who are considered a danger to national security, and those who come from a country with a recognition rate of 20% or lower across the EU are directed to the asylum border procedure for assessment of their applications. During this procedure, the applicants are kept at or in proximity to the external border or transit zones and their asylum applications are assessed with an accelerated procedure. Rejected asylum seekers are directed to the return border procedure, which again entails an accelerated procedure.

These procedures at the pre-entry phase foresee the processing of asylum applications at the border zones without allowing asylum seekers entry in order to make return procedures more effective ([Wessels 2023](#), p. 277). This is delivered at the cost of formalizing the hotspot approach as a structural modality of asylum processing and standardizing a problematic regime of restriction of freedom of movement. In this respect, the EU Pact furthers the containment paradigm. The Global Compacts are grounded on the spirit of the Refugee Convention and other international human rights instruments that support the right to freedom of movement and non-penalisation of asylum seekers for irregular entry. Thus, the measures at the pre-entry phase are inherently incompatible with the Global Compacts, as substantiated in more detail below.

4.1.1. Asylum Border Procedures

With respect to asylum processing, the EU Pact's subtext is that many asylum applicants who would be subject to normal asylum procedures do not actually need or deserve a substantive evaluation of their claims accompanied by a full set of safeguards. The construction of asylum border procedures under the EU Pact is a good example of how mobility is illegalized through instruments of governance contributing to the securitisation of asylum ([Atak and Crépeau 2022](#), p. 360). The automatic imposition of accelerated

examination with shorter time limits solely on the basis of a statistical indicator, without any individual assessment, compromises the quality and fairness of the asylum procedures. It is telling that, in the EU, recognition rates are lower in border procedures compared to regular procedures ([European Council on Refugees and Exiles 2021](#), p. 43). Shorter time limits constrain the ability of the applicants to substantiate their asylum claims and to access legal remedies and procedural rights such as legal assistance. Asylum border procedures, as configured in the EU Pact, are bound to create an atmosphere conducive to rights violations such as breach of non-refoulement obligations, inadequate examination of asylum applications, and violation of procedural safeguards.

These problems are exacerbated by the expansion of border procedures with the Crisis and Force Majeure Regulation. The EU Pact claims to address exceptional mass influx situations and brings to the fore the notions of crisis and force majeure, which are not clearly defined ([Moreno-Lax 2022](#), p. 181). It is largely left to the discretion of the EU Commission to decide whether a situation qualifies as a crisis, and the same is valid for the member states with respect to force majeure situations, creating the risk of non-uniform application. This framework exposes asylum applicants who are highly likely to need international protection to problematic features of the asylum border procedures as they become applicable to applicants from countries with an EU-wide recognition rate of up to 75%. The vagueness of the legal concepts and the grave consequences attached to them are deeply problematic in terms of procedural fairness and legal certainty in asylum procedures.

The GCR does not provide detailed guidance on specific aspects of asylum procedures but outlines certain priorities in its plan of action. Accordingly, the GCR highlights the importance of the registration and identification of refugees to facilitate their access to assistance and protection, and to ensure the integrity of the refugee protection system. With reference to international obligations, the GCR requires states to have fair and efficient asylum procedures for avoiding protection gaps and for enabling all those in need of international protection to find and enjoy it. Considering the flaws explained above, the asylum border procedure under the EU Pact is at odds with the GCR framework ([Cornelisse and Reneman 2022](#), p. 8).

4.1.2. Restrictions on Freedom of Movement Within Border Procedures

Another problematic aspect of the border procedures under the EU Pact is restrictions on freedom of movement, including detention. The EU Pact foresees immediate and compulsory restriction of freedom for asylum seekers by providing that they are kept at or in proximity to the external border or transit zones during asylum and return border procedures. Whether this measure legally qualifies as detention is ambiguous, blurring the line between the detention regime and other restrictions on freedom of movement. The only question should be the following: Are the asylum seekers free to leave? How the EU Pact labels the measure does not absolve states from the obligation to comply with human rights guarantees on detention and freedom of movement; however, this ambiguity challenges the uniformity between state practices ([Wessels 2023](#), p. 281). Regardless of its degree, automatic restriction of freedom of movement during asylum and return border procedures turns the hotspot approach into the norm at external borders of the EU ([European Council on Refugees and Exiles 2021](#), p. 41).

Nothing in the EU Pact prevents the restriction of freedom at the borders from amounting to detention, and it is reasonable to expect that, in many cases, it will. The legal fiction of non-entry at the pre-entry phase enables detention on the grounds of preventing unauthorized entry, without the need for additional individual reasons such as a risk of absconding or danger to public security, as per the European Convention on Human Rights ("ECHR")

and EU rules in the Reception Conditions Directive and the Return Directive ([Report of the Special Rapporteur on the Human Rights of Migrants 2012](#), pp. 4–5).

It should be noted, however, that the International Covenant on Civil and Political Rights (“ICCPR”) provides a different framework on the right to liberty, as unauthorized entry alone does not justify the detention of migrants, and individual circumstances such as a risk of absconding or threat to national security are required for detention to be necessary and proportionate. Finally, the legal fiction of non-entry, despite physically being on the member-state territory, does not preclude the state’s jurisdiction, and the individual still enjoys the human rights that the state is bound by ([Amuur v. France 1996](#); [Riad and Idiab v. Belgium 2008](#); [Nolan and K. v. Russia 2009](#); [Z. A. and Others v. Russia 2019](#); [Ilias and Ahmed v. Hungary 2019](#); [R. R. and Others v. Hungary 2021](#); [FMS and Others v Országos Idegenrendészeti Főigazgatóság Dél-alföldi Regionális Igazgatóság and Országos Idegenrendészeti Főigazgatóság 2020](#)). However, the designation of entry as unauthorized does matter as some rights are reserved for individuals lawfully within the territory, such as the right to freedom of movement under the ICCPR and ECHR. Thus, the EU Pact is inciting a blanket practice of detention during border procedures, which is more than problematic under international human rights law ([Wessels 2023](#), pp. 289–92).

Whereas the EU member states might not always opt for detention throughout the border procedures, imposing area-based restrictions is mandatory under the EU Pact. This does not mean that restrictions on freedom of movement less strict than detention are not problematic, as the difference is only of degree and not of substance. Moreover, standards and safeguards concerning such measures of a lesser degree are not as well defined as in the case of detention ([Cornelisse 2022](#), p. 74). The area-based restrictions where asylum seekers are kept at or in proximity to the external border or transit zones are still measures of deprivation of liberty, and they should not be confused with alternatives to detention. Alternatives to detention correspond to the general requirement to choose the least intrusive or restrictive measure and they can be imposed only when a ground for detention exists ([Report of the Special Rapporteur on the Human Rights of Migrants 2012](#), pp. 13–15). The area-based restrictions in the EU Pact apply in all cases, without individual justification and without establishing grounds for detention, thus interfering with guaranteed human rights and freedoms ([Wessels 2023](#), p. 294).

Whether in the form of detention or area-based restrictions, constraining the freedom of movement of asylum seekers in border procedures physically limits their ability to gather evidence in support of their asylum claims and to access legal assistance and information concerning asylum and return procedures. Therefore, this aspect of the EU Pact compromises the fairness and efficiency of asylum procedures and does not resonate with the GCR.

Systematic deprivation of the liberty of asylum seekers at the EU borders protracts the already existing problems arising from fundamental rights violations associated with physical conditions of accommodation and de facto detention practices ([Cornelisse and Reneman 2022](#), p. 9). Systematisation of the hotspot approach goes against the GCR and the GCM, which identify immigration detention as a last-resort measure and support non-custodial and community-based alternatives to detention. The border procedures under the EU Pact showcase that the EU has not learned from its mistakes, the cost of which is as fresh as the fire in the overcrowded Moria refugee camp on the Greek island of Lesbos ([Moria Migrants: Fire Destroys Greek Camp Leaving 13,000 Without Shelter 2020](#)).

4.2. The External Dimension of the EU Pact

The external dimension of the EU Pact on Migration and Asylum foresees embedding migration in international partnerships with the priorities of preventing irregular

departures through strengthened border management capacities in partner countries and strengthening cooperation on return and readmission. This focus on the externalisation of migration control is supported by the expanded use of the safe third country concept, which is another tool of externalisation (Mouzourakis and Costello 2023). With this configuration, the EU Pact advances the containment paradigm in its external dimension.

The approach in the EU Pact confirms the containment perspective by repeating the goal of preventing the arrival of migrants and asylum seekers at EU borders through cooperation with third countries. The EU's political and economic power is utilized to create issue linkages with other policy areas such as development assistance, energy, and security, to ensure the cooperation of third countries in the mobility field. In doing this, the EU Pact's EU-centric attitude ignores the diverging interests of third countries and fails to build on global solidarity in addressing the root causes of asylum movements (Spijkerboer 2021, p. 62).

This conditional approach in EU cooperation aimed at containment is perceived as problematic by the third countries. As a result, they hesitate to cooperate fully with the EU and take a selective approach in areas of cooperation, which is a trait commonly observed in the EU's cooperation with Turkey, Niger, Serbia, and Tunisia (Tinni et al. 2023, pp. 15–18). The modality of political arrangements, such as the EU–Turkey Statement or the readmission arrangements with African countries, is maintained in the EU Pact as it refers to Migration Partnerships, although avoiding entering into legally binding international agreements (Carrera 2020, p. 9). This is problematic for sidestepping democratic procedures and judicial oversight, and creates issues of transparency, which render the legitimacy of these cooperation instruments questionable (Tinni et al. 2023, pp. 18–22).

In that sense, the external dimension of the EU Pact is aimed at preparedness and prevention at the EU level rather than expanding safe and legal routes as promoted by the GCR. This does not sit well either with the GCM objectives, with which States committed to enhancing the availability and flexibility of pathways for regular migration. Cooperation with third countries is centred around creating substitutes for asylum rather than allowing access to the EU, as demonstrated by the references within the EU Pact to the EU's cooperation with countries like Tunisia, Egypt, and Mauritania. While there is no mention of legal pathways for low-skilled workers in the Pact (Hein 2021), modalities for promoting legal pathways present selective features, as demonstrated by programs such as “Talent Partnerships”. This reinforces the contained mobility approach (Carrera 2020, p. 11). The one-sided and conditional nature of cooperation with third countries configured within the EU Pact stands in conflict with the Global Compacts, as the GCM underlines strengthening international cooperation and global partnerships for safe, orderly, and regular migration, and as the need for predictable and equitable responsibility-sharing is a priority that runs through GCR. For example, whereas the GCR identifies resettlement as a tangible mechanism for burden- and responsibility-sharing, the EU Compact's emphases are on the prevention of arrivals and return.

Another important aspect of the external dimension of the EU Pact is the broadened use of the safe third country (“STC”) concept through the recently adopted Asylum Procedure Regulation. Accordingly, returning asylum seekers to an STC is made easier by lowering the standard of safety and the degree of connection between the STC and the asylum seeker. The EU Pact also aims to increase the number of STCs by facilitating the designation and creation of a common EU list (Radjenovic 2024). The STC concept aims to prevent secondary movements of asylum seekers by allowing states to transfer asylum seekers to countries they transited through. It presupposes that refugees should seek protection at the closest instance possible, an assumption which is nowhere to be seen in international refugee law and is contrary to the interests of refugees when they find themselves in countries

where they may be safe from the persecution of the country of origin but cannot rebuild a meaningful life for themselves or their families (Ovacık 2021, pp. 65–66). Embedded in the deterrence perspective (Gammeltoft-Hansen 2014; Gammeltoft-Hansen and Tan 2017; Gammeltoft-Hansen and Hathaway 2015) and the reinforced containment of human mobility, the STC transfers defy the territorial nature of responsibility for refugee protection and operates as a burden-shifting tool (Atak and Crépeau 2022, p. 362).

In this sense, the STC practices go hand in hand with other externalisation measures such as cooperation arrangements with countries of origin and transit to prevent asylum and other migration movements (Albuquerque Abell 1999, p. 76), as promoted in the EU Pact. By extension, this triggers the third countries to adopt similar measures of externalisation to shift the burden further away (Gammeltoft-Hansen 2011, p. 294), and overall, the mechanism of externalisation works to contain asylum seekers in or near countries of origin. This trend limits the chances of asylum seekers to reach protection and shrinks the asylum space in the Global North, as well as in the Global South states along the main migration routes (Massari 2023). Thus, by advancing the externalisation agenda through international cooperation, the EU Pact remains in opposition to the Global Compacts' perspective of facilitating mobility (Crépeau 2019, pp. 652–54).

5. Conclusions

This article has framed the Global Compacts and the EU Pact on Migration and Asylum as the embodiment of two conflicting policy paradigms on human mobility. Whereas the Global Compacts builds on the goal of facilitated mobility, the EU Pact strengthens the containment paradigm, which rests on avoiding and illegalizing the movements of asylum seekers and undocumented migrants. The fact that migrants are not represented in the electorates of destination countries makes it difficult to break out of the containment paradigm. Scrutinizing the compatibility of the EU Pact with the Global Compacts demonstrates the conflict between the states' political commitments, "the talk", and their practices, "the walk". Our analysis focused on selected aspects of the EU Pact on Migration and Asylum, namely the border procedures and the external dimension, which were held up against the objectives and principles within the Global Compacts.

Our analysis revealed that the EU Pact engages insufficiently with the Global Compacts despite their significance in representing an emerging global political consensus. The border procedures conflict with the Global Compacts in weakening the fairness and efficiency of the asylum procedures and bringing automatic restrictions to the freedom of movement of asylum seekers. The external dimension of the EU Pact, on the other hand, reflects the reinforcement of the externalisation agenda by prioritizing EU interests in conditional cooperation with third countries and by expanding the use of the safe third country concept, a prime tool of externalisation.

It is not possible to expect the EU Pact's efforts at containing migration to be successful as long as exploitative labour markets continue to attract migrant workers and asylum seekers, despite the precarity they will suffer, and create auspicious conditions for underground illegal and criminal activities by recruiters, smugglers, employers, lodgers, and moneylenders. The way out of these problems is to effectively detect exploitation and implement labour standards for all workers, regardless of their migration status, through adequately staffed and instructed labour inspections, to systematically sanction exploitative employers, and to empower migrant workers to fight for their rights through unionisation in low-wage industries. Only when the labour markets of the host countries are properly regulated will they become unattractive for migrants ready to accept jobs at any cost and for exploitative underground operators. The GCM encompasses these matters as a roadmap towards migration policies based on the empowerment of migrants and the accountability

of states towards migrants' human and labour rights. Only when undocumented migration and precarious temporary migration have been considerably reduced will states be able to tackle the asylum issue in a humanitarian way, rather than as only part of the security narrative. The interlinkage between migration and asylum is crucial, and both Global Compacts serve as a framework for defining the future of the global mobility paradigm.

The Global Compacts have the potential to mark a turning point in the governance of migration and asylum based on the spirit of the Refugee Convention and international human rights law (Atak and Crépeau 2022, p. 367). The Global Compacts should be recognized as aspirational documents that lay out the general principles for the future of the migrant rights doctrine at the international level, to be diffused into frameworks at the regional and national levels, in the same way that the Universal Declaration of Human Rights played a constitutive role in today's human rights framework (Crépeau 2022, p. x).

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Abbreviations

The following abbreviations are used in this manuscript:

ECHR	European Convention on Human Rights
GCM	Global Compact for Safe, Orderly and Regular Migration
GCR	Global Compact on Refugees
Global Compacts	Global Compact for Safe, Orderly and Regular Migration and Global Compact on Refugees
ICCPR	International Covenant on Civil and Political Rights
ICRMW	International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families
STC	Safe Third Country

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