



## OPEN ACCESS

EDITED AND REVIEWED BY  
Jane Freedman,  
Université Paris 8, France

\*CORRESPONDENCE  
Marion Panizzon  
✉ marion.panizzon@wti.org

RECEIVED 11 January 2024  
ACCEPTED 16 January 2024  
PUBLISHED 08 February 2024

CITATION  
Panizzon M, Allinson K and Grundler M (2024)  
Editorial: Forms and functions of soft norms  
and informal law-making in international  
migration law: a different frontier.  
*Front. Hum. Dyn.* 6:1368925.  
doi: 10.3389/fhumd.2024.1368925

COPYRIGHT  
© 2024 Panizzon, Allinson and Grundler. This  
is an open-access article distributed under the  
terms of the [Creative Commons Attribution  
License \(CC BY\)](#). The use, distribution or  
reproduction in other forums is permitted,  
provided the original author(s) and the  
copyright owner(s) are credited and that the  
original publication in this journal is cited, in  
accordance with accepted academic practice.  
No use, distribution or reproduction is  
permitted which does not comply with these  
terms.

# Editorial: Forms and functions of soft norms and informal law-making in international migration law: a different frontier

Marion Panizzon<sup>1\*</sup>, Kathryn Allinson<sup>2</sup> and Maja Grundler<sup>3</sup>

<sup>1</sup>World Trade Institute, University of Bern, Bern, Switzerland, <sup>2</sup>University of Bristol Law School, Bristol, United Kingdom, <sup>3</sup>Department of Law and Criminology, Royal Holloway, University of London, London, United Kingdom

## KEYWORDS

migration, EU, law, sources, soft law, global compacts, refugees, asylum seekers

## Editorial on the Research Topic

[Forms and functions of soft norms and informal law-making in international migration law: a different frontier](#)

This Research Topic brings together the results of a legal investigation into the properties of the Global Compact on Refugees (GCR) and the Global Compact for Safe, Orderly, and Regular Migration (CGM) as soft-law instruments, including the measures by which states or regions have sought to implement the commitments therein. In so doing, it adds to the study by [Farahat and Bast \(2022\)](#), and the scholars whose work was represented in that Special Issue, who interrogated the Compacts' relationship to multilateral treaty rules. The articles collected in the present Research Topic explore how interpretative guidance could be an instrument complementing political power or the hierarchy of norms, utilized to resolve the binary soft/hard law conundrum and the subsequent intersectional difficulties facing the applicability of the Compacts' alongside multilateral treaties with overlapping content. This Research Topic also asks whether informal law-making, evident in the Compacts' development at regional level, could be revealing new functions and formats of soft law. By engaging with an interdisciplinary, mostly socio-legal approach, the contributions bridge a legal analytical method about how to typify the sources making up the Compacts, with political context, so as to uncover the interrelationship with wider international law.

Faced with the vast definitional semantics surrounding soft law, our editorial self-selects the stringency of rational choice theory to interrogate the role of soft law in the Global Compacts. [Guzman and Meyer \(2010\)](#) define "soft" as the "non-binding rules that have legal consequences because they shape states' expectations as to what constitutes compliant behavior". Conversely, the positivists explain "soft" as the absence of coercion due to an abridged or otherwise non-legitimate legislative process. The positivist school thus equates soft law to "non-law" ([Crawford, 2022](#)), while refuting the theory of a spectrum, by which soft authority may harden into legally binding effect. Others still criticize the positivists' hard/soft law binary for being impracticable in international law. In the view of constructivist and behavioral approaches to international law, consensus, which has hitherto informed international law-making is "decaying" ([Krisch, 2014](#)), as a result of globalization. In consequence, transboundary, collective issues are managed by polycentric and decentralized rule-making. In its course, multilateral

consensus is replaced by common understandings, guidances, shared practices, which like-minded groups of states adopt consensually, while leaving a discretionary space wide enough for states to outsource the regulatory activity to an international organization or to the private sector (Koinova et al., 2021).

One consequence of such polycentric soft law-making is that it typically functions to “gloss over” divisive issues that remain. As regards the GCM, the EU for example has failed to convince other GCM negotiators about prioritizing voluntary return. In this scenario, soft law fulfills a stopgap function of “de-politicizing” an issue, until political conflict lines are resolved. However, a conflict potential arises where the GCM recites customary treaty law and in particular human rights obligations. Pécoud (2021) finding that states in the GCM favored coming to terms with a (soft) common vision and vernacular so as to be able to “get to work,” despite their differences, was retained in the negotiations of the GCM, as the majority of states resisted Sutherland’s early vision of forming “like-minded groups” to agree on different legally binding, but thematically distinct “mini-multilateral” agreements dedicated to one specific area of international migration, that later on could, or not, be mainstreamed into an encompassing multilateral framework (Newland, 2017). Cholewinski (2020) shows how a core group consisting of the International Labor Organization (ILO) and 23 UN member states advocating for more freedom of association and a stronger reflection of social dialogue for migrant workers, saw their proposed text being watered down in the later drafts and the final text of the GCM. Even if this group did not form a multilateral agreement of its own, the incident shows how the prevailing vision behind the GCM was to go for an uncontested text. This finding attributes a constructivist rather than a behavioral or rationalist meaning to soft law’s position in international cooperation on migration, while at the same time, matching with earlier research on soft law from climate change mitigation and trade in genetically modified food, where states have similarly welcomed the plasticity of the soft narrative as a way to patch up diverging national practices (Shaffer and Pollack, 2010). Hence, the Compacts are, as Gammeltoft-Hansen et al. (2017) note, “an in-between” solution, of softly modifying norms, whereby in a second step, soft law culminates into coalescing around an authoritative understanding or hardening up into subsequent practice (VCLT 31:3c) dense enough to legally bind one’s legal order to that soft obligation (Molnár, 2020). Even if the constructivists allow for the non-consensual law-making to coexist alongside to the procedurally more legitimate consensus-rule, soft law will almost never reach a rigor comparable to the one of a constitutionalized, domestic (democratic) setting, such that in the positivist view, one is left with either consensual law-making or non-law. Enter the perspective of considering soft law as a moment in the continuum from hard to non-law, rather than as the binom, and thus the realist theory of soft law. Due to these divergences between the rational choice, the realist, the constructivist and positivist schools, soft law is moreover often being confused with informal law-making, particularly in EU external migration policy, as discussed by several authors of this Research Topic.

Theorizing soft law often intertwines with the discussion over its source-quality. In the following, we reduce the five functions,

which Boyle and Chinkin (2007) identify for soft law, to three and shed light on how the Global Compacts use soft law, to which sub-themes of migration it applies and how the Compacts contribute to its evolution within the field of international migration law:

Firstly, soft law may fill in the gap of a multilateral treaty, by proposing a regulatory innovation, or an adjustment over time. Once it evokes a conviction emerging from constant usage that this practice is necessary (Bufalini, 2019; Vitiello, 2022), soft law becomes the new customary rule. The GCM covers such situations, where states’ consent over which course an international legal action should take has not yet sufficiently consolidated into an intent to legislate (*opinio juris*). In such situations, soft law expresses the expectation that, in the domestic legal order, the political commitment will be implemented through legally binding norms (Shelton, 2009). The Compacts’ “gap-filling” role, is thus often considered as expressing subsequent state practice (see below). As such it intends to either “delegitimize” a hard rule or to “internationalize” a national, bilateral or regional practice (Gruchalla-Wesierski, 1984). To Boyle and Chinkin (2007), soft law flattens the hierarchies among the sources of international law, by calling for a systemic interpretation of the GCM in light of its contexts, e.g., other sources of migration law, being treaties and custom. For example firewalling, which sits between the sovereign right to regulate, the human rights to access to basic services, or regularization, the former pitting states’ regulation of employment in sectors of economic need with states’ right to sanction migrants’ irregular entry and stay will acquire a different meaning depending on the context. In a similar vein, the soft law quality of the GCM benefits the global South, which since colonial times had been denied participating in co-designing earlier treaties and arrangements impacting on migration. Siding with this decolonizing function, soft law may be perceived as redistributive justice, as the GCM requires consenting to political, instead of legally binding, commitments. Thereby, and through a systemic interpretation which uses context as a guide, beyond the plain meaning or the *telos* of a rule, soft law creates a level playing field among states, strengthening those efforts which aim to decolonize the interpretative space of treaties, pledging to re-interpret contested frames, such as state sovereignty used to detain migrants, to rely on the duty of sending states to readmit their own nationals (Achiume, 2019; Squeff, 2021). Getting to such a joint narrative, might be the foundation for a new custom or general principle of law, yet it often comes at the cost of human rights protection (Guild et al., 2019). Yet, closer-up, the narrative of the GCM is divisive, with the “safe, orderly and regular” script tilting toward a global North perception of migration, rather than at a de-colonized, united and more universal meaning (Panizzon and Jurt, 2023). In the GCM practice, re-distributive justice needs to go beyond systemic interpretation and consolidate, either through subsequent practice or even an authoritative understanding (see below) into *opinio juris*, serving– in the GCM— to reconcile the antagonism of sovereignty with universal rights protection (Shaffer and Pollack, 2010), which is yet to be tested by the next International Migration Review Forums (IMRFs). In any case, to consolidate the emergence of re-distributive justice as *opinio juris* in the GCM, the language of any IMRF

political declarations must become as “detailed, comprehensive and relevant” as possible in particular when incorporating human rights (OHCHR, 2018).

Secondly, soft law may guide the implementation of treaty or custom by domestic authorities in the form of subsequent practice [Art. 31:3(c) VCLT]. When such soft law subverts the meaning attributed traditionally to hard law and in its process strengthens the multilateral rule or waters it down, it is also a means of gap-filling. For example, in the GCM, certain objectives water down a hard won legally binding rights protection. An example of this is how *non-refoulement* is not mentioned in Objective 11 to discipline the sovereign (ab-)use of state authority over border management and, similarly, in Objective 8 on search-and-rescue operations. Where the entities entrusted with monitoring and review of the GCM, such as the IMRF issue recommendations, guidance, and action points, their output qualifies as subsequent practice under Art. 31(3) of the VCLT. Unlike an authoritative understanding (see below), subsequent practice acquires an interpretative quality to ideally guide and clarify the implementation, rather than undermining the law to be applied. In this function, the softer norm, which in the best case scenario represents also the views of non-state actors, materializes into a legally binding rule which, despite a weak procedural accountability, acquires a “source-based legitimacy,” by civil society’s involvement in its making (Höflinger, 2020; van Riemsdijk et al., 2021).

Thirdly, soft law can clarify the treaty law recited by this international cooperation framework, which stands then as soft law’s possibility of resorting to an *authoritative understanding* (Boyle and Chinkin, 2007; Brus, 2018). An authoritative understanding is a norm which member states to a multilateral treaty, a framework or a bilateral agreement have expressly agreed to, so as to dispose of a common understanding about how to understand a specific treaty norm [Art. 31:1(a) VCLT]. For example, the practice emerging out of the GCM and the International Organization for Migration (IOM), offers authoritative guidance for interpreting treaty and custom (Fajardo del Castillo, 2020). It is rooted in a hierarchy of norms, a concept alien to soft law. Consequently, with the soft quality of their norms precluding any hierarchization, neither of the two Compacts offers any guidance to what extent they were meant to mutually support (or not) multilateral treaty law (Morgera and Lennan, 2024). However, of the nine UN Human Rights Conventions, seven have been incorporated into the GCM and GCR *acquis* by an explicit reference (GCM, para. 2; GCR, para 5). Further, the two Compacts regularly refer – even if only implicitly – to additional international, legally binding instruments, such as ILO Conventions on Migrant Employment 1949 and 1975, the International Convention on Migrant Workers’ Rights, UNESCO treaties or WTO/GATS and preferential trade agreements. These UN human rights treaties aside, these additional interfaces of the GCM fail to be clarified. For example, it remains unclear how to interpret the GCM re-phrasing of some of the UNESCO Convention on Technical and Vocational Education’s outcome or the UNESCO Convention on Higher Education’s wording. Such issues are possibly driven by the membership question to these treaties overlapping, or not, with the GCM’s. Hence, Desmond (2022) has suggested that despite having a more limited membership than the UN Human Rights

Conventions, the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (ICMWR), in particular the protection norms, should be taken more seriously as a source of interpreting the GCM. Applying his plea for stronger systemic interpretation of the ICMWR to the UNESCO Conventions, the default rule would call on states in fulfilling their commitments on access to education or the duty to negotiate mutual recognition of credentials (Objectives 16–18 GCM), to choose the meaning which best matches or is mutually supportive to that found in the UNESCO Conventions. Following through with this analysis, one might recall Klabbers’ (1996) estimation that in the end, the dichotomy of soft and hard rules auto-eliminates itself (e.g., becomes “redundant”) once the question of interpretation becomes central. In following this critic that where soft law can be equated to the systemic method of treaty interpretation it becomes redundant, we find it even more true in places where an interpretative cascade predetermines how to interpret one framework in light of the other, as it exists for the GCM in relation to Agenda 2030’s 17 sustainable development goals (SDGs), which the GCM Objective 23 calls for “aligning” to the Agenda 2030.

In more detail, the articles collected in this Research Topic contribute to the scholarship investigating the Global Compacts’ relationship to international migration’s other international rights and obligations. Connections are obvious in cases where the global commitments absorb treaty law, custom or general principles of law (Farahat and Bast, 2022). Secondly, as soft law, the GCM deploys different legal, non-legal and informal effects domestically (Kälin, 2018). Hence, how far national laws and regulations have gone in the implementation of specific international laws depends on how far they have designed these as politically binding or legally constraining (Desmond, 2023). For example, states protecting the human rights of migrant workers, by virtue of having signed the ICRMW, will not be required to pay tribute to the GCM mirroring the ICRMW *acquis*, but those states who are non-ICMWR signatories may be nudged in the direction of ratifying the convention.

At the same time, migrant-hosting states may endorse soft law disingenuously, as a negotiating strategy to re-ascertain sovereign control over their borders (Desmond, 2022) or to appease dissonance among groups or countries over the direction of migration policy, as was the motive for the EU to sponsor the GCM in the (failed) hope that its norms would trickle down and unify the Visegrad group and other member states clashing with the EU Commission’s migration policy (Panizzon and Van Riemsdijk, 2019; Badell, 2021). Under this view of the GCM, human rights, *non-refoulement* and labor standards get wrought out because the GCM has failed to sufficiently incorporate or expressly refer to already existing legally binding sources (WTO GATS, ICMWR, bilateral labor agreements, preferential trade agreements). In more than one way, this soft law of the GCM’s provisions on labor (Objective 5) is considered antagonistic to legally binding norms (Guzman and Meyer, 2010), but was part of the compromise out of which the GCM was born: whilst the global South agreed to the existence of a duty of intergovernmental cooperation on return/readmission of nationals (Vitiello, 2022), the global North would agree, under the GCM, to subject the entirety of their

migrant integration and inclusion policies – a former stronghold of domestic policy – to the scrutiny of the IMRF (Squeff, 2021). Yet, the global North, to ward off an even deeper incision on their national integration policies, refused to vote in favor of a legally binding quality of the GCM's negotiated text and instead of adoption and ratification, the GCM was merely “endorsed.” Because the GCM had to absorb such “high politics” of migration (van Riemsdijk and Panizzon, 2022), including the global South pressing for lower remittances transfer costs, while a majority of countries called to keep their sovereign leeway intact, to tackle irregular migration through arbitrary border management and administrative detention practices, intrusive health checks and data collection, the soft solution seemed adequate (Panizzon and Jurt, 2023). In both cases, the soft law outcome watered down any potentially legally binding character of the GCM, even if the IOM was installed to keep a minimum of oversight on human rights, good governance and the rule of law (Guild et al., 2022). In the final analysis, the antagonistic, strategic use of soft law by the global North reveals that how “soft” a commitment of the GCM turns out to be becomes a question of political will and intention.

Precisely how constraining states take the political commitments of the GCM to be for their legal order, particularly when the GCM quotes UN human right treaties *verbatim*, is discussed by several authors in this Research Topic. Others are guided by the rationalist approach which extracts out of the thematic session's preparatory materials and the IMRF outcome documents the answers of why states may object to binding commitment. Whilst the GCM and the GCR offer the opportunity to review the constructivist soft-to-hard law *continuum*, what really helps to topple this dominant strand of theorization about soft norms are regional actors, including the EU practices of informalizing readmission agreements or visa relaxation agreements, conditioning sending countries into quasi-legal pacts and compacts. Combining the doctrine about sources of law with insights into the negotiation of the GCM and its implementation domestically, our authors, adopting mostly a constructivist and, at times, behavioral approach, redraw the international legal map of influence: from informalization to an essentialization of law, as being distinct from quasi-legal formats.

More specifically, the articles in this Research Topic show why the Compacts must be read in the context of the multiple layers of law and (non-state) actors, which explains the unparalleled momentum of consolidation occurring within UN-led migration and refugee governance, many of which succeed to “undercut sovereigntist, elitist” norms in migration law-making (Kysel and Thomas, 2020). Whereas, the rationalist interrogation of the GCM abides by “no state can manage migration alone” (GCM, para. 7) and morally justifies collective action as antipode to state sovereignty, conflict theorists (the other being structuralism and interactionism), see states competing with each other over migration's scarce resources (high skilled labor, provision of refugee protection, refugee resettlement; Lutz et al., 2020). Hence, if Global Public Goods (GPG) theory strengthens the call for global migration governance (Brumat et al., 2023), the same GPG by analogy, explains the soft/hard law dichotomy shaping the global law of people on the move: with soft law and informal law-making reserved for policy areas which elude a global public good quality,

e.g., policies and laws aimed at irregularly staying migrants, the question of remittances on the one hand, with the legally binding norms protecting rights and securing migrant labor, on the other.

Thus, several authors focus on the effects of hard and soft law intertwining. Arnold-Fernandez challenges the view that the GCR positively supplements the Refugee Convention. The author argues that the Global Compact raises serious challenges from a human rights perspective due to its limited focus on the rights of refugees. The author argues that, instead, the Global Compact promotes the rights and interests of states, thus distancing international obligations from the protection of human rights in favor of state sovereignty. Arnold-Fernandez suggests this is particularly problematic because the GCR, whilst soft law, is increasingly being utilized by practitioners as the “centerpiece of multilateral dialogue” regarding states' obligations vis-a-vis refugees and migrants.

Kane on the other hand, focusses on the role that “state empowered entities” (SEEs) play in the development of anti-trafficking laws. The author underpins this analysis by challenging the binary distinction between “hard” and soft law, and views “soft” law as fulfilling “a variety of legal and para-legal functions to reinforce and supplement hard law” (Chetail, 2019, p. 283). In so doing, Kane argues that SEEs play an important role in the operationalisation of anti-trafficking law through norm creation, interpretation, and enforcement. In particular, through their empowerment by States to make and shape international law, SEEs provide interpretative clarity on the nature and scope of anti-trafficking laws that intersect protection challenges.

Other authors are critical of states' implementation of the Compacts, despite mechanisms in place to monitor implementation. Chetail visualizes the GCM as soft law from within the broader frame of public international sources of law. Whereas its stated aim is to de-politicize international cooperation on migration by agreeing on a common set of principles, its relationship to binding law suffers from an inoperability, which is deadlocking states into the same tensions that prevented a legally binding outcome of the GCM negotiations. Yet, the IMRF could recalibrate the commitments, even if it has, so far, done little to reign in states' self-reporting practices from becoming overly promotional, and turning a blind eye to the various abstentions by states from self-assessing their practice on migrants' human rights, detention or border management. Yet, despite COVID-19 border closures and travel bans triggering more, rather than less, discriminatory practices, the IMRF still holds the promise to reconcile the soft/hard law conundrum.

Meanwhile, Atak et al. adopt a case study approach to identify a lack of compliance with the standards contained in the Global Compacts in the areas of detention, access to asylum and healthcare in Canada, the EU and South Africa. They consider whether the Compacts' review mechanisms have the capacity to address and rectify these shortcomings. Through an analysis of the relevant review documents, they show that the current review process functions to obscure the problems in Compact implementation by focusing on broad topics and general recommendations and spotlighting positive developments, while side-lining civil society. As such, a new function of these soft law instruments appears to be a concealment of the implementation gap. Atak et al. suggest that

this problem could be addressed by giving greater ownership of the review process to civil society.

Yet another angle considers the functions of soft law. Thus, according to Frasca, not all soft law is actually law. Frasca undertakes a phenomenological differentiation of soft law, which distinguishes among the legal precept of “informal agreements” and the policy construct of “quasi-legal mechanisms” of certain migration policies and measures. Combining the findings of public international lawyers with those of specialists in the field of EU migration law within Africa-EU relations, she derives a structural argument by which to frame soft legal functionalities, like quasi-law, amount to mechanisms of “legal influence” also practiced under the cover of “conditionality.” Her essentialization of soft law formats, e.g., standard operating procedures or common agendas on migration and mobility, is tested in the field of the EU’s repeated extraneous application of development aid, legal pathways, education and return policies on the African continent. She asserts that the permissive interpretative space which the commitments of the GCM seemingly left to states to take or leave, pick and choose the meaning-making most suitable to fulfill their own interests, is abused by the EU to justify its pursuit of a containment policy against irregular migrants which is at odds with the different openings the GCM consolidates for international migrants, including legal pathways and education.

Similarly, Oelgemöller investigates functions of soft law by conceiving of the GCM and other mobility-related soft law norms as obstacles to freedom of movement and the right to leave in the ECOWAS area. Whereas hard law instruments uphold the right to leave any country, Oelgemöller traces how soft law instruments promote a different understanding of the right to leave, which is limited to particular persons, purposes, and a certain geographical area. Drawing on interviews with policy-makers, she identifies how soft law, promoted by international organizations and European donor countries, shapes ideas about controlling – and preventing – the “potential migrants” mobility.

## References

- Achieme, E. T. (2019). Migration as decolonization. *Stand. Law. Rev.* 71, 1509–1574.
- Badell, D. (2021). The EU, migration and contestation: the UN global compact for migration, from consensus to dissensus. *Global Affairs* 6, 347–362. doi: 10.1080/23340460.2020.1871301
- Boyle, A., and Chinkin, C. (2007). *The Making of International Law*. Oxford: OUP Oxford.
- Brumat, L., Vélez, D. C., and Pachocka, M. (2023). *The Role of International Organizations in Global Migration Governance: Sustainable Development as a Strategy for Extending Global Public Goods*. *Global Public Goods and Sustainable Development in the Practice of International Organizations*. London: Brill, 85–106.
- Brus, M. M. (2018). *Soft Law in Public International Law: A Pragmatic or a Principled Choice? Comparing the Sustainable Development Goals and the Paris Agreement*. Cham: Springer International Publishing, 243–266.
- Bufalini, A. (2019). The global compact for safe, orderly and regular migration: what is its contribution to International Migration Law? *Question Int. Law*. Available online at: <http://www.qil-qdi.org/the-global-compact-for-safe-orderly-and-regular-migration-what-is-its-contribution-to-international-migration-law/>
- Chetail, V. (2019). *International Migration Law*. Oxford: OUP. Available online at: <https://opil.ouplaw.com/display/10.1093/law/9780199668267.001.0001/law-9780199668267>
- Cholewinski, R. (2020). The ILO and the global compact for safe, orderly and regular migration: labour migration, decent work and implementation of the compact with specific reference to the arab states region. *Int. J. Law Context* 16, 304–320. doi: 10.1017/S1744552320000336
- Crawford, E. (2022). *Non-Binding Norms in International Humanitarian Law: Efficacy, Legitimacy, and Legality*. Oxford: Oxford University Press.
- Desmond, A. (2022). “The return directive: clarifying the scope and substance of the rights of migrants facing expulsion from the EU” in *Handbook of Return Migration*, eds R. King and K. Kuschminder (Cheltenham, UK: Edward Elgar Publishing), 137–152.
- Desmond, A. (2023). From migration crisis to migrants’ rights crisis: The centrality of sovereignty in the EU approach to the protection of migrants’ rights. *Leiden J. Int. Law*. (2023) 36, 313–334. doi: 10.1017/S0922156522000759
- Fajardo del Castillo, T. (2020). The global compact for safe, orderly and regular migration: a soft law instrument for management of migration respecting human rights. *Paix Sec. Int’l* 8, 51. doi: 10.25267/Paix\_secur\_int.2020.i8.03
- Farahat, A., and Bast, J. (2022). A global view on the Global Compact for Migration – Introduction, Verfassung und Recht in Übersee. *World Comp. Law* 1, 3–18. doi: 10.5771/0506-7286-2022-1
- Gammeltoft-Hansen, T., Guild, E., Moreno-Lax, V., Panizzon, M., and Roele, I. (2017). *What is a Compact? Migrants’ Rights and State Responsibilities Regarding the*

## Author contributions

MP: Writing – original draft, Writing – review & editing. KA: Writing – original draft, Writing – review & editing. MG: Writing – original draft, Writing – review & editing.

## Funding

The author(s) declare that no financial support was received for the research, authorship, and/or publication of this article.

## Acknowledgments

We would like to thank all authors who have contributed to our Research Topic and we would also like to express our gratitude to all the scholars who have agreed to act as anonymous reviewers for all the contributions in this Research Topic.

## Conflict of interest

The authors declare that the research was conducted in the absence of any commercial or financial relationships that could be construed as a potential conflict of interest.

## Publisher’s note

All claims expressed in this article are solely those of the authors and do not necessarily represent those of their affiliated organizations, or those of the publisher, the editors and the reviewers. Any product that may be evaluated in this article, or claim that may be made by its manufacturer, is not guaranteed or endorsed by the publisher.

- Design of the UN Global Compact for Safe, Orderly and Regular Migration*. Available online at: <https://ssrn.com/abstract=3051027>
- Gruchalla-Wesierski, T. (1984). Framework for understanding soft law, A. *McGill LJ* 30, 37.
- Guild, E., Allinson, K., and Busuttill, N. (2022). The UN global compacts and the common European asylum system: Coherence or friction? *Laws* 11, 35. doi: 10.3390/laws11020035
- Guild, E., Basaran, T., and Allinson, K. (2019). From zero to hero? An analysis of the human rights protections within the global compact for safe, orderly and regular migration (GCM). *Int. Migr.* 57, 43–59. doi: 10.1111/imig.12609
- Guzman, A. T., and Meyer, T. L. (2010). International soft law. *J. Legal Anal.* 2, 171–225. doi: 10.1093/jla/2.1.171
- Höflinger, T. (2020). Non-binding and therefore irrelevant? The global compact for migration. *Int. J.* 75, 662–672. doi: 10.1177/0020702020975108
- Kälin, W. (2018). The global compact on migration: a ray of hope for disaster-displaced persons. *Int. J. Ref. Law* 30, 664–667. doi: 10.1093/ijrl/eyy047
- Klabbers, J. (1996). *The Redundancy of Soft Law. Sources International Law*. London: Routledge, 189–204.
- Koinova, M., Deloffre, M. Z., Gadinger, F., Mencutec, Z. S., Scholte, J. A., Steffek, J., et al. (2021). It's ordered chaos: what really makes polycentrism work. *Int. Stu. Rev.* 23, 1988–2018. doi: 10.1093/isr/viab030
- Krisch, N. (2014). The decay of consent: international law in an age of global public goods. *Am. J. Int. Law* 108, 1–40. doi: 10.5305/amerjintlaw.108.1.0001
- Kysel, I. M., and Thomas, C. (2020). The contested boundaries of emerging international migration law in the post-pandemic. *Am. J. Int. Law* 114, 349–353. doi: 10.1017/aju.2020.67
- Lutz, P., Kaufmann, D., and Stünzi, A. (2020). Humanitarian protection as a European public good: the strategic role of states and refugees. *JCMS* 58, 757–775. doi: 10.1111/jcms.12974
- Molnár, T. (2020). The EU shaping the global compact for safe, orderly and regular migration: The glass half full or half empty? *Int. J. Law Context* 16, 321–338. doi: 10.1017/S174455232000035X
- Morgera, E., and Lennan, M. (2024). “Ensuring mutual supportiveness of the Paris agreement with other multilateral environmental agreements: a focus on ocean-based climate action (June 17, 2023),” in *Research Handbook on the Law of the Paris Agreement*. Available online at: <https://ssrn.com/abstract=4482946>
- Newland, K. (2017). *The Global Compact for Migration: How Does Development Fit In?* Washington, DC: Migration Policy Institute. Available online at: [https://www.migrationpolicy.org/sites/default/files/publications/GlobalCompactForMigration-Brief1\\_FINALWEB.pdf](https://www.migrationpolicy.org/sites/default/files/publications/GlobalCompactForMigration-Brief1_FINALWEB.pdf)
- OHCHR (2018). *OHCHR Informal Analysis of the Global Compact for Migration – Final Draft*. Available online at: <https://www.ohchr.org/sites/default/files/Documents/Issues/Migration/GCMInformalAnalysis.pdf>
- Panizzon, M., and Jurt, L. (2023). Through the looking-glass: the IOM recasting the safe, orderly and regular migration narrative at the UN and in West Africa. *Geopolitics* 12, 1–32. doi: 10.1080/14650045.2023.2212239
- Panizzon, M., and Van Riemsdijk, M. (2019). Introduction to special issue: migration governance in an era of large movements: a multi-level approach. *J. Ethnic Migr. Stu.* 45, 1225–1241. doi: 10.1080/1369183X.2018.1441600
- Pécoud, A. (2021). Narrating an ideal migration world? An analysis of the Global Compact for Safe, Orderly and Regular Migration. *Third World Q.* 42, 16–33. doi: 10.1080/01436597.2020.1768065
- Shaffer, G. C., and Pollack, M. A. (2010). Hard vs. soft law: alternatives, complements, and antagonists in International Governance. *Minn. Law Rev.* 491. Available online at: <https://scholarship.law.umn.edu/mlr/491>
- Shelton, D. (2009). *Soft Law. Routledge Handbook of International Law*. London: Routledge, 68–80.
- Squeff, T. C. (2021). Overcoming the “coloniality of doing” in international law: soft law as a decolonial tool. *Revista Direito GV* 17, e2127. doi: 10.1590/2317-6172202127
- van Riemsdijk, M., Marchand, M. H., and Heins, V. M. (2021). New actors and contested architectures in global migration governance: continuity and change. *Third World Q.* 42, 1–15. doi: 10.1080/01436597.2020.1857235
- van Riemsdijk, M., and Panizzon, M. (2022). A collective commitment to improving cooperation on migration: analysis of a thematic consultation session for the global compact for migration. *Third World Q.* 43, 2169–2187. doi: 10.1080/01436597.2022.2083600
- Vitiello, D. (2022). Comprehensive approaches in the global compact for migration and the EU border policies: a critical appraisal. *Laws* 11, 78. doi: 10.3390/laws11050078