

• ABSTRACTS •

Patrick CHAUMETTE

*Professor, University of Nantes,
Principal Investigator of Human Sea Programme
Former Director of the Centre de droit maritime et océanique (CDMO)*



Chair of the Morning Session: Interactions between International Law and European Law

Serge BESLIER



*Honorary Director of the European Commission
Chief Administrator of Maritime Affairs (UE Retired)*

The EU contribution to the structuration of an international legal order for maritime governance

On the one hand, ocean governance is about collective management of lordless areas, by States, within the inter-governmental framework of the United Nations. On the other hand, the UE is a supranational Organisation based on differentiated integration. These two systems aim for an overarching approach of oceans regulation.

The ocean governance is principally regulated by the UN Convention on the Law of the Sea of 1982 and its two implementing agreements: one relating to the implementation of Part XI of the Convention and another one dealing with the conservation and management of straddling and highly migratory fish stocks. A third implementing agreement on the conservation and sustainable use of marine biological diversity of areas beyond national jurisdiction is now being negotiated within the United Nations.

The shortness of the presentation will not make it possible to discuss the other instruments concerning the oceans governance, whether they are agreements concluded within the International Maritime Organisation (IMO), the Food and Agriculture Organisation of the United Nations (FAO) or the International Seabed Authority. The case of the Regional Seas Programmes adopted within the framework of the United Nations Environment Program or the Regional Fisheries Management Organisations will not be addressed even if the European Union plays an important role in some of them.

The agreement on fisheries and the draft agreement on the conservation and sustainable use of marine biological diversity appear to be good illustrations of the negotiation process of international conventions within the United Nations, and of the particular role played by the European Union. Such examples also allow to notice the growing influence that NGOs are having in international forums.

The idea of a United Nations fisheries agreement was launched by Canada at the 1992 Earth Summit in Rio de Janeiro. It originated from a dispute related to the exploitation of fish stocks in the Northwest Atlantic between Canada and the European Union. Negotiations lasted for three years and were carried out mainly by States. They have been intensive both between the Member States of the European Union and between them and the rest of the world.

The idea of an agreement on marine biodiversity was defended in 2002 by two NGOs during the UN General Assembly session, against bottom trawling activities. The debate was reoriented towards the protection of the marine environment from 2006, largely thanks to the influence of the European Union in line with the development of the integrated maritime policy. It was not until 2015 that the General Assembly adopted a resolution contemplating the possibility of a legally binding agreement. Negotiations are far from being completed.

Danilo GARCIA-CACERES

*PhD in Law, University Paris I (Panthéon-Sorbonne)
Lecturer, Central University of Ecuador
Research Fellow (Human Sea Programme)*



European Union's action at sea and protection of Human Rights

The protection of human rights in the context of the actions taken by the European Union at sea focuses at first, the responsibility of States and the international community as a whole, as well as the efforts taken by the European Union to develop international law towards ocean governance.

Although the actions of the European Union are not part of a single legal framework and the actors implementing them come from a number of sectors, it is necessary to consider the close relationship between the law of the sea (including the United Nations Convention on the Law of the Sea) with international human rights law (IHLL) and international humanitarian law (IHL), representing two distinct and complementary legal corpuses, which would then analyze the obligations of States and the European Union to protect individuals.

Issues such as the increase in number of armed conflicts around the world that multiply migratory models towards Europe, the European ecological transition (more specifically concerning renewable marine energies), as well as the new human activities at sea, require a legal analysis that allows us to answer the question of whether the action at the sea of the European Union is respectful with the legal postulates of human rights. Or, on the other hand, is it utopian in a reality that may exceed the capacity of European institutions?

In this way, the present study opens the reflection of the rights and obligations of Member States of the European Union in their mutual relations and common objective for the protection of human rights. The rights of Member States of the European Union should be legally translated into its political commitments; and the international obligations of the same States must be performed in good faith.

Federica MUSSO

*PhD in Law, University of Macerata
Lecturer, University of Macerata
Invited Research Fellow (Human Sea Programme)*



The EU Operation Sophia and the role of the UN Security Council

In order to fight against migrant smugglers in the Mediterranean, the European Union, acting under the Common Security and Defence Policy, has established EUNAVFOR MED Operation Sophia, a naval mission empowered to adopt measures involving the use of armed force. The United Nations Security Council, exercising its powers in the field of the maintenance of international peace and security, has authorized only a partial implementation of the operation, preventing it from operating in the Libyan sea areas.

Such an authorization to use force has been expressed in an atypical manner. The Security Council does not qualify the smuggling of migrants off the coast of Libya as a threat to international peace, although the "threat to peace" under Article 39 of the UN Charter is a vague and elastic concept. Moreover, only a restricted use of force has been authorized insofar as the formula "all necessary measures" is replaced by the formula "all means commensurate to the specific circumstances".

The prudent approach taken by the Security Council, in the determination of both the circumstances authorizing the exercise of coercive powers and the extent of the authorized power to use force, can be explained by the scenario the Council is faced with: the repression of an illicit activity which takes place at sea and involves migrants, thus requiring a balance between the law of the sea, the human rights law and the collective security.



Henrik RINGBOM

Professor II, Scandinavian Institute of Maritime Law,
University of Oslo
Adjunct Professor, Åbo Akademi University, Turku

Former Head of Unit for Marine Environment, Training and Statistics at EMSA (Lisbon, 2007-2012)
Former Administrator at the Maritime Safety Unit of the European Commission (Brussels, 1997-2003)

The Dynamism between the EU and the IMO

The presentation focuses on the relationship between the main global legislator in the maritime domain, the IMO, and one of the key regional groupings, the EU. The relationship is legally interesting in view of the privileged position as a regulator that IMO is given under the law of the sea and the EU's ambition to be a maritime regulator for any ship visiting the Union. The talk focuses on areas where tensions have arisen in the past few decades, in the field of legislation as well as enforcement of the rules, but will also discuss the EU's future.

Peter LANGLAIS

PhD in Law, Université Paris II (Panthéon-Assas)
Teaching Assistant, University of Nantes
Invited Research Fellow (Human Sea Programme)



EMSA – Diversification of its missions and strengthening of its operational capacities: the limits of the European maritime integration

The creation of a specialised Agency allows a clear identification of a European policy, by giving it institutional visibility and appropriate expertise. It results from a compromise between the impetus for integration brought by pragmatism on the one hand, and the existential reluctance of national authorities to entrust powers to new entities, which might escape their control on the other hand.

EMSA is no exception; the internal institutional complexity of the national maritime administrations as well as the human, economic and environmental stakes of maritime safety issue make it a special theatre of these tensions. Its creation in response to the sinking of the Erika, then the expansion of its missions and the consolidation of its resources, went balanced by a strengthened control of the national authorities on its activities. With limited autonomy, the Agency appears to be an interface of cooperation between the national maritime administrations and between them and the institutions of the European Union.

If EMSA could originally be seen as the spearhead of an emerging European maritime administration, this tends now to be based on a three-pole structure where Frontex may become the keystone, in response to the migratory crisis.

Chahira BOUTAYEB

Lecturer with Accreditation to Supervise Research in Public Law,
University Paris I (Panthéon-Sorbonne)

Chair of the Afternoon Session: the Operational Cooperation through the European Agencies



Gaëtan BALAN

Phd Candidate, University of Nantes
(Human Sea Programme)
Teaching Assistant, University of Nantes



The coastguard function in the European Union: an inter-agency implementation

EU member States traditionally assumed their coast-guard mission through the police forces, army or a specific administration such as the US Coast Guard. This presentation will deal with the three main missions – i. e. search and rescue, regulation of maritime activities and prevention of risks at sea – at European Union level. It will particularly focus on the fight against illicit maritime drug trafficking, IUU fishing, migrant smuggling by sea and maritime terrorism. This set of risks has become a reality that the Union has to face today.

Recently, a European Border and Coast Guard was created to ensure safety and security all over the European maritime area: it is handled by Frontex, assisted by the European Maritime Safety Agency (EMSA) and the European Fisheries Control Agency (EFCA), in cooperation with the national maritime administrations.

Carole BILLET

PhD in Law, University of Rennes
Lecturer, University of Nantes



Frontex liabilities: persistent uncertainties

Frontex's liability has already received much attention, but it still is a relevant issue. Although it has been a central point of attention during the reform process that led to the creation of a European Border and Coast Guard, many questions remain unanswered. This Communication aims to identify the persistent uncertainties both in terms of the Agency's political responsibility towards the EU institutions and the new concept of 'shared responsibility' with the Member States and its potential implementation within the framework of the protection of fundamental rights and the new complaint mechanism.

Round-table – Towards a new European maritime governance: what particular challenges?



Pascal SAVOURET

Executive Director of the European
Fisheries Control Agency (EFCA),
Vigo.



Vytautas LUKAS

Operational Officer, Sea Border
Sector, Joint Operations Unit -
Operations Division, European
Border and Coast Guard Agency
(Frontex), Warsaw.



Willem de RUITER

Former Executive Director of the
European Maritime Safety Agency
(EMSA), Special Adviser, Foresight
International Policy and Regulatory
Advisers (FIPRA), Brussels.