



ESIL Interest Groups ‘The EU as a Global Actor’ and ‘Migration and Refugee Law’

Joint Colloquium

The EU as an (Imperfect) Global Actor in Search and Rescue at Sea? – EU (in)Action in Troubled Waters

7 November 2024

[online event]

-- CALL FOR PAPERS --

The European Society of International Law (ESIL) Interest Group ‘The EU as a Global Actor’ (IG EUGLOBAL), in partnership with the Interest Group on Migration and Refugee Law (IG MigRefLaw), organises an **online workshop on 7 November 2024 (Thursday)** on various facets of search and rescue (SAR) of people in distress at sea. The topic lies at the intersections of various branches of international law and EU law, such as human rights law, migration/refugee law, law of the sea, and international criminal law.

Assisting people in distress at sea is a duty of all States and shipmasters under international law. Key maritime SAR provisions are set out in the 1974 International Convention for the Safety of Life at Sea (SOLAS), the 1979 International Convention on Maritime Search and Rescue (SAR Convention), and the 1982 UN Convention on the Law of the Sea (UNCLOS) – to which the EU itself is also party. A rescue operation terminates only when survivors are delivered to a ‘place of safety’, which should be determined taking into account the particular circumstances of the case, as specified by the 2004 amendments to the SAR Convention adopted by the International Maritime Organisation (IMO).

Zooming in on the EU context, for maritime border surveillance operations coordinated by the European Border and Coast Guard [EBCG] Agency (Frontex), the EU Sea Borders Regulation (Regulation (EU) No. 656/2014) incorporates the obligation to render assistance at sea and to rapidly identify a place of safety where rescued people can be disembarked in compliance with human rights and the principle of *non-refoulement*. This prohibits disembarkation of rescued persons in a country where there is a risk of torture or ill-treatment, irrespective of any request for asylum by the rescued individuals. The EBCG Regulation (Regulation (EU) 2019/1896) equally echoes SAR duties in the context of Frontex coordinated joint operations – and so do some of the new instruments adopted under the EU Pact on Migration and Asylum.

The obligation to save lives at sea requires States – and other contracting parties such as the EU – to deploy or arrange for the necessary SAR capacities. Still, practice shows that there is inadequate SAR capacity deployed by either Member States or EU entities such as Frontex or the military operation EUNAVFOR MED IRINI. Hence NGOs deploying SAR assets chipped in to (at least partially) fill in missing rescue capacities from coastal States. This move, however, has in the past years prompted certain EU countries to criminalise search and rescue efforts in the Mediterranean Sea carried out by NGOs and to take various measures against such non-state entities – with one of the reasons being facilitating irregular migration.

Although the European Commission issued recommendations on the [interpretation of the optional humanitarian exemption clause](#) under EU anti-smuggling law as well as [on cooperation among Member States concerning SAR operations carried out by private vessels](#), coupled with a [new legal proposal](#) to

revamp the EU ‘facilitators package’, legal uncertainties remain and grey zones in practices out there prevail. Some even contend that EU law, policy and practices undermine globally agreed standards as stemming from international (hard and soft) law. Recently, a [coalition of civil society organisations](#) also called for the EU not to be complicit in the loss of lives at sea at its external borders.

Against this backdrop, this joint IG colloquium seeks to shed light on and drill down into the possible tensions between EU actions and international legal standards governing SAR, including the ways by which EUs ‘[lethal disregard for desperate people](#)’ runs the risk of being replicated by other regions and coastal countries, undermining thus the coherence and effectiveness of applicable international law.

The IG EUGLOBAL and the IG MigRefLaw, acting as the organisers of this colloquium, welcome proposals for papers addressing mainly (but not limited to) the **following themes**:

- Regime interactions at the crossroads of multiple substantive areas of law (human rights law, law of the sea, migration/refugee law, international criminal law etc.): is there a room for an integrated and harmonised approach?
- Regime interactions in context: maritime migration and the performance of SAR operations in multi-actor situations: the EU leading (or not) by example?
- Questions of international responsibility of the EU (and its agencies) in the context of maritime search and rescue: the power of ARIO and beyond.
- Is there an implied duty of the EU to adopt legislation sanctioning failure to rescue at sea?
- The Court of Justice of the EU and its emerging case law on SAR at sea: a way of reconciling competing standards stemming from different legal orders?
- State interference with private rescue operations at sea: what role for the EU in countering that?
- NGOs deploying SAR assets at sea: duty-bearers and rights-holders at the same time – ensuing challenges.
- Disembarkation at a ‘place of safety’ and the right of entry to port: the quest for finding the missing elements of this concept under international and EU law.
- The duty to investigate migrant shipwreck incidents under international law and EU law: Union standards as the blueprint for global expansion?
- Towards EU’s ‘good global actorness’: a more coordinated EU approach to SAR under the new EU Pact on Migration and Asylum?
- The EU and other international organizations (UNHCR, IMO, IMO) engaged with SAR at sea: frictions or convergence?

The organisers invite submissions of abstracts, written in English or French, of no more than **600 words**. Applications should be submitted to euglobalactor@gmail.com by **21 July 2024 (Sunday) 24:00h CET**, with a short curriculum vitae containing the author’s name, institutional affiliation, contact information (e-mail and phone number), and whether the applicant is an ESIL member. Selected speakers will be notified **by 1 August 2024** via e-mail.

The selected speakers have to send extended abstracts of up to 3000-3500 words, by **1 October 2024** at the latest. These will be circulated amongst the panellists prior to the colloquium. The organisers are keen to explore suitable ways to publish the papers after the workshop.

The IG EUGLOBAL Coordinating Committee

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