

Migration crisis on the maritime routes: international law issues

When: 14th November 2018 from 14:15 to 16.00

Location: University of Oslo Law Faculty, Karl Johans gate 47, Domus Media West, Lødrups kjeller

Speakers:

Kristina Siig (University of Southern Denmark), Fenella Billing (University of Aalborg), Birgit Feldtmann (University of Aalborg)

The EU's response to the North African migration crisis generates controversy as irregular migrants continue to die in the Central Mediterranean while states struggle to prioritise maritime security interests and fight migrant smugglers at the same time as upholding humanitarian and safety obligations. Influenced by the jurisprudence of the European Court of Human Rights on the extraterritorial application of *non-refoulement* to rescue of survivors on the high seas, the dilemma has revealed itself in various related contexts. States must resolve the issue of where to disembark refugees and other irregular migrants following search and rescue operations at sea. Assisting merchant vessels also grapple with the problem of realizing speedy and safe disembarkation while following the counter-instructions of coastal states to disembark survivors in countries such as Libya – states circumventing *non-refoulement* by proxy. Moreover, states' efforts to return migrants result in the humanitarian involvement of NGOs such as Médecins San Frontières or Seawatch being blocked by zonal and responsibility disputes, even to the point of threats of violence or prosecution. The situation of migration in the Central Mediterranean thus lies at the centre of a complex international legal overlap involving the law of the sea, transnational criminal law cooperation, international human rights and refugee law and the law of state responsibility.

In addition to presentations, there will be time for discussion and questions.

The seminar is open and free for all but we ask you to register by 10th November for planning reasons.

Programme:

Professor (mso) Birgit Feldtmann, Aalborg University

Introduction to PolSEA and to UNCLOS as a system of regulation & methodology

- Introduction to the PolSEA-project
- A new methodological approach to law of the sea
- Our work package on migration and LOS

NGOs and the duty to render assistance

- The starting point: The duty to render assistance
- NGO's and the duty to render assistance
- Criminalisation of NGO's attempts to save lives at sea
- Other approaches to get NGO's out of the Mediterranean Sea

Questions&discussion

Postdoc. Fenella Billing, Aarhus University

EU member states' obligations in rescuing migrants

- The nature of rescue in the Central Mediterranean
- The 'place of safety' debate
- Balancing LOS and IHRL obligations
- Recent EU-Libya cooperation circumventing *non-refoulement*?

Questions&discussion

Professor (mso) Kristina Siig, University of Southern Denmark

Merchant vessels

- The legal nature and extent of the SAR-responsible state's order to render assistance
- Establishing protected status? Breach of *non-refoulement* by proxy
- Reflections on state responsibility – application of the effective control doctrine or simply a case of circumvention?

Questions&discussion

Bios:



Birgit Feldtmann is a professor (mso) in *criminal law, criminal procedure and international law enforcement* at the Department of Law, Aalborg University. Her professional expertise is in particular on the inter-play between criminal law/criminal justice, human rights and international law with special focus on cross-border and international law enforcement, including law enforcement at sea. She is currently Head of the cross-disciplinary DFF2-research project "*Policing at Sea (PoISEA)*" under the Independent Research Council of Denmark (*Danmarks Frie Forskningsfond*). Since 2013, she has been involved in the work of the *Contact Group on Piracy off the Coast of Somalia (CGPCS)* as a legal expert and is a pro-bono technical expert with DIGNITY – Danish Institute against Torture.



Fenella M. W. Billing is originally from Australia with a background in criminal law. Her core research interest is transnational law enforcement and human rights. In 2014, she defended her PhD thesis at the University of Southern Denmark in Odense, about the right to silence in transnational criminal proceedings. Fenella is currently a Postdoc Research Fellow with the INTRALaw at Aarhus University, Denmark, with two lines of research. She is part of the PoISEA research project (Policing at Sea) funded by the Danish Independent Research Fund (Danmarks Frie Forskningsfond). Fenella's area of expertise is researching migration and the Law of the Sea. She is also examining the principle of mutual trust in international cooperation under EU law.



Kristina Siig is a professor (WSR) of private law and maritime law at the University of Southern Denmark. She obtained the degree of Doctor Juris from the Scandinavian Institute of Maritime Law in Oslo in 2003 on a thesis on international commercial arbitration.

She is the leader of the Private Law Research Group at the Department of Law at the University of Southern Denmark and the leader of the cross-faculty research cluster Blue SDU, also at the University of Southern Denmark.

She specializes in maritime law and the law of the sea from an inter-disciplinary perspective.

She is an external lecturer at the Scandinavian Institute of Maritime Law, where she teaches parts of the master course on maritime contracts.