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Europa Institute

**ILS** Interaction  
between  
Legal Systems



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ORGANISED BY:

Europa Institute, Leiden University

(Research focus area 'Interaction between legal systems', Research project 'Policing the high seas')

IN COOPERATION WITH :

ESIL Interest Group on the EU as a Global Actor

ESIL Interest Group on Migration and Refugee Law

ESIL Interest Group on International Human Rights Law

ESIL Interest Group on the Law of the Sea

## **The EU as a Global Actor in Maritime Security**

**Competences — Obligations — Accountability**

**CALL FOR PAPERS**

### **THE TOPIC**

A secure global maritime domain in which freedom of navigation is guaranteed, marine resources and the environment are protected, and the rule of law is upheld is essential for international prosperity and peace. Ensuring maritime security involves combating threats posed by illicit activities, such as piracy against ships, drug trafficking, smuggling and trafficking in human beings, or illegal fishing, as well as by natural disasters, climate change, or conflict in and around coastal regions.

The EU has become increasingly active in this area. In 2014, the EU adopted a common framework for the development of a European response to maritime threats. This *Maritime Security Strategy* aims at enhancing the visibility of the EU in the global maritime domain by mainstreaming maritime security into EU policies as well as EU external relations. Involved in implementing the *Maritime Security Strategy* are not only the EU institutions and the Member States, but also more specialised bodies, such as the European Maritime Safety Agency (EMSA), the European Fisheries Control Agency (EFCA), or the European Border and Coast Guard Agency (EBCGA, commonly referred to as Frontex).

Activities by the EU include a broad range of measures spanning various internal policies as well as the Common Foreign and Security Policy (CFSP). As a global actor in maritime security, the EU for example cooperates with and supports relevant third states. It, for instance, assists states around the Gulf of Guinea to strengthen their maritime capabilities and provides financial assistance and training to the Libyan Coast Guard. The EU also set up various frameworks for information sharing such as the Common Information Sharing Environment for the Maritime Domain (short 'CISE'), which aims at progressively interlinking existing information systems to facilitate rapid information sharing. In addition, the EU itself conducts maritime enforcement or similar operations. Among these are, in particular, two naval operations in the framework of the European Security and Defence Policy: EU NAVFOR Somalia ('Operation Atalanta') aimed at protecting vessels around the Somalian coast from pirates and the more recent EU NAVFOR MED ('Operation Sophia') aimed at disrupting the business model of human smuggling and trafficking networks in the Southern Central Mediterranean. In addition, the latest joint border control operations at sea, 'Themis', carried out under the auspices of Frontex, has an explicit mandate to combat cross border crime in the Central Mediterranean.

The aim of the conference is to explore what competences the EU has to act in the maritime domain, what obligations it is bound to when doing so, and how judicial oversight over these activities can be ensured. Studying the EU's competences, obligations, and accountability in this respect informs the broader question of whether the EU, being neither a state nor a classic international organisation, has a role to play in the global maritime domain and how that role could be shaped.

## **I. Competences**

The sea is a unique territorial regime in which the sovereign powers of coastal states decrease as the distance to their shores increases, no state being entitled to claim sovereignty over any part of the high seas. It is thus for the international community as a whole, including the EU, to ensure maritime security. However, EU constitutional law as well as public international law pose limits on the EU's powers in this respect.

- What is the legal basis for the EU and its Member States to regulate and engage in the maritime domain, an area beyond their external borders?
- How are competences allocated among the EU and its Member States in relation to the maritime security aspects of EU internal policies and EU external relations?
- What powers do EU agencies have in this respect?
- How should the EU's membership and representation in international organisations relevant for maritime security look like? How are competences allocated among the EU institutions, bodies, and agencies in this respect?
- What is the role of the EU in negotiating, concluding, and implementing international agreements in this area?
- What is the role of the EU in shaping the interpretation of enforcement powers in the maritime domain?

## **II. Obligations**

Maritime threats are transnational by nature. In combating them, the EU operates alongside multiple public and private actors (states, international organisations, private security firms) and within the context of multiple legal regimes, including the law of the sea, general international law, various areas of EU law, and international and European human rights law. The interaction between the multiple legal regimes and the overlap of activities of multiple actors make the respective legal obligations of the involved parties difficult to ascertain.

- What obligations does the EU have when acting in the maritime domain (e.g. under criminal law, environmental law, labour law, fundamental rights law, refugee law, or the law of the sea)?

- Does international and / or European human rights law apply to the EU and its Member States when acting in the maritime domain?

### III. Accountability

The interaction between the multiple legal regimes and the overlap of activities of multiple actors in the area of maritime security also poses a challenge to judicial oversight. It often remains unclear which one of several potential wrongdoers is to be held accountable and where (national, international, or EU courts).

- Can the EU be held accountable for illegal conduct in the context of ensuring maritime security?
- How does the EU's accountability relate to the accountability of other involved actors, such as EU Member States, other international organisations, or private actors?
- Where and how can individual victims of human rights violations hold the potential wrongdoers to account?
- How can respect for the right to an effective remedy be ensured in the context of maritime security-related activities?

## SUBMISSION OF PAPERS

We invite submissions of abstracts for papers that engage with the competences, obligations, or accountability of the EU and its Member States for activities in the area of maritime security. Abstracts should not be longer than 500 words and have to be submitted no later than 30 June 2018 via email to [MaritimeSecurity@law.leidenuniv.nl](mailto:MaritimeSecurity@law.leidenuniv.nl).

Speakers will be selected by a Committee with participation of members of the Europa Institute as well as conveners of the co-organising ESIL Interest Groups. Only one abstract per author will be considered. Successful applicants will be informed by 15 July 2018. Draft papers have to be submitted by 15 October 2018. Final papers are due by 15 December 2018.

All papers presented at the conference and submitted by 31 December 2018 are eligible for inclusion in an edited volume published with an international publishing house or a special issue of an international journal.

### Timeline:

30 June 2018	Submission of abstracts
15 July 2018	Selection of speakers
15 October 2018	Submission of draft paper
25-26 October 2018	Conference
15 December 2018	Submission of final paper

## ADDITIONAL INFORMATION

The conference will be held from 25 to 26 October 2018 at the Law School of Leiden University, located at Steenschuur 25, 2311 ES Leiden. Travel and accommodation costs of speakers will be reimbursed. However, reimbursements are subject to submission of the draft paper before 15 October 2018.

### *Organising Committee*

Jorrit Rijkma, Melanie Fink, Kristof Gombeer (Europa Institute, Leiden University)

Emma Irving, Thea Coventry (Grotius Centre for International Legal Studies, Leiden University)