

# Saving lives of refugees at sea

At a joint seminar organised by the European Maritime Law Organisation and the Malta Maritime Law Association, Captain Wolf-Peter Rabitz, the founder of the Union Marine Average Consultants, drew stark attention to the tragic plight of migrants who perished at sea. In his view, thousands drowned not simply because their boats were unseaworthy, but because merchant vessels failed to come to their assistance.

Although there is a legal obligation under the International Convention for Saving of Life at Sea and the UN Convention of the Law of the Sea to render assistance in cases where human life is in danger at sea, "many parties have not taken appropriate steps to assist." This stemmed from the sheer complexity which confronted a ship's captain rescuing refugees. Captain Rabitz described a hypothetical situation of a container vessel faced by the logistical and other challenges of

rescuing a sinking boat with 95 migrants on board.

Food, water and supplies had to be prepared and other gear lowered. Key people at UNHCR, ships' agents and owners and the ship's flag State had to be informed. Medical assistance was given. Maritime police, customs officers and the Port Health Authority had to inspect the refugees. Days may pass before the migrants might be allowed to disembark.

Left unstated, but clearly hanging in the air, was the assumption that many ships' masters (and owners) would find it commercially and administratively expedient to turn a blind eye to the tragedy before them. There was another tragedy yesterday, though the circumstances are not yet clear.

Captain Rabitz referred to a specific case that had arisen concerning the *MV Cap Anamur*. Another concerns the *MV Salamis*. The former illustrated the

lengthy legal consequences which faced the ship in these rescue circumstances, while the latter recalled the political deadlock which had arisen between Italy, Malta and Libya over the return of 102 rescued migrants.

What the report failed to mention in the *Salamis* case was that the International Convention for the Safety of Life at Sea has for years laid down, sensibly and practically, that people in distress in any search and rescue area should be taken to the nearest safe port of call, which in the case of the *MV Salamis* was Libya.

That some countries have pushed for an amendment to the Convention, so that the country responsible for a particular search and rescue area was made responsible for accepting all people rescued within it, is irrelevant since Malta with its vast rescue region had refused to agree. The body responsible for such matters, the International Maritime Organisation,

has quite correctly not pronounced in favour of such a change either.

The tragic problem of refugees perishing at sea because ships' captains fail, for whatever reason, to meet their international obligations is a very real one.

In the wake of last year's major tragedies, the European Commission had called for "a large scale Frontex operation, from Cyprus to Spain, for a big save and rescue operation". It didn't happen.

Currently, Italy seems to be filling the breach virtually on its own, with Malta deploying its limited maritime resources where it can.

But the problem about which country should take responsibility for the migrants rescued at sea still persists and ships' captains will continue to give priority to their commercial interests. The brutal fact is that nobody wants to sign up to a bottomless migrant commitment.

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