



Spirit of solidarity – on Earth and at Sea ...

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According to Aristotle, “There are three kinds of men: the living, the dead and those who go to sea.»¹ The KPMG advisory note notes that the founding principle of maritime law is solidarity, and it is also at the heart of geopolitical issues

When you type “maritime law” or “law of the sea” on a search engine, solidarity is not the word that appears first. The definition of rules on the use of maritime spaces by legal subjects (natural or legal persons) is found with the list of rights and duties of states in these spaces (navigation, exploitation of economic resources, protection of the marine environment...). The 1958 Geneva Convention codified the law of the sea for the first time in four texts that combine economics and geography, where we refer to “territorial sea”, “high seas”, “continental shelf” and finally “fishing and conservation of biological resources”. The United Nations Convention (1982) signed in Montego Bay, Jamaica, further divides the maritime space into archipelagic waters, exclusive economic zones, navigable straits and seabed.

The principle of solidarity in maritime law is the obligation to assist (KPMG, 2018) – “every ship has an obligation to help itself when its life is threatened, the crews and passengers of the vessels it may be helping.” This obligation was introduced into international law on the eve of the First World War by the International Convention for the Safety of Life at Sea (SOLAS, 1914), signed by 13 countries in London at the time. It is valid in all circumstances, in time of peace or war, and in all places, territorial waters or high seas. Assistance to persons is not remunerated; failure to do so exposes captains to criminal penalties.

The 2018 KPMG note is very optimistic in stating that the principle of solidarity which has governed life at sea for several centuries would be an example for land law and that maritime law would be setting an example. At sea and on land, solidarity is variable in geometry. The diplomatic incident between France and Italy in November 2022 is quite edifying. The Italian government that came to power in September 2022 with representatives of parties displaying an anti-migration policy² refused to allow the SOS Mediterranean NGO’s humanitarian ship to dock in an Italian port. The French government therefore welcomed the 234 people rescued by the ambulance boat in the Mediterranean, 189 survivors, all adults placed in a closed “waiting area”, were interviewed by the French Office for Protection of Refugees and Stateless (Ofpra).³ The Italian government has received the support of French MPs elected in

¹ Quotation by KPMG « La solidarité : principe fondateur du droit maritime », 7 décembre 2018-
<https://home.kpmg/fr/fr/home/insights/2018/12/decryptages-solidarite-principe-droit-maritime.html> (téléchargé le 18 novembre 2022)

² Giorgia Meloni and Fratelli d'Italia

³ Article published by Le Point -https://www.lepoint.fr/politique/ocean-viking-l-elysee-denonce-un-vilain-geste-de-la-part-de-rome-18-11-2022-2498291_20.php (téléchargé le 18/11/2022)

June 2022 in a group equally hostile to a policy of reception and migration . One of these MPs even suggested that the French association "Société nationale de sauvetage en mer (SNSM)" (National Society for Rescue at Sea" would be transformed into SOS Mediterranean.

This is not the first time that migrants, victims of war or persecution in their countries, and often fallen under the control of criminal networks during their migration journey (smugglers who do not hesitate to abandon them on the open sea), are instrumentalized by unscrupulous governments – Belarus on the Polish border (fall 2021), Turkey on the Greek border...

EU Interior Ministers meet in Brussels on 25 November 2022 to discuss migration policy following the Franco-Italian crisis. France calls for “European initiatives” to “better control of external borders and solidarity mechanisms”. The new European Pact for Asylum and Migration under discussion is a sensitive subject that raises many objections from many European countries which until now were not directly concerned because their geography protected them - countries not bordering the main migration routes of the Balkans and the Mediterranean.

Times are changing. The Russian aggression against Ukraine on 24 February 2022 has shaken up geopolitical issues in Europe. The countries close to or bordering Russia (Baltic states, Poland, Finland, Romania...) but also the European countries neighbouring countries threatened by Russia (Ukraine, Moldova, Georgia...) are now directly affected by massive influxes of refugees who do not know when they will be able to return. Another form of variable geometry in refugee reception policies, but this time linked to the profile and country of origin of refugees – Poland was the country that received the most Ukrainians while it was openly hostile to receiving refugees from countries of the South (Syrians, Afghans, Iraqi Kurds and other countries...).

The principle of solidarity, at sea and on land, should be intangible, universal and unconditional. If moral reasons or generosity are not convincing enough for some Europeans, let's be pragmatic. From an economic point of view, the labour needs in an ageing and disrupted Europe after two years of pandemic are immense. Many sectors of activity are having difficulty recruiting, as many business leaders in the countries of the European Union have noticed and encourage a more open migration policy, particularly the regularization of undocumented workers for occupations under pressure.

Let's bet on generosity and solidarity, no matter the reasons... The EU has a lot to gain – the UK and the disastrous effects of the Brexit⁴ have shown quite vividly that it was both risky and anachronistic to play “Bowling alone”...

⁴ The defenders of Brexit have in particular misused and caricatured the theme of migration (even within the community, the Polish community has been subject to many criticisms)