The shortness of the presentation will not make it possible to discuss the other instruments concerning the oceans. The agreement on fisheries and the draft agreement on the conservation and sustainable use of marine biological environment from 2006, largely thanks to the influence of the European Union in line with the development of the European Union’s integrated maritime policy. It was not until 2015 that the General Assembly adopted a resolution contemplating the question of whether the action at the sea of the European Union is respectful with the legal postulates of human rights. Or, on the other hand, is it utopian in a reality that may exceed the capacity of European institutions?

In this way, the present study opens the reflection of the rights and obligations of Member States of the European Union in their mutual relations and common objective for the protection of human rights. The rights of Member States of the European Union should be legally translated into its political commitments, and the international obligations of the same States must be performed in good faith.
The presentation focuses on the relationship between the main global legislator in the maritime domain, the IMO, and one of the key regional groupings, the EU. The relationship is legally interesting in view of the privileged position as a regulator that IMO is given under the law of the sea and the EU’s ambition to be a maritime regulator for any ship visiting the Union. The talk focuses on areas where tensions have arisen in the past few decades, in the field of legislation as well as enforcement of the rules, but will also discuss the EU’s future.

The dynamism between the EU and the IMO

The creation of a specialised Agency allows a clear identification of a European policy, by giving it institutional visibility and appropriate expertise. It results from a compromise between the impetus for integration brought by pragmatism on the one hand, and the existential reluctance of national authorities to entrust powers to new entities, which might escape their control on the other hand.

EMSA is no exception, the internal institutional complexity of the national maritime administrations as well as the human, economic and environmental stakes of maritime safety issue make it a special theatre of these tensions. Its creation in response to the sinking of the Erika, then the expansion of its missions and the consolidation of its resources, went balanced by a strengthened control of the national authorities on its activities. With limited autonomy, the Agency appears to be an interface of cooperation between the national maritime administrations and between them and the institutions of the European Union.

If EMSA could originally be seen as the spearhead of an emerging European maritime administration, this tends now to be based on a three-pole structure where Frontex may become the keystone, in response to the migratory crisis.

The coastguard function in the European Union: an inter-agency implementation

EU member States traditionally assumed their coast-guard mission through the police forces, army or a specific administration such as the US Coast Guard. This presentation will deal with the three main missions – i. e. search and rescue, regulation of maritime activities and prevention of risks at sea – at European Union level. It will particularly focus on the fight against illicit maritime drug trafficking, IUU fishing, migrant smuggling by sea and maritime terrorism. This set of risks has become a reality that the Union has to face today.

Recently, a European Border and Coast Guard was created to ensure safety and security all over the European maritime area: it is handled by Frontex, assisted by the European Maritime Safety Agency (EMSA) and the European Fisheries Control Agency (EFCA), in cooperation with the national maritime administrations.

Round-table – Towards a new European maritime governance: what particular challenges?

Frontex’s liability has already received much attention, but it still is a relevant issue. Although it has been a central point of attention during the reform process that led to the creation of a European Border and Coast Guard, many questions remain unanswered. This Communication aims to identify the persistent uncertainties both in terms of the Agency’s political responsibility towards the EU institutions and the new concept of ‘shared responsibility’ with the Member States and its potential implementation within the framework of the protection of fundamental rights and the new complaint mechanism.