



# MUNIN – Oslo

## Legal Aspects of Unmanned Ships

3 June 2015

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- The law relating to unmanned ships is a fascinating topic
- While much about the topic is still unknown and unknowable, it is exciting to speculate on how the law will deal with these novel issues
- The topic is different from so many other areas of law because so much of it is forward-looking
- So this area is a matter of addressing current issues and predicting future ones
- The approach taken in this lecture is to take a legal practitioner's perspective on the law relating to unmanned ships
- The lecture also highlights the policy issues
- One prediction: the law and practice will not evolve as you expect...little ever does!

- The key questions posed in this lecture
  - » Should there be an entirely new legal regime for unmanned ships (i.e., should such vessels be regulated outside the existing regime?)

To which the answer is no: it would be possible to create a new regime but that seems inefficient and could cause confusion so the better course is to take the existing regime and adapt it as is needed. It makes more sense to consider what works in existing law and then devise what needs to be changed because it will be less than many would expect



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So the two key questions are:

- » What areas of existing maritime law work and do not need to be changed?
- » What areas of existing maritime law need to be changed to accommodate unmanned vessels?

Let us examine some of the issues which would arise in this area after considering two basic issues.

- 1. What does the Law Want?**
- 2. What do Lawyers Want for their Clients?**

## What does the Law Want?

1. Jurisdiction
2. Forum
3. Law
4. Evidence
5. Proof
6. Enforcement

## What do the Lawyers Want for their Clients?

1. **Legal Certainty**
2. **Risk Avoidance**
3. **Error Correction**
4. **Security**

- The existing law will apply to unmanned vessels
- Generally, the law absorbs the vast majority of technological developments (e.g., mobile phones)
- Some new rules will need to be developed and applied where the existing rules do not work
- The most likely stimulus for new laws on unmanned vessels will be any disaster associated with unmanned vessels – so often, laws develop in this area not in a planned predictive manner but in a reactive way to disasters (e.g., the *Braer*, the *Scandinavian Star* and *Erika* disasters)

- There needs to be a clear determination as to who is the master of the vessel (i.e., the person in charge of the vessel) – is it the person on board who is in charge or is it a person ashore who has ultimate control and direction of the vessel? Or if there is no one on board, will it not be the onshore controller?
- Could there be multiple masters? The singular could include the plural!

- Now, if there is an incident at sea (e.g., a maritime casualty involving a collision or a grounding) then the on-board personnel who are responsible (and, perhaps, culpable) are clearly present at the location of the incident. For example, Captain Francesco Schettino of the Costa Concordia was present at Isola del Giglio on 13 January 2012 and could be arrested. What if Captain Schettino had been at a control centre in, say, the USA or the Netherlands or Norway?



- The onshore vessel controller will have a critically important role
- New qualifications may be needed because being a current ship's master may not be enough – one will have to cope with having less sensory data available ashore but more technical data available
- There may still have to be periods of training and sea-going experience to be obtained

- Many laws *refer* to seafarers but do not necessarily *require* seafarers – the laws were drafted at a time when nothing else was possible
- Elimination of Human *Errors* but what about Human *Corrections*?
- On-board crew issues
- Will the “crew” of unmanned vessels be on board or ashore?
- So should they be covered by maritime law or “land” land?
- The levels of protections will differ between being a seafarer and not
- The tasks will change – e.g., what about issues such as “look out” and watchkeeping?
- The training of seafarers has always involved an on-board element
- What will be the minimum requirement for on-board training?
- How will the rules change?

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- What if a pilot is needed?
  - What if a pilot comes on board an unmanned vessel to take the vessel into, or out of, a port?
  - Who is the pilot assisting?
  - What if there is a communications failure between the pilot and any shore-based command?

- The current charterparty documents will work for unmanned vessels
- The charterparty will need to be amended to cope with the absence of certain persons and with the presence of certain risks but this is a matter of “drafting” rather than anything more substantial
- The availability of the shore based controller and the availability of the vessel would both have to be addressed in the charterparty

- Maritime law issues are generally complex but will become more complicated because the “controllers” of the vessel may not be at the location of the incident
- What about extradition treaties?
- What about proof?
- The big issue will be a safety issue / particularly a major safety incident – the novel and the strange are often over-regulated



- Coastal State?
- Flag State?
- Controller State?
- International Law?

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- Much of the body of international treaty law will be able to cope with unmanned vessels but with some amendments:
  - COLREG
  - STCW
  - LOSC
  - UN Convention on Conditions for Registration of Ships
  - MARPOL Convention
  - Collision Regulations
  - Wreck Removal Convention
  - Salvage Convention
  - Ship Arrests Conventions
  - Hague and Rotterdam Rules

- Much of what exists will work
- Relatively little will need to be changed – more modification of situations which contemplate *human presence*
- Maritime law has always been adaptable and malleable
- Maritime law has coped with changes from sail to propulsion, from oil to nuclear energy to gas, from loose cargo to containerisation and it will cope again!

- Maritime law will be able to absorb and cope with unmanned vessels but there will be changes and some adaptation needed – we can contemplate some now but we will not know all
- But the key message; the law should not be, and will not be, an obstacle
- It will be servant and not the “master” of the issues



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