



NIGERIAN MARITIME LAW ASSOCIATION (NMLA)

NATIONAL BRANCH OF THE COMITE MARITIME INTERNATIONAL (CMI)

PRESIDENT

Mrs. Funke Agbor, SAN
St. Nicholas House
9th Floor, Catholic Mission Street
Lagos, Nigeria.
E-mail: funke.agbor@dentons.com
Tel: 08149452154

SECRETARIAT

Nigerian Maritime Law
Association C/o Foundation Chambers
7th Floor (Architects Place)
2, Idowu Taylor Street
Victoria Island, Lagos, Nigeria.
E-mail: info@nmlang.com
Tel: 08149452154, 08025898127

HON. SECRETARY

Dr. Emeka Akabogu
Admiralty Hallows
No. 15B Capt. Olajide George Street
Lekki Phase 1, Lekki, Lagos
Tel: 08149452154
Email: emeka@akabogulaw.com

REFUGEE MIGRATION AT SEA AND MARITIME LAW QUESTIONNAIRE

RESPONSE OF THE NIGERIAN MARITIME LAW ASSOCIATION

The current Refugee and Migrant Crisis

A. What measures were taken by your jurisdiction in relation to massive refugee/migrant flows?

(i) In relation to the rescue from boats?

There are hardly any instances of such occurrence within our jurisdiction. However, where such occurs, there is a National Maritime Search and Rescue Committee (NMSRC) comprising members drawn from relevant agencies of government and international oil companies.

The NMSRC has a well-structured Search and Rescue (SAR) System involving SAR Boats, SAR Marshalls, the National Maritime SAR Committee, twenty-four (24) hour Watch Keeping amongst other measures for SAR operations.

(ii) In relation to the landing of rescued persons from boats?

Emergency can occur at any time on ships while at sea. In recognition of this, the Nigerian Maritime Administration and Safety Agency (NIMASA) constantly makes arrangements for the provision of emergency medical evacuations. Where there is an emergency and migrants/refugees are rescued, trained and qualified medical doctors and nurses, engaged by NIMASA, are required to provide the required medical attention to the rescued persons.

Upon a confirmation by a medical team that the rescued person have is in a medically stable, they are immediately handed over to the Nigerian Immigration Service (NIS) by NIMASA. The NIS is an agency of government which operates under the Ministry of Interior, with the primary responsibility to control of persons entering and/or leaving Nigeria, issuance of travel documents and border surveillance/patrol. Upon taking possession of these rescued persons, the NIS will reach out to the appropriate persons who will take on the responsibility of catering for such foreigner or to the Embassy of such foreigner within Nigeria.

(iii) In relation to granting humanitarian protection/refugee status to those rescued?

In situations where people rescued at sea claim to be refugees or asylum-seekers or indicate in any way that they fear prosecution or ill-treatment if disembarked at a particular place, key principles of refugee law will apply to those individuals in Nigeria. The National Commission for Refugees (Establishment) Act, Cap N21, LFN 2004 (NCRA) will generally apply to such persons.

The office of the Secretary to the Government of the Federation, is generally responsible for matters relating to refugees and refugee status in Nigeria. This office however acts through the National Commission for Refugees (NCR) created under the NCRA. The NCR is saddled with the responsibility of laying guidelines and overall policy on issues relating to refugees and persons seeking asylum in Nigeria.

B. Which authority (Department of State or Organisation) in your jurisdiction is responsible for implementing SAR activities?

(i) Which authority is responsible for deciding on the measures?

The Nigerian Maritime Search and Rescue Committee (NMSRC) is primarily responsible for the implementation of Search and Rescue (SAR) activities as well as deciding on SAR measures. The general SAR services performed by NMSRC include medical advice, medical evaluation, response to piracy and armed robbery, search and rescue services, search and rescue within Nigeria and within West African and Central African Region, amongst others.

(ii) Which authority is responsible for providing support in implementing the measures?

There is no particular authority responsible for providing support.

The National Maritime Search and Rescue Committee (NMSRC) determines the applicable authority(ies) to provide supporting roles based on particular scenarios. The Committee comprises Nigerian Maritime Administration and Safety Agency (NIMASA), Nigerian Civil Aviation Authority, Nigerian Navy, Nigerian Airforce, Nigerian Immigration Service, Nigerian Port Authority, Nigerian Airspace Management Agency, Nigerian Shippers Council, international oil companies, and other relevant agencies.

(iii) Did your authority implement measures to transfer those rescued to the state of origin (i.e. the State from which they started their journey)?

Yes. Where the rescued persons are interested in returning to their state of origin and they possess the requisite valid documentations, the Nigerian Immigration Service will take steps to transfer them to their state of origin. However, where a rescued person prefers to take refugee status in Nigeria, the person will not be expelled from Nigeria, but will be allowed to make the necessary application to the Eligibility Committee of the National Commission for Refugees. Where such a person is denied refugee status for any reason whatsoever, the person is transferred to the NIS for further processing and transferred back to the country of origin. On the other hand, where the rescued person wishes to return to state of origin but do not have the requisite documentation for the transfer, the person will be required to make the necessary application to relevant authority or embassy with the support of the NIS.

(iv) Did your authority implement measures to transfer those rescued to the state where they are nationals?

Yes, where the rescued persons are interested in being transferred to their state of origin and they possess the requisite valid documentations. Where they are however interested in refugee status in Nigeria, they will not be expelled from Nigeria, but allowed to make an application to the Eligibility Committee of the National Commission for Refugees. Where such persons are denied refugee status for any reason whatsoever, they are transferred to the NIS for further processing and transfer back to their Countries of origin.

(v) Which authority or authorities is or are responsible for enforcing the various measures?

The National Commission for Refugees and the National Maritime Search and Rescue Committee comprising Nigerian Maritime Administration and Safety Agency (NIMASA), Nigerian Civil Aviation Authority, Nigerian Navy, Nigerian Airforce, Nigerian Immigration Service, Nigerian Port Authority, Nigerian Shippers Council, International Oil Companies, and other relevant agencies.

(vi) Were maritime administrations within your jurisdiction consulted in relation to decisions taken within your jurisdiction?

Yes. Both the National Maritime and Rescue Committee alongside the National Commission for Refugees usually consult the Maritime Administrators in Nigeria before reaching a decision about a person rescued in Nigeria.

C. Are those who take decisions in your jurisdiction aware of the requirements of:

(i) Geneva Convention on the status of refugees (1951)?

Yes

(ii) The ILO Conventions (nos. 97 and 143)?

Yes

(iii) The SAR Convention?

Yes

D. In relation to free pratique:

(i) Are you aware if your jurisdiction has denied port access/free pratique to any vessel due to the fact that they carried rescued persons?

No

(ii) Are you aware if the current COVID-19 pandemic impacted the behavior of your jurisdiction regarding port access/free pratique to any vessel due to the fact that they carried rescued persons?

No, vessels were still allowed to berth in Nigeria, with the seamen only subjected to routine public health screening by Port Health Officials. Interestingly, Nigeria was one of the first countries in West Africa to issue a marine notice during the Covid-19 pandemic on the operational procedures for the ingress and egress of vessels arriving from countries heavily affected by Covid-19.

(iii) Are you aware if the *most recent* Ebola outbreak (ongoing in the Democratic Republic of the Congo since August 2018) pandemic impacted the behavior of your jurisdiction regarding port access/free pratique to any vessel due to the fact that they carried rescued persons?

No