



Ref. T3/2.02

FAL.3/Circ.194
22 January 2009

PRINCIPLES RELATING TO ADMINISTRATIVE PROCEDURES FOR DISEMBARKING PERSONS RESCUED AT SEA

1 The Facilitation Committee, at its thirty-second (4 to 8 July 2005), thirty-third (3 to 7 July 2006) and thirty-fourth (26 to 30 March 2007) sessions, discussed the problems connected with disembarking persons rescued at sea. The discussions highlighted and emphasized the importance of the issue.

2 The Committee, at its thirty-fifth session (12 to 16 January 2009), acknowledging the necessity for Member Governments to have common ground regarding the administrative procedures for disembarking persons rescued at sea, identified the following five essential principles that Member Governments should incorporate into their administrative procedures for disembarking persons rescued at sea in order to harmonize the procedures and make them efficient and predictable:

- .1 The coastal States should ensure that the search and rescue (SAR) service or other competent national authority coordinates its efforts with all other entities responsible for matters relating to the disembarkation of persons rescued at sea;
- .2 It should also be ensured that any operations and procedures such as screening and status assessment of rescued persons that go beyond rendering assistance to persons in distress are to be carried out after disembarkation to a place of safety. The master should normally only be asked to aid such processes by obtaining information about the name, age, gender, apparent health and medical condition and any special medical needs of any person rescued. If a person rescued expresses a wish to apply for asylum, great consideration must be given to the security of the asylum seeker. When communicating this information, it should therefore not be shared with his or her country of origin or any other country in which he or she may face threat;
- .3 All parties involved (for example, the Government responsible for the SAR area where the persons are rescued, other coastal States in the planned route of the rescuing ship, the flag State, the shipowners and their representatives, States of nationality or residence of the persons rescued, the State from which the persons rescued departed, if known, and the United Nations High Commissioner for Refugees (UNHCR)) should cooperate in order to ensure that disembarkation of the persons rescued is carried out swiftly, taking into account the master's preferred arrangements for disembarkation and the immediate basic needs of the rescued persons. The Government responsible for the SAR area where the persons were rescued should exercise primary responsibility for ensuring such cooperation occurs. If disembarkation from the rescuing ship cannot be arranged

swiftly elsewhere, the Government responsible for the SAR area should accept the disembarkation of the persons rescued in accordance with immigration laws and regulations of each Member State into a place of safety under its control in which the persons rescued can have timely access to post rescue support;

- .4 All parties involved should cooperate with the Government of the area where the persons rescued have been disembarked to facilitate the return or repatriation of the persons rescued. Rescued asylum seekers should be referred to the responsible asylum authority for an examination of their asylum request; and
- .5 International protection principles¹ as set out in international instruments should be followed.

3 Member Governments are urged to ensure that their administrative procedures are in accordance with the principles set out in this circular, and to convey the information in this circular to the relevant competent national authorities.

¹ These include obligations not to return persons, where there are substantial grounds for believing that there is a real risk of different forms of irreparable harm, which may be derived from international human rights law. For example, article 33(1) of the 1951 Convention relating to the Status of refugees provides: "No Contracting State shall expel or return (*refouler*) a refugee in any manner whatsoever to the frontiers of territories where his life or freedom would be threatened on account of his race, religion, nationality, membership of a particular social group or political opinion". Article 3(1) of the 1984 Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment provides: "No State Party shall expel, return (*refouler*) or extradite a person to another State where there are substantial grounds for believing that he would be in danger of being subjected to torture".