Résumé

Piracy and its Relation to the International Law

Piracy is a threat to maritime navigation – and to maritime trade in particular – that is as ancient as maritime navigation itself. Even the Roman ruler Julius Caesar was – according to historians – captured by the pirates and released only after paying a royal ransom. At the beginning of the twentieth century, some authors considered the crime of piracy to be 'obsolete'. However, as the latest development proves, piracy is unfortunately very far from being eradicated. The forms of piracy developed dramatically throughout history; nevertheless, it poses an equal threat to shipment nowadays as it did in the time of Ancient Rome.

This work presents piracy as a severe breach of the international law. The topic of piracy in general is discussed in the first part, while the other part offers a study of the most serious and also the most up-to-date piracy case – the piracy off the coast of Somalia.

The general part presents various definitions of the word "piracy" itself on the first place. Even though the concept of piracy has been known for centuries, its perception and legal defining vary to a very high degree. To provide for a background to the problem, history and current situation concerning piracy are briefly explained as well. This part also provides an in-depth analysis of all the possibilities that international law offers for combating piracy.

Overall, international law provides for a sufficient definition and legal framework for the fight against piracy. The real problem lies in the enforcement of the applicable law. The pirates must be caught on the first place, which by itself can be a serious problem, given the vast area of the high seas where piracy occurs. A significant impediment to the pursuit of pirate ships lays in the fact that the 1982 United Nations Convention on the Law of the Sea allows hot pursuit of pirates from the territorial waters to the high seas, but not the other way round. As the example of Somalia showed recently, to allow hot pursuit of pirate ships form the high seas to the territorial waters could simplify the combating of piracy to a very high degree.

Another serious problem connected with piracy is the question of jurisdiction over captured pirates. Even if the suspected pirates are caught and the evidence against them is sufficient, it is difficult to find a suitable court to judge them. The courts of developed countries might often be very remote. On the other hand, there are serious doubts whether the local (especially African) courts have enough means and experience to judge the pirates, not to mention the possibility of torture that the suspects might face in at least some of such states. A solution – already proposed by the president of the Russian Federation – might be to create a special international tribunal that would judge all the piracy cases. Even though such a solution would probably be very costly, it might offer a highly skilled independent jurisdiction to judge the suspected pirates.

Special attention is given to the case of Somalia. Piracy in this part of the world developed very recently – at the end of twentieth century, there were only a few cases of pirate attacks per year. On the other hand, the current situation is a very serious threat to international trade as well as to international security as a whole. The pirates from Somalia endanger and kidnap ships on very important and irreplaceable trade routes – they are active on the maritime ways leading to the Suez Canal and to the Cape of Good Hope. Even the Security Council of the United Nations decided in 2008 that the pirate attacks constitute a threat to the international peace.

Combat against piracy in Somalia is especially difficult, because the country has not had a stable government for nearly twenty years. It is therefore impossible for the ship attacked by the pirates to even ask for help from Somali authorities. The international community has therefore to provide warships to guard the endangered area as well as create international treaties for international cooperation in the fight against Somali pirates. The Security Council of UN created powerful tools for the combat against Somali pirates, enabling foreign warships to enter (under strict conditions) even into the Somali territorial waters and to pursue the pirates into Somali mainland. In spite of that, there are still many cases of piracy happening off the coast of Somalia. The international community has therefore a great task to complete. The political situation in Somalia must be stabilized enough to create

a strong government, which would be able to find, arrest and punish the pirates on the mainland.

Piracy in the modern world and the fight against it is a very complex problem and the international community will face a lot of difficulties in the effort to eradicate it. Nevertheless, international law offers various ways of fighting against piracy. With the help of international law, the crime of piracy might once again come to the point of being obsolete.