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THE CRIME OF PIRACY IN CONTEMPORARY INTERNATIONAL LAW

The crime of piracy has been recognized in public international law as a crime even few centuries ago. Even though on the first glance it seems that it is crime that belongs to the history, the reality is truly different. Namely, the public generally associates the concept of pirates with contemporary pop culture or with a phenomenon that existed several centuries ago. However, it is a criminal offense that results in serious harm. The aim of this work is to present the concept of piracy, the historical development path, but also how piracy is perceived in contemporary international law through the work of the United Nations International Law Commission and other bodies whose task is the codification of international law, but also through state practice.

Precisely, in 2019, the International Law Commission decided to include the topic named “Prevention and repression of piracy and armed robbery at sea” in its long-term programme of work. In this document, the maritime piracy was described as “acts of violence, detention or depredation committed for private ends by the crew or passengers of a private ship against another ship, including the persons or property of the high seas”. It is important to acknowledge that this is not a new issue in international law. As a matter of fact, back in 1932 the first mention of codification and dealing with this crime began with the Harvard Research Draft on Piracy. Later on, there have been many conventions and other documents, but this topic still is not codified. Speaking of international crimes, we cannot not mention the International Criminal Court Statute. In the Article 5 it lists the crimes that the ICC is dealing with and the crime of piracy is not included in that list.

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The International Law Commission has pointed out which are the current issues of international law that are relevant to piracy and armed robbery at sea. Those are the prevention of piracy at sea, meaning there is a requirement for cooperation, the repression of piracy at sea, which would require the universal criminal jurisdiction, the adoption and harmonisation of national criminal laws on piracy at sea and the clarifying the relationship of maritime piracy to armed robbery at sea, stressing out that the maritime piracy is a crime related mostly to the high seas, while the crime of armed robbery happens at a States territorial sea.

On February 7th, 2023, the Secretariat prepared the Memorandum, which means that the Commission began its work. Not only that, but on the March 22nd, 2023, the Special Rapporteur for this topic, Yacouba Cissé, provided his first report. Subsequently, on May 26th, 2023, the Drafting Committee gave titles and texts of draft articles 1 to 3 and adopted them.

The goal of this paper is to give an overall historical perspective of the topic, to present the documents regarding the crime of piracy and the state practice. Overall, the author wishes to emphasize the importance of the International Law Commission as a main organ when it comes to the codification of public international law. In that sense, we must carefully look at its work. The fact that this body even decided to tackle this topic shows how important it is, even nowadays. Finally, the author would like to show what is the main focus of the International Law Commission's work and what are the possible outcomes when it comes to fighting this international crime.

Keywords: piracy, international crimes, International Law Commission, armed robbery at sea, codification.

