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# Are Private Maritime Security Companies or Naval Assets the Preferred Means to Address Maritime Piracy?

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## Abstract

The rapid rise of piracy in the first decade of the 21<sup>st</sup> century in certain areas of the world has led to the emergence of various private military stakeholders in the field of maritime security. Although Private Maritime Security companies' services have been found effective at repulsing piratical attacks, their often dangerous performance has significantly increased the concern of States about the legitimacy and legal accountability of such maritime actors. The State's Naval forces are considered safer and more legitimate means of controlling the endangered maritime areas, although the cost of their service and maintenance is another reason for the State's concern. The States are yet to determine which party is responsible for carrying the burden of Naval forces' services. This paper aims to determine the existing models of the contracted maritime security and discuss whether the State's naval forces or private maritime security companies are the preferred means to address modern maritime piracy.

**Keywords:** Piracy, Maritime Security, Naval Forces, Private Maritime Security Companies, International Law

## 1. Introduction

As the importance of the world's ocean and the coastal economy is steadily increasing, many countries have begun to pay more attention to the development of their ocean industries. Some littoral countries estimate and release accounts of the benefits of their ocean industries, which showed that the latter produce 1% to 5% of the country's GDP or more, making a huge contribution to the country's economy (Park & Kildow, 2014, p. 2).

While the sea-borne economy thrives, the overall world's economy undergoes significant fluctuation. The global economic crises painfully hit every region of the world, but the worst damage was inflicted on the developing, less economically stable areas, such as East Africa, South East Asia, South America. The decline in the economy causes the growth of versatile criminal activity in the affected areas – and in terms of the ocean economy, the rise of piracy. Lack of the governmental force, coastal monitoring, and proper prosecution stir up the criminal activity at sea, as pirates obtain much wealth and little punishment out of their illegal actions.

Not only piracy poses a significant economic and security menace – there is no firm agreement on how the world should address and prosecute it. Chang (2010) states “there is no single international definition of piracy that can successfully incorporate the many different regional variations in attacks that exist. . . . The lack of uniformity on an international level results in various punishments for piracy that range from three years to life in prison” (p. 286). In the present article we incorporate the definition from the United Nations Convention on the Law of the Sea, which states that the crime of piracy “consists of any illegal acts of violence, detention or depredation committed for private ends by the crew of a private ship and directed on the high seas against another ship or against persons or property on board such ship. . . .” (UNCLOS, Article 101, p. 57).

While vast maritime space poses many various threats for seafarers, piracy and violence at sea remain one of the most prominent ones, whichever definition is implied. Long ago pirates have been labelled as “hostes humani generis,” signifying “enemies of all humanity” (Tamsin, 2013, p. 2), and this label remains just as actual nowadays, as raise of piracy inflicts devastating effects on the economy on the global level. Piracy causes major economic losses for the shipping industry as the increase in the insurance cost for voyages leads to a huge rise in shipping cost, which eventually results in a dramatic rise in price for consumers (Bensassi & Martinez-Zarzoso, 2012). Moreover, Carbone (2016) argues, that “piracy not only causes economic problems, but it has also been linked to damage to the marine environment as well as the prevention of humanitarian aid and assistance to reach its intended destination, as seen in the case of Somalia (p. 3).

The IMB 2017 Piracy and Armed Robbery Against Ships Report reveal, that despite the fact, that in 2017 incidents of piracy reached their lowest number since 1995 – 180 reported attacks in 2017 compared to 188 in 1995 (p. 30), the threat of violence at sea cannot be considered as defeated. According to the Report data, whereas there were only two piratical incidents in the area off the Somali coast, the Gulf of Aden and the Red Sea recorded in 2016, in 2017 the IMB PRC received nine incidents, including three vessels being hijacked (p. 20). Moreover, whereas the rate of piratical attacks declined in the Gulf of Aden and the Indian Ocean, other risky areas – West Africa and Southeast Asia – did not show such a rapid positive trend, with the noticeable increase in attack in the Philippines – up from 10 in 2016 to 22 in 2017 (p. 30).

**Chart C: Total incidents as per region of the world January – December 2017**

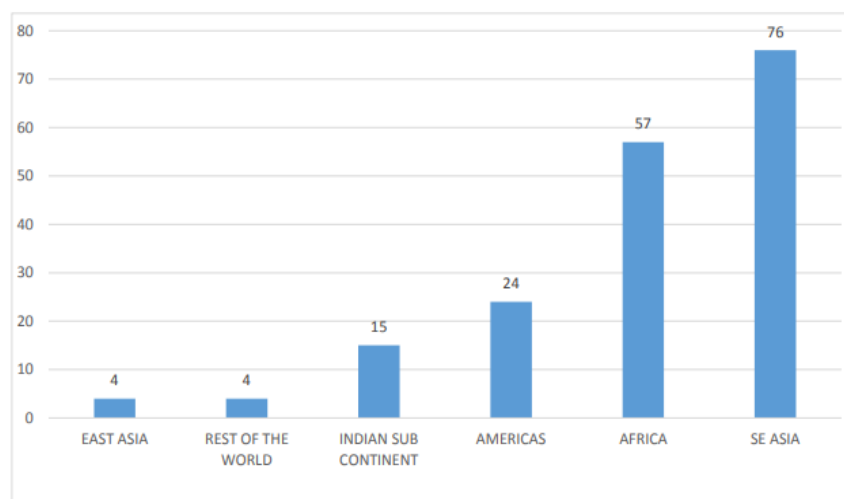


Figure 1. Source: ICC IMB Piracy and Armed Robbery Against Ships – 2017 Annual Report

Although the overall numbers of violence to crew is continually declining, the growing number of reported kidnapping and taking for ransom continues to raise serious concerns about maritime safety (p. 30).

*ICC IMB Piracy and Armed Robbery Against Ships – 2017 Annual Report***TABLE 8: Types of violence to crew, January – December 2013 – 2017**

<b>Types of Violence</b>	<b>2013</b>	<b>2014</b>	<b>2015</b>	<b>2016</b>	<b>2017</b>
Assaulted		1	14	5	6
Hostage	304	442	271	151	91
Injured	21	13	14	8	6
Kidnap/Ransom	36	9	19	62	75
Killed	1	4	1		3
Missing	1	1			
Threatened	10	9	14	10	10
<b>Total</b>	<b>373</b>	<b>479</b>	<b>333</b>	<b>236</b>	<b>191</b>

Figure 2. Source: ICC IMB Piracy and Armed Robbery Against Ships – 2017 Annual Report

Because of its international nature, this maritime security threat attracts universal jurisdiction. States and international organizations have continuously tried to make waters secure for commerce ships to operate in. The problem of piracy has led to different types of cooperation between states, on the regional and global level. In addition to multilateral global treaties, several international and regional organizations seeking to provide a legal basis for the secure shipping industry and mediate cooperation between the concerned states were established. They include the International Chamber of Commerce's International Maritime Bureau (IMB), the International Maritime Organization (IMO) with its Piracy Reporting Centre in Kuala Lumpur, the Southeast Asian initiative addressing piracy in the region - the Regional Cooperation Agreement on Combating Piracy and Armed Robbery Against Ships in Asia (Re-CAAP), the Contact Group on Piracy off the Coast of Somalia, the Maritime Organization of West and Central Africa (MOWCA), which developed its regional coastal guard network.

Despite the international efforts to control and combat piracy, the world has been experiencing fluctuations in the number of the occurrence of violence at sea over the years in different regions. The Allianz Global Corporate & Specialty's Safety and Shipping Review 2014 - an annual review of trends and developments in shipping losses and safety – shows that while the Somali incidents plummeted from 160 attacks in 2011 to 7 attacks in 2013, the Southeast Asian region faced 700% increase in piracy attacks in 5 years - 106 actual and attempted attacks in 2013 compared to 15 in 2009 (p. 27).

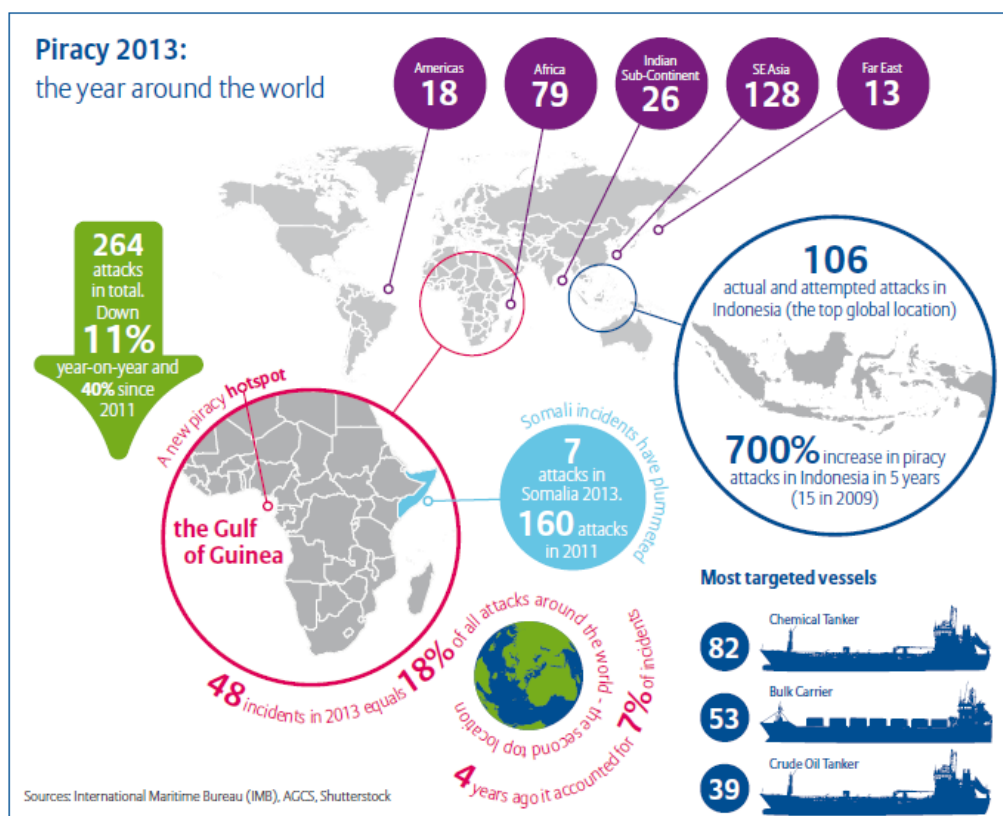


Figure 3. Source: The Allianz Global Corporate & Specialty's Safety and Shipping Annual Review 2014

Consequently, while States were trying to overcome the obstacles of supervising of vast maritime space and prevent the hostility at sea through various international agreements, the ship owners were getting more and more concerned with the effectiveness of the undertaken measures. In response to continuing criminal activity at sea, ship owners started to seek the services of private maritime security companies to provide effective counter-piracy escort for their ships.

The shipping industry can count on several models of contracted maritime security for protection of ships and seafarers, as well as on state-affiliated escorts and assistance of navy force. According to Carbone (2016), although the increasing amount of contracted armed maritime personnel onboard can be credited with the reduced number of piratical attacks, the legitimacy of such practice, nevertheless, is highly disputable (p. 2). The trend of hiring PMSCs has resulted in an increased number of weapons at sea, and armed military groups present aboard private commercial vessels. The problem of such situation originates from the fact, that the activity of these armed groups mainly remains legally ungoverned, which at some cases leads to excessive use of military force and increases the degree of violence and chaos in already unstable maritime space, as it can be seen on a number of incidents, when fishermen were mistaken for pirates and shot dead by the private security personnel.

The States has been making efforts to regulate the use of armed force by PMSC employees by restricting the rules of innocent passage for the ships carrying weapons onboard and introducing various legal norms and restrictions for private military teams. Yet the services of PMSCs appear to be an effective measure to protect unarmed commerce vessels. Another solution used for preventing the emergence of piratical activity in risky maritime areas is dispatching the States' navies to patrol such areas or hiring state-owned warships to escort the merchant vessels along the route. Both approaches to reduce the criminal activity at sea - private military services and governmental, military control - have certain advantages and shortcomings, which are being constantly disputed about in the maritime sector at the international level.

## 2. The Role of Navies at Combatting Piracy

After the re-emergence of maritime piracy threat, the international community had to join efforts to suppress the common problem. While elaborating the new legal anti-piracy initiatives and legislation, States had to respond to the current attacks either alone or in collaboration with other states and international organizations. Tsiachris (2017) concludes that two different trends were followed and a third one which combined elements of the two formers. Firstly, some states chose to provide security to vessels flying their flag through the boarding of Vessel Protection Detachment (VPD) manned by law enforcement or military personnel, on them (public security services). Secondly, some states allowed private security guards are working for Private Maritime Security Companies (PMSC) to board, either armed or unarmed, on vessels flying their flag (private security services). Thirdly, some states gave the right to ship-owners to choose between or combine public and private security services. (p. 44)

Thus, the author classifies two types of security services – public, provided by the government of a respective country, and private, operated by PMSCs.

The authors of the Oceans Beyond Piracy's Issue Paper from December 16, 2016, titled "Defining Contracted Maritime Security" provides further classification and types of contracted maritime security. The paper subdivides contracted private and governmental services into 5 categories. According to this division, contracted private services include Private Maritime Security teams and Floating Armories. Contracted governmental services, on the other hand, include Vessel Protection Detachments (VPDs), State Affiliated Escort and Coastal State Embarked Personnel. Additional mentioned model is the escort of commercial ships in convoys, but since it is practiced only in high-risk areas, such as Internationally Recognized Transit Corridor in the Gulf of Aden, this model does not fall into any of the categories.

According to the data provided by the Issue Paper, over the last decade the services of private maritime security teams have been the most preferred model, but recently alternative models of contracted maritime security, which involve governmental contractors, have received better recognition in the shipping industry (para. 3).

The contracted escort of the private merchant ships by the State military, naval assets is identified in the Issue Paper as State Affiliated Escort. Such model includes the contracted convoy and protection of the merchant's vessels in designated areas by state-owned warships. According to the Oceans Beyond Piracy's Issue Paper on State Affiliated Escort (2017), this model has been used in such areas as Western Indian Ocean and the Gulf of Aden, the Gulf of Guinea and in the Malacca Strait.

Although naval military escort is a reliable measure for preventing piratical activity, in the shipping industry this model has received relatively small scope of usage due to several reasons, the most prominent of which is that alternative models turn out to be remarkably cheaper than hiring a State Affiliated Escort to support merchant's vessels and patrol the broad maritime space. As reported by Wilton Park's "Countering piracy: what are the rights and obligations of states and private security providers?" Conference Report (2012), "for 2011, it is estimated by Oceans Against Piracy, based on incremental cost analysis only, that some \$1.3 billion was spent by states patrolling the seas off the coast of Somalia" (p. 6).

Not only the high cost has limited the use of contracted escort services. Mumo (2017) states, that "some countries have also argued that the presence of foreign military forces on ships goes against the internationally-agreed upon standards of innocent passage — a concept in maritime law that allows a vessel to move through territorial waters" (para. 20). The legal regulations on the presence of foreign military forces and armed personnel onboard differ from country to country. Some countries, such as Nigeria, do not allow other States'

Navies to enter their waters, preferring to rely on PMSCs services and own naval forces. The Ocean Beyond Piracy' Issue Paper on State Affiliated Escorts (2017) explains it as such:

In Nigerian territorial waters, one of the only officially permitted Contracted Maritime Security services is a State Affiliated Escort; although, as documented in an earlier OBP report in this series, embarkation of government forces is still occurring. Unlike in East Africa, where the navies of sovereign states provide and conduct the escorts, in Nigeria, the Nigerian Navy provides escort services by embarking Nigerian naval personnel aboard private patrol vessels chartered-in to service for military use or chartered to the companies seeking protection. Generally, a private company owns and operates the vessels, while the Nigerian Navy provides the crew and security personnel—who are responsible for handling weapons and providing security services. (p. 2).

According to Pitney & Levin (2013), although engaged in a regional counter-piracy cooperative work, West African countries' governments mainly remain hostile to the foreign military presence in their territorial waters, forcing entering armed units to dispose of their armaments at least 12 miles off the coast. Thus, the reality proves that not only State Affiliated Escort is an increasingly costly solution for protecting cargo ships – it also does not always meet the legal requirements of certain States, which limits its protection capabilities.

Patrolling the maritime space in order to prevent the emergence of piratical activity in the area has also proved to be a limited option. According to Kraska & Wilson's data (2011), the deployment of British, German, Russian, Turkish, American, Indian and some other countries' naval forces at the Gulf of Aden to conduct joint patrols had limited success. Although in the recent years the international Navies' efforts have proven to be largely effective with only 2 piracy incidents occurring in the area in 2016, because of the vast operational space off the coast of Somalia at about 2.5 million square miles, naval forces cannot guarantee the prevention of the new criminal activity. Sometimes not only the breadth of maritime space but also the coastal state's unwillingness to allow foreign Navies to operate in the area affects the situation. As AGCS' Donney explains in the Annual Shipping Review (2014), "naval warships patrolling the waters and ships carrying armed security contractors have done a lot to mitigate piracy in the Gulf of Aden. But in the Gulf of Guinea, only the Nigerian navy can provide security services, which is proving to be ineffective" (p. 28).

The abovementioned reasons have become limiting factors for the use of government-provided maritime security services. As States found it increasingly difficult and expensive for its Navies to monitor vast maritime space and protect thousands of merchant ships traversing the ocean every day, the shift towards private maritime security contractors was made in the shipping industry. However, being significantly more mobile and effective at repulsing piratical attacks, private security companies cause controversies on the implementation of their services, the most serious of which is the legal aspect of their activity.

### **3. Private Maritime Security Companies at Combatting Piracy**

While States are carefully elaborating and adjusting the legislative cooperation and counter-piracy measures, the major role in preventing piratical attacks on individual cargo ships has been fulfilled by the contracted private military sector, as the situation demanded a more swift and immediate way to address piracy and armed robbery. As stated in the Oceans Beyond Piracy' Issue Paper "Privately Contracted Armed Maritime Security (2017), "starting in 2011, armed security emerged as an effective, though costly, mitigation measure and to date, no commercial vessel employing professional armed guards has been seized by pirates" (p. 2).

The state control over the maritime situation, consequently, loosened due to practical inability to observe and supervise the increasing number of private military contractors and their operations at sea. Simultaneously, the

role of the private sector at managing criminal activity at sea has increased due to the commercialization of maritime security – the scope of utilization of one goes beyond any precedent (Marin et al., 2017, p. 193).

At the same time, this growing tendency poses a crucial question, whether services of the PMSCs are a step closer to or a step further away from the general security of people and ships at sea and questions the maritime legal frameworks and ocean governance. As presented in the OBP's Issue Paper on PCAMS (2017), "uniform requirements for PMSC licensing, oversight, equipment management, and operational certification as well as training and proficiency in security tasks including marksmanship, vessel hardening, and other professional responsibilities for armed guards differ substantially across the industry, and from country to country. There has been an effort to regulate the industry through a variety of policies and oversight mechanisms, but there is a lack of global harmonization of law standardizing the operations, structure, and management of security companies" (p. 2).

According to Pitney Jr. & Levin (2013), there can be two types of private military security company service: an armed security team embarked on-board a merchant ship and an escort vessel, following the cargo ship and protecting it along the route. The international law requires the State's military forces to repress piracy acts and provides them with the right to use force against suspected pirates, seize the pirate vessels and confiscate their belongings. However, this is not the case with the personnel of PMSCs, which does not operate on behalf of the State and is only supposed to deter the possible attack. This point causes such questions as for whether it is legal for the privately contracted security teams to carry weapons on board merchant vessels and whether they should be allowed to use deadly force in self-defence or the defence of the ship's crew (Carbone, 2016, p. 10). The guarding teams of PMSCs are common citizens, which have no special rights in the face of the law. Therefore, the usage of deadly force resulting in death or bodily harm of a person makes them liable for criminal prosecution. However, such personnel rarely receive actual legal prosecution, as it is found extremely complicated to track down who in fact should be accountable for the committed crime. As Carbone (2016) argues, "in such cases, matters could become very complicated as this could lead to a number of States having jurisdiction over such personnel, such as the flag State, the State of victims, and the coastal State if such incident occurred in territorial waters or the EEZ of a particular State. What is particularly worrying for such personnel is that the lawful use of force varies from one State to another" (p. 11).

The lack of accountability of the armed contracted divisions arguably raises the overall degree of violence at sea, which goes against the principal goal of the international cooperative efforts to stabilize and pacify the maritime situation. Violent incidents with murder at sea have been reported to be on an increasing rate. Marin et al. (2017) concluded that "growing number of reports indicate possible excessive behaviour of individually armed security guards" (p. 195). This tendency throws a shadow on the general credibility of private maritime security contractors. The recent incident of the legal prosecution of two Italian marines, who shot and killed two Indian fishermen, suspecting the latter to be pirates, which occurred on board of the Italian-flagged commercial oil tanker "Enrica Lexie" in 2012 is one of the notorious cases of the matter, which mainly remains underreported and under-investigated. The case sparked a major discussion in the media on the international level, as the marines were contracted by the Italian government and their detention by the Indian authorities caused a long-lasting diplomatic dispute between Italy and India. However, if the marines had been the PMSC employees, according to International Association of Maritime Security Professionals Rules, the ship owner or the shipping agency would have been considered responsible for the committed violence (Clause 93). The IAMSP Rules provide a detailed explanation on the events on board related to the use of lethal force, including the statement, that "the responsibility arising out of the use of lethal force resides on the person who, in accordance with the ship's log, authorized the use of lethal force" (Appendix B IAMSP Rules).

This fact raises fair concern about the PMSCs services among ship owners, as they barely want to be exposed to the legal liability and harm the reputation of their business in case the private military personnel on their ship



uses the lethal force with deadly consequences. Therefore, the numerous incidents of unregulated use of weapons make the legitimacy of PMS companies significantly more disputable.

The excessive use of force causes increasing concern of the States as well. The international community has started to develop the standards of conduct for the privately contracted military actors. According to Marin et al. (2017), several guidelines and recommendations were created particularly for the maritime domain, i.e., the IMO Guidance, the Baltic and International Maritime Council (BIMCO) Guidance, the 100 Series Rules, the IAMSP Rules on Use of Force, the ISO/PAS 28007:2012 and the ASIS/ANSI PSC (p. 191). Although internationally recognized, none of these documents is mandatory or legally binding, thus they require to be accompanied with the State's domestic criminal and civil laws and regulations, especially those regarding the issue of self-defence. States have taken different stances at facing the PMSCs challenge. Some countries, such as Nigeria, banned the private security contractors; some other states, such as Greece, Cyprus, Malta, and China, incorporate the PMS companies and encourage their activities, as stated in the OBP's Issue Paper "Privately Contracted Armed Maritime Security (2017). The mediate ground between these two approaches is one, where while the PMSCs activity is not outlawed, the responsibility for their exercise lies on the ship owner (Kraska, 2013, p. 51). Thus, as the authors of the OBP's Issue Paper "Privately Contracted Armed Maritime Security" (2017) conclude, that the wide range of corporate nationalities and overlapping concurrent jurisdiction creates difficulty in standardized monitoring and uniform application of legal compliance, as each company's home country may have different laws governing the practices of security companies operating overseas, especially in the maritime sector, and these laws may differ substantially from the countries where the company actually operates (p. 3).

Some countries, such as the United Kingdom, in their codes of conduct, require the PMSC personnel to use the minimum force needed to deter pirates and generally exercise reasonable and responsible amount of force to repulse the attack. However, it can be difficult to determine what amount a force can be considered proportionate for each situation, and the authorities did not provide clear instructions to what to consider "a gradual, responsible and proportionate response to a piratical attack" (Carbone, 2016, p. 11). The commentary published by the UK Government states that "lethal force can generally only be used in the context of self-defence or defence of others. The decision to use lethal force must lie with the person using force where they believe there to be a risk to human life. Neither the Master nor the security team leader can command a member of the security team against that person's own judgement to use lethal force or not to use lethal force" (UK Department for Transport, Interim Guidance to UK Flagged Shipping on the Use of Armed Guards to Defend Against the Threat of Piracy in Exceptional Circumstances, 2011, para. 5, 6).

Another important issue that States have yet to agree upon is whether to consider ships with weapons on board traversing other State's territorial waters as innocent passage and whether to allow such ships into national territory, namely ports. UNCLOS, which in its Article 17 states the right of innocent passage through territorial waters, does not clarify to which extent the carriage of weapons on board can constrain this right. Kraska (2013) argues, that if PMSC team members are carrying weapons intended to be used only for self-defence in case of a piratical attack on board of commercial vessels, they are implementing their right of innocent passage, do not breach the security of a coastal State and adhere to article 19 of UNCLOS, which explains the elements needed for innocent passage (p. 128). However, the author admits, that the majority of States do not share this standpoint. In order to track down the preferred approaches of States towards the ships, carrying armed security teams aboard, the Facilitation Committee of the IMO in 2011 published "Questionnaire on Information on Port and Coastal State Requirements Related to Privately Contracted Armed Security Personnel on Board Ships." The statistics of the document show, that all States require notification prior to the vessel enters the port or the territorial waters (circ. 2), although various national jurisdictions set different standards of the proper exercise of the right of innocent passage. Restrictions also vary on the issue of the carriage and disembarkation of weapons in ports. For example, Brazil, Denmark, and Egypt require the weapon-carrying ship to obtain the license of authorization from the respective Ministry upon arrival to national territory (Kraska, 2013, p. 131). Jordan considers the voyage of an armed ship as an innocent passage, if the period of transit is no more than 24 hours,

whereas Liberia simply outlawed the carriage of firearms into its territorial waters (IMO Doc. MSC-FAI, circ. 2, para. 1.6, 8).

The 90<sup>th</sup> Session of the IMO Maritime Safety Committee stated, that "ships entering the territorial sea or ports of a State are subject to that State's legislation" (IMO Doc. MSC. 90, Report of the Maritime Safety Committee on its Ninetieth Session May 31, 2012, para. 20.11). The IMO guidance of 2012 provides that PMSCs have to be aware of the legal responsibilities they might have under the flag State, the State where the PMSC is registered and the countries in which the PMSC will transit. Obligated by the international community to meet the specific requirements of different States, PMSCs started employing logistical support of another type of contracted private services - floating armouries, which essentially are offshore, floating platforms, where private security teams can temporarily store the weapons while preparing to enter territorial waters or leaving those. Another teams prefer to drop their firearms at sea before entering territorial waters simply. A more liberal approach is demonstrated by the British and French regulations, which allow ships with armed teams aboard to transit the territorial waters of the respective countries provided that all firearms are safely stored and locked up inside the ship and the coastal authorities are notified upon arrival (IMO Doc. MSC-FAL/Circ. 2 (France), IMO Doc. MSC-FAL/Circ. 2 (United Kingdom)).

#### 4. Conclusion

In the present paper, we have tried to discuss the two possible models of diminishing the threat of maritime piracy – contracted Private Maritime Security service and State Affiliated Escort. Both models have practical advantages and shortcomings, which pose certain legal difficulties for the international community. Not only Navies are costly to deploy and maintain in the vast maritime areas, exposed to piracy – it is highly debatable if naval patrols are an effective measure to suppress the emergence of piracy in the regions. Apart from being expensive and difficult to maintain, naval forces are politically complicated – the minority of countries enjoys the presence of foreign warships in their territorial waters. Marin et al. (2017) highlight, that "following the plight of individual coastal states (most notably, the United States) and certain parts of the shipping industry, more and more nongovernmental actors became reliant on the private maritime security services within a short period of time. . ." (p. 191). Although the rapid rise of private maritime security contractors has provided the shipping industry with agile and effective methods of thwarting the piratical threat, also posed several complicated legal challenges. Human rights issues arise from the fact that private military security personnel is swift at using force against suspected criminals, which often leads to lethal consequences and proliferation of violence at sea instead of intended maintaining of safety and security. Moreover, contradictions between States may arise about the method of carrying firearms and their very presence on commercial vessels traversing territorial waters. Carbone (2016) emphasizes, that "the uncertain regulatory environment leads to lack of accountability and responsibility on the part of the PMSCs. Hence, the international community needs to find a rapid [legal] solution for the use of PMSCs as the latter are definitely here to stay" (p. 2).

The debate on whether the private contracted security model or State Affiliated Escort is not adequate without taking into account the complex character of piracy. Piracy can manifest itself in various forms, the most common of which, according to ICC IMB Piracy and Armed Robbery Against Ships Annual Report 2017, are kidnapping for ransom and hijacking (p. 10). Different models of piracy are prevalent in the piracy-vulnerable regions of the world. As AGCS' Donney states in the Annual Shipping Review (2014),

for example, in Indonesia and the Strait of Malacca, the modus operandi is not to kidnap; these pirates just want the cash aboard the vessel or to rob the crew of any valuables. It is a different situation to Somalia and Nigeria. In Somalia, the model is to capture the ship and hold the crew for ransom. While in the Gulf of Guinea, the model seems to be kidnapping crew members off the ship and holding them for ransom and, in some cases, rebel

groups simply attack and try to destroy a ship, particularly oil tankers, who are seen as “stealing” the nation’s wealth (p. 28).

Consequently, various regions of the world require different models of maritime security to repress the specific local form of piracy and armed robbery. Measures that are found effective for suppressing criminal activity in the Western Indian Ocean are likely to be not very suitable for South East Asian realities. Therefore, States should customize their approach to the repressing piratical activity in individual areas.

The international community has been elaborating a number of potential legal frameworks to regulate the contracted military services. The growing usage of PMSCs services made the International Maritime Organization readjust its position on the use of force by private actors, so the latter would not provoke the escalation of violence at sea. In 2009 the IMO issued the Maritime Safety Committee Circular, where provided recommendations on the use of PMSCs, and published a guidance to ship-owners, where drew the latter's attention to the fact, that their ship will be subject to the Coastal State's legislation once this has entered the territorial waters, and therefore the PMSC personnel becomes the subject to local legislation. The issued documents sparked the development of international standards and certification process for PMSCs, that were established in ISO/PAS 28007, which set the rules for the proper certification of PMSCs. These criteria include "licensing of firearms, vetting of security personnel, rules on the use of force and command and control of security personnel" (Carbone, 2016, p. 17). In addition, the companies were obliged to undergo the audition and inspection by respective authorities of the different States to become certified. The increasing number of States have been developing local legal frameworks and guidelines to regulate the use of force by the private maritime security contractors, although the majority of such documents are non-binding in nature and have only been introduced as recommendations for the professional industry (Marin et al., 2017, p. 196).

The blurry situation with the control of private maritime security contractors and the shortcomings of the use of States' Navies at combatting piracy have led to the development of another model in the field of maritime security. The Oceans Beyond Piracy's Issue Paper "Defining Contracted Maritime Security" identifies five basic models of contracted maritime security service provision and stresses, that over the last decade, private maritime security contractors have been the most prevalent model. However, in recent years, several alternative models of CMS have become increasingly commonplace. These new models, which often involve government forces, are operating with very little transparency outside the shipping industry end-users (p. 1).

Thus, the authors highlight, that the two newly elaborated maritime security models are becoming increasingly popular in the shipping industry – the model of Vessel Protection Detachments, where explicitly endorsed by the Flag State military personnel provides the services aboard commercial vessels, and the Coastal State Embarked Personnel model, where the embarked armed personnel originates from the Coastal States according to agreements between the ship owners and the providing national authorities. Although the core challenges and complications, such the lack of legal regulations and the high cost of services still partly remain in these new paradigms and the additional challenges, specific for these new models of maritime security may arise, the new models can bring positive changes, diversity, and competitiveness in the maritime security industry and provide the spark for the further development of efficiency, transparency and legal accountability in the professional field. There are plenty of regulatory and governance frameworks and procedures, that industry leader and the policy-makers are yet to standardize and enhance in the existing maritime security paradigms, and the further introduction of the new models, which will be able to mediate the conflict between the States' legal requirements, the shipping industry demands, and human security provision, can bring the new prospectives and improve the operational realities of the various maritime security providers.

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