

EXCEPTIONS TO THE CRIMINAL JURISDICTION OF THE COASTAL STATE ON MERCHANT AND ON NAVAL VESSELS IN THE HELLENIC LEGAL ORDER

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Abstract

Hellas as is known possesses one of the most strategic position in the Mediterranean Sea while is between Asia and Europe, near to Africa, between Black sea and Mediterranean Sea, between Eastern and Western Mediterranean. Due its position is rendered nodal point in political, geographic and economic level between the above continents. Hellenic people from the antiquity have developed an intense shipping activity which led them progressively to the configuration of one of the most important shipping forces in world level. Hellas possesses the first position in the European Union (EU) regarding the capacity in tons by vessels under Hellenic flag. Also is between sovereign forces in international level concerning the capacity of vessels under Hellenic flag but also in vessels which are under different flag but are owned by Hellenic ship owners. All these, have led to the configuration and to growth of a law concrete sector, the maritime law, which is constituted by national provisions as also by international provisions.

Keywords: Merchant vessels, naval vessels, Hellenic coast guard, United Nations Convention of Law at sea (UNCLOS), jurisdiction, law enforcement agency (LEA)

Introduction

Hellas holding a key position in the Mediterranean area, with a long coastline, is a contact point of three continents and respectively a contact point of their cultures. At the same time as a State with a strong shipping tradition, for centuries transferred in Hellas, but also in other countries through its shipping, experiences, habits, traditions and influences.

As a State at a key position was and still is the crossroad of the major shipping and trade routes in the Mediterranean. The intense employment with the shipping had as a result, the development of maritime law in Hellas and subsequently the monitoring of international developments in this field. The result was the endorsement of international maritime law conventions in the Hellenic national legal order, the establishing of bilateral agreements and the development of national legislation based on the general principles of international maritime law.

The Hellenic Competent Authority concerning policing on vessels, seamen, ports, generally in maritime area and consequently on the implementation and monitoring of relevant legal provisions constituting maritime law and related to the above is the Hellenic Coast Guard (H.C.G.). H.C.G. is one of the basic Law Enforcement Agency (LEA) in Hellas which, monitors and implements the relevant legal provisions under specific conditions each time.

The maritime tradition that has been developed by Hellas for centuries has resulted in the formation of maritime law, a law that in which had been incorporate and international legal provisions. The search of topics related to offenses committed on vessels but also in

maritime environment occupies the Hellenic administrative and judicial authorities in a high level. This specific legal area presents many peculiarities associated with many other areas of law such as international law, maritime law, special maritime laws etc.

Purpose of this study is to examine critically the provisions referred on the exemptions to the criminal jurisdiction of the coastal State, as provided in the public international maritime law and in the Hellenic legal order (Note 1). In this context it will be examined the criminal jurisdiction of the coastal state in specific sea zones like in the internal waters, in the ports, in the territorial sea, in the continental shelf, in the exclusive economic zone, in the open sea and will also be developed the right of hot pursuit. Finally, the study will be closed with the presentation of the conclusions.

Exceptions to the international public law

The principle of full and unlimited jurisdiction of the coastal state for offences committed on vessels anchoring, which outlines the ceilings of port State jurisdiction, is valid on condition that they do not otherwise specified either by an International Convention or either to national law rules.

Hellas with international conventions has restricted the exercise of criminal jurisdiction on crews of vessels under foreign flag which are in anchor in its ports.

The broadest possible jurisdiction establishes the Treaty of Friendship, Commerce and Navigation between Japan and Hellas (article 11 of Law BXNE 1899), where is determined that Hellenic vessels moor in Japanese domestic waters are subjected to Japanese laws and jurisdiction and the Japanese vessels that moor in Hellenic domestic waters are subjected to Hellenic laws and jurisdiction.

It is noted that is not established exclusive jurisdiction of Hellas as a coastal State, but concurrent and parallel Japan as flag State keeps intact the right to exercise jurisdiction on offences committed in a Japanese vessel.

Hellas has signed bilateral consular conventions with France, Turkey, Belgium, Italy, Spain, USA, Lebanon, Poland, Britain and Australia in which generally is provided that the Hellenic authorities do not intervene in case is committed an offence on a vessel under the flag of the above mentioned states unless:

- A. The offence that was committed- is engaged domestic individual or individual who is not a member of the crew.
- B.-An offense of such nature happened that was disrupted public peace and good order on land or in port and
- C. -requested the contribution of the local authorities.

In the Convention between Hellas and the Republic of Lebanon [article 27 of Legislative Decree (LD) 1273/49], local authorities can intervene and when is going offense characterized by the legislation of the coastal State as a felony.

In the Consular Conventions with Poland (Law 838/1978) and B.Britain (LD 2619/1953), is allowed the intervention not only when are comes to felonies, but also when the act concerns issues to public health, safety of life at sea, immigration, customs, maritime pollution and drugs.

When there is any of the above conditions, the jurisdiction of the Hellenic courts is complete and are applied the Hellenic penal laws, regardless of the laws of the flag State bears the docked vessel, as long as the committed offense is taking place in the «domestic» (Note 2).

But reflection causes the meaning of the term «disruption or threat of public order or order or peace», because given that this is a judgment on the things non-supervised refuted by the Hellenic Supreme Court, it is up to the substance Court of the substance to determine each time to aid whether or not.

Until now have not established specific criteria to assist in the uniform classification of the various cases in this vague and general meaning resulting to exist arbitrariness or inconsistency.

However has judged in legal precedent that the possession by crewmembers of pistols, machine-guns and cartridges and other war material, without the permission of the authority, caused danger to public peace and good order of the port and the city. It is noted that there was not any cited reason by the Court (Note 3).

Also has judged that as long as the fire that has occurred in a foreign vessel was negligible extent, was not disrupted ports tidiness and tranquility (Note 4).

Still has judged that there was not disturbed the order and the quietness of the port from a homicide by negligent committed in a Turkish vessel docked at a Hellenic port. It is also noted that there was not again cited any reason by the Court (Note 5).

On the contrary when was not disrupted by the offence committed the public order, quietness and serenity of the port and was not requested the assistance of Port Police Authorities, there is no domestic criminal power according to the relative provisions of the domestic law.

The view that was supported jurisprudential (Note 6) that if there is no reason to innervate the Hellenic authorities because it was disrupted the tidiness of the port then the opinion is that the crime is considered as crime committed in abroad is incorrect.

The above case law position ignores the fact that the crimes committed on foreign vessels in the Hellenic internal waters, are committed in domestic, while articles 6 and 7 of the Hellenic Penal Code (HPC) are referred to acts committed abroad. Besides and article 161 (Note 7) of the LD 187/1973 (A' 261) [Hellenic Maritime Public Law Code-HMPLC] cannot accept exceptions.

In the context of the Council of Europe Member-States was signed in Paris on 11-12-1967 the European Convention on Consular Duties (Law 1363/1983).

According to this Convention the Administrative Authorities of the coastal State, do not intervene in matters that are related to the internal management of the vessel unless is requested by the consular officer of the vessel flag or consented to that (article 35 paragraph 1).

Concerning to criminal jurisdiction issues of the coastal State, as host State for offences committed on vessel bearing the flag of the sending state according to article 36 of this law, the following shall apply:

A.-The judicial and administrative authorities of the residence state cannot exercise their jurisdiction or to intervene in crimes or incidents that took place on the vessel but only after request or consent of a consular officer or of other duly authorized person.

B.-Regardless of the consular officer consent, the judicial authorities of the host State can exercise their jurisdiction concerning offences committed on vessel if these offences:

1. Committed against or by national of the coastal State.
2. They disturb the peace or the security of the host State port or of the territorial sea or of internal waters.
3. They are offences against the laws and regulations of the residence State and concern the state security, the public health, the rescue of human life at sea, the entrance in the territory, at the custom or the pollution with hydrocarbons and
4. they are serious offences.

As serious crimes considered offences which according the state residence laws are punishable by a maximum imprisonment penalty of at least five years, or eventually for states that will inform this with sentences of three or four years.

C.-The administrative authorities of the host State intervene regardless of the consular officer consent:

1. When a person is accused of an offence committed on vessel, on which the judicial authorities of the host State can exercise their jurisdiction in accordance with the above or where there are serious reasons to believe that such an offence has been committed or was committed on vessel.
2. When entitled to intervene pursuant to paragraph 2 of article 35 of the Law 1363/1983.
3. When a person is detained against his/her will on vessel, except the case of a crew member detention for disciplinary offence and
4. to take a measure or to conduct an investigation that consider as necessary concerning one of the topics referred to in paragraphs (b) and (c) of article 36 paragraph 2 of Law 1363/1983.

The arrangements bind the contracting parties which have acceded to the Convention which have been ratified by them and express the absolute and unlimited jurisdiction of coastal States in their internal waters and ports. Application precondition is to have ratified this Convention so the host coastal State as well as the sending state of which its flag is bearing by the vessel which is at anchor in the waters of the host State (Note 8).

Exceptions to the internal law

Hellas has limited its criminal jurisdiction in the following cases:

A.-Article 161 of HMPLC titled «Crimes on foreign merchant vessels» in which are determined the following:

1. Port Police Authorities exercise according to articles 158 (Note 9) and 159 (Note 10) their competencies in foreign merchant vessels and auxiliary crafts, located in ports and territorial sea of their region if otherwise is not predicted in international conventions, in the following cases:

- a) If is disturbed or is threatened the public order and
- (b) if is requested the contribution of the Port Police Authorities by the master or of other person who is on vessel.

2. In cases of Port Police Authorities intervention is invited to attend the intimate consultant authority, which is informed in time for the intervention time. In cases of extreme urgency, the announcement of the intervention can be done at the time of the action.

B.-Also according to article 162 of the HMPLC titled «Investigative acts in foreign vessels», in which is determined that the Port Police Authorities can make on foreign commercial vessels when they are in Hellenic territorial waters in accordance with the provisions (of course of domestic law), and in keeping with the second paragraph of the preceding article, arrests and investigative acts against persons who are persecuted, as well as persons arrests who have been convicted for a crime or is suspect to escape including the military personnel.

Criminal jurisdiction in the various sea zones

The criminal jurisdiction of States in sea zones is one of the most important issues that occupy HCG personnel due to the nature of police duties exercising. The main topics in legal terms are defined by the International Convention on the Law of the Sea (UNCLOS)(Note 11). More specifically:

Internal waters

Internal sea waters are those waters that lay between the coast and the point from which starts the measurement of the territorial sea. With the term internal waters we mainly characterize ports, coves and the so-called historic bays.

In the internal waters, which are assimilated almost seamlessly with the land area, the coastal State exercise all the powers, has full sovereignty with the only self limitations

prescribed by international law on mooring and anchoring of foreign vessels. The main difference between internal waters and territorial sea, is that in territorial sea foreign vessels have the right of innocent passage (Note 12).

In particular the sovereignty is expressed with the following competencies containing the main characteristics of State power:

- Entry in the internal waters is determined exclusively by the coastal State, which may prohibit or allow generally or specifically.
- Vessels that are in the internal waters are under the jurisdiction of the land State. On these vessels are performed and executed State laws.
- Identification of internal waters with the land provides also to the coastal State exclusive competencies of sea space total usage.

The existing provisions of international law are minimal, and this is explained by the fact that Member States do not wish to have special international arrangements for regions that are subject to the same regime as with the land (Note 13). They mainly concern the mooring and anchoring of foreign vessels and are included in the Convention and in the Statute «On the international regime of Sea Ports of Geneva» in 1923 (Note 14).

In the statutes are proclaimed:

a.-The principle of equal treatment between vessels bearing the flag of a coastal State and vessels carrying the flag of other Contracting States.

b.-The reciprocity principle.

Also refers to the terms of arrival and anchoring, in providing services, the imposition of duties and taxes and the movement of persons and goods in ports. All the arrangements are subject under the reservation of public order safeguarding and defense of the coastal State.

The general common law predicts that the coastal State can prohibit to all the vessels, merchant and war, entering to the ports for reasons on public order and national security, with the following exceptions:

a.-Vessels that fleeing mandatory due to injury, bad weather or other cause,

b.- Vessels that carrying State Heads or diplomatic representatives accredited to the coastal State,

c.-foreign vessels fishing in applying of international conventions (Note 15).

UNCLOS does not contain general rule concerning State's territorial sovereignty limitation in internal waters, in favour of the jurisdiction of vessel flag State (Note 16).

Ports

Port is the place which has been formed naturally or artificially in order to allow the anchoring of vessels and to provide security and other facilities in actions and activities related to navigation, maritime transport and trade. Port definition is contained in article 1 of the statute on the international regime of maritime ports (Geneva 1923).

The above definition is very restrictive, because it considers that ports are: «Are the normal frequently under maritime vessels and used on external trade». Unlike according to the general international law, ports are those in which are not normally «Frequented normally» sea vessels, as the ones which are not «Used for foreign trade» (Note 17).

In article 137 of HMPLC (Note 18) titled «Port expansion» is determined that port includes:

1. a. Its sea area.

b. Ground segment called «port zone land». This covers the entire length of the port and arrives at depth and area that includes the port structures, areas and facilities which serve its functional needs (piers, docks, beach sidewalks, yards, auction sites, water sports facilities, areas of loading works and storage loads, passenger movement) for maritime transport service and transport from land to the sea and vice versa.

2. When there is a need to be determined the extent of the port land zone shall be determined by joint decision issued by the ministers of Public Works, Transport and Communications – Shipping and Public Order (Note 19).

In the Hellenic legal order port determination is given on the provisions of law 2971/2001 (A' 285). Specifically in article 1 is determined that «Port is zone land and sea together with works and equipment, allowing mainly accommodating every type of vessels and recreation vessels, loading - unloading, storing, receiving and cargo forwarding, passenger and vehicle service and the development of business activities, which are directly or indirectly connected with maritime transport» (Note 20).

The coastal State has full jurisdiction on the offences committed on vessels under foreign flag in ports, regardless whether this jurisdiction is exercised on the basis of customary rules or by specific bilateral or multilateral agreements with other States (Note 21).

Any offence committed on vessel under foreign flag in ports is under the jurisdiction of the coastal State except the exceptions that introduces the international law or the internal law of the coastal State.

Offence was committed on vessel under foreign flag that anchoring in a Hellenic port, shall be deemed committed on Hellenic territory and the Hellenic penal laws are applicable regardless of the flag State law, unless otherwise provided by an International Convention or a rule of national law (Note 22).

Possession of weapons by crews of vessels under foreign flag sailing into Hellenic ports is legal only if they have been authorized by the competent Port Police Authority and if are fulfilled the conditions laid down by the domestic provisions (Note 23).

Unless otherwise specified by international law rules, merchant vessels under foreign flag may be subject of seizure and forfeiture according to the laws of the port State. To merchant vessels are assimilated in terms of their legal position and the vessels that are owned by the foreign State but are used for commercial purposes, as well as the leasehold for this purpose (Note 24).

It's outside of the coastal State jurisdiction and of its local authorities disciplinary offences, unless if requested their assistance or the performed acts are being of such a nature that can disturb the port tranquility.

Exception to the exclusive jurisdiction of the coastal State is introduced by article 32 (Note 25) of the UNCLOS and more specifically on warships. In particular on warships override the law of the warship flag State as warships are fully assimilated with the territory of the flag State. They are covered by immunity and the coastal State cannot exercise criminal jurisdiction on them even when they are in its ports. The only exception is if the master or the Consul requests the assistance of the coastal State authorities.

Following the principles of international law, set out in article 163 of HMPLC (Note 26) that the Port Police Authorities refrain from any interference in relation to crimes committed by foreign warships.

Also the coastal State has complete criminal jurisdiction on vessels conflicts or of other maritime incidents that are taking place in its port. Characteristically in UNCLOS in article 92 (Note 27) is established on vessels collision or other incidents on the open seas, the exclusive jurisdiction of the flag State law or of the nationality of the master.

In article 97 paragraph 3 of UNCLOS (Note 28) is determined that «No arrest or detention of the ship, even as a measure of investigation, shall be ordered by any authorities other than those of the flag State» but this provision relates to criminal jurisdiction, in cases of conflict or another episode, in the open sea and not in internal waters or ports of the coastal State.

If case that in the State port moored vessel under foreign flag, after a collision or other marine episode that took place in the open sea, cannot be exercised criminal or disciplinary proceedings against the responsible person.

In articles 218, 219 and 220 1 of UNCLOS (Note 29) is canonized the possibility of State port to take in cases of marine pollution by vessels under foreign flag independently which is the place where the offence was committed.

In fact in article 219 of the Convention is provided for the possibility of the port State to take preventive administrative measures on preventing departure under foreign flag from the port if has been ascertained that the vessel docked in its port, violates the internationally applicable rules and standards referred to the navigability of vessels, with the result to exist a risk of pollution of the maritime environment.

In the cases referred to in articles 218 and 219 of the Convention in order to be existed port State jurisdiction, must have taken place a violation of international regulations.

In the Convention also are provided guarantees for the benefit of the vessel under foreign flag and its crew, as well as for the flag State of the vessel in articles 223 (Note 30) and next. There are three types of guarantees:

a.-The first type of guarantees concerns the rights of the accused. It is the exercise of port State power only by officers or by warships, respect for the rights of the accused and imposing only fines (article 224, 230 paragraph 1 and 3), (Note 31).

b.-The second type of guarantees is referred in the same vessels under foreign flag (articles 226 and 227) (Note 32) and

c.-the third type of guarantees concerns the precedence given to the flag State of the vessel (article 228 paragraph 1 and 3) (Note 33).

Territorial sea

Territorial sea is part of the territory of the coastal State in accordance with international law and therefore the coastal State exercises full sovereignty in this zone (Note 34) having the presumption of general jurisdiction as in its other land territories (Note 35).

The full sovereignty of the coastal State in the territorial sea is expressly provided in the article 2 paragraph 1 of UNCLOS in which is predicted that: «The sovereignty of a coastal State extends, beyond its land territory and internal waters and, in the case of an archipelagic State, its archipelagic waters, to an adjacent belt of sea, described as the territorial sea» (Note 36).

In the specific sea area domination is complete and includes all the legislative, administrative and executive powers, limited where otherwise is provided by rules of international law (Note 37).

When a crime was committed on foreign vessel in Hellenic territorial sea, it is considered that was committed in domestic, while it has been committed on Hellenic vessel in territorial sea of foreign State is considered that was committed in abroad.

Competent authorities for policing territorial sea in Hellas are the Port Police Authorities (HCG). In their police jurisdiction are subjected the merchant vessels under Hellenic and foreign flag crossing the territorial sea according to the requirements of international law. In the Port Police Authorities competence falls the total of policing competencies apart of specific that expressly exempted by law (Note 38).

It is noted that the prosecution of certain offences such as illegal fishing and smuggling is a competence and of other services such as Customs offices via sea financial police (Note 39).

Hellenic warships in the context of its overall mission on ensuring maritime control, take over when is needed and policing duties in territorial sea after request of the competent

authorities or even ex officio, when is perceived a violation and the presence of HCG floating boats or of the Customs authorities is impossible (Note 40).

The local Port Police Authorities have jurisdiction that includes intervention right on Hellenic merchant vessels crossing the Hellenic territorial sea for controlling and implementation of all the State laws, carrying out investigations, arrests and generally of all the necessary procedural acts, jurisdiction which is extended to international sea as vessels are under the jurisdiction of the State which its flag bears.

The situation differs for vessels under foreign flag while article 2 paragraph 3 of the UNCLOS determines that: «The sovereignty over the territorial sea is exercised subject to this Convention and to other rules of international law».

The dominance thus in territorial sea is limited according to UNCLOS provisions and in particular with the institution of vessels innocent passage under foreign flag, which is not foreseen respectively for the land, subsoil and airspace and with other restrictions that imposed to States sovereignty.

Consequently, Port Police Authorities have the right to do any kind of investigations, arrests, interrogations etc. in foreign merchant vessels that violate the rules of innocent passage as provided for in international law. In case that a foreign warship violates the rules of innocent passage (Note 41) from the Hellenic territorial sea are not in force the same policing rules that are in force for merchant vessels and the only thing that may require the coastal State is the immediate removal of the warship from its territorial sea and following the responsibilities search of the flag State which is responsible for the actions of its warships.

Only warship or State vessel used for non-commercial purposes and charged with police duties, can ascertain the rules violation of innocent passage by a foreign warship and to instruct order for removal from territorial sea in case of non-conformity with the articles 30 and 31 of UNCLOS (Note 42).

Also the coastal State and therefore is in the police functions of Port Police Authorities, has complete criminal jurisdiction for offences occurring on vessels under foreign flag during navigation within the territorial sea as and when the offence has been committed, when the vessel was in the internal waters of the coastal State, and then the vessel entered in the territorial sea (Note 43).

In practice States exercising their criminal jurisdiction only for crimes against State interests or affect public order or officially is asked the intervention of the coastal State (Note 44).

In article 17 of UNCLOS is determined that «... ships of all States, whether coastal or land-locked, enjoy the right of innocent passage through the territorial sea» and of course this right is not in force in Member States internal waters.

The right of innocent passage covers and warships as in section 3 of UNCLOS which is referred to innocent passage in the territorial sea is listed as a subtitle of subsection A´ «Rules applicable to all ships», while in no other provision of this Convention is not prohibited to warships to exercise the right of innocent passage or to perform it under certain conditions.

The crossing and its conditions are determined in articles 18 (1) of the Convention, (2), article 19 paragraphs 1 and 2 in which are cited all the activities which do not constitute harmless passage (Note 45).

The passage is considered harmless when is not disturbing the peace, public order and the security of the coastal State. These terms are vagueness and there is no commonly accepted definition in international law, which means that whenever, is needed must be referred in the national laws of the Member States, which means every time a subjective assessment.

UNCLOS connects harmlessness of the crossing with the enumeration of acts that fall within the State jurisdiction by reversing the proof burden. Therefore if the crossing is harmless until to the point that takes place the harmful action coastal State bears the proof burden of the harmful event and its consequences.

Also the wording of paragraph m, of article 19 paragraph 2 of UNCLOS makes an indicative listing, giving to the coastal State the ability to assess whether an activity of the foreign vessel that passes through the territorial sea has or not a direct relationship with the passage so to be considered as harmless (Note 46).

The criminal jurisdiction of the coastal State is defined in article 27 of UNCLOS in which are defined and the exceptions (Note 47). The most important thing in that article is that if the crime was committed on vessel which exercise the right of innocent passage during transit the coastal State would not have criminal jurisdiction.

In UNCLOS is not provided anywhere the way that the coastal State will exercise the criminal jurisdiction in the case of foreign merchant vessel located in the territorial sea (anchor), and is not derived from internal waters phenomenon which is common in Hellas. In this case relatives are the articles 161 and 162 of HMPLC (Note 48).

In UNCLOS in article 27 paragraph 5 is defined and the case where foreign vessel coming from a foreign port and just passing through the territorial sea of the coastal State and the crime was committed before entering in the territorial sea. In this case the coastal State cannot exercise its criminal jurisdiction except of the exceptions that are described in the same provision.

Related to the above is and article 23 of the Convention, which gives to the coastal State the right to intervene and to control the vessel, the cargo, the accompanying documents and the keeping of the preventive measures (Note 49).

Finally the International Convention of Brussels of 10 May 1952, «For the Unification of certain Rules Relating to Penal Jurisdiction in Matters of Collision or Other Incidents of Navigation» (Note 50), is enforced and in territorial sea unless a Contracting Party, with Declaration excepts its territorial waters from the scope of the Convention. But if the Convention applied in the territorial sea the jurisdiction of the coastal State in the event of vessels collision will be limited because it will canonize the flag State competence (Note 51).

Thus from the above reveals the following:

A.-For acts committed in foreign vessel that exercises the right of innocent passage, is applied the law of vessel flag State except the defined exceptions in UNCLOS.

B.-Foreign vessels which pass through Hellenic territorial sea, the Hellenic authorities cannot take legal action unless is possible the prosecution according to articles 6 and 7 of the Hellenic Penal Code (HPC) and regardless of any other condition in the cases referred to in article 8 of the HPC. However, if the foreign merchant vessel crosses the Hellenic waters having departed from Hellenic port, the acts that are committed on this are subject to the criminal jurisdiction of the Hellenic authorities (Note 52).

Acts committed on a Hellenic vessel that exercises the right of innocent passage through foreign territorial sea are subjected in the domestic criminal jurisdiction according to Convention provisions and only exceptionally are subjected to the criminal jurisdiction of the coastal State, if are laid down the conditions determined in the Convention.

Continental shelf

The coastal State according to articles 77 and 78 of UNCLOS has certain sovereign rights on the continental shelf (Note 53).

In article 77 paragraph 1 is determined that «The coastal State exercises over the continental shelf sovereign rights for the purpose of exploring it and exploiting its natural resources». These rights according to paragraph 2 of the same article are exclusive, in the

sense that if the coastal State does not carry out searches on the continental shelf or exploit its natural resources, no one else can undertake such activities without the express consent of that State.

According to article 81 «The coastal State shall have the exclusive right to authorize and regulate drilling on the continental shelf for all purposes».

From the above is concluded that the sovereign rights of the coastal State over the continental shelf, have limited functional purpose and extent which concerns solely the right of search, the right of natural resources exploitation and the right of drilling (Note 54).

Thus the coastal State does not have permissions to the overlying of the continental shelf waters of the seas - unless the shelf coincides with its exclusive economic zone-nor on the territory of the continental shelf for uses that are not expressly provided by international law (Note 55).

UNCLOS does not predict criminal jurisdiction of the coastal State over the continental shelf.

But since there are permanent or temporary facilities or floating constructions on the continental shelf, destined for search and exploitation of hydrocarbons is established country's criminal jurisdiction for offences committed on these facilities and structures or within the security zones around them (Note 56).

Exclusive economic zone

The exclusive economic zone (Note 57) is governed by a special legal regime that is not identified with the status of sovereignty in territorial sea but not even with the regime on the high seas. The coastal State has criminal jurisdiction only for the implementation of the law concerning its sovereign rights exercise.

Concerning the right of the coastal State (Note 58) to construct and to regulate the operation of installations and structures for economic and other purposes, is noted that these facilities are under the jurisdiction of the coastal State in which is included the competence of certain measures repression establishment, as well as the competence of defining security zones around of artificial islands or other facilities.

The exclusive criminal jurisdiction of the coastal State on the premises includes and the criminal jurisdiction on crimes committed on the premises or cause damage on them.

More specifically the permanent or temporary installations or floating constructions on the exclusive economic zone, intended for hydrocarbons exploitation, as well as security zones around them, assimilated to the country territory (article 12 paragraph of law 2289/95 «Search, investigation and hydrocarbons exploitation and other provisions») (Note 59).

Offences committed on the premises or in the security zone are judged according to article 12 paragraph 14 of the law 2289/95 by Piraeus competent courts.

On the same topic relative is and Rome Convention of 10 March 1988 «On the Suppression of illegal acts against maritime safety» and the attached to this Protocol «On the suppression of unlawful acts against the safety of fixed platforms on the continental shelf» (Note 60).

Aim of the Convention is the most effective prevention and suppression of illegal acts against vessels. As such acts are considered the violent seizure of a vessel, threats or violent actions against persons aboard on vessels and mechanisms placing on vessels with purpose destruction or damage caused.

Basic objective of the Convention is be ensured the adoption of appropriate measures against the persons who commit the above acts. At the same time obliges Contracting Governments to cooperate between them on the prevention of terrorism display acts against vessels, to exercise prosecution against the perpetrators or to make extraditions to another State party (Note 61). For this reason, the text of the Convention contains provisions of criminal and procedural law.

According to article 3 (E) of the Protocol, as a stable platform is meant any artificial construct docked at the bottom for search purpose and exploitation or for other economic purposes.

On the criminal jurisdiction of the coastal State for the exercise of its sovereign rights in its exclusive economic zone, relevant is article 73 of UNCLOS (Note 62).

Based on the above article is clear that UNCLOS establishes a wide-ranging criminal jurisdiction of the coastal State for the exercise of its sovereign rights in its exclusive economic zone. These measures include the possibility of boarding in foreign vessels, inspection, arrest and initiate of the relevant proceedings.

The above though wide-ranging criminal jurisdiction of the coastal State on vessels in the exclusive economic zone may be exercised under specific restrictions lay down in article 73 of UNCLOS. These are:

A.-The jurisdiction can be exercised only on the sovereign rights of the coastal State relating to biota in the exclusive economic zone. Therefore does not apply to the non-living natural resources,

B.-vessels that will be detained as also and their crews will leave immediately freely after the deposit of a reasonable guarantee. The coastal State ought also immediately to notify the flag State of the vessel, for the seizure or impoundment of the vessel as well as the penalties imposed then,

C.-penalties imposed or threatened for violation of legislation on fisheries in the exclusive economic zone, may not include imprisonment or any other form of deprivation of liberty, unless there is specific agreement between the coastal State and other States concerned. The custodial sentences cannot be imposed neither to the citizens of the coastal State for the above offences, since the criminal jurisdiction of the State concerned in the exclusive economic zone shall be determined and limited by UNCLOS (Note 65).

It is also in force and the criminal jurisdiction of the coastal State referred to customs, fiscal, health and immigration legislation.

According to article 111 (2) of UNCLOS (Note 64) «The right of hot pursuit shall apply *mutatis mutandis* to violations in the exclusive economic zone or on the continental shelf, including safety zones around continental shelf installations, of the laws and regulations of the coastal State applicable in accordance with this Convention to the exclusive economic zone or the continental shelf, including such safety zones».

Open sea

The only connective element for acts committed on a vessel on the high seas is vessel flag (Note 65).

The flag State of the vessel has according to the international law, in principle power on all the persons and things that are on the vessel, when the latter is on the high seas.

Namely the flag State, on the one hand, retains the power legally have on certain people and things, in which is included the vessel and on the other hand acquires and power on people and things, by the fact and only that they are on the vessel that if was not on the high seas would not have.

In this case, there will be concurrent jurisdiction of the State which has original jurisdiction on persons and things, and the vessel flag State.

The flag State exercises full and exclusive jurisdiction in principle on board to occupants, and the things that are on this and for each criminal remarkable fact.

The exclusive jurisdiction of the flag State is recognized and by UNCLOS according to article 92 (Note 66) in which is defined: «1. Ships shall sail under the flag of one State only and, save in exceptional cases expressly provided for in international treaties or in this Convention, shall be subject to its exclusive jurisdiction on the high seas. A ship may not

change its flag during a voyage or while in a port of call, save in the case of a real transfer of ownership or change of registry.

2. A ship which sails under the flags of two or more States, using them according to convenience, may not claim any of the nationalities in question with respect to any other State, and may be assimilated to a ship without nationality» (Note 67).

The flag State is free to define the rules which will apply on board vessels in the free sea (Note 68). Namely it has the right to extend the validity of the whole law on its vessels, or conversely to designate part of the applicable legislation, or to exclude only certain laws or to enact special legislation for vessels that will carry its flag. In practice do not miss the special law rules placed by several States to regulate matters of their flag vessels and when they cross the open sea (Note 69).

In that respect as far as concerns criminal law rules, the trend of States is to be applied them and to vessels caring their flag (Note 70).

If a crime was committed entirely on a vessel on the high seas is applied without problem the criminal law of the vessel flag. The criminal law of the vessel flag State, is also applied and in cases where the crime is not completed in the same vessel but part of this or the effects of its consequences are taking place aboard on another vessel or at sea or ashore if they bear the same flag or occur in a space of the same flag (Note 71).

Problems arise in cases where the act or its consequences unfold on two or more vessels that bear flags of different countries or on a vessel of a certain flag and in the land or in a port of one or more different States of the vessel flag State.

In these cases, there is overlapping of more criminal claims of different States, claiming criminal jurisdiction on the basis of jurisdictional links that have been adopted by various States to the rules of their national law.

Based on the provisions of articles 5-11 of the HPC exists domestic criminal jurisdiction with the following distinction:

A.-Act is considered that is committed in domestic, if was committed on a vessel bearing the Hellenic flag (article 5 paragraph 2 of the HPC) or the result occurred in Hellenic territory or on Hellenic ship.

b.-The Act is considered that is committed in abroad, if place of act commitment or omission and the result is not a Hellenic vessel or ground, but the act was committed by a domestic offender or against domestic victim, whenever sub serves case of domestic criminal jurisdiction according to the provisions of articles 6 and 7 of the HPC.

This domestic criminal jurisdiction is independent of other States concurrent criminal jurisdiction which relies on their own jurisdictional links according to their national rules of law.

Different is the case where the act or the omission constituting the offence and all its consequences takes place in the open sea and not on a vessel, e.g. members of the crew of a sinking vessel fall into open sea and one of them kills someone in order to get the life jacket.

In this case, place where the crime took place is the open sea, a space without State organization, on which there is no sovereignty of any State or criminal jurisdiction. But neither has the State of the vessel flag from which fell the offender and the victim jurisdiction, after the separation of the bond with the law of the flag from the time they ceased to be onboard.

If the perpetrator and the victim were Hellenic there is domestic criminal jurisdiction according to the articles 6 and 7 of the HPC. If they two were foreigners even if they were members of a Hellenic vessel under wreck from which fell into the sea, this act is not subject to domestic criminal jurisdiction while is an foreigner act that was committed abroad (open sea) by a foreigner (Note 72).

In the case of the vessel sinking or abandonment of risk after masters command, is supported and correctly in my view that the life rafts considered that they have the flag of the sinking or of the abandonment vessel (Note 73). That's because the vessels lifeboats that carried on this, necessarily bear the name of the vessel and are considered as its necessary annexes. Once they are recognized by the legal status of the flag that bears the vessel the legal status of the latter is in force and for them (Note 74).

Right of hot pursuit

To the exclusive jurisdiction of the flag State on the high seas have been introduced some exceptions. These exceptions based on UNCLOS are reported to the right of hot pursuit, in collision of vessels on the high seas, in piracy, slavery and on cases of illegal emissions into the open sea.

The right of hot pursuit is the legal persecution of a foreign merchant vessel on the high seas, after a violation of the coastal State laws, which has been committed within the jurisdiction of the coastal State (Note 75).

The above right is connected on the one hand with the full and exclusive sovereignty exercised by each State in internal waters and in territorial sea, and on the other hand with the fact that the escape of a foreign vessel in high seas that violated the law of the coastal State is easy.

The continuously pursuit if it's effective could have as a result the arrest of the foreigner vessel on the high seas and in this sense is extraordinary jurisdiction of the coastal State (Note 76).

In UNCLOS the article refers to the hot pursuit is 111 paragraphs 1, 3, 4 and 5.

In particular in paragraph 5 of the said article is defined that: «The right of hot pursuit may be exercised only by warships or military aircraft, or other ships or aircraft clearly marked and identifiable as being on government service and authorized to that effect». For this reason the right of hot pursuit is exercised by HCG patrol boats or of Customs vessels but not by Government vessels used for commercial purposes.

According to the HMPLC and the Compulsory Law (CL) 389/1936 the competencies of Port Police Authorities as also of Customs office patrol boats extend only up to the outer limit of the territorial sea. More specifically the patrol boats of the HCG and the Customs authorities patrol boat must under domestic law to stop the pursuit at the end of territorial sea as soon as the foreign vessel got into international waters.

From the moment that the internal legislation doesn't mention for police powers in international waters, this gap is covered by the international law and the pursuit of foreign commercial vessels can be performed by the Hellenic State vessels starting pursuit within the Hellenic territorial waters and continuing and in the international waters (Note 77).

Conclusion

In this brief study were examined the provisions on exceptions to the criminal jurisdiction of the coastal State on merchant and on naval vessels in the Hellenic legal order as provided in the public international maritime law but also in the internal legal order. In this context was examined the criminal jurisdiction of the coastal State on individual maritime zones i.e. internal waters, in ports, in the territorial sea, continental shelf, the exclusive economic zone, in the open sea, while was also developed and the right of hot pursuit.

From the juxtaposition of the provisions indicates that the framework of the relevant national and international provisions applied by the Hellenic national authorities is sufficient and well multitudinous. In parallel the Hellenic judicial authorities have developed an extremely interesting case law associated with implementing provisions for cases of offences that have taken place on board vessels both commercial and military.

It is noted that the provisions applicable to offences which have been made on commercial vessels are more flexible in their application of the relevant provisions application on warships. This is largely understood, due to the fact that the warships in absolute degree express State sovereignty of the flag State they bear. In parallel States can expand their cooperation in criminal matters related to vessels by signing bilateral contracts, something which Hellas has performed extensively, with the signing of several bilateral agreements due to seafarers and the size of shipping that manages.

The main implementer of the relevant legislation that has established or has incorporated in the Hellenic legal order the State is the HCG. It should be noted that for the thorough implementation of the legal provisions that legally binding Hellas has developed an important network of National Port Police Authorities but also and Consular Maritime Port Police Authorities in various countries abroad, which has been staffed by HCG officers and aim not only to a close monitoring of shipping policy in States that have a strong shipping or are located international organizations but also in the implementation of the relevant provisions from the parties responsible in any case as ship owners, ships and crews, on the basis of the flag and the nationality which, in case they bear.

In addition participates in all the international meetings aim at the drafting and signing of contracts related to shipping issues, something which is necessary because of the huge size of shipping that is managed by the competent national authorities.

It is also noticed that important role in matters of criminal jurisdiction on vessels plays UNCLOS, given the fact that this Convention has been signed and has been incorporated into the national legal orders of a large number of States and as already has been mentioned and by Hellas.

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Notes

Note 1. Concerning the implementation of criminal jurisdiction on commercial and warships in the Hellenic legal order see Korontzis Tr. (2012). Implementation of penal jurisdiction in merchant vessels and warships in the Hellenic legal order. *International Journal of Business and Social Science*, vol. 3, issue 17, September 2012, p.p. 139-154.

Note 2. See Hellenic Supreme Court 261/84, 306/75, 1105/73.

Note 3. See Hellenic Supreme Court 1105/1973.

Note 4. See Piraeus Misdemeanor Court 358/74.

Note 5. See. Piraeus Misdemeanor Court 375/1963.

Note 6. See Piraeus Misdemeanor Court 358/74 with which was accepted that by small negligently arson in foreign vessel in Piraeus, from which was not disrupted the orderliness in the port can not be implemented the Hellenic criminal laws.

Note 7. See Hellenic Maritime Penal Law Code as exists today (1988). Publication of ministry of Mercantile Marine, p. 94.

Note 8. See Tsiridis P. (1998). Criminal jurisdiction in maritime space and crimes committed on vessels.P. Sakkoulas, Athens, 1998, p.p. 288-289.

Note 9. Article 158 of the HMPLC is titled «General competencies». See also Hellenic Maritime Penal Law Code as exists today, op cit., p. 94.

Note 10. Article 159 of the HMPLC is titled «Investigative duties of Port Police Authorities». See also Hellenic Maritime Penal Law Code as exists today, op cit .p. 94.

Note 11. It was incorporated into the Hellenic legal order by the law 2321/1996 (A' 136).

Note 12. See Roukounas E. (1997). International Law I, the State and the territory, law of the sea, Ant. Sakkoulas, Athens - Komotini, p.p. 91-94 and Ioannou K.- Oikonomidis K.- Rozakis Ch. - Fatouros A. (1991). International Public Law, Competencies in the International Law. A. Sakkoulas, Athens – Komotini, p. 61 and next.

Note 13. See Roukounas E., op cit., p.p. 92-93.

Note 14. In the specific Statute Hellas has acceded by the law 3904/1929.

Note 15. See Roukounas E., op cit., p. 137.

Note 16. In UNCLOS are some provisions which are characterized as «probing» of other States specific rights, as article 8 paragraph 2 according to which «Where the establishment

of a straight baseline in accordance with the method set forth in article 7 has the effect of enclosing as internal waters areas which had not previously been considered as such, a right of innocent passage as provided in this Convention shall exist in those waters», article 51 paragraph 1 according to: «Without prejudice to article 49, an archipelagic State shall respect existing agreements with other States and shall recognize traditional fishing rights and other legitimate activities of the immediately adjacent neighbouring States in certain areas falling within archipelagic waters. The terms and conditions for the exercise of such rights and activities, including the nature, the extent and the areas to which they apply, shall, at the request of any of the States concerned, be regulated by bilateral agreements between them. Such rights shall not be transferred to or shared with third States or their nationals». See Asonitis G. (1995). The United Nations Convention on the law of the sea. Athens, Papazisis, 1995, p.p. 69 and 94.

Note 17. See Roukounas E., op cit., p. 97 and p. 125 and next.

Note 18. See Hellenic Maritime Penal Law Code as exists today, op cit., p. 87.

Note 19. With the current Government structure relative is the ministry of Internals, ministry of Infrastructure, Transport and Communications, ministry of Public Order and Citizen Protection, ministry of Shipping and Aegean, available on the website <http://www.primeminister.gov.gr/government>, (visited on 16-04-2013).

Note 20. Also in the same law relatives are the articles 18 «Port area», 19 «Land port area», 20 «Sea Port Zone», 21 «Sea and land port zone determination» and 22 «Port land zones status» of law 3018/2001 as amended and is in force by the law 3153/2003.

Note 21. Further and in order to be protected shipping from terrorist acts, in December 2002 were adopted by the International Maritime Organization (I.M.O.) new provisions which were incorporated as Chapter XI-2 in the International Convention on Human Life at Sea, 1974 under the title «Measures to strengthen maritime security against unlawful acts».

At the same time was adopted International Ship and Port Facility Security Code (ISPS Code) against unlawful acts. The code in question is consisted by two parts, one mandatory and one with guidelines on the mandatory implementation of security measures predicted in SOLAS and of the ISPS Code with detailed requirements for the signatory Governments, Managing Authorities and Port Operators and Shipping Companies. Hellas has ratified these texts with PD 56/2004 (A' 47).

In the same time EU adopted Regulation 725/2004 concerning the security improvement on EU vessels and port facilities, which aims to harmonize interpretation and implementation as also to the EU control of special measures on enhancing maritime security. With the same regulation specific provisions of Code part B took mandatory character and was expanded its implementation area.

Then and for completion of the legislative framework was adopted Directive 2005/65/EC on enhancing port security. This directive concerns at each port where there are one or more port facilities covered by Regulation 725/2004. See also law 3622/2007 (A' 281) as well as Korontzis T. (2011). Security and ports. The contribution of ISPS Code in combating of illicit actions. Nautiki Epitheorisi, issue 578, June- July- August 2011, p.p. 65-81.

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Note 22. See Piraeus Appeals Court 72/90, Five Members Piraeus Appeals Court 166/83, Piraeus Misdemeanor Court 155/85.

Note 23. See Hellenic Supreme Court 261/84 Vlachou No. 4/90.

Note 24. See Tsiridis P., op cit., p. 115.

Note 25. See Asonitis G., op cit., p. 32.

Article 32

«Immunities of warships and other government ships operated for non-commercial purposes

With such exceptions as are contained in subsection A and in articles 30 and 31, nothing in this Convention affects the immunities of warships and other government ships operated for non-commercial purposes».

Note 26. See Hellenic Maritime Penal Law Code as exists today, op cit., p. 95.

Note 27. See Asonitis G.,op.cit., p. 127.

Note 28. Ibid, p. 131.

Note 29. Ibid p.p 227-229.

Note 30. Ibid p. 232 and next.

Note 31. Ibid p.p. 233, 236 and 237.

Note 32. Ibid p.p. 233-235.

Note 33. Ibid p.p. 235-236.

Note 34. See Dipla Ch.- Rozakis Chr.. The law of the sea and its implementation in Hellas. I. Sideris, Athens, p.p. 13-47.

Note 35. See Doris, E. Public lands, seashore and beach, maritime environment pollution, territorial sea, sand taking. Volume B', Issue A', Athens, A. Sakkoulas, p.189 and next, Roukounas E., op cit., p. 97. In particular each State has the right to determine the width of its territorial sea. The width can not exceeding 12 nautical miles and is measured from the baselines defined in accordance with the provisions of UNCLOS (article 3 of the abovementioned Convention and next).

Note 36. See Asonitis G.,op cit., p.p. 66-67.

Note 37. See Ioannou K. - Strati A. (1996). Introductions of sea Law, issue A', p. 63.

Note 38. See law 3922/2011, PD 67/2011, PD 85/2012 and Korontzis T.. The Hellenic Ministry of Mercantile Marine, as an autonomous administrative governmental institution in the period 1971-2011. A descriptive and critical approach. International Journal of Business and Social Science vol. 3, issue 8, p.p. 61-75 and Korontzis, T. The statutory role of the Hellenic Coast Guard. PhD, Library of Panteion University of Social and Political Sciences, Athens.

Note 39. See articles 1 and 2 paragraphs 2, 3, paragraph 1, 7 CL 389/1936.

Note 40. See PD 210/93, LD 420/70.

Note 41. The right of innocent passage in accordance with the predominant view is an attempt to reconcile the principle of navigation freedom and of the coastal State sovereignty theory in its territorial waters. It's obvious the need of coastal State laws and regulations respect by the crossing vessels so the innocent passage to have harmless character.

Note 42. See Asonitis G., op cit., p. 82.

Note 43. See Roukounas E., op cit., p.p.149-150.

Note 44. See Krispis, I. (1951). Legal Status of Commercial Vessels in Ports and in the Open Sea during in peacetime. N. Sakkoulas, Athens, p. 36.

Note 45. See Asonitis G., op cit., p.p. 7-75.

Note 46. See Ioannou K.- Strati A., op cit., p. 67.

Note 47. See Asonitis G., op cit., p.p. 79-80.

Note 48. See Hellenic Maritime Penal Law Code as exists today, op cit., and p.p. 94-95.

Note 49. The wording in that article of the expression «dangerous or harmful substances» is vague and may cover a wide range of cargo.

Note 50. LD 4409/1964.

Note 51. See Tsiridis P., op cit., p. 131.

Note 52. See Hellenic Supreme Court 87/1954.

Note 53. See Doris E., op cit., p.p. 203-228.

Note 54. See Ioannou K. -Strati A., op cit., p.p.154-157.

Note 55. See Ioannou K.-Oikonomidis K.- Rozakis Ch.-Fatouros A., op cit., p.p. 72-73.

Note 56. See article 12 paragraph. 12 and 14 of law 2289/1995 (A' 27), «Search, investigation and hydrocarbons exploitation and other provisions».

Note 57. See Ioannou K. -Strati A., op cit., p.p. 145-208.

Note 58. As far as concerns Hellas and the perspectives in Aegean, see. Karakostanoglou V., «The rights of the coastal State in its exclusive economic zone: challenges and perspectives on the Aegean Sea» in Perrakis St. The Aegean Sea and the New law of the sea. Edited by Perrakis St., Ant. Sakkoulas, Athens-Komotini, p.p. 175-206.

Note 59. See Stratis A., «The Exclusive Economic Zone», op cit., in Dipla Ch.- Rozakis Chr. (2004). The law of the sea and its implementation in Hellas. I. Sideris, Athens, p.p. 145-207.

Note 60. Hellas has ratified both texts with law 2108/1992 (A' 204). In 2005 were adopted by the diplomatic conference in I.M.O. two protocols of which the first one modified the International Convention SUA 1988 and the second the SUA 1988 Protocol. In present time, Hellas is moving towards on the ratification of the 2005 Protocols.

Note 61. Until today SUA 1988 has been ratified by 145 States covering 87.74% of the world fleet, while SUA 1988 Protocol have been ratified by 134 States covering the 83.06% of worldwide fixed installations.

Note 62. See Asonitis G., op cit., p.p. 115-116.

Note 63. See Ioannou K. - Strati A., op cit., p. 176. According to article 86 of UNCLOS [PART II/HIGH SEAS]: «The provisions of this Part apply to all parts of the sea that are not included in the exclusive economic zone, in the territorial sea or in the internal waters of a State, or in the archipelagic waters of an archipelagic State. This article does not entail any abridgement of the freedoms enjoyed by all States in the exclusive economic zone in accordance with article 58».

Note 64. See Asonitis G., op cit., p.p. 137-139.

Note 65. See Roukounas E., p. p. 129 and next.

Note 66. See Asonitis G., op cit., p. 127.

Note 67. See in general Perrakis St. - Tsaltas G., Editing, Formating (2006). Security and piracy on the high seas, the modern legal approach through the Convention of Montego Bay (1982) on the law of the sea. I. Sideris, Athens.

Note 68. It is worth to be mentioned a Security Initiative to prevent the Proliferation of weapons of mass destruction (Proliferation Security Initiative – P.S.I.) that has been developed since 2003.

This initiative was announced in May 2003 and constitutes the basis on promoting cooperation of USA with its alliances and third countries on the effective and dynamic response of proliferation (weapons of mass destruction – nuclear, chemical, biological) of related technology and materials as also systems (ballistic missile, etc.) of their transportation.

To this USA initiative from the beginning was acceded 9 countries: Australia, France, Germany, Italy, Japan, The Netherlands, Poland, Portugal, Spain, and the United Kingdom and later acceded Canada, Norway, Singapore and on 31.05.2004 Russia.

Except these 15 States which consist the political core (Core Group) of the initiative, other 60 States have expressed their political support and have signed the Declaration of Strips Principles (Statement of Interdiction Principles) that adopted in Paris on 04.09.2003. Hellas fully participates in the initiative from 01.06.2004 and has been committed to the implementation of Paris Declaration. PSI is not a new international body but a complement to multilateral policy in this area.

The resolution 1540 (2004) of the UN Security Council on the prevention of Mass Destruction Weapons provides the necessary legal basis for the development of PSI activities. According to the Interdiction Principles the initiative aims to:

- 1.-Substantial measures that will prohibit the scattering of Mass Destruction Weapons and related to these materials in third countries.
- 2.-Information exchange on any suspected material facilitating.
- 3.-Performance by the Member States, either on its own initiative or upon request from other States, inspection on vessels bearing their flag in the State waters or even beyond them. In this context Member States will examine to agree in providing license for carrying out inspection on vessels bearing their flag and on vessels of other States.

Checks in order to carry out the transfer of suspicious material will take place and in loads moving loads by land or air transport.

USA has acceded on agreements concerning the realization of inspection with third countries (Panama, Liberia, Cyprus, Croatia, etc.).

On a legal level for this initiative should be noted that article 111 of UNCLOS predicts that intervention in foreign vessels on the open sea can be done on a contractual basis. In addition, the inspection can be done in some cases and on other States vessels (e.g. piracy, slave trade, etc.).

In my view, the consent of the flag State may legitimize the realization of intervention in foreign States vessels and in this logic is taking place the exercise Active Endeavour in the Mediterranean area in recent years.

Specifically was expressed the view that in order to take place the intervention would be required the masters consent of the flag State vessel. According to this post the consensus is a quasi consent agreement if express the coincidence of the parties' willingness and for this reason offers a legal basis in the intervention act. Although from the point of view of international law, such an interpretation of the agreement can be accepted, are created other problems of the national part law such as who will give the consent, the State or the master and how. Additional problem in domestic law in terms of legal intervention is that such a case is not regulated.

This issue should be examined in relation to what happens in ports, in territorial sea and in the contiguous zone (if such a zone has been adopted). Finally a serious aspect is the fact that such measures could mean risks with notification of serious economic information (chartering, cargo handling, etc.) something that for the countries that have infrastructure of elaboration would be a weapon against the maritime interests of third parties.

Note 69. See Tsiridis P., op cit., p. 142.

Note 70. See Krispis I., op cit., p.p. 28-30.

Note 71. See indicatively Korontzis T. (2012). Maritime piracy in the international and in the Hellenic legal order. *Review of European Studies*, vol. 4, No. 5, Feb. 2012 p.p. 75-93 (doi:10.5539/res.v4n5p75).

Note 72. See Tsiridis P., op cit., p. 143.

Note 73. See Krispis I., op cit., p. 25.

Note 74. Ibid op cit., p. 144.

Note 75. See Bamboukos A.. *The modern law of the sea*. Sakkoulas, Athens-Komotini, 1985, p. 297.

Note 76. See Ioannou K./Strati A., op cit., p. 233.

Note 77. In this case it must be under consideration paragraphs 6 and 7 of article 111 of UNCLOS. See Tsiridis P., op cit., p.p. 138-139 and Liakouras P. *The contiguous zone in the Convention of 1982 on the law of the sea and its application in Hellenic seas*, op cit. in *Dipla Ch.- Rozakis Chr. (2004). The law of the sea and its implementation in Hellas*. I. Sideris, Athens, p.p. 109-143.