The Law and Practice of Piracy at Sea

European and International Perspectives

Edited by Panos Koutrakos and Achilles Skordas



OXFORD AND PORTLAND, OREGON 2014

7212 .L39 2014

MMMU

Published in the United Kingdom by Hart Publishing Ltd 16C Worcester Place, Oxford, OX1 2JW Telephone: +44 (0)1865 517530 Fax: +44 (0)1865 510710 E-mail: mail@hartpub.co.uk Website: http://www.hartpub.co.uk

Published in North America (US and Canada) by Hart Publishing c/o International Specialized Book Services 920 NE 58th Avenue, Suite 300 Portland, OR 97213-3786 USA

Tel: +1 503 287 3093 or toll-free: (1) 800 944 6190 Fax: +1 503 280 8832 E-mail: orders@isbs.com Website: http://www.isbs.com

© The editors and contributors jointly and severally, 2014

The editors and contributors severally have asserted their right under the Copyright, Designs and Patents Act 1988, to be identified as the authors of this work.

All rights reserved. No part of this publication may be reproduced, stored in a retrieval system, or transmitted, in any form or by any means, without the prior permission of Hart Publishing, or as expressly permitted by law or under the terms agreed with the appropriate reprographic rights organisation. Enquiries concerning reproduction which may not be covered by the above should be addressed to Hart Publishing Ltd at the address above.

British Library Cataloguing in Publication Data

Data Available

ISBN: 978-1-84946-412-3

Typeset by Forewords, Oxon Printed and bound in Great Britain by CPI Group (UK) Ltd, Croydon CR0 4YY

Contents

A	cknowledgements	V
L	ist of Contributors	ix
T	Table of Cases	xi
T	Table of Legislation	xvii
Ir	nternational Legal Instruments	xxix
	Introduction Panos Koutrakos and Achilles Skordas	1
	Part I: Piracy and International Norms	
1	The Piracy Provisions of the UN Convention on the Law of the Sea—Fit for Purpose? Robin Churchill	9
2	Piracy and Terrorism Douglas Guilfoyle	33
3	Piracy and the Use of Force Alexander Proelss	53
4	Counter-piracy Operations and the Limits of International Humanitarian Law Thilo Marauhn	67
	Part II: National, Regional and International Approaches	
5	The European Union's Comprehensive Approach to Combating Piracy at Sea Legal Aspects Ricardo Gosalbo-Bono and Sonja Boelaert	a: 81
6	Transfer Agreements for Pirates Concluded by the EU—a Case Study on the Human Rights Accountability of the Common Security and Defence Policy Daniel Thym	167
7	Countering Piracy off the Coast of Somalia: A NATO Perspective Peter M Olson	183
8	International Law and US Responses to Piracy off the Coast of Somalia Gabriel Swiney	195
9	Piracy and the UK Andrew Murdoch	207

viii Contents

10	Fighting Piracy—The German Perspective Doris König and Tim René Salomon	22.
11	Piracy and the East African Region Edwin Egede	249
12	Alternative Approaches to Piracy and Armed Robbery in Southeast Asian Waters and off the Horn of Africa: A Comparative Perspective David M Ong	267
	Part III: Rethinking the Main Tenets of Counter-piracy Approaches	
13	The Dark Side of Counter-piracy Policies Achilles Skordas	299
14	Piracy in Global Law and Global Governance Jan Klabbers	329
15	Piracy and the Development of International Law Malcolm D Evans and Sofia Galani	343
Ind	ex	2.0