

THE EVOLUTION OF EU COUNTER-PIRACY POLICY¹

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Abstract

This article presents two decades in the development of EU Counter-piracy policy. The development and its dynamics is explored through multiple streams approach as introduced by John W. Kingdon (1995) and adapted for application on the EU counter-terrorism policy by the Raphael Bossong (2013). For the purposes of analysis the article deals with the securitization of the piracy within the EU context (first stream), continues with policy development at the EU level (second stream) and adds complexity to the issue by analyzing the stream of politics (third stream). The main aim of this article is to present different dynamics in the development of EU counter-piracy policy which developed from fragmented preventive approach to very complex pro-active approach with the turning point in 2008. The article claims, that full securitization of piracy penetrated national politics within key EU member states and enabled policy changes on the EU level.

Key words: *EU, Piracy, Somalia, Counter-piracy, anti-piracy, policy, maritime security*

INTRODUCTION

The emergence and development of the EU Counter-piracy policy was a long process during which dynamics was changing under the influence of internal and external factors. The main aim of this contribution is to explore the build-up of EU Counter-piracy policy, its content and the driving forces behind at the level of EU institutions and EU member states. From a rather fragmented attitude the EU Counter-piracy policy developed into the comprehensive approach based on complex strategies and specific tools. Despite great progress in recent years there

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are many limits of cooperation which raises question how much were political “windows of opportunity” used by decision-makers to enhance policy build-up and policy development. For understanding different dynamics of EU Counter-piracy policy development we must analyze multiple streams, which will help to identify key moments in the life of policy, the position of key actors and the nature of the issue.

This article is based on the multiple streams framework developed by John W. Kingdon (1995) and later adapted by Raphael Bossong (2013). The core of the framework is three streams: problem stream, stream of the policy and stream of the politics. The problem stream in this article is centered at piracy and securitization of the issue which helped to create common discourse and later lead to consensus that enabled specific range of possible responses [Bossong 2013: 20]. Countries in the EU have different experience with piracy and counter-piracy measures. Some countries like Great Britain or France have significant colonial history other countries are land-locked and lack naval experience. As a consequence the issue of piracy is not viewed in a single way but rather in multiple approaches resulting in significant heterogeneity among member states.² However, as Bossong pointed out in his book, securitization of the issue may help to create “[a] window of opportunity” and temporarily harmonize approaches and create environment favourable to legislative changes at the EU level [Bossong 2013: 56]. In other words, securitization creates consensus and temporarily enables policy changes as a consequence of increased mutual understanding of policy preferences.

The second stream deals with policy in the historical perspective. The analysis of policy development and the role of EU institutions may help to understand dynamics of the transformation process. In the case of Bossong's analysis it was the political activity and information advantage of the EU institutions which had prepared legislative proposals when the window of opportunity has opened what enabled development of new policy [Bossong 2013: 22]. However, piracy as the subject falls under the Common Foreign and Security Policy, which is of predominantly intergovernmental nature and policy changes requires initial activity of member states. For this reason there is a third stream which deals with politics. Bossong in this area examines the impact of the issue on domestic politics (e.g. elections or public opinion) and assess the influence of external factors such as the support of other actors including non-EU states or international organizations [Bossong 2013: 23]. Politics is the factor enabling change in transforming securitized issue into policy.

It is important to note, that Bossong applied the multiple streams approach on the development of EU Counter-terrorism policy. However multiple streams approach presents a rather general analytical framework for the analysis of any security

² This is for example evident in the criminal code. French law covers piracy, hostage taking and robbery at sea as a crime and pirates may face life imprisonment. Denmark and Germany can prosecute only pirates when they attack a national vessel or citizen, Netherlands can punish pirates with 12 year sentence and in Spain the act of piracy is even not typified by Criminal code (Burruenco 2009: 228) which is interesting due to Spain's colonial history. However the UN Convention on Law of the SEA under Article 105 authorizes any state to seize a pirate ship or aircraft and its property on board, arrest the crew, and prosecute them through its own courts (Nanda 2011: 182).

policy and with some adaptation may be used for any policy even without remarkable security dimension.³ Moreover EU-counter terrorism policy and EU-counter piracy policy shares many similarities: both policies fall under the umbrella of security policy, both are strictly of inter-governmental nature as they are touching aspects national sovereignty, both are in some aspects controversial and both are multidimensional phenomenon requiring certain level of complexity within the solutions. Similar characteristics have for counter-piracy policy similar procedural implications at the EU level as in the case of counter-terrorism policy. This makes EU Counter-piracy policy well suitable subject for multiple streams analysis.

Due to multiple stream approach and the existence of three streams also the article is divided into three parts. The first part discovers emerging security dimension of piracy for EU member states. The second chapter explores content developments within policy, while the third chapter is dedicated to politics assessing emerging windows of opportunity which led to emergence and strengthening of EU Counter-piracy measures.

In the last few years we can observe increasing number of studies dealing with piracy (especially in the Horn of Africa) and the response of the international community. Most of the texts are written in the area of international law or political science, few are present in the field of economics. And contributions dedicated to the EU approach towards piracy are still quite rare. EU response towards piracy off the Horn of Africa is presented for example by Christian Kaunert and Kamil Zwolski (2014) who analyzes the EU policy in the terms of military capacities, civilian crisis management and economic assistance to the region. Jens Vestergaard Madsen and Liza Kane-Hartnett (2014) present an interesting overview of international community initiatives aimed at capacity building in Somalia. Enrico Günther (2015) presents implications of the EU attitude in Somalia for the Gulf of Guinea action. A rather critical perspective has been presented also by Maria Luisa Sanches Barrueco (2009) who highlights the discrepancy between EU statements and practical observations. Efthymios Papastavridis (2015) analyses mission Atalanta from the legal point of view in relation to international and European Law. Atalanta had a very important international dimension which has been analysed by Paul Mirdford (2012) in relation to Japan and by Simone Dossi (2015) in relation to China. Susanne Kamerling and Frans-Paul van der Putten (2011) are further exploring Chinese interests in the Gulf of Aden and Andrew Muratore (2010) analyzed cooperation between Atalanta and NATO.

A detailed economic impact of Somali piracy is presented in an article by Alfredo Burlando, Anca D. Cristea and Logan M. Lee (2015) who adjusted economic costs caused by piracy as presented by the World Bank (2013). The welfare cost caused by route changes has been calculated by Timothy Besley, Hannes Mueller and Thimo Fetzer (2014). Legal articles deal mainly with US experience and are written mainly by US authors. Jordan Wilson (2016) presents piracy in the general context and highlights the increasing number of ties between piracy and terrorism and later

³ Stream dealing with problem or securitization of the issue may be transformed to “issue setting” stream by using slightly different analytical method based on epistemic community as developed by Peter M. Haas (1989 and 1992).

in his article explores Kenyan model in fight against terrorism together with US experience. To the US experience Gregory Morrision (2014) adds a legal perspective on prosecuting piracy. International legal environment regarding piracy fight is also dealt by Ved P. Nanda (2011) and in a more specific article related to UNCLOS by Yurika Ishii (2014) and Graham T. Youngs (2014) who dealt with Prosecution of Pirate Negotiators and Pirate Facilitators under US and international law. This contribution is the attempt to extend existing knowledge by presenting EU Counter-piracy policy in its complex and chronologic way within the three streams approach.

1. SECURITY DIMENSION

Piracy has been for centuries considered by European states as illegal activity and today is almost universally accepted considered illegal. According to Article 101 of the United Nations Convention on the Law of the Sea (UNCLOS) piracy is determined as an act which consists of: (a) any illegal acts of violence or detention, or any act of depredation, committed for private ends by the crew or the passengers of a private ship or a private aircraft, and directed: (i) on the high seas, against another ship or aircraft, or against persons or property on board such ship or aircraft; (ii) against a ship, aircraft, persons or property in a place outside the jurisdiction of any State; (b) any act of voluntary participation in the operation of a ship or of an aircraft with knowledge of facts making it a pirate ship or aircraft; (c) any act of inciting or of intentionally facilitating an act described in subparagraph (a) or (b). Based on the definition above piracy may have many negative political and economic consequences. Acts against ships sailing under the state flag are violating principles of state sovereignty and thus may damage the prestige of the government in revealing the incapacity to act and protect its interests. Pirate attacks may discourage potential traders or lead to direct losses in fleet, ship cargo or crew lives. Seized ships and their crew are often used for ransom or blackmailing. In adverse situations cargo or ransom may be used for strengthening pirates as successful attacks encourage other to join their ranks. Pirate activities may block large areas and prevent traffic. For these reasons piracy is an important security challenge which develops over time.

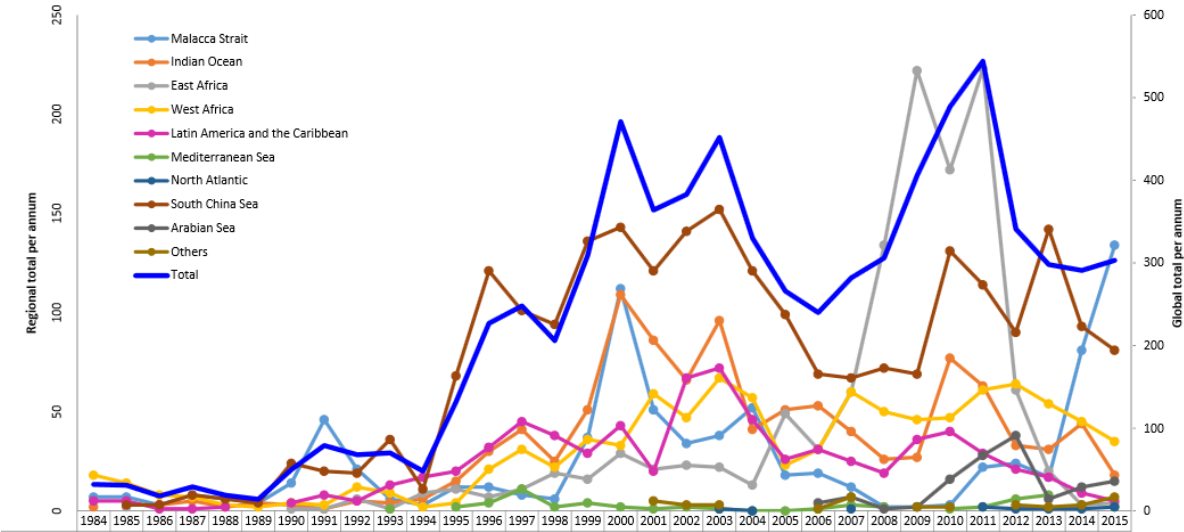
Since the 1990s a rapid increase in pirate activity can be observed. According to Peter Chalk (2008) the rise in pirate activities is influenced by several factors including the massive increase in commercial traffic in combination with extending maritime infrastructure, the rise of commercial traffic that passes through narrow and coasted maritime chokepoints, general difficulties connected with maritime surveillance, lax coastal and port-side security, corruption and its penetration into administration or global proliferation of small arms giving pirates advantage to operate more destructive weapons [Chalk 2008: xii]. This rather particular factor may be influenced by geopolitical situation.

The changes in the early 1990s such as the end of the Cold war and the fall of the Soviet Union had a differentiated impact on the regional stability around the world. While in Europe countries have undertaken reforms vis-a-vis EU membership many African and Asian countries faced political and economic instability. At the same time the trade between integrating EU and the rest of the world increased including China, Japan or South Korea. Trade routes in the Gulf of Aden and South-East Asia

became very attractive areas for pirates and especially Gulf of Aden became geographic priority for the EU.

One of the most common instruments measuring the intensity of piracy is a specialised database operated by International Maritime Organization which since 1982 collects data about conducted or attempted acts of piracy. Chart 1 gives us the idea of the attack intensity over time. However, it is important to note that not all attacks or attempts are properly reported from various reasons including lax attitude of the crew, fear from bureaucracy or time consuming activities.

Chart 1. Number of Piracy Attacks - Globally

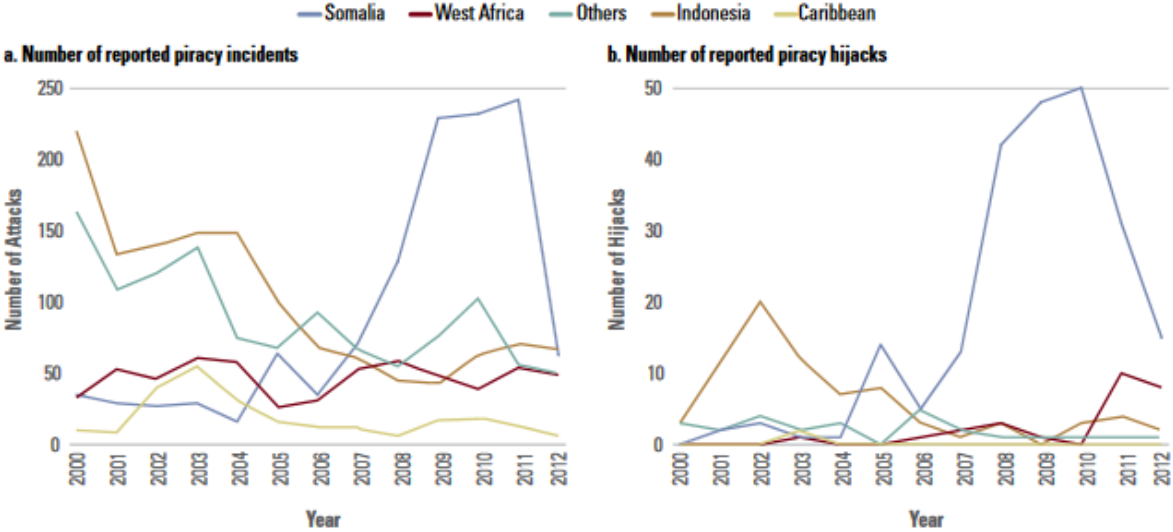


Source: International Maritime Organization (2016) Piracy Report – Annual 2015. Available at: http://www.imo.org/en/OurWork/Security/PiracyArmedRobbery/Reports/Documents/232_Annual_2015.pdf (2. 1. 2017).

The situation in the Gulf of Aden significantly worsened after 2005 at least in two aspects. First, the number of attacks rose five times from around 50 attacks in 2006 to almost 250 attacks in 2008. With the rising number of piracy attacks rose also the number of reported piracy hijackings from 1 in 2004 to 50 in 2010 [World Bank 2013: 3] as presented in chart 2. Second, in the observed period the operability of Somali pirates increased significantly. Alfredo Burlando, Anca Cristea and Logan M. Lee (2015) found out, that while until 2005 they were operating at a maxim distance of 500 km from Somalia after 2005 they were able to attack ships even 1500 km from the coast. Moreover, since 2008 Somali pirates are operating mainly in the distance between 400 and 800 km from the coast, which was rare before 2005 [Burlando, Cristea Logan 2015: 531]. This trend continues even after 2009. As pointed out by the World Bank in 2010 pirates attacked 3 655 Km from Somalia [World Bank 2013: 3]. For comparison this is a similar distance like between Gibraltar and Beirut in Lebanon located on the opposite side of Mediterranean Sea. Pirates from Somalia were increasingly active, extended its

range and became more successful in hijacks which contributed to securitization of the issue.⁴

Chart 2: Number of piracy incidents (2000–2012)



Source: World Bank (2013)

The economic costs associated with piracy are high. According to World Bank Somali piracy as an increased cost represents 18 billion USD [World Bank 2013: xxiii]. However if we add to the total economic costs possible reduction in trade caused by piracy we can estimate the economic loss between 22 and 25 billion USD [Burlando, Cristea Logan 2015: 553]. Taking into count distribution of Piracy Burden Across Countries, the EU is the most affected party, losing almost 11 billion USD per year, compared to the USA with 0,8 billion USD or China with 2 billion USD [Burlando, Cristea Logan 2015: 552]. This is caused by the EU geographic location and the structure of international trade. The direct costs of piracy can be associated with 53 million USD average annual ransom payment between 2005 and 2012. In the mentioned period a total number of 149 ships have been ransomed for amount up to 385 million USD [World Bank 2013: xxiii]. This means the average ransom is about 5 million USD per seized ship. As calculated by Besley et. al, there were 18 000 vessels going through the Suez Canal in 2010 and 50 of them were seized by pirates who generated 4 million USD ransom. This means that expected loss per ship is 11 000 USD. However, the increase of shipping costs per ship is another 55 000 USD due to changes in trajectory or other protective measures [Besley, Fetzer and Mueller 2014: 232].

The asymmetry is even more visible if we take into the count, that investment by a pirate gang, composed of a few gunman equipped with AK-47s on a speed boat is about a few thousand, maybe hundreds of USD. Nevertheless, there is the trend of increasing modernization of pirate used weapons and equipments. Boots are equipped with mortars, GPS receivers, devices for eavesdropping and interfering

⁴ By definition, something becomes security problem and there is increasing attempts made by elites to gain control over it (Waever 1993: 6).

with radio communicators, communication coders and decoders, diving equipment and watercrafts [Gawliczek, Nowakowska-Krystman 2016: 174]. In the economic aspect piracy is similar asymmetric threat as terrorism with the distinction of primary purpose: pirates predominantly aim at economic gain, terrorist focus on political objectives. However, in many aspects piracy and terrorism may overlap.

The relationship between piracy and terrorism is mutually supportive in the case of Somalia. As pointed out by Jordan Wilson (2016) there is a proven link between piracy and Al-Shabaab terrorists controlling several ports in Somalia. In exchange for payout Islamists are providing protection and passage to pirate gangs [Wilson 2016: 305]. Money from ransom may be used to finance Al-Shabaab activities aimed at fight against Somali government or Kenyan forces. Moreover, according to Wilson piracy in relation to terrorism may be also increasing threat for Mediterranean. After Islamic State captured several coastal cities in Libya there is potential risk that fast speed boats may be used to capture passenger line boats sailing in Mediterranean [Wilson 2016: 309].

There is long row of successful attacks. The most severe situation appeared to be in 2008/2009 where several important hijackings occurred. For example pirates succeeded to hijack the *Faina* which was transporting 33 Russian armoured battle tanks to Kenya. At the same year a very large crude carrier (VLCC) *Sirius Star* was hijacked with almost two million barrels of crude oil on the board, valued at more than 100 million USD. There were even more interesting attacks in 2009 including the French yachts *Tanit* and *Maersk Alabama*. Success of the pirates soon resulted in an aggressive approach from the international community including institutions such as UN, International Maritime Organization, NATO [Kraska 2009: 200] and the EU.

2. DIMENSION OF POLICY

In the beginning the issue of piracy was solved among EU member states mainly on a national basis. As presented in the chart 1 piracy incidents started to rise in 1994 when EU Common Security and Foreign Policy (CSFP) after the adoption of Maastricht treaty was in the beginning and EU lacked response capacities. The adoption of the Amsterdam treaty in 1997 only slightly changed the functioning mechanism without changing the situation and capacities. Despite increasing securitization of the issue it took another five years before the EU started to deal with piracy on a policy level and developed its capacities.

The first important step resulted in August 2002 with the establishment of European Maritime Safety Agency (EMSA).⁵ The purpose of EMSA is ensuring a high, uniform and effective level of maritime safety and prevention of pollution by ships within the Community. Despite many aims and activities it has an environmental or technical dimension related to safety the agency has important tasks related to counter-piracy. It shall for example assist the Commission, prepare new Community legislation and assist Commission in effective implementation of the legislation. The agency also shall organize relevant training activities related to

⁵ Regulation (EC) No 1406/2002 of the European Parliament and of the Council of 27 June 2002 establishing a European Maritime Safety Agency.

maritime safety or operate information system necessary for attaining the objectives. In the initial stage the environmental and technical agenda was the domain of EMSA.

In 2003 when EMSA slowly started to develop its operational capacities the EU passed its first security strategy. However in the EU Security strategy from 2003 piracy is mentioned in one sentence in a section dedicated to organized crime: “*A new dimension to organised crime which will merit further attention is the growth in maritime piracy*“ [European Security Strategy 2003: 5]. After the disappointing security strategy of 2003 the EU adopted in the following years two important measures with real impact. In March 2004 a Regulation 725/2004 enhancing ship and port facility security was adopted and in October 2005 a Directive 2005/65/EC on enhancing port security was passed. The main objective Regulation 725/2004 is to introduce and implement Community measures aimed at enhancing the security of ships used in international trade and domestic shipping and associated port facilities in the face of threats of intentional unlawful acts including acts of terrorism or piracy. According to Regulation Member States shall in respect of international shipping, Member States shall apply in full, by 1 July 2004, the special measures to enhance maritime security of the SOLAS Convention and Part A of the ISPS Code. Moreover, after a mandatory security risk assessment, decide the extent to which they will apply, by 1 July 2007, the provisions of this Regulation to different categories of ships. Several other measures are dealing with revision of ship security plans, port facility assessment and minimum standards ETA. For example, according to regulation ships covered by the special measures and intending to enter an EU port must provide security information to the relevant national authorities at least 24 hours in advance [see Article 3, Regulation (EC) No 725/2004]. By adopting this regulation the EU enhanced its ship security in pro preventive measures.

Other preventive measures were adopted also under Directive 2005/65/EC which complements previous regulation in addressing basic rules on port security measures, an implementation mechanism for these rules and sets appropriate monitoring mechanism. For example each EU country shall designate a port security authority which will be responsible for identifying and executing necessary port security measures in line with port security assessment and plans. EU countries must ensure the development, maintenance and update of port security plans [Directive 2005/65/EC]. By adopting these complementary measures the EU enhanced its security related to ships and ports. However, due to increase of piracy in distant areas from coasts of the EU more pro-active approach was needed.

Since 2007 there were increasing interest among EU member states regarding the sea which was demonstrated in the Communication dedicated to the Integrated Maritime Policy (IMP). Unfortunately IMP presented a holistic approach to all sea-related EU policies with predominantly economic and environmental dimension. A much more important turning point in the field of counter-piracy may be considered the year 2008. First, in April European Commission regulation 324/2008 laying down revised procedures for conducting Commission inspections in the field of maritime security entered into force and second, in December 2008 the EU launched EU Navfor Atalanta mission near the coasts of Somalia. It was the first EU naval mission which raised legal questions regarding European and

international law [Papastavridis 2015]. By initiating the mission EU policy turned to be more executive, utilising EU capacities and promoting the EU image of international security actor.

Council Joint Action 2008/851/CFSP of 10 November 2008 launched counter-piracy military operation Atalanta near the Horn of Africa and in the Western Indian Ocean. The mandate of the operation (Article 2) is to provide protection to vessels, keep watch over areas of the Somali coast, including Somali territorial waters or take necessary measures (including use of force) to deter, prevent or intervene in order to bring to an end of piracy and armed robbery acts (Article 2). The initial mission was to protect vessels of the WFP delivering food aid to displaced persons in Somalia and vulnerable vessels cruising off the Somali coast, and deterrence, prevention and repression of acts of piracy and armed robbery off the Somali coast (Article 1).

It is important to note that the operation was from the beginning open also to non-EU countries who later participated on the mission (Article 10). This is the case of Norway, New Zealand, Montenegro, Serbia and Ukraine [EU NAVFOR 2016]. Other countries used different platforms for involvement. In 2009 there were three international initiatives dealing with the Somali piracy on the sea: NATO Operation Ocean Shield launched in August 2009, Operation Atalanta (EUNAVFOR) launched in December 2008 and Combined Task Force 151 – a US-led initiative⁶ launched in January 2009 [HC 2012]. Anti-piracy operation was also the interest of China, Russia, India, Japan and Iran who operated independently. In China cooperation became an important element within Sino-EU relations [Dossi 2015: 75], an important source of international prestige and important tool to promote national interests [Kamerling and Van Der Putten 2011: 138]. At the time there was also real promise of closer cooperation in non-combat military area between EU and Japan [Midford 2012: 310]. Due to interest of many actors a deconfliction mechanism was established for better distribution of work. The umbrella platform of Shared Awareness and Deconfliction Meeting (SHADE) was open to all states and contributed to information sharing and planning of activities [Günther 2015: 14]. SHADE meetings took place in Bahrain and significantly improved coordination among all actors and led to minimal force commitments and rotating presidency of the meetings [Muratore 2010: 100].

Operation Atalanta contributed to large extent to development of real capacities of the EU counter-piracy policy and also allowed development of EMSA capacities. Despite mainly indirect assistance in the beginning, there are several examples how EMA help in combating piracy. For example system LRIT (Long-range identification and tracking) is used to provide information to EUNAVFOR for monitoring coast of Somalia. EMSA has also started to work on PIRASAT project with the European Space Agency which helps to identify non-cooperative targets on the sea. In combating piracy also Vessel Traffic System (VTS) in the West Mediterranean area was used [EMSA 2010]. Later EMSA developed MARSURV (integrated maritime monitoring service) which allows EUNAVFOR to track merchant vessels in the high

⁶ Under the initiative participated Australia, Pakistan, South Korea, Turkey, UK and the USA which created the Combined Maritime Forces conducting patrols mainly in the Indian Ocean.

risk area off coast of Somalia. The system integrates and fuses multiple sources of data in a real time on the permanent basis [EMSA 2011]. Atalanta thus offered EMSA a unique opportunity to develop its capacities and test new approaches directly in the field. Moreover, as presented in chart 3 since 2011 there was a dramatic decrease in incidents solved.

Chart 3: Operation Atalanta incidents

2016	2015	2014	2013	2012	2011	2010	2009	Year
0	1	5	20	74	166	99	59	Suspicious events
0	0	2	7	35	176	174	163	Total Attacks
0	0	0	0	4	25	47	46	Of which pirated
0	0	1	10	16	28	65	14	Disruptions

Source: <http://eunavfor.eu> (2016)

Next to operation Atalanta, EU states have set up in 2009 Critical Maritime Routes (CMR) programme to address challenges of maritime security in regions including South East Asia, Western Indian Ocean and Gulf of Guinea in order to promote capacity building on the regional level. Those included legal assistant and training of relevant authorities including coast guards and maritime law enforcement organizations. In the period from 2009 to 2020 the EU contributed 31,9 million Euro to this programme [CMRP 2016].

While Atalanta presented a EU response on the sea, the EU council launched Military Training Mission in Somalia (EUTM Somalia) in April 2010 in order to improve situation on the ground. The main aim of EUTM Somalia was to contribute and strengthen the power of Transitional Federal Government in Somalia and its institutions. EUTM was aimed at the training of Somali soldiers who were due to security reasons trained in Uganda [Council Decision 2010/197/CFSP]. EUTM mission helped the Somali government to take control over Somali territory which was very important in promoting security in the region. In the recent years the lack of state authority contributed to anarchy in Somali waters, which were next to the pirates also used by foreign fishermen as the territory for black hauls. This contributes to poverty in the fishermen community in Somalia and created conditions favourable to piracy recruitment [Wilson 2016: 303]. Renewing state control over territory and territorial waters is necessary condition for reducing piracy.

In the same year European Commission's Joint Research Centre started to work on the project to strengthen the marine awareness capacities of authorities in the West and East Africa under the Piracy, Maritime Awareness & Risks (PMAR) platform. The project included in-depth studies and trials of technologies which were aimed at maritime awareness increase in the areas related to piracy [European Commission 2016].

Operation Atalanta and EUTMS Somalia mission was strengthened in 2012 by launching EUCAP Nestor, a civilian maritime capacity building mission operating in five states across the Horn of Africa and Indian Ocean, including next to Somalia also Djibouti, Seychelles, Kenya and Tanzania, which were also hit by piracy. The mission was mandated to support the development of maritime security law enforcement agencies in Somalia, maritime security legal framework and promote regional cooperation in maritime security [Council decision 12/389/CFSP]. EU Nestor presented a much softer approach and complementary measure to both operations and is good example of complementing hard power with the soft power and of possible multiplication effect of the mission synergy. While hard power helped to eliminate the real threat, soft power concentrated on preventive measures and capacity building in managing the threat.

The soft measures were also subject of the Programme to Promote Regional Maritime Security (MASE). The main aim of the plan is to strengthen the capacity of regional states affected by piracy to implement Regional Strategies and Action Plan against Piracy and for Maritime Security. These include the creation of national strategies against piracy, improving state infrastructure to fight piracy (arrest, transfer, prosecution and detention of pirates), and capacity to disrupt piracy financial networks or information exchange. For this purpose the EU for a 5 year period contributed by 37,5 million Euro [MASE 2016].

Decrease in attacks following 2012 did not lead to EU passivity. In 2013 EU continued to enhance preventive measures by adopting Directive 2013/30/EU on safety of offshore oil and gas operations. Despite main reasons for adopting the directive were environmental and strongly influenced by the Deep Water Horizon incident the directive also stress the importance of emergency response plans in order to prevent environmental damage caused by incidents. The EU also adopted Regulation (EU) No 2015/2013 establishing the European Border Surveillance System (EUROSUR). EUROSUR is information-exchange framework designed to improve the management of Europe's external borders which is operated by FRONTEX, EMSA and EU Satellite Centre (SatCen). Satellite-based technologies have many uses in maritime surveillance field and helps to ensure security and safety via monitoring and controlling fisheries, detecting vessels, patrolling borders, protecting the marine environment, preventing crises or responding to emergencies⁷ [Bosilca 2016: 160]. These measures improved the palette of possible tools which might be used to fight piracy.

Regarding external dimension EU adopted Support to the Maritime Transport Sector project (SMTS), which is implemented under the 10th European Development Fund. SMTS is aimed at improving port efficiency, port security and reducing negative environmental effect of maritime transport or port operations in the countries of Western and Central Africa by offering technical assistance and capacity building [CMR 2016]. The programme is also aimed at promotion and implementation of SOLAS Convention and the ISPS Code which is in the EU implemented by the Regulation (EC) No 725/2004. It is important to note that the EU was not the only actor promoting the build-up of capacities. For example, the International Maritime Organization announced strategic capacity-building

⁷ For example via vessel monitoring system (VMS) and the vessel detection system (VDS).

partnership among IMO, UN Food and Agriculture Organization. There were also programmes of UN Political Office for Somalia, UN Office on Drugs and Crime, World Food Programme and European External Action Service and other. As of 2013 international community invested 1,2 billion USD in Somalia [Madsen, Kane-Hartnett 2014: 70].

Complex changes in the EU approach came in June 2014 when the EU Council for General Affairs adopted European Union Maritime Security Strategy (EUMSS). The strategy highlights piracy among other cross-border and organized crime activities together with robbery at sea, trafficking or smuggling. EUMS offers general principles (cross-sectoral approach, functional integrity, respect for rules and principles and maritime multilateralism) for the enhancing maritime security and other future EU regional strategies [EUMSS 2014: 3]. More specific actions related to anti-piracy measures are laid down in the Action Plan on the Maritime Security Strategy which was adopted 6 months later.

The Action plan focused on several areas including external action (Workstrand 1), Maritime awareness, surveillance and information sparing (Workstrand 2), Capacity development (Workstrand 3), Risk Management, Protection of critical maritime infrastructure and crisis response (Workstrand 4) or Maritime security research and innovation, education and training (Workstrand 5). Moreover, EUMSS and its Action plan was accompanied by other regional strategies. Recently EU Strategy on the Gulf of Guinea and Action plan was adopted (2014) and counter-piracy measures play key objective regarding security priorities [EAS 2016]. Similar strategy is expected to be created for the Horn of Africa.

EU measures are not only aimed at securing maritime transport and capacity building in the Horn of Africa but also addresses the roots of piracy which are connected with poverty. According to the World Bank the situation in Somalia is alarming. Despite public expenditures increasing since 2012 from 35 million USD in 2012 to 135 million in 2015 Somalia is strongly dependent on foreign aid. The GDP is projected in 2016 to reach only 450 USD per capita and poverty headcount rate of 51,6 percent [WB 2016]. In a country where almost half population lives with less than one dollar per day piracy represents a clear economic incentive and important pull factor. As noted by International Expert Group on Piracy off the Somali Coast (IEGPSC), one pirate after a successful attack may earn between 6 and 10 thousand USD, of paid ransom, the equivalent of three year salary in good paid position [IEGPSC 2008: 17].

For this reason EU comprehensive approach includes cooperation between Humanitarian Aid department of the European Commission (ECHO), Somali government and other regional partners in providing humanitarian and development aid. As pointed out by Kaunert and Zwolski (2014) EU engagement in Somalia is present made by EU humanitarian aid, EU development aid, EU support for the Rule of Law programme derived from the United Nations Development Programme, EU support for ANISOM mission of the African Union and the Training missions in Uganda [Kaunert, Zwolski 2014: 604]. All those activities improve the socio-economic situation in Somalia in the long term and weaken the factors making part of the population prone to piracy.

3. DIMENSION IN POLITICS

The dimension of politics may be observed at the level of the EU institutions and the EU member state. Due strictly to its inter-governmental nature, the main decision-making body is the EU Council. Previous chapters identified great development of anti-piracy measures in 2008 and important shift in the nature of EU Counter-piracy policy towards more comprehensive approach. What preceded these policy developments in the stream of politics?

In the beginning we can observe a lack of capacities and political power of the EU institutions. This was visible in May 2001 when Alternate Head of Delegation of Sweden Marie Jacobsson delivered a speech at the UN on behalf of the EU presidency. The presidency speaking on behalf of the EU states (including candidate countries) presented contemporary attitude towards piracy as follows: First, that the only viable way to address piracy was through cooperation and capacity building, including the involvement of private sector. Second, the delegation expressed the concern related to underreporting of incidents to International Maritime Organization (IMO). Third, the speech called upon states to support IMO initiatives and expressed that WMU shall be asked to bear responsibility for the development of international education and training. Moreover in the end there was presented the willingness of the EU member states to commence discussion [Jacobsson 2001]. In the speech there was noticeable absent EU measures within counter-piracy policy and the call for multilateral response indicates the reliance on foreign powers.

On the national level within most important states the situation changed in 2008 when piracy hit domestic policy in France. In 2008 French President Nicolas Sarkozy called on the international community to find solutions for the incidents of piracy off the coasts of Somalia. The call has been made after two sailors were taken as hostages by pirates and later rescued by military operation launched to save them [France Today 2008]. It is important to note that France made an effort in recent years to combat terrorism and gradually enhanced its activities since 2007. France belonged to the first states offering voluntarily military ships to prevent acts of piracy near Somalia under Operation Alcyon which was conducted together with Denmark, Netherlands and Canada in order to prevent attacks on ships of the World Food Programme. Next to the EU, French activities in later years concentrated on the UN and other multilateral projects with predominant French participation [Leboeuf 2015: 3].

The call of Nicolas Sarkozy (likely backed by French diplomatic efforts) hit the ground in the UK and other countries. Already in 2006 the British Parliament expressed concern that *“the growth in piracy over the past decade represents an appalling amount of violence against the maritime community. It is completely unacceptable”* [House of Commons 2006]. The attitude of Germany was partly restrained, however supportive, due to the fact of possible politically sensitive issue of German military outside Germany. Defence Minister Franz Josef Jung noted that involvement in an operation against pirates presented the most robust mandate after World War II. Nevertheless Germany was from the early beginning committed to fight piracy and contributed by the naval frigate Bremen with 240 sailors. The political support was almost consensual in Germany except for the Left party and

Greens as some members considered the anti-piracy mission as a colonial gunboat policy or pretense for the militarization of German foreign policy [King 2009]. These attitudes signal though a political consensus regarding the common EU response which resulted in operation EU Atlanta in 2008.

Piracy entered again the UK politics in 2009 when operation Atlanta started to deliver its first results. Despite the effort Paul Chandler and his wife were kidnapped by pirates who demanded ransom of 4,2 million pounds. UK Prime Minister Gordon Brown urged pirates to release kidnapped couple and said, that *“Piracy and the taking hostages is unacceptable in any circumstances”* [The Telegraph 2009a]. The pirate demanding ransom during the phone call to BBC complained about the NATO damages caused to poor fisherman who are illegally transferred to prisons of other countries [The Telegraph 2009b]. In order to speed up the solution of this unpleasant situation Brown in March 2010 visited the president of Somalia to urge him with the help to secure the release the couple. This happened half year later. The above “success story” was only limited example. Despite ongoing Atlanta operation the number of attacks was still considerably high and lead to the greater involvement of non-governmental actors who promoted new impetus towards more comprehensive EU Counter-piracy policy. The European Community Shipowners' Associations (ECSA) and the European Transport Workers' Federation (ETF) expressed in July 2012 concern in a Joint Declaration about continuing attacks. Both organizations helped to place eradication of piracy high on the agenda of the Sectoral Social Dialogue Committee for Maritime Transport (SSDC) and further politicization of the issue [Joint Declaration 2012]. During the 2012 Danish presidency it was agreed, that EMSA will gain new powers to step up cooperation against piracy under the informal agreement [EMSA 2012] and in 2013 the European Economic and Social Committee issued from its own initiative opinion entitled “Maritime piracy: strengthening the EU response” [Opinion 2013/C76/03]. The way was open to the European Union Maritime Security Strategy.

With the increasing intensity of piracy attacks there was increasingly a consensus and political will to address the issue. Three most important EU actors France, UK and Germany adopted in 2008 the Council Joint Action 2008/851/CFSP and launched operation Atalanta which is still ongoing. Despite all actors contributed to the mission, there is a remarkable role of France. First, prior adoption of Council Joint Action, there was negotiation at the UN Security Council over Resolution 1816 authorising nations with the agreement of the Transitional Federal Government of Somalia to enter its territorial waters in order to stop pirates. The resolution was strongly proposed by France who initially demanded a resolution covering additional pirate areas near Africa [BBC 2008]. Second, the European approach toward a solution of security problems is mainly the domain of France and Germany while Great Britain was historically been more focused on cooperation with the USA and NATO. This was a tendency visible in 2009 when UK decided to contribute ships to NATO Operation Ocean Shield which combats piracy off the Horn of Africa [HC 2012]. However, British contribution to Atalanta remains unquestionable, including at least two frigates and headquarters in Northwood where also NATO Allied Maritime Command is located [Article 4, Council Joint Action 2008/851/CFSP].

It is important to note that piracy has as an internal political issue a very limited mobilization impact compared to media and public attention to terrorism. After every major terrorist attack there is extensive media coverage and a wave of solidarity followed by statements from key politicians. This follow-up after successful pirate attack is rare and makes an important distinction between piracy and terrorism. Raphael Bossong (2013) in his book demonstrated that terrorism follow-up created temporary “window of opportunity” which was exploited by EU institutions and EU member states to set and enact new policy agenda. In the case of EU Counter-piracy policy the window of opportunity is partly visible in 2008 when EU turned to more comprehensive and pro-active approach. However, it seems that this window remains open and counter-piracy policy is one of the most consensual security areas with remarkable benefits to all EU member states.

CONCLUSION

The counter-piracy policy of the EU turned from partial and sectoral preventive measures to a very complex policy addressing the phenomena directly by using capacities of the EU member states through a comprehensive approach. In this view the year 2008 was the turning point. Securitization of the issue illustrated by many successful incidents led to penetration of piracy into national politics. The positions of France, Great Britain and Germany strongly favoured prompt counter-piracy response. The EU changed its focus from pre-emptive measures into pro-active approach in the field of counter piracy by launching operation Atalanta which contributed to development of EU capacities especially within EMSA.

Operation Atalanta contributed to a large extent in ensuring maritime traffic protection and physical elimination of piracy threats. However, in the post 1998 period the EU also started several capacity building programmes which were aimed at development of national capacity to address piracy including improvement of port facility security and infrastructure related to fight with piracy. Those included detention, prosecution and an transport infrastructure. Support to the Maritime Transport Sector project promoted implementation by international security standards associated with SOLAS Convention and the ISPS. Programme to Promote Regional Maritime Security helped to strengthen the capacity of regional states by helping implementation of regional strategies and action plans for improvement of maritime security.

Military operation Atalanta was soon supported by EUTM Somalia mission which enhanced capacities of the Somali government. Later a softer approach presented by EU NESTOR mission added the focus on education and maritime law enhancement. Next to the direct intervention and capacity building EU addressed also the roots of piracy by supporting the Somali government and close cooperation with other regional and international organizations in providing humanitarian and development aid. Thanks to the international effort, the situation in Somalia is improving and the reduction of poverty may significantly contribute in reducing push factors in piracy.

Nevertheless, some of the roots of piracy are beyond EU control as pirates may find safe harbours in failed states or under the umbrella of organized crime. Especially the link between piracy and terrorism is alarming and due to the latest development

in Libya also concerning. Countries with no partner at the government level may become home for piracy and terrorism. For this reason it is necessary to support central governments and their capacities in the fight of piracy.

Somali piracy made the EU a capable counter-piracy actor and contributed to development of its capacities. However, there is another side of its success. As pointed out by Anja Shortland (2015), piracy also spawned a huge counter-piracy industry and bureaucracy which is worthy subject of study [Shortland 2015: 429]. This is also the case of the EU policy in relation to the Horn of Africa, which is just one region connected to piracy and presents a unique counter-piracy regime. It will be interesting to explore other counter-piracy regimes, paying attention to similarities and differences.

Despite the dramatic decrease in piracy incidents it is too early to celebrate. Ongoing missions and EU presence in the waters of Horn of Africa and on the ground has also preventive influence as a deterrent. Weakening interest in the region may lead to reduction of comprehensive approach and worsening of security situation. Eliminating roots of terrorism requires a long-term approach along with investment in order to reduce poverty. As the Horn of Africa belongs to regions severely hit by poverty eliminating roots of piracy is a long term goal.

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