

**Information submitted by the Republic of Cyprus on piracy
national legislation**

(submitted pursuant to IMO Circular letter No. 2933 of 23 December 2008)

PART I. Offences related to piracy-Cyprus Criminal Code

1. Piracy:

Section 69 of the Cyprus Criminal Code (Cap. 154 of the Laws of Cyprus as amended by Law 15(I)/1999) prescribes the offence of piracy as provided in Article 101 of UNCLOS. Section 69 in *English* unofficial translation provides:

“ 69. Any person who performs any act which constitutes piracy, is guilty of an offence and is liable to imprisonment for life.

For the purposes of this section the following acts constitute “piracy”:

(a) any illegal act 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 in the international airspace against another aircraft, or against persons or property on board such ship or aircraft;

(ii) against a ship, aircraft, persons or property in a place within or outside the jurisdiction of the Republic of Cyprus;

(b) any act of voluntary participation in the operation of a ship or of an aircraft with knowledge of facts rendering it a pirate ship or aircraft;

(c) any act of inciting or of intentionally facilitating an act described in paragraphs (a) or (b) above. ”

2. Armed robbery at sea:

The Cyprus Criminal Code does not provide for a specific offence of “armed robbery at sea”. Sections 282-284 cover the offence of “robbery” [**Section 282** (Definition of robbery); **Section 283** (Punishment of robbery); **Section 284** (Attempted robbery)].

3. Other criminal offences that may be relevant to piracy-related activities:

Cyprus Criminal Code: **Section 80** (Carrying arms to terrorise); **Section 285** (Assault with intent to steal); **Section 286** (Entering upon the property of another armed, with intent to steal); **Section 290** (Demanding property with menaces with intent to steal).

PART II. Other Cyprus legislative provisions on certain acts of piracy/armed robbery

1. Attempts to commit piracy/armed robbery at sea:

Section 69 of the Criminal Code does not include a specific provision regarding attempted piracy. Consequently, the general provision of the Criminal Code on attempts, i.e section 368, would apply with regard to an attempt to commit piracy. Under section 368, a person who attempts to commit a felony punishable with imprisonment of minimum ten years is guilty of a felony punishable with imprisonment of up to seven years. The offence of attempted robbery is expressly prescribed in section 284 of the Criminal Code.

2. Conspiracy:

Under section 371 of the Criminal Code conspiracy to commit a felony constitutes itself a felony punishable with imprisonment of up to seven years. Thus, conspiracy to commit the offence of piracy under section 69 is covered by section 371.

3. Aiding and abetting:

Section 20 of the Cyprus Criminal Code provides as follows:

When an offence is committed each of the following persons is deemed to have taken part in committing the offence and to be guilty of the offence, and may be charged with actually committing it, that is to say,

- (a) every person who actually does the act or makes the omission which constitutes the offence;
- (b) every person who does or omits to do any act for the purpose of enabling or aiding another person to commit the offence;
- (c) every person who aids or abets another person in committing the offence;
- (d) any person who counsels or procures any other person to commit the offence.

PART III. Prosecution of persons having committed/suspected of committing acts of piracy/armed robbery

Section 5 of the Cyprus Criminal Code governs the different bases for establishing criminal jurisdiction of the Cyprus Courts. Under the express provisions of section 5 (1)(e)(ii) the Cyprus Courts have universal jurisdiction over the offence of piracy (“committed by *anyone* in *any* foreign state”, the term “foreign state” including any vessel registered in any state).

Under the Cyprus Constitution, the discretion to initiate a criminal prosecution in the Republic is vested with the Attorney General. Although the various factors listed below are strictly not relevant in the establishment of jurisdiction of the Cyprus Courts over the offence of piracy (because Cyprus Courts have universal jurisdiction), they may be of relevance with regard to the exercise of the Attorney General’s discretion to decide whether to actually proceed with a prosecution for such offence before the Cyprus Courts :

- Nationality of victims;
- Nationality of pirates/armed robbers;
- Flag of the ship attacked;
- Nationality of the capturing nation/flag of warship or other Government-
authorised ship;
- Pirates/armed robbers being found on territory of the Republic of Cyprus ;
- Pirates/armed robbers being captured on the high seas;
- Pirates/armed robbers being captured in the territorial waters of the Republic of
Cyprus .

PART IV. Detention and investigation of persons who have committed piracy-related offences

Article 11.2 of the Cyprus Constitution contains an exhaustive list of the situations whereby interference with a person’s right to liberty may be affected, including arrest on reasonable suspicion of having committed an offence. However, it is declared that, save in the case of flagrant offences punishable with imprisonment, a person may be arrested only under the authority of a reasoned judicial warrant. Based on this section the Supreme Court has stated that sections 14 and 15 of the Criminal Procedure Law, which make it possible for a police officer or a private citizen to make an arrest without warrant in certain cases, are not fully applicable; they must be read and applied subject to the provision of Article 11 of the Constitution.

The procedure for the issue of a warrant of arrest is regulated by sections 18 and 19 of the Criminal Procedure Law. According to them, a judge may issue a warrant of arrest if satisfied that there is reasonable suspicion that the person in question has committed the offence or that the detention of the person is reasonably necessary for preventing the commission of offences or the escape of the suspect. The Constitution also stipulates that every person

arrested must be informed of the reasons for his arrest, in a language that he understands, and must be allowed to have the services of a lawyer of his choice.

The right to legal advice is guaranteed by Article 11.4 of the Constitution but, until recently, it had not been specified with statutory legislation. Law 163(I)/2005 specified this right and introduced a number of other provisions which regulate the treatment of suspects in a police station. A person arrested by the police (whether or not under an arrest warrant) must, as soon as is practicable after his arrest, and in any event not later than twenty – four hours, be brought before a judge (Article 11.5 of the Constitution). Not later than three days after the appearance of the person arrested, the judge must either release him (on bail or not) or remand him in custody.

PART V. Ratification of relevant International Conventions

The Republic of Cyprus is a Contracting party to the following relevant Conventions:

1. UN Convention on the Law of the Sea (UNCLOS):

Ratified in 1988 by virtue of *the U.N. Convention on the Law of the Sea 1982 (Ratification) Law of 1988 (Law 203/88)*. (Cyprus Official Gazette No. 2363, Supplement I, dated 14.11.88).

2. 1988 UN Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation (SUA):

Ratified in 1999 by virtue of *the Convention for the Suppression of Unlawful Acts Against the Safety of Maritime Navigation of 1988 and of the Protocol for the Suppression of Unlawful Acts Against the Safety of Fixed Platforms Located on the Continental Shelf (Ratification) and Related Matters Law of 1999 (Law 17(III)/99)*. (Cyprus Official Gazette No. 3358, Supplement I (III), dated 22.10.99).

Under Section 4(1) of the said Law, the offences prescribed in paragraph 1 of Article 3 of the Convention and paragraph 1 of Article 2 of the Protocol constitute criminal offences under domestic law punishable with life imprisonment. Further, pursuant to section 4(2) of the Law, the offences in paragraph 2 of Article 3 of the Convention and paragraph 2 of Article 2 of the Protocol, constitute criminal offences under domestic law punishable with imprisonment of up to 15 years.

3. UN Convention on Transnational Organized Crime (UNTOC):

Ratified in 2003 by virtue of *the UN Convention on Transnational Organized Crime and Protocols (Ratification) Law of 2003 (Law 11(III)/2003)*. (Cyprus Official Gazette No. 3699, Supplement I (I), dated 21.03.2003).

Specific sections of the Law criminalize various acts in the Convention related to transnational organised crime.

4. 1979 Hostages Convention:

Ratified in 1990 by virtue of *the International Convention Against the Taking of Hostages (Ratification) Law of 1990, Law 244/890*.

Section 3 of the Law criminalizes (punishable with life imprisonment) the offences in Article 1 of the Convention, A criminal prosecution under this Law can only be exercised by, or with the consent of, the Attorney General.

PART VI. European Union Instruments

Furthermore, as a Member State of the European Union , Cyprus is bound by the relevant Community Acquis (legislation) namely :

- *Council Joint Action 2008/851/CFSP of 10 November 2008 on a European Union military operation to contribute to the deterrence, prevention and repression of acts of piracy and armed robbery off the Somali coast;*
- *Council Decision 2008/918/CFSP of 8 December 2008 on the launch of a European Union military operation to contribute to the deterrence, prevention and repression of acts of piracy and armed robbery off the Somali coast (Atalanta).*

For instance, transfer of pirates to third States have to be mutually agreed, in order to guarantee the respect of human rights and in particular that no one of the pirates shall be subjected to the death penalty, to torture or to any inhuman or degrading treatment (see article 12 of *Council Joint Action 2008/851/CFSP*).
