

## **Object: IMO – Request of information on National Legislation against International Maritime Piracy**

In reply to your request, please find attached the following elements:

1. The Republic of Italy [has](#) ratified the UN Convention of Law at Sea, signed in Montego Bay on December 10<sup>th</sup> 1982, by means of Law n.689 dated 2 December 1994. Consequently, full execution was given in the national legislation to artt. from 100 to 111 of the said Convention, which consider provisions aiming at tackling maritime piracy in High Seas.
2. As for the incrimination of maritime piracy, the following provisions of the “Italian Navigation Code” must be taken into consideration:

### **Art. 1135 – Piracy**

The Master or Officer of a national or foreign ship, which commits acts of depredation damaging the national or foreign ship itself, or behaves violently against any person on board, is to be punished with imprisonment from ten to twenty years.

For all the others members of crew, punishment is lower than para. 1, but not exceeding one third of it; for non-national, punishment is reduced to a half.

### **Art. 1136 – Ship on suspicion of piracy**

The Master or Officer of a national or foreign ship, illegally equipped with weapons, who sails with no chance to provide proper certification, is to be punished with imprisonment from five to ten years.

Para. 2 from art. n. 1135 has to be applied.

3. Finally, a very recent initiative deserves to be taken into consideration in the framework of the fight against international maritime piracy. In fact, law by Decree (Decreto legge) 30 December 2008, n.209, converted by law 24<sup>th</sup> February 2009, n. 12, established – in art. 5 – a series of criminal sanctions with specific reference to maritime piracy.
  - Art. 5 firstly stats that crimes referred in artt. 1135 and 1136 of the Italian Navigation Code, both committed either in High or territorial Seas covered by the EU ATLANTA mission, are punished in accordance with art. 7 of Penal Code. To this aim, art. 7 of Code refers to the so

called “unconditional punishability” for abroad-committed-crimes by a foreigner or national citizen.

- As for the issue of “competence”, art. 5 - para. 4 - of D.l. 209/2008 states that for crimes related to artt. 1135 and 1136 of Navigation Code, and for those related to them in line with art. 12 of Penal Procedure Code, committed both in High or Territorial Seas, competent is the Ordinary Tribunal based in Rome.
- Para. 5 and 6 in art. 5 of D.l. 209/2008 provide provisions of procedural character.

**In particular**, Art. 5 - para. 5 - of D.l. 209/2008, in case of arrest in the act of crime, for crimes provided by art. 5- para. 4 - of d.l. 209/2008, makes a direct reference to art. 9 - para. 5 - of D.l. 1 December 2001 as converted by Law 31 January 2002 n.6 **which provides the applicability of stricter procedures for people inquired.**

- Para. 6 of D.l. 209/2008 states that, following confiscation, the judicial authority may order the custody of the ship-owner or trader whose ship was seized as a consequence of an act of piracy.

Finally, it may be useful to point out that the Italian Legal System doesn't allow any transfer of criminal trials to a third State.