Cargoes, Courts and Compromise: The Management of Maritime Plunder in the Burgundian Low Countries
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The Management of Maritime Plunder in the Burgundian Low Countries

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I. Introduction

In an article published in 2017, Thomas Heebøll-Holm described how, in fourteenth-century England and France, a new, monopolistic concept of sovereignty at sea emerged which entitled only the state to the use of legitimate maritime violence and declared any rapacious activity by other parties illicit. Prompted by this ideological change and by contemporary political events, English and French kings criminalised private maritime plunder and established central admiralty courts which challenged, and eventually replaced, the existing systems for judging piracy and privateering cases, based on the use of local, civil courts or bilateral diplomacy and international marcher law.\textsuperscript{2}

In this chapter, I will discuss the management of maritime violence in the Burgundian Low Countries. Offering a prosperous and strongly urbanised home market, a range of specialised industries and a strategic geographic location, these territories were at the centre of international trade flows during the later Middle Ages. The pearl in the Burgundian crown was the city of Bruges, in Flanders. From the early fourteenth until the end of the fifteenth century, Bruges acted as the main commercial and financial market of North-western Europe. It welcomed merchants from the Italian city-states, the German Hansa, England, Scotland, France, the Spanish kingdoms

\textsuperscript{1} The author would like to thank Jan Dumolyn, Guy Dupont and Louis Sicking for their help and advice.

\textsuperscript{2} Heebøll-Holm 2017, 32-58.
and Portugal, whose ships supplied goods from all corners of the continent and the then-known world.³ Yet the waters surrounding the Low Countries were also very insecure. Endemic throughout the later Middle Ages, piracy and privateering threatened the profitability of business and, at times, even brought trade in the city to a standstill. Both in 1358 and 1451, the German Hansa decided to leave Flanders for several years. Among the issues that prompted these departures were the attacks on Hanseatic ships at sea and the way local authorities dealt with them.⁴ During the 1450s, merchants from the Italian city of Genoa stopped calling at Bruges in order to avoid being raided by Aragonese privateers.⁵

The political and legal context in which these matters were addressed was significantly different from that in England and France. Even though the central government of the Burgundian dukes successfully increased its influence throughout the late fourteenth and fifteenth centuries, cities and principalities in the Low Countries maintained a strong impact on political decision making and preserved a lot of autonomy in the administration of justice. I will argue that, even though a central admiralty court was eventually also established in the Low Countries, this resulted in the management of maritime plunder remaining much more decentralised than in England and France, with local and regional authorities continuing to play a prominent part throughout the late medieval period.

II. Urban Courts and Diplomacy (1384-1454)

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³ Murray 2005.
⁵ Finot 1906, 146.
Piracy and privateering cases in the late medieval Low Countries could be brought before local, urban courts. The aldermen of cities and towns were among the main operators of civil jurisdiction, allowing them to decide upon the restitution of goods and compensation for material losses. In Bruges, the council of aldermen addressed civil cases multiple times a week.⁶ Highly popular with the visiting foreign merchants in the city, this tribunal settled thousands of commercial disputes throughout the fifteenth century. These also included piracy and privateering cases. In 1454, for example, the Castilian Jehan de Siville sued the Genoese Julian Imperial. De Siville claimed that, together with several accomplices, Imperial had attacked a Venetian carrack. Assuming the ship’s cargo belonged to Catalans, with whom the Genoese were at war, the raiders had taken rice, almonds and other commodities which, in fact, were de Siville’s property. After the Castilian’s attempts to reach an amicable settlement with Imperial had failed, he asked the Bruges aldermen to arrest him. Dismissing the Genoese’s claim that he had been unlawfully apprehended during the period of the Bruges fair, the court decided he had to respond to the claims and kept him in further custody. Several months later, de Siville dropped his charges and Imperial was released from prison.⁷

Alongside their civil jurisdiction, cities in the Low Countries also had the authority to judge criminal cases.⁸ In Bruges, a section of the council of aldermen formed the Vierschaar, the urban court for criminal matters.⁹ This court could address more serious cases of piracy and privateering which involved violence and the loss of lives, and, if necessary, impose corporal punishments. In

⁷ Bruges City Archives, Registers Civiele Sententiën, 1453-1460, ff. 88r-v, 107v.
⁸ Van Caenegem 1956, 3, 5.
1394–’95, for instance, the Vierschaar found Garcia Parres de Visarre, a Castilian knight, guilty of the robbery and murder of several Flemish and other merchants at sea. Parres de Visarre was to be beheaded, his body publicly exhibited on a cartwheel and all his property confiscated and sold at auction. Because of his knightly status, the Castilian was granted the privilege of being taken to the place of execution on horseback, rather than on a cart. Town governors in the Low Countries thus had more means to redress maritime plunder than their colleagues in England and France, where the lack of criminal jurisdiction prevented urban courts from satisfactorily settling cases that involved physical damage. Still, as tools to sort out piracy and privateering disputes the local tribunals in the Low Countries also had obvious shortcomings. The aldermen’s jurisdiction was restricted to the city and its immediate surroundings, making it hard to prosecute the activities of highly mobile pirates and privateers in international waters. Only suspects who showed up in the city, such as Julian Imperial and Garcia Parres de Visarre, could be arrested and brought to justice. The aldermen could resort to reprisal, punishing merchants who came from the same place as the perpetrator for their compatriot’s actions. Yet, as this risked putting a strain on the relations with the foreign merchant communities and disturbing the course of international trade, they were very reluctant to do so.

A more effective way to defuse maritime conflicts was the use of international diplomacy. In this respect, Bruges joined hands with the two other main Flemish cities, Ghent and Ypres, and the wealthy rural district of the Bruges Franc. Together, they made up the Four Members of

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10 Belgian State Archives, Fonds Chambers of Accounts, 13680, account of Bruges sheriff, 10 January–9 May 1401, f. 67r; 13681, account of Bruges sheriff, 9 January–8 May 1402, f. 30r.
11 Heebøll-Holm 2017, 41.
12 For the system of reprisal, see Greif 2002, 168–204.
Flanders, a representative institution which met regularly to discuss matters of state and, if necessary, take concerted action.\(^\text{13}\) Plunder at sea was one of the most frequently-debated issues during these consultations. Of the 3,391 meetings held by the Four Members between 1384 and 1477, 551, or 16.2 percent, were partly or entirely devoted to piracy and privateering.\(^\text{14}\) This does not include the discussions about coastal defence or those whose subject was not recorded, which could equally have dealt with plunder and violence at sea.

At several of these meetings, the Members invited the parties who had either been accused or become the victims of maritime attacks. In October 1405, for instance, they sat together with representatives of the German Hansa, whose ships had been attacked by Flemings.\(^\text{15}\) At other times, the Four Members sent delegations abroad to negotiate with the governments of the interested parties. Often, these diplomatic initiatives were deployed in close consultation with the Burgundian duke and his administration, who usually provided support when requested.\(^\text{16}\) The goal was to work out a compromise which provided for the restitution of the taken goods and/or a compensation for material losses and physical injuries. In 1398, for example, the Four Members and the Burgundian ducal council met with delegates of Duke Albrecht of Holland and Zeeland in the Hague, whom they asked to pay for the damage and to make amends for the deaths caused by pirates from his territories.\(^\text{17}\) Occasionally, the Four Members levied taxes in order to pay for the financial compensations promised to those affected by the maritime predations of both Flemish

\(^{13}\) Blockmans 1978a.

\(^{14}\) Prevenier 1959; Zoete 1981-2; Blockmans 1990; Blockmans 1995; Blockmans 1971.

\(^{15}\) Zoete 1981-2, 58-9.

\(^{16}\) de Borchgrave 1992, 236.

\(^{17}\) Prevenier 1959, 153.
and other perpetrators.\textsuperscript{18} If insecurity at sea had persisted for longer periods, the representatives tried to conclude more substantial treaties which had to rule out piracy and privateering activities, or at least make their management more effective. In 1406, the Members and the duke reached an agreement about maritime plunder with the English, in 1414 with Holland and Zeeland.\textsuperscript{19} On each side, so-called conservators were appointed to make sure that the stipulations of these treaties were adhered to.

Apart from an effective tool for conflict resolution, the Four Members also functioned as a forum through which the cities could influence Burgundian policy regarding piracy. In 1427, for example, the Members convinced Duke Philip the Good to abolish his tax on Castilian imports into his territories.\textsuperscript{20} The levy had been introduced as a compensation for the damage inflicted by Castilian pirates, but, Bruges argued, had had the adverse effect of keeping Castilian traders away. A similar ducal tax on Catalan trade was cancelled for the same reason in 1460.\textsuperscript{21} Another counterproductive measure taken by the Burgundian central government was the issuing of letters of marque. These documents authorized seamen to attack and capture enemy vessels, operating within the law as privateers, rather than unlawful pirates. Letters of marque had been granted increasingly following the treaty with Holland and Zeeland in 1414 with the intention of regulating plunder at sea. Yet the Four Members, who initially had advocated the use of these letters themselves, complained in 1428 that, instead of controlling maritime conflict, it had only

\textsuperscript{18} Blockmans 1978a, 487.

\textsuperscript{19} Gilliodts-Van Severen 1875, 324-34; Gilliodts-Van Severen 1876a, 327-8; de Borchgrave 1992, 76-83, 170-2

\textsuperscript{20} Gilliodts-Van Severen 1876a, 495-6.

\textsuperscript{21} Ibid., 343-4.
encouraged it. As a result of their lobbying, the duke promised not to issue any more letters of marque against the Castilians. In 1438, he suspended the granting of these letters altogether for a period of three years, a commitment which was renewed several times afterwards. The Four Members’ most compelling bargaining tool to make the dukes listen to their concerns was their fiscal strength. Between 1394 and 1396, under Duke Philip the Bold, the extraordinary fiscal contributions or aides paid by the Flemish taxpayers represented nearly 8 percent of all ducal revenues. Also in the fifteenth century, when the Burgundian dominions expanded, the importance of these Flemish subsidies for the ducal treasury remained high. Aides could only be raised in Flanders with the approval of the Four Members, who expected to have their grievances addressed in return.

In England and France, the role of urban courts and bilateral diplomacy in the settlement of maritime conflicts gradually eroded in favour of central, princely jurisdiction. Crucial for this development was the establishment of the admiralty. Both in fourteenth-century England and France, the admiral, appointed by the king, was given the sole responsibility over the country’s naval defence and the repression of piracy. His admiralty court became the only institution entitled to judge the legitimacy of seizures at sea, claiming a tenth of each prize taken. The development of the admiralty in the Low Countries followed a slightly different trajectory. The earliest traces

22 Gilliodts-Van Severen 1876a, 497.
23 Gilliodts-Van Severen 1876b, 230-1, 372.
24 Van Nieuwenhuysen 1986, 52.
of this office in these territories date back to the pre-Burgundian period: in Flanders, one of the principalities of the Low Countries, the count appointed an admiral, charged with the defence of his interests at sea, in 1378. After the Burgundian duke Philip the Bold had acceded to the Flemish throne, in 1384, the office of admiral of Flanders was made permanent. 28 Flanders was also familiar with the concept of territorial waters: the so-called Vlaamse Stroom or Flemish Stream referred to both the sea and the rivers under the jurisdiction of the count, extending as far as twenty kilometres outside the coast. 29

Yet little suggests that the admirals of Flanders actively promoted the establishment of princely authority in this maritime space in the way their English and French counterparts did. The admiral of Flanders did undertake actions against enemy ships, but when more ambitious projects were set up, the command over the Burgundian fleet was usually entrusted to other officers. 30

When it came to the defence of the Flemish coast and the repression of piracy, most of the initiative was left to local authorities. In 1400-1401, for example, the city of Bruges spent considerable amounts of money on the protection of its port of Sluys against English pirates, fitting out a fleet of its own. 31 Small coastal towns often pooled their resources together to organise convoys in order to defend their fishing fleets. 32 Some of the admirals, like Jan Buuc, were better known with the visiting traders in Bruges because of the damage they inflicted to merchant ships than because of

28 Degryse 1965, 139-72.
29 Meijers 1973, 98-116. For the adoption of the stream concept in Lübeck, see Rörig 1949, 3-19.
30 Degryse 1965, 139-72.
31 Gilliodts-Van Severen 1875, 458-60.
32 Blockmans 1978b, 128.
their efforts to maintain order at sea.\textsuperscript{33} On three occasions, once in 1387 and twice in 1405, is the admiral of Flanders known to have collected the tenth part of seizures made by privateers. There is no evidence, however, that he also claimed jurisdiction over the legitimacy of maritime plunder during this period, let alone that he presided over an admiralty court.\textsuperscript{34}

It is unclear to what extent other central courts in the Burgundian Low Countries played an active role in the repression of piracy before the middle of the fifteenth century. Central jurisdiction was in full development during this period. Building on the comital Audiëntie, Duke Philip the Bold created a permanent and sedentary court in 1386 which was staffed by members of his ducal council and soon became known as the Council of Flanders. This tribunal was entitled to hear appeals against sentences of all lower courts in Flanders, thus also including verdicts of urban courts in piracy cases. However, Bruges only accepted the possibility of appeal before the central court from the 1430s. \textit{Ratione materiae} the Council of Flanders could also judge disputes in first instance that directly concerned the interests of the duke. This gave it authority in cases that resulted from the granting of letters of marque, which was a princely prerogative.\textsuperscript{35} Unfortunately, the available evidence does not allow us to determine whether the Council of Flanders actually put these competences into practice during this period. In criminal piracy cases, the Burgundian central courts could not claim superiority in the way the English and French royal courts could. Whereas

\textsuperscript{33} Buuc’s actions were a particular cause for concern at the meetings of the German Hanse. Koppmann 1872, 414-5, 417, 424, 430, 439, 441, 446.

\textsuperscript{34} Paviot 1995, 23-7.

\textsuperscript{35} Lambrecht 1966, 83-95; Dumoly 2002, 24-31, 93-7, 102-10.
the king’s tribunals in England and France had exclusive authorities in matters involving physical violence, these remained largely a prerogative of local courts in the Low Countries.36

III. Reluctant Centralisation (1454-1485)

Changes occurred in the management of maritime plunder by the central authorities after the middle of the fifteenth century. During the 1430s and 1440s, the Burgundian territories in the Low Countries expanded dramatically. Duke Philip the Good incorporated Namur into his dominions in 1428, Brabant and Limburg in 1430, Hainault, Holland, Friesland and Zeeland in 1432 and Luxemburg in 1443.37 These territorial developments required a judicial re-organisation. In 1446, the duke officially established a new court, the Great Council. This institution served as a court of appeal for all lower tribunals in the Low Countries, including the regional courts which continued to exist in each of the constituent principalities, such as the Council of Flanders or the Council of Holland. In addition, the Great Council became responsible for a number of matters that related directly to the interests of the duke or the activities of his officers, which before had been the exclusive domain of the Council of Flanders. The new court could also claim cases in all other areas if it believed its intervention was necessary to secure public order.38 Appeal against the verdicts of the Great Council was only possible in the part of Flanders that fell under the

36 Van Caenegem 1956, 3, 5.
37 Vaughan 2002b, 29-53.
38 Van Rompaey 1973, 18-28, 271-329. Between 1473 and 1477, the Great Council was known as the Parlement of Mechelen.
soverignty of the French Crown, which included Bruges: parties in those territories could seek to have their sentence redressed before the royal Parlement of Paris.\textsuperscript{39}

According to the late fifteenth, early sixteenth-century legal scholar Filips Wielant, the Great Council was given authority over everything concerning “prises at sea, reprisals and the office of the admiral” in the Low Countries in 1454.\textsuperscript{40} No contemporary ordinance which confirms this has been preserved, but legal practice suggests that the new court did play a part in the settlement of piracy and privateering disputes during the second half of the fifteenth century. The archives of the Great Council have been preserved only fragmentarily, but still contain twenty cases about maritime plunder brought before the court between 1470 and 1484, both in first instance and in appeal.\textsuperscript{41} Isolated records of other disputes treated by the Great Council were found in other archival collections.

The earliest of these cases dates back to 1458 and reveals that the jurisdiction over letters of marque, which had fallen to the regional tribunals before the middle of the fifteenth century, was now claimed by the new court: after citizens of Amsterdam had suffered losses in the city of Danzig, they asked the Council of Holland to confiscate all ships and goods belonging to merchants of Danzig in the port of Arnemuiden. When the aldermen of Middelburg, who had authority over

\textsuperscript{39} Dauchy 1993. According to the correspondence of the Genoese authorities and a notarial act passed in Bruges, the Genoese merchant Andrea Italiano appealed against a verdict by the Great Council in a piracy case with a Catalan trader before the Parlement of Paris in 1467. Archivio di Stato di Genova, Archivio Segreto, Registers Litterarum, 1800, f. 25v, 80-1; Bruges City Archives, Charters Adornes and Jeruzalem, 20. No court records have been preserved and the outcome of this trial is unknown. This is the only known appeal case from Flanders concerning maritime plunder before the Parlement of Paris. Van Caenegem 1966; Van Caenegem 1977.

\textsuperscript{40} Wielant 1865, 133.

\textsuperscript{41} De Smidt and Strubbe 1966.
Arnemuiden, undid some of the seizures, the Amsterdammers obtained letters of marque from the duke. Middelburg still did not give in and took the matter to the Council of Holland. Yet the regional court referred the case to the Great Council, arguing that the letters had been issued by the prince and therefore needed to be dealt with before the new central court. The Great Council confirmed the letters of marque and allowed the Amsterdammers to obtain compensation for their losses from the confiscated goods.\textsuperscript{42}

The availability of the Great Council seems to have had an impact on the use of other mechanisms for the resolution of piracy and privateering conflicts. Maritime plunder had been on the agenda in 18.3 percent of the meetings held by the Four Members of Flanders between 1384 and 1454. Between 1454, the year in which the Great Council was given authority over cases of violence at sea, and 1477, this was only 6 percent. The change in the years immediately after 1454 was quite abrupt: while 19.6 percent of all consultations still addressed piracy and privateering issues between 1448 and 1454, this dropped to 7.1 percent between 1454 and 1460.\textsuperscript{43} Plunder at sea remained a serious threat in the Low Countries during the second half of the 1450s, the 1460s and the 1470s. Still, the Members felt it was less necessary to intervene, or were given less of an opportunity to do so, than in the preceding period. Apparently, the possibility to bring piracy and privateering cases before a central court that had jurisdiction over all of the Low Countries had reduced the need for their bilateral diplomacy.

However, the success of the Great Council in matters of maritime predation should not be overstated. Both urban records and the cases treated by the new court in appeal make clear that

\textsuperscript{42} Van Rompaey 1973, 281-2.

\textsuperscript{43} Prevenier 1959; Zoete 1981-2; Blockmans 1990; Blockmans 1995; Blockmans 1971. Most of the cases after 1454 are discussed in Blockmans 1978a, 451-4.
disputes continued to be brought before urban and regional courts. The central government did little to promote the use of the Great Council in piracy and privateering conflicts either. When it saw no obvious grounds to deal with the matter at the highest level, the Great Council did not hesitate to refer appeal cases back to a lower court, often even convicting the litigants for so-called ‘fol appel’. In 1479, for example, the Genoese Jenoit Spinola and Lazarro Lomellino asked the Bruges aldermen to arrest Willem Dapper. Dapper was the mayor of the city of Gouda, in Holland, where Spinola and Lomellino’s ship had been plundered. When the aldermen ordered him to compensate the Genoese for their damage, he disputed the authority of the Bruges court and appealed against their decision before the Council of Flanders. To his disappointment, the regional court confirmed the verdict of the Bruges aldermen. Refusing to give in, Dapper now went in higher appeal before the Great Council. The central court dismissed his arguments, fined him for unreasonable appeal and sent his case back to the urban court in Bruges. Legal pluralism was thus restricted by imposing a clear hierarchy of courts, yet not one in which the highest level of jurisdiction automatically superseded the lower echelons.

Even cases in first instance which could be claimed by the Great Council were delegated to other courts. In 1456, a cog captained by the Brabanter Rombout Janssone was attacked before the Flemish coast by Jean Marchant, a privateer from Dieppe who worked for the king of France. Assuming it sailed for the English, with whom the French were at war, Marchant and his men entered the ship. Janssone repeatedly stated that he and his staff were subjects of the Burgundian duke but could not prevent the attackers from damaging the vessel’s equipment, injuring several

44 Belgian State Archives, Fonds Great Council, 794, ff. 89r-90r.
45 For the idea of legal pluralism, or the existence of multiple legal systems and institutions within one political or geographic area, see Twining 2010.
of its crew and taking all of its cargo. Moored in the port of Sluys, both parties decided to call on the aid of Franchois de Wispelare, deputy of the admiral of Flanders. De Wispelare mediated between Janssone and Marchant and convinced them not to take any further action. Yet, unhappy with the compromise, Willem Henrixzone, the owner of the cog, lodged a complaint with Charles of Charolais, son of the Burgundian duke Philip the Good. Having decided the matter should be settled in court, Charles could easily have brought the case before the Great Council, on the grounds that it could impact upon his father’s relationship with the king of France. Instead, he delegated it to the Bruges council of aldermen, who were requested to sort out the issue. Dismissing Marchant’s claims that Heinrixzone’s losses were much lower than he said they were and that the cog’s crew included soldiers from Germany who fought for the English, the aldermen’s court for civil cases ordered the privateer to financially compensate his opponent. As the Frenchman had inflicted physical damage, the aldermen also decided to start criminal proceedings.\footnote{Bruges City Archives, Registers Civiele Sententiën, 1453-1460. ff. 125r-127r, 127v.} Unfortunately, the records of the city’s court for criminal cases have not been preserved for this period and the outcome of this trial remains unknown.

The 1456 case not only makes clear that the central government was willing to leave the settlement of important, politically sensitive matters to the urban courts, but also that Wielant’s comments about the Great Council being given authority over the office of the admiral should be nuanced. The admiral of Flanders is known to have decided on the legitimacy of prises three times during this period, the conflict between Marchant and Janssone included. None of these cases resulted in any jurisdiction before the Great Council.\footnote{Paviot 1995, 26.} The dukes did not use the admiralty to
strengthen the grip of the central government on the repression of piracy in any other way either. As a result of the territorial developments of the 1430s and 1440s, the coastline under the dukes’ jurisdiction had expanded significantly. Accordingly, the ‘stream’ concept now came to refer to all of the waters under Burgundian control, including those in Holland, Zeeland and Friesland. Yet, instead of putting one overarching institution in charge of this maritime space, Philip the Good appointed a second admiral in 1446. This officer was responsible for naval matters in Holland, Zeeland, Friesland, Artois and the Boulonnais and worked separately from his colleague in Flanders. In a similar vein, the duke issued an ordinance in 1458 in which he instructed the regional authorities of Flanders, Holland, Zeeland and Friesland to organise their own protection against piracy, rather than to rely on the central government. No mention was made of the admirals.

This sense of compromise and the reluctance to bring matters together under a single, central authority was not only characteristic for the way in which the Burgundian government approached piracy and privateering, but also for the way in which it dealt with many other issues related to international trade. Ever since the accession of Philip the Bold as count of Flanders in 1384, the Burgundian dukes had exploited every opportunity to expand the power of their central administration. As they incorporated more principalities into their dominions, they set up new financial and judicial institutions that had to overview and coordinate the workings of existing regional and local bodies, often inspired by the example of their French royal relatives. Areas of

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48 Rörig 1949, 9.
jurisdiction were increasingly claimed by the state and its officers. Yet, as voracious as the Burgundian dukes proved to be in non-commercial matters, as accommodating for local and regional concerns they were when it came to international trade.

Even though the initiative to protect commercial interests usually came from the cities and their representative institutions, the central government shared with most of its subjects the belief that the wealth and prosperity of the Low Countries ultimately depended on international trade. A commercially beneficial policy was therefore deemed more important than short-term political gain. In this light, the dukes abandoned the expansionist approach that underlay many of their other policies and opted for a more consensual course when dealing with trade and business. In commercial litigation, they agreed to a model of subsidiarity, whereby cases were not treated at the highest, but at the most appropriate level of jurisdiction. A good example is duke Philip the Good’s ordinance on the use of appeal. In 1458, the Four Members of Flanders complained that the appeal opportunities before the regional and central courts had led to abuses which disrupted the course of international trade: merchants started procedures before the Council of Flanders or the Great Council only to buy time and to avoid having to execute the verdicts of local courts. Philip the Good appreciated the Members’ point of view and in 1459 instructed that his regional and central courts would no longer accept appeals against intermediate sentences made by urban courts. Final verdicts by local tribunals also had to be executed at all times, even if an appeal procedure before a higher court had been started. The duke was clear about the motivation of his decision: “because since ancient times, our said land of Flanders [...] is entirely founded on the

52 For the expression of this ideology in an urban context, see Dumolyn 2010, 374-89.
coming of foreign merchants, shipmasters and seamen, who come here from all kingdoms by sea, and on the fact and the practice of commerce, which is practised there more abundantly than anywhere else”. If the competences of the local courts and the right order of proceeding are no longer respected, Philip continued, that “commerce by sea [...] cannot have its course and is destined to come to nothing”. It is this consideration for the importance of international trade and the understanding that it benefited most from compromise and collaboration between the local, regional and central levels of government and jurisdiction that typified Burgundian policies on all commercial matters, piracy and privateering disputes included, for most of the fifteenth century.

IV. The Advent of the Admiralty Court (1485-1540)

During the 1480s, the organisation of the repression of piracy in the Low Countries underwent a number of fundamental changes. In 1483, the admiral of Flanders, Joost of Lalaing, died and was not replaced. In 1485, Archduke Maximilian of Austria, then regent of the Low Countries, appointed Philip of Cleves, a member of the high aristocracy who had loyally served him during the preceding years, as his new naval officer. Yet Cleves was not made admiral of Flanders, but of “all [the archduke’s] lands and seigneuries” in the Low Countries. Maximilian also “expelled and discharged from this office any other incumbents and occupants”. In other words, the admiral of Holland, Zeeland, Friesland, Artois and the Boulonnais, who had remained in function in 1483,

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54 Mussely 1854, 223-5.
was now dismissed. For the first time, one single officer was put in charge of naval matters in all of the Low Countries.

Maximilian’s plans did not end with the appointment of a central admiral for all of his territories. Arguing that the initiatives of towns and regions to organise naval defence had led to chaos, insecurity at sea and damage to trade, he issued the Ordinance on the Admiralty in January 1488. This document established the admiral, as the representative of the prince, as the sole authority on naval affairs in the Low Countries. From now on, warships could only be fitted out with his permission. Private captains who wanted to engage in naval warfare needed his letters of marque. The admiral also became the only instance entitled to judge the legitimacy of prizes. Anyone not bringing their spoils to him could would be convicted of theft. In order to cover his expenses, he would exact the tenth part of all prizes. Maybe most importantly in the context of this chapter, the admiral was given exclusive jurisdiction over all maritime matters, both civil and criminal. He would administer justice together with his lieutenant and a permanent council or admiralty court. The verdicts of the admiral and his court could only be undone before the Great Council, using the ‘reformation’ procedure. By issuing the Ordinance on the Admiralty, Maximilian of Austria thus claimed the monopoly on the use of violence in the maritime space of the Low Countries in the way the English and French kings had done during the fourteenth century, at least in theory.

There is some discussion in the historiography as to what extent the ordinance of 1488 should be seen as a change of course. Degryse and Oudendijk considered Maximilian’s decision

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55 For Philip of Cleves’s commission, see Degryse 1965, 223.
56 Cau 1705, 1208-15. For a detailed discussion, see Sicking 2004, 71-6.
the logical outcome of earlier developments or even the confirmation of existing practices. However, focusing on Holland and Zeeland, where the admiralty had had less of an impact than in Flanders, Roelofsen called the ordinance “rather revolutionary”. Sicking argued that the changes of 1488 constituted a caesura, also in Flanders. He found few precedents for the ordinance in the earlier legislation on naval matters in the Low Countries. Instead, the measure was almost entirely modelled after an external example, the ordinance that had organised the admiralty in France in 1373, with which it had nearly all articles in common. Taking into consideration the lack of exclusive authority of the admiral and the reluctance to centralise the jurisdiction of piracy and privateering cases in the Low Countries during the earlier period, Maximilian’s ordinance does constitute a radical departure. Urban, regional and central courts had all judged on the legitimacy of maritime plunder before 1488. This authority was now monopolised by the prince and centralised in the hands of the admiral. A comparison between Philip the Good’s ordinance of 1458 and Maximilian’s Ordinance on the Admiralty of 1488 speaks volumes in this respect. In both cases, the seas of the Low Countries were said to be reigned by chaos and insecurity, threatening the course of commerce and the common profit. Yet whereas Philip the Good saw the decentralisation of power to the regional authorities as the most effective solution to restore order, Maximilian did exactly the opposite.

That this change of direction took place during the regency of Maximilian of Austria is no coincidence. Maximilian married Mary of Burgundy, heiress to the Burgundian dominions, in

57 Degryse 1965, 200; Oudendijk 1941, 45-6.
58 Roelofsen 1984, 67, 71.
60 Sicking 2004, 79-81, 115-6; Cau 1705, 1208-15.
1477. After Mary had died in 1482, he governed the Low Countries as regent for their underage son. Yet Maximilian’s ruling style was more autocratic than that of his Burgundian predecessors. His disregard for urban liberties and the heavy fiscal burden he imposed on the Low Countries in order to pay for his wars with France caused profound irritation in Flanders. This tension descended into an open civil war between the archduke and the Flemish cities between 1483 and 1485, and again between 1487 and 1492. In this context of confrontation, Maximilian also abandoned the special consideration which the Burgundian dukes had shown for commercial matters and even targeted international trade to further his political and military interests: in 1484, he ordered all foreign merchants to leave Bruges and move to Antwerp in an attempt to break the Flemish city’s resistance. Even though the international merchant communities showed their discontent, he did so again in 1488.61

The Ordinance on the Admiralty was issued at the start of the second revolt against Maximilian. There is no evidence of any resistance against the decision in Flanders, probably because the general political turmoil did not leave much opportunity: in November 1487, the city of Ghent had turned against the archduke. At the end of January 1488, barely three weeks after the promulgation of the ordinance, Bruges joined the revolt and the conflict escalated. In May, Philip of Cleves, the admiral supposed to implement the changes, defected to the Flemish side and took charge of the hostilities against Maximilian. The rebellion would ultimately be crushed in 1492.62 By then, the reorganisation of the admiralty had disappeared into the background.

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61 Haemers 2009; Haemers 2015. For Maximilian’s instructions to the foreign merchant communities to leave Bruges for Antwerp, see Maréchal 1951.
62 Haemers 2015, 243-77.
The ordinance would be published again and implemented more strictly in 1499. Based in Veere, in Zeeland, the admiralty was now given formal authority over all naval matters in the Low Countries. Flanders, which had lost much of its political and economic primacy in the intervening years, did not resist. Yet Flemings were given the opportunity to be tried in their own principality: a vice-admiralty was set up in the Flemish port of Dunkirk, which operated largely independently from the central court in Veere. Holland did oppose the implementation of the 1488 ordinance. Arguing that they had been perfectly able to organise naval matters on their own, regional authorities there refused to accept the jurisdiction of the admiral. Most maritime affairs continued to be dealt with by the regional Council of Holland, even after Charles V had curtailed the authority of the admiralty in 1540. In all of the Low Countries, piracy and privateering cases were still brought before urban and other lower courts.63

Conclusion

The case of the of the Burgundian Low Countries makes clear that the development of maritime justice in late medieval Europe was not only a function of state formation, but was also shaped by local political culture and ideology. In late medieval England and France, the crown established a monopoly on the use of violence at sea, imposing its admiralty as the only instance entitled to decide on the legitimacy of maritime predation. The Burgundian Low Countries followed a very different trajectory in this respect. For most of the late medieval period, the region’s cities remained deeply involved in the management of maritime plunder. Piracy and privateering cases

could be brought before urban courts, which had jurisdiction in both civil and criminal matters. More complicated conflicts could be defused using the diplomatic channels of the Four Members of Flanders, the representative institution formed by the cities of Bruges, Ghent and Ypres and the district of the Bruges Franc.

The central government of the Burgundian dukes was reluctant to claim control and left much of the initiative to local and regional authorities. In a spirit of subsidiarity, central courts focused predominantly on performing those tasks that could not be performed at a local level. The impact of the admirals, who acted as the figureheads of the royal centralisation policies in England and France, remained limited in the Low Countries. To a certain extent, this laissez-faire approach of the central government was path-dependent and conditioned by the balance of power which the Burgundian dukes had inherited upon their accession in the Low Countries in 1384. The region had a long tradition of strong urban liberties, with cities playing a prominent part in both government and the administration of justice. To ride roughshod over these privileges in an area so crucial as trade would have wrecked relations with a politically powerful opponent on whom the dukes were fiscally dependent. Yet it would be a mistake to consider the reluctance to centralise the management of maritime violence merely as a symptom of political weakness. In non-commercial affairs, the dukes did not hesitate to claim authority over a widening range of areas and to crush opposition to their expansionist policies. The Burgundian approach to matters of international trade, however, was different. Ducal measures in this domain show a genuine belief that the coming and going of merchants from all corners of Europe was the cornerstone of the Low Countries’ wealth and prosperity and should therefore best be left undisturbed. This also affected the way in which the management of piracy and privateering was dealt with.
Much of this changed during the regency of the more autocratic Maximilian of Austria. Inspired by the example of his French royal counterparts, he reorganised the admiralty and made it the only instance entitled to judge the legitimacy of maritime plunder in all of the Low Countries in 1488. Yet, while Maximilian’s decision constituted a radical departure from earlier practice, it could not undo the strong tradition of local and regional initiative in maritime affairs. The admirals had little practical authority in Flanders, which was given its own vice-admiralty, and in Holland, which defied all central interference, and had to accept the continuing involvement of urban courts. Also after the Ordinance on the Admiralty of 1488, the management of maritime plunder in the Low Countries remained largely decentralised.

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