



Universität
Basel

Juristische
Fakultät



Prosecuting Companies for Human Rights Violations Abroad? - The Jurisdictional Issues/ International Colloquium - 2 June 2017, Law Faculty JBH University of Basel

9am – 4pm, Pro Iure Auditorium

Could – and should – companies and their CEOs be charged with offences relating to human right violations allegedly committed overseas? If so, should that liability be triggered by the acts of persons associated with a company’s foreign subsidiaries, subcontractors or suppliers?

Public concern about the accountability of corporations and their managers has given rise to initiatives aimed at holding corporate actors accountable for certain rights violations of subsidiaries in their business activities. At the international level, the UN Human Rights Council adopted the Guiding Principles on Business and Human Rights (UNHRC 17/4 of 16 June 2011, so-called Ruggie Principles). The 2014/95/EU Accounting Directive establishes reporting requirements on human rights compliance, with some members of the EU Parliament pushing for further reform with regard to criminal liability. At the end of 2016, 120’000 Swiss citizens had signed the “Responsible Business Initiative” [<http://konzern-initiative.ch>]. It launches a far-reaching attempt to implement the *Ruggie Principles* into Swiss law, but clearly keeps criminal law out of the picture. Other countries consider criminal prosecution – and NGOs target such remedies.

A global movement towards the expansion of corporate criminal liability law is thus not unidirectional. The challenge of making good in cases of human rights violations is of particular relevance for states, such as Switzerland, that are hubs for multinational corporations operating in “high-risk” areas of commerce and jurisdictions. New business and human rights frameworks present lawyers in practice with a new range of crucial questions, not only about where – and when – a company or its managers may be brought to court – and for what type of wrongdoing, but also about a sustainable strategy to avoid human rights violations abroad: For academics and activists, there are related concerns about the credibility of threats to charge entrepreneurs with overseas misconduct and the effectiveness of such reform in the light of the goals of the Ruggie Principles and the overall objectives of corporate law.

Please register until 15 May 2017
per e-mail to Claudine.Abt@unibas.ch



Friday, June 2nd, Program

09:00-09:15

Introduction: Ruggie Principles and the Jurisdictional Issue
Sabine Gless, University of Basel, Switzerland

09:15-10:45

I. Panel 1
“Responsible Business Initiative” – and Criminal Law?
Mark Pieth, University of Basel, Switzerland

Holding Companies liable: The Australian Approach
Radha Ivory, University of Queensland, Australia

Discussion

10:45-11:15

Coffee Break

11:15-12:30

II. Panel 2
“Two steps forward, and one back” – The U.S. Case Law
Sara Beale, Duke University, U.S.A.

“Hands-off Prosecution” – Feasibility of the European Approach
Cedric Ryngaert, Utrecht University, Netherlands

Discussion

12:30-13:30

Lunch Break

13:30–15:30

III. Panel 3 & Round Table
**“Restoring those who have been injured” –
The challenges of making good**
Kenneth Gallant, University of Arkansas at Little Rock, U.S.A.

Round Table

“What is a responsible and feasible approach liable?”
Mirna Adjami, Basel Institute on Governance (Chair)
Felix Ehrat, Novartis, Switzerland
Flavio Noto, Staatsanwaltschaft Basel-Stadt, Switzerland
Urs Rybi, Public Eye Switzerland

15:30-16:30

End of Conference /Fare well Coffee – La Pausa



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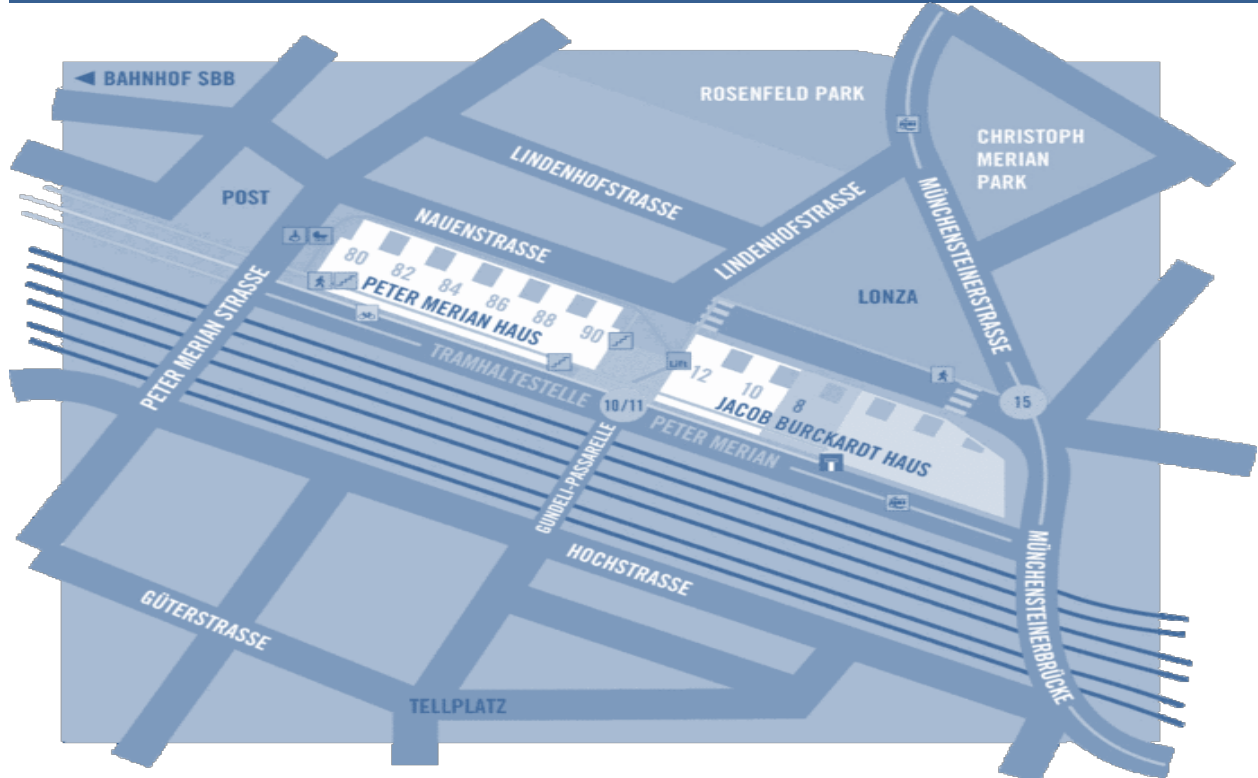
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Directions to the Law Faculty of the University of Basel *Peter Merian-Weg 8, Basel*



<https://ius.unibas.ch/fakultaet/>

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From the main train station Bahnhof SBB:

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There will be no attendance fee due to the generous funding of

Schweizerischer Nationalfonds, Stiftung zur Förderung der rechtlichen und wirtschaftlichen Forschung an der Universität Basel, Juristische Fakultät der Universität Basel

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Prosecuting Corporations for international Crime - The Jurisdictional Issues/ International Colloquium AIDP Panel 4, XX World Congress

*University of Basel, Faculty of Law
organized by Prof. Dr. Sabine Gless*

June 2-4, 2017

Jurisdiction must be based on a link between the alleged crime and the competence of the state that exercises judicial authority. Territory has served as the predominant link, after it had gradually replaced the personality principle following the Westphalian principle.

In criminal law, however, concurrent jurisdictional claims have always been present. But the understanding seem to vary regionally a lot: From the claim that crime is local to the opinion of recent initiatives to hold corporations accountable not only for domestic but also for international **core crimes** (those included in the jurisdiction of the International Criminal Court, ICC), as well as **treaty crimes** (for instance, environmental crimes and violations of human rights etc.). The U.N. Human Rights Council set a global standard by adopting the United Nations Guiding Principles on Business and Human Rights (UNGPs or **Ruggie principles**), which address possible adverse impact on human rights linked to business activity. According to that standard not only have states a duty to protect human rights, but corporations must respect them, too, and victims of business-related abuses must have access to a legal remedy.

Your reports have explained your country's approach to jurisdictional issues related to Corporate Criminal Responsibility, focusing on cases of alleged violations of human rights or environmental crime by corporations, with a special emphasis on extraterritorial jurisdiction.

During our meeting we will discuss findings of country reports, aspects of the general report, focus on discussions and initiatives around the implementation of the Ruggie Principles, debate and adopt the draft resolutions for Panel 4 of the XX World Congress.



Thursday, June 1st : Arrival Day

XX:00-XX:00

Dinner option

Friday, June 2nd: Conference

See separate Program

Saturday, June 3rd : Working Session I

08:30-10:30

Welcome (Katalin Ligeti, AIDP Vice-president Scientific Coordination)

Discussion of draft General Report – Focus & Priorities (Sabine Gless)

Coffee Break

11:00-13:00

Discussion of draft General Report – Legal framework governing the prosecution of corporations (Sabine Gless)

Lunch Break

14:30-16:00

Discussion of draft resolutions on general aspects of jurisdiction (Sabine Gless)

Coffee Break

16:30-18:30

Discussion of draft resolutions on jurisdictional rules for prosecuting corporations under international law (Sabine Gless)

XX:XX

Dinner option

Sunday, June 4th 2017: Working Session II

08:30-9:30

Publication Issues (Gert Vermeulen, AIDP Director General of Publications)

Coffee Break

10:30-13:00

Adoption of draft resolutions (Sabine Gless)

Lunch and Departure



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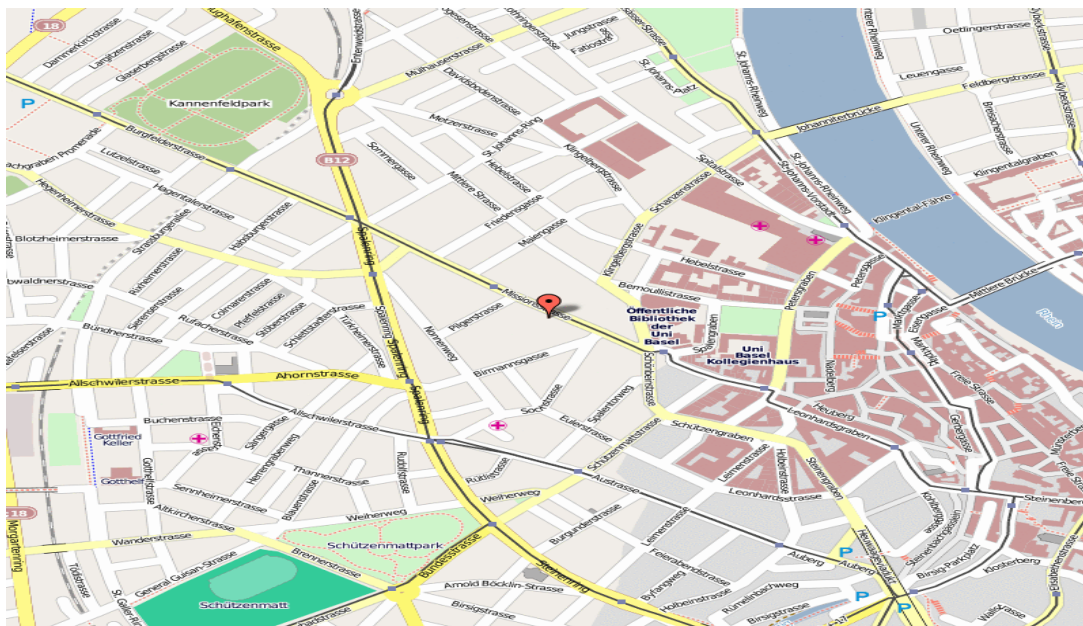
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Directions to Bildungszentrum Mission 21 *Missionsstrasse 21, CH-4055, Basel*

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