
Translated from French

Information and observations on the scope and application of the principle of universal jurisdiction

I. Definition

Switzerland understands universal jurisdiction as the customary principle whereby **a court can exercise its jurisdiction even in the absence of a link between the case and the forum State**, such as territory, nationality of the perpetrator or victim or infringement of the fundamental interests of the State. This principle is based on the idea that some

The **Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment** of 1984 provides for the possibility of States exercising universal jurisdiction and imposes on States the obligation to prosecute or extradite a person suspected of committing acts of torture who is in their territory.

The Geneva Conventions of 1949 also provide for the possibility of States exercising universal jurisdiction and impose on States the obligation to prosecute or extradite persons suspected of having committed a serious breach of the Conventions.

Many terrorism-related conventions, for example, the **International Convention for the Suppression of Terrorist Bombings of 1997**, also provide for the exercise of universal jurisdiction if the suspect is not extradited.

IV. Universal jurisdiction in the Swiss legal system

Switzerland **recognizes and applies the principle of universal jurisdiction** in its legal system and has done so for a number of years. Certain acts are therefore prosecuted despite the absence of the traditional jurisdictional links, namely, territoriality (article 3 of the Penal Code), nationality of the perpetrator (article 7, paragraph 1, of the Penal Code), nationality of the victim (article 7, paragraph 1, of the Penal Code) and protection of the fundamental interests of the State (article 4 of the Penal Code). These acts are: crimes or offences against minors (article 5 of the Penal Code), crimes or offences prosecuted under an international agreement (article 6 of the Penal Code) and particularly serious crimes prohibited by the international community (article 7, paragraph 2, and article 264*m* of the Penal Code).

Some countries adhere to an absolute or unlimited interpretation of universal jurisdiction, meaning that it applies even when the accused is not in the territory of the forum State. Switzerland subscribes to the **“conditional” or “limited” interpretation** of universal jurisdiction, in which **the exercise of universal jurisdiction is subject to two conditions:**

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- (i) The person suspected of the offence is in Swiss territory;
 - (ii) The suspect is not extradited to another competent jurisdiction.

In the Swiss legal system, universal jurisdiction is therefore a jurisdiction exercised **subsidiarily**, when no other jurisdic

V. Switzerland's position on the appropriateness of discussing universal jurisdiction in the Sixth Committee of the General Assembly of the United Nations

Switzerland has noted the decision taken by the General Assembly in its resolution 65/33, which mentions "the need for further consideration towards a better understanding of the scope and application of universal jurisdiction". Switzerland would therefore like to take this opportunity to recall its position that **consideration of the issue of the scope and application of universal jurisdiction should be entrusted to the International Law Commission**. This would provide States with a better basis for discussion. Moreover, this option is possible under resolution 65/33, which states that consideration of the issue by the Sixth Committee is "without prejudice to the consideration of this topic and related issues in other forums of the United Nations".

Switzerland believes that this is a topic which, given its fundamentally legal nature and technical character, ought to be considered and discussed first and foremost by legal experts, without any of the political considerations that inevitably surround