
Syllabus**Responsible Business Conduct****Fall Semester 2023**

The module Responsible Business Conduct is part of the Master of Law UZH and consists of the course with the same name. The course takes place weekly every Wednesday from 10:15 to 12:00 in room RAI-J-031, starting 20 September 2023.

Course description

The course will focus on the existing and emerging rules on responsible business conduct. After an introduction covering the basic instruments in the field of responsible business conduct, including the OECD Guidelines for Multinational Enterprises on Responsible Business Conduct, we will discuss the interactions of business with society in various fields, including human rights and climate change, as well as how to conduct business responsibly through risk-based due diligence. Students will learn what responsible business conduct entails.

The course will be held in seminar style. Students are expected to participate actively in the discussions and to give presentations.

Literature

ILLIAS BANTEKAS/MICHAEL ASHLEY STEIN (eds.), *The Cambridge Companion to Business and Human Rights Law*, Cambridge 2021

DOROTHÉE BAUMANN-PAULY/JUSTINE NOLAN (eds.), *Business and Human Rights: From Principles to Practice*, London 2016

NICOLE BONUCCI / CATHERINE KESSEDIAN (eds.), *40 Years of the OECD Guidelines for Multinational Enterprises*, Paris 2018

SURYA DEVA/DAVID BIRCHALL (eds.), *Research Handbook on Human Rights and Business*, Cheltenham 2020

PETER MUCHLINSKI, *Advanced Introduction to Business and Human Rights*, Cheltenham 2022

PETER MUCHLINSKI, *Multinational Enterprises and the Law*, 3rd ed., Oxford 2021

JOHN RUGGIE, *Just Business: Multinational Corporations and Human Rights*, New York 2013

Course requirements

Active participation is expected. Students will be required to hand in some short, written assignments during the course that will be part of the final grade. These written papers will give students the opportunity to apply what they have learned in class to real-life scenarios. At the end of the semester an exam (oral or written) will take place and make up part of the final grade, too. Further information regarding the course requirements will be given in the first class.

Course administration

Course materials will be uploaded on the platform Moodle via the following link:

<https://moodle-app2.let.ethz.ch/course/view.php?id=13357>

The password will be provided in the first class. Further information can be found on Moodle and on the website of Prof. Kaufmann: www.ivr.uzh.ch/kaufmann

Please make yourself acquainted with the specific programmes and documents uploaded on the website and on Moodle before the first class.

If you have questions, the assistants of the chair are available during the usual office hours:

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Detailed lecture plan

Date	Topic	Reading Assignments
20 September	Introduction to Responsible Business Conduct (RBC)	<p>Mandatory:</p> <p>MUCHLINSKI, Advanced Introduction to Business and Human Rights, Chapters 1&2, pp. 1-46</p> <p>MUCHLINSKI, Multinational Enterprises and the Law, Chapter 1: Getting to Know Multinationals, pp. 3-41</p> <p>KAUFMANN/NIEUWENKAMP, Human rights is an integral part of responsible business conduct, Blog on RBC and UDHR, 2018</p> <p>RUGGIE, Just Business, pp. XV-80</p> <p>WETTSTEIN, The history of 'business and human rights' and its relationship with corporate social responsibility, in: DEVA/BIRCHALL (eds.), Research Handbook on Human Rights and Business, pp. 23-45.</p> <p>FRIEDMAN, The Social Responsibility of Business is to Increase its Profits, The New York Times Magazine, 13 September 1970.</p> <p><i>Optional:</i></p> <p>PORTER/KRAMER, Creating Shared Value, in: LENSSEN/SMITH (eds.), Managing Sustainable Business, Dordrecht 2019, S. 323-346</p> <p>BANTEKAS, Business and Human Rights: Foundations and Linkages, in: BANTEKAS/STEIN (eds.), The Cambridge Companion to Business and Human Rights Law, pp. 1-21</p> <p>BAUMANN-PAULY/TRABELSI, The Business Case for Human Rights: Irrelevant or Indispensable?, in: BANTEKAS/STEIN (eds.), The Cambridge Companion to Business and Human Rights Law, pp. 115-144</p>
27 September	RBC in International Law	<p>Mandatory:</p> <p>UN Guiding Principles on Business and Human Rights</p> <p>UN Global Compact</p> <p>FAQs about the UNGPs</p> <p>OECD Guidelines for Multinational Enterprises on Responsible Business Conduct (2023)</p> <p>Updated Revised Draft Treaty on Business and Human Rights</p>

Date	Topic	Reading Assignments
		<p>NOLAN ET AL., Chapter 2: Regulatory framework and Guiding Principles, in: BAUMANN-PAULY/NOLAN (eds.), <i>Business and Human Rights – From Principle to Practice</i>, pp. 31-76</p> <p>MUCHLINSKI, <i>Multinational Enterprises and the Law</i>, Chapter 3: Regulating Multinationals, pp. 80-117</p> <p>MUCHLINSKI, <i>Multinational Enterprises and the Law</i>, Chapter 14: Human Rights, pp. 555-605</p> <p>MUCHLINSKI, <i>Advanced Introduction to Business and Human Rights</i>, Chapters 3&4, pp. 47-93</p> <p>CANTÙ RIVERA, National Action Plans on Business and Human Rights: Progress or Mirage?, <i>Business and Human Rights Journal</i> (2019), pp. 1-25</p> <p><i>Optional:</i></p> <p>BANTEKAS, <i>Towards a UN Business and Human Rights Treaty</i>, in: BANTEKAS/STEIN (eds.), <i>The Cambridge Companion to Business and Human Rights Law</i>, pp. 583-610</p> <p>MUCHLINSKI, <i>Multinational Enterprises and the Law</i>, Chapter 13: Labour Relations, pp. 511-554</p> <p>RUGGIE, <i>Comment on the “Zero Draft” Treaty on Business and Human Rights National Action Plans</i></p>
4 October	OECD Guidelines for Multi-national Enterprises on Responsible Business Conduct	<p>Mandatory:</p> <p>OECD Guidelines for Multinational Enterprises on Responsible Business Conduct (2023)</p> <p>OECD Due Diligence Guidance for Responsible Business Conduct</p> <p>BLANPAIN, <i>The OECD Guidelines for Multinational Enterprises – The Badger Case</i>, <i>Journal of the Royal Society of Arts</i>, 1978.</p> <p>KAUFMANN, <i>OECD MNE Guidelines quo vadis? Making responsible business conduct work for better lives</i>, in: OECD, <i>OECD Guidelines for Multinational Enterprises: a Glass Half Full</i>, A Liber Amicorum for Dr. Roel Nieuwenkamp, Chair of the OECD Working Party on Responsible Business Conduct 2013-2018, 2018, pp.29-34</p> <p>KAUFMANN, <i>National Contact Points and Access to Remedy under the UNGP – Why Two Can Make a Dream so Real</i>, in: BONUCCI/KESSEDJIAN (eds.), <i>40 Ans des lignes directives de l’OCDE pour les entreprises multinationales / 40 Years of the OECD Guidelines for Multinational Enterprises</i>, 2018, pp- 175-184.</p>

Date	Topic	Reading Assignments
		<p>Cases:</p> <ul style="list-style-type: none"> • Canadian NCP, China Gold International Resources Corp. Ltd. • Swiss NCP, FIFA • Dutch NCP, Former employees of Bralima vs. Bralima and Heineken <p><i>Optional:</i></p> <p><i>RASCHE, The UN Global Compact and the OECD Guidelines for Multinational Enterprises and Their Enforcement Mechanisms, in: BANTEKAS/STEIN (eds.), The Cambridge Companion to Business and Human Rights Law, pp. 195-214</i></p>
11 October	Global Supply Chains and Due Diligence	<p>Mandatory:</p> <p>General Comment No. 24 (2017) on State obligations under the ICESCR (E/C.12/GC/24)</p> <p>MUCHLINSKI, Advanced Introduction to Business and Human Rights, Chapter 5, pp. 94-118</p> <p>TAYLOR, Human rights due diligence in theory and practice, in: Deva/Birchall (eds.), Research Handbook on Human Rights and Business, pp. 88-107.</p> <p>MCCORQUODALE/SMIT/NEELY/BROOKS, Human Rights Due Diligence in Law and Practice: Good Practices and Challenges for Business Enterprises, Business and Human Rights Journal, Vol. 2(2) 2017, pp. 195-224</p> <p>SALCITO/WIELGA, What does Human Rights Due Diligence for Business Relationships Really Look Like on the Ground?, Business and Human Rights Journal, Vol. 3(1) 2018, pp. 113-121</p> <p>UN Working Group report on human rights and due diligence in practice, A/73/163</p> <p>OECD Due Diligence Guidance for Responsible Business Conduct</p> <p>Swiss NCP, Society for Threatened Peoples v. BKW Group</p> <p><i>Optional:</i></p> <p><i>OECD, Is there a role for Blockchain in Responsible Supply Chains?, Paris 2019</i></p> <p><i>NOLAN/FRISHLING, Human rights due diligence and the (over) reliance on social auditing, in: DEVA/BIRCHALL (eds.), Research Handbook on Human Rights and Business, pp. 108-129.</i></p>

Date	Topic	Reading Assignments
18 October	Cancelled	
25 October	Access to Remedy (1/2)	<p>Mandatory:</p> <p>MUCHLINSKI, Advanced Introduction to Business and Human Rights, Chapter 6, pp. 119-147</p> <p>ZADEK ET AL., Chapter 6: Accountability and remedy, in: BAUMANN-PAULY/NOLAN (eds.), Business and Human Rights – From Principle to Practice, pp. 239-298</p> <p>MARES, Liability within corporate groups: parent companies' accountability for subsidiary human rights abuses, in: DEVA/BIRCHALL (eds.), Research Handbook on Human Rights and Business, pp. 446-470</p> <p>UN Guiding Principles 25-31</p> <p>Cases:</p> <ul style="list-style-type: none"> • United States Supreme Court, <i>Kiobel v Royal Dutch Petroleum Co</i>, 133 S. Ct. 1659 (2013) • UK Supreme Court, <i>Okpabi v Shell</i> [2021] UKSC 3 • Netherlands, The Hague District Court, Judgement <i>Royal Dutch Shell</i>, 26 May 2021
1 November	Access to Remedy (2/2)	<p>Mandatory:</p> <p>VAN HUIJSTEE/WILDE-RAMSING, Remedy is the reason: non-judicial grievance mechanisms and access to remedy, in: DEVA/BIRCHALL (eds.), Research Handbook on Human Rights and Business, pp. 471-491</p> <p>CANTÚ RIVERA, National human rights institutions and their (extended) role in the business and human rights field, in: Deva/Birchall (eds.), Research Handbook on Human Rights and Business, pp. 492-512</p> <p>BAAIJ, The Potential of Arbitration as Effective Remedy in Business and Human Rights: Will the Hague Rules be Enough?, <i>BHRJ</i> 7(2022), pp. 271-290</p> <p>The Hague Rules on Business and Human Rights Arbitration</p> <p>ICSID Convention</p> <p><i>Optional:</i></p> <p>LEVINE/CASTLES, <i>The Use of International Arbitration Tribunals for Business and Human Rights Disputes</i>, in <i>Bantekas/Stein (eds.), The Cambridge Companion to Business and Human Rights Law</i>, Chapter 19, pp. 428-454</p>

Date	Topic	Reading Assignments
8 November	RBC in EU and National Law (1/2)	<p>Mandatory:</p> <p>MARTIN, The use of disclosure-based regulation to advance the state's duty to protect, in: DEVA/BIRCHALL (eds.), Research Handbook on Human Rights and Business, pp.176-197</p> <p>COSSART/CHAPLIER/BEAU DE LOMENIE, The French Law on Duty of Care: A Historic Step Towards Making Globalization Work for All, Business and Human Rights Journal, 2 (2017), pp. 317-323</p> <p>UK Modern Slavery Act</p> <p>Australia Modern Slavery Act</p> <p>Loi relative au devoir de vigilance des sociétés mères et des entreprises donneuses d'ordre</p> <p>Loi Pacte</p> <p>Netherlands Draft Human Rights and Environmental Due Diligence legislation (<i>in progress</i>)</p> <p><i>Optional:</i></p> <p>CASSEL, State jurisdiction over transnational business activity affecting human rights, in: DEVA/BIRCHALL (eds.), Research Handbook on Human Rights and Business, pp.198-222</p>
15 November	RBC in EU and National Law (2/2)	<p>Mandatory:</p> <p>BUENO/KAUFMANN, The Swiss Human Rights Due Diligence Legislation: Between Law and Politics, Business and Human Rights Journal, Vol. 6(3) 2021, pp. 542-549</p> <p>KRAJEWSKI/TONSTAD/WOHLTMANN, Mandatory Human Rights Due Diligence in Germany and Norway: Stepping, or Striding, in the Same Direction?, Business and Human Rights Journal, Vol. 6(3) 2021, pp. 550-558</p> <p>THE DANISH INSTITUTE FOR HUMAN RIGHTS, State of Play on the EU's Corporate Sustainability Due Diligence Directive: Five Key Takeaways, June 2023</p> <p>European Union:</p> <ul style="list-style-type: none"> • EU Proposals for a Directive on Corporate Sustainability Due Diligence • EU Corporate Sustainability Reporting Directive 2022/2464 • EU Regulation on Conflict Minerals 2017/821 <p>German Supply Chain Due Diligence Act (Lieferkettensorgfaltspflichtengesetz)</p>

Date	Topic	Reading Assignments
		<p>Norway Transparency Act</p> <p>Switzerland:</p> <ul style="list-style-type: none"> • Art. 964a-c and 964j-I Code of Obligations • Ordinance on Due Diligence and Transparency in relation to Minerals and Metals from Conflict-Affected Areas and Child Labour (DDTrO) • Ordinance on Reporting on Climate Issues
22 November	RBC in the Garment and Footwear Sector	<p>Guest speaker: Marius Lang, Migros</p> <p>Mandatory:</p> <p>The International Accord on Health and Safety in the Textile and Garment Industry (formerly Bangladesh Accord)</p> <p>OECD Due Diligence Guidance for Responsible Supply Chains in the Garment and Footwear Sector</p> <p>JASTRAM/SCHNEIDER, Sustainable Fashion – Governance and New Management Approaches, Cham 2018, pp. 3-8, 11-24, 41-50.</p> <p>Cases:</p> <ul style="list-style-type: none"> • Canada, Ontario Superior Court of Justice: Loblaws Companies Ltd., Loblaws Inc.; Joe Fresh Apparel Canada Inc. • Germany, Regional Court Dortmund, Baldia Factory Fire As v. KiK • German NCP, ECCHR et al v. TÜV Rheinland AG • Danish NCP, PWT Group's role in the Rana Plaza collapse • Italian NCP, Ali Enterprise Factory Fire Affectees Assoc v. RINA S.p.A
29 November	UN Forum on Business and Human Rights (Geneva)	Participation at the UN Forum on Business and Human Rights in Geneva. Information will be given in class.
6 December	RBC and Mega-Sporting Events	AMIS, Mega-Sporting Events and Human Rights – A Time for More Teamwork?, Business and Human Rights Journal, 2 (2017), pp. 135-141

Date	Topic	Reading Assignments
		<p>ISHIDA/WADA, The Implementation of the UN Guiding Principles into Daily Business Operations and the 2020 Tokyo Olympic and Paralympic Games, <i>Business and Human Rights Journal</i>, 2 (2017), pp. 143-148</p> <p>SPALDING, The Governance Legacy of Mega-Sporting Events: A Golden Opportunity to Promote Human Rights, <i>Commentary, IHRB</i>, 7 December 2018</p> <p>Mega Sporting Events/IHRB, The Mega-Sporting Event Lifecycle – Embedding Human Rights from Vision to Legacy, Report, 27 April 2018</p>
13 December	RBC and Climate Change (1/2)	<p>Mandatory:</p> <p>OECD Guidelines for MNEs on RBC, Chapter VI. Environment</p>
20 December	RBC and Climate Change (2/2)	<p>Paris Agreement on Climate Change</p> <p>UN Working Group on BHR, Information Note on Climate Change and the Guiding Principles on Business and Human Rights, June 2023</p> <p>MUCHLINSKI, <i>Multinational Enterprises and the Law</i>, Chapter 15: Environmental Issues, pp. 606-648</p> <p>OLAWUYI, Corporate Accountability for the Natural Environment and Climate Change, in: BANTEKAS/STEIN (eds.), <i>The Cambridge Companion to Business and Human Rights Law</i>, pp. 234-259</p> <p>WEBER/HÖSLI, Corporate Climate Responsibility – The Rise of a New Governance Issue, <i>sui generis</i> 2021, pp. 83-92</p> <p>Cases:</p> <ul style="list-style-type: none"> • Netherlands, The Hague District Court, Judgement Royal Dutch Shell, 26 May 2021 • ECHR, Verein Klimaseniorinnen Schweiz and others v. Switzerland