



# Master Programme in European and International Law

winter term 2004

## Public International Law (VAK 06-009)

Dr. Andree Kirchner, LL.M. (Stockholm)

# Subjects

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## Subjects of domestic law

- States
- citizens
- corporate bodies
- State institutions
- foreigners

# Subjects

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## Subjects of International Law

“Subject of international law is an entity capable of possessing international rights and duties and having the capacity to maintain its rights by bringing international claims.”

# Subjects

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## Examples

- States
- International organizations
- National Liberation Movements
- Individuals
- Multinational corporations

# Subjects

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## State

- Requires the conditions for statehood (Art. 1 Montevideo Convention on Rights and Duties of States, 1933)
- Exception: Federal States according to the constitutions of Switzerland, Germany and the United States

# Subjects

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## Montevideo Convention

“Art. 1 The State as a person of international law should possess the following qualifications:

- a) a permanent population,
- b) a defined territory,
- c) government, and
- d) capacity to enter into relations with other states.”

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## Population

“A stable community of people of which the state has the territorial jurisdiction and the personal sovereignty when abroad.”

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## Territory

“A reasonably stable political community and this must be in control of a certain area, i.e. one common legal order (e.g. Denmark and Greenland, France and Martinique, etc.).”



# Subjects

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## Government

“A stable political community, supporting a legal order, in a certain area, not necessarily an effective government.”

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## Independent States

“The independency of a state is in practice NOT a criteria for rejecting statehood.”

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## International Organizations

- No constitutional systems for recognizing and registering organizations
- United Nations: no explicit provision on its legal personality (cf. ICJ, Advisory Opinion of 11 April 1949)

# Subjects

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## ICJ Advisory Opinion

### *Reparations for Injuries Suffered in the Service of the United Nations*

[11 April 1949]

- Read and understand the case
- Summarise the case
- Reflect the case (criteria of legal personality)

# Subjects

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## Criteria of legal personality

1. A permanent association of states, with lawful objects equipped with organs;
2. a distinction, in terms of legal powers and purposes, between the organization and its member states (autonomy);
3. the existence of legal powers exercisable on the international plane and not solely within the national systems of one or more states.

# Subjects

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## Examples

- United Nations
- European Union
- Organization of American States
- African Union
- Organization of the Islamic Conferences

# Subjects

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## United Nations

- Established: 24 October 1945
- Including main and special organs, 17 specialized agencies as well as the World Trade Organization and the International Atomic Energy Agency
- [www.un.org](http://www.un.org)

# Subjects

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## Organs of the UN

- General Assembly
- Security Council
- Economic and Social Council
- Trusteeship Council
- International Court of Justice
- Secretariat



# Subjects

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## UN General Assembly

- Main deliberative organ
- Representatives of all Member States (each one vote)
- Decisions on important questions (peace and security, admission of new Members)

# Subjects

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## UN GA Committees

- Disarmament and International Security
- Economic and Financial
- Social, Humanitarian and Cultural
- Special Political and Decolonization
- Administrative and Budgetary
- Legal

# Subjects

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## UN Security Council

- Primary responsibility: maintenance of international peace and security
- 15 members (each one vote)
- Veto power of the “Big Five”

# Subjects

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## UN SC Members

- 5 permanent members: China, France, Russia, the United Kingdom and the United States
- 10 elected members: elected by the GA for two-year terms

# Subjects

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## UN Economic and Social Council

- Principal Organ to coordinate the economic and social work of the UN
- Relations with non-governmental organizations

# Subjects

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## UN Trusteeship Council

- Supervising the administration of Trust Territories (11 original Trust Territories)
- Progressive development towards self-government or independance
- Terminated in November 1994

# Subjects

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## International Court of Justice

- Located in The Hague (Netherlands)
- Principal judicial organ of the UN
- Its Statute: integral part of the UN Charter
- Open to all Member States (not to private individuals)
- Deciding disputes in accordance with Art. 38 of its Statute

# Subjects

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## UN Secretariat

- Diverse day-to-day work of the UN (forum)
- Administers the programmes and policies
- Headed by the Secretary-General (five-year term)
- Staff: > 14,000 from some 170 countries



# Subjects

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## European Communities

- European Economic Community (Brussels)
- European Coal and Steel Community (Luxembourg)
- European Atomic Energy Community (Brussels)

# Subjects

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## EC Organs

- Commission
- Council (of Ministers)
- European Parliament
- Court of Justice

# Subjects

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## European Union

- Established: 1992
- Main pillars:
  - European Communities
  - Common Foreign and Security Policy
  - Justice and Home Affairs
- [www.europa.eu.int](http://www.europa.eu.int)

# Subjects

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## EU Organs

- European Council
- European Parliament
- Council of the European Union
- European Commission
- European Court of Justice

# Subjects

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## Organization of American States

- Established: 1948
- Successor of the International Union of American Republics (1890)
- All Northern, Middle and Southern American States (except Cuba since 1962)
- [www.oas.org](http://www.oas.org)

# Subjects

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## OAS Organs

1. General Assembly
2. Permanent Council
3. Inter-American Council for Integral Development
4. General Secretariat
5. Specialised Organisations
6. Inter-American Committees and Commissions

# Subjects

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## African Union

- Established: 1999
- Successor of the Organization of African Unity (1963)
- “To accelerating the process of integration in the continent to enable it play its rightful role in the global economy while addressing multifaceted social, economic and political problems compounded as they are by certain negative aspects of globalisation.”
- [www.africa-union.org](http://www.africa-union.org)

# Subjects

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## AU Organs

1. The Assembly
2. The Executive Council
3. The Pan-African Parliament
4. The African Court of Justice
5. The Commission
6. Committees and Commissions



# Subjects

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## Organization of the Islamic Conferences

- Established: 1969 (1389H)
- 65 Member States
- Strengthen Islamic solidarity, Co-operation in the political, economic, social, cultural and scientific fields, etc.
- [www.oic-oci.org](http://www.oic-oci.org)

# Subjects

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## OIC Organs

1. The Conference of Kings and Heads of State and Government
2. The Conference of Foreign Ministers
3. General Secretariat

# Subjects

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## Individuals

- 1648-1918 individuals were mere “objects“ of a state (under the exclusive control of a State)
- Change came about with the establishment of ILO in 1919 (demanding compliance)
- Only *procedural* rights

# Subjects

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## Development

- *Procedural* rights = right to initiate international proceedings
- Granted by treaties (labour relations, human rights)
- Non-acceptance of the above treaties being made accountable to individuals
- Difficulty: difference between domestic and international procedure

# Subjects

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## Multinational Corporations

- Economically and politically powerful
  - Activity not confined to one single state
  - Transactions also with states and international organizations
- ⇒ Possess no international rights and duties
- ⇒ Subject to domestic and transnational law

# Subjects

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## Changes

- Sovereign States were the only actors and remain the primary subjects
- New entities gained status and rank of international legal subjects:
  - International Organizations
  - Individuals
  - Organized people (liberation movements)
- The new entities are still no universal subjects

# Subjects

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## Discussion

Do we need new players in the  
international community?



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## **Further reading:**

A. Cassese, International Law, 2001, pp. 46-85

## **Further information:**

<https://elearning.uni-bremen.de>