

US Supreme Court Rules on Adjudicatory Jurisdiction over Multinational corporations

By Verity Winship

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Today in *Daimler AG v. Bauman*, the US Supreme Court held that US Courts in California lacked adjudicatory jurisdiction over a German parent corporation. Argentine plaintiffs had sued DaimlerChrysler Aktiengesellschaft (DaimlerChrysler AG) in US federal court in California. They alleged that a wholly-owned Argentinian subsidiary of DaimlerChrysler AG collaborated in the torture and disappearance of plaintiffs and their family members in Argentina in violation of the Alien Tort Statute and Torture Victims Protection Act. The only contacts between the defendant DaimlerChrysler AG and the forum state were through a US subsidiary, and the alleged conduct took place entirely outside the US.

The US Supreme Court had to decide whether the contacts between DaimlerChrysler AG and the state of California were so extensive that the US court could exercise jurisdiction over any cause of action, even one unrelated to the contacts and unconnected to the forum - so-called "general" personal jurisdiction. In terms of US law, the question was whether exercise of personal jurisdiction in these circumstances satisfied constitutional due process requirements. The classic description of these requirements is that the defendant must have "minimum contacts" with the territory of the forum "such that the maintenance of the suit does not offend traditional notions of fair play and substantial justice."

In rejecting the "exorbitant exercise[] of all-purpose jurisdiction" urged by plaintiffs in *Bauman*, the Court reiterated the standard it established in 2011 in *Goodyear*: the question is whether the defendant corporation's "affiliations with the State are so 'continuous and systematic' as to render [it] essentially at home in the forum State." The Court refused to expand "all-purpose" jurisdiction

beyond the core examples of the corporation's state of incorporation and principal place of business, although it left open the possibility of an exceptional case.

In focusing on the scope of general jurisdiction, the Court treated other issues in the case in less depth. The Court assumed for the purpose of the opinion only that the US subsidiary was subject to all-purpose jurisdiction in California, as defendant had conceded. Moreover, the Court did not give general guidance on whether actions by a subsidiary can be attributed to a corporate parent to establish personal jurisdiction. It merely said that the lower court had gone too far by attributing the subsidiary's contacts to DaimlerChrysler AG based "primarily on its observation that [the subsidiary's] services were 'important'" to the parent company. The Court rejected such expansive attribution, noting that the "inquiry into importance stacks the deck, for it will always yield a pro-jurisdiction answer."

The majority opinion, written by Justice Ginsburg and joined by seven other justices, concluded by highlighting the "transnational context of this dispute." It criticized the lower court for paying "little heed to the risks to international comity its expansive view of general jurisdiction posed," noting the contrast between European and US law on the scope of adjudicatory jurisdiction over corporations.