Universities Duty of Care

Legal health, safety and security responsibilities towards their travelling students, faculty and staff.

International SOS Foundation

Sant'Anna
Scuola Universitaria Superiore Pisa

INTRODUCTION

International expansion is playing an increasingly important role in the development strategy of many universities and academic institutions – it comes, however, with new challenges. Teaching, collaborating, researching and studying abroad is becoming a prerequisite, both for large, leading universities as well as for smaller educational institutions.

The international student population is constantly increasing, reaching an all-time high of over five million in 2017. According to the Organisation for Economic Co-operation and Development (OECD), international student mobility is expected to reach eight million by 2025.[1] In the United States, as an example, the student outbound population has surpassed half a million, and the inbound population of overseas students coming to the United Sates has exceeded one million in 2016, according to Project Atlas® data.[2]

An increasing number of institutions are launching satellite campuses abroad, offering double degrees and international internships, changing admission rules for foreign students, and revising their curricula to encourage teaching in foreign languages. As a consequence, the international activities of tertiary educational institutions have not only expanded in volume and scope, but also in complexity.[3]

Furthermore, students, researchers and faculty members are travelling more and more to non-traditional locations. The variety of programmes with an international component has expanded, from short projects to long-term volunteer and development work. The profiles of travellers have also become more diverse, as universities seek to offer equal opportunities for students, faculty and staff members of all backgrounds, regardless of ethnicity, religion and gender, to participate in projects abroad.

The search for international exposure also has a significant impact on the appeal of an institution, as well as on the level of skills and the employability of its students. International ventures are undoubtedly helping universities to expand their reach. Handled poorly, however, it can potentially damage the reputation of the institution. Having to navigate a variety of socio-legal and geopolitical environments can be challenging. Many institutions therefore seek external support to develop their legal knowledge and practical know-how of effectively assessing and managing the risks faced by their travellers.

A study by Professor Andrea De Guttry and Doctor Francesca Capone of the DIRPOLIS Institute of International Law at the Scuola Superiore Sant'Anna, published in November 2017, illustrates the state and the awareness of academic institutions towards their legal responsibilities to their globally mobile staff and students.[4]

This Duty of Care research contributes to building solid understanding on the implications and solutions to protect travelling faculty, staff and students worldwide. Looking into both civil law and common law countries, it demonstrates how access to qualitative information and precise knowledge of regulations and jurisprudences has become more critical than ever for institutions to manage growing international exposure.

1 www.oecd-ilibrary.org/education/skills-beyond-school_9789264214682-en

2 https://www.iie.org/en/Research-and-Insights/Project-Atlas

3 'Effects of mobility on the skills and employability of students and the internationalization of higher education institutions' http://neuropathology/education/library/study/2014/erasmus-impact_en.pdf;

Other sources include: J.W. Thompson, An Exploration of the Demand for Study Overseas from American Students and Employer https://www.iie.org/wp-content/uploads/2022/12/Demand-for-Study-Overseas.pdf ; International Trends in Higher

THE RESEARCHERS

Professor Andrea De Guttry

Professor of Public International Law at the Scuola Superiore Sant'Anna, where he serves also as the Director of the DIRPOLIS Institute and as the Deputy Rector. His areas of expertise include public international law, EU Law, International Human Rights Law, International Humanitarian Law. He has directed and coordinated many training programmes for public servants in these areas and in peace-keeping operations and UN Law. Professor de Guttry has been at the core of the development, implementation, monitoring and evaluation of training courses at the International Training Programme for Conflict Management (ITPCM), which is a post-graduate programme of the Scuola Superiore Sant'Anna. Professor de Guttry has also drafted legal texts for the implementation of EU legislation and in the field of international trade, while providing technical assistance for EU candidate countries. Professor de Guttry's research interests cover a wide array of topics, ranging from international disaster response law to the Duty of Care of international organisations.

Doctor Francesca Capone

Senior Research Fellow and Coordinator of the Master in Human Rights and Conflict Management at the Scuola Superiore Sant'Anna, where she serves also as a lecturer at both the undergraduate and postgraduate level. She has been a visiting fellow and guest lecturer at several academic institutions across Europe and beyond. She has undertaken research on a wide range of topics, encompassing the law of remedies; the legal framework governing the response to CBRN events; the Duty of Care of international organisations; and the issues connected to international law and terrorism. Doctor Fancesca Capone holds a Law Degree from the University of Naples Federico II and a Joint Ph.D. Degree from the Scuola Superiore Sant'Anna and Tilburg University and worked as a research fellow at the British Institute of International and Comparative Law in London.

Universities Duty of Care: legal health, safety and security responsibilities towards their travelling students, faculty and staff

A CRITICAL ANALYSIS OF THE STATE-OF-THE-ART AND THE RELEVANT PRACTICE*

ANDREA DE GUTTRY
FULL PROFESSOR OF INTERNATIONAL LAW, INSTITUTE, SCUOLA SUPERIORE SANT'ANNA

FRANCESCA CAPONE
SENIOR RESEARCH FELLOW IN INTERNATIONAL LAW, INSTITUTE, SCUOLA SUPERIORE SANT'ANNA

The growing globalisation of education has resulted in university students and employees increasingly taking international travel to study or carry out academic work. In those instances, it is logical to assume that universities have the obligation, known as Duty of Care, to mitigate any 'foreseeable' risk that their employees and students may face. The primary scope of the present white paper is to contribute to filling the gap in the existing literature and analysing the principal features of the universities' Duty of Care. To this end this article will focus in particular on three aspects: I) the legal foundations of universities' Duty of Care; II) the content of the Duty of Care obligation incumbent on academic institutions, paying special attention to fieldwork activities and their planning, risk assessment and management; and III) how the universities' Duty of Care has been addressed in recent case law.

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1 UNIVERSITY DUTY OF CARE RESEARCH INTRODUCTION

In the aftermath of Giulio Regeni's death at the beginning of 2016, politicians and commentators have not been shy in blaming the University of Cambridge for not doing enough to protect a talented doctoral candidate who was conducting his research in Egypt (Bulfon, F & Maarad B 2016). Mr Regeni's work dealt with a very sensitive issue in a complex environment. Besides the shock and sadness that the murder of Mr. Regeni has sparked worldwide, this episode has also triggered some difficult questions for academic institutions concerned with striking a balance between academic freedom and the need to ensure the safety of their employees and students. It is blatant to observe that, regardless of their destination and/or of the scope of their trip, travellers are exposed to increasing safety, security and health risks as they leave their home country and find themselves in different and sometimes dangerous surroundings (Claus & Yost, 2010, p. 30). Within a university context, the category of 'travellers' often encompasses students, administrative staff and faculty. In light of the growing number of activities that university constituencies are expected to perform during international missions, it is worth investigating to what degree universities must exercise 'Duty of Care'. The Duty of Care concept is rapidly gaining momentum in both the public and private sector (Claus, International SOS, 2009).

In the United States, the 2015 Boisson v. Ariz. Bd. of Regents case further outlines the complexity of defining university Duty of Care, by demonstrating the fine line between business, education and leisure excursions.

In recent years Duty of Care has been mainly associated with the obligations pertaining to corporate employers (Claus, 2009; 2011) and international organisations, operating both at the regional and universal level (de Guttry, 2015), but it has not been sufficiently examined with regard to other entities such as NGOs and universities. The case Dennis v. Norwegian Refugee Council (NRC), concerns a claim brought by Mr Dennis against the NGO he was working for while deployed in Kenya, where he was kidnapped. The Oslo District Court found the NRC responsible for a breach of its Duty of Care in 2015. The Court found that the NRC acted with gross negligence, and that the NRC's negligent conduct was a necessary condition for the kidnapping to have occurred, due to the lack of mitigating measures implemented to reduce and avert the risk of kidnapping (Merkelbach & Kemp, 2016). Therefore, the Court ordered the NRC to pay a compensation of approximately 465,000 EUR to its employee. Case No: 15-032886TVI-OTI R/05, Steven Patrick Dennis v Stiftelsen Flyktninghjelpen [the Norwegian Refugee Council]). This case marked an important step towards the recognition, as well as the definition, of the Duty of Care incumbent upon stakeholders different from non-corporate organizations, including academic institutions. This white paper addresses a university's and higher educational institute's' obligations towards their employees, including faculty, administration and staff, as well as towards their students. This encompasses those enrolled in both undergraduate and postgraduate programmes. Clearly, the origin of the legal obligation underpinning the university's Duty of Care towards employees and students is different. With regard to the former, this stems directly from the employment contract. In relation to students, it is possible to affirm that there is, an obligation of Duty of Care whenever an individual's or legal person's actions or inactions could 'reasonably' be expected to affect another person. Therefore, the university owes to each of its students a duty to take reasonable care for their wellbeing, health and safety.

In many countries (including various in Europe), doctoral students are already treated like employees.

Notably, at the graduate level there is a very thin line between 'student' and 'employee', which is exacerbated by the fact that many doctoral programmes require students to teach or conduct research before earning their degree. Universities traditionally argue that they have an educational, not economic, relationship with those students. Nonetheless, even though this is not the norm worldwide, in some countries across Europe, including Norway, Denmark, Germany and the Netherlands, doctoral students are already treated like employees. In the United States a significant step in this direction has been achieved with the adoption of a decision issued by the National Labor Relations Board on 23 August 2016. The ruling states that teaching assistants and graduate researchers at Columbia University are workers under the National Labor Relations Act and could vote to form a union. This decision does not reject the 'master-apprentice' relationship between graduate students and universities, but at least it has conceded that they can have two roles at once, i.e. a graduate student may

be both a student and an employee. This article will not dwell on the extent to which the legal standard for establishing a Duty of Care obligation differs in relation to the status of the person undertaking a trip overseas on behalf of an academic institution. It will move from the assumption that universities have a legal and moral responsibility to mitigate 'foreseeable' risk, both towards their employees and students.

Broadly speaking, it is possible to register a growing level of awareness on the part of employers with regard to their Duty of Care obligations to employees who travel abroad.

Universities can be accused of not cooperating with foreign authorities and of negligence for allowing a researcher, for example, to carry out research in a volatile or unstable environment without taking the necessary precautions.

However, it should be stressed that, according to a 2011 Global Benchmarking Study on Duty of Care published by International SOS and written by Lisbeth Claus, in this particular sphere the scholastic sector is among the sectors and industries less aware of the Duty of Care assessment and the development of policies and procedures (Claus, 2011, p. 26). Since universities worldwide pursue a stronger internationalisation strategy (Bhattacherjee, 2012), there is a need to discuss the questions related to their Duty of Care, taking into account the fact that an increasing number of heterogeneous safety policies and guidelines have been adopted over the past few years. As mentioned above, the case of Giulio Regeni, the young Italian Ph.D. researcher enrolled at the University of Cambridge and killed while conducting field research in Egypt, has contributed to fuel the debate on the issues at stake. The University of Cambridge was accused of not cooperating with the Italian authorities and of negligence for allowing Mr Regeni to carry out a sensitive research in a volatile and unstable environment without taking the necessary precautions. In response to the latter accusation, the University of Cambridge stated that Mr Regeni was 'an experienced researcher using standard academic methods' (i.e. the so-called 'participatory research') to study trade unions in Egypt.

The sending institution's responsibility can arise whenever an employee or a student is harmed while abroad, for work or study purposes.

The Regeni case on the one hand has triggered a number of political considerations, including for instance its impact on the overall Italian Mediterranean strategy in the short term (Colombo & Varvelli, 2016), It also cast a shadow over the relations between Egypt and its Western counterparts, i.e. Italy and all European Union (EU) Member States (see for instance the EU Parliament Resolution of 10 March 2016 on Egypt, notably the case of Giulio Regeni, 2016/2608(RSP)). In line with the scope of the present article, the case is also an illustrative, and of course extreme, example of how the question of the sending institution's responsibility whenever an employee or a student (the official status applicable to Mr Regeni under the current UK framework) is effected while abroad for work or study purposes. Without claiming to provide an exhaustive overview of a university Duty of Care towards their employees and students, this article will discuss a number of key and under-explored issues. In order to better outline and critically discuss the current problems and challenges connected to a university to exercise Duty of Care, the present paper will make reference to the policies and strategies implemented by a number of universities that stand out and are located in both common law and civil law countries. This article will present some conclusive remarks on the effectiveness of the policy and legal framework governing a university's Duty of Care towards their employees and students who travel internationally on university business.

2 THE LEGAL FOUNDATIONS OF UNIVERSITIES' DUTY OF CARE

Failure to adhere to a standard of reasonable care causing loss or damage is commonly defined as 'negligence'. It is not fixed and may vary from country to country.

Besides its moral connotation, Duty of Care is first and foremost an obligation imposed on an individual or organisation by law requiring that they adhere to a standard of reasonable care while performing acts (or omissions) that present a foreseeable risk of harm to others (Blay & Baker, 2005). The failure to adhere to a standard of reasonable care causing loss or damage is commonly defined as **'negligence'**. The standard of reasonable care is typically assessed by reference to the actions of a reasonable person – i.e. a typical person acting with ordinary prudence — in the same or similar circumstances. Notably, such standard is not fixed and it may vary from country to country. Broadly speaking the civil law systems tend to refer to **'legal responsibility'** rather than to **'Duty of Care'**, which is an Anglo-Saxon concept used mainly in the common law world (Kemp & Merkelbach, 2011). This is not a mere terminological difference – even though for reasons of convenience this article privileges tout court the use of the term Duty of Care. Most civil law jurisdictions tend to impose on employers a level of legal responsibility called **'strict liability'**, where a person is legally responsible for the damage and loss caused by his or her acts or omissions without the need to prove intentional or negligent conduct. Hence, on the one hand there is the Duty of Care in common law jurisdictions, which is a 'fault-based concept', where imposition of liability on a party requires a finding of negligence — for instance, should a lawsuit be brought against the University of Cambridge to ascertain its responsibility in relation to Mr Regeni's death the burden of proof would fall upon the plaintiff. The plaintiff will be expected to provide evidence of the four cumulative elements of negligence: I) the existence of a relationship between the parties recognised by the law (due to this relationship, one party has a legal obligation to exercise its Duty of Care towards the other); II) a breach of the Duty of Care; III) a causal nexus between the breach and the harm; and iv) the damage suffered as a proximate result of a defendant's breach of duty (Goldberg & Zipursky, 2011). The concept of legal responsibility is also often but not always, often, but not always, declined in the form of **'strict' liability**, which imposes a much higher standard for employers and makes it harder for the employer to avoid paying compensation for the damage caused.

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With regard to the sources of an employer's Duty of Care, the most common ones encompass, among other things, contractual terms; statutory sources such as national health and safety laws or codes; judge-made or 'common law' principles of negligence and recklessness; social security programmes; international norms such as European Union Directives or International Labour Organisation (ILO) Conventions. Even across States that share similar legal systems, e.g. common law countries, there is a heterogeneous approach towards the sources of the Duty of Care, and this applies also to universities. Nonetheless, as the coming paragraphs are going to show, it is possible to affirm that usually there is a general framework, which consists of domestic laws or regulations dealing with the health and safety of the employees, and a more specific one that consists of policies and procedures for different workplaces. This includes universities, taking into account the potential hazards that their personnel could encounter. Providing a detailed and comprehensive overview of how universities' are fulfilling their Duty of Care obligations in common law and civil law countries would fall beyond the scope of this paper. Instead, this article will present a number of relevant examples, predominantly stemming from common

law countries where this principle is more developed, in order to demonstrate that, a growing number of universities are becoming aware of the importance of implementing Duty of Care policies and strategies (Claus, 2015).

2.1 An Overview of Selected Common Law Systems

This paragraph will focus on the Duty of Care obligations of universities in common law countries. As explained above, the Duty of Care concept is deeply rooted in the common law tradition. This emerges in relation to the legal systems in place in Australia, United Kingdom, United States, Canada and Hong Kong for example.

In the case of **Australia** the Workplace Health and Safety (WHS) laws were known as Occupational Health and Safety (OH&S) laws, which differed across Australian States and territories. In order to enhance the laws consistency across the whole country. In 2012, in order to enhance the State and territory governments agreed to develop 'model laws' (the so-called WHS Act and Regulations), on which they could base their health and safety laws. Model WHS Laws operating in most Australian jurisdictions can apply extraterritorially, so that in prescribed circumstances liability extends even where elements of an offense are 'partly' or 'wholly' committed overseas (International SOS, 2013). Building on the general domestic framework, several Australian universities have developed their own internal policies. For instance, in 2016, the University of Sydney adopted a **Work Health and Safety Policy**. It is binding upon 'University, Fellows, members of Senate committees, staff, students and affiliates (including volunteers and contractors)' for all activities conducted by or on behalf of the university.

For employers across the **United Kingdom** the Duty of Care is defined in the Health and Safety at Work Act (HSW Act) adopted in 1974, which extends health and safety legislation to all areas of work, including higher educational establishments. Section 2(1) of the HSW Act places a far reaching obligation on the employer, stating that 'it shall be the duty of every employer to ensure, so far as is reasonably practicable, the health, safety and welfare at work of all his employees'. As a result of this general obligation, it can be inferred that the primary responsibility for the management of health and safety for a member of staff, and for any post doctorate, researcher or postgraduate student while on fieldwork lies with the institution. This is also outlined in the Guidance on Health and Safety in Fieldwork (GHSF) issued in 2011 by the UK Universities and Colleges Employers Association. Moreover, according to the GHSF, undergraduate students also fall within the scope of the HSW Act as Section 3(1). This affirms that 'it shall be the duty of every employer to conduct his undertaking in such a way as to ensure, so far as is reasonably practicable, that persons not in his employment who may be affected thereby are not thereby exposed to risks to their health or safety'. Also relevant for the purposes of this study is the Management of Health and Safety at Work Regulations (1999), which applies to work within the UK. An employer may be prosecuted for health and safety offenses if it fails to comply with the law when conducting a preliminary risk assessment in the UK before sending employees overseas. It also requires employers to undertake risk assessment and to introduce proactive measures to control identified risks. Furthermore, it is worth mentioning that under the Corporate Manslaughter and Corporate Homicide Act 2007 (Manslaughter Act), a company can be civilly or criminally charged if an employee's death occurred in a foreign country as 'the result of a gross breach of a relevant Duty of Care owed by the organisation to the deceased'. Prosecutions will be of the corporate body and not individuals, but the liability of directors, board members or other individuals under health and safety law or general criminal law, will be unaffected. The corporate body itself and individuals can still be prosecuted for separate health and safety offenses. In the case of Mr Regeni's murder, the Corporate Manslaughter and Corporate Homicide Act 2007 would not be applicable since, as explained in the introductory paragraph, doctoral students are not regarded as employees under the current UK legal framework. Within the above mentioned general framework, UK universities develop their own internal policies, which might vary in terms of accessibility, thoroughness and comprehensiveness. The Health and Safety policy in place at the University of St Andrews, as an example, states that 'at any level in the university, staff who have responsibility for managing or supervising other employees, contractors

or visitors are responsible for the health and safety of those under their care or control' and, similarly, that 'at any level in the university, staff who have for whatever duration oversight of students or responsibility for their welfare are responsible for the health and safety of those under their care or control' including when they perform work and study tasks abroad. Under the authority of the Principal's Office, three Health and Safety management groups have been established, one of which (the Fieldwork, Placement and Travel Risk Management Group), oversees all the policies and procedures relating to fieldwork, placements and travels by the university employees and students.

Regarding universities based in the **United States**, it is worth noting that generally speaking, under US law, employers owe to their employees a duty to provide as safe a work environment as possible under the circumstances of the nature of the workplace. This is established under the Occupational Safety and Health Act (OSHA) Act 1970, which is the primary federal law outlining the general framework applicable to most employees, with the exception of miners, transportation workers, some categories of public employees, and the self-employed. The OSHA does not have extraterritorial reach. However, there is no doubt that under the common law concept of torts a university Duty of Care obligation exists towards the employees, whether they work on or off campus (Claus, 2015).

Within the US legal framework, employers sometimes include clearly articulated risk waivers within employment agreements (Kemp & Merkelbach, 2011, p. 47). The inclusion of risk waivers may reduce the employer's liability and it is admissible under the US legislation, although not in line with the international standards enshrined in the ILO Occupational Safety and Health Convention (Convention No.55) entered into force in 1983 and not yet ratified by the US. A report of the US Association of Public and Land-grant universities issued in 2016 and eloquently titled 'A Guide to Implementing a Safety Culture in Our Universities' offers a comprehensive overview of procedures and recommendations to strengthen a culture of safety on campuses, with a particular focus on the university laboratories and facilities. Furthermore, it shall be underlined that campus sexual assault and sexual misconduct represent one of the main areas of concern across US universities and Colleges. Two pivotal federal laws have been adopted in order to provide vulnerable persons with solid legal protection from the persistent discrimination that affects them also in the field of education and to increase campus security and safety. The first law that deserves to be mentioned is Title IX, i.e. a federal civil rights law that prohibits discrimination on the basis of sex in any educational programme or activity that receives federal funding. This category encompasses most schools, including private institutions and grades K-12. Title IX addresses sexual harassment, sexual violence, or any gender-based discrimination that may deny a person access to educational benefits and opportunities. Notably, sexual harassment and sexual violence are forms of gender discrimination that are always prohibited by Title IX, including when the incident(s) occur off-campus or involve people who are not students. Nonetheless, according to a Kansas circuit court (Yeasin v. University of Kansas, No.113,098, 9/25/2015) the fact that advisory opinions under Title IX make it clear that Title IX can apply to off-campus behaviour does not control if a university's student conduct code de facto applies more broadly than only to on-campus behaviour. Even though the court sided with the defendant, finding no evidence of on-campus misconduct and holding that the university's sexual harassment policy was limited to on-campus incidents and university-sponsored events, colleges and universities should ensure their sexual misconduct policies cover off-campus behaviour, at least to the extent such behaviour adversely impacts students on campus (Scott, 2015). The Department of Education's Office of Civil Rights (OCR), which puts forth guidance for institutions in meeting their Title IX obligations, affirms that any 'Responsible Employee' (a term that includes any employee who has the authority to take action to redress sexual violence; who has been given the duty of reporting incidents of sexual violence or any other misconduct by students to the Title IX Coordinator or other appropriate university designee; or whom could reasonably believe to have this authority or duty) that knows or should know about possible sexual harassment or sexual violence must report it to the university, Title IX Coordinator or other school designee (Deputy Title IX Coordinators), so that necessary and appropriate actions can be taken to respond appropriately.

The second relevant federal law is the Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics (Clery Act) of 1990. In a nutshell, the Clery Act requires institutions of higher education (i.e. both colleges and universities) in the United States to disclose campus security information. This includes crime statistics for the campus and surrounding areas. All institutions of postsecondary education, both public and private, that participate in federal student aid

programmes must publish and disseminate an annual campus security report, they must also make timely warnings of any ongoing threats to the campus community. The Clery Act applies primarily to on campus activities, but also off campus activities qualify to be reported if they meet two criteria. First, the university must have control over the space used for the student activity and/or travel. Control, as defined by the Clery Act, means that there is a written agreement directly between the university and the end provider for use of the space. Secondly, the controlled space must be used in direct support of, or in relation to, the institution's educational purposes and frequented by students. The Handbook for Campus Safety and Security Reporting, as revised in 2016, provides some guidance on how to implement the Clery Act and further clarifies its (limited) applicability to off campus activities including field trips (Handbook for Campus Safety and Security Reporting, 2016, pp. 3-55).

Across the United States, there is a growing attention towards research activities conducted abroad, in fact many universities, such as Duke University, Berkeley and the University of Texas at Austin, have developed specific guidelines for risk and safety during fieldwork (Hammett et al. 2015, p. 127). As already stressed, the university-student legal relationship is complex as the US courts over the past 40 years have moved from the steady application of the in loco parentis legal doctrine – resulting in courts deferring to the institutions to determine how to protect the morals and personal safety of their students (Melear, 2002; Swartz, 2010) – to the final recognition that under certain circumstances, academic institutions have a legal duty to protect students engaging in off-campus activities (including international travels). The failure to fulfil that duty may lead to liability for damages (Fisher & Sloan, 2013, p. 8). Such circumstances, as clarified in the 2015 Boisson v. Ariz. Bd. of Regents case, are: (1) the purpose of the activity; (2) whether the activity was part of the course curriculum; (3) whether the school had supervisory authority over the activity; (4) whether the risk existed independent of the school involvement; (5) whether the activity was voluntary; (6) whether a school employee was present during the activity, or should have been; and (7) whether the activity involved a dangerous project initiated on-campus but built off-campus (Claus, 2015, p. 5).

With regard to the **Canadian legal framework** it is worth noting that the education sector is included in the sectors or organisations that are provincially regulated, thus meaning that each of Canada's ten provinces and three territories have individual occupational health and safety legislation in place (Sherrard Kuzz LLP/International SOS, 2016, p. 5). Provincially regulated employers could be charged for failure to ensure the health and safety of its Canadian workers travelling and/or working and conducting researches abroad. In principle, a Canadian employer that abides by a provincial occupational health and safety legislation will be required to take every precaution reasonable in the circumstances to protect its Canadian workers while they travel and/or work in another province or abroad. Under Canadian Criminal Law, the Bill C-45 adopted in 2004 to amend the existing Criminal Code, affirms that no person shall be convicted of an offense committed outside of Canada. Nonetheless, as established by the Canadian Supreme Court (Libman v. The Queen [1985] 2 SCR 178), 'all that is necessary to make an offense subject to the jurisdiction of [Canadian] courts is that a significant portion of the activities constituting that offense took place in Canada'. Since Bill C-45 expands the class to whom organisations owe a Duty of Care when it comes to health and safety matters from just 'employees' or 'workers' to all 'persons', this means that employers, including universities, could be charged under the Canadian Criminal Code if they directed an employee, or a student, who was working abroad to perform an unsafe activity, likely to cause significant injury. This indicates that if any organisation (inclusive of universities), in the eyes of the court, has not developed policies and procedures to mitigate against foreseeable risks (at home or abroad), they can be held criminally liable and subject to fines and/or imprisonment.

2.2 An Overview of Selected Civil Law Systems

As discussed above, in common law countries the Duty of Care of employers has been embedded in national legislation for a long time. In most EU Member States that predominantly share a civil law tradition, the prevention and protection of workers against occupational accidents and diseases has been either introduced, or at the very least better outlined, with the entry into force of the European Framework Directive on Safety and Health at Work (OHS Directive). Article 153 of the Treaty on the Functioning of the European Union (TFEU) gives the EU the authority to adopt directives in the field of safety and health at work. The OHS Directive, which dates back to 1989 and has been amended several times, represents a landmark in the EU legal framework as it contains general principles concerning the prevention of risks; the protection of safety and health; the assessment of risks; the elimination of risks and accident factors; the informing, consultation and balanced participation and training of workers and their representatives.

Jurisprudences of various countries have deemed in many cases the obligations of institutions to adopt all the possible measures to prevent the risks connected to a certain job, at the domestic level and abroad.

The OHS Directive applies to all sectors, both public and private, except for specific public service activities, such as armed forces, police or certain civil protection services. Furthermore, the OHS Directive identifies basic obligations for both employers and workers. However, the workers' obligations - which encompass making correct use of the machinery, apparatus, tools, dangerous substances; immediately inform the employer of any work situation presenting a serious and immediate danger and of any shortcomings in the protection arrangements; cooperate with the employer in fulfilling any requirements imposed for the protection of health and safety - should not affect the principle of the responsibility of the employer. In order to comply with this broad framework, EU Member States have implemented domestic legislations to support the safety and health of workers.

Italy, for example, has adopted a number of laws and regulations that ultimately flowed into a consolidated text called 'Testo Unico in materia di Salute e Sicurezza nei luoghi di lavoro' (Testo Unico, D.Lgs. 81/2008, as amended by the D.Lgs. 106/09). Furthermore, Article 2087 of the Italian Civil Code places on the employer the obligation to adopt all the possible measures to prevent the risks connected to a certain job, both the intrinsic and the extrinsic ones. Significantly, a judgment issued in 2016 by the Corte di Cassazione (Cass. Civ. Sez. lav., 30 June 2016, n. 13465), has clarified that this obligation does not give rise to the so-called 'strict' or 'objective' responsibility, since it can be framed as an obligation of means and not of result. In other words, the responsibility of the employer does not automatically spring from every damage suffered by an employee, but emerges only when the employer has not put in place all the preventive measures imposed by the law or foreseeable in light of the typology of work, as suggested by the relevant experience and the recent technique. Moreover, it is worth stressing that the Italian jurisprudence (Cass. pen. Sez. IV, 17 June 2011, n. 34854; Cass. civ., Sez. lav., 22 March 2002, n. 4129) has consistently deemed the existing legal framework applicable also when the employee is temporarily deployed abroad. The Testo Unico does not contain specific provisions devoted to the academic institutions, thus entailing that the Duty of Care required of a University does not differ from that of other employers. The Scuola Superiore Sant'Anna stands out for the recent adoption of a document that outlines the steps that must be undertaken by anyone, student or employee of the Scuola, willing to engage in work or study activities abroad and identifies the risk minimising measures to be adopted by the competent academic authorities.

The authors are not aware of internal policies and procedures regarding Duty of Care in many other EU universities, with the exception of the **Netherlands**, where great attention is paid towards the safety of the university students who travel abroad. In the Netherlands the Working Conditions Act (so called Arbowet), adopted in 1980, forms the basis for the regulations pertaining to safe and healthy work. The Working Conditions Act embeds,

among other things, the overriding obligation to organise wide range activities to ensure the best possible working conditions. Furthermore, for companies with more than 100 employees there is a requirement to report annually on these conditions, whereas for companies with more than 500 employees the Act foresees also the obligation to set up safety departments staffed by specialised personnel. Moreover, it shall be noted that the amendment to the Working Conditions Act, which came into force on 1 January 2007, offers employers and employees the opportunity to compile a Health and Safety Catalogue at the sector level. During the Collective Agreement consultations of 27 November 2007, the Association of Universities in the Netherlands (VSNU) and the employees' organisations decided to compile their own Health and Safety Catalogue. To this end, a Health and Safety Catalogue Monitoring Committee was installed, with members representing both employers and employees. The Health and Safety Catalogue for Dutch universities forms part of the Collective Agreement for Dutch universities (CAO-NU) and it is divided in sub-catalogues approved by the Labour Inspectorate. None of the sub-catalogues deal specifically with research or study activities conducted abroad. However, most Universities across the country have adopted internal policies that aim at preventing the risks connected to travelling abroad. For example the University of Amsterdam provides guidelines for fieldwork that enshrine requirements and procedures tailored to each of the different postgraduate programmes offered by the Graduate School of Social Sciences.

The guidelines explain that the lecturer/ supervisor is required to assess the feasibility and safety of the proposed research project abroad and, in any event, no approval will be granted if the Dutch Ministry of Foreign Affairs has issued a warning 'advising against non-essential travel' for that particular country or for a specific region. If a student still travels abroad despite consent not having been granted, the proposed research plan is deemed unapproved and the right to supervision and assessment of the research project lapses, thus meaning that the university will not accept responsibility for the destination proposed for the research project. Notably, the guidelines are specifically meant for students, whereas the university is silent on the procedures and the measures, if any, that pertain to the other constituencies.

3 THE CONTENT OF THE DUTY OF CARE OBLIGATION

INCUMBENT ON ACADEMIC INSTITUTIONS, WITH SPECIAL ATTENTION PAID TO FIELDWORK ACTIVITIES

3. DoC Obligation Incumbent on Academic Institutions, with Special Attention Paid to Fieldwork Activities

What emerges from the overview presented in the previous paragraphs is that, at the domestic level, and even in civil law, there is a growing and widespread attention towards the improvement of employees' health and safety, including when they travel abroad for work. With regard to universities, this is not always true, and the peculiar status of students makes it even more difficult to analyse the existing framework and its applicability towards all a university's constituencies. This loophole of protection and legal clarity gives rise to a number of issues, but first and foremost results in the lack of adequate policies and regulations.

A university's Duty of Care may be difficult to ascertain, including, for instance, the fact that the precise contours or this principle are not always immediately perceivable. University decision makers may overlook or minimise risks connected to international travels (Claus, 2015); and there is an understandable fear that pursuing a more proactive approach could end up limiting the academic freedom of researchers and students. Nonetheless, based on the existing, although still scant, studies in this field and on the limited jurisprudence, one may well conclude that the following are the main components of the Duty of Care principle: i) the obligation to inform the person going abroad about the specific risks (safety and security, health etc.) and hazards which might be encountered, and to support the staff to properly plan the mission according to the potential risks identified; ii) the obligation to provide a life insurance scheme and appropriate health insurance; iii) the obligation to have a formal policy to analyse, reduce and minimise the potential risks (for example by offering appropriate training); iv) the obligation to have an emergency system which allows the person abroad to contact the sending organisation in cases of emergency situations; v) the obligation to enforce a proper monitoring system about the evolution of the situation in a given country, which allows the sending university to immediately inform its employees. In this framework the risk assessment procedures to be enforced in a professional manner by the sending academic bodies raise most of the problems. As stressed by the Guidance on Health and Safety in Fieldwork (GHSF) issued in 2011 by the UK Universities and Colleges Employers Association of the UK universities and colleges: Each institution is unique, with its own set of objectives and values. Each institution therefore needs to develop its own thinking around tolerance of risks posed by its off-site activities, for example whether or not to allow fieldwork to a remote area of an unstable country. It is important that such decisions are made systematically, objectively, and at an appropriate level in the institution. This implies that robust escalation processes are in place for activities, which pose unusual hazards, or where there are high levels of residual risk (Guidance on Health and Safety in Fieldwork, 2011, p. 11).

The GHSF also explains that, in order to be effective, a documented risk analysis and management system should include the following: risk assessment for the activities; threat analysis for the destination and travel; incident management and emergency response plans; accident, incident and near miss reporting; competency and training; robust authorisation and approval processes; a review process, including the actions in response to review outcomes.

Clearly, each university is free to develop its own strategy to the planning, risk assessment and management of international travel. A few examples that concern a particular activity often undertaken abroad, i.e. fieldwork, can provide an overview of the heterogeneous approach adopted by some of the universities that have in place specific policies in place to address this issue. The University of Saint Andrews, for instance, requires researchers to complete a travel planning outline checklist and a 'solo' or 'group' risk assessment form prior to engaging in fieldwork. These need to be submitted to the relevant departmental safety officer. Notably, the fieldwork risk assessment process is undertaken alongside the ethical review process, as they usually inform each other. The risk assessment form stresses that 'it is not the purpose of this assessment to stop high risk projects where there is significant academic value to the project. The purpose is to ensure that the work is done safely'. To this end, the form places upon the researcher the duty to self-assess the risk. This includes both the foreseeable hazards and the 'degree of residual risk', i.e. the level of assessed risk remaining after reasonably practicable controls have been implemented, taking account of the level of impact of the hazard or threat, the likelihood of its realisation and the robustness of control measures. The degree of residual risk shall be estimated using an ad hoc table to determine the likelihood of hazards causing harm after the control measures have been implemented.

The University of Leeds has three different risk assessment

forms respectively for 'low risk', 'medium risk', and 'high risk' fieldwork and it requires the researcher to indicate which level of risk matches their work. The University of Amsterdam, is primarily concerned with its Duty of Care towards students. The risk assessment process is undertaken by the lecturer/supervisor, who is required to appraise the feasibility and safety of the proposed research project. Once the research proposal is approved, the University of Amsterdam, in order to provide students with the possibility to be directly supervised in the field, has set up a procedure to appoint a 'local supervisor'. This local supervisor is in charge of various tasks, including introducing the student to key informants and stakeholders, discussing interview questions, survey questionnaires, or possibly the content of other methods the student will use to collect information, and being available for discussions with the students on how the research develops. A further example of the heterogeneous approach towards fieldwork planning and risk assessment stems from the Risk Assessment Form of the University of Sydney in Australia, which provides also an overview of the risk assessment methodology that shall be used by those who fill the form in.

A lone worker or student may be at greater risk than a group member. Therefore it is essential that departments formulate clear guidelines on the scope of activities that may be undertaken alone. An effective means of communication must be planned to ensure that her/his daily itineraries are known and that a responsible person will raise the alarm if she/he fails to return at the end of a specified work period.

Assessing the risk is a brainstorming exercise, which is most effectively carried out in a team environment with the people required to complete the activity or process. Most activities or processes are broken down into a variety of separate tasks. For each task, consider the hazards, the potential harm or negative outcomes and the conditions required for those negative outcomes to occur.

Furthermore, the risk assessment form of the University of Sydney identifies the main risk factors associated with each task. These include: the physical activities required to complete the task; the work environment, e.g. lighting, work layout, traffic, thermal comfort, working in isolation; the nature of the hazard itself, e.g. working with chemicals, microorganisms, radiation, machinery, potentially violent interlocutors; the individual workers involved, e.g. level of training, skills, experience, health, age, physical capacity. The information gathered from the risk assessment process must be used to develop a 'safe work procedure'. This outlines all the steps involved in a potentially hazardous task or activity and specifies how the risks associated with identified hazards will be eliminated or reduced.

Policies can stipulate that there is a responsibility of the individual to take care as far as possible of their own safety and the safety of those affected by their acts or omissions.

The University of Oxford places particular emphasis on the fieldwork conducted by 'lone workers'. According to the University of Oxford's safety policy a lone worker may be at greater risk than a group member. Therefore it is essential that departments formulate clear guidelines on the scope of activities that may be undertaken alone and that an effective means of communication is duly planned and established. The safety policy places upon the lone worker the duty to ensure that their daily itineraries are known locally and that some responsible person (e.g. a hotel owner, or the local police) will raise the alarm if they fail to return at the end of the specified working period. In most UK universities the peculiarities and the potential broader risks of lone working, both on and off campus, are addressed in specific documents. For example, the University of Manchester has a specific 'Guidance on Lone Working' document.

Notably, all students enrolled at the University of Cambridge are required to undertake a full risk assessment before going abroad and to follow the Foreign and Commonwealth Office's guidelines on advice to travellers. If this is not done,

their research plans are not approved. The 'Work Away from Cambridge' page on the university's website explains that the university has a legal obligation to assess the risks of all its activities where they affect staff or students. The Head of Department is responsible for ensuring that appropriate risk management is in place for periods of working away and must therefore approve the risk assessment form. Furthermore, the University of Cambridge offers to University employees and students the possibility to undertake a training course in lone working. This is in order to 'enable managers and supervisors to assess which tasks may be undertaken by lone workers, assess which may not, and decide on appropriate control measures, together with associated guidance produced by the Safety Office'.

Clearly, all the surveyed guidelines and policies highlight that it is the responsibility of the individual person to take care as far as possible of their own safety and the safety of those affected by their acts or omissions. This, as mentioned above, is a duty that stems also from Article 13 of the OHS Directive. It infers that the University's employees engaged in fieldwork have some personal responsibility to appropriately plan and manage the activities undertaken. There is no such legal obligation on students, but, as stressed in several policies, e.g. the safety policy adopted by the University of Oxford, they should be 'strongly advised to behave in a similar way to employees in this respect'.

Further aspects commonly included in the set of preventive measures adopted by the universities to fulfill Duty of Care concern the incident reporting procedure and the insurance policies stipulated for staff and students. Several universities have in place an incident reporting procedure, which in general applies to both accidents and incidents while at work. Notably, in occupational health and safety, the terms 'accident' and 'incident' may appear to be interchangeable, but they are not. Whereas an incident is any situation that unexpectedly arises in the work-place and has the potential to cause injury, damage or harm; an accident is actually an incident that resulted in someone being injured or damage being done to property (Beus, et al. 2016, p. 3). The reporting procedure is different for each institution, although across the UK each university has a Safety Office, which collects and processes the forms submitted by staff and students. Most Universities have also stipulated insurance policies or asked students and employees to autonomously take out at least a standard one associated with certain types of insurable losses ranging from property to health, for their personnel as well as for the students. Usually, those travelling abroad for a university purpose should also register for the university's travel insurance.

In the event of an incident or accident happening, even if an organisation has procedures in place that are duly implemented, the usefulness of the standards in place, as the basis for health and safety of researchers in the field, might be called into question.

4 THE CONSEQUENCES OF DUTY OF CARE BREACHES:

AN OVERVIEW OF THE RECENT CASE LAW

Failure to comply with Duty ofCare requirements can have serious legal, financial and reputational consequences for both universities and individuals.

It is worth stressing that, in addition to the insurance policies mentioned above, all the universities located in the UK must hold Employer's Liability insurance and Public Liability insurance. The formercovers staff acting in the course of their employment (in respect of any death or injury they might suffer for which the university is liable at law); whereas the latter covers the legal liability for loss, damage or injury to third parties as employers are vicariously liable for the negligent acts of their employees while at work if such acts cause injury to others. These policies will indemnify the universities, and those acting on their behalf, like the head of department and the fieldwork supervisors, against any third party claim for damages arising from death, personal injury, or third party property damage where there is a liability at law. This is providing that a risk assessment has been completed, like in the case of Mr Regeni.

Cases of employees and / or students suing their educational institutions for bodily injuries caused by negligence are not rare.

Remarkably, cases of employees and/or students suing their educational institutions for bodily injuries caused by negligence are not a rarity. And this occurs in spite of the inherent nature of schools and universities' activities which, at least in principle, are not such as to create substantial risks in comparison with most commercial and industrial enterprises. The existing, although limited jurisprudence, plays an important role in better shaping the contours of the universities' Duty of Care. Most cases concerning universities' Duty of Care originate in study abroad programmes involving US students.

Perhaps also in light of the large number of international education programmes that involve US colleges and universities, the US jurisprudence is the most advanced in this specific sector as a number of cases have been brought before national courts, concerning injuries suffered abroad by employees and students. With regard to the former, it is worth mentioning here the civil lawsuit (Thea Ekins-Coward and Amy Ekins-Coward vs. University of Hawaii, Dr Jian You, Dr Richard E. Rocheleau et al., No. 17-1-0036-01) against the University of Hawaii, brought in January 2017 by an English postdoctoral researcher who lost her arm in a laboratory explosion. The case is still pending before the Circuit Court. However, in September 2016 the Hawaii Occupational Safety and Health division (HIOSH), the national body that administers the Occupational Safety and Health Programme as established under the OSH Act and conducts inspections of the workplaces under its jurisdiction, issued a citation for 15 serious violations and imposed on the university a fine of $115,500. The university reached a settlement agreement that combined some violations, reducing the number to nine and the fines to $69,300. The violations cited in the settlement include technical issues, e.g. failure to ground the tank of flammable gases or to wear gloves to prevent discharge of static electricity from the researcher to the tank; and organisational flaws, such as failure to 'ensure that [the university's] safety practices were followed by employees and underscored through training, positive reinforcement and a clearly defined and communicated disciplinary system', and the failure of 'supervisors [to] understand their responsibilities under the safety and health programme'.

In other instances, US universities and schools have been sued for breaches of their Duty of Care towards their students engaged in off-campus activities (Yeo, 2002) which was cause of the accident. For example a lawsuit concerning the case of Thomas Plotkin, a 20 year old who died in 2011 during a backpacking trip to India organised by the National Outdoor Leadership School (NOLS), was brought before the US District Court in Cheyenne. In 2015 the Court dismissed the suit, filed by the victim's mother, on the grounds that Plotkin had signed agreements acknowledging that the NOLS programme involved inherently dangerous activities and releasing the school from liability. In a subsequent case, i.e. Downes v. Oglethorpe, the Georgia Court of Appeals in June 2017 ruled that the parents of an American student who drowned in 2011 while participating in a study abroad programme in Costa Rica cannot blame the Oglethorpe University. According to the panel, the student, who was a 'competent 20 years old adult', assumed the risk of drowning

when he chose to swim in the Pacific Ocean. Furthermore, the judges stated that it is well established under Georgia law that the danger of drowning in water is a 'palpable and manifest peril'. Another lawsuit is currently pending before the US District Court for the Middle District of North Carolina, after being dismissed by the District Court in New York on jurisdictional grounds. The lawsuit concerns the Swarthmore College student Ravi Thackurdeen, who, in the Spring 2012, went to Costa Rica as part of the Organisation for Tropical Studies semester programme. The trip leaders took the students on a surprise trip to a beach on the nation's Pacific coast on the last day of Thackurdeen's trip. While swimming, Thackurdeen was pulled to sea by a rip current and drowned, according to the lawsuit.

Several families who have lost a child while studying or conducting researches abroad have created associations in the last ten years (such as 'Depart Smart' or Protect Students Abroad'). These advocate for more transparency, better data on such incidents and monitoring so that family can make more informed decisions about which programme to choose, where to study and how to act safely when they are there.

Associations and group of families have pushed for state and federal laws to increase the monitoring of study abroad programmes. Minnesota and Virginia have passed such laws, and New York is now considering a bill that calls for colleges and study abroad programmes to disclose their relationships. A federal bill is also pending.

A much debated case recently brought before the US courts is Munn v. Hotchkiss School. Ms Cara Munn, a 15 year old student, was bitten by a tick while hiking on a mountain in China during a summer trip organised by the Hotchkiss School. The tick transmitted encephalitis, which has left her permanently unable to speak. Cara and her parents sued Hotchkiss in a federal court, arguing that the school was 'negligent for failing to warn them that the trip might bring her into contact with disease-bearing insects and for failing to take steps to ensure that she used insect repellant, wore proper clothes while walking in forested areas and checked herself for ticks'. A jury awarded her $10 million in economic damages and $31.5 million in non-economic damages. The Hotchkiss School appealed to the US Court of Appeals for the Second Circuit. Unsure about how to apply Connecticut tort law (as it is required to do), the Court of Appeals invited the Supreme Court of Connecticut to provide it with guidance on two key questions: (a) whether a private school owes a Duty of Care to students when they participate in school trips, and (b) whether the jury's damages award was excessive. Several commentators have promptly dismissed the first question for being 'as preposterous in tort law as it is in common sense', since under the law of Connecticut, schools owe a common law Duty of Care to students under their custody (Zipursky, 2017). Consistently with this approach the Supreme Court of Connecticut recognised that schools generally are obligated to exercise reasonable care to protect students in their charge from foreseeable dangers, and there is no compelling reason to create an exception for foreseeable serious insect-borne diseases. Subsequently, the Supreme Court of Connecticut expressed itself with regard to the second question, i.e. the damages awarded, concluding that the amount, although sizeable, fell within the acceptable range of just compensation.

By addressing the foregoing questions in detail, the Court provided the Second Circuit with sufficient guidance to render a decision in the pending appeal and establish whether the Hotchkiss school fulfilled its Duty of Care or if it was careless in failing to provide its students with sufficient warning of and protection from insect-borne illnesses.

Overall US courts seem to have upheld a common trend, according to which the Duty of Care required when students and employees travel abroad is the same as the one bestowed on campus. Whether this is a standard that matches the perils and risks that may be encountered while working or studying in a dangerous setting and/or while undertaking a particularly sensitive research represents a different question, that has not been addressed by any judicial body yet.

5 CONCLUSIVE REMARKS

Universities are complex organisations. However, like any other employer in the public or private sector, they are increasingly scrutinised for the failure to assess and mitigate the risk associated with their Duty of Care.

As disasters (natural/manmade) are now impacting former 'safe havens', the Duty of Care exposure for any university is increasing significantly. Furthermore, as the profile of the university/employee/student evolves, the provision of resources (domestically and abroad) to manage behavioural health issues and safe inclusion has never been greater. The reputation and the brand of a university represent its most prized assets. Such asset, which is difficult to quantify or assess in objective terms, is crucial to the university's capability to recruit staff and students, to forge high quality partnerships and to influence policy and other decision-makers, both nationally and internationally. Serious incidents or issues that may cause major reputational damages, like injuries suffered by employees and students while abroad on behalf of the university, can have a negative impact and need to be prevented to the maximum extent possible.

Bearing this caveat in mind, this article provided the reader with an overview of the key aspects that concern the universities' Duty of Care towards their employees and students travelling abroad on official business. In the third section the analysis undertaken focused specifically on fieldwork activities, seeking to stimulate the debate on an under explored and under researched area that hit the headlines in the aftermath of the brutal murder of Mr Giulio Regeni.

Overall, US courts seem to have upheld a common trend, according to which the Duty of Care required when students and employees travel abroad is the same as the one bestowed on campus.

Moving from this to the present article sought to shed light on the breadth of the Duty of Care that academic institutions bear towards their employees and students. As highlighted in this contribution, heterogeneous levels of safety and health protection are established and implemented in different countries, regardless of whether they share the same legal system or whether centralised attempts to harmonise the national legislations have been undertaken. Particularly relevant in this sense is the case of the EU Member States, which must rely on general principles and basic standards set by the OHS Directive, but are of course free to introduce additional and more protective measures to improve the safety and health of the workers under their jurisdiction. The OHS Directive's general principles, which are also embedded in most extra EU national legal frameworks, encompass the possibility to 'exclude or limit the employer's responsibility where occurrences are due to unusual and unforeseeable circumstances, beyond the employer's control, or to exceptional events, the consequences of which could not have been avoided despite the exercise of all due care', as enshrined in Article 5(4) of the OHS Directive. Furthermore, the employer's duties amount to, among other things, implementing preventive measures as well as provisions of information and training; evaluating the risks to the safety and health of workers; and taking appropriate steps to ensure

Furthermore, the employer's duties amount to, implementing preventive measures as well as provisions of information and training; evaluating the risks to the safety and health of workers; and taking appropriate steps to ensure that only workers who have received adequate instructions may have access to areas where there is serious and specific danger. All these obligations represent the core of the Duty of Care of any employer, including Universities.

that only workers who have received adequate instructions may have access to areas where there is serious and specific danger. All these obligations represent the core of the Duty of Care of any employer, including universities. A lot of the universities worldwide have an opportunity to improve in addressing this and implementing internal regulations. Some academic institutions have been quite active in this regard already and their efforts have been explained and summarised in the course of this work. As this article has showed, many of the surveyed Universities studied for this research have, to different extent, embedded their Duty of Care obligations in specific guidelines and policies concerning off-campus activities and are no longer preoccupied only with their local in campus Duty of Care, which pertains to the activities conducted in universities' laboratories and internal facilities locally. The UK national legal framework requires the risks associated with fieldwork and other activities conducted abroad to be assessed and managed 'in the same way as any other university activity'. To the present authors this seems to be the minimum standard binding all academic institutions, regardless of the national legal framework according to which they operate. We do welcome the increasing adoption of policies and strategies that outline in more detail the obligations and the rights of the parties involved in the planning and management of international trips undertaken for work or study purposes. Furthermore, we appreciate the fact that such policies and strategies cannot be uniform as they are ingrained in the broader legal system and tradition of the country where a university is based. Nonetheless, it is questionable whether a 'tick box' approach, which tackles 'foreseeable risks' is enough to profess that universities are doing everything in their power to protect employees and students who travel abroad.

PRACTICAL LEGAL SUMMARY

To summarise, the main components of the Duty of Care principles can be encapsulated in these 5 key points:

1. The obligation to inform the person going abroad about the specific risks (safety, security, health, inclusion, etc.) and hazards which might be encountered and to support the students, faculty and staff to properly plan the mission according to the potential risks identified.

2. The obligation to provide a life insurance scheme and a proper health care assistance and insurance (inclusive of management of behavioural health issues).

3. The obligation to have a proper policy to analyse, reduce and minimise the potential risks (eg. by offering proper information and training).

4. The obligation to have an emergency system which allows the individuals abroad or their informed designee to contact the sending organisation in cases of emergency situation, which in turn will implement the emergency response plan.

5. The obligation to enforce a proper monitoring system about the evolution of the situation in a given country, which allows the sending university to immediately inform its faculty staff and students.

In this framework, the risk assessment procedures to be enforced in a professional manner by the sending academic bodies raise most if the problems. To be effective, a documented risk analysis and management system should include:

1. Risk Assessment processes (including the approval risk assessment forms)

2. Health and security threat analysis of the destination and travel

3. Incident management and emergency response plans, including accident, incident and near miss reporting

4. Robust authorisation and approval procedures

5. Competency and training

6. A review process, including the actions in response to review outcomes.

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AUTHORS

ANDREA DE GUTTRY FULL PROFESSOR OF INTERNATIONAL LAW, INSTITUTE, SCUOLA SUPERIORE SANT'ANNA

FRANCESCA CAPONE SENIOR RESEARCH FELLOW IN INTERNATIONAL LAW, INSTITUTE, SCUOLA SUPERIORE SANT'ANNA

CONTRIBUTORS

GABRIELLE MICHEL CORPORATE VERTICALS DIRECTOR, INTERNATIONAL SOS

MANON CLARKE-MACIEN SENIOR MARKETING MANAGER, NORTHERN EUROPE, INTERNATIONAL SOS

ROBERT L. QUIGLEY, MD REGIONAL MEDICAL DIRECTOR, AMERICAS REGION, INTERNATIONAL SOS

LAURENT FOURIER EXECUTIVE DIRECTOR, INTERNATIONAL SOS FOUNDATION

ROXANNE BELLO GRAPHIC DESIGN

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Sant'Anna
School of Advanced Studies – Pisa