

Rules of Procedure Moot Court Europe 2021 – online edition

Purpose

We hope the project will be a nice opportunity for participants to develop their arguing skills and gain respect for the rule of law. They will learn useful concepts related to international criminal law, will get to know people from other European countries (although virtually, for the time being) and will exchange knowledge with each other, building upon the intercultural learning process in an informal educational atmosphere.

The exercise intends to introduce the teams to the work of the International Criminal Court (ICC). The teams were already given a fictive case description and will have to prepare their presentations according to the details already described in the case, as well as the information below.

Please also note that the teams cannot use the materials from the references in the footnotes, but only the materials given in the annexes. Participants are welcome to read the full **Rome Statute**, but it is not advisable. The teams should only use the articles mentioned in the case text and the annexes provided with it. (“closed universe” principle, on which the Judges will be informed).

We encourage participants to use the supportive information provided with the case, when presenting their arguments. This will allow Judges as well as the opposing teams to generally understand the source and the underlying claims regarding the arguments.

Outside sources should only be used if the teams have reason to believe that the source and its context would be generally known to the Judges and opposing teams, and the speakers are able to articulate why the outside source should be relevant to the Judges' considerations for the hearings.

Rounds and Virtual Room arrangements

All of the rounds will take place online, via Zoom.

The Moot Court Europe 2021 online will start with a plenary session where participants will be welcomed by the organizers and prominent Judges, whom the teams will meet during the preliminary rounds, semifinals and the final.

The preliminary rounds will be held between 14 and 19 May 2021. The semifinals are planned for 20 May and the final for Friday, 21 May.

The teams will receive the links to the virtual rooms after the planning of all rounds will be made.

A court monitor will let the competing teams and their teachers/trainers in, as well as the panel of Judges and the observers. Please keep in mind that no other competing teams are allowed to attend preliminary sessions in which they are not competing!

The observers can be family members, school colleagues, teachers and any other people that the members of the competing teams would like to invite to the room to see them arguing. Teams will be asked to send us the names and email addresses of those who want to observe, and they will receive the link for joining the respective Zoom sessions.

As a general rule, only those speaking will have video and audio on. No one else will be seated on the virtual table. All the observers will have to switch off their video and sound.

All teams are required to attend the final round, regardless if they are the team presenting. Semifinals can be attended by all the teams that are not competing anymore, as well as by other observers.

Dress Code

In order to keep a formal atmosphere during the virtual rounds, we advise the participants to wear business attire.

Preparation of teams

The participants from each team will be divided into 3-person teams and each will perform one of the roles at the confirmation hearing: three members will play the Prosecution and three the Defence. The teams are allowed (and encouraged) to have reserves as well.

Students will only be playing the role of lawyers. The competition does not have the role of witnesses, Judges or registrar. The team configuration can be 3 lawyers for the defense, 3 for the prosecution for a total of 6 on a team. You could have up to 2 students as alternates (back-up).

All participants must speak English to compete.

The Judges will be reminded to judge students' arguments and not their English language skills.

The Prosecution and the Defence teams work together to prepare the arguments for the hearing. All three members of a team will present a portion of the oral argument at the hearing, following the time patterns described below, during the "Presentation" chapter.

When all the roles have been decided, the teams of lawyers for the defence and prosecution will each need to decide their tactics. They should discuss what they are trying to achieve, what arguments will be the most effective and who should present each argument.

Each team shall prepare their arguments in a presentation for the Prosecution and a presentation for the Defense Counsel.

The Judges will be encouraged to ask the lawyers questions during their arguments to help outline the positions of each side in the hearing and to challenge those positions to test the strength of the arguments.

The teams should speak slowly and clearly, concentrate on the best points, stick to the facts and the law, give their speeches a structure (while understanding that questions from the Judges may cause them to argue their points in a different form than what they had planned), keep in mind the available time and to not use insults regarding the other party.

The Judges of the competition will have to decide which team wins. This is not simply based upon who wins the argument with the Judges. The Judges will be looking for structured presentations that illustrate various skills (as mentioned in “Scoring”), when they make their decisions. They will summarise at the end what they liked and did not like about each team’s performance.

Each country’s team will play another country’s team during each preliminary round.

After the preliminary rounds, there will be a plenary session during which the Judges will announce the first four teams that will argue during the semifinals. Shortly after the two rounds will end, the Judges will announce the two teams entering the final.

The Procedure

The hearing is conducted before the Pre-Trial Chamber. The Judges will sit in the courtroom with the video and sound on. The defence lawyers and the prosecution lawyers will be given the floor according to their presentations. The hearing will take place as follows:

The Presiding Judge will be introduced by the court monitor and will declare the proceedings open, asking the parties to introduce their teams: first the Prosecutor and then the Defence.

After the introduction, the three speakers of each team will address the three numbered points listed in Part 3 of the case.

For the Prosecution:

- the first speaker will address the potential charges regarding child soldiers under Rome Statute Article 8(e)(vii) – **ISSUE 1**

- the second speaker will address charges dealing with the destruction of the Tiger-tail Circle, addressing both Art. 8(e)(iv) and Art. 8(b)(4) - **ISSUE 2**

- the third speaker will anticipate arguments to be raised by the Defence team, focusing particularly on Art. 31(1) - **ISSUE 3**

The Prosecution may need to use part of its time on rebuttal to address fully arguments raised on this matter by the Defence.

For the Defence:

- the team will address the same three issues, choosing the order in which they will be considered.

Each lawyer will present their arguments according to the speaking time below.

After Prosecution and Defence have completed their arguments, there is time for a brief round of rebuttals from both sides, to address arguments made by the opposing side and reinforce their own arguments.

Remember, during the presentations, the Judges will be encouraged to ask questions and challenge the arguments.

Presentations

Each 3-lawyer team will present their arguments during three sessions of the preliminary rounds, both as Prosecutor and as Defence Counsel. Which means that each team will be present with their oral arguments in six of the sessions of the preliminary rounds: three times as Prosecutor and three times as Defense Counsel.

The speaking time and issues are divided as follows:

- a. Speaker 1 (on behalf of the Prosecution): Introduction of Counsels and **Issue 1** - 10 minutes;
- b. Speaker 2 (on behalf of the Prosecution): **Issue 2** - 10 minutes;
- c. Speaker 3 (on behalf of the Prosecution): **Issue 3** – 7 minutes;
- d. Speaker 1 (on behalf of the Defense Counsel): Introduction of Counsels, plus **Issue 1, 2, or 3** – 10 minutes;
- e. Speaker 2 (on behalf of the Defense Counsel):– **Issue 1, 2, or 3** - 10 minutes;
- f. Speaker 3 (on behalf of the Defense Counsel): – **Issue 1, 2, or 3** - 7 minutes;
- g. Speaker 3 (on behalf of the Prosecution): **Rebuttal** – 3 minutes;
- h. Speaker 3 (on behalf of the Defense Counsel): **Surrebuttal** – 3 minutes.

Note that the time limits mentioned follow each speaker, so speakers 1, 2 and 3 each have a maximum of 10 minutes speaking time. The timing for speaker 3 has been divided into a maximum of 7 minutes for the main argument and a maximum of 3 minutes for the (sur)rebuttal, regardless of the issue - in the case of the Defense Counsel. Please also note that only speaker 3 for both roles is allowed to do the (sur)rebuttal.

Questions posed by Bench Members are included in the Speaking Time of the presentations and rebuttal/surrebuttal.

Speakers are not allowed to introduce new issues in their rebuttal.

Speakers may discuss all issues and arguments raised by the opposing counsels during both their presentation and rebuttal/surrebuttal.

Only the speakers of the team may be seated at the virtual table.

Communication

Communication between speakers and team members not presenting or observers is strictly prohibited.

Only the three speakers presenting in the hearing are permitted to communicate with each other, as long as they do not trouble the speakers of the opposing team.

In case there are technical problems with the Internet connection or any other issues regarding digital communication barriers, the session may be rescheduled.

During the Moot Court Round

Each virtual Moot Court Round will be coordinated by a court monitor, who will give the floor to the speakers and will keep the time record.

Politeness is key to success. Lawyers should start by introducing themselves and their colleagues.

The lawyers in the court will address a Judge as "Your Honour" at all times. Lawyers must remember that all the things they say must be addressed to the Judges, and not to each other or to the lawyers on the other side.

Judges will ask questions about attorneys' arguments, and the attorneys should answer respectfully before returning to their argument. If the court cannot hear the speakers, they cannot score any points.

Bench Composition

Each Bench will be composed of one or two members and a President (appointed by the organisers or by consensus of the Bench Members – namely the Judges participating in the hearing).

If only two Bench Members score a given hearing, the organisers shall create a third score by averaging the scores of the two Bench Members. The organisers may appoint a fourth Bench Member. In the event four Bench Members score a given hearing, the score that is furthest from the average of all four scores and the score sheet on which it appears will be disregarded.

During the hearing, the Bench Members shall ensure respect for the Rules and will assess the quality of arguments. The Bench Members are encouraged to intervene with appropriate questions to further assessing the knowledge and skills of the speaker.

The Bench Members shall mark the presentations in accordance with the scoring criteria provided below.

When the match is completed, the Judges may give some suggestions and/or critiques. Be polite in your conversation with them and with your opponents. No coach or teacher may address the Bench unless invited by the Judge. The decision of the Judges is always final.

Scoring

A score between twenty-five (25) and fifty (50) points per speaker shall be awarded by each Judge. The total score for a team's presentation in a hearing is the sum of the scores of the three speakers, with a minimum of seventy-five (75) points and a maximum of hundred-fifty (150) points.

Scores are allocated as follows:

1. Debating Skills and Power of Persuasion (5-10 points);
2. Ability to Respond Effectively to Questions (5-10 points);
3. Knowledge of the Case (Facts and Law) (5-10 points);
4. Clarity of Arguments (5-10 points);
5. Style of Presentation (5-10 points).

Penalties

Each team should be punctual, maintain the fullest dignity, not only in the virtual courtroom, but during the entire project. Inappropriate behaviour may result in the disqualification of the team, or the team will be sanctioned by a deduction of fifteen points.

Semifinals and Final Round

The four teams with the highest final score, which is the sum of the total scores of their presentations in the preliminary rounds minus the sum of penalty points, will proceed to the Semifinals.

The winner of each Semifinal will confront the other winner during the Final Round.

The Bench Members of the Final Round will decide by majority vote who the winner of the competition is.

Awards

The awards that will be presented are the following:

1. Winner
2. Finalist team
3. Semifinalist team
4. Best Counsel for the Prosecution (prosecution student with highest aggregate score from preliminary rounds)
5. Best Defence Counsel (defence student with highest aggregate score from preliminary rounds)
6. Best Oralist (per Team)
7. Best Team Spirit

All of the awards will be sent by post. Every participant will receive a Certificate of Attendance, also by post.

Copyright

*Please note that the Justice Resource Center in New York owns the copyright of the case argued at **Moot Court Europe 2021**, which may only be used for the purposes of this competition.*

***Justice Resource Center** in New York and **Pedagogical College CAROL I** in Campulung-Muscel are the Foundation's partners in this event. The project has the support of the **Ministry of Foreign Affairs** in The Hague and the **Embassy of the Netherlands** in Romania as well.*