



With financial support of UNHCR

International Asylum Law Moot Court Competition

2010

RULES

1. General

1.1 Moot Court Overview

The Moot Court is composed of two parts:

- (a) a written round (requiring the submission of two memoranda) and
- (b) a series of oral rounds (preliminary round; semi-final round; final round).

The Moot Court is based on a fictional case described in the Case Materials distributed to each team in accordance with the Moot Court Timetable set out in Rule 1.2 (“Timetable”).

For any questions concerning the organisation of the Moot Court Competition please contact Ms. Katarína Fajnorová (Human Rights League, Slovak Republic) at the email: fajnorova@hrl.sk.

Clarification questions concerning the Moot Court Rules as well as the Case please address to fajnorova@hrl.sk.

1.2 Timetable

Official start of the competition	09.02.2010
Moot Court Rules sent to the clinics interested to take part	12.02.2010
Deadline for announcing participating teams	19.02.2010
Case Materials sent to registered teams	20.02.2010
Time for clarification of the case – questions from clinics	01.03.2010
Deadline for submitting memoranda	26.03.2010
Written round results	19.04.2010
Distribution of memoranda to opposing teams	20.04.2010
Oral rounds (2 days, Slovakia)	06.-07.05.2010 (to be confirmed as soon as possible)

2. Teams and coaches

2.1 Team Composition

A team shall be composed of two student members.

The team shall have the same members during the entire Moot Court. Team members can change only in the first three weeks after distribution of the Moot Court Case.

Thereafter, changing team members is allowed only in exceptional cases and for justified reasons (e.g. health). Teams must ask the Human Rights League (HRL) for written approval to carry out such a change. Decisions are within HRL's discretion and are final. Both team members shall work on the memoranda and take part in the oral rounds.

2.2 Registration

Fully completed registration forms should be submitted via e-mail to Ms. Katarína Fajnorová (fajnorova@hrl.sk) by the date set out in the Timetable and by persons who are eligible in accordance with these rules. Only one team per law faculty can register.

2.3 Team Representative

As part of the Moot Court registration, each team shall designate one person to act as team representative. This person may be the coach, faculty advisor or a member of the team.

Notice to the team representative shall constitute notice to all team members. Each team representative shall ensure that HRL has the appropriate team contact information, check their mail and e-mail regularly, and become thoroughly familiar with the Moot Court Rules and the clarifications that may be issued.

2.4 Coach

Each team shall have a coach.

A coach may advise only one team and must remain its coach during the entire Moot Court. Coaches can be changed only in the first three weeks after distribution of the Moot Court Case. Thereafter, changing the coach is allowed only in exceptional cases and for justified reasons (e.g. health). Teams must ask HRL for written approval to carry out such a change. Decisions are within HRL's discretion and are final.

A coach cannot be a judge in the Moot Court.

TIP: It is advisable to choose a coach who has experience working with students, who has a background in international refugee law, and who is accessible for preparatory consultations. It is advisable to choose a coach with good command of English. If the team has difficulty finding a coach, it may ask HHC for assistance.

2.5 Parameters of Coaching

A coach may give stylistic suggestions and/or feedback on legal arguments, oral presentation, research, and courtroom etiquette. A coach may encourage adherence to the memorandum formatting rules and other rules.

A coach may not write or help write the memoranda. A coach may not conduct research of any sort for the team.

2.6 Attendance

Based on the evaluation of submitted memoranda (score), teams participating in the first (written) rounds may or may not qualify for the next (oral) rounds.

If a team participates in the oral rounds, both team members must be present at all pleadings they are scheduled to attend. If a team, or a team member cannot take part in the oral rounds of the Moot Court for justifiable reasons (e.g. health), the team representative should immediately notify HRL. HRL will issue a decision on the matter, based on all the circumstances. HRL's decisions are final.

3. Judges

3.1 Selection of Judges

Moot Court Judges in the written rounds as well as in the oral rounds will be experienced asylum law practitioners, asylum law judges, UNHCR representatives and internationally renowned asylum experts.

The names and affiliations of Moot Court Judges will be announced on the HRL website (www.hrl.sk).

Participants and Moot Court Judges shall not contact each other on any matter related to the Moot Court that might influence the performance of the participants or the judgments delivered. In proven cases of such contact, the respective participants and judge(s) will be disqualified, a new judge will be selected, and the evaluation procedure (scoring, judging) will be repeated.

3.2 Judges Evaluating Memoranda (Written Round)

Each memorandum will be evaluated by two judges using the same set of criteria developed by the organizers.

At all times, the anonymity of the competing teams and their respective memoranda will be maintained. Judges will give their memorandum scores and written feedback according to the scoring criteria (see below 6.4).

3.3 Judges Evaluating Oral Rounds (Oral Rounds)

Judges appointed to serve on the judge panels for the oral rounds will be different from the judges evaluating the memoranda. Judges are encouraged to provide feedback to participants as per Rule 7.6 Commentary by Judges in Oral Phase.

4. Moot Court Case and Respective Case Materials

4.1 Content

Case Materials consist of General Information on The Republic of Kalosvia, Asylum Application Interview and Decision on Asylum Application. The Case is based on a fictitious asylum claim.

When referring to the asylum case in their memoranda or pleadings, teams will only use provided interview transcript and decision on asylum application as a reference source.

4.2 Distribution

Moot Court Case will be distributed at the same time to the representatives of all registered teams.

HRL will also strive to make the Moot Court materials available on its website (www.hrl.sk).

The Team Representatives shall confirm the delivery of the Case Materials by e-mail (fajnorova@hrl.sk).

If the Case Materials have not reached the teams within reasonable time, the Team Representative shall advise HRL by e-mail.

5. Clarifications of the Case and the Rules

5.1 Requests for Clarification

Participants may submit requests for clarification of the Case and of the Rules until the date posted in the Timetable. Requests for clarification shall be submitted only by the Team Representative to HRL via e-mail (fajnorova@hrl.sk).

Each team may submit up to three (3) requests for clarification regarding the Case.

There are no limits for requests for clarification regarding the Rules.

Requests for clarification may not constitute asking the asylum-seeker additional questions.

5.2 Distribution of Answers to Requests for Clarification

The requests for clarification regarding both the Rules and the Case will be answered within 5 working days and the answer will be distributed to all teams at the same time. The identity of the team which has requested the clarification will not be revealed.

The authors will refrain from answering requests that could significantly alter the outcome of the case. The authors will not answer requests outside the scope of the permitted clarifications as outlined in 5.1.

6. Memoranda

6.1 Type

Each team participating in the Moot Court shall prepare one memorandum on behalf of the Applicant (asylum seeker) and one memorandum on behalf of the Respondent (authorities of fictitious state).

6.2 General Requirements

The language of the memorandum shall be English. Should teams refer to materials in another language, they must provide a written translation into English. The translation will be relied upon for the purposes of the Moot Court.

The font and size of the text of all sections of the memorandum (including the footnotes) must be the same, except for the headings. The text of all sections of the memorandum must be in Times New Roman 12. The text of all sections of each memorandum, except for footnotes and headings, must be double-spaced. The text within footnotes and headings may be single-spaced, but there must be double-spacing between separate footnotes and between headings and the text. Quotations of 50 words or more shall be block quoted (i.e. right and left indented) and may be single-spaced.

Either footnotes or endnotes may be used, although they are to be used to cite authority only. Neither footnotes nor endnotes may include substantive pleadings, examples, or any text other than the actual citation.

Each memorandum should be page numbered in the bottom right hand corner starting with number 1 on the first page after the Table of Contents.

Each section should start on a separate page.

At no point in the memoranda shall the team identify itself, its team members, its country or its clinic affiliation. Failure to adhere strictly to this rule may result in disqualification.

6.3 Memorandum Format

Sections

Teams are obliged to follow the formatting order outlined below. Each section shall include only information that is relevant to that section.

Each Memorandum shall contain the following sections:

- (a) Cover page
- (b) Table of Contents
- (c) List of Abbreviations
- (d) Statement of Relevant Facts
- (e) Country of Origin Assessment
- (f) Issues
- (g) Summary of Arguments
- (h) Arguments
- (i) Submissions
- (j) List of Sources (treaties, jurisprudence, literature, guidelines, etc.)

All memoranda submitted in the Moot Court must conform to the following general requirements. Teams will be penalized for failure to keep within these requirements and judges may also take the appearance of the memorandum into consideration when evaluating the written effort. Each memorandum may NOT exceed 30 000 characters (not including footnotes and endnotes).

a) Cover Page

The cover page must have the following items in the same order and should not include further items:

- (i) The name of the case: “Mr. Rasul Sulejmanovič Dadayev v. Republic of Kalosvia”

- (ii) The title of the document (e.g. “Brief of the Respondent” or “Brief of the Applicant”)
- (iii) Team number (assigned after team registration)

b) Table of Contents

The table of contents may not exceed one page in length. It should contain a list of the sections of the memorandum from section (c) to (j), and the page numbers where each section begins.

c) List of Abbreviations

This section should include a list of all abbreviations used in the memorandum accompanied by their full forms.

Example:

ECHR European Convention for the Protection of Human Rights and Fundamental Freedoms

d) Statement of Relevant Facts

The Statement of Relevant Facts section may not exceed 5,000 characters in length. This figure does not include footnotes, endnotes, or spaces.

Note that this section distinguishes relevant facts from all facts. Only facts relevant to the outcome of the case (status determination) should be listed rather than all facts related to the asylum seeker.

The Statement of Relevant Facts must not include unsupported or distorted facts, persuasive statements, arguments, or legal conclusions.

e) Country of Origin Assessment

The Country of Origin Assessment section may not exceed 5,000 characters in length. This figure does not include footnotes, endnotes, or spaces. This section contains general human rights country assessment. It can also include country information related to the specific human rights abuses in the country of origin which is relevant for the Case.

Important notice: Avoid repetition of information. Once you use some country information in Country of Origin Assessment do not repeat the same information in your Arguments. However, you can use references in later texts to the relevant section(s) of the Country of Origin Assessment.

f) Issues

Issues may not exceed one page in length. This section shall summarize legally relevant issues raised in the case and shall list each issue in the form of a numbered question. It may not include persuasive statements, arguments, or legal conclusions.

g) Summary of arguments

The summary of arguments may not exceed one page in length. This is a summary of your legal argumentation. Write only relevant legal arguments you are going to develop in section Arguments.

h) Arguments

The Arguments section of each memorandum may not exceed 18,000 characters in length. This figure does not include foot-notes, endnotes, or spaces.

Advice: Structure your argumentation into comprehensible sub-sections.

i) Submission

This section may not exceed 500 characters in length. Suggest the court what decision should be issued in the Case.

j) List of Sources

Teams should strive to have stylistically consistent citations through-out the memorandum.

TIP: HRL recommends the Oxford Style Manual for those not experienced in documenting scholarly references.

For online sources, see the University of Wisconsin-Madison's "The Writing Centre" <http://www.wisc.edu/writing/Handbook/DocChicago.html>, which outlines the Chicago/ Turabian Documentation Style.

William Strunk's classic The Elements of Style offers more general writing tips and can be found at <http://www.bartleby.com/141/>.

6.4 Judging of Memoranda

Each submitted memorandum will be assigned to two judges randomly, who will give substantive point scores between 0 and 50. The score the team receives for the memorandum is the average of the scores given by the two judges. Judges evaluate the memoranda as per the following guidelines:

• Legal Argumentation

(Poor: 0–4; below average: 5–8; average: 9–12; above average: 13–16; excellent: 17–20)

- Knowledge of the facts and of the legal principles directly applicable to the theme
- Proper and articulate analysis of the issues involved
- Application of relevant principles of law to the facts
- Logic and reasoning
- Evidence of original thought, creativity
- Persuasiveness

• Quality of Research

(Poor: 0–3; below average: 4–6; average: 7–10; above average: 11–13; excellent: 14–16)

- Proper use of relevant authorities (sources of law, opinio iuris, etc.)
- Thorough country of origin assessment
- Relevance and variety of authorities

• Presentation

(Poor: 0–1; below average: 2–3; average: 4–5; above average: 6–7; excellent: 8–9)

- Clarity and organization
- Thoroughness
- Language, grammar, spelling and style

• Format and layout

(Poor: 0–1; below average: 2; average: 3; above average: 4; excellent: 5)

- Compliance of format and spacing with the Rules
- Quality of layout

Summation of Points	
Brief of Applicant (average of two judges)	50
Brief of Respondent (average of two judges)	50
Maximum Possible Points for one team at the written round	100

Judges may assign 0–5 penalty points for substantive legal arguments outside of approved sections of the Memorandum. Penalty points are deducted from the score.

Incomprehensible submissions may be disqualified at the judge's discretion due to the difficulty of providing effective evaluation (accurate assessment).

7. General Rules for Oral Pleading Procedures

7.1 General Format

The oral rounds of the Moot Court will consist of sixty minutes of pleadings. Each side will be allotted thirty minutes. The thirty-minute allotment of time shall include the pleadings of both oralists from one team and their rebuttal or surrebuttal. No single oralist will plead more than twenty minutes in a round, including rebuttal or surrebuttal, in order to make sure that both team members participate substantially in the competition.

At the beginning of its first pleading, each team has to indicate how much time they wish to reserve for rebuttal or surrebuttal.

7.2 Pleading Order

The order of the pleadings in each round at all levels of the Moot Court shall be:

- Applicant 1 – Applicant 2
- Respondent 1 – Respondent 2
- Rebuttal (Applicant 1 or 2)
- Surrebuttal (Respondent 1 or 2)

7.3 Scope of Pleadings

In their oral pleadings participants may broaden the scope of their written pleadings, use additional arguments, or give additional examples but without substantially modifying their memorandum arguments.

Submissions from the memoranda may not be changed.

The scope of the Applicant's rebuttal is limited to the scope of the Respondent's pleading proper, and the scope of the Respondent's surrebuttal is limited to the scope of the Applicant's rebuttal.

If the Applicant waives rebuttal, there shall be no surrebuttal.

Legal issues which were not addressed in the primary pleadings may not be raised in the rebuttal or surrebuttal.

7.4 Role of the Bailiff

The bailiff will announce the start of the court session, the case on trial and the names of judges on the panel. She/he will give the floor to the agents of the Applicant and then to the agents of the Respondent. The bailiff will keep track of the time and signal to each side 10, 5, 2 and 0 minutes remaining of the 30 minutes allotted for pleading.

After the bailiff signals that time is up, the oralists are only allowed to finish their last sentences. If a team continues pleading, the bailiff will signal the court to interrupt the oralist and will make a note on the overuse of pleading time.

Throughout the session, the bailiff will take notes, recording technical irregularities.

Following the pleadings, the bailiff will participate in the evaluation of the teams' performance with the judges, making recommendations for awarding or deducting points related to timing and other technical aspects of the pleading.

7.5 Questions Raised by Judges

Judges may raise questions during the oral rounds regarding the team's memorandum that they will have read previously. These questions will be posed to the Applicant after the Respondent's arguments, to the Respondent after the Rebuttal, and to both teams after the Surrebuttal.

Either team member may respond to the judge's questions. Judges may ask questions during the pleading only to clarify a statement or point.

Judges may request an oralist to further expand upon arguments at the end of any oral presentation.

The time used by the judges to raise questions during the pleadings and the time used to answer questions raised by judges is not included in the thirty-minute allotment of time for pleadings/rebuttal/surrebuttal.

7.6 Commentary by Judges in Oral Phase

At the completion of the oral round, judges may provide brief feedback to teams regarding the teams' performance. Judges shall not reveal to the teams the results of their individual determinations or the teams' scores, nor shall they provide any substantive feedback that would reveal their individual determinations. Feedback shall only be given in the presence of both teams.

7.7 Extension of Time at Judges' Discretion

Judges may, at their discretion, extend the total argument time of a team beyond the thirty-minute allocation, by up to five minutes per team.

Oralists asked to further expand upon arguments may appeal for more than the twenty-minute individual limit described in Rule 7.1.

8. Preliminary rounds

8.1 Pairing Procedures

Each team will compete twice in the preliminary rounds: once on behalf of the Applicant, and once on behalf of the Respondent. No team will be paired with the same team twice in the preliminary rounds.

The pairing of teams for the preliminary rounds as well as the side that each team takes in each round shall be done by a random draw by HRL in accordance with the Timetable.

The exchanging of memoranda will be executed by HRL upon the draw. The memoranda will be sent out via e-mail and the team contact person shall confirm delivery by e-mail to fajnorova@hrl.sk.

8.2 Panels at the Preliminary Rounds

In the preliminary rounds, teams plead before a panel of three judges. The judges will themselves appoint a presiding judge (e.g. by consensus or coin toss). The presiding judge is the final arbiter in cases of disagreement over awarding of additional time (per Rule 7.5). The bailiff will also participate in the evaluation of the team's performance as described in Rule 7.4.

Judges shall indicate any possible conflict of interests prior to constituting the panel.

During the preliminary rounds, no other teams or team members may be present at the pleadings.

8.3 Judging the Preliminary Rounds

At the end of the preliminary round, teams are awarded 0 to 50 points based on their oral performance in accordance with the following criteria:

• Legal Argumentation

(Poor: 1–3; below average: 4–7; average: 8–13; above average: 14–17; excellent: 18–20)

- Proper and articulate analysis of the issues involved
- Evidence of original thought, creativity
- Logic and reasoning
- Appropriate and logical response to the questions raised by judges
- Appropriate and logical response to the opposing side's pleading in the rebuttal/surrebuttal
- Clarity of claims (are the claims well-phrased, well-explained, etc.)
- Clarity of structure

• Background Preparation

(Poor: 0–2; below average: 3–5; average: 6–8; above average: 9–12; excellent: 13–15)

- Knowledge of the facts and the legal principles directly applicable to the facts
- Background knowledge revealed through pleadings and through answers given to the questions raised
- Proper usage of relevant authorities (sources of law, *opinio iuris* etc.)
- Thorough country of origin research

• Presentation

(Poor: 0–2; below average: 3–5; average: 6–8; above average: 9–12; excellent: 13–15)

- Clarity and organization
- Persuasiveness
- Thoroughness

- Team synergy
- Behavior appropriate to the formality of the setting
- Rhetorical skills

Summation of Points	
Pleading of Applicant (average of three judges)	50
Pleading of Respondent (average of three judges)	50
Maximum Possible Points for one team at the oral rounds	100

Penalty points shall be deducted from the score according to the table below:

Addressing a new legal issue in the rebuttal/surrebuttal which was not addressed in the primary pleadings	2 points per occurrence (maximum 6)
Scope of rebuttal exceeding scope of Applicant's pleading; Scope of surrebuttal exceeding scope of Respondent's pleading	1-5 points
Team exceeding pleading time without judges' permission	3 points per minute
Team not appearing on time without accepted explanation	3 points per minute (maximum 60 points)

The score each team is awarded for each preliminary round is the average of the scores awarded by the three judges on the panel for that round.

The final score for each team at the preliminary rounds is the sum of the written submission points (maximum 100 for the two memoranda) and the sum of the preliminary round points (maximum 100 for the two pleadings), it means maximum 200 altogether.

9. Semi-final round

The semi-final round will consist of two pairings of the four teams that acquire the highest final scores at the end of the preliminary rounds. In case there are two or more teams with same final score at the end of the preliminary rounds and this fact qualifies more than four teams to semi-final round, the score for legal argumentation will be a decisive factor in choosing the team which will take part in semi-final round.

The pairings of the teams will be made by a random draw. A coin will be tossed to determine the positions of the teams (Applicant or Respondent). Each team will plead only once and will not switch sides after the first session.

The teams will plead before a panel of three judges.

Judges will indicate any possible conflict of interest prior to constituting the panel.

All teams that did not qualify for the semi-final rounds may be present at the pleadings.

The winners of the semi-final rounds will be selected by the panel of judges based on their evaluation in accordance with the criteria set out in Rule 8.3.

Judges are encouraged to provide feedback in a way that is useful not only for the contestants but also for the members of the audience.

10. Final round

The two top-scoring teams shall advance to the final round. If feasible, the teams will switch sides and plead in the opposite role (Applicant or Respondent) than during the semi-final round. If both teams pleaded on the same side in the semi-final round, a coin will be tossed to determine their position in the final round. Each team will plead only once and will not switch sides after the first session.

In the finals the teams shall plead before a panel of three judges.

The winner of the competition will be selected by the panel of judges based on their evaluation in accordance with the criteria and score sheet set out in Rule 8.3.

11. Penalties

11.1 Penalties

Penalties will be imposed on teams violating the Moot Court rules at the discretion of the judges, in proportion to the severity of the infringement.

Penalties for the violation of rules regarding the oral pleading procedures will be imposed by the panel of judges of the oral rounds.

Penalties for the violation of rules regarding the oral pleading procedures will be deducted from the score the team receives for the round in which it violated the rules.

Good luck!

The team of The Human Rights League looks forward to meeting you in person in Slovakia.