

Seventh Annual International Asylum Law Moot Court Competition

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.

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"). The Case Materials will consist of a transcript of the interview, a videotaped simulation of the interview, a fact sheet on the mock host country and other additional materials. Both the written and oral rounds are based upon the Case Materials, as described in Rule 4.

1.2 Timetable

10 November 2006 Registration deadline (by 18:00 CET)

14 November 2006 Deadline of posting case materials on www.larc.info (by 18:00 CET)

8 December 2006 Deadline of mailing case materials (CD + Booklet) to teams and judges

18 December 2006 Deadline of submitting requests for clarifications (by 18:00 CET)

5 February 2007	Deadline of submitting Memoranda (by 18:00 CET)
5 March 2007	Announcement of written round results (by 18:00 CET)
7 March 2007	Designation of teams' roles in the preliminary oral rounds and distribution of memoranda of opposing teams (via e-mail)
12-15 April 2007	Oral rounds - Budapest, Hungary

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 Hungarian Helsinki Committee (HHC) for written approval to carry out such a change. Decisions are within HHC'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 to HHC 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 HHC has the appropriate team contact information, check the 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 HHC for written approval to carry out such a change. Decisions are within HHC's discretion and are final.

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. A coach cannot be a judge in the Moot Court.

A coach cannot participate in the development of the Moot Court Case. The coach shall not contact, or be contacted by the Moot Court Judges on any matter concerning the Moot Court.

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 Outside Assistance to Teams

All outside assistance that would interfere with the final product being the exclusive work of the team members is strictly prohibited. Outside assistance to a team in preparation for the Moot Court, including that of coaches, faculty members, clinic leaders, librarians, or other research experts will be limited to a general discussion of the issues, suggestions as to research sources, the location of such sources, and

training in oral presentation. For more information on the role of the coach, see 2.5 Parameters of Coaching.

No team shall be allowed to view or otherwise become privy to any memorandum or its substance other than the respective Applicant and Respondent memoranda of opposing teams. No team member may contact the authors of the Moot Court case directly at any time.

2.7 Attendance

Based on the evaluation of their performance (score), teams participating in the first round may or may not qualify for the next 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 HHC. HHC will issue a decision on the matter, based on all the circumstances. HHC's decisions are final.

Departure before the end of the Moot Court, even if the team has no more pleadings scheduled, must be authorized by HHC. Failure to comply with the above mentioned attendance requirements will result in the disqualification of the respective team.

Participation in the Moot Court must not in any way inhibit the academic and professional performance of the participating students. Such cases will be regarded as most serious violation of the Moot Court Rules, and, if proven, will lead to the disqualification of the respective participants.

3. JUDGES

3.1 Selection of Judges

Moot Court Judges in the written rounds are senior students at Columbia University Law School. Judges in the oral rounds are internationally renowned asylum experts.

The names and affiliations of Moot Court Judges shall be announced on the Refugee Law Clinic website (www.larc.info).

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 6.2).

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

4.1 Content

The Case is based on a fictitious asylum claim (see 1.1).

When referring to the asylum interview in their memoranda or pleadings, teams will only use the interview transcript as a reference source. If the content of the interview transcript is in any way different from the video interview, the teams will refer to the transcript. Teams are allowed to refer to additional materials in their memoranda and pleadings.

4.2 Distribution

HHC will distribute the Moot Court package to each team by registered mail. The package consists of the Case Materials, the Rules and other administrative information. HHC will also strive to make the Moot Court materials available on its website.

The Team Representatives shall confirm the delivery of the Moot Court package by e-mail (mcc@larc.info). If the Moot Court package has not reached the teams within reasonable time, the Team Representative shall advise HHC 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 HHC via e-mail (mcc@larc.info).

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 by the authors and distributed by HHC to all teams within 5 working days. 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.

If the question raised points to a general issue that may concern other teams or points out a mistake, the organizers will notify all teams by email.

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 in 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) List of Sources (treaties, jurisprudence, literature, etc.)
- (e) Statement of Relevant Facts
- (f) Country of Origin Assessment

- (g) Issues
- (h) Summary of Arguments
- (i) Arguments
- (j) Submissions

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: "XXX v. The Republic of YYY"
- (ii) The title of the document (e.g. "Brief of the Respondent" or "Brief of the Applicant")
- (iii) Team number (assigned after team registration)

Example

<p>Pacifique Ruggai v. The Federation of Boronia and Monsanto</p> <p>Brief of the Respondent</p> <p>16</p>

b) Table of Contents

The table of contents may not exceed one page in length. It should contain a list of the section 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:

UDHR Universal Declaration of Human Rights

d) List of Sources

The list of sources may not exceed one page in length. Teams should strive to have stylistically consistent citations through-out the memorandum.

TIP: HHC 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/>.

e) 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.

f) 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.

g) Issues

Issues may not exceed one page in length. This section shall summarize the 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.

h) Summary of arguments

The summary of arguments may not exceed one page in length.

i) 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.

j) Submission

This section may not exceed 500 characters in length.

6.4 Judging of Memoranda

Each submitted memorandum will be assigned to two judges randomly, who will give substantive point scores between 0 and 45. 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: 0–2; below average: 3–5; average: 6–8; above average: 9–12; excellent: 13–15.)
 - 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: 0–2; below average: 3–5; average: 6–8; above average: 9–12; excellent: 13–15.)
 - 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: 4–6; above average: 7–8; excellent: 9–10.)
 - 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)	45
Brief of Respondent (average of two judges)	45
Maximum Possible Points for one team at the written round	90

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.

No legal issues which were not addressed in the primary pleadings may 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.

At the completion of the preliminary rounds, teams may request to see the preliminary-round scores.

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 HHC in accordance with the Timetable.

The exchanging of memoranda will be executed by HHC upon the draw. The memoranda will be sent out via e-mail and the team contact person shall confirm delivery by e-mail to mcc@larc.info.

8.2 Panels at the Preliminary Rounds

In the preliminary rounds, teams plead before a panel of two 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 60 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
 - Knowledge of the facts and of the legal principles directly applicable to the theme
 - 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, etc.)
 - Clarity of structure

- Background Preparation
(Poor: 1–3; below average: 4–7; average: 8–13;
above average: 14–17; excellent: 18–20.)
 - 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: 1–3; below average: 4–7; average: 8–13; above average: 14–17; excellent: 18–20.)
 - Clarity and organization
 - Persuasiveness
 - Thoroughness
 - Team synergy
 - Behavior appropriate to the formality of the setting
 - Rhetorical skills

Summation of Points	
Pleading as Applicant (average of two judges)	60
Pleading as Respondent (average of two judges)	60
Maximum Possible Points for one team at the oral rounds	120

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 (minimum 1 minute, maximum 30 points)
Team not appearing on time	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 two 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 90 for the two memoranda) and the sum of the preliminary round points (maximum 120 for the two pleadings), or maximum 210 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.

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 interests 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 AND THE CASE OF A TIE

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.

11.2 In Case of a Tie

In case of a tie, the team with the overall highest memorandum scores will proceed to the next round.

If the memorandum scores are equal, the team with the highest legal argumentation score of their memoranda will proceed to the next round.