

Rules of Procedure

Round of the Americas

Elisabeth Haub School of Law at Pace University

White Plains, New York

March 13-14, 2021

International Criminal Court Trial Competition

SUBMISSION DEADLINE: February 8, 2021 by 5:00 p.m.

Please note: These rules apply to the Round of the Americas held at Elisabeth Haub School of Law at Pace University. They are for the most part identical to those for the International Final rounds held in The Hague. While we endeavor to synchronize our rules with those for the International Finals, there may on occasion be slight variations between the two. For the purposes of the Round of the Americas, Elisabeth Haub School of Law at Pace University and its organizers shall be the final arbiters of these rules. Should a conflict in the rules exist and should it potentially impact the competition, this should be brought to our attention and Pace will work directly with the Grotius Centre for International Legal Studies – Leiden University to eliminate any such discrepancies.

Chapter 1: General Rules

Art. 1 - Object

- a. The present rules ("Rules") govern the International Criminal Court ("ICC") Moot Court Competition 2020 (hereinafter "the Competition") held in the English language, organized by Grotius Centre for International Legal Studies - Leiden University in partnership with the International Bar Association (IBA), and the Elisabeth Haub School of Law Pace University (hereinafter the "Organization")
- b. The 2021 Competition shall be held entirely online.

Art. 2 – Subject

- a. All teams participating in the Competition are presumed to have knowledge of and shall be subject to these Rules.

Art. 3 - Interpretation of the Rules

- a. The Organization has the authority to interpret and amend the provisions contained in the Rules.
- b. The Organization reserves the right to make changes at any time before the commencement of the Preliminary Round or when necessary. Any changes made will be communicated to the participating teams most likely to be affected.

Art. 4 - Aim of the Competition

The Competition aims to encourage university students to improve their knowledge of international criminal law in practice and in particular of the ICC, its mandate and its jurisprudence, by simulating its proceedings through arguing a hypothetical case. The Competition seeks to enhance the knowledge about the Rome Statute, especially within countries that have yet to ratify it. In addition, the Competition provides participants with the opportunity to become familiar with the Hague based International institutions.

Art. 5 – Participation

- a. Each country, including the United States of America, may be represented by a maximum of **five (5)** teams who advance to the International Finals.

- b. Only actively enrolled students in Bachelors, Masters, JD, and LLM Programs are eligible to participate. Exchange students may participate on behalf of their host university.
- c. Non-law students may be considered eligible, provided that they have the requisite legal knowledge. It is each team's responsibility to ensure that its team members have a level of legal knowledge suitable for the Competition.
- d. Students admitted to practice, by having taken and passed the bar exam, are prohibited to participate.

Art. 6 - Team Composition

- a. Each team will be comprised of a maximum of:
 - 1. Three (3) speakers;
 - 2. Two (2) researchers;
 - 3. Two (2) coaches: one leading coach and one assistant coach;
- b. The coach is responsible for giving academic and scientific instructions to his/her team and represents both the university as well as the team before the Organization. Article 5 restrictions shall not apply to the leading and assistant coaches.
- c. Each team must submit in writing their team composition at the time of registration. Each university will be responsible for the selection of the team members and the designation of their coach(es).
- d. The maximum number of team representatives for each team cannot exceed seven (7). A team may be comprised of no fewer than three (3) speakers without an explicit waiver received upon written request of the Organizers.
- e. Any other changes in team composition must also be submitted in writing before February 19, 2021. Any request for changes in team composition after this timeframe shall be rejected. However, the Organization reserves the right to allow team composition changes after this deadline in consideration of exceptional circumstances or in the interests and fairness of the Competition.

Chapter 2: Administrative Provisions

Art. 7 - Team Registration

- a. Registration for the Competition will open on 31 August, 2020.
- b. Each team can register online via Pace's Competition website (<https://www.pace.edu/law/academics/experiential-learning/advocacy-program/moot-court-competitions/international-criminal>).

Art. 8 - Team Identification

- a. In the interest of fairness and objectivity, each team shall be assigned an anonymous number prior to submission of their memorials.
- b. This number will be emailed to each team by the Organization.
- c. This number becomes the team's identifier throughout the Competition.

Art. 9 - Registration Fee

- a. The Organization will issue an invoice for payment of the registration fee to eligible teams.
- b. Each team must pay their registration fee within thirty (30) days after the date the invoice was issued.
- c. Incomplete payment of registration fee renders that particular registration application invalid.
- d. The Organization reserves the right to accept late payment of registration fees for extraordinary circumstances.
- e. The registration fee will not be refunded under any circumstances.

Chapter 3: Competition Structure

Art. 10 – Structure

- a. The Americas Round of the Competition shall have two (2) consecutive phases, each independently graded: a written round (Memorials) and an oral round (Hearings).
- b. Each team shall address the Case in the roles of the Defense Counsel, Counsel for the Prosecution (Prosecution Counsel), and Legal Representative for Government (Government Counsel), one Memorial per role.
- c. Each team shall participate in three (3) oral rounds (the "Pre-Rounds") before the Bench members in the roles of Defense Counsel, Prosecution Counsel, and Government Counsel.
- d. Each team will have three (3) individual speakers. Every individual speaker of a team will represent in their pleadings the Defense Counsel, or the Counsel for the Prosecution or the Government Counsel. The rebuttal must be presented by the same speaker as the main presentation. Researchers are not allowed to present at any stage of the Competition.
- e. The memorials and oral pleadings shall reflect a deep knowledge of the ICC rules and case law, as well as of International Criminal Law in general.

Art. 11 - Semi-Final Round

- a. The written and oral rounds are independently assessed. The sum of the scores obtained in both stages after the deduction of any penalty points will qualify the nine (9)

best teams for the Semi-Final Round. This number may change based upon the number of schools registered to compete. The number of teams advancing to the Semi-Finals will be announced prior to the commencement of the Preliminary Rounds.

- b. The Semi-Final Round will consist only of an oral phase. **The teams are free to choose which of their three (3) speakers will present at the Semi-Final Round. They are not bound by the role the speakers presented in the Pre-Rounds.**
- c. To decide which team will argue which role, the team in each round with the highest total score thus far will choose its role. The team in each round with the second highest score will then choose its role out of the two remaining choices.

- d. Subject to the exception set forth in Art. 12(a), the results of the written Memorials will not be taken into account in assessing the final scores of the Semi-Final Round.

Art. 12- Final Round

- a. The winner of each Semi-Final round will proceed to the Final Round. Should there be less than nine (9) teams advancing to the Semi-Finals and only two Semi-Final matchups, the third team to advance will be selected from the two Semi-Final runner ups based on a formula giving 50% weight to the team's Semi-Final Round score and 50% weight to the team's combined score from the Preliminary Round oral and written phase.
- b. **The teams are free to choose which of their three speakers will present at the Final Round. They are not bound by the role the speakers presented in the Pre-Rounds or Semi-Finals.**
- c. The Bench of the Final Round will assess the substance of the arguments and the quality of the performance of the three teams. It will deliver its judgment and announce the winner of the Competition (to be picked at the discretion of the Bench, one vote per judge). The team winning the Final Round will be the winner, regardless of the scoring of the Memorials.
- d. Roles in the final round will be assigned based on a random selection.

Chapter 4: Memorial Provisions

Art. 13 - Submission of the Memorials

- a. All teams participating in the Round of the Americas organized by Elisabeth Haub School of Law must submit their three (3) Memorials for each role *by email* by Monday, February 3, 2021 at 5:00 PM EST.
- b. Elisabeth Haub School of Law will submit the Memorials of the winner and runner-up of the Round of the Americas to the Grotius Centre for International Legal Studies – Leiden University.

Art. 14 - Identification in Memorials

- a. Each team must omit the following references in their Memorials:
 - 1. Names of team members;
 - 2. The members' and/or the university's country of residence;
 - 3. Its nationality; and
 - 4. The name of its university.
- b. Violations of this article will be sanctioned with up to fifty (50) penalty points.

Art. 15 - Memorial Format

- a. Each team must submit its Memorial in Microsoft Word and Pdf format.
- b. Each Memorial must be printed on A4 sized paper or standard letter size paper.
- c. Each team must submit its Memorials in size 12 Times New Roman font style.
- d. Each page shall have a margin of at least 2 cm on every side of the text.
- e. Memorials must be continuously page-numbered, excluding the front-cover.
- f. Violations of this article are sanctioned with one (1) penalty point per violation, with a maximum of four (4) penalty points.

Art. 16 – Spacing

- a. The text of the Memorial must be 1.5 spaced.
- b. Headings and subheadings of more than one line in length must be single spaced.
- c. Violations of this article are sanctioned with one (1) penalty point per violation, with a maximum of four (4) penalty points.

Art. 17 - Word Limit

Each Memorial must not exceed 10.000 words (**including footnotes**). Violations of this article are sanctioned by five (5) penalty points per 400 words. The 10.000 words include the statement of facts, issues, summary of arguments, written arguments, submissions and (optional) annexes, and exclude the front cover, title page, table of contents, list of abbreviations and index of authorities.

Art. 18 - Order of Content

- a. Each Memorial shall be presented in the following order:
 - 1. Front cover;
 - 2. Title page;
 - 3. Table of contents;
 - 4. List of abbreviations;
 - 5. Index of authorities (list of sources);
 - 6. Statement of facts;
 - 7. Issues;
 - 8. Summary of arguments;

9. Written arguments;
 10. Submissions;
 11. Optional: Annex (max two (2) pages); and
 12. Back cover.
- b. Violations of this article are sanctioned by two (2) penalty points per violation. The swapping of two sections will be sanctioned by one (1) penalty point.

Art. 19 - Front Cover Requirements

- a. The front cover must contain the following information:
 1. Team number;
 2. Role (Defense Counsel, Prosecution Counsel, and Government Counsel);
 3. Title of the Competition (ICC Moot Court Competition in the English Language);
 4. Year; and
 5. Total word count.
- b. The front cover (page) must be color coded accordingly:
 1. Red for Defense Counsel.
 2. Green for Prosecution Counsel.
 3. Blue for Government Counsel.
- c. A format for the front cover will be provided by the Organization on the Competition website for the international competition at www.iccmoot.com
- d. Violations of this article will be sanctioned with one (1) penalty point per violation.

Art. 20 – Footnotes

- a. Footnotes are to be in Times New Roman font style, size 10 font. Footnotes of more than one line in length must be single spaced.
- b. Spacing between each footnote shall be at least 1.5 or 10 points.
- c. Consistency in the reference to sources throughout the Memorial is required. A referred-to document should be easy to find using the footnote.

- d. All the sources included in the index of authorities, must be included in the footnotes as well.
- e. Footnotes must be uniform.
- f. Abbreviations of sources within footnotes are allowed. The abbreviation has to be announced in the footnote itself or in the index of authorities.
- g. Violations of this article are sanctioned with two (2) penalty point per violation. More than one violation of the same item of this Article should be considered as one violation in total.

Art. 21 - Scoring Structure Memorials

- a. Scores are awarded on a scale of 50 to 100 points.
- b. The scoring factors to be considered, without regard to their order of importance, shall include, but not limited to: knowledge of the facts and law; proper and articulate analysis; extent and use of research; clarity and organization; evidence of original thought; persuasiveness; grammar and style.

Art. 22 - Late Delivery Memorials

Late delivery of memorials is sanctioned with twenty (20) penalty points.

Art. 23 - Plagiarism

Plagiarism in Memorials will be sanctioned with the disqualification of the team. A team's disqualification is final and irrevocable.

Chapter 5: Oral Round Provisions

Art. 24 – Content

- a. Each team's Hearing pleadings must demonstrate an outstanding knowledge of the ICC Rules of Procedure and Evidence and case law, as well as the applicable international criminal law principles.
- b. The Hearings will have a maximum length of two (2) hours per session and shall reflect familiarity with ICC proceedings.

Art. 25 – Appearance

- a. Each team scheduled to appear has a maximum of fifteen (15) minutes to appear before the bench from the start of the scheduled time.
- b. The Competition will proceed on an *ex parte* basis at the expiration of the fifteen (15) minutes. The organization may decide to delay the start of the proceedings, or reschedule the session in exceptional circumstances.

Art. 26 – Speakers

- a. Each team shall consist of three (3) speakers. Every speaker of a team will take on the presentation of Defense Counsel, Prosecution Counsel or Government Counsel. Researchers are not allowed to present at any stage of the competition.
- b. Only two members of each team, speakers and/or researchers, are allowed to be present before the Bench.
- c. Each speaker will speak according to the time allocated under Articles 29 and 30.
- d. Verbatim reading of the Memorials during the Hearings is strictly prohibited and will be penalized.

Art. 27 – Communication

- a. Communication between the speakers and the coaches, team members not presenting, or Competition spectators, is strictly prohibited during the Hearings.
- b. Only those present before the bench are permitted to communicate in writing with each other.
- c. The use of laptops, mobile devices, or any other electronic devices during the Hearings is strictly prohibited. Speakers are permitted the use of a watch only. An exception can be made by the Organization for exceptional circumstances, such as a team member's

disability.

- d. Violations of this article are sanctioned by up to fifty (50) points. It is up to the discretion of the Bench Members, taking into account the seriousness and consequences of the violation, how many penalty points will be deducted.

Art. 28 - Raising Objections

- a. The speakers are allowed to make a maximum of one objection per session to the exposition of the oralist of the other teams, as long as it is of utmost importance for the procedure before the ICC and refers to the immediate argument of the pleading oralist.
- b. An objection is only permissible in the following situations:
 - 1. When any of the speakers refer to events that are not mentioned in the case;
 - 2. Radical differences between oral arguments and arguments in the written memorial;
 - 3. If the Bench Members deem it appropriate.
- c. Once the reasons for the filed objection are expressed, the Bench Members are obliged to hear the arguments of the counterpart to decide on the legality or illegality of the objection.
- d. The Bench will decide by unanimous vote on the admissibility or inadmissibility of the objection. In case of misusing the objection, the speaker that objects will be sanctioned by a deduction of up to ten (10) discretionary penalty points. If the objecting team is correct, there may be up to a ten (10) discretionary penalty point deduction from the speaker that violated the Rules.
- e. The objection will not be included in the time mentioned in Articles 29 and 30.

Art. 29 - Speaking Time

- a. The order of the pleadings in each Hearing is:
 - Presentation by Defense Counsel: up to 20 minutes
 - Presentation by Counsel for the Prosecution: up to 20 minutes

- Presentation by the Government Counsel: up to 20 minutes
 - Rebuttal by Defense Counsel: up to 10 minutes
 - Rebuttal by Prosecution Counsel: up to 10 minutes
 - Rebuttal by the Government Counsel: up to 10 minutes
- b. Time not used in the main pleading may not extend the time allocated to the rebuttal.
 - c. Questions posed by the Judges are included in the speaking time of the presentation and of the rebuttal, respectively.
 - d. Speakers are not allowed to introduce new issues in their rebuttal. All arguments and issues raised by opposing counsels during both presentation and rebuttal may be discussed during the rebuttal.

Art. 30– Judgment

- a. Bench deliberation: 30 minutes (maximum)
- b. Delivery of judgment by the Bench: 15 minutes

Art. 31 - Bench Composition

- a. Each Bench will be composed of one (1) or two (2) Member(s) and one (1) Presiding Member (appointed by the Organization or by consensus by the Bench Members participating in the Hearing) and shall be assisted by a Bench Clerk. If only two Bench Members score a given hearing, the Organization shall create a third score by averaging the scores of the two Bench Members. The organization may appoint a fourth Bench Member. In the event four (4) Bench Members score a given hearing, the score that is furthest from the average of all four (4) scores, and the score sheet on which it appears, will be disregarded.
- b. An Assistant coach of a participating team can under no circumstance be appointed as a Bench Member.
- c. Bench Members for hearings can be different from the Bench evaluating the memorials. All Bench Members must read the case, as well as other explanatory documents. Though not compulsory, bench members may wear a judicial robe.
- d. Bench Members are not permitted to give their individual opinion outside the deliberation room regarding the quality of the presentation and results of the participating teams. Furthermore, Bench Members are not allowed to give the participating teams any feedback on the details of the case.
- e. During the oral rounds, the Bench shall ensure the respect for the Rules of Procedure

and will assess the quality of the arguments. The Bench members are encouraged to intervene with appropriate questions during the oral pleading to further assess the knowledge and the preparation of the oralists.

- f. The Bench will follow its own Rules of Procedure within the framework of accepted norms of judicial practice, and with regard to questions of doubt or dispute in the procedure or facts. A decision of the Presiding Member of the Bench shall be final.
- g. The Bench Members shall mark the oral arguments in accordance with the scoring criteria provided for in these Rules.
- h. Team objections to a jury panel due to conflict of interest or prior relationship must be disclosed and communicated to the Bench Clerk/Bailiff prior to the commencement of the Hearing.

Art. 32 - Role of the Bench Clerk

- a. The Bench Clerk is nominated by the Organization.
- b. The Bench Clerk is responsible for:
 - 1. The collection of the score sheets and their delivery to the Organization;
 - 2. Briefing and advising the bench members on the Rules of Procedure contained herein;
 - 3. Keeping order during the Hearing;
 - 4. Facilitating the sessions' development;
 - 5. Timekeeping.

Art. 33 - Scoring

- a. Scores are rewarded out of a maximum of 100 points for the Presentation and the Rebuttal. The Presentation and the Rebuttal shall be awarded with one score only.
- b. Points are allocated as follows:
 - 1. Organization, structure, and analysis of the issues: twenty (20) points
 - 2. Knowledge and use of rule and principles of law: twenty (20) points

3. Knowledge and use of the facts: twenty (20) points
4. Questions and rebuttal: twenty (20) points
5. Persuasiveness and style of presentation: twenty (20) points

Art. 34 - Penalties for Inappropriate Behavior

- a. Every team should maintain the fullest dignity and decorum, not only in the Courtroom, but during the entire Competition.
- b. Inappropriate behavior or blatant disregard for the procedures may result in the disqualification of penalty points and in extreme cases to the disqualification of the team.

Art. 35 – Scouting

- a. Scouting is forbidden at all times during the Competition.
- b. Scouting is defined as:
 1. When a team or one or more of its members attend a Hearing in which they are not participants;
 2. Instances where students, coaches, or spectators discuss with or pose questions of substantive issues of international (criminal) law to the Bench Members.
- c. Violations of this article will result in disqualification. A team's disqualification is final and irrevocable.

Art. 36 – Recording of the Hearing

- a. Members of the presenting team, may (voice) record their own team members during their presentation and/or rebuttal. However, it is strictly forbidden to (voice) record the opposing teams during their presentation and/or rebuttal.
- b. Recording of the pleadings may only take place upon prior approval from the judges, opposing teams and Organization.
- c. Violations of this article are sanctioned with 50 penalty points.

Chapter 6: The Awards

Art. 36 - Categories of the Awards

- a. The following awards will be given by the ICC after the Final Round:
 - 1. Winner
 - 2. First Runner-up
 - 3. Second Runner-up
 - 4. Best Oralist
- b. The following awards will be given by the Organization after the Final Rounds:
 - 1. Best Defense Counsel Memorial
 - 2. Best Prosecution Counsel Memorial
 - 3. Best Government Counsel Memorial
- c. Each participating team shall receive a certificate of participation.

Chapter 7: The Organization

Art. 37 – Organization

- a. The Regional Round for the Americas and Caribbean is held in White Plains, New York, in the United States and is organized by Elisabeth Haub School of Law at Pace University (<https://www.pace.edu/law/academics/experiential-learning/advocacy-program/moot-court-competitions/international-criminal>).
- b. The Pre-Rounds, Semi-Final Rounds and the Final Round of the international competition are organized by the Grotius Centre for International Legal Studies – Leiden University (www.iccmoot.com).