

PAX Moot Court Rules

The 2021 von Mehren Round

Amended Version for the Virtual Oral Rounds



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NETIQUETTE

The moot court will be hosted on the electronic platform Zoom.

Teams are allowed to invite spectators by sharing the guest link on the schedule.

Team members, coaches and spectators are required to identify themselves properly when entering the session (first name and last name, affiliation).

In order to assure a good sound quality, everybody is requested to mute his or her microphone when not speaking. You can ask the floor via the Moderator of the session. You can catch the attention of the Moderator by using the 'raise hand' option in Zoom.

The four team members and the coach are requested to keep their webcams on during the whole session.

Zoom allows users to add profile pictures. This is allowed, but not required.

With the permission of the teams and the judges, we would like to record some of the sessions and use them as promotional material for future editions of the moot court.

Most technical difficulties can be resolved by leaving the session and joining again. In case of continuing technical difficulties, you can contact Miss Laura Zsarnai (+31640908850), or Professor Kruger (+32 495 87 34 93) and Professor Rutten (+32 498 08 60 67) by phone.

I. DEFINITIONS AND INTERPRETATIONS

1. Definitions

1.1. The following definitions are used in the Rules:

- “Bench” means private international law experts assessing either written pleadings or oral arguments (or both);
- “Case”, “Problem” or “Problem Question” means a hypothetical law problem, which will be pleaded during the Competition;
- “Competition” means the Pax Moot Asser Round;
- “Court” means the Bench or a part hereof at the Oral Round;
- “Executive Secretariat” means the person defined in the Rules;
- “OT” means an organising team to help in the arranging of the Competition under the direction of the Executive Secretariat

2. Case

2.1. The case is a hypothetical private international law problem, which is pleaded in front of the Court during each season’s Competition and which is prepared yearly by private international law experts upon the invitation of the Competition. The Case is published on the website on 27 November 2020.

3. Executive Secretariat

3.1. The OT will designate an Executive Secretariat among its members. The Executive Secretariat’s task, other than specified in the following paragraphs, is to ensure that the Competition is carried out in consistency with the overall spirit and aim of the competition and to resolve all matters which would otherwise be detrimental to the organisation of the Competition. In particular, where the Bench is not able to reach a decision, the Executive Secretariat will have the final decision, including but not limited to matters of disqualification and calculation of results.

3.2. All decisions of the Executive Secretariat are final and not subject to appeal.

II. THE COMPETITION

4. Structure

4.1 The Competition consists of two phases:

- a written phase, in which all teams shall prepare written pleadings for both the Applicant and the Respondent;
- and an oral phase, in which the teams who are selected on the basis of their written pleadings according to Article 16 of the Rules, shall defend their argumentation before the Court, pleading for both, the Applicant and the Respondent.

5. Language

5.1. English is the official language throughout the Competition. Participants must use exclusively English in the written and oral phases of the competition.

III. PARTICIPATION

6. Admission of teams

6.1. There shall only be one team per university.

6.2. Only students from a university or law faculty enrolled in undergraduate or master programmes, without already having obtained a bar qualification, are allowed to participate.

6.3. The team shall consist of two to four law students and they must be enrolled in the same university or law faculty. Students being on exchange in another country are eligible to participate as team members of the host university. The teams shall submit their team composition via the registration form available at the Competition's website.

6.4. Any change in the composition of a team is only permitted after approval by the Executive Secretariat.

6.5. Each team may have a team coach. A team coach may only assist in general discussions concerning the Case, general points of law, research techniques, linguistic matters or presentational skills and no substantive advice. The team coach is not allowed to actively take part in the oral pleadings once the competition has begun officially. Teams that are deemed to have breached this rule, will be disqualified with immediate effect by the Executive Secretariat.

6.6. Team Members and Team Coaches are not allowed to communicate with the Bench about Competition related matters throughout the competition.

7. Fees

7.1. The registration fee is € 100 per team. The fee does not include travel and/or accommodation costs. The fee is due at the time of the registration of the team.

7.2. Payment options will be specified on the Competition's website.

7.3. A team is considered as a participating team after the Executive Secretariat has timely received the official registration confirmation and the fees.

IV. OVERRIDING PRINCIPLES

8. Sportsmanship

8.1. The participants must conduct themselves in a sportsmanlike manner at all stages of the Competition.

9. Anonymity

9.1. Strict anonymity of the teams is required during the written submission phase. Each team must choose an alias when submitting the written memorial.

9.2. During the competition, teams shall not refer to their opponent, whether personally or as a group, explicitly by their personal identify. Instead they are encouraged to use official references such as “the Applicant”, and “the Respondent”.

10. External Assistance

10.1. During the preparation of the case, external assistance, including that from a faculty member or a coach or similar, shall be limited to a general discussion of issues, suggestions as to research resources and linguistic help.

10.2. External assistance that would interfere with the final submission of pleading, which must be an effort of the team only, is strictly prohibited and will be severely penalised upon determination by the Executive Secretariat.

10.3. The sharing of another team’s substantial arguments is especially prohibited and may result in severe point deductions or disqualification at the discretion of the Executive Secretariat.

V. TIMELINE OF COMPETITION

11. Timeline

11.1 The detailed timeline of the Competition is available on the Pax Moot website.

12. Clarifications and Problem Corrections

12.1. Each team may submit maximum 5 clarification questions up until 15 February 2021, after which no more questions may be submitted unless a reasonable justification can be provided.

12.2. The Bench shall issue a single clarification document after all of the questions have been submitted, and any further clarifications shall be decided on a case by case basis.

12.3. Requests for clarification should be limited to matters that would appear to have legal significance in the context of the Case. A request for clarification must include a short explanation of the expected significance of the clarification. Any request that does not contain such an explanation may be ignored.

12.4. Requests for clarifications must be sent to the Competition’s official e-mail account: info@paxmoot.eu under the title “Request for Clarification”. The Executive Secretariat will transfer the questions to the members of the Bench.

12.5. Based upon the requests received from all Teams, the Executive Secretariat will publish Problem Corrections and Clarifications by 1 March 2020. Each Team must ensure that it receives and adequately notes the Problem Corrections and Clarifications in preparation for the Competition.

VI. WRITTEN PHASE

13. The Memorials

13.1. Every team must submit two written memorials, one on behalf of the Applicant and one on behalf of the Respondent. The written pleading on behalf of the Respondent should hypothetically be responding to the team's own Applicant case, hence it is advised to finalize the written memorial on behalf of the Applicant first.

13.2. The form:

- Colour of the external cover background shall be red for the Applicant and blue for the Respondent;
- Each written memorial shall be typewritten on A4 paper sheets, the font is Times New Roman, the type face is 1,5 spaced (interlinear space), 12pt font size, 3 cm margin top and bottom, 2 cm margin each side; kerning is not allowed;
- Pages of the written memorials shall be numbered concurrently at the bottom of each page;
- Footnotes shall be numbered concurrently at the bottom of the page, presented in OSCOLA format;
- Written pleadings shall be submitted in the PDF format.

13.3. The page limit of both written memorials shall be minimum 8 and maximum 12 pages in total, title page, table of content or bibliography/ index of authorities excluded. The statement of the facts shall not exceed one page each. The memorial may end with the succinct exposition of the submissions of the party concerned (*petitum*).

13.4. The identity of the teams beyond the alias assigned upon registration shall not be revealed to the members of the Bench.

13.5. Infractions

13.5.1. Infractions of the instructions regarding the written pleadings may result in penalties, that is loss of points and a possible disqualification. Minor infractions of the Rules may be ignored. The following infractions may give rise to one of the following penalties:

13.5.2. Exceeding the stipulated length of written pleading. An argument section exceeding stipulated length will result in:

- One page exceeding = minus 2 points.
- Two pages exceeding = minus 4 points.
- Three pages exceeding = compulsory disqualification.

13.5.3 Non-conformity with formalities, such as interlinear space (per page), margins, etc. will result in a 2 point reduction of the written submission at the discretion of the judge

13.5.4. In the case of minor infractions judges may send the written memorial back with comments.

14. Submission

14.1. The teams must submit the written memorial through the official channel provided on the competition's website.

14.2. No team may revise, substitute, add to, delete or in any other manner alter its written memorials after submission.

14.3. Delayed submission of the written memorials. The date of submission will be the date of sending the written memorials to the Executive Secretariat. The deadline for the submission of the written Pleadings can be found on the website. A delayed submission will result in:

- One hour late = minus 1 point.
- Any delay after that = minus 5 points.
- One day late = compulsory disqualification.

15. The Judging of the Memorials

15.1. The memorials for the Competition shall be judged by the Bench.

15.2. Each memorial shall be judged individually by two (2) members of the Bench, acting independently of one another.

15.3. Memorial Scoring Structure

a. Scores are awarded out of a maximum of 25 points.

b. Scores are awarded for:

- i. Organization, structure, and analysis of the issues: 5 points.
- ii. Use of facts and legal principles: 5 points.
- iii. Use of authorities and citations: 5 points.
- iv. Persuasiveness, ingenuity, logic and reasoning: 5 points.
- v. Grammar, style, and clarity: 5 points.

c. Score sheets will be emailed to each team upon the completion of the Competition.

15.4. The final score for a memorial shall be the total points awarded by the two members of the Bench minus any penalty points. The maximum number of points that a team can score for the memorials is fifty (50).

VII. ORAL ROUND

16. Team Selection

16.1. If the number of teams that participated in the written round exceeds the organisational capacity of the Oral Round, only the teams with the highest score shall qualify for the Oral Round. This rule is only to be applied in last resort. The OT shall attempt to include in the Oral Round all teams who submitted their memorials on time.

17. The Oral Arguments

17.1. Each team shall prepare an oral argument for the Applicant and an oral argument for the Respondent. The oral arguments shall be presented in English. During the general rounds each team shall present an oral argument in four (4) of the sessions of the general rounds: twice as Applicant and twice as Respondent. Per session of the preliminary rounds, two team members shall present the team's oral argument for the Applicant or for the Respondent.

17.2. In each oral round the teams shall be assigned a side (Applicant or Respondent) to represent. This will be randomly assigned but made to assure that teams will represent each side twice over the entire general round. The memorials of the other teams are not sent beforehand to the opposing team.

17.3. Teams are expected to plead primarily on private international law issues. Specific instructions shall be provided within the case.

17.4. Each oral round consists of 80 minutes of oral pleadings. Applicant and Respondent are each allotted 40 minutes. At the beginning of each session, each team must indicate to the Timekeeper how it wishes to allocate its 40 minutes among (a) its first pleader, (b) its second pleader, and (c) rebuttal (for Applicant) or sur-rebuttal (for Respondent). The team may not allocate more than 25 minutes, including rebuttal or sur-rebuttal, to either pleader. Time allocated for but not used by one pleader may not be used by the other pleader or saved for rebuttal or sur-rebuttal. Any team member may act as a pleader during any round of the Competition, and need not always argue the same side.

17.5. The order of the pleadings in each oral round at all levels of the Competition is:

Applicant 1 (addressing the principal claim) --> Respondent 1 (defence of the respondent on the principal claim) --> Respondent 2 (addressing the counterclaim) --> Applicant 2 (defence of the applicant on the counterclaim) --> Rebuttal (Applicant 1 or 2) --> Surrebuttal (Respondent 1 or 2).

Time not used in the main pleading may not extend the time allocated to rebuttal or surrebuttal.

17.6. The scope of a counsel's pleadings is not limited to the scope of their submitted memorial. The scope of the Applicant's rebuttal is limited to the scope of the Respondent's pleadings proper and the scope of the Respondent's rebuttal is limited to the scope of the Applicant's rebuttal. Failure to keep within these limitations shall be taken into account by the Court judging the session.

18. Number of Pleaders

18.1. Each team must have two and only two pleaders during each session.

18.2. Both pleaders must participate in their team's oral submissions, dividing the team's speaking time amongst themselves to two more or less equal time slots.

18.3. The third and the fourth team member may be present in each session as silent researchers. Oral participation of the researchers during the pleadings is strictly forbidden and may be penalised by deduction of points under the discretion of the Executive Secretariat if reported by the Court as having a negative impact on the proceedings. The researchers are allowed to communicate with the other team members by making use of the private chat function of Zoom. Any communication between the coach and the team is forbidden during the session. The host of the session will check the private chats after each session in order to make sure that this rule has not been breached during the session.

18.4. If the coach attends the pleadings, they must be seated behind their team in order to avoid any contact between the team and the coach during the session.

19. Prohibition of Scouting

19.1. None of the team members or coaches of the team, shall be allowed to attend any sessions other than those in which the team is pleading.

19bis. Prohibition of Using Electronic Devices During a Session

19bis.1. The use of electronic sources or any form of (electronic) communication other than Zoom is prohibited during the pleadings of a team. The four team members are requested to keep their webcams on during the whole session, in order to allow the Timekeeper to control this prohibition.

19bis.2. Notes for the pleading, legal texts and textbooks can be at the speaker's disposal and shall be clearly visible at the lawyers table.

20. Spectators

20.1. The presence of team coaches or other spectators affiliated with the team is permitted in the courtroom during an Oral Round in which the Team is competing. Teams are responsible for ensuring that their spectators do not engage in any disruptive behaviour, and shall ensure that spectators do not disclose to judges the identity of their institution or country. The spectators must refrain from any comments or extravagant facial expressions, as these may be interpreted as influence of the judges.

20.2. No oral or written communication may take place between the team table and any member of the audience during the session in which that team presents its oral argument, or rebuttal.

21. Questions from the Court

21.1. Members of the Court are invited and encouraged to question the pleader on any point of the argument. They may interrupt pleaders, or they may use the 'raise hand' option in Zoom. There are significant differences in style dependent both on individual personalities and on perceptions of the role of a judge in oral argument. Some judges may interrupt a presentation with persistent or even aggressive questioning. Others may listen to an entire argument without asking any questions. Therefore, teams should be prepared for both styles of sessions.

21.2. Judges must be aware of the fact that the time taken up by questions and replies counts against the allocated time of forty (40) minutes per team.

22. Duration of Oral Presentation and Time Keeping

22.1. The pleadings of each team composes, in principle, of forty (40) minutes. The team should allocate equitably the time available to the two individual counsels. Pleaders should be concise in their replies to questions. The time taken up by questions and replies counts against your time allocation.

22.2. The Timekeeper shall indicate (signs 5, 1, 0) the last minutes of the time allocated to the speaker making use of the chat function in Zoom and will inform the Court when the available time has expired. The Court, taking notice of the Timekeeper's advice, may exceed the time limits stated so long as neither team is allowed more than forty-five (45) minutes to present its argument, including the time necessary to answer the questions of the tribunal. It will be the responsibility of the Court to ensure that the teams are treated fairly.

22.3. The Timekeeper shall be in charge of checking a team's order of pleaders and speaking time of each pleader.

23. The Judging of the Oral Arguments

23.1. The oral arguments shall be judged by a Court consisting of three Judges, with a minimum of two Judges. A member of the Court shall not take part in a hearing involving a team from the University he or she is professionally engaged in.

23.2. Scores are rewarded out of a maximum of 20 points per speaker. Scores are allocated as follows:

- i. **Knowledge of the Law.** Accurately states and applies rules of law. Demonstrates knowledge of cited cases. Presents strong legal arguments and distinguishing unfavourable authorities: (5 points)
- ii. **Knowledge of the Facts.** Knows and fairly/accurately interprets the facts: (5 points)

- iii. **Questions & Answers.** Deftly and directly answers questions about facts, law and policy. Makes strategic concessions and seamlessly ties Q&A into argument: (5 points)
- iv. **Style, Poise, Demeanor, Organization and Time Management.** Conveys formality, respect and professionalism while maintaining a conversational and engaged tone. Maintains posture and eye contact with the full bench. Clearly follows a logical roadmap, spending sufficient time on each principal issue, while maintaining an effective tempo. (5 points)

23.3. At the end of each round, each judge completes a separate score sheet. Per judge the team with the higher total score shall earn a win (1 point). In case of a tie in points between two teams, each team earns a draw (0,5 point). As the Bench in the general rounds is composed out of two judges, a team can earn maximum 2 points during each round. The judges may not award a draw in the semi-finals or final round, but have to deliberate in order to decide on a winner.

23.4. After the general rounds in which each team pleaded 4 times according to Article 17.1 of the Rules, the 4 teams with the highest number of points based on the overall wins and draws (on a maximum of 8 wins, i.e. 8 points) shall participate in the semi-final round. The winners of each semi-final shall then proceed to participate in the final round.

In case of a tie in the number of overall wins between teams, the team with the highest number of total speaker scores shall be selected, and in case of a tie in total speaker scores, the team with the highest score on their written memorials shall be selected. If this still provides no winner, teams shall be selected by the flip of a coin.

VIII. AWARDS

24. Certificate of Participation

24.1. Every participating team will be issued a Certificate of Participation.

25. Best Written Pleadings Award

25.1. The winner of the Best Written Pleadings Award shall be the team having received the highest scores for their written memorial.

26. Best Pleader Award

26.1. The Bench may award a Best Pleader of the Preliminary Round award. The winner of this award shall be the person acting as either Applicant or Respondent with the highest average individual score in the preliminary round.

26.2. To be considered for this award, a speaker must argue in at least two pleadings and for at least fifteen minutes per pleading, throughout the Competition.

27. Winning Team

27.1. The Winning Team shall be the winning team of the final round. The Winning Team shall receive an award, further information about the award shall be published each year before the competition.