

THE EUROPA MOOT COURT COMPETITION

– RULES 2020 –

GENERAL PROVISIONS

1. Proceedings before the Court

The proceedings before the Court that form the subject of this competition are a request for a preliminary ruling submitted by a national court.

2. Composition of Teams

(a) Each team will be composed of four students.

(b) Students currently enrolled in bachelor and master's degree programmes, or equivalent, shall be eligible for participation. The fact that the student is studying at the participating institution as part of an exchange or mobility programme shall not affect her or his ability to participate. Students that have participated in previous editions of the Moot Court are also eligible.*

(c) A student shall not be eligible to participate if she or he had previously entered and exercised any regulated legal profession or judicial function in any jurisdiction.†

(d) Two students act as counsel (senior and junior) for the plaintiff in the main proceedings and the other two act as counsel (senior and junior) for the defendant in the main proceedings. One such pair from each university will argue per round.

(e) Unless otherwise indicated, the proceedings take place without the participation of the European Commission.

(f) Speakers must act in the same role throughout the preliminaries. Teams are allowed to assign new roles to the speakers when they progress to the Semi-finals. The roles then assigned to speakers must be maintained in the Small or Grand Final. The Mooting Coordinator may grant an exemption from this rule where this is necessary because a team would otherwise be unable to continue due to a team member's illness or for similar reasons.

Example: If student A acted as senior counsel for the defendant(s) in the first round, he/she may not act as junior counsel for the defendant(s) or as counsel for the plaintiff(s) in another round of the preliminaries. If the role of junior counsel for the defendant(s) is assigned to student A after the preliminaries, then student A may only act in this role in the Semi-finals and in the Small or Grand Final. That means that A

* **Ad 2 (b):** By including the words 'or equivalent', the definition of eligible students now covers students in different systems up to the point where they typically conclude their legal education and either enter a professional career or embark upon doctoral research. It excludes doctoral students and researchers which might be unclear if we were to use the term 'postgraduate', as PhD research is commonly considered 'postgraduate research' in British universities.

† **Ad 2 (c):** It is common practice in moot courts to consider ineligible for participation persons that had previously obtained experience practicing law (cf. Jessup 2019 Rules, 2.3.c; also ELMC Rules 4.1). The purpose of the competition is to afford students an opportunity to work, extensively, on a concrete (albeit hypothetical) case and plead on behalf of a party, an activity that complements traditional methods of legal education. It is a joint and competitive learning exercise, which might find itself compromised if the starting point of the teams is too far apart. To be ineligible to participate, a student must have before both entered a legal profession (e.g. joined the bar, passed the bar exam) as well as exercised it (e.g. taken up employment in a law firm, established an independent legal practice, represented clients). We do not consider students that, in the course of their studies, have undertaken an internship at a law firm or similar, or participated in a legal clinic programme, to have «entered» a legal profession. A student that has, according to the rules of his national jurisdiction, obtained the right to represent clients automatically upon completion of his law degree, but has not yet joined the bar or in fact represented clients, has neither entered or exercised a legal profession in the sense of paragraph 2 (c).

cannot appear in the Small or Grand Final if his/her team is forced to appear for the plaintiff under rule 21, sentences 4 and 5.

3. Written materials

Teams will not be allowed to submit skeleton arguments or a summary of pleadings.

HEARING OF MOOTS

4. Structure of rounds

Each round will consist of 3 stages:

- (i) senior and junior counsel for the plaintiff(s) will make their primary submissions;
- (ii) senior and junior counsel for the defendant(s) will make their primary submissions; and
- (iii) one of the counsel for the plaintiff(s) will present his or her rebuttal of the primary submissions of the defendant(s).

5. Primary submissions for the plaintiff(s)

- (a) Counsel for the plaintiff(s) will have 20 minutes in total to present their primary submissions. They should decide how to divide both their time and the points they wish to raise.
- (b) The division of time between the two counsel must be announced before senior counsel begins his or her submissions.

6. Primary submissions for the defendant(s)

- (a) Counsel for the defendant(s) will have 20 minutes in total to present their primary submissions. They should decide how to divide both their time and the points they wish to raise.
- (b) The division of time between the two counsel must be announced before senior counsel begins his or her submissions.

7. Rebuttal and surrebuttal

- (a) One of the counsel for the plaintiff(s) will have 3 minutes to address and rebut a few of the points raised by counsel for the defendants in their primary submissions.
- (b) One of the counsel for the defendant(s) will have 2 minutes to address and rebut the points raised by the counsel for the plaintiff(s) in rebuttal.

8. Calculation of time

The time taken by judges in asking, and by mooters in responding to, questions forms part of the maximum duration indicated in Rules 5 to 7. One team member, who is not mooting, will keep time in each court and signal to mooters when '5 minutes' remain, when '2 minutes' remain and at 'Time'.

9. Attendance at moots

Team members may attend only preliminary round moots in which their team is competing. Members of any team that is no longer mooting may attend Semi-Final Moots. Members of all teams may attend the Small and Grand Finals.

10. Judges

- (a) Judges must be legal academics, legal practitioners (members of the judiciary, lawyers etc), post-graduate law students or others with a demonstrated experience in adjudicating mooted competitions.
- (b) The Mooting Coordinator must assign judges to moots according to the following principles:
 - (i) Except for the Grand Final, judges sit in panels of three.
 - (ii) No judge may sit in a moot where one of the competing teams comes from the university to which he or she is currently affiliated. Where possible, a judge should not sit in a moot where one of the competing teams comes from a university to which he or she has been affiliated in the past.
 - (iii) Unless unavoidable, a judge may not sit in preliminary round moots in the group in which the university to which the judge is affiliated is competing.
 - (iv) To the extent possible after the application of sub-paragraphs (i) to (iii), a judge may not see a team moot more than once in the preliminary rounds, with the exception of cases where he or she sees the same team but on a different side.

11. Mooting Coordinator

The Mooting Coordinator is responsible for granting exemptions under rule 2, for calculating the scores and ranking points according to rules 14 to 17 and 19, assigning judges to moots in accordance with rule 10(b), determining prizes according to rules 22 and 23 (subject to the last sentence of rule 23) and for the resolution of disputes regarding the interpretation or supplementation of these rules under rule 24. Rule 10(a) applies by analogy to the qualification of the Mooting Coordinator.

PRELIMINARY ROUNDS

12. Structure of the competition

There will be four preliminary rounds, two Semi-finals, a Small Final and a Grand Final.

13. Preliminary rounds

For the preliminary rounds, the letters A to H will be assigned by lot to the eight competing teams. Teams A, B, C, and D will form Group I and teams E, F, G, and H will form Group II. Each team will then compete in four moots against other teams from the same group as set out in the following schedule:

	Group I		Group II	
Preliminary round 1	Team A <i>plaintiff(s)</i> v Team B <i>defendant(s)</i>	Team C <i>plaintiff(s)</i> v Team D <i>defendant(s)</i>	Team E <i>plaintiff(s)</i> v Team F <i>defendant(s)</i>	Team G <i>plaintiff(s)</i> v Team H <i>defendant(s)</i>
Preliminary round 2	Team D <i>plaintiff(s)</i> v Team A <i>defendant(s)</i>	Team B <i>plaintiff(s)</i> v Team C <i>defendant(s)</i>	Team H <i>plaintiff(s)</i> v Team E <i>defendant(s)</i>	Team F <i>plaintiff(s)</i> v Team G <i>defendant(s)</i>
Preliminary round 3	Team A <i>plaintiff(s)</i> v Team C <i>defendant(s)</i>	Team B <i>plaintiff(s)</i> v Team D <i>defendant(s)</i>	Team E <i>plaintiff(s)</i> v Team G <i>defendant(s)</i>	Team F <i>plaintiff(s)</i> v Team H <i>defendant(s)</i>
Preliminary round 4	Team C <i>plaintiff(s)</i> v Team A <i>defendant(s)</i>	Team D <i>plaintiff(s)</i> v Team B <i>defendant(s)</i>	Team G <i>plaintiff(s)</i> v Team E <i>defendant(s)</i>	Team H <i>plaintiff(s)</i> v Team F <i>defendant(s)</i>

14. Assessment: individual scores

Each judge will award each speaker a score out of 50 marks for the quality of his or her performance. Marks will be awarded with regard to: (a) time management and organisation; (b) knowledge of law and development of argument; (c) ingenuity and ability to answer questions; and (d) speaking ability and delivery, in accordance with the assessment sheet annexed to these rules. The weight for the individual scores of each speaker is set at 20%.

15. Assessment: ranking points

Each judge is given 10 ranking points that he or she should divide between the two teams in a way as to reflect the ‘gap’ between the two sides in terms of their performance. 0.5 team ranking points are allowed. The weight for ranking points is set at 60%.

Example: Judge 1 has given 35 to speaker W (leading counsel for the plaintiff), 37 to speaker X (junior counsel for the plaintiff), 33 to speaker Y (leading counsel for the defendant) and 28 to speaker Z (junior counsel for the defendant). Judge 1 has divided the team ranking points in the following way: 6 points for the plaintiff and 4 points for the defendant.

16. Assessment: team score

Team score is calculated for each sitting judge separately. The total number of points for each team is calculated according to following formula:

$$[(\text{Individual score for Speaker A} / 5) * (20\%)] + [(\text{Individual score for Speaker B} / 5) * (20\%)] + [(\text{Team ranking points given to Team of Speaker A and B}) * (60\%)]$$

Example:

Judges	Speaker W	Speaker X	Speaker Y	Speaker Z	Team A	Team B
Judge 1	35	37	33	28	6	4
Judge 2	37	39	30	29	6	4
Judge 3	38	42	31	33	7	3

Score Team A

$$\text{Judge 1 } \Rightarrow [(35/5) * (20\%)] + [(37/5) * (20\%)] + [(6) * (60\%)] = 1.4 + 1.48 + 3.6 = 6.48$$

$$\text{Judge 2 } \Rightarrow [(37/5) * (20\%)] + [(39/5) * (20\%)] + [(6) * (60\%)] = 1.48 + 1.56 + 3.6 = 6.64$$

$$\text{Judge 3 } \Rightarrow [(38/5) * (20\%)] + [(42/5) * (20\%)] + [(7) * (60\%)] = 1.52 + 1.68 + 4.2 = 7.4$$

Score Team B

$$\text{Judge 1 } \Rightarrow [(33/5) * (20\%)] + [(28/5) * (20\%)] + [(4) * (60\%)] = 1.32 + 1.12 + 2.4 = 4.84$$

$$\text{Judge 2 } \Rightarrow [(30/5) * (20\%)] + [(29/5) * (20\%)] + [(4) * (60\%)] = 1.2 + 1.16 + 2.4 = 4.76$$

$$\text{Judge 3 } \Rightarrow [(31/5) * (20\%)] + [(33/5) * (20\%)] + [(3) * (60\%)] = 1.24 + 1.32 + 1.8 = 4.36$$

Total points Team A: 20.52

Total points Team B: 13.96

17. Progression to the Semi-finals

The two teams from each group that concentrate the highest team score in the preliminary rounds will progress to the Semi-finals. If the team score for two teams is equal, the marks awarded by the judges according to rule 14 will be used to break the tie.

Example: Team A has 25 points, team B and C each have 20 points Team D has 16 points. Team E and Team H each have 24 points, team F has 15 and team G has 14. If the marks of the speakers for team B add up to 180, for team C to 129, for team E 133 and team H 110, teams A, B, E and H progress to the finals. According to rule 18, team A will face team H and team E will compete against team B.

SEMI-FINALS AND FINALS

18. Semi-final moots

In the Semi-finals, the first-ranking team from Group I competes against the second-ranking team from Group II and the second-ranking team of Group I against the first-ranking team from Group II. The first-ranking teams of both groups may decide whether they wish to act as counsel for the plaintiff(s) or for the defendant(s) in the Semi-finals.

19. Semi-finals: assessment

Rules 14 to 17 apply by analogy in the Semi-finals. The winner of each Semi-final will be determined by reference to the sum of ranking points awarded by each Semi-final judge to the two speakers for each team. If the ranking points are divided evenly between the teams, the marks awarded to the speakers will be used to break the tie.

20. Progression to the Small and Grand Finals

The winner of the first Semi-final and the winner of the second Semi-final will progress to the Grand Final. The other two teams will progress to the Small Final.

21. Small and Grand Final

The Grand Final will be judged by five judges. Each team in the Grand Final will have 24 minutes for their primary submissions and counsel presenting rebuttal will have 3 minutes. Otherwise, the rules for the Semi-finals apply by analogy to the Small and Grand Finals. If a team has acted as counsel for the plaintiff(s) in the Semi-finals, they will act as counsel for the defendant(s) in the Small or Grand Final and vice versa. If both competing teams in the Grand Final have represented the same side in the Semi-finals, it will be determined by lot which team represents which side in the Grand and Small Finals.

PRIZES

22. Team prizes

The winning team in the Grand Final will be awarded the First Prize. The second-placed team in the Grand Final will be awarded the Second Prize and the winning team of the Small Final the Third Prize.

23. Individual prizes

- (a) The individual speaker who has received the highest average scores under rule 14 from all judges in all rounds in which he or she was competing will be awarded the Best Oralist Prize. Subject to availability and given that his mandate comes to an end in October 2018, the Best Oralist Prize may be accompanied by an offer of an internship at the chambers of Advocate General Melchior Wathelet at the Court of Justice of the European Union.
- (b) The speakers with the second- and the third-highest average scores will receive an Honourable Mention. If there are several speakers with the same average scores, the Best Oralist Prize and the Honourable Mentions will be awarded at the discretion of the judges sitting in the Grand Final, with the exception of a judge or judges affiliated to the university of one of the speakers in question.

DISPUTE RESOLUTION

24. Resolution by the Mooting Coordinator and the Assembly

All questions concerning the interpretation or supplementation of these rules must be submitted to the Mooting Coordinator for determination. At the motion of a team directly affected by a determination of the Mooting Coordinator, the question must be submitted to an Assembly of the representatives of the participating universities and the Mooting Coordinator for final decision. The Mooting Coordinator may also submit a question to the assembly of his own motion. Each university has one vote at the Assembly and the Mooting Coordinator has one vote. In the event of a tied vote, the Mooting Coordinator will have a deciding vote.

ASSESSMENT SHEET

Teams: _____ (plaintiff) v _____ (defendant)

Speaker 1: _____ Judge: _____

Speaker 2: _____

Round (please tick one): Preliminary 1 Preliminary 2 Preliminary 3 Preliminary 4 Semi-final Small Final Grand Final

<i>Content</i>	<i>Overall score range: indicative (but not exhaustive) descriptive criteria (please tick as appropriate)</i>				<i>Comments and score (additional space over page)</i>	
	<i>0-10</i>	<i>11-20</i>	<i>21-35</i>	<i>36-50</i>	<u><i>Speaker 1</i></u>	<u><i>Speaker 2</i></u>
<i>Time management and organisation</i>	<input type="checkbox"/> textual authorities are inadequate or incomplete <input type="checkbox"/> insufficient overview of submissions or conclusion <input type="checkbox"/> poor organisation: lacks structure or direction; poor time management	<input type="checkbox"/> sound textual authorities but some focal omissions <input type="checkbox"/> basic overview of submissions and conclusion <input type="checkbox"/> some organisation: lacks focus and clear direction; inefficient use of time	<input type="checkbox"/> good choice and range of textual authorities <input type="checkbox"/> concise overview of submissions and conclusion <input type="checkbox"/> well organised: clearly and logically structured; good time management	<input type="checkbox"/> comprehensive choice of relevant textual authorities <input type="checkbox"/> effective overview of submissions and conclusion <input type="checkbox"/> excellent organisation: clear, logical and flexible; excellent time management	0-10: 0-2 11-20: 2-4 21-35: 4-7 36-50: 7-10	0-10: 0-2 11-20: 2-4 21-35: 4-7 36-50: 7-10
					/ 10	/ 10
<i>Knowledge of law and development of argument</i>	<input type="checkbox"/> understanding of legal issues inadequate; some irrelevant material and argumentation <input type="checkbox"/> use of authorities inadequate or inappropriate <input type="checkbox"/> fails to address key legal or factual issues	<input type="checkbox"/> addresses key issues but some arguments given inappropriate weight <input type="checkbox"/> progression of argument lacks clarity or directness <input type="checkbox"/> poor use of some authorities or poor application of law to the facts	<input type="checkbox"/> good understanding of legal issues and authorities <input type="checkbox"/> effective application of law to the facts; addresses opposing arguments <input type="checkbox"/> generally logical and persuasive	<input type="checkbox"/> excellent understanding of legal issues, policy arguments and authorities <input type="checkbox"/> addresses opposing arguments effectively <input type="checkbox"/> logical and persuasive; cogent application of law to the facts	0-10: 0-3 11-20: 3-6 21-35: 6-11 36-50: 11-15	0-10: 0-3 11-20: 3-6 21-35: 6-11 36-50: 11-15
					/ 15	/ 15
<i>Ingenuity and ability to answer questions</i>	<input type="checkbox"/> unprepared for questions reasonably to be expected <input type="checkbox"/> evades answering or fails to answer questions <input type="checkbox"/> inflexible or too ready to concede; responses unclear	<input type="checkbox"/> fails to perceive the object of questioning <input type="checkbox"/> responses sometimes too lengthy or too brief <input type="checkbox"/> responses sometimes lack clarity or directness	<input type="checkbox"/> generally perceives the object of questioning <input type="checkbox"/> responds to questions directly and concisely <input type="checkbox"/> clear responses: handles questions and interventions competently	<input type="checkbox"/> accurately perceives the object of questioning <input type="checkbox"/> effectively integrates responses and argument <input type="checkbox"/> clear responses that engage well with the court's views	0-10: 0-3 11-20: 3-6 21-35: 6-11 36-50: 11-15	0-10: 0-3 11-20: 3-6 21-35: 6-11 36-50: 11-15
					/ 15	/ 15
<i>Speaking ability and delivery</i>	<input type="checkbox"/> lacks clarity of language and expression <input type="checkbox"/> poor eye contact; fails to engage with bench <input type="checkbox"/> fails to observe correct court etiquette and terminology	<input type="checkbox"/> lacks variation of tone, pace and expression <input type="checkbox"/> strives to engage with bench but needs confidence <input type="checkbox"/> good knowledge of court etiquette and terminology	<input type="checkbox"/> good use of language and expression <input type="checkbox"/> engages with bench in handling questions and interventions <input type="checkbox"/> comfortable with court etiquette and terminology	<input type="checkbox"/> skilful use of language, gesture and expression <input type="checkbox"/> conveys ideas with ease, skill and confidence <input type="checkbox"/> comfortable with court etiquette and terminology <input type="checkbox"/> conveys sincerity	0-10: 0-2 11-20: 2-4 21-35: 4-7 36-50: 7-10	0-10: 0-2 11-20: 2-4 21-35: 4-7 36-50: 7-10
					/ 10	/ 10
Final Individual Score:					/ 50	/ 50
Team Score:					/ 10	