



International Migration and Refugee Law Moot Court

VU Amsterdam

Migration Law Clinic

2019

RULES



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1. General

1.1 Moot court Overview

The International Migration and Refugee Law Moot Court Competition is composed of two parts.

During the first written round the best 12 teams will be selected. The 12 selected teams will take part in an oral round on 9 and 10 May 2019 at the Vrije Universiteit in Amsterdam. The moot court competition will be based on a fictional case described in the case materials distributed to the teams on 10 January 2019 (see the timetable set out in Rule 1.2.).

Please address any questions concerning the organisation of the moot court competition and the moot court rules to Romain Lanneau at migrationmootcourt.rch@vu.nl.

1.2 Timetable

2 January 2019	Deadline for registration
9 January 2019	Deadline submission full registration form
10 January 2019	Case materials sent to registered teams
8 February 2019	Deadline submission questions for clarification
4 March 2019	Deadline for submitting written pleadings
4 to 18 March 2019	Evaluation of the written pleadings by the evaluating panel
18 March 2019	Written round results and invitation for the oral pleadings
18 March- 22 April 2019	Travel arrangements and visa applications
22 April 2019	Written pleadings sent to opposing teams
9 and 10 May 2019	Oral pleadings and seminar Vrije Universiteit

1.3 Registration

Teams should register via the website (<https://migrationlawclinic.org/moot-court-competition/>) before 2 January 2019. Fully completed registration forms should be submitted via email to migrationmootcourt.rch@vu.nl before 9 January 2019 and by persons who are eligible in accordance with these rules. The registration can be made by an institution or individuals.

Each university is allowed to register one team for the moot court competition.

1.4 Team representative

As part of the Moot Court registration, each team shall designate one person to act as team representative (contact person). 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 the organisation of the moot court competition has the appropriate team contact information, check their mail and e-mail regularly, and become thoroughly familiar with the Moot Court Rules and the clarifications that may be issued.

1.5 Accommodation and travel costs

Two nights accommodation (on 8 and 9 May 2019) will be provided to all students (not coaches) of the teams, who come from a University located more than 2 hours by public transport from the Vrije Universiteit Amsterdam.

Teams have to bear their own travel costs. Teams from low income and lower middle income countries (see [the world bank list of economies](#)) can apply for a travel grant and an accommodation grant for their coach in the full registration form, which they will receive after registration via the website. The decision on the applications for grants will be taken together with the decision, which 12 teams will go through to the oral round in Amsterdam.

2. Teams and coaches

2.1 Team Composition

A team shall be composed of (not more or less than) 4 students.

The team shall have the same members during the entire moot court competition. Team members can change only in the first three weeks after distribution of the moot court case (until 31 January 2019). Thereafter, changing team members is allowed only in exceptional cases and for justified reasons (e.g. health). Teams must ask for written approval to carry out such a change by sending an email to migrationmoot.rch@vu.nl.

Based on the evaluation of the submitted written pleadings, teams participating in the first round may or may not qualify for the oral round on 9 and 10 May 2019 at the Vrije Universiteit in Amsterdam. If a team participates in the oral round, all team members must be present at all pleadings they are scheduled to attend. If a team, or a team member cannot take part in (part of) the oral round of the moot court for justifiable reasons (e.g. health), the team representative should immediately notify the organisation of the moot court competition.

All team members should be actively enrolled in a bachelor or master programme of law (PhD students are not allowed to participate). Non-law students may participate, if they have a sufficient level of knowledge of international migration and refugee law. We recommend that participating students fulfil the admission requirements of the [Master Specialisation International Migration and Refugee Law](#). Students may not have professional pleading experience.

2.2 Coach

Each team shall have a coach.

A coach may advise only one team and must remain its coach during the entire moot court competition. Coaches can be changed only in the first three weeks after distribution of the moot court case (until 31 January 2019). Thereafter, changing the coach is allowed only in exceptional cases and for justified reasons (e.g. health). Teams must ask for written approval to carry out such a change by sending an email to migrationmoot.rch@vu.nl.

A coach cannot be a member of the evaluating panel in the written round or a judge in the oral round of the moot court competition.

It is advisable to choose a coach who has experience working with students, who has a background in international migration and refugee law, and who is accessible for preparatory consultations. It is advisable to choose a coach with good command of English.

2.3 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 written pleadings. A coach may not conduct research of any sort for the team.

3. Evaluating panel and judges

3.1 Evaluating panel

The written pleadings submitted by the participating teams are evaluated by two members of the evaluating panel.

Each team is required to nominate one qualified person (a member of the academic staff or a professional in the field of international migration and refugee law), who consented to be a member of the evaluating panel. This member shall not be involved in the (preparations of) the participating teams. The name of the member as well as his/her email address shall be included in the full registration form.

Each member of the evaluating committee evaluates two or three written pleadings in the period between 4 and 18 March 2019. The criteria for this evaluation are set below in section 6.4.

3.2 Judges

Moot Court Judges in the oral round will be experienced practitioners, judges, UNHCR or NGO representatives and renowned experts in the field of international migration and refugee law. The names and affiliations of moot court judges will be announced on the Migration Law Clinic website.

Participating teams 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.

4. Moot Court Case and Respective Case Materials

4.1 Content

The moot court case is fictitious but based on a realistic situation. The initial case will concern non-*refoulement*. This case will be the basis for the written pleadings and the first rounds of the oral hearing. The finalists of the moot court competition will prepare and plead on a new migration law topic (for example family reunification) during the second day of the oral hearing. The teams should stick to the facts as they are presented in the moot court case and the materials provided. Of course, they are allowed to use publically available country of origin information with regard to the migrants country of origin. The team will only be required to apply international treaties adopted by the UN, such as the Refugee Convention, the Convention against Torture and the International Covenant on Civil and Political Rights. References to regional or national instruments or case law, which are relevant for the interpretation of these treaties are allowed, if they are clearly referenced and translated into English.

4.2 Distribution of the case and materials

The moot court case and materials will be distributed at the same time to the representatives of all registered teams (on 10 January 2019). The case and materials will also be made available on the website of the Migration Law Clinic (<https://migrationlawclinic.org/moot-court-competition/>). The Team Representatives shall confirm the delivery of the Case Materials by email (migrationmootcourt.rch@vu.nl). If the case and materials have not reached the teams within reasonable time, the team representative shall inform the organisation of the moot court competition.

5. Clarification questions about the moot court case

5.1 Requests for Clarification

Participants may submit requests for clarification of the moot court case until 8 February 2019. Requests for clarification shall be submitted only by the team representative to Romain Lanneau via email migrationmootcourt.rch@vu.nl. Each team may submit up to three (3) requests for clarification regarding the moot court case.

5.2 Distribution of answers to requests for clarification

The requests for clarification regarding both the Rules and the Case will be answered within 5 working days and the answer will be distributed to all teams at the same time. The identity of the team which has requested the clarification will not be revealed. The organisation of the moot court competition will refrain from answering requests that could significantly alter the outcome of the case.

6. Written Pleadings

6.1 Type

Each team participating in the moot court competition shall prepare written observations on behalf of the applicant (the migrant) as well as written pleadings on behalf of the respondent (the authorities of the fictitious state).

6.2 General Requirements

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

The font and size of the text of all sections of the memorandum (including the footnotes) must be the same, except for the headings. The text of all sections of the memorandum must be in Times New Roman 12. The text of all sections of the written pleadings, 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.

Footnotes should be used to cite authority only. Footnotes may not include substantive pleadings, examples, or any text other than the actual citation.

The written pleadings 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 written pleadings 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 Format of the written pleadings

Teams are obliged to follow the formatting order outlined below. Each section shall include only information that is relevant to that section. The written pleadings shall contain the following sections:

- (a) Cover page
- (b) Table of contents
- (c) List of abbreviations
- (d) Statement of relevant facts
- (e) Country of origin assessment
- (f) Summary of issues and arguments
- (g) Arguments
- (h) Submissions
- (i) List of sources (treaties, jurisprudence, literature, guidelines, etc.)

All written pleadings submitted in the moot court must conform to the following general requirements. Teams will be penalized for failure to keep within these requirements and members of the evaluating

panel may also take the appearance of the memorandum into consideration when evaluating the written effort.

The written pleadings may NOT exceed 6000 words each (not including footnotes).

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: (will be specified in the Case Materials)
- (ii) The title of the document (e.g. "Brief of the Respondent" or "Brief of the Applicant")
- (iii) Team number (assigned after team registration)

b) Table of Contents

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

c) List of Abbreviations

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

Example:

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

d) Statement of Relevant Facts

The Statement of Relevant Facts section may not exceed 300 words in length. This figure does not include footnotes.

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

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

e) Country of Origin Assessment

The Country of Origin Assessment section may not exceed 300 words in length. This figure does not include footnotes. This section contains general human rights country assessment. It can also include country information related to the specific human rights abuses in the country of origin, which is relevant for the case. This section should be based on country of origin information (COI) research.

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

origin assessment.

f) Summary of issues and arguments

This section shall summarize legally relevant issues raised in the case and shall list each issue in the form of a numbered question. Moreover it summarizes the legal argumentation. Write only relevant legal arguments you are going to develop in the section 'arguments'.

g) Arguments

Here you develop the arguments mentioned in the previous section. Structure your argumentation into comprehensible sub sections.

h) Submission

This section may not exceed 300 words in length. Suggest the court what decision should be issued in the case.

i) List of Sources

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

It is advisable to consistently comply with a specific set of reference guidelines, such as [OSCOLA](#).

6.4 Evaluation of the written pleadings

The written pleadings will be assigned to two evaluating members randomly, who will give substantive point scores between 0 and 50. The score the team receives for written pleadings is the average of the scores given by the two members of the evaluating committee. The evaluating committee evaluate the memoranda as per the following guidelines:

- **Legal Argumentation**

(Poor: 0–5; below average: 6–10; average: 11–15; above average: 15–18; excellent: 19–22)

- Whether the written pleadings discusses the facts and legal principles relevant to the case
- Proper and articulate analysis of the legal questions involved
- Application of relevant legal principles to the facts
- Logic and reasoning
- Evidence of original thought, creativity
- Persuasiveness

- **Quality of Research**

(Poor: 0-4; below average: 5-7; average: 8-12; above average: 13-15; excellent: 16-18)

- 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; average: 3; above average: 4; excellent: 5)

- 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 Moot Court Rules
- Quality of layout

Summation of Points

Written pleadings applicant	50
Written pleadings respondent	50
Maximum Possible Points for one team at the written round	100

Members of the evaluating panel may assign 0-5 penalty points for substantive legal arguments outside of approved sections of the written pleadings. Penalty points are deducted from the score. Incomprehensible submissions may be disqualified at the evaluating member'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 twenty minutes. The twenty-minute allotment of time shall include the pleadings of both oralists from one team. Each team member should plead for at least eight minutes in order to make sure that they both make a substantial contribution. The team member, who is pleading or answering a question will stand before the court.

Five Minutes will then be granted for both rebuttal and surrebuttal.

7.2 Pleading Order

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

1. Pleadings Migrant – Applicant 1 and Applicant 2
2. Pleadings State – Respondent 1 and Respondent 2
3. Rebuttal Migrant – Applicant 1 and/or 2
4. Surrebuttal State – Respondent 1 and/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 the arguments mentioned in their written pleadings. Legal arguments made in the written observations may be further supported by new country of origin information.

Submissions from the memoranda may not be changed.

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

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

Legal issues which were not addressed in the primary pleadings may not be raised in the rebuttal or surrebuttal. Arguments which were addressed in the primary pleadings may not be repeated in the (sur)rebuttal.

7.4 Role of the bailiff

The bailiff will announce the start of the court session, the name of the case and the names of the judges on the panel. The bailiff will keep track of the time and signal to each side 10, 5, 2 and 0 minutes remaining of the 20 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 and record 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 only be posed to the applicant and the respondent after the respondent's arguments and/or after the (su)rrebuttal and shall preferably take no more than ten minutes.

Either team member may respond to the judge’s questions. Judges may ask questions during the pleadings only to clarify a statement or point. Judges may request an oralist to further expand upon arguments at the end of any oral presentation.

7.6 Commentary by judges

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

7.7 Extension of time at judges’ discretion

Judges may, at their discretion, extend the total argument time of a team beyond the twenty 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. Oral round

8.1 Pairing procedures

Each team will compete twice in the preliminary rounds: two members will plead on behalf of the applicant, the other two members will plead 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 according to the scores in the written round in accordance with the timetable:

Poule A	Poule B	Poule C	Poule D
Team placed 1	Team placed 2	Team placed 3	Team placed 4
Team placed 8	Team placed 7	Team placed 6	Team placed 5
Team placed 9	Team placed 10	Team placed 11	Team placed 12

The exchanging of written pleadings will be executed by the organisation of the moot court competition on 22 April 2019. The written pleadings will be sent out via email and the team contact person shall confirm delivery by email to migrationmootcourt.rch@vu.nl.

8.2 Panels at the Preliminary Rounds

In the preliminary rounds, teams plead before a panel of three judges. The judges will themselves appoint a presiding judge (e.g. by consensus or coin toss). The presiding judge is the final arbiter in cases of disagreement over awarding of additional time (per Rule 7.7). The bailiff will also participate in the evaluation of the team’s performance as described in Rule 7.4.

Judges shall indicate any possible conflict of interests prior to constituting the panel. During the preliminary rounds, no other teams or team members may be present at the pleadings.

8.3 Judging the Preliminary Rounds.

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

- **Legal Argumentation**

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

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

- **Background Preparation**

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

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

- **Presentation**

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

- Clarity and organization
- Persuasiveness
- Thoroughness
- Team synergy
- Behaviour appropriate to the formality of the setting
- Rhetorical skills

Summation of Points

Pleading of the applicant (average of three judges)	50
Pleading of the respondent (average of three judges)	50
Maximum possible points for one team at the oral rounds	100

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

Addressing a new legal issue in the rebuttal, which was not addressed in the primary pleadings	2 points per occurrence (maximum 6)
Scope of rebuttal Exceeding scope of the applicant’s pleading Exceeding scope of respondent’s pleading	1-5 points
Team exceeding pleading time without judges’ permission	3 points per minute
Team not appearing on time without accepted explanation	3 points per minute (maximum 50 points)

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

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

8.4 Semi-final round

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

The pairings of the teams will be made by a random draw. A coin will be tossed to determine the positions of the teams (applicant or respondent). Each team will plead only once and will not switch sides after the first session. The teams shall appoint two of their members to plead in the semi-finals.

For the semi-final round the teams will receive new information concerning the case, which should be included in their pleadings. All team members are allowed to prepare new arguments.

The teams will plead before a panel of three judges. Judges will indicate any possible conflict of interest prior to constituting the panel. All teams that did not qualify for the semi-final rounds may be present at the pleadings. The winners of the semi-final rounds will be selected by the panel of judges based on their evaluation in accordance with the criteria set out in Rule 8.3.

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

8.5 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.

At 8 am on the morning of the final, the teams will receive a new legal question concerning migration law (eg family reunification or detention). The teams shall plead on this case during the final.

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.

9. 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.