

PORGMUN 2017

The International Court of Justice

How to write a Memorial Brief

Welcome to model of the International Court of Justice!

The first task of the Advocates is to prepare a Memorial Brief (a written pleading), where they describe the facts of the case, their legal evaluation and propose the judgment, which is desirable for their client. The challenge is to present the facts of the case and legal arguments in a logical and convincing manner in favor of your client. The Cases are prepared so that there is not one clear solution and any of the Parties can be the winner. The result depends on the way you, as the Advocate, manage to explain the Case and argue your interpretation of applicable laws (mostly international treaties, case-law of international courts and custom-law).

During the conference, you will meet with the other Advocates of your client. Together you will discuss your Memorial Briefs, choose the best arguments and prepare an oral pleading, which will be delivered to the Justices by two Advocates. The structure and substance of the oral pleading should be similar to the written pleadings, however **it is certainly not advisable to read the whole pleading**. Justices will ask you questions and it is therefore important to understand deeply your arguments and the law (e.g. treaties, case-law) you use to support your arguments. More information on the oral pleading will be provided to you in another handout.

Legally binding sources of international law are mainly international treaties, customary international law (rules arising out from established practice of states) and judgments of international courts. Important sources of law relevant to our cases will be included in case overviews

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However, please note that it is by no means exhaustive. You will have to do your own research, look for articles written by experts and try to find useful case-law. We also strongly

advise you to read **the Charter of the UN and the Statute of the International Court of Justice**. Expert opinions are not a legally binding source of law (the Court might decide contrarily to them). They are nevertheless very useful for you to understand the problems and to help you with interpretation of rules incorporated in treaties or customs. Sometimes, they can even be convincing enough for the Justices to give a ruling in conformity with the expert opinions.

Do not underestimate your research and work, the more effort you put in the preparation, the more fun you will have at the actual conference. If the cases are well-prepared and well-executed, you truly experience great ICJ simulation with passionate and intellectually-challenging debate.

If you have any questions about the Cases, the rules or the Memorial Briefs, feel free to contact us at crha@porgmun.cz. We will make every effort to help you, but do not wait until the last minute to contact us. The deadline is final and will not be extended.

Your Memorial Brief (sections v. – viii.) **should be about one and a half page long, the maximum is three pages**. Try to be brief, but informative and convincing. There is no point trying to make your pleading longer if you are sure that you have already explained everything which would help your client win the case. It is not strategical :)

Memorial briefs shall be submitted to crha@porgmun.cz no later than 31st March. The briefs will be provided to the Advocates of the opposing Party before the Conference. At the end of the Conference, the **Outstanding Brief Award** will be given to three Advocates who prepared the best written pleadings.

All briefs must include the following sections (please note that for the purposes of our model ICJ, the structure of the Memorial Brief differs from the real ones):

- i. Title Page (cover)**
 - contains names of the Applicant and the Defendant and name of the Advocate
- ii. Table of Authorities**
 - a list of case-law, treaties and other sources of information upon which you rely in the preparation of your Memorial
- iii. Statement of the Facts**

- presentation of the facts of the Case from the point of view of your client. Do not make up false information or details, but try to highlight the fact which support your argumentation and are beneficial for your client. This section should be about one to two paragraphs long.

iv. Summary of the Pleadings

- in this section you briefly present your main arguments. It should not be longer than two paragraphs as it is only a summary.

v. Pleadings (the argument)

- the longest and most important part of your Memorial Brief. In this section you have to explain all your arguments in a logical and persuasive way while supporting it by law (treaties, customs, judgments). The best way to do it is to use the *CRAC structure*. This means: Conclusion, Rule, Application, Conclusion. An alternative is the *IRAC structure*: Introduction, Rule, Application, Conclusion.
- Conclusion - state the thesis you are going to prove. The effect on the reader is that he knows what you are going to argue for and helps him with orientation in your argumentation. Alternatively, you can start by Issue and state what the problem is (which you are then solving by your argumentation).
- Rule – state the rules (e.g. treaties, custom or a judgment of an international court) which are relevant to the Case (to the problem). Of course, mention the laws which are in favor of your position, however, it is helpful to mention laws which seem to be against your client and then present a reason why this law does not apply at the Case at hand.
- Application – state how do the Rules apply to the Case. You show why the facts in your case are similar or different from the facts in the rule. This is your interpretation of the rule which must be beneficial for your client. It is the substance of your argumentation. If you have more than one Rule to apply, just follow the format Rule, Application, then Rule, Application.
- Conclusion – state the thesis. You conclude here by stating what effect does the above argumentation have on the assessment of the Case. If you are the Applicant you basically conclude that your claim is rightful. If you are the

Defendant, your conclusion should in its substance be that the Applicant's claim is not rightful.

vi. **Prayer for Relief**

- how you want the Court to decide. For the purposes of our ICJ simulation, this section should be one to two paragraphs long

In order to help you write your Memorial Briefs, we will prepare a sample one, dealing with a different case than those which will be judged by our model ICJ this year. It should give you a clearer idea on what your Memorial Brief should look like.