

In the context of OxIMUN2017, the ICJ will have to handle two cases:

1. Advisory Opinion (Advisory opinion on the legal consequences of the construction of the wall in Palestinian territory)

2. Contentious case (Application of the Convention on the prevention and punishment of the crime of genocide)

The advocates and the judges will work together to come up with a decision. During the simulation, we assume that the Court does have jurisdiction over the case at hand. Jurisdiction will therefore not be discussed as an issue. It is the material and legal points that are expected to be debated.

Contentious case's clarification

Actors

Applicant: The State introducing an action in front of the Court and calling it to settle a dispute. It consists of a team of 2 advocates which have to defend the interests and positions of the applying State. The team has to prepare a series of documents which have to be sent prior to the simulation.

Respondent: The State against which an action was brought. It consists of a team of 2 advocates which have to defend the interests and positions of the responding State. The team has to prepare a series of documents which have to be sent prior to the simulation.

Panel: The panel is composed of 13 judges deciding upon the case. Each judge comes from a different Member State, including from the applying and responding States, and has therefore different sensibilities regarding the legal background of origin (common law, roman law, etc.) but does not represent his/her country. Each judge is bound by the law, impartial and independent from his/her country of origin

Main documents

Memorial: The memorial compiles the main arguments of the advocates. It is +/- 2 pages long. The advocates will receive each other's memorial. It generally contains the claim, the main legal arguments (without giving away your pleading strategy) and the actions that the advocates would like the court to take.

Stipulations: It is a special agreement between the two parties on the facts of the case. It is agreed upon and signed by both parties before the conference (bullets points of solid facts mutually understood by both parties, 1-2 pages). The purpose of the stipulations is to advance quickly on the case as the parties know where are the points of contention. This implies that the advocates will have to get in touch well ahead of the submission deadline!

Evidence list: The evidence list is a list of maximum 15 evidences that the advocates want the judges to have. The evidences can be challenged on different ground, especially authenticity and relevance. It is therefore essential that the evidencelist presents all the information necessary to identify the source of the evidence. The advocates will have to introduce the evidence packet during their Presentation of evidence and to describe the main content of each evidence.

Evidence packet: The evidence packet is a bundle of documents (numeric and paper version required) with the evidences that the advocates intend to present to support their legal arguments. It must contain a table of content (= the evidence list) and the evidence must be numbered. The Applicant names the evidences using the alphabet (A, B, C) and the Respondent names the evidences using numbers (1, 2, 3). Moreover, every page must be numbered. Evidence is any piece of tangible information decided to be reliable by the

Court. The Advocates present to the Court the evidence they gather and that the Court should take into consideration for taking its decision, both in facts and in law (International treaties, Resolutions, academic articles, newspaper articles, etc.). The other party can either accept the evidence or raise an objection based on authenticity or relevance, which the Court can take into consideration during deliberations. Note that the witnesses' testimonies will become evidence. However, the advocates statements are notevidences.

Proceedings

The proceedings consist of two phases: the debates and the deliberations. They are governed by the Rules of Procedure. During the debates, the two teams of advocates present their legal arguments to the judges in a convincing way. These debates are divided in different steps. Please note that the timing described hereunder is purely indicative and will be fixed at the discretion of the President.

PART I - Debates

1. Oath

President opens the session. The judges and advocates take oath.

2. Stipulations read into the record The Applicant reads each stipulation (generally 5 to 10) separately. The Respondent is asked if they agree. If so, the President says "so-stipulated", and that single stipulation is evidence, which can be considered by the judges later on.

3. Oral statements

Both teams of advocates are allowed to present their arguments concerning the case, for a time determined by the President.

a. Applicant's Opening Statement (+-15 min)

The applicant is expected to present its main arguments, in a structured way and develop what it would like the court to decide.

b. Applicant's Presentation of Evidence (+-30min)

During the presentation of evidence, the advocates read the title of the evidence. The President will ask if opposing counsel have seen the piece of evidence. Then opposing counsel will be asked if there is an objection to AUTHENTICITY or RELEVANCE. Opposing counsel likely will not agree with the truth of the document. The document's truth or accuracy can be raised later at Closing Argument. The advocates cannot describe how the evidence helps their case. This can be done later in the Closing Argument.

c. Respondent's Opening Statement (+-15 min)

See description for Applicant, applicable for the Respondent

d. Respondent's Presentation of Evidence (+-30min)

See description for Applicant, applicable for the Respondent

4. Weighing of Evidence (+-90 min)

The Court withdraws in closed session to rate the evidences as high, medium, or low based on their credibility, relevance, accuracy and significance of the evidence. At the discretion of the President, the evidences can be shared between judges, which will be given +-10 min to examine them. They will talk for 2.5 min on their findings (whether the piece of evidence helps a party or another, whether it is relevant and

ultimately how much weight it should be given). During this time, the advocates are not within the room. They can be advised to is time, the advocates can finalize the preparation of witnesses.

5. Testimony of witnesses (+-20 min/witness)

Witnesses are chosen and prepared by the advocates' team in advance. Witnesses cannot be fictional and must be well prepared. They shall undertake oath and should undergo direct examination and cross examination by both parties, and examination by the judges. Objections can be raised by parties during direct and cross examination (Hearsay, Leading Question, Speculation).

At any time, judges may ask a question to the witness, subject to the of the President, by raising their placard. It is however advised to wait for the end of the examination to do so. a. Direct examination

The purpose of direct examination is to make the witness to state facts that will help judges deciding on the case by asking questions. Two basic rules during direct examination: no leading questions and no hearsay. Firstly, during direct examination, advocates cannot ask leading questions. Leading questions are those questions that suggest the answer by the very nature of the question. Secondly, advocates cannot ask hearsay questions. That is: ask a witness about an out of court statement or act allegedly made by someone other than the witness, it is testimony a witness provides that is not based on personal knowledge but is a repetition of what someone else said.

b. Cross examination

Cross examination cannot exceed the scope of the direct examination of the witness, it must relate to the questions asked on direct examination.

c. Repeat direct and cross examination until there is no more questions

d. Judges' Questions to the witness

6. Questions by judges (+-60min)

Both teams of advocates are questioned by the judges, who aim at clarifying the issues, the facts and points of law raised in their statements. A follow-up question by one of the judge is only at the discretion of the President. The judges can question advocates on all arguments they made, but can ask any questions which will help the judges to decide.

7. Closing statements (max. 30 min each)

Each party has the opportunity to speak one last time in order to: address each contention made by the opposing party, re-state their legal arguments and support them with the evidence introduced and/or bring up any new legal arguments.

PART II- Deliberation

Only the judges are taking part in the deliberation, which is a discussion on the outcome of the case.

1. Deliberation

After hearing the arguments of both parties, the judges discuss and analyze the case in order to determine the correct application of international law, which will be compiled in the judgement. Firstly, judges list together the issues that need to be decided upon. Secondly, they discuss and debate the evidences, facts, points of law, etc. and try to come up with a motivated decision. The judges address the case on the basis of a speakers list and can raise motions for unmoderated caucus, but can never enter into contact with advocates. The judges are however not obliged to raise in order to deliver their speeches/interventions.

When the president considers that the deliberations are advanced enough, the panel votes on each issue of the case. A majority of judges must vote in favor of a solution in order for it to pass.

2. Redaction of the judgement and the separate and/or dissenting opinions

All judges are obliged to participate in the redaction of the judgement, either in the judgement or in a separate and/or dissenting opinion. After the redaction, Judges have to vote on the judgement.

3. Delivery of the judgement

The president reconvenes a session, in presence of both parties, to deliver and read the judgment of the Court.

How to prepare?

Judge

- Get acquainted with the facts and legal issues at hand, especially the Memorials
- Reflect on how your judicial system of origin could influence your reasoning (Caveat: you are an independent and impartial judge, you don't represent a country!)
- Read some ICJ judgements to get an idea of the writing style and the reasoning of the ICJ

Advocate

- Get acquainted with the facts and legal issues at hand
- Build up strong legal arguments based on international law + predict the other's arguments.
- Draft your Memorial and Evidence list and submit it on time
- Get in touch with the other advocates' team and draft together the Stipulations. Send a draft on the basis of which you can negotiate and discuss

Advisory opinion's clarification

- All delegates (Judges and Advocates) will play the role of the Judges.
- All delegates has to submit a position paper on the case, before the conference.
- After oaths, election and opening speeches, the formal debate will follow the OxIMUN2017's Rule of Procedure.
- All delegates have to write only one advisory opinion and have to vote on it.