



## **PANAMUN XXXII**

### ***Rising from Adversity: Turning Challenges into Opportunities***

## **ICJ SPECIAL COMMITTEE**

### **Delegate Handbook**

International School of Panama

October 23-25, 2024

## I. Introduction

Welcome to the International Court of Justice (ICJ) at PANAMUN! Thank you for applying and challenging yourself to solve such complicated legal issues. To ensure a more enjoyable conference, please use this handbook to guide your preparation for the trial.

Unlike the rest of PANAMUN, ICJ is a court that will be simulating a trial. The ICJ is a separate organ of the United Nations and is responsible for solving legal disputes between countries. Though this is a Model ICJ and we do recommend reading the [ICJ Rules of Court](#) (specifically Articles 38, 54-78), the procedure does not follow those Rules exactly. Because PANAMUN is a THIMUN-affiliated conference, our ICJ closely mimics the THIMUN ICJ Procedure, created by Robert S. Stern; however, some elements have been adapted to fit PANAMUN.

In the ICJ, the Applicant refers to the party that is “asking” for the trial, while the Respondent is the “defendant”--the party that is usually being accused. The Applicant and Respondent parties will be represented by two advocates each, played by delegates. Delegates are therefore acting as lawyers for each side. There are nine judges, also played by delegates, who serve to review evidence, interrogate witnesses and advocates, and ultimately decide who “wins” the case. Additionally, each party interviews 2-3 witnesses, who will be cross-examined by the opposing counsel, and who will be played by random actors chosen by advocates prior to the trial.

Your committee will primarily be run by two chairs and a Registrar and closely overseen by the Deputy Secretary General of Special Committees. The two chairs will serve as your Presidents, supervising court proceedings, answering questions about procedure and the conference, and occasionally weighing in on court matters when necessary. The Registrar organizes evidence and swears in witnesses, and may be called upon by the Presidents or Judges for assistance.

## II. Prior to the Conference

### Expectations

A successful trial requires the work and dedication from all participants. Though the ICJ does not require position papers, there is still a lot of preparation beforehand. Delegates in Panama are expected to attend the ICJ Workshop (the Mock Debate for the rest of PANAMUN) the Wednesday before the conference starts. All delegates are expected to respond when contacted by other delegates, chairs, and the secretariat, whether through email or text.

### Advocates (Prosecutors and Defendants)

Advocates do the bulk of their work before the conference begins so that the trial runs smoothly, allowing advocates to showcase their hard work. It is important to note that at this time, due to the heavy workload, advocates are to preferably attend the International School of Panama. Advocates are expected to read the entire Issue Bulletin and then do their own research to formulate their argument. Since each party is represented by two advocates, co-counsels should be in contact regularly; there should also be regular contact between parties.

**Prosecutors** focus on defending the party who filed the legal battle at the International Court of Justice. In the Armenia vs Azerbaijan trial, prosecutors should focus on defending Armenia's side.

**Defendants** focus on defending the party who is on trial. In this case defendants should find the best arguments to defend Azerbaijan's side.

Due the Monday of the first week of October (October 7, 2024):

- **Memorandum of Points and Authorities:** the ICJ version of the position paper; a 2-3 page document, 12 size font, double spaced. Advocates should simply state and explain the facts and/or laws that are pertinent to their position without giving away their trial strategy.

Due the Monday of the second week of October ( October 14, 2024):

- **List of Real Evidence:** this lists the evidence--laws, facts, articles, etc.--each party will be using in the trial to support their argument.
  - **List of Witnesses:** each party is allowed to use a maximum of two witnesses. Advocates must list their names, positions, and relationships to the case. Witnesses should be real, viable witnesses, but names may be made up.

All of these documents should be sent to your chairs' emails; they will then distribute them to the opposing counsel, judges, and secretariat. Note that during the Workshop,

advocates will be allowed to meet with their witnesses and the opposing counsel's witnesses to prepare for examination and cross-examination.

### III. During the Conference

#### The Role of Judges

Judges, referred to by "Your Honor" or "Judge (Name)" throughout court proceedings, are upholders of the law, and should not be biased in any way. Judges are both "finders of fact" and "triers of law", meaning they must make decisions about evidence as well as make the final Judgment on the case. Unlike advocates, judges do the bulk of their work during the conference. Crucially, judges *should not*:

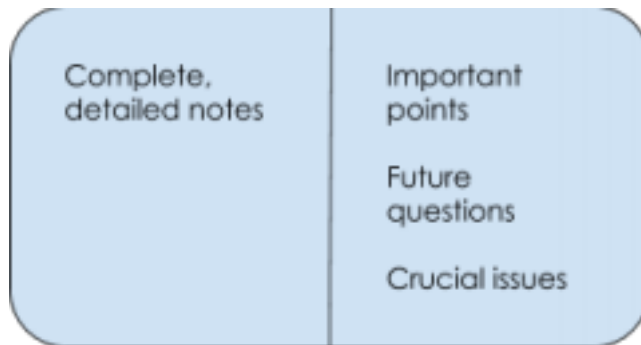
- "pre-judge" the case
- discuss the case with each other until deliberations (end of the trial)
- discuss the trial with the advocates prior to or during the conference.

Judges *should* read the Issue Bulletin to familiarize themselves with the case and are welcome to do additional research, provided they remain unbiased.

As "finders of fact", one key job is to weigh and consider evidence. When advocates present evidence, the opposing counsel may object to its admissibility. If it is admitted (decided by chairs), judges must consider the **relevance, authenticity, and bias** when considering its "weight". Weight is how important and persuasive a piece of evidence is to the overall case. Because the Applicant only needs to persuade a simple majority,

judges may look at each individual piece of evidence as either being **50.1% persuasive** or not. Then, at the end, judges must weigh all the evidence and decide if it is 50.1% persuasive or not.

Judges are expected to take extremely detailed notes, either on paper or on the computer, throughout the trial to help them remember key points to be referenced later on. Robert S. Stern, ICJ expert and founder of the ICJ at THIMUN, suggests this format:



Note that if judges want an award, they must submit their notes to the Chairs at the end of day two. They will be returned by Friday morning.

## The Role of Advocates

The advocates try to persuade the judges to agree with their argument and ultimately have the case rule in their party's favor. Advocates must not, in any way, misconstrue evidence or deceive the judges with their arguments. It's important to note that advocates' statements do not count as evidence; advocates simply explain how evidence proves their point. Advocates are expected to act professionally throughout the trial and not deliberately attack the opposing counsel.

Because ICJ cases are civil, Applicants have the lowest burden of proof (the lowest requirement to "prove" their party's argument) possible: **the Preponderance of the Evidence**. This means that advocates only have to sway a **simple majority** of judges to "win the case." Therefore, evidence only has to be 50.1% convincing to win.

Advocates are involved in the entirety of the trial. See "Procedure" for descriptions of each section of the trial. Note that co-counsels are expected to share the work and all trial duties. It is up to the advocates to figure out how to best split up the work to maximize their chances of winning and utilize each others' strengths. \*We remind you that PANAMUN values **diplomacy and collaboration**; competitiveness, dominating the

trial, and excluding your co-counsel will not help you win an award.

## Procedure

**A. Opening Speech by the Applicants 5-10 minutes max.** The “introduction” to your case. State what you intend to prove: “We intend to prove/show that...” Do not make promises you cannot keep. State your prayer--what is it you want the court to do and rule on? Applicants can split the time or one advocate can do it all.

**B. Stipulations read into the record for 10 minutes.** The Applicant will read out each stipulation: “The parties have stipulated that (1)...” individually and the Respondent will be asked if they agree. If so, the President will say “so-stipulated”. 5-10 stipulations are recommended. Remember that these are to be figured out before the trial so they can be read out without any objections (if a party objects, they are not stipulations). These will be considered as evidence by the judges.

**C. Marking and presenting “real”/tangible evidence by Applicant 45 minutes.** The counsel will ask that a piece of evidence be “marked”. Applicants’ evidence is marked in numbers. The counsel will read out the title of each piece of evidence and then authenticate it, providing the author, date published, and the web site/source; they may present some background information on the author if necessary.

The president will ask if the opposing counsel has seen this (hopefully, YES) and then ask if they object. Opposing counsel can only object on the grounds of the reliability, authenticity, and/or bias of the source.

Advocates will then summarize/paraphrase the source, but MAY NOT explain how the evidence proves their case.

**E. Marking and presenting “real”/tangible evidence by Respondent 45 minutes.**

Same as C., except Respondents’ evidence is marked with a letter.

**F. Review of Evidence by Judges in Camera 60 minutes.** Advocates will be asked to leave the courtroom and can use this time for final witness preparation. Each judge will be given a piece of evidence (maybe two) and will be given 20 minutes to carefully review it. Then, each judge will stand up and summarize their thoughts on the evidence (1-2 min). Judges should describe what the evidence is trying to say, if it helps the party that presented it or the other party, pros and cons, and then how much **weight** it should be given (how important the evidence is). Judges SHOULD take detailed notes throughout this process.

**G. Direct Examination by the Applicant (INCLUDES cross examination by opposing counsel and questions by judges) 2 hours.** Witnesses' responses to questions are called **testimony** and are to be considered as evidence by the judges.

Advocates cannot ask leading questions during direct examination--questions that suggest a specific answer, e.g. "You saw Johnny, didn't you?". "Did you see him?" is appropriate because it does not suggest an answer. Advocates also cannot ask **hearsay** questions. This means you cannot ask a witness about an act committed by someone other than the witness. More specifically, you cannot ask the witness a question that they do not have personal knowledge on--their answer would rely on acquired knowledge, e.g. "Ms. Evans, what did Mr. Smith say?".

After direct examination, the opposing side can cross examine the witnesses. Cross examination is supposed to decrease the witnesses' credibility and find holes in their statements. Overall, cross examination helps the judges determine the reliability and veracity of witnesses' statements. All questions asked during cross examination **MUST** be within the scope of the questions asked during direct examination. Here, advocates may (and should!) ask leading questions: "You were lying when you said \_\_\_\_, weren't you?". If done properly, most of these questions should have a yes or no answer. The Presidents will rule on any objections. The point is to find only the most reliable and credible facts that will lead to TRUTH.

When referring to another member of the court, use "the witness", "the judge", and "the advocate". Advocates may "refresh" witnesses' memory by stating a legal principle or other piece of evidence, "If I told you that..." However, this shows the judges that the witness isn't very prepared, leading to doubts of credibility. In direct examination, try to reinforce the credibility of your witness. Do NOT ask a question you don't know the answer to. Do NOT ask "Why" or argue with the witness (in either direct or cross examination).

The direct-cross cycle repeats for each witness until both sides agree to no more questions. Do NOT ask the same questions over and over again; do NOT explain how a statement proves your point. Know when to stop asking questions and when you have made your point. After the advocates have asked all their questions, the judges will be allowed to ask the witnesses questions. The advocates may ask a maximum of two more questions AFTER this. The suggested time for each witness is 30 minutes, with a 40 minute max. (direct, cross, judges' questions, and final questions). Note that witnesses **MAY NOT** use a personal script when answering questions.

**H. Same as "f." above, but by Respondent 2 hours. I. Admitting Evidence by Applicant 15 minutes.**

The party will ask the court to admit their marked evidence. Opposing counsel may object to the admissibility on the grounds of relevance, authenticity, reliability, and accuracy. Presidents will rule on these objections. Reliability and accuracy of evidence will determine how much weight the judges give it. Note that the more similar the sources' information is, the stronger the party's case.

**J. Admitting Evidence by Respondent 15 minutes. K. Questions by Judges to Advocates 75 minutes.** Judges may ask the advocates questions. Each judge should participate, going around the room. Judges should remain unbiased and not adversarial; the Presidents must keep order here. Judges should direct the questions to a specific party. Remember that advocates' statements are not evidence.

**L. Closing Argument by Applicant (both counsel) total 20 minutes.** Here is when advocates get to (finally) argue how the evidence presented proves their case. This is the conclusion--tie everything together! The Applicant can "reserve" some of their time and use it after the Respondent gives their closing argument.

**M. Same as above---Respondent (both counsel) total 20 minutes. N. Deliberation by Judges 2 hours.** The advocates must leave the room, and no further evidence can be presented. Judges must first each pick their 3 top issues--parts of the case that must be discussed before a decision is made, such as treaty applicability, liability, any damages, etc. These will all be written out and then placed in order of importance. 8-12 issues are suggested. Judges will discuss and then vote on each issue.

Judges will be asked to stand up and explain their vote. There is the Majority Opinion: those who agree with the verdict; Separate but Concurring: those who agree but for different reasons; Minority Opinion: those who disagree with the verdict; and Separate but Dissenting: those who disagree but for different reasons. One judge can be elected from each "party" Then, the judges all vote on the verdict. Once again, only a simple majority is needed.

**O. Writing the Judgment for 60 minutes.** The judges must write out their judgements, including the justifications for the judgment. All of the parties stated above (Majority Opinion, etc.) must be included with their reasons. Judges' contributions to this process will be considered for awards.

## IV. Awards Policy

The ICJ will have two awards: best judge and best advocate.

- **Best Advocate:** the advocate who prepares the best argument, with well-explained and supported evidence. The cross-examination is critical to earning the award, as it displays the ability to think more creatively in less time.
  - **Eligibility:** must submit all documents by the correct time and maintain good contact with co-counsel, opposing counsel, and chairs.
- **Best Judge:** the judge who remains unbiased, takes careful notes, and prepares important questions. This judge will also make good arguments for the weight of evidence and will become a leader during Deliberations.



- **Eligibility:** must submit notes at the end of day two and be an active participant throughout the case, including judging and weighing evidence and asking questions.