

MODEL COURTS OF JUSTICE 2019**INTERNATIONAL COURT OF JUSTICE
CONTENTIOUS JURISDICTION****HANDBOOK****THE CASE OF *FELICÉ* v. *ROSSLIA*****SPACE ACCIDENT AND POLITICAL ASYLUM CASE****A. PROCEDURAL STAGE**

“The jurisdiction of the Court comprises all cases which the parties refer to it and all matters specially provided for in the Charter of the United Nations or in treaties and conventions in force.”

-Article 36 (1) of the Statute of the International Court of Justice

During Model Courts of Justice 2019, the International Court of Justice shall be simulated with its Contentious Jurisdiction. The Secretariat decided on the following clause in order to create a simulation atmosphere for the discussion of the cases.

Any challenges against the jurisdiction of the Court or the admissibility of the case shall be overruled by the Secretariat. Parties to the case are expected to acknowledge the jurisdiction of the Court. Thus, the jurisdiction of the Court shall be established pursuant to Article 36 of the Statute of the International Court of Justice.

B. COMPOSITION OF THE COURT

The International Court of Justice shall be composed of President Judge, Registrar, Judges, Applicants, and Respondents.

C. WRITTEN PROCEEDINGS: MEMORIAL & COUNTER-MEMORIAL

1. Remarks

Written Proceedings starts with the submission of the Memorial of the Applicant to the Secretariat via icj@modelcj.org. The Secretariat shall then send it to the Respondent who is expected to write and submit a Counter-Memorial in accordance with Article 60/1 of the Rules of the Court. Detailed information regarding the deadlines shall be duly announced by the responsible Under-Secretary-General.

A memorial is a pleading that is submitted by the Applicant which contains a statement of the relevant facts and law and the submission; on the other hand, a counter-memorial is also a pleading that is submitted by the Respondent which contains an admission or denial of the facts which is stated in the memorial, additional facts, a statement of law in answer, (if deemed necessary) observation the statement of law in the memorial, and lastly the submission.

In the Model Courts of Justice, the procedure of replies will not be applied. A Memorial and a Counter-Memorial differs by the content. However, the form of pleadings is essentially the same.

a. Sample Memorial/Counter-Memorial:

SPACE ACCIDENT AND POLITICAL ASYLUM CASE

FELICÉ v. ROSSLIA

MEMORIAL OF FELICÉ / COUNTER-MEMORIAL OF ROSSLIA

INTRODUCTION

A brief summary of the dispute will be given in this section. References to key developments of the dispute would be appreciated.

JURISDICTION

Both parties are expected to state their acceptance of the Jurisdiction of the Court here. Challenges will be overruled at this stage.

The Applicant is expected to apply to the Court by virtue the Statute of the International Court of Justice indicating the dispute and the Respondent.

All in all, the Model Courts of Justice 2019 Secretariat, adopts establishment on forum prorogatum basis.

FACTS

Facts that are found relevant to the case will be mentioned in this section. These facts may be related to political and historical issues. Bear in mind that this section will compose the factual bases of legal arguments. Respondents may challenge what is provided and propose their own claims. While preparing the statement of facts part of the Memorial/Counter-Memorial, the best way is the inclusion of the facts which have relevance with the case before the Court.

APPLICABLE LAW

In this part, the legal basis for official claims regarding the cases will be given. You may refer to bilateral treaties, conventions, customary law, principles of law, relevant domestic law, case-law of the International Court of Justice, legal literature by scholars or international organizations, i.e. Article 38 of the Statute of the International Court of Justice would lead you in basing your legal claims. This is the legal reflection of the previous section. Respondents may challenge what is provided and propose their own claims.

IMPORTANT NOTE: Felicé and Rosslia are member states to United Nations thus *ipso facto* parties to Statute of the International Court of Justice. They are not parties to any international convention or treaty that was not specified in page 32 of the Study Guide. In order to reach a fair judgment and understand the case better, some materials that Felicé and Rosslia are not parties of but are relevant to the case were given in the Applicable Law Section in the Study Guide. Participants should remember to write their legal bases only according to the materials that both of the States are parties to the relevant materials.

CLAIMS

In this section, parties are expected to make a synthesis of the facts and applicable law and, finally, state their official claims. The facts will be explained with the law. Respondents may challenge what is provided and propose their own claims.

SUBMISSION

A submission contains the request of the parties from the Court to act and decide in their favour; parties to the case should briefly describe what conclusion they hope the Court will reach. Applicants usually seek a declaration of the rights or duties they think exists between disputing parties, or ask the Court to direct the Respondent to reinstate the justice. They may ask the Court to render or a Judgment that orders a compensation to be paid by the Respondent, while Respondents requests dismissal of the case or seek counter relief against the Applicant.

Submitted respectfully, on behalf of the Government of Felicé/Rosslia

by (names of the advocates)

D. ORAL PROCEEDINGS

Parties are expected to submit material evidence before the Court. The Secretariat shall ensure that all of the Judges and the Opposing Party receive a copy of the materials during the Conference. In order to ensure this procedure, **the Advocates are expected to hand-in their materials which will be presented, to the Secretariat, before the Conference.** Detailed information regarding the deadlines shall be duly announced by the responsible Under Secretary-General. Such materials may include **maps, Article 38 sources of law or any other visuals (videos and the like)** that would aid the presentation of the case.

The Secretariat allows the Judges to call upon legal experts before the Court. Legal Experts will be responsible for their statements during Oral Proceedings. Detailed profiles of the Legal Experts will be given by the Secretariat.

1. JUDGES AND THE REGISTRAR

a. Remarks for Preparation to Oral Proceedings

The Secretariat finds the objectivity of the Judges towards the case to be very important. Therefore Judges are recommended to read the Study Guide carefully. Within due time before the Conference, the Secretariat will provide all of the Judges the Memorial and the Counter-Memorial. **We strongly recommend the Judges to not to make any additional research with regards to material evidence.** However, doing extra readings on the sources of law mentioned in the Study Guide, the Memorial or the Counter-Memorial would be in your benefit.

All in all, the Judges are expected to evaluate evidence material, obtain witness testimonies, listen to and thoroughly question Parties **and then** come to a conclusion on the prospective Judgment. In other words, as opposed to Advocates who need to make a strong preparation before the Conference; **the Judges have to save their full concentration to the sessions.**

The Registrar shall take copious notes of the sessions. He/she needs to be careful in this mission; as, in case any of the Judges misremember the testimonies of Witnesses or speeches of the Parties, the truth shall lie in the Report. By also taking the oaths of all Members and Witnesses, the Registrar's role is to ensure the credibility of the Oral Proceedings. The Registrar is therefore asked to read the Study Guide, the Memorial and the Counter-Memorial carefully; in order not to confuse terms and names in the Report. The Report shall be the basis of Sections II and III of the Judgment, while also aiding the precise reflection of the Deliberations.

b. Sample Judgment

INTERNATIONAL COURT OF JUSTICE

YEAR

Date of the Judgment

Decision on the case of

SPACE ACCIDENT AND POLITICAL ASYLUM

(FELICÉ v. ROSSLIA)

In case concerning space accident and political asylum:

Felicé is represented by agents (names of the Advocates);

and

Rosslia is represented by agents (names of the Advocates).

I. HISTORY OF THE CASE

Under this chapter, a brief summary of the case and dispute should be written, previous developments regarding the case such as the date and the institution of proceedings before the Court should be mentioned. Brief information about the geography would be appreciated.

II. SUBMISSIONS OF THE APPLICANT PARTY

This section will be a summary of the Applicant's Memorial, Evidence Material and Statement of Legal Expert. The focus shall be the submission of the Applicant.

III. SUBMISSIONS OF THE RESPONDENT PARTY

This section will be a summary of the Respondent's Memorial, Evidence Material and Statement of Legal Expert. The focus shall be the submission of the Respondent.

IV. STATEMENT OF FACTS

- **STIPULATIONS**

If there was a stipulation made by the state parties during the stipulation phase, judges need to specify it in their Judgments, so as to go as follows:

“The Stipulation concluded by the parties of the dispute on (date of submission of the stipulation) reads as;”

- **COURT'S FINDINGS**

The evidence presented and the witness testimonies that form the material ground of the Judgment will be indicated here. The Court is free to disregard any piece of evidence or testimony; the reasons shall be given in this section.

V. APPLIED LAW

Since the legal grounds are crucially important for the decision, the Court must determine the applicable law. Any legal ground within the meaning of Article 38 of the Statute of the ICJ applied by the Court shall be summarized in this section. If the Court decides to disregard a source of law presented by Parties, the reasons shall be indicated here.

VI. DECISION

This section makes a synthesis of the Facts and Applied Law and gives the final decision of the Court on the dispute. This section constitutes the core of the Judgment. This part is expected to be detailed and to continue with the phrase “the Court considers that” followed by an explanation thereby. After the Court comes to a conclusion, it needs a phrase before stating the decision such as “The Court concludes that,” should be written at the beginning of the main decision as a commencement phrase and the rest of the decision should be clear, and expected to be a whole sentence. If there is more than one decision, any other one should also be in the same format except the beginning since it is sort of an oppositional decision to the first. The final decision shall be in its traditional format;

For these reasons,

International Court of Justice, with

JUDGES (surnames of the Judges in the Majority) and JUDGES (surnames of the Judges Dissenting)/Unanimously

1. Finds

JUDGES(Specify the President or Vice-President) (surnames of the Judges in the Majority) and JUDGES (surnames of the Judges Dissenting)/Unanimously

2. Decides

JUDGES (surnames of the Judges in the Majority) and JUDGES (surnames of the Judges Dissenting)/Unanimously

3. Rejects

DISSENTING OPINION OF JUDGE 1

If there are Judges in the minority, disagreeing with the Court; he/she may write a dissenting opinion. The dissent should cover Sections IV, V and VI from the Judge's perspective.

CONCURRING OPINION OF JUDGE 2

If there are Judges in the majority; who have arrived to the same conclusion with the majority but on different grounds; he/she might write a concurring opinion.

DECLARATION OF JUDGE 3

The Judges in the majority may make a declaration on how they assume the Judgment should be perceived and what should be kept in mind in the meantime; may write a declaration

REMINDER FOR ALL PARTICIPANTS

Participants of Model Courts of Justice 2019 are kindly reminded that plagiarism in the Memorials or the Judgment shall not be tolerated by the Secretariat.

Participants are recommended the Oxford Referencing System in their submissions. Yet, the Secretariat is comfortable with any other method that is found to be more efficient by the participants as long as the Memorial is consistent in itself. A bibliography shall be appreciated.

As for evidence material, the sources must be shown in order not to face an objection of immaterial by the opposing Party or to eliminate the risk of the Judges to disregard the evidence. Participants are asked to keep in mind that fictional evidence that is not included as a fact in the Study Guide will be inadmissible.

The Secretariat is fully aware of the fact that the Judgment writing process in the Conference can be stressful. Therefore the Secretariat shall not seek a list of references. The evidence materials need not be referenced; yet a clear indication that those segments belong to the presented cases is necessary. The Court must give references to case-law and is recommended the Oxford Referencing System. Yet, the Secretariat is comfortable with any other method that is found to be more efficient by the participants as long as the Judgment is consistent in itself.