



EEA LAW
MOOT COURT
2020

MOOT RULES



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CASE E-1/20 M *KIRKERUD V KINGDOM OF STRICTLAND*

AND

CASE E-2/20 M *IF YOU DON'T SNUS, YOU LOSE AS V KINGDOM OF STRICTLAND*



1. THE COMPETITION

A moot is an argument (and not a debate) between students acting as advocates representing different parties in a legal action (a case). The facts and history together with supporting material and authorities are given in advance to the students. The aim is to reproduce, as closely as possible, the discussion and argument of a genuine hearing in the EFTA Court. The case is based upon an area of EEA Law and has been prepared by a writing committee of the organisers and external experts.

The organisers are aware that many participants in this moot will not have mooted extensively before. Accordingly, the organisers have established a full bundle of supporting materials and authorities. This bundle encompasses *all* the authorities which teams are permitted to refer to in this case. Teams which cite authorities outside of the bundle will not be penalised, but nor will they be rewarded for doing so. For the avoidance of doubt, judgments and opinions cited within the cases listed in the bundle will *also* be considered as falling within the bundle.

2. LANGUAGE

The official language of this competition is **English**.

All written pleadings and oral submissions must be made in English. However, teams will not be penalised for errors in their written or spoken English, as long as their submissions are comprehensible and clear.

3. PARTICIPATION

The competition is open to all students who have not practised, and are not currently practising, as a lawyer, and who are enrolled in Autumn 2020 at one of the following universities:

- **University of Bergen**
- **University of Oslo**
- **University of Tromsø**
- **Reykjavík University**
- **The University of Iceland**
- **The University of Akureyri**
- **Bifrost University**

Students may not participate in more than one competing team.

Each team (whether through a university, student society, external sponsorship or own funds) is responsible for their own transport to, and stay in, Bergen, Norway. ESA cannot fund travel or accommodation for competing teams.

Signing up

Teams or individuals can sign up to participate in the moot at the following email addresses:

University of Bergen: Christian.Franklin@uib.no

University of Oslo: esa@juristforeningen.no

University of Tromsø: konkurranse@juristforeningen.eu

Reykjavík University: hulda05@ru.is

The University of Iceland: mep@hi.is

The University of Akureyri: ret@unak.is

Bifrost University: thorbjorgsigridur@bifrost.is

Written pleadings are to be submitted by e-mail attachment to mootcourt@eftasurv.int, on or before **12:00 (Icelandic time) or 14:00 (Norwegian time) on Friday 23 October 2019**.

When submitting the written pleadings a **participation form** must also be filled out electronically and attached. The participation form is available at www.eftasurv.int.

Coaching and training

Coaching provided by the university, student body, law firm or other individuals is acceptable.

ESA will provide a training to all teams (either in person or, if this is not practicable, through a live web link) explaining how the moot court works and what the judges are looking for.

Any questions?

If participants have any further questions as to eligibility or registration, please e-mail the faculty organisers directly.

4. THE CASE

This will be a problem based upon an area of EEA substantive and/or procedural law, containing a referral to the EFTA Court from a EFTA EEA national court under Article 34 of the *Agreement between the EFTA States on the establishment of a Surveillance Authority and a Court of Justice* ("SCA"). Both written and oral pleadings on the part of applicant and respondent will be required from each competing team.

5. SCORING

The competition will be held over four rounds.

INITIAL ROUND

1. Submission of written pleadings

There are a maximum of 20 marks available from this round. Written pleadings should cover submissions on **all questions** posed in the Moot Question.

ORAL ROUNDS

The oral rounds of the competition will be held at the premises of the Supreme Court in Reykjavík.

First Round

In this round all teams will be invited to argue both the sides of the case. This will require members from the team to represent the appellant's case against another team arguing on behalf of the respondent and then represent the respondent's case against a different team arguing on behalf of the appellant. It is required that all members of the team speak as either respondent or applicant but it is not required that all members speak both as respondent and applicant during the first round. During this part of the competition, the courts will hear arguments on all parts of **Question 1** of the questions referred by the fictitious EFTA EEA

State for an advisory opinion by the EFTA Court under the Article 34 SCA procedure.

Scores will be allocated at the conclusion of this round on the basis of both the written and oral pleadings.

The following scoring criteria will be applied throughout the oral rounds by the judges:

Criteria	Maximum Points Awarded
Form and content of written pleadings (only in first round)	20
Style and quality of presentation in oral arguments	30
Effective and accurate use of provided materials	30
Team-work	10
Effectiveness of reply/rejoinder	20
Ability to respond effectively to judges' questions.	10
Total:	100 marks

Second Round (Semi-Finals)

In this round, the best teams from the first round will be invited to plead both sides of the case against other teams. This round will focus on the remaining questions (ie all parts of **Question 2**), referred by the fictitious EEA EFTA State national court for an advisory opinion from the EFTA Court.

Marks will be awarded for the same criteria as apply to the first round, with the exception that marks from written pleadings are no longer counted. As in the first round, it is required that all members of the team speak as either respondent or applicant but it is not required that all members speak both as respondent and applicant during the second round.

Third Round (Final)

In the third round (final) the two highest-scoring teams (on a culmination of scores from the written pleadings, and the first and second rounds of oral pleadings) will each represent one side of the case (to be chosen randomly). The judges will indicate which questions they wish to hear for the final.

Each member of the team is expected to speak in the final and so the team must be prepared to re-allocate those questions covered to ensure that each team member speaks. It is of course permissible for one member of the team to only do the reply or rejoinder at this stage.

The time allowed for the main argument of each party will be a maximum of 45 minutes and will not be extendable. Teams are expected at this stage to have the experience to ensure that their main arguments are fitted into the time allowed.

In the first and second round the judicial bench will normally be composed of 2 or 3 judges. A VIP court will be convened for the final.

The decision of the judges will be conclusive in selecting the semi-finalists, finalists and eventual winning team and best speaker.

The prize for the winning team and the best speaker will consist of an all-expenses paid study trip to the European institutions in Brussels and Luxembourg, in which the winners follow a programme of workshops and discussions giving behind-the-scenes access to the institutions.



The dates for the visit will be arranged between the team members and the participants in Brussels and Luxembourg, at their earliest mutual convenience.

Written and oral pleadings

Written pleadings

ALL participating teams must prepare written pleadings for both applicant and defendant. This should be an outline of your case for both applicant and defendant, not exceeding 15 typed sides of argument on A4 paper each for the applicant and respondent respectively (so, 15 sides for applicant, 15 for respondent, making 30 in total).

Written pleadings should be typed in font Times New Roman size 12, single-spaced. An attached list of authorities (which should all be authorities set out in the bundle) can be sent *in addition to* the 15 page allowance for pleadings.

Arguments should be set out in numbered paragraphs, which should be supported and cross-referenced to the separate list of the authorities on which the team intends to rely. This may also be cross referenced to the relevant page of the bundle.

One copy of each of your written pleadings for the respondent and applicant, together with the participation form for your team, must be submitted to mootcourt@eftasurv.int prior to **12:00 (Icelandic time)** or **14:00 (Norwegian time)** on **Friday 23 October 2019**.

Due receipt of written pleadings will be confirmed by the organizers. No printed copies of the pleadings will be required.

ONLY teams lodging their pleadings in due time will be eligible to be invited to participate in the oral rounds of the competition. Pleadings which are submitted late will not be accepted.

A prize for the best written pleadings will be awarded.

Oral Submissions

The oral arguments made by a team need not be limited to the scope of the team's written pleadings, but strict time limitations are to be maintained. Teams will be advised of the schedule of courts at registration on arrival.

The main argument of each party shall be presented within 20 minutes. In the final this will be 45 minutes.

The applicant then has 5 minutes to reply, but is limited in this reply to the matters raised in the respondent's oral pleadings.

The respondent then has 5 minutes to deliver a rejoinder, which is limited to matters raised in the applicant's reply.

Permission must be sought of the President of the Court, if any time limit is to be exceeded. Only a further 5 minutes can be allowed at the President's discretion.



6. ROLES

Each team is to have 4 members.

If numbers do not permit this, the organisers will consider taking a team or teams made up of 3 members. However, the moot problem is designed for a 4-member team.

Teams should be in a position to argue both sides of the case. Teams may divide up their speaking time in whichever manner they wish, subject to the following:

- During the first round, the judges hear oral submissions from each member of the team individually at least once in that round.
- During the first and second oral rounds of the competition it is acceptable for a team member not to speak on behalf of one of the parties.
- In the final, each of the team members must speak on behalf of the party represented by their team. Teams are free to allocate speaking time as they wish, although credit will be given for a balanced division.
- For the avoidance of doubt, the presentation of a reply or a rejoinder *does* count as speaking on behalf of the applicant or respondent, even if the team member does not make other oral submissions.
- Replies and rejoinders must be delivered by one team member only, unless an exception is granted by the President of the Court.

