



ICC Moot Court Report 2022

We participated in the ICC Moot Court between September 2021 and May 2022. To prepare for both the Memorial submissions as well as the oral pleadings, we had a two-hour class every week. Because of the Covid-19 pandemic, the final competition was unfortunately held virtually via Zoom.

Our team consisted of Luca Bohnenblust (MLaw Candidate), Viviane Dubacher (MIL & CEMS MIM Candidate), Alina Metzger (MLaw Candidate), Marco Rudin (MIL Candidate) and Fabienne Trümpy (MLaw Candidate). We were supported by Professor Bardo Fassbender as well as our coach, Mr. Martin Bader (Assistant to Bardo Fassbender). Mr. Bader had himself participated in the Moot Court in 2021 and therefore was well prepared to help us with the submissions of our Memorials and the oral pleadings.



(f.l.t.r Prof. Bardo Fassbender, Alina Metzger, Viviane Dubacher, Fabienne Trümpy, Marco Rudin, Luca Bohnenblust, Martin Bader)

During the first semester, the fall term of 2021, the focus of the course was put on preparing the written memorials. We kicked it off by receiving basic knowledge of the International Criminal Law system with a strong focus on the International Criminal Court, i.e., the Rome Statute and the Court's rules and procedures. Roughly four weeks into the course, the case was published. We then divided our team into Defense on one side and Prosecution and Victim's representation on the other side.

Until the semester break at the end of October 2021, we focused on analyzing the details of the case. This included understanding the chronological timeframe, the different actors, and the implications this had. This year, the case dealt in particular with non-international armed conflicts and the participation of child soldiers as well as the question of admissible evidence and the role of victims



representation. Afterwards, we worked closely in our respective groups to develop our arguments. Between November 2021 and mid-February 2022, we met up frequently to prepare our memorials. On 14 February 2022, we handed in two memorials, given that the Prosecution and the Victim's representation prepared a combined memorial.

After handing in our Memorials, the focus shifted toward the oral pleadings. We then divided the roles into 'speakers' and 'researchers'. During the first half of the second semester (spring 2022), the speakers focused on preparing a 20-minute oral pleading and were asked to present it regularly in front of the class. This helped the speakers to become more comfortable in presenting their pleadings, and they learned how to react accurately when being interrupted with questions by the "judges". In contrast, the researchers tried to anticipate potential questions during the pleadings and possible answers. In the second half of the semester, the teams focused on learning how to work together as a team during the pleadings and on preparing for the rebuttals.

In early May 2022, the ICC Moot Court commenced, and each team, i.e., the Defense, Prosecution, and Victim's representation, had to present their pleadings twice over the course of two weeks.

Despite the whole competition taking place virtually and we thus not having been able to travel to The Hague, we still consider the ICC Moot Court an extremely valuable learning experience. Through this immersive competition, our knowledge of international law, as well as international criminal law, increased significantly. In addition, we learned how to effectively work in teams over an extended period, to think "outside of the box" to solve issues, and to take a clear stance for one side of the legal conflict.

Individual voices

Defense (Luca Bohnenblust and Viviane Dubacher)

Arguing for the Defense was a unique experience. After spending so much time finding sources and arguing for the Defense perspective, we truly started to feel strongly for our arguments. The international armed conflict in Ukraine obviously made the case feel much more real. Therefore, it was not always easy to represent the "evil" side.

The Moot Court showed well that many hurdles must be overcome before a conviction for war crimes can be handed down by the ICC. At the same time, it was incredibly interesting to play with procedural means and use the accused's rights as a way out. The right way of thinking was crucial, as the best arguments could only be found if one was clearly committed to one's role. At the same time, the discourse with the Prosecution and the Victims Council was crucial so that you could check your arguments for weak points.

Overall, we learned a lot about how to approach a big case and how to proceed tactically. What was great about arguing for the Defense was that it gave us a lot of freedom in our argumentation against the prosecution of our Defendant.

Prosecution & Victim's Counsel

Prosecution Perspective (Fabienne Trümpy)

Taking up the role of the Prosecution was both challenging as well as informative. For one, the Prosecution is asked to always present their pleadings and rebuttals first. For another, the Prosecution must address every aspect of the allegations made, which allows a great overview of the case itself as well as of the respective legal basis under international criminal law. At times it can be very frustrating, given that the case is constructed in a way that allows both Defense and Prosecution to make strong



arguments, which are very difficult to confute. Nevertheless, the ICC Moot Court was a great experience to think in a more interconnected way, to practice one's legal writing skills, as well as, most importantly, to plead in front of skilled judges who all have legal experience in the field, which allows them to give valuable and constructive feedback. I highly recommend this class to anyone who prefers to learn a subject on a combined theoretical and practical basis.

Victim's Representation Perspective (Marco Rudin)

Being the Victim's Representation was a challenging task as, different from the written pleadings, a new perspective had to be taken. The focus shifted from the crimes committed to the consequences of what had happened for the victims. The facts and information of the case must be analyzed from a broader perspective in order to use it in the victim's favor, while considering their rights in front of the court. Also, the Victim's Counsel is relatively free in the points that they want to focus on and support the Prosecution's claims. This freedom, however, requires great flexibility as you do not know what exactly the Prosecution will focus on their oral pleadings, nor what the Defence will argue in contra.

As Fabienne already mentioned, this class is highly recommendable if you are tired of only hearing the theory and never being able to apply your knowledge. Also, competing with other students from around the world and seeing their different mindsets is utterly enriching and definitely a chance everyone should take.

The Researcher's Perspective (Alina Metzger)

In the second semester of this course, I took the role of a researcher both for the Prosecution and the Victims' Representative. The main task was to find case law to support our arguments, to write case summaries and to find answers to possible questions posed by the judges. The speakers and researchers worked closely together to strengthen their arguments by finding the weaknesses in their pleadings and also to find the strongest arguments.

As I was a researcher of two different roles but with a very similar line of argumentation, I was able to get an in-depth view of the arguments, since I not only had to help the Prosecution with her arguments but also the Victims' Representative with his.

In the pleadings, my role as a researcher was to note the arguments of the opposing counsels and to point out the best counter-arguments to help structure the rebuttal. Additionally, I had to find the answers to questions of the judges which could not be answered by the speakers or which I felt needed a bit more depth. Therefore, it is essential to know the case and the case law very well and to know where to look for the answers.

The first week of pleadings did not go as planned, and as a result, I had the honor to take over the role as a speaker. It was a very nerve-racking but interesting experience to be able to hold a pleading myself in front of the judges.