



ICC Moot Court Report 2023

We participated in the ICC Moot Court between September 2022 and June 2023. To prepare for both the Memorial submissions as well as the oral pleadings, we had a two-hour class every week. The final competition was held in The Hague from June 2 to June 9, 2023.

Our team consisted of Livia Lüdin (MLaw Candidate), Dominik Wawer (MIL Candidate), Dzianis Kryvashei (MIL Candidate), Ritwik Dwivedi (MIL Candidate) and Dalia Hostettler (MIL 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 Dzianis Kryvashei, Dalia Hostettler, Livia Lüdin, Ritwick Dwivedi, Dominik Wawer, Martin Bader)

The first semester was dedicated to memorial writing. The first few weeks, we focused on learning about the ICC in a general manner, as the case was published only subsequently. Central to this process were the provisions of the Rome Statute, as well as rules and procedures. Once the case was announced, we split the team in two: Dominik, Dzianis and Ritwik were writing the memorial for the Defense, while Livia and Dalia wrote both the Prosecution and the Government Counsel's memorial.

The first weeks upon the announcement of the case were dedicated on building up the arguments, first as drafts, gradually completing them with more and more knowledge and case law. Towards the end, we also analyzed ecocide as a crime, as it was one of the specific features of the 2023 case.

The second part of the course focused on the oral pleadings. For this part of the course the speakers focused on preparing a 20-minutes oral pleading. The speakers presented the pleading regularly to the

class and tried to improve it week by week. The researchers tried to think of potential questions that could be asked during the pleadings and played the role of the judges. Additionally, they researched further case law so that everyone was prepared for the actual competition in The Hague.

Speakers' Perspectives:

Dalia Hostettler (Government Counsel):

The ICC Moot Court was certainly something that I would not hesitate to do again. First of all, because it is a very concrete experience, where we learned both soft and hard skills. The first part of the course consisting of memorial writing was without doubt challenging for someone having no previous background in law – and especially no knowledge about the ICC. However, the learning curve is very steep throughout the whole experience, and the more you know, the more you realize there is still more to learn.

In that line of thinking, I also enjoyed being able to specialize in one field: this experience really allows you to delve deep into a specific field of international law. There is also a lot to learn from other teams. It is a unique opportunity to exchange with people from all over the world.

Although we did not make it to the quarterfinals, it was a very insightful experience from which I learned a lot, also on a personal level. It was a good opportunity to stand in front of judges and to defend your point of view. Every word spoken during the mock trials had to be carefully selected, but it was also important to be able to react to the other side's pleadings.

Livia Lüdin (Prosecution Counsel):

The participation in the Moot Court was a great experience for me. As a MLaw student I haven't had the chance to deal intensively with the topic of international criminal law yet. The Moot court sparked my interest in this subject area, and it was a great opportunity to study a subject intensely for one year. The role of Speaker for the Counsel for Prosecution was a lot of fun for me! The role of speaker is a great way to improve one's arguing and speaking skills. But it was also a new challenge for me to stand in front of strangers and plead a case in front of people who are experts in this area.

The highlight of this course was the competition held in Den Haag. The challenge of competing against other teams and demonstrating our skills increased my ambition and motivation. The competition also was a chance for us to show what we learned throughout the year. The competition was not only an incentive for us, but also an opportunity to test our skills under pressure and learn from them. It was also nice to see how we outgrew ourselves as a team and supported each other.

Overall, this course exceeded my expectations. Not only did I gain new knowledge, but I also developed my speaking skills. The combination of fun, teamwork, and competition made this course a memorable and rewarding experience. I am grateful for the opportunity to have participated in it!

Dominik Wawer (Defense Counsel):

The 2023 IBA ICC Moot Court Competition is one of those experiences during your studies that you will neither forget nor regret. For me personally, it was far more than a simple university course or competition – I was able to grow personally and skill-wise. All in all, this form of university ‘course’ is something that I would advise every aspiring international lawyer to take, regardless of whether you have a primary interest in international criminal law or not (does not hurt to have it to some degree though).

One point I want to stress in particular is that this Moot Court requires a lot from you, but it gives you even more. My personal take-away is the improvement of arguing persuasively, speaking in front of complete strangers, and the understanding of how international criminal law works. For the Defense Counsel, it was imperative to work closely with the law to point out the fallacies of the arguments of the opposing counsels, coming from the perspective of the side that can be objectively considered ‘morally disadvantaged’. This was exactly what fascinated me the most, and why I chose to represent the defendant.

Lastly, it is important to understand that this primarily a team exercise, meaning that you have to work together both with your fellow colleague and also with the opposing counsels to make the best out of it. In my case, I was lucky to have a brilliant researcher by my side, Dzianis, and in addition to that, I also have to thank my other colleagues for helping to prepare my submissions in the long nights before the sessions. A special shoutout also has to go to our coach Martin Bader, who prepared us brilliantly for the competition and who was always quick with valuable feedback and improvements both before and after the pleadings. All in all, the IBA ICC Moot Court Competition was a very pleasant thing to do, and certainly something I would choose to do again!



The team right before the Government Counsel’s pleading in The Hague

Researchers' Perspectives:

Ritwik Dwivedi (Prosecution & Government Counsel):

Part of a team of five, I spent the first semester preparing the memorial for Defence and doing in-depth research for that side of the Moot problem. The subsequent semester, we switched roles and after being assigned the role of a researcher, I decided to focus on the other side of the coin, i.e., the Prosecution and Government Counsel. It was interesting to look at the same problem from completely distinct points of view. It opened my mind to new arguments, and how to flip the same issue on either side. It really created a strong base of knowledge for myself and my colleagues.

The case law for the ICC is unique and challenging to look at, given my background in corporate law. However, the learning I received from this one year doing the Moot Court was something that will hold me in good stead for the rest of my academic and professional life.

A big part of any competition like this is the experiential learning aspect – for this I must thank Martin Bader, our coach, whose expertise was influential in steering me and my colleagues toward what is essential and what is circumstantial. I also thank my colleagues for being inspired, competitive and very open-minded – indeed, sharing this competition experience with them contributed to a holistic growth that I regard as one of the key events I participated in during my master's degree.

I believe in the end; the major takeaway was that a lot of good knowledge is gained by getting out of one's comfort zone – that was certainly true for this Moot Court competition. Who said mixing business with pleasure is not beneficial? Because I certainly had a lot of fun learning with my colleagues during this competition.

Dzianis Kryvashei (Defense Counsel):

The peculiarity of the case presented the defense with strong arguments on the issue of evidence and the material elements of the crime. However, we did not have "lethal" arguments on jurisdiction. So, I focused on a careful study of the question of jurisdiction. I reviewed and described in detail all the actual cases of filing a declaration in accordance with Article 12(3) of the Rome Statute. It was important for us to show that our case is different from all previous cases. We also decided to change the order in which issues were presented in the oral pleading. So, we put the issue of jurisdiction as the last thing.

It seemed to me that my role was fulfilled before the oral pleadings. Arguments and answers to possible questions were prepared. However, directly at the pleadings, I realized how important the help and support for the speaker from the researcher is. The speaker's speech consists of two parts divided in time (actual oral pleading and rebuttal). After an oral presentation, it is the researcher who should help the speaker with a rebuttal. A researcher is in a more relaxed state and can more easily notice the weak

arguments and mistakes of the other side. Therefore, this competition gives a good idea of teamwork. Although this is a Moot Court, the difference in the conduct of the Court session by different bench of judges is clearly visible. It is impossible to come with a pre-prepared speech and be sure that your speech will go according to a pre-written script. Therefore, the ability to be flexible and adapt to the current situation is crucial. Only careful preparation can allow this to be done at a high level. During this course, I not only learned a lot about international law, including criminal law, but also visited a place where international law is directly discussed and, of course, I saw the live work of the ICC. This is a colossal not only theoretical, but also practical experience for me, which will contribute to my development and help me in my future career.

