

PREPARATION PROCESS

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Several preparatory phases lead to the most efficient preparation for the moot court. Namely, the first stage in preparing students for the moot court is introduction to the rules of the moot court competition. The greater the number of participants in the competition, and therefore the seriousness of the competition, the stricter are the rules. Thus, while students wait to receive a hypothetical case, they should use the time to familiarise themselves with the competition rules. It is important to know the rules very well, as it could lead to possible sanctions on the opposing teams, which break the rules during the competition.

At the same time, this period should be used to get familiar with the basics of the area in which the moot court is organised or to deepen previously acquired knowledge. This would give the students a sound basis for a high-quality and efficient legal analysis of the subsequently obtained factual situation, and also for writing submissions and the oral part itself. For this reason, the coach is expected to hold a short course where he/she would (additionally) explain the basic terminology in the field from which the moot court is organised, but also would deepen the knowledge of the particular area. At the same time, this is an opportunity for students to clarify any doubts they have with the coach.

Likewise, the time until the hypothetical case is received should be used to get familiar with how to conduct research in certain databases, which represents the subsequent phases in preparation for the moot court. Some databases, although easy to use, require at least minimal knowledge about how to search, which can be a problem for students if they encounter it for the first time. Therefore, the coach should give students the main instructions on how to use databases. Some databases, such as HUDOC, the database of decisions and judgments of the European Court of Human Rights, are much more complicated, where it is necessary to master the terminology of marking court decisions, because there is a difference in their effect, and ultimately in the possibility of their use in the moot court. Only in this way the students will be able to quickly and efficiently search in the databases and have a solid basis for writing high-quality submissions.

Shortly after the completion of the selection of students to participate in the moot court competition, the factual situation of the hypothetical case is obtained. This brings us to the third stage in the preparation – reading the factual situation several dozen times. It is important to know the factual situation very well, as the future participant in the moot court, regardless of the

role he/she will play, prepares for every detail and answer that can prevail in the factual and legal argumentation. In some moot court competitions, such as the Regional Competition in the field of human rights organised by a non-governmental organisation Civil Rights Defenders, there are two factual situations – one in English, which is the original form, and the other in the languages of the former Yugoslavia. In the event of a collision of two factual situations, the English version prevails. This can be a decisive factor during the deliberation.

After reading the hypothetical factual situation, the next phase is its legal analysis. For the best possible legal analysis, it is suggested firstly identify disputed legal issues and write them down in a separate document. Successful legal analysis implies a relatively good use of relevant databases. At the same time, interesting data for a hypothetical case can be found by searching on the Internet. It is recommended to be persistent in this because it is possible that something important can only be found on the following pages in the Internet browser. If necessary, students may consult the professors, but it is not essential if it is a subject with which they are well acquainted. In any case, the coach should check whether something was missed during the legal analysis of the factual situation. In case the legal issue is beyond the coach's expertise, it is advisable to consult an appropriate expert to clarify all doubts in a timely manner.

My main advice would be to exercise restraint at every step of the work. Those who coach their teams often possess superior expertise in crafting and presenting arguments and it can be easy to insert this into the team's work. Coaches should avoid influencing their students like this at all costs, not only because the students might start working at a reduced pace, but because they may fail to see something they might have reached through their own effort were it not for the meddling coach.

Matija Miloš, coach, Faculty of Law, University of Rijeka

During the legal analysis, one should also be creative, because the writers of the hypothetical case know very often that they give an issue that is still disputed, and there is no rich judicial practice. In that case, students (moot court contestants) are expected to find creative solutions using legal logic, relying on existing practice. It is important to emphasise that the authors of the

I believe that structuring and presenting the argument is key in the progress and results during the moot court. Therefore, the advice that I give my students is to carefully structure every point in a certain argument and do a lot of research on the question. Afterwards, arrange and number the potential points that they might use in the argument and research whether those points might be applied to the facts of the current case. The strongest arguments shall always be used first, and every argument must be carefully and concretely structured to be precise and understandable.

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hypothetical case were inspired by a case from practice, but that among judges and legal theorists there is still no unified position on how the existing case should be resolved. Likewise, it is possible that this case has almost been solved in practice, and it is necessary to make an additional effort to find the case that served as inspiration, which greatly facilitates the analysis of the hypothetical case. It should be emphasised that a hypothetical case will never be identical to a case from practice but can be a mix of several cases.

The next stage is writing submissions. The form and length of submissions depend on the matter. In this regard, it is necessary to follow the rules regarding the appearance of submissions. At the same time, submissions do not have to be in the form of indictments, but in the form prescribed by the organiser of the competition. This means that all standards prescribed in the competition rules must be met. Otherwise, lower grades will be obtained, which affects the position during the draw, and stronger opponents may be encountered in the early stages of the competition. The last note in this stage refers to the timeliness of submissions because the organisers of the moot court competition give a certain deadline by which submissions should be sent. After this deadline, it is not possible to send submissions, which means automatic disqualification of a particular team, or it is possible to send, but with penalty points.

After submissions are sent, the next phase begins – analysis of submissions from other moot court teams, if they are exchanged at all. Namely, as factual and legal arguments are exchanged with other teams during the moot court, it is advisable to analyse their submissions with the aim of better preparation for the competition. It would be best to analyse the submissions of all teams, but this may not be possible due to a lack of time. In this case, it is advised to start with the fact that there are teams of different qualities in certain competitions. As some teams have built a good image over time at certain moot court competitions, it is opportune to start the analysis of submissions from the most successful teams. In this way, due to an adequate analysis of the submissions of the best teams, students will be able to analyse relatively easily, even immediately before the moot court, the submissions of the weaker teams.

The next stage of preparing for the moot court competition is practising the performance (oral part). This part represents the essence of the moot court, and spending most time on it is necessary. Namely, it is possible to cover all the shortcomings in the written submissions due to good oral performance. As the moot court teams consist primarily of several students, it is necessary to establish an appropriate order of students during the oral presentation of arguments. Therefore, it is recommended that the coach consults with students to see who could present which part the best. Attention should be paid to practising replicas (duplicates), which will be the subject of special analysis. In this stage, the coach must insist that students use a formal presentation for every address to the judicial panel, for instance, it is necessary to address

the judicial panel as ‘respected judges’, or judge as ‘honourable judge’. The same analogy can be drawn when addressing the opposite side. Any other address seems frivolous, affecting the overall impression and the points received for the performance. It is essential to take care of the use of literary language and accents, because using the local parts and accents can be disastrous. If possible, an expert should be consulted in this regard. At the same time, the coach should insist on emphasising the key points in the argumentation during the performance. This is done by the participant in the moot court pausing for a moment, and by again formally addressing the judicial panel, drawing their attention and finally emphasising the main argument. Also, in this part of the preparation, it is crucial to focus on the time frame of the performance, because there is a time limit on each moot court. Therefore, it is best for the coach to measure the time during practice in order to know in which direction further preparations can proceed – whether it is necessary to shorten the speeches or extend them. Preparations for the oral part should be conducted so that prominent former competitors, as well as coaches from other fields, are invited, as this transfers experience and breaks the stage fright. Also, in this way it is possible to notice certain omissions, because the coach of the existing team is engrossed in the current way of thinking and needs to notice certain details that may be important.

Although a very experienced coach would put the retort and possible rejoinder as an integral part of the oral phase, we will present it separately due to its importance. Namely, after the end of the introductory speeches, there is an opportunity for each of the teams to respond to the basic claims of the opposite side. Therefore, it is important to note that during the entire exercise, the participants of the moot court should listen carefully and write what the other party is saying. This is the only way to create a solid basis for a qualitative response to the claims of the opposite party in the reply and eventual rejoinder. It is up to the coach to determine that either all members of one team or only one will respond to the statements of the other team. This is a

Students also need a lot of encouragement, as they often find it very difficult to deal with the issue at hand. Sometimes, a coach must make an effort to maintain a good spirit and relations among team members. In the end, though, the experience is more than worth all the occasional pitfalls. It is a special kind of pride to see how the students are advancing and to see their pleasure in their accomplishments.

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matter of the assessment of the coach, but also of the personal affinities of individual students.

Preparing for a moot court competition requires a lot of work, effort and dedication. Students may give up further preparation because they are overwhelmed. Therefore, in the concluding remarks, we point out one piece of advice for coaches to always have two students who are ready

to join the team in case one of the competitors withdraws. This is the only way to avoid negative consequences for the moot court, i.e., the team's success in the moot court competition. Throughout the preparation for the moot court, it is vital to work on creating and maintaining a good atmosphere in the team, the interpersonal relations between the competitors may be damaged, but also between the competitors and the coach, which requires an additional effort from the entire team, especially the coach, to eliminate the cause of the quarrel.

Finally, we emphasise that it is possible to combine some phases into one, and also to add some unlisted phases, if the coach based on his/her experience considers it reasonable

Planning everyone's duties well is the key to success. A team should make a plan at the outset of the process if possible and stick to it as much as it can. Also, everyone should be aware that moot court offers valuable lessons for long-term growth. Even if a team does not win the competition, the students receive invaluable lessons and make connections and friends.

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