INTERNATIONAL COURT OF JUSTICE

Crisis Committee Background Guide
Houston Area Model United Nations
2018 Winter Conference

Deadlines

Date	Document
January 14th 2019	Evidence
January 14th 2019	Witness Lists
January 21st 2019	Counter Evidence
January 21st 2019	Memorial (Advocates) Preliminary Opinions(Justices)

Email Documents: hamunicj19@gmail.com

Email Questions: nickeastwood@utexas.edu

Committee Flow

This year, HAMUN will be adopting a new flow for ICJ to better engage you, the delegates. There will be positions for 5 plaintiffs, 5 defendants, and 10 judges; note that these positions will rotate for the second case, as specified by your character assignments.

Case 1	Case 2
Plaintiff 1 (P1)	Judge 1 (J1)
Plaintiff 2 (P2)	Judge 2 (J2)
Plaintiff 3 (P3)	Judge 3 (J3)
Plaintiff 4 (P4)	Judge 4 (J4)
Plaintiff 5 (P5)	Judge 5 (J5)

Case 1	Case 2
Defendant 1 (D1)	Judge 6 (J6)
Defendant 2 (D2)	Judge 7 (J7)
Defendant 3 (D3)	Judge 8 (J8)
Defendant 4 (D4)	Judge 9 (J9)
Defendant 5 (D5)	Judge 10 (J10)

Case 1	Case 2
Judge 1 (J1)	Plaintiff 1
Judge 2 (J2)	Defendant 1
Judge 3 (J3)	Plaintiff 2
Judge 4 (J4)	Defendant 2
Judge 5 (J5)	Plaintiff 3
Judge 6 (J6)	Defendant 3
Judge 7 (J7)	Plaintiff 4
Judge 8 (J8)	Defendant 4
Judge 9 (J9)	Plaintiff 5
Judge 10 (J10)	Defendant 5

The order of the cases is as follows:

1) Case A: Application of the International Convention for the Suppression of the Financing of Terrorism and of the International Convention on the Elimination of All Forms of Racial Discrimination **(Ukraine v. Russian Federation)**

2) Case B: Application of obligations under the law of the sea, refugee law and international human rights. **(Spain V. Italy)**

Pre-Conference Preparation

Send all materials to hamunicj19@gmail.com by the specified deadlines below. If you have any questions feel free to email nickeastwood@utexas.edu

Advocates

1. Identify "real evidence" [see table of authorities in attached sample brief for the types of things to submit] and submit document/picture to Crisis with a brief description (to be shared with all committee members via link on website) by January 14, 2019.
2. Prepare points of argument and submit to Crisis (analogous to position; see examples provided at the HAMUN website) by January 21st, 2019.
3. Identify key witnesses and prepare short bios to discuss with other team members during committee
4. View opposing party's "real evidence" and submit any rebuttals to Crisis by January 21st, 2019.

Note: Collaborating with other members of your party is not required in the pre-conference phase, as time will be given during committee to discuss; however, it may be beneficial.

Judges

Judges should not contact each other or any of the plaintiffs or defendants before committee commences.

1. Determine legal questions and read relevant international law
5. Prepare a short document outlining why the ICJ has jurisdiction and relevant international law and send to Crisis by January 21st, 2019.
2. Preview “real evidence” and rebuttals submitted via link on CTMUN website

Tentative Case Schedule

Time	Plaintiffs	Defendants	Judges
20 mins	Discussion of strategy Submit exhaustive list of witnesses		Discussion of legal questions
10 mins	Opening Statements	Listen/take notes	Listen/take notes
10 mins	Listen/take notes	Opening Statements	
20 mins	Brief crisis staff on witnesses and questions	Research/discussion	Evaluate plaintiffs' presented evidence and determine admissibility
1½ hours	Present evidence • Direct examination of witnesses • Admission and description of real evidence	Counter evidence • Cross-examination of witnesses • "Cross-examination" of real evidence • Objections, as appropriate	Listen/take notes Ask fact finding questions after defendants' cross-examination
20 mins	Research/discussion	Brief crisis staff on witnesses and questions	Evaluate defendants' presented evidence and determine admissibility
1½ hours	Counter evidence • Cross-examination of witnesses • "Cross-examination" of real evidence • Objections, as appropriate	Present evidence • Direct examination of witnesses • Admission and description of real evidence	Listen/take notes Ask fact finding questions after plaintiffs' cross-examinations
15 mins	Discussion of strategy		Begin individually drafting opinions
10 mins	Closing Statements	Listen/take notes	Listen/take notes
10 mins	Listen/take notes	Closing Statements	
45 mins	Break / Discussion with "media"		Judges' deliberation; discuss judgement and write opinions
15 mins	Listen		Presentation of judgement and opinions

Note: Each party must present at least 3 witnesses.

The use of technology is permitted in this committee at specified times (marked in grey on the tentative schedule). Limited use may be allowed during non-specified for the sole purpose of note-taking. A device such as a laptop or smartphone is *strongly recommended* for research purposes during committee. Inappropriate use of technology may result in revocation of permission on an individual or committee basis.

Judges' Responsibilities

Unlike a conventional Model United Nations experience, compromise is not possible in ICJ. To clarify, the principles of law must be followed; judges cannot provide any advocates with undue leeway in evaluation of the case. Judges are bound to follow international law.

Judges in ICJ function as both “finders of fact” and “triers of law.” After cross examination of each witness, judges, at their discretion, may further question the witness. Judges may also ask questions of the advocates.

Most critical through the process is taking good notes of each advocate’s presentations. Note issues and questions about the advocates’ arguments, evidence, and conclusions. Pay particular attention to points you believe will be important during the judges’ deliberation for the case.

Through the case, remember that the burden of proof lies with the plaintiff. The level of this burden of proof is a “preponderance of the evidence,” which is simply a simple majority of the judges and/or is persuasive by at least 51%. Judges may choose to interpret the evidence singly or collectively to arrive at a percentage; if the plaintiff has met its burden (i.e. persuasiveness is greater than 51%), it wins.

Your primary deliverable will be opinions, which you will prepare after listening attentively to arguments from both sides. While, yes, you may persuade other judges to your position, the goal is not consensus. Upon conclusion of the deliberation, there should be a majority opinion and concurring and dissenting opinions, as applicable. Be prepared to discuss your opinions during the presentation of opinions component.

Advocates’ Responsibilities

The burden of proof lies with the plaintiff. The level of this burden of proof is a “preponderance of the evidence,” which is simple majority of the judges and/or is persuasive by at least 51%.

A typical strategy is for the plaintiff to present a clear, concise, and specific argument, while the defendant confuses the issues with large amounts of unclear information. This is neither a requirement nor a recommendation, but simply a note if you choose to use it.

In the opening statement, your objective is to tell the Court what you intend to show or prove in the case. The plaintiff presents first, followed by the defendant; each is allotted equal time.

During the body of the case, each party has the opportunity to present their evidence. Evidence is in two forms: “testimony” and “real.” Witnesses provide testimony as evidence through direct and cross examination. Real evidence is written documentation and other tangible evidence, each of which must be marked and authenticated, that is, the writer, maker, or source must be established.

The time allotted for presentation of evidence includes time for direct examination, cross-examination, and judge’s questions. Note that cross-examination must relate to the questions asked on direct examination; they cannot exceed, or be outside, the scope of the direct examination of the witness. As pointers, do not ask a witness a question to which you do not know the answer and do not argue with a witness.

Advocates may not comment on evidence until Closing Statements. Before Closing Statements, advocates may only literally describe evidence. It is recommended that advocates use their questions to weave a story during direct examination to allow judges to begin connecting the dots.

Format of a Memorial

Memorial of [Country's name]
International Court of Justice

Submitted by: Advocate (Surname)
On Behalf of: (Country represented by advocates)
Date: (Self Explanatory)

I. Statement of Jurisdiction:

In this part of the memorial, you will write a brief introduction on what the case is about. You need to address on how this case came about to become a dispute and how it got to be heard in the ICJ.

II. Statement of Law:

In this section of the memorial, advocates need to present to the judges and opposing parties of the relevant law, treaty which your party will rely upon greatly. This should also insert further clarification on how these treaties and laws help or build your case. This is very crucial in that this would help judges understand these large documents easier. However, the judges do not take this as evidence. It is merely a way to communicate to the judges on how you think these treaties help you.

III. Statement of Facts:

In this section, you will provide some of the details on what this case is, and also provide few brief points on how some of the previous attempts made to resolve this issue. However, one must bear in mind to always put up this section in support of your party's cause.

IV. Arguments:

This is where you list your points of arguments on why you believe that the law is on your side. Along with each argument, one should narrate on how such treaty of laws or legal principals help you in your case. These should make up your major arguments because at frequent occasions, judges refer back to this to achieve the point you are trying to communicate. Therefore, it is very important you insert the relevant articles or annexes where you base your claim on. However, some advocates do not wish to communicate all of their arguments, as it is useful to have a "secret weapon", so they need not put it in the memorial.

V. Summary and Prayer for Relief:

The summary and Prayer of Relief is what you the advocates wish the court to rule. This is one of the possible verdicts. After deliberations, the judges will choose between the two Prayers of Reliefs on which they favor more towards. Judges cannot stray away from these Prayers of Relief to give a bit of everything to both parties. They have to choose between the two and therefore, it could be strategically advantageous to write one's Prayer of Relief in a more neutral manner instead of a harsh, one-sided one, as judges tend to disagree, and therefore would more likely be able to come to a consensus on a more neutral Prayer of Relief.

Note: See website for examples

Evidence

What is evidence?

While in most MUN committees, the conference revolves around resolutions, in the ICJ, it revolves around Evidences. Evidence is most essential and critical part of the ICJ forum. All your points and arguments have to be presented to the judges through your evidence.

Where can you find evidence?

Evidence is nothing but the documents from where you found your arguments. Evidences can include:

-Web-pages

-Pages from books, magazines, newspapers, journals

-Treaties

-UN Declarations and other documents

How should evidence be presented?

Before starting the case, advocates will be made to present their evidence to the rest of the forum. During this period of time, judges will evaluate the evidence and determine its value based on a number of criteria, as mentioned below. Please note that each pair of advocates will have to have three copies of your evidences prepared (one will be given to the ICJ Officers and Judges, one will be given to the opposing council, and one will be for yourselves). When presenting their evidence to the forum, advocates will have to provide the following information:

-Name of Document/Title

-Date of Publication (if this is not available, try and find the latest date of editing)

-Source (website URL/Publication's name)

-Author

If the information for one of the above categories cannot be found, it is OK; however, advocates please note that during the evaluation of the evidence, the determined value of this piece of evidence would have more reason to be weighed lower than normal.

For documents (especially large documents such as declarations and treaties), advocates are expected to highlight the important clauses, sentences, statistics and other information. However, nonhighlighted information can also be used as evidence. Furthermore, during their research, advocates may come across extremely large documents. Sometimes these documents could even stretch to tens and hundreds of pages. In such cases, advocates need only print out the important pages of the documents (Cover page, index, first page, last page, and any other required pages as evidence).

IMPORTANT NOTE: When taking the print outs of evidence from web-pages or any form of online source, advocates must print out the document as it is. Evidence which has been copied into a Word Document or has been edited or altered from its original formatting will not be accepted by the ICJ.

How will evidence be weighted?

Judges will evaluate evidence on the following criteria:

-Bias

-Relevance

-Lack of information (Reliability)

-Date of Publication (the more recent the document, often the better; for treaties this is not the case) -Accuracy

Evidence can be weighed as that of low importance. Advocates, please note that judges have the supreme power to eliminate evidences, if they feel it is not substantial. If a piece of evidence is not admitted, that piece of evidence cannot be used to support your arguments.

How much evidence is needed?
There is no limit to the minimum or maximum number of pieces of evidence that can be admitted. However, usually about 5-8 pieces of evidence are sufficient.

Case A

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Press Release
Unofficial

No. 2017/2

17 January 2017

Ukraine institutes proceedings against the Russian Federation and requests the Court to indicate provisional measures

THE HAGUE, 17 January 2017. In the late afternoon of 16 January 2017, Ukraine instituted proceedings against the Russian Federation with regard to alleged violations of the International Convention for the Suppression of the Financing of Terrorism of 9 December 1999 and the International Convention on the Elimination of All Forms of Racial Discrimination of 21 December 1965. Both States are parties to these two instruments.

In particular, Ukraine contends that, following the Orange Revolution of 2004, it has been subjected to increasing degrees of Russian pressure and intimidation. According to Ukraine, since 2014 the Russian Federation has escalated its interference in Ukrainian affairs to dangerous new levels, "intervening militarily in Ukraine, financing acts of terrorism, and violating the human rights of millions of Ukraine's citizens, including, for all too many, their right to life". It states that in eastern Ukraine, the Russian Federation has instigated and sustained an armed insurrection against the authority of the Ukrainian State. Ukraine considers that, by its actions, the Russian Federation is in violation of fundamental principles of international law, including those enshrined in the International Convention for the Suppression of the Financing of Terrorism ("Terrorism Financing Convention").

Furthermore, in its Application, Ukraine contends that, in the Autonomous Republic of Crimea and City of Sevastopol, the Russian Federation has "brazenly defied the U.N. Charter, seizing a part of Ukraine's sovereign territory by military force". Ukraine states that, "in an attempt to legitimize its act of aggression, the Russian Federation engineered an illegal 'referendum' which it rushed to implement amid a climate of violence and intimidation against non-Russian ethnic groups". According to Ukraine, this "deliberate campaign of cultural erasure, beginning with the invasion and referendum and continuing to this day", violates the International Convention on the Elimination of All Forms of Racial Discrimination ("CERD").

With regard to the Terrorism Financing Convention, in paragraphs 134 to 136 of its Application,

"[134.] Ukraine respectfully requests the Court to adjudge and declare that the Russian Federation, through its State organs, State agents, and other persons and entities exercising governmental authority,

and through other agents acting on its instructions or under its direction and control, has violated its obligations under the Terrorism Financing Convention by:

(a) Supplying funds, including in-kind contributions of weapons and training, to illegal armed groups that engage in acts of terrorism in Ukraine, including the DPR, the LPR, the Kharkiv Partisans, and associated groups and individuals, in violation of Article 18;

(b) Failing to take appropriate measures to detect, freeze, and seize funds used to assist illegal armed groups that engage in acts of terrorism in Ukraine, including the DPR, the LPR, the Kharkiv Partisans, and associated groups and individuals, in violation of Articles 8 and 18;

(c) Failing to investigate, prosecute, or extradite perpetrators of the financing of terrorism found within its territory, in violation of Articles 9, 10, 11, and 18;

(d) Failing to provide Ukraine with the greatest measure of assistance in connection with criminal investigations of the financing of terrorism, in violation of Articles 12 and 18; and

(e) Failing to take all practicable measures to prevent and counter acts of financing of terrorism committed by Russian public and private actors, in violation of Article 18.

[135.] Ukraine respectfully requests the Court to adjudge and declare that the Russian Federation bears international responsibility, by virtue of its sponsorship of terrorism and failure to prevent the financing of terrorism under the Convention, for the acts of terrorism committed by its proxies in Ukraine, including:

(a) The shoot-down of Malaysian Airlines Flight MH17;

(b) The shelling of civilians, including in Volnovakha, Mariupol, and Kramatorsk; and

(c) The bombing of civilians, including in Kharkiv.

[136.] Ukraine respectfully requests the Court to order the Russian Federation to comply with its obligations under the Terrorism Financing Convention, including that the Russian Federation:

(a) Immediately and unconditionally cease and desist from all support, including the provision of money, weapons, and training, to illegal armed groups that engage in acts of terrorism in Ukraine, including the DPR, the LPR, the Kharkiv Partisans, and associated groups and individuals;

(b) Immediately make all efforts to ensure that all weaponry provided to such armed groups is withdrawn from Ukraine;

(c) Immediately exercise appropriate control over its border to prevent further acts of financing of terrorism, including the supply of weapons, from the territory of the Russian Federation to the territory of Ukraine;

(d) Immediately stop the movement of money, weapons, and all other assets from the territory of the Russian Federation and occupied Crimea to illegal armed groups that engage in acts of terrorism in Ukraine, including the DPR, the LPR, the Kharkiv Partisans, and associated groups and individuals, including by freezing all bank accounts used to support such groups;

(e) Immediately prevent all Russian officials from financing terrorism in Ukraine, including Sergei Shoigu, Minister of Defense of the Russian Federation; Vladimir Zhirinovsky, Vice-Chairman of the State Duma; Sergei Mironov, member of the State Duma; and Gennadiy Zyuganov, member of the State Duma, and initiate prosecution against these and other actors responsible for financing terrorism;

(f) Immediately provide full cooperation to Ukraine in all pending and future requests for assistance in the investigation and interdiction of the financing of terrorism relating to illegal armed groups that engage in acts of terrorism in Ukraine, including the DPR, the LPR, the Kharkiv Partisans, and associated groups and individuals;

(g) Make full reparation for the shoot-down of Malaysian Airlines Flight MH17;

(h) Make full reparation for the shelling of civilians in Volnovakha;

(i) Make full reparation for the shelling of civilians in Mariupol;

(j) Make full reparation for the shelling of civilians in Kramatorsk;

(k) Make full reparation for the bombing of civilians in Kharkiv; and

(l) Make full reparation for all other acts of terrorism the Russian Federation has caused, facilitated, or supported through its financing of terrorism, and failure to prevent and investigate the financing of terrorism."

With regard to CERD, in paragraphs 137 to 138 of its Application,

"[137.] Ukraine respectfully requests the Court to adjudge and declare that the Russian Federation, through its State organs, State agents, and other persons and entities exercising governmental authority, including the de facto authorities administering the illegal Russian occupation of Crimea, and through other agents acting on its instructions or under its direction and control, has violated its obligations under the CERD by:

(a) Systematically discriminating against and mistreating the Crimean Tatar and ethnic Ukrainian communities in Crimea, in furtherance of a state policy of cultural erasure of disfavored groups perceived to be opponents of the occupation regime;

(b) Holding an illegal referendum in an atmosphere of violence and intimidation against non-Russian ethnic groups, without any effort to seek a consensual and inclusive solution protecting those groups, and as an initial step toward depriving these communities of the protection of Ukrainian law and subjecting them to a regime of Russian dominance;

(c) Suppressing the political and cultural expression of Crimean Tatar identity, including through the persecution of Crimean Tatar leaders and the ban on the Mejlis of the Crimean Tatar People;

(d) Preventing Crimean Tatars from gathering to celebrate and commemorate important cultural events;

(e) Perpetrating and tolerating a campaign of disappearances and murders of Crimean Tatars;

(f) Harassing the Crimean Tatar community with an arbitrary regime of searches and detention;

(g) Silencing Crimean Tatar media;

(h) Suppressing Crimean Tatar language education and the community's educational institutions;

(i) Suppressing Ukrainian language education relied on by ethnic Ukrainians;

(j) Preventing ethnic Ukrainians from gathering to celebrate and commemorate important cultural events; and

(k) Silencing ethnic Ukrainian media.

[138.] Ukraine respectfully requests the Court to order the Russian Federation to comply with its obligations under the CERD, including:

(a) Immediately cease and desist from the policy of cultural erasure and take all necessary and appropriate measures to guarantee the full and equal protection of the law to all groups in Russian-occupied Crimea, including Crimean Tatars and ethnic Ukrainians;

(b) Immediately restore the rights of the Mejlis of the Crimean Tatar People and of Crimean Tatar leaders in Russian-occupied Crimea;

(c) Immediately restore the rights of the Crimean Tatar people in Russian-occupied Crimea to engage in cultural gatherings, including the annual commemoration of the Sürgün;

(d) Immediately take all necessary and appropriate measures to end the disappearance and murder of Crimean Tatars in Russian-occupied Crimea, and to fully and adequately investigate the disappearances of Reshat Ametov, Timur Shaimardanov, Ervin Ibragimov, and all other victims;

(e) Immediately take all necessary and appropriate measures to end unjustified and disproportionate searches and detentions of Crimean Tatars in Russian-occupied Crimea;

(f) Immediately restore licenses and take all other necessary and appropriate measures to permit Crimean Tatar media outlets to resume operations in Russian-occupied Crimea;

(g) Immediately cease interference with Crimean Tatar education and take all necessary and appropriate measures to restore education in the Crimean Tatar language in Russian-occupied Crimea;

(h) Immediately cease interference with ethnic Ukrainian education and take all necessary and appropriate measures to restore education in the Ukrainian language in Russian-occupied Crimea;

(i) Immediately restore the rights of ethnic Ukrainians to engage in cultural gatherings in Russian-occupied Crimea;

(j) Immediately take all necessary and appropriate measures to permit the free operation of ethnic Ukrainian media in Russian-occupied Crimea; and

(k) Make full reparation for all victims of the Russian Federation's policy and pattern of cultural erasure through discrimination in Russian-occupied Crimea."

Ukraine also filed on 16 January 2017 a Request for the indication of provisional measures. It states that the purpose of the Request is to protect its rights, pending the determination of the case on the merits.

With regard to the Terrorism Financing Convention, in paragraph 23 of its Request, Ukraine requests that the Court indicate the following provisional measures:

"(a) The Russian Federation shall refrain from any action which might aggravate or extend the dispute under the Terrorism Financing Convention before the Court or make this dispute more difficult to resolve.

(b) The Russian Federation shall exercise appropriate control over its border to prevent further acts of terrorism financing, including the supply of weapons from the territory of the Russian Federation to the territory of Ukraine.

(c) The Russian Federation shall halt and prevent all transfers from the territory of the Russian Federation of money, weapons, vehicles, equipment, training, or personnel to groups that have engaged in acts of terrorism against civilians in Ukraine, or that the Russian Federation knows may in the future engage in

acts of terrorism against civilians in Ukraine, including but not limited to the "Donetsk People's Republic," the "Luhansk People's Republic," the "Kharkiv Partisans," and associated groups and individuals.

(d) The Russian Federation shall take all measures at its disposal to ensure that any groups operating in Ukraine that have previously received transfers from the territory of the Russian Federation of money, weapons, vehicles, equipment, training, or personnel will refrain from carrying out acts of terrorism against civilians in Ukraine."

With regard to CERD, in paragraph 24 of its Request, Ukraine requests that the Court indicate the following provisional measures:

"(a) The Russian Federation shall refrain from any action which might aggravate or extend the dispute under CERD before the Court or make it more difficult to resolve.

(b) The Russian Federation shall refrain from any act of racial discrimination against persons, groups of persons, or institutions in the territory under its effective control, including the Crimean peninsula.

(c) The Russian Federation shall cease and desist from acts of political and cultural suppression against the Crimean Tatar people, including suspending the decree banning the Mejlis of the Crimean Tatar People and refraining from enforcement of this decree and any similar measures, while this case is pending.

(d) The Russian Federation shall take all necessary steps to halt the disappearance of Crimean Tatar individuals and to promptly investigate those disappearances that have already occurred. - 6 -

(e) The Russian Federation shall cease and desist from acts of political and cultural suppression against the ethnic Ukrainian people in Crimea, including suspending restrictions on Ukrainian-language education and respecting ethnic Ukrainian language and educational rights, while this case is pending."

Case B: Situation at Hand

Note: While the above case is one currently being heard by the ICJ this case is not. Instead, this is a fictitious circumstance that is designed to test your ability to completely determine and build your own case, as such if you have any questions please email us.

The European state (Italy) deems itself exposed to a large stream of people caused by the refugee crisis. The mostly northern African refugees come to (Italy) through the Mediterranean. The search and rescue ship "U2" ("The Unsinkable II") drifting afloat the Mediterranean, with more than (600) onboard, was denied the right to dock in Italy and Malta. The ship was sailing under the flag of Spain. "U2" did not have sufficient capabilities to take care of the refugees on board - many of whom were in a bad condition. The captain of the ship wanted to bring the refugees to the nearest harbor in Italy, so he approached its territorial waters. The coast guard of Italy denied the ship access to its harbor. Whilst the captain was negotiating with the coast guard, the Unsinkable II had casted anchor approximately 20 sea miles away from the coast of Italy. Due to the catastrophic conditions on board, the captain decided to dock without permission. U2 was stopped by an Italian coast guard ship approximately 15 sea miles away from the coast of Italy. Soldiers took control of the ship and forced the captain to drive the ship back in direction of the high seas. In the end, U2 drove to Spain, where the refugees were admitted and taken care of and provided with sufficient medical aid. On the way from Italy to Spain, five refugees lost their lives.

The Minister of Foreign affairs of Italy, Enzo Moavero Milanesi, makes the following statement in defence
of the actions of its coast guards:

"It is important that people understand that our country has no obligation under International law to accept the rescued persons into our territory."

In order to decrease the number of illegal immigrants coming through the Mediterranean, Italy - together with other European partners - has brought to life the border protection operation "Mediterranean Answer". The main coordination is regulated by Frontex, a European Union

agency which serves the protection of the EU borders headquartered in Warsaw. Before the coast guard ships set sail, they get instructions and an operation plan from Frontex. An agreement to the operation plan from the Member States has to be achieved in advance to any forthcoming operations. No Frontex staff participates in the execution of the operations. Accordingly, there are no representatives on the boards of the coast guard ships either. The ships are run solely by the command structure of the respective country.

A couple of weeks after Mediterranean Answer has come into force, a skirmish occurs around 35 sea miles south of the Italian coast. Another ship sailing under Spanish flag with approximately 30 refugees on board attempts to dock in Italy. In order to prevent this from happening, the coast guard ship (Bynkershoek) interferes. (Bynkershoek) intercepts the refugee boat (Unsinkable III), takes the refugees on its board and sinks the (Unsinkable III) with its artillery. Contrary to the operation in the Frontex plan, the refugees are soon returned directly to Libya, with which Italy has a bilateral readmission agreement.

In defense of the actions of the coast guard, the Minister of foreign affairs of Italy, Enzo Moavero Milanesi, refers to the obligation of the coast guard pursuant to maritime law to save people in need in the high sea. Furthermore, outside of Italian Territory, human rights obligations do not bind any government officials. On top of that, it was an action according the Mediterranean Answer, which is a Frontex operation. In addition, the treaty signed with Libya ensures that no human right abuses would be committed after the readmission of the refugees.

Spain is shocked by the actions of the Italian officials. Spanish representatives are convinced that Italy has violated obligations under the law of the sea, refugee law and international human rights. In particular, "The Unsinkable II" was in the search and rescue region that would have been State A's responsibility. Furthermore, as this was a case of Italy having exercised full and exclusive control over the U2 and its crew, at least de facto, from the time of its interception, the applicants were effectively within Italy’s jurisdiction.

For these reasons Spain submits the case to the ICJ.

Italy claims that no human rights abuses have been committed by its officials, especially not under its jurisdiction. According to , Enzo Moavero Milanesi, the action towards the “U3” occurred under the ultimate authority and control of Frontex.

Various Documents that Both Sides have brought up pre-deliberations

- United Nations Convention on the Law of the Sea (especially Article 122, 3, 8, 33, 55, 91, 92, 18, 98).
- International Convention on Maritime Search and Rescue.
- International Convention for the Safety of Life at Sea.
- Convention Relating to the Status of Refugees.
- European Convention on Human Rights (especially Article 1, 3) and its protocols, especially protocol 4 (Article 4).
- Convention relating to the Status of Refugees (especially Article 33).
- UN General Assembly Resolution 55/74, 12.02.2001.
- UNHCR Executive Committee, Intercpetion of Asylum Seekers and Refugees: The International Framework and Recommendations for a Comprehensive Approach, UNDoc. EC/50/SC/CRP.17, 9.6.2000 (margin 23).
- Any other ICJ cases that might be used as precedent for this case (see ICJ wesite)

Delegates it is your role (especially justices) to determine weather or not you find that there is evidence that Italy has not held to the aforementioned agreements, and or any agreements that you find in your research that may play a role in this case. A primary question being: does Italy have an obligation under International law to accept the rescued persons into their territory, and how does that fact effect other claims made by the Italian Government.

Appendix 1: Condensed Trial Objections

Note to Delegates: By no means do you have to have the following objections memorized, they are simply here to help you better understand your options during trial. Feel free to email us if you have any questions or would like any clarification!

Objections to Questions

The first type of objection is an objection to the form of the question asked, or answer given. When an attorney makes this type of objection, they are objecting to the nature of the question or answer, but not to its substance. Although equally valid, some judges often prefer to hear less of these objections. This does not mean one should avoid making them, but it simply requires the attorney to be conscientious and aware of the judge's attitude. The following are the most frequently used objections of this type:

Leading Question

This objection is made when counsel asks a leading question during direct examination. A leading question is a question which actually suggests an answer. Leading question are allowed during cross examination, but not during direct. (Note: Leading questions are permitted in cross examination)
Example: "At 8 pm that day, you were at the deli, correct?"

Compound Question

This objection is made when counsel asks a compound question. A compound question is a question that actually asks multiple things, all linked by "and" or "or".
Example: "Did you determine the time of death by interviewing witnesses and by requesting the autopsy report written by the coroner?" Question Calls for Narrative/Narrative Answer

This objection is made when either a witness begins telling a narrative as part of their answer, or counsel's question calls for a narrative. It is admissible for a witness to testify about what happened, but they must do so in response to a question. This objection exists to prevent long winded witness answers. If a witness has answered the question, but continues telling a story, this objection should be made.
Example: "First thing I did that was get up and go to work. It was fairly normal day at work until the robbery, which happened at around 1 pm. After that the police came and began interviews. I was taken to the station and was there until around 10 pm. After this, I came back home…."

Argumentative Question

This objection is made when counsel begins arguing with a witness, badgering a witness or becoming overly aggressive. This objection is made by an attorney to protect a witness during cross examination. The objection is fairly subjective in terms of what is considered

argumentative. Generally, a judge will allow more aggressive questioning if counsel is cross examining the defendant.
Example: "How can you sit here and lie to the court about your attitude towards the victim?"

Asked and Answered Question

This objection is made when counsel has asked a question and received an answer, and asks the same question again. If an answer is given, a new question must be asked. Counsel can ask a question multiple times if the witness is not giving a full answer, is being uncooperative or unresponsive.
Example: "Did you stop at the stop sign on 5th and Main?", "No", "So, to be clear, you ran the stop sign?"

Vague and Ambiguous Question/Answer

This objection is made when either the question asked or answered given is vague and ambiguous in nature. This objection can be used to help a witness answer a confusing question, or help an attorney get a more precise response. *Example: "When did you see it happen?"*

Non-Responsive Answer

This objection is made when a witness does not answer the question being asked by the attorney. This objection can help an attorney corral the witness and get a straight answer to questions the witness may be trying to avoid. Be careful to avoid making this objection when the witness simply gives a different answer than what was expected or desired.
Example: "Weren't you the last person the victim saw on the night of his death?", "I had nothing to do with that!"

Objections to Testimony

The second type of objection is an objection regarding the substance of the testimony or evidence being presented. An attorney makes this type of objection to try and exclude the information given by the witness from the trial. An attorney may desire to keep out certain evidence or testimony for several reasons. For example, it may detrimental to the case, it may be false and unverifiable, or it may simply be inadmissible in court. Substantive objections are generally more difficult to make and require more legal understanding on the part of the attorney. The following are the most common substantive objections:

Relevance of Answer/Question

This objection is made when an attorney believes that irrelevant evidence to the case is being brought up. There are several reasons why irrelevant evidence should be excluded. Primarily, it contributes nothing to the case, it may sometimes reflect negatively on either side, and it also wastes precious time which should be used to tackle the real questions. An attorney can object to an irrelevant question asked by opposing counsel, or to an answer which is either in parts, or altogether, irrelevant. Use discretion with this objection, and don't overuse, as what is relevant can be highly subjective.
Example: "The victim's favorite color was yellow, wasn't it?"

Question Lacks Foundation

This objection is made when opposing counsel asks a question before establishing foundation for that question. If the objection is sustained, the judge will require counsel to "lay a foundation" which involves backtracking and asking a more general question. This objection is most often encountered while describing circumstances during direct examination. Often attorneys will cut foundational questions at the start of examination in an effort to save time, so this is where most of the objections will be made.
Example: "What did you see at the Broadway diner?" (No previous question asking about witness's location, position, etc.)

Lacks Personal Knowledge/Speculation

This objection is made when either an attorney asks the witness a question of which they have no personal knowledge, or when a witness begins to testify about something they have not directly observed (speculation). Witnesses are only allowed to testify about their own direct experiences and thoughts. Testifying as to what they believe may have happened, or about another person's state of mind, are all considered improper evidence. The only exception is that expert witnesses, or those who are called to the stand because of particular knowledge or experience, are usually given greater exemption from this objection. It would not be speculation for a signature authenticator to testify the defendant is guilty of fraud based on that expert's analysis and professional opinion.
Example: The witness hears a gunshot from around a corner, runs, and sees the victim dead, and the defendant holding a gun. The following is speculation: "I believe the defendant shot the victim".

Creation of a Material Fact

This objection is made when an attorney believes that a witness has made a factual error in their testimony regarding the case. This objection can also be applied if a question is extends past the scope of the witness' statement and that it "calls for the creation of a material fact by the witness". Generally, this objection should only be used as a last resort, and for major factual missteps. If the witness makes a minor error without huge significance to the case, this can be brought up during cross examination; the word "material" in the title of the objection suggests that this objection should only be used for errors that are relevant and meaningful for the case at hand. Additionally, even if a witness tells a significant falsehood on the stand, it will always be better to take up the issue on cross examination and impeach the witness through the use of their own witness statement. The effect of this is twofold, in that the witness is shown to have lied, and the judge sees the greater skill of the crossing attorney. The CMF objection should be made in the situation when an attorney believes they will have insufficient time for cross examination, or in the case they believe a more immediate and forceful course of action is necessary. *Example: "I was home with my girlfriend until 7 pm on Saturday", "But in your witness statement, didn't you state you were home only until 6 pm?"*

Improper Character Evidence

This objection is made when improper character evidence has been given as testimony in court. Improper character evidence is when character evidence (think general personality traits) is used to show how a person acted in a specific situation. There are three exceptions to this rule in which this kind of character evidence is permissible:

- If this evidence is offered by the defense and applied to the character and actions of the defendant to prove innocence, it is admissible.
- If this evidence is offered by the defense and applied to the character and actions of the victim to prove innocence, it is admissible.
- If this evidence is offered to show dishonesty or a tendency to lie by any witness, it is admissible. In this situation, the opposing counsel may rebut with positive character evidence to show the contrary.

Example: "The defendant was always rude to me, and particularly so on the day of the murder."

Lay Witness Opinion

This objection is made when lay witnesses (witnesses who are not qualified as experts and do not personal experience), testify with personal inferences or subjective statements. Opinion testimony is only admissible when it is based on perceptions/observations made with the witness's five senses and is helpful to clearer understanding of the witness's testimony. This objection is similar to Lacks Personal Knowledge/Speculation, and sometimes can be used interchangeably.
Example: "I believe the defendant was in a crazed state of mind."

Hearsay

This objection is made when a witness testifies about a statement made by another person and uses contents of the other person's statement to prove a fact true or false. This kind of testimony is considered hearsay because the actual declarant of the statement in question is neither under oath on the stand, nor will be cross examined. Therefore, hearsay is considered unreliable and inadmissible except in limited circumstances. Because of several exceptions to the hearsay rule, this objection is often the most difficult for new attorneys to understand. The following are some of the more common exceptions in which hearsay is allowed for the truth of the matter:

- *Declaration against interest:* Hearsay is allowed if the statement in question is against the declarant's economic, legal, criminal, civil or general interests.
- *Excited utterance:* Hearsay is allowed if the statement in question is made by the declarant during or shortly after a startling event from which the declarant is still influenced and describes or explains said event.
- *State of mind:* Hearsay is allowed if the statement in question reveals the declarant's state of mind, emotional or physical condition at the time of the statement.
- *Records made in the regular course of business:* Hearsay is allowed if the statement in question was made in the form of a record in the regular course of a business or government procedure.

- *Prior inconsistent statement:* Hearsay is allowed if the statement in question is inconsistent with the declarant's trial testimony
- *Reputation of a person's character in the community:* Hearsay is allowed if the statement in question is evidence of a person's reputation or character within a community or group.
- *Dying declaration:* Hearsay is allowed if the statement in question was made by a dying person about their cause or circumstances of death, with the declarant's personal knowledge and a sense of impending death.
- *Admission by party opponent:* Hearsay is allowed if the statement in question was made by a person and is being offered against that person by an opposing party during trial.