

WRITING MEMORIALS - REQUIREMENTS

Each team is obliged to prepare the memorial for both: Applicant and Respondent!

Preliminary Sections of the memorial

- (a) Cover Page
- (b) Table of Contents
- (c) Index of Authorities
- (d) Statement of Jurisdiction
- (e) Questions Presented
- (f) Statement of Facts
- (g) Summary of Pleadings
- (h) Pleadings (including Conclusion/Prayer for Relief)

I Preliminary Sections of the memorial

1. Cover Page (a)

- a. the team's members in the upper right-hand corner
- b. the name of international judicial organ
- c. the year of the proceeding before international judicial organ
- d. the name of the case
- e. the title of the document (i.e., "Memorial for Applicant" or "Memorial for Respondent")

2. Table of Contents (b)

- a. content: preliminary sections (including a list of headings contained in the Pleadings)
- b. automated features in the word processing software
- c. Formatting: only three / four levels of headings:

I. Level 1

A Level 2

1. Level 3

3. Index of Authorities (list of sources) (c)

- a. sources of law are divided into major groupings, and within the groupings the sources of law are listed in alphabetical order
- b. indication of page / pages of the memorial on which you referred to a particular source.
Example: Corfu Channel Case (UK v. Albania) (Merits), ICJ Rep. 1949
..... 4, 25
- c. proposal:
 - i. Treaties and Conventions

- ii. United Nations Resolutions and other documents
 - iii. International cases and arbitral decisions
 - iv. Municipal cases and laws
 - v. Treatises and other books
 - vi. Journal articles
- d. the listing of the sources in the Index of Authorities and in the footnotes shall be complete and uniform throughout the document (all cited texts are included in the Index of Authorities; no other texts shall be listed)

4. Statement of Jurisdiction (d)

- a. grounds for jurisdiction, according to a particular legal instrument
- b. any argument with respect to jurisdiction or admissibility shall be included in the Argument
- c. uncontested jurisdiction:

“The Republic of Appollonia and the Kingdom of Raglan submit the present dispute to this Court by Special Agreement, dated May 15, 2004, pursuant to Article 40(1) of the Court’s Statute. The parties have agreed to the contents of the Compromis submitted as part of the Special Agreement. In accordance with Article 36(1) of the Court’s Statute, each party shall accept the judgment of this Court as final and binding and shall execute it in good faith in its entirety.”

- d. contested jurisdiction:

“The governments of Kuraca and Senhava have agreed to submit by Special Agreement the present dispute for final resolution by the International Court of Justice, subject to Senhava’s reservation of its objection to the jurisdiction of the Court. Although both Kuraca and Senhava have declared their acceptance of the Court’s compulsory jurisdiction pursuant to Article 36(2), Senhava is seeking to invoke Kuraca’s reservations, maintaining that the Court is without jurisdiction over the subject matter of this case because: (1) the dispute exclusively concerns matters which are essentially within the domestic jurisdiction of Senhava as determined by Senhava and (2) the dispute arises under a multilateral treaty and some affected states are not parties to this case”

5. Questions presented (e)

- a. extract of the legal issues form arguments organized in a logical order
- b. methods used by the teams:
 - i. repeating the relief claimed by the relevant party in the Problem / Case, but rewording the relief into questions
 - ii. identifying the one or two key issues arising from each item of relief sought by the relevant party

- iii. breaking down the relief sought by each relevant party into a large number of questions which reflect the issues and sub-issues raised by the Problem / Case
- c. most often no more than 8 questions

6. Statement of facts (f)

- a. Content: a brief summary of the facts; stipulated facts and necessary inferences from the problem / case. Forbidden: unsupported facts, distortions of stated facts, argumentative statements, or legal conclusions
- b. unfavorable facts must not be ignored, but they should be presented in such a way as to draw the reader's attention to more favorable facts.

7. Summary of pleadings (g)

- a. more than a mere reproduction of the section headings contained in the Pleadings (Argument)
- b. distill the essence of the arguments in relation to each major pleading
- c. example:

I. Raglan is Responsible Under International Law for the Attack and the Wreck of The Mairi Maru

A. Raglan has breached its obligations under international law to suppress and prevent piracy

- 1. Thomas Good's acts of violence fall within the definition of piracy
- 2. Raglan failed to fulfill its obligations under international law because it failed to suppress piracy in its archipelagic waters and failed to properly respond to the attack on The Mairi Maru

B. Raglan is responsible for the attack on and wreck of The Mairi Maru because Raglan failed to respond appropriately to the pirate attacks in violation of its obligations under international law

C. Raglan is responsible for the attack upon and wreck of The Mairi Maru because Thomas Good's acts are attributable to Raglan

- 1. Thomas Good was an agent of the Raglanian government
- 2. Thomas Good's actions are attributable to Raglan even if they are ultra vires or contravene Raglan's instructions

Summary: "Raglan is responsible for the attack on and the wreck of The Mairi Maru. Customary international law dictates that states have an obligation to prevent piracy within their waters. Raglan failed to discharge this obligation by not addressing the piracy plaguing its waters for years. Even when Raglan instituted an anti-piracy program, it negligently administered it providing an opportunity for Thomas Good to commandeer The Mairi Maru. Moreover, as required by principles of state responsibility, Good's actions are attributable to Raglan. Thomas Good was an agent of Raglan hired and trained by the Raglanian Navy. Good's actions remain attributable to Raglan even if they are ultra vires because he was acting under the pretence of his status as a Raglanian naval officer."

8. Pleadings (including Conclusion/Prayer for Relief) (h) → practical advices from Jessup Guide

- a. avoid unnecessary arguments
- b. avoid the repetition of facts in the Pleadings section (Argument Section)
- c. address weaknesses in the legal argument
- d. equity as a last resort argument
- e. strategic concessions
- f. contradictory argument in the same memorial
- g. predict and address the arguments of other side
- h. respect the order of sources in ICJ Statute art. 38(1) [or other legal instrument indicating international law sources that an international judicial organ is obliged to apply while deciding a case]
- i. organization of arguments
- j. citation of sources
 - i. citations should be offered for every statement of fact, quotation of another's words, definition or assertion of legal theory
 - ii. citation type : free choice, e.g. MLA, APA, however uniform throughout whole memorial
 - iii. authority used many times: *infra*, *supra*, *id.* or *ibid.*
 - iv. abbreviations of longer titles are to be mentioned in the Index of Authorities: Barcelona Traction rather than Case Concerning the Barcelona Traction, Light and Power Company Limited (Belgium vs. Spain)).

9. The Conclusion/Prayer for Relief (form a part of "Pleadings")

10. Formal requirements:

- a. typed
- b. a margin of 2,5 cm on both sides and 2,5 cm at the top and at the bottom
- c. typestyle: Times New Roman size 12; footnote: Times New Roman size 10
- d. interline 1,5
- e. the pages of the section "Pleadings" shall be numbered consecutively in Arabic numbers (1, 2, 3, 4, 5 etc.); all the other sections of the Memorial shall be numbered consecutively in small Roman numbers (i - ii - ... -iv ... xi ...)
- f. the footnotes shall be placed at the bottom of the page and must be numbered consecutively throughout the Memorial in Arabic number
- g. the "Pleadings" section shall not exceed twenty-five (20) pages
- h. format: pdf. and doc. / docx.