



ICC Moot Court Report 2020

The ICC Moot Court 2020 was a bit different than the Moot Courts in the years before. First, there was a change in the members of the team after the first semester, and second, there was a pandemic cleaving its way, preventing the usual Oral Rounds in the Hague from taking place. But regardless of the challenges our team had to face from the starting point of September 2019 up to June 2020, the ICC Moot Court was a precious experience from which we all benefitted greatly.

Our final team consisted of *David Rohner*, a Master of Law and Economics student, *Florence Baumann*, a Master of Law student, and *Simone Brunner*, another Master of Law student. The team was supported by Ms. *Isabelle Kessler*, PhD candidate and assistant at the Chair in International and European Law, and Professor *Bardo Fassbender*, who were both of great help with a broad knowledge in the relevant field and very appreciated motivators during the submission phase of our memorials and during the final oral presentation part.



Final team composition (from left to right: David Rohner, Simone Brunner and Florence Baumann, with Isabelle Kessler and Prof. Bardo Fassbender in the back)



In September 2019, we started out with getting to know the basic structure of the International Criminal Court (ICC), the ICC Statute and the Court's rules and regulations. Once this year's case was released, we dived into the crime of incitement to genocide and had intense discussions and researching efforts going on to really understand the core of the case.

In the first half of the competition, we met up frequently to discuss the issues at hand and benefitted greatly from exchanging ideas and challenging each other. Our arguments advanced with every exchange between the newly assigned roles, namely the Prosecution, the Defense, and the Government, and of course with our coaches. Until our first big deadline, we managed to produce solid memorials, which allowed us to feel confident in preparing the oral pleadings.

Unfortunately, the team member representing the Prosecution was no longer able to participate in the Moot Court, but we were lucky to quickly find with Simone a motivated and eager replacement, and thus to still qualify as a team for the competition. We started off the new semester bringing our new team member up to date and filling her in in what we had discussed before.

Another challenge came in spring 2020 as it became evident that the Covid19 pandemic that was blustering around the globe would prevent the oral rounds of the Moot Court from being physically conducted in June. The organizers, finally, decided to cancel the oral pleadings in The Hague, and not to organize them online.

Not losing our motivation and the wish to gain as much knowledge as possible from the ICC Moot Court experience, we continued working on our oral pleadings and were challenging each other in every online meeting we continued to have every week.

Due to the efforts of our coaches, Isabelle and Professor Fassbender, we were able to have two oral pleadings at the end of the semester. The first pleading was held online, with three respected colleagues from previous ICC Moot Court teams from our university functioning as the judges. Of course, we were all nervous to see how different this experience would be compared to the pleadings we had practiced before, and what kind of questions we would be expected to answer. However, our team managed quite well. We felt as if the final oral pleadings were over almost too fast. Obviously, this feeling emphasizes the fact that in The Hague the oral pleading part would have lasted much longer, and would have involved other teams from universities of every continent.

The second oral pleadings were held physically at the venues of the University of St. Gallen, with Professor Fassbender acting as the only judge. Presenting the first time in person was a challenge in itself but being able to articulate more and seeing the reaction of our opponents and the judge gave us a more in-depth experience and made the event become much more similar to what it would have been in The Hague.



Even though we were unfortunately not able to go to The Hague and present in front of actual judges, meet the other teams and defend our arguments, the ICC Moot Court 2020 still was a great experience for all of us from which we were able to learn a lot about the mechanism of the ICC, about the team work in general and about some fundamental debating skills.

Defense Perspective (Florence Baumann):

Being part of the ICC Moot Court Team was a unique experience. Not only did we have to overcome several challenges, but we stayed focused throughout the whole preparation phase and made the best out of an unprecedented situation. When we allocated the roles, I decided to take on the role of the Defense, which I would not see myself take in real life. At university, law students normally have to discuss both sides of a case, while in the Moot Court we had to take a strong stance for one side. However, we also had to think about the possible counterarguments and prepare for them in the rebuttal. I was obviously nervous before the oral pleadings with our predecessors, but once we got into discussing time just flew by. While we were obviously sad that we were not able to go to The Hague and have the full experience of the ICC Moot Court, I am still glad I participated in this course and would recommend it to anyone who wants to go more in depth with international (criminal) law, interpersonal and presenting skills.

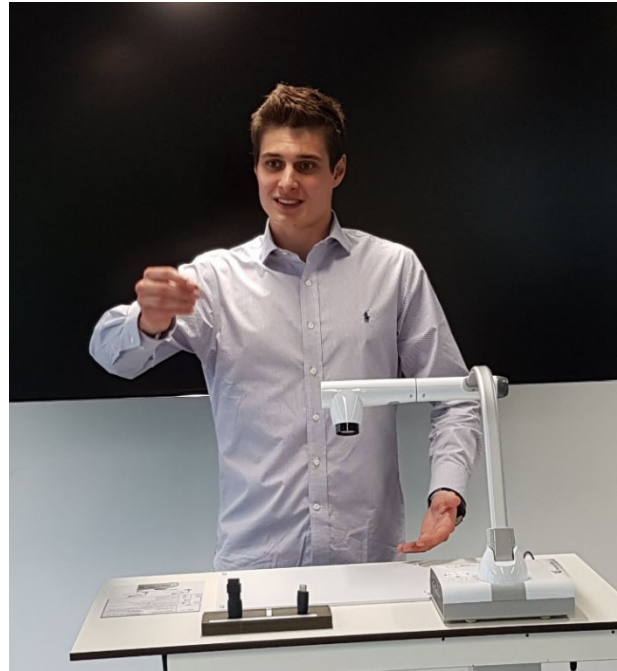


Government Perspective (David Rohner):

The Government of Valaria, the state neighboring the place where the crime of genocide was claimed to have happened, was not a Party to the Rome Statute. Therefore, this role not only required to defend one's own nationals that were accused of being part of the crime in question but also to defend the state's sovereignty in the present case. This experience of fully taking up on one single stance and representing the relevant perspective in full allowed me to immerge deeply into the subject matter, and to cover one side of the matter holistically by interpreting the facts and circumstances in accordance with the relevant law to support one's own point of view at the best. One had to really dive deep into a topic by searching for the most relevant



arguments to support the view defined by one's own role. Playing that role meant to have blinders on for all opposing arguments and claims made by the opposing parties. In total, the experience of taking on a role allows to have fun while learning about a new subject. In my view, this form of education is not only very precious as one is staying eager to continue making new learning efforts. It is also a great preparation for the handling of cases in a professional future. Hence, I would absolutely recommend this course for its diverse academic approach as the learning curve stayed high whilst the journey continued to be entertaining from the first until the last day of this fantastic experience.



Prosecution Perspective (Simone Brunner):



To me, participating in the ICC Moot was a very interesting, insightful and enriching experience. Dealing with the case, making sense of the facts, and studying the relevant law, including the case law, allowed for a very steep learning curve and the acquisition of new knowledge and skills. Especially during the oral phase, the frequent practice of presenting the arguments allowed us to improve our skills in presenting, discussing and especially in convincing others of our point of view. During the entire Moot, we grew not only as a team but also personally. It was a great experience to collaborate and support each other while also being opponents, as we all were in a different role. Thanks to our team effort and the supportive coaching, we all experienced a steep learning curve. Most of all, we always knew how to have fun next to working hard, which is what kept us going and enabled us to make the best of the difficult situation due to the Coronavirus. Overall, it was an amazing, memorable experience and joining the Moot team was definitely one of my best choices during the entire study of law.